

“ARTICLE VIII. INDUSTRIAL WASTES

Sec 22.140 General provisions.

(A) *Purpose and policy.* This article sets forth uniform requirements for users of the wastewater collection system and publicly owned treatment works (POTW) for the City of Garland and enables the City to comply with all applicable State and Federal laws including the Clean Water Act (33 U.S.C. 1251 et seq.), and Section 22.141(A) and (B) of this article. The objectives of this article are:

- (1) To prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW;
- (2) To prevent the introduction of pollutants to the POTW in amounts or concentrations which could pass through to receiving waters in toxic concentrations or which will be incompatible with the POTW;
- (3) To ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;
- (4) To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;
- (5) To improve the opportunity to recycle and reclaim wastewater and sludge from the POTW;
- (6) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the POTW; and
- (7) To enable the City to comply with its TPDES permit conditions, sludge use and disposal requirements and any other Federal or State laws to which the POTW is subject.

This article shall apply to all industrial users of the POTW. This article authorizes the issuance of wastewater discharge permits; authorizes monitoring, compliance and enforcement activities, establishes administrative review procedures; requires industrial user reporting, and provides for the setting of fees for the equitable distributions of costs resulting from the program established herein.

(B) *Administration.* Except as otherwise provided herein, the Manager of Technical Services shall administer, implement, and enforce the provisions of this article. Any powers granted to or duties imposed upon the Manager may be delegated by the Manager to other City personnel.

(C) *Definitions.* Unless a provision explicitly states otherwise, the following terms and phrases, as used in this article, shall have the meanings hereinafter designated.

- (1) *Act or “the Act”.* The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.

- (2) *Approval authority.* The words “Approval Authority” shall mean the Executive Director of the Texas Commission on Environmental Quality (TCEQ).
- (3) *Authorized representative of the industrial user.*
- (a) If the industrial user is a corporation, “authorized representative” shall mean:
1. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
 2. The manager of one or more manufacturing, production, or operation facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (b) If the industrial user is a partnership, or sole proprietorship, an authorized representative shall mean a general partner or proprietor, respectively.
- (c) The individuals described in paragraphs (a) and (b) above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or position of equivalent responsibility, or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the control authority.
- (4) *Best Management Practices (BMPs).* Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR 403.5(a)(1) and (b). BMPs also include treatment requirements, operating procedures, and practices to control plant site run-off, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
- (5) *Biochemical Oxygen Demand (BOD).* A measurement of the amount of oxygen utilized by the decomposition of organic material, over a specified time (usually 5 days) in a wastewater sample; it is used as a measurement of the readily decomposable organic content of a wastewater.
- (6) *Categorical pretreatment standard or categorical standard.* Any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Sections 307(b) and (c) of the

Act (33 U.S.C 1317) which apply to a specific category of industrial users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

- (7) *Chemical oxygen demand (COD)*. The measure of the oxygen-consuming capacity expressed in milligrams per liter. It is expressed as the amount of oxygen consumed from a chemical oxidant in a specific test. It does not differentiate between stable and unstable organic matter and thus may not correlate with BOD.
- (8) *City*. The word “City” shall be the City of Garland together with all its governing and operating bodies.
- (9) *Color*. The optical density at the visual wavelength of maximum absorption, relative to distilled water. One hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.
- (10) *Composite sample*. The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.
- (11) *Control authority*. The words “control authority” shall mean the Pretreatment Compliance Manager, or other official designated by the City Manager of the City or his duly authorized deputy, agent or representative.
- (12) *Daily discharge*. The measurement of a pollutant in a discharge sample that has been collected during a calendar day or as a composite sample within a 24-hour period.
- (13) *Daily maximum limit*. The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.
- (14) *Environmental Protection Agency or EPA*. The U.S. Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the Regional Water Management Division Director or other duly authorized official of that agency.
- (15) *Existing source*. Any source of discharge, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.
- (16) *Grab sample*. A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and without consideration of time.
- (17) *Indirect discharge or discharge*. The introduction of (non-domestic) pollutants into the POTW from any non-domestic source regulated under Section 307(b), (c) or (d) of the Act.

- (18) *Industrial user or user.* A source of non-domestic indirect discharge.
- (19) *Industrial waste board.* The words “industrial waste board” shall mean the persons appointed by the City Council to review the actions of the control authority at the request of a person whose industrial sewer connection permit has been denied or suspended. The board shall consist of three (3) members. One shall be the Deputy City Manager, one shall be a taxpaying resident representative of a Garland industry permitted under this article, and one shall be a disinterested tax paying resident citizen.
- (20) *Instantaneous limit.* The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.
- (21) *Interference.* A discharge which alone or in conjunction with a discharge or discharges from other sources:
- (a) Inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; or
 - (b) Causes a violation of the City’s TPDES permit or prevents sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued there under (or more stringent State or local regulations): Section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act, or
 - (c) Restricts the flow in a public sewer.
- (22) *Maximum Allowable Headworks Loading (MAHL).* The amount of a pollutant (in pounds) in the influent (headworks) of a wastewater treatment plant above which inhibition, sludge contamination, or pass through will occur or which will be expected to occur by the control authority.
- (23) *Monthly average limit.* The highest allowable average of “daily discharges” over a calendar month, calculated as the sum of all “daily discharges” measured during a calendar month divided by the number “daily discharges” measured during that month.
- (24) *New source.*
- (a) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with the section, provided that:

1. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 2. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 3. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (b) Construction on a site at which an existing source is located is a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsection (20)(a)(2) or (3) above but otherwise alters, replaces or adds to existing process or production equipment.
- (c) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
1. Begun, or caused to begin as part of a continuous onsite construction program.
 - (i) Any placement, assembly, or installation of facilities or equipment, or
 - (ii) Significant site preparation work including clearing, excavation, or removal of existing building, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 2. Entered in a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.
- (25) *Noncontact cooling water.* Water used for cooling which does not come into direct contact with any raw material intermediate product, waste product, or finished product.
- (26) *Pass through.* A discharge which exits the POTW into water of the U.S. in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of potential violation of any requirement of the City's TPDES permit (including an increase in the magnitude or duration of a potential violation).

- (27) *Person*. Any individual, partnership, co-partnership, firm, company, corporation. Association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representative, agents, or assigns. This definition includes all federal, state, or local governmental entities but does not include, unless otherwise specified, the City.
- (28) *pH*. A measure of the acidity or alkalinity of a substance expressed as the reciprocal of the logarithm (base 10) of the hydrogen ion concentration.
- (29) *Pollutant*. Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, (including organic chemicals) industrial wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and the characteristics of the wastewater [i.e., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, odor].
- (30) *Pretreatment*. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes, by process changes, or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.
- (31) *Pretreatment requirements*. Any substantive or procedural requirement related to pretreatment imposed on an industrial user, other than a pretreatment standard.
- (32) *Pretreatment standards or standards*. Pretreatment standards shall mean prohibitive discharge standards, categorical pretreatment standards, and local limits.
- (33) *Prohibited discharge standards or prohibited discharges*. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 22.141(A) of this ordinance.
- (34) *Process Wastewater*. Any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.
- (35) *Publicly Owned Treatment Works or POTW*. A “treatment works” as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned by the state or municipality. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes and any conveyances which convey wastewater to a treatment plant. The term also means the municipal entity having jurisdiction over the industrial users and responsibility for the operation and maintenance of the treatment works.
- (36) *Septic tank waste*. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- (37) *Sewage*. Human excrement and gray water (including, but not limited to household showers and dishwashing operations).

- (38) *Sewer service charge.* The words “sewer service charge” shall mean the charge made on all users of the public sewage system whose wastes do not exceed in strength and concentration values established as representative of normal sewage.
- (39) *Significant industrial user.* Shall apply to:
- (a) Industrial users subject to categorical pretreatment standards; and
 - (b) Any other industrial user that:
 - 1. Discharges an average of 25,000 gpd or more of process wastewater;
 - 2. Contributes a process waste stream which makes up 5 percent (5%) or more of the average dry weather hydraulic or organic capacity of the treatment plant; or,
 - 3. Is designated as significant by the control authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW’s operation or for violating any pretreatment standard or requirement.
- (40) *Slug load.* Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Section 22.141 of this article or any discharge of a non-routine, episodic nature, including but not limited to, an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW’s regulations, Local Limits or Permit conditions.
- (41) *Standard Industrial Classification (SIC) code.* A classification pursuant to the “Standard Industrial Classification Manual” issued by the U.S. Office of Management and Budget.
- (42) *Stormwater.* Any flow occurring during or following any form of natural precipitation, and resulting there from, including snowmelt.
- (43) *Surcharge.* The word “surcharge” or industrial waste surcharge” shall mean the charge in addition to the published water and sewer rates. The basis for surcharges on industrial wastes is a capital and operating cost for suspended solids, BOD and chlorine demand exceeding normal sewage.
- (44) *Suspended solids.* The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.
- (45) *Toxic pollutant.* One of 126 pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by the EPA under the provision of Section 307 (33 U.S.C. 1317) of the Act.
- (46) *Treatment plant effluent.* Any discharge of pollutants from the POTW into waters of the State.

- (47) *Wastewater*. Liquid and water-carried industrial wastes, and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.
- (48) *Wastewater treatment plant or treatment plant*. That portion of the POTW designed to provide treatment of sewage and industrial waste.

Shall is mandatory; may is permissive or discretionary. The use of singular shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

(D) *Abbreviations*. The following abbreviations shall have the designated meanings:

BMP	Best Management Plan
BOD	Biochemical oxygen demand
C	Centigrade (as a measure of temperature)
CFR	Code of Federal Regulations
COD	Chemical oxygen demand
EPA	U.S. Environmental Protection Agency
F	Fahrenheit (as a measure of temperature)
gpd	Gallons per day
L	Liter
MAHL	Maximum allowable headworks loading
mg	Milligrams
mg/l	Milligrams per liter
TPDES	Texas Pollutant Discharge Elimination System
O&M	Operations and maintenance
POTW	Publicly owned treatment works
RCRA	Resource Conservation and Recovery Act
SIC	Standard industrial classifications
SWDA	Solid Waste Disposal Act (42 U.S.C. 6901, et seq.)
TCEQ	Texas Commission on Environmental Quality
TRC	Technical review criteria
TSS	Total suspended solids
USC	United States Code

Sec. 22.141 General sewer use requirements.

(A) *Prohibited discharge standards*. No industrial user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all industrial users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirement. Furthermore, no industrial user may contribute the following substances to the POTW:

- (1) Pollutants which create a fire or explosive hazard in either the municipal wastewater collections system or POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21
- (2) Any wastewater having a pH less than 5.0 or more than 11.0, or otherwise causing corrosive structural damage to the POTW or equipment, or endangering City personnel.
- (3) Solid or viscous substances in amounts which will cause obstruction of the flow either in the conveyance system or in the POTW resulting in interference.
- (4) Any wastewater containing pollutants, including oxygen demanding pollutants (BOD, for example), released in a discharge at a flow rate or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with either the POTW or any wastewater treatment or sludge process, or which will constitute a hazard to humans or animals.
- (5) Any wastewater having a temperature greater than 150 degrees F (65 degrees C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees F (40 degrees C).
- (6) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
- (7) Any pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- (8) Any trucked or hauled pollutants, except at discharge points designated by the control authority and in accordance with Section 22.142(E).
- (9) Any noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance, a hazard to life, or to prevent entry into the sewers for maintenance and repair.
- (10) Any wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the POTW's effluent.
- (11) Storm water, surface water, ground water, roof runoff, subsurface drainage, and unpolluted industrial wastewater, unless specifically authorized by the control authority.
- (12) Any sludge, screenings, or other residues from the pretreatment of industrial wastes.
- (13) Any wastewater containing pollutants deemed highly toxic by the control authority and discharged at a flow volume capable of causing toxicity at the POTW.

- (14) Any wastes containing detergents, surface active agents, or other substances which cause excessive foaming in the POTW.
- (15) Any discharge of fats, oils, or greases of animal or vegetable origin in excess of two hundred (200) mg/l (1668 pounds per million gallons).
- (16) Any wastewater from an underground storage tank or tank hole containing gasoline, motor oils or lubricating oils, unless specifically authorized by the control authority.
- (17) Any pollutant in an amount which singly or in combination with discharges from other industrial users creates an influent or sludge concentration at the POTW approaching, equal to or exceeding the MAHL for that pollutant as established by the control authority except as specifically approved by the Manager of Technical Services.

Wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the POTW.

(B) *Federal categorical pretreatment standards.* The national categorical pretreatment standards found in 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated by reference. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the control authority shall impose an alternate limit in accordance with 40 CFR part 403.6(e).

(C) *Specific pollutant limitations.*

- (1) The following uniform concentration-based pollutant limits are established to protect against pass-through, sludge contamination, and interference. No person shall discharge wastewater containing in excess of the following maximum allowable discharge limits:

Pollutant	Maximum Allowable Concentration	Sample Type
Arsenic	1.1 mg/l	Composite
Cadmium	0.2 mg/l	Composite
Chromium	17 mg/l	Composite
Copper	0.5 mg/l	Composite
Lead	2.3 mg/l	Composite
Mercury	0.005 mg/l	Composite
Nickel	5.8 mg/l	Composite
Selenium	0.7 mg/l	Composite
Silver	0.7 mg/l	Composite
Zinc	15 mg/l	Composite

Concentrations apply at the point where the industrial waste is discharged to the POTW unless otherwise specified by the control authority. All concentrations are for “total” substance unless indicated otherwise. The control authority may impose mass limitations in addition to or in place of the concentration-based limitation above.

- (D) *City's right of revision.* The control authority reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW if deemed necessary to comply with the objectives presented in Section 22.140(A) of this article or the general and specific prohibitions in Section 22.141(A) of this article.
- (E) *Special Agreement.* The control authority reserves the right to enter into special agreements with industrial users setting out special terms under which they may discharge to the POTW. In no case will a special agreement waive compliance with a pretreatment standard or requirement. However, the industrial user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. An industrial user may also request a variance from the categorical pretreatment standard from EPA. Such a request will be approved only if the industrial user proves that factors relating to its discharge are fundamentally different from the factors considered by the EPA when establishing that pretreatment standard. An industrial user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions of 40 CFR 403.13.
- (F) *Dilution.* No industrial user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The control authority may impose mass limitations on industrial users which are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

Sec. 22.142 Pretreatment of wastewater.

- (A) *Pretreatment facilities.* Industrial users shall provide necessary wastewater treatment as required to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set out in Section 22.141(A) above within the time limitations specified by the EPA, or the control authority, whichever is more stringent. Any facilities required to pretreat wastewater to a level acceptable to the control authority shall be provided, operated, and maintained at the industrial user's sole expense. Detailed plans (sealed by a Texas registered professional engineer) showing the pretreatment facilities and operating procedures shall be submitted to the control authority for review and shall be acceptable to the control authority before construction of the facility. The review of such plans and operating procedures shall in no way relieve the industrial user from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the control authority under the provisions of this ordinance.
- (B) *Additional pretreatment measures.*

- (1) Grease, oil and sand interceptors shall be provided when, in the opinion of the control authority, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the control authority and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, maintained in proper operating condition, and repaired regularly, as needed, by the owner at his expense. No in-line provisions for bypass of grease, oil or sand interceptors shall be allowed.
 - (2) Industrial users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
 - (3) At no time shall two readings on a combustible gas detection meter at the point of discharge into the POTW, or at any point in the POTW, be more than ten percent (10%) of the lower explosive limit (LEL) of the meter.
- (C) *Accidental discharge/slug control plans.* The control authority may require any industrial user to develop and implement an accidental discharge/slug control plan. Within one (1) year of being designated a significant industrial user the control authority shall evaluate whether each significant industrial user needs such a plan. Any industrial user required to develop and implement an accidental discharge/slug control plan shall submit a plan which addresses, at a minimum, the following:
- (1) Description of discharge practices, including non-routine batch discharges.
 - (2) Description of stored chemicals.
 - (3) Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the prohibited discharges in Section 22.141(A) of this article.
 - (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and measures and equipment for emergency response.
- (D) *Tenant responsibility.* Where an owner of property leases premises to another person as a tenant under any rental or lease agreement, if either the owner or the tenant is an industrial user, either or both may be held responsible for compliance with the provisions of this article.
- (E) *Hauled wastewater.* The discharge of hauled industrial wastes as “industrial sewage” requires prior approval and a wastewater discharge permit from the control authority. The control authority shall have authority to prohibit the disposal of such wastes. Waste haulers are subject to all other sections of this article.

(F) *Vandalism*. No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, tamper with, or prevent access to any structure, appurtenance or equipment, or other part of the POTW. Any person found in violation of this requirement shall be subject to the sanctions set out in Sections 22.149 and 22.150 below.

(G) *Act of God defense*.

(1) Act of God defense. The Act of God constitutes a statutory affirmative defense [Texas Water Code Section 7.251] in an action brought in municipal or State court. If a person can establish that an event that would otherwise be a violation of a pretreatment ordinance, or a permit issued under the ordinance, was caused solely by an act of God, war, strike, riot or other catastrophe, the event is not a violation of the ordinance or permit.

(2) An industrial user who wishes to establish the Act of God affirmative defense shall demonstrate, through relevant evidence that:

(a) An event that would otherwise be a violation of a pretreatment ordinance or a permit issued under the ordinance, occurred, and the sole cause of the event was an act God, ware, strike, riot, or other catastrophe; and

(b) The industrial user has submitted the following information to the POTW and the City within 24 hours of becoming aware of the event that would otherwise be in violation of a pretreatment ordinance or a permit issued under the ordinance (if this information is provided orally, a written submission must be provided within five days):

(i) A description of the event, and the nature and cause of the event.

(ii) The time period of the event, including exact dates and times or, if still continuing, the anticipated time the event is expected to continue; and

(iii) Steps being taken or planned to reduce, eliminate, and prevent recurrence of the event.

(3) Burden of proof. In any enforcement proceeding, the industrial user seeking to establish the Act of God affirmative defense shall have the burden of proving by a preponderance of the evidence that an event that would otherwise be a violation of a pretreatment ordinance, or a permit issued under the ordinance, was caused solely by an act of God, war, strike, riot or other catastrophe.

(H) *Bypass*. No industrial user shall intentionally divert waste streams from any portion of an industrial user's treatment facility (bypass) unless all procedural and substantive provisions in 40 CFR 403.17 are met.

Sec. 22.143 Wastewater discharge permit eligibility.

- (A) *Wastewater survey.* When requested by the control authority all industrial users must submit information on the nature and characteristics of their wastewater by completing a wastewater survey. The control authority is authorized to prepare a form for this purpose and may periodically require industrial users to update the survey. Failure to complete this survey shall be reasonable grounds for terminating service to the industrial user and shall be considered a violation of this article.
- (B) *Wastewater discharge permit requirement.*
- (1) It shall be unlawful for any significant industrial user to discharge wastewater into the City's POTW without first obtaining a wastewater discharge permit from the Control authority. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this article and subjects the wastewater discharge permittee to the sanctions set out in Sections 22.149 and 22.150. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal pretreatment standards or requirements or with any other requirements of federal, state, and local law.
 - (2) The control authority may require other industrial users, including liquid waste haulers, to obtain wastewater discharge permits as necessary to carry out the purposes of this article.
- (C) *Wastewater discharge permitting for existing connections.* Any significant industrial user which discharges industrial waste into the POTW prior to the effective date of this article and which wishes to continue such discharges in the future, shall, within sixty (60) days after the effective date, apply to the control authority for a wastewater discharge permit in accordance with subsection (F) below, and shall not cause or allow discharges to the POTW to continue after ninety (90) days of the effective date of this article except in accordance with a wastewater discharge permit issued by the Control authority.
- (D) *Wastewater discharge permitting.* Any significant industrial user proposing to begin or recommence discharging industrial wastes into the POTW must obtain a wastewater discharge permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit must be filed at least thirty (30) days prior to the date upon which any discharge will begin.
- (E) *Wastewater discharge permitting for extra-jurisdictional industrial users.*
- (1) Any existing significant industrial user located beyond City limits shall submit a wastewater discharge permit application, in accordance with subsection (F) below, within thirty (30) days of the effective date of this article. New significant industrial users located beyond City limits shall submit such applications to the control authority thirty (30) days prior to any proposed discharge into the POTW.
 - (2) Alternately, the control authority may enter into a written agreement with the neighboring jurisdiction in which the significant industrial user is located to provide for the implementation and enforcement (including permitting) of pretreatment program requirements against the industrial user.

(F) *Wastewater discharge permit application contents.* In order to be considered for a wastewater discharge permit, all industrial users required to have a wastewater discharge permit shall submit the information required by Section 22.145(A)(2) of this article. The control authority shall provide a form to be used as a permit application. In addition, the following information shall be submitted:

- (1) Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW.
- (2) Number and type of employees, hours of operation, hours of discharge and proposed or actual hours of operation of the industrial user.
- (3) Each project produced by type, amount, process or processes, and rate of production.
- (4) A map of the property showing accurately all sewers and drains.
- (5) The site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.
- (6) Time and duration of all the discharges.
- (7) Any other information as may be deemed necessary by the control authority to evaluate the wastewater discharge permit application.
- (8) Plans and specifications sealed by a registered professional engineer detailing all pretreatment facilities and processes including any grease, oil or sand interceptor and control manholes.

Incomplete or inaccurate applications will not be processed and will be returned to the industrial user for revision.

(G) *Application signatories and certification.* All wastewater discharge permit applications and industrial user reports must contain the following certification statement and be signed by an authorized representative of the industrial user:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

(H) *Wastewater discharge permit decisions.* The control authority shall evaluate the data furnished by the industrial user and may require additional information. Within twenty (20) working days of the

receipt of a complete wastewater discharge permit application, the control authority shall determine whether or not to issue a wastewater discharge permit. If no determination is made within this time period, the application shall be deemed denied. The control authority may deny any application for a wastewater discharge permit based upon the provisions of this article, other applicable local law, or applicable State or Federal law. Any applicant denied a wastewater discharge permit may appeal the control authority decision to the Industrial Waste Board in accordance with Section 22.144(F).

Sec. 22.144 Wastewater discharge permit issuance process.

- (A) *Wastewater discharge permit duration.* Wastewater discharge permits shall generally be valid from the date of issuance until the last day of September, of the fifth year after issuance (five-year permit period). A wastewater discharge permit may be issued for a period of less than five (5) years, at the discretion of the control authority. Each wastewater discharge permit shall indicate the specific date upon which it will expire.
- (B) *Wastewater discharge permit contents.* Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the control authority to prevent pass through or interference, protect the quality of the water body receiving the POTW's effluent, protect worker health and safety, facilitate sludge management and disposal, protect ambient air quality, and protect against damage to the POTW.
- (1) Wastewater discharge permits shall contain the following conditions:
- (a) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years.
 - (b) A statement that the wastewater discharge permit is nontransferable without prior notification to the control authority in accordance with Section 22.144(D) of this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.
 - (c) Effluent limits, including BMPs, applicable to the user based on applicable standards in federal, state, and local law.
 - (d) Self-monitoring, sampling, reporting, notification, and recordkeeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law.
 - (e) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.

- (f) Requirements to control slug discharges, if determined by the control authority to be necessary.
- (2) Wastewater discharge permits may also contain, at the discretion of the control authority, the following:
- (a) Limits on the average and maximum rate of discharge, time of discharge, or requirements for flow regulation and equalization.
 - (b) Limits on the instantaneous, daily, and monthly average or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.
 - (c) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the POTW.
 - (d) Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges.
 - (e) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW.
 - (f) The schedule of industrial user charges and fees for wastewater discharged to the POTW.
 - (g) Requirements for installation and maintenance of inspection and sampling facilities and equipment.
 - (h) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal standards, including those which become effective during the term of the wastewater discharge permit.
 - (i) Other conditions as deemed appropriate by the control authority to ensure compliance with this article, and federal, state, and local laws, rules, and regulations.
- (C) *Wastewater discharge permit modification.* The control authority may modify the wastewater discharge permit for good cause including, but not limited to, the following:
- (1) To incorporate any new or revised federal, state, or local pretreatment standards or requirements.
 - (2) To address significant alterations or additions to the industrial user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance.
 - (3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.

- (4) Information indicating that the permitted discharge poses a threat to the City's POTW, personnel, or the receiving waters.
- (5) Violation of any terms or conditions of the wastewater discharge permit.
- (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting.
- (7) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13
- (8) To correct typographical or other errors in the wastewater discharge permit.

The filing of a request by the permittee for a wastewater discharge permit modification does not stay any wastewater discharge permit condition.

(D) *Wastewater discharge permit transfer.* Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least thirty (30) days advance notice to the control authority and the control authority approves the wastewater discharge permit transfer. The notice to the control authority must include a written certification by the new owner or operator which:

- (1) States that the new owner and/or operator have no immediate intent to change the facility's operations and processes;
- (2) Identifies the specific date on which the transfer is to occur; and
- (3) Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide advance notice of a transfer ends the wastewater discharge permit void as of the date of facility transfer.

(E) *Wastewater discharge permit suspension.* Wastewater discharge permits may be suspended for the following reasons:

- (1) Failure to notify the control authority of significant changes to the wastewater prior to the changed discharge.
- (2) Failure to provide prior notification to the control authority of changed condition pursuant to Section 22.145(E).
- (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application.
- (4) Falsifying self-monitoring reports and certification statements.

- (5) Tampering with monitoring equipment.
- (6) Refusing to allow the control authority timely access to the facility premises and records.
- (7) Failure to meet effluent limitations.
- (8) Failure to remit fines or penalties after a final, non-appealable judgement has been rendered thereon.
- (9) Failure to pay sewer charges (including industrial waste surcharge).
- (10) Failure to meet compliance schedules.
- (11) Failure to complete a wastewater survey or the wastewater discharge permit application.
- (12) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this article.

Wastewater discharge permits shall be voidable upon nonuse or cessation of operations. All wastewater discharge permits are void upon the issuance of a new wastewater discharge permit. Permittees with suspended wastewater permits shall admit no wastewater to the POTW.

(F) *Industrial Waste Board appeal.*

- (1) Any applicant denied a permit under this article, or any permittee whose permit has been suspended, shall have the right to a hearing before the Industrial Waste Board.
- (2) Requests for a hearing shall be made in writing and received by the control authority within ten (10) days of the action complained of. The control authority, within five (5) days of receipt of the request, shall schedule a hearing before the Industrial Waste Board.
- (3) The Industrial Waste Board shall have the authority to review all pertinent files and information regarding the applicant/permittee which are in the custody of the control authority. Additionally, the board shall have the authority to accept written and verbal testimony from the control authority, applicant, and interested citizens.
- (4) The board shall have the authority to assess whether the control authority acted properly within its power under this article in its denial or suspension of permit. The majority vote of the board shall determine whether to uphold or reject the control authority's action. Upholding the action of the control authority shall affirm the denial or suspension. Rejection of the control authority's actions shall automatically reinstate a suspended permit or shall cause the control authority to repeat the application process.
- (5) The board shall have no authority to review or act on any action of the control authority other than permit denials or permit suspensions.

- (6) No person whose wastewater discharge permit has been denied or suspended shall discharge industrial waste to the public sewer prior to final determination by the Industrial Waste Board.
- (G) *Wastewater discharge permit re-issuance.* A significant industrial user shall apply for wastewater discharge permit re-issuance by submitting a complete wastewater discharge permit application in accordance with Section 22.143(F) a minimum of thirty (30) days prior to the expiration of the industrial user's existing wastewater discharge permit.

Sec. 22.145 Reporting requirements.

(A) *Baseline monitoring reports.*

- (1) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing significant industrial users subject to such categorical pretreatment standards, and currently discharging to or scheduled to discharge to the POTW, shall submit to the control authority a report which contains the information listed in subsection (2), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to the control authority a report which contains the information listed in subsection (2), below. A new source shall also report the method of pretreatment it intends to use to meet applicable pretreatment standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants discharged.
- (2) The industrial user shall submit the following information required by the section including:
 - (a) *Identifying information.* The name and address of the facility including the name of the operator and owners.
 - (b) *Wastewater discharge permits.* A list of any environmental control wastewater discharge permits held by or for the facility.
 - (c) *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such industrial user. This description shall include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
 - (d) *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).
 - (e) *Measurement of pollutants.*

1. Identify the categorical pretreatment standard applicable to each regulated process.
 2. Submit the results of sampling an analysis identifying the nature and concentration (and mass, where required by the standard or by the control authority) of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long-term average concentrations (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in subsection (J) of this section. In cases where the standard requires compliance with a Best Management Practice or pollution prevention alternative, the user shall submit documentation as required by the control authority or the applicable Standards to determine compliance with the Standard.
 3. Sampling must be performed in accordance with procedures set out in subsection (K) of this section.
 4. The control authority may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.
- (f) *Certification.* A statement reviewed and signed by the industrial user's authorized representative indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance and additional pretreatment is required to meet the pretreatment standards and requirements.
- (g) *Compliance schedule.* If additional pretreatment and O&M will be required to meet the pretreatment standards, the shortest schedule by which the industrial user will provide such additional pretreatment and O&M shall be required. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.
- (h) All baseline monitoring reports must be signed and certified in accordance with Section 22.143(G).
- (B) *Compliance schedule progress report.* The following conditions shall apply to the schedule required by subsection(A)(2)(g) of this section. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events may include hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, beginning and conducting routine operation.) No increment referred to above shall exceed thirty (30) days. The industrial user shall submit a progress report to the control authority no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay and, if appropriate the steps being taken by the industrial user to return to the established schedule. In no event shall more than thirty (30) days elapse between such progress reports to the control authority.

- (C) *Report on compliance with categorical pretreatment standard deadline.* Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any industrial user subject to such pretreatment standards and requirements shall submit to the control authority a report containing the information described in subsection (A)(2)(d-f) of this section. For industrial users subject to the equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), the report shall contain a reasonable measure of the industrial user's actual production during the appropriate sampling period. All compliance reports shall be signed and certified in accordance with Section 22.143(G).
- (D) *Periodic compliance reports.*
- (1) All significant industrial users shall, on the dates and at a frequency determined by the control authority but in no case less than twice per year, submit a report indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows of the reported period. In cases where the pretreatment standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the user must submit documentation required by control authority or the pretreatment standard necessary to determine compliance status of the user. All periodic compliance reports shall be signed and certified in accordance with Section 22.143(G). This sampling and analysis may be performed by the control authority in lieu of the industrial user. Where the POTW performs the required sampling and analysis in lieu of the industrial user, the user will not be required to submit the compliance certification required in Section 22.143(G) of this article. In addition, where the POTW itself collects all the information required for the report, including flow data, the industrial user will not be required to submit the report.
 - (2) All wastewater samples must be representative of the industrial user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of an industrial user to keep its monitoring facility in good working order shall not be grounds for the industrial user to claim that sample results are unrepresentative of its discharge.
 - (3) If an industrial user subject to the reporting requirement of this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the POTW, using the procedures prescribed in Section 22.14(J) and Section 22.145(K) of this article the results of such monitoring shall be included in the report.
- (E) *Report of changed conditions.* Each industrial user is required to notify the control authority of any planned significant changes to the industrial user's operations or system which might alter the nature, quality, or volume of its wastewater at least five (5) working days before the change.
- (1) The control authority may require the industrial user to submit such information as may be deemed necessary to evaluate the change condition, including the submission of a wastewater discharge permit application under Section 22.143(F).

- (2) The control authority may issue a wastewater discharge permit or modify an existing wastewater discharge permit under Section 22.144.
- (3) No industrial user shall implement the planned changed condition(s) until and unless the control authority has responded to the industrial user's notice.
- (4) For purposes of this requirement flow increases of twenty percent (20%) of the average daily or monthly flow (based on the previous year averages) or greater, a twenty percent (20%) increase in the production rate, and the discharge of any previously unreported pollutants, shall be deemed significant.

(F) *Reports of potential problems.*

- (1) In the case of any discharge including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load which may cause potential problems for the POTW (including a violation of the prohibited discharge standards in Section 22.141(A) of this article), it is the responsibility of the industrial user to immediately telephone and notify the control authority of the incident. Notification shall include the location of discharge, type of waste, concentration, and volume, if known, and corrective actions taken by the industrial user.
- (2) Within five (5) days following such discharge, the industrial user shall, unless waived by the control authority, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the industrial user of any fines, civil penalties, or other liability which may be imposed by this article or other law.
- (3) Failure to notify the control authority of potential problem discharges shall be deemed a separate violation of this article.
- (4) A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in subsection (1) above. Industrial users shall ensure that all employees who may cause or suffer such a discharge to occur are advised of the emergency notification procedure.
- (5) Significant industrial users are required to notify the control authority immediately of any changes at its facility affecting the potential for a slug discharge.

(G) *Reports from non-significant industrial users.* All industrial users not subject to categorical pretreatment standards and not required to obtain a wastewater discharge permit shall provide appropriate reports to the control authority as required by the control authority.

(H) *Notice of violation/repeat sampling and reporting.* If sampling performed by an industrial user indicates a violation, the industrial user shall notify the control authority within 24 hours of becoming aware of the violation. The industrial user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the control authority within 30 days after becoming aware of the violation. Resampling by the industrial user is not required if the control authority performs sampling at the user's facility at least once a month, or if the control authority performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the control authority receives the results of this sampling, or if the control authority has performed the sampling and analysis in lieu of the industrial user. If the control authority performed the sampling and analysis in lieu of the industrial user, the control authority will perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat sampling and analysis and submit the results within the 30 day time frame.

(I) *Notification of the discharge of hazardous waste.*

- (1) Any industrial user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state hazardous waste authorities in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification shall include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the industrial user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the industrial user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this subsection need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges shall be submitted under subsection (E), above.
- (2) Dischargers are exempt from the requirements of subsection (1) of this section during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.
- (3) In the case of any new regulation under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user shall notify the POTW, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.

- (4) In the case of any notification made under this section, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
 - (5) Industrial users that are permitted by the control authority shall submit a copy of all manifests to the control authority documenting offsite disposal of hazardous and non-hazardous waste.
- (J) *Analytical requirements.* All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.
- (K) *Sample collection.* Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.
- (1) Except as indicated in subsection (2) and (3) below, the industrial user shall collect wastewater samples using 24-hour flow-proportional composite collection techniques, unless time-proportional composite sampling or grab sampling is authorized by the control authority. Where time-proportional composite sampling or grab sampling is authorized by the control authority, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the control authority, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.
 - (2) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic chemicals shall be obtained using grab collection techniques.

Total residual chlorine, pH, and temperature samples cannot be composited under any circumstances.

- (3) For sampling required in support of baseline monitoring and 90-day compliance reports required in subsections (A) and (C) of this section [40 CFR 403.12(b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the control authority may authorize (in writing) a lower minimum of grab samples. For the reports required by Section 22.145(D) of this article,

the industrial user is required to collect the number of grab samples necessary to assess and assure compliance by the applicable pretreatment standards and requirements.

- (L) *Determination of Noncompliance.* The control authority may use a grab sample(s) to determine noncompliance with pretreatment standards.
- (M) *Timing.* Written reports will be deemed to have been submitted on the date post-marked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the U.S. Postal Service, the date of the receipt of the report shall govern.
- (N) *Recordkeeping.* Industrial users and the control authority shall retain, and make available for inspection and copying, all records and information required to be retained under this article and documentation associated with BMPs. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning compliance with this article, or where the industrial user has been specially notified of a longer retention period by the control authority.

Sec. 22.146. Compliance Monitoring.

- (A) *Inspection and sampling.* The control authority shall have the right to enter the facilities of any industrial user to ascertain whether the purpose of this article, or any permit or order issued hereunder, is being met and whether the industrial user is complying with all requirements thereof. Industrial users shall allow the control authority ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.
 - (1) Where an industrial user has security measures in force which require proper identification and clearance before entry into its premises, the industrial user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, personnel from the control authority, state, and EPA will be permitted to enter without substantial delay, for the purposes of performing their specific responsibilities.
 - (2) The control authority, state, and EPA shall have the right to set up on the industrial user's property, or require installation of, such devices as are necessary to conduct sampling and metering of the user's operations.
 - (3) The control authority may require the industrial user to install monitoring equipment, as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the industrial user at its own expense. All device used to measure wastewater flow and quality shall be calibrated periodically to ensure their accuracy.
 - (4) Any temporary or permanent obstruction to safe and easy access to the industrial facility to be inspected and sampled shall be promptly removed by the industrial user at the written or verbal request of the control authority and shall not be replaced. The costs of clearing such access shall be borne by the industrial user.

(5) Unreasonable delays in allowing control authority personnel access to the industrial user's premises shall be a violation of this article.

(B) *Search warrants.* If the control authority has been refused access to a building, structure or property or any part thereof, and if the control authority has demonstrated probable cause to believe that there may be a violation of this article or that there is a need to inspect as part of a routine inspection program of the control authority designed to verify compliance with this article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then upon application the Municipal Court Judge may issue a search and seizure warrant describing therein the specific location subject to the warrant. The warrant shall specify what, if anything, may be searched and seized on the property described. Such warrant shall be served at reasonable hours by the Control authority in the company of a uniformed police officer of the City. In the event of an emergency affecting public health or safety, inspections may be made without the issuance of a warrant.

Section 22.147. Confidential information.

Information and data on an industrial user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, from the control authority inspection and sampling activities, shall be available to the public without restriction unless the industrial user specifically requests, and is able to demonstrate to the satisfaction of the control authority, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. When requested and demonstrated by the industrial user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, except as may be required by the Public Information Act, Chapter 552 of the Texas Government Code, but shall be made available immediately upon request to governmental agencies for uses related to the TPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

Section 22.148. Publication of industrial users in significant noncompliance.

The control authority will publish annually, in a newspaper(s) of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW of the industrial users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

(A) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken for the same pollutant parameter during a 6-month

period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by Section 22.141 of this article;

- (B) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a 6-month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by Section 22.141 of this article multiplied by the applicable TRC [1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH];
- (C) Any other violation of a pretreatment standard or requirement as defined by Section 22.141 of this article (daily maximum, long-term average, instantaneous limit, or narrative standard) that the control authority believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of personnel or the general public);
- (D) Any discharge of pollutants that has caused imminent endangerment to human health, welfare or to the environment, or has resulted in the City's exercise of its emergency authority to halt or prevent a discharge;
- (E) Failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (F) Failure to provide within 45 days after the due date, any required reports, including baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (G) Failure to accurately report noncompliance;
- (H) Any other violation or group of violations, which may include a violation of Best Management Practices, which the control authority determines will adversely affect the operation or implementation of the local pretreatment program.

Sec. 22.149. Administrative enforcement remedies.

- (A) *Notification of Violation.* Whenever the control authority finds that any user has violated or is violating this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment requirement, the control authority may serve upon the user a written notice of violation. Within fifteen (15) days of the receipt of a notice of violation an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the control authority. Submission of the plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the control authority to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

- (B) *Show cause hearing.* The control authority may order any user which causes or contributes to violation(s) of this article, wastewater discharge permits, or orders issued hereunder, or any other pretreatment standard or requirement, to appear before the control authority and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing may be served personally or by registered or certified mail (return receipt requested) and shall be served at least five (5) working days prior to the hearing. Such notice may be served on any authorized representative of the user. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be a prerequisite for taking any other action against the user.
- (C) *Emergency suspensions.* The control authority may immediately suspend a user's discharge (after informal notice to the user) whenever such suspension is necessary in order to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of any person. The control authority may also immediately suspend a user's discharge (after notice and opportunity to respond) that threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.
- (1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the control authority may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any person. The control authority shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the control authority that the period of endangerment has passed.
 - (2) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and measures taken to prevent any future occurrence to the control authority, prior to the date of any show cause hearing under subsection (B), above.

Nothing in this section shall be construed as requiring a hearing prior to any emergency suspension under this section.

- (D) *Permit suspension/termination of discharge.* In addition to the provisions of Section 22.144(E) of this article, any user that violates the following conditions of this section, wastewater discharge permits, or orders issued hereunder, is subject to permit suspension and discharge termination:
- (1) Violation of any wastewater discharge permit condition or conditions;
 - (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;

- (3) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;
- (4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling, or;
- (5) Violation of the pretreatment standards in Section 22.141(A) of this article.

Such user shall be notified of the proposed termination of its discharge and be offered an opportunity to show cause under subsection (B) of this section why the proposed action should not be taken.

- (E) *Compliance orders.* When the control authority finds that a user has violated, or continues to violate, any provision of this article, an industrial wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the control authority may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or prerequisite for, taking any other action against the user.
- (F) *Cease and Desist Orders.* When the control authority finds that a user has violated, or continues to violate, any provision of this ordinance, an Individual Wastewater Discharge Permit, or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the control authority may issue an order to the user directing it to cease and desist all such violations and directing the user to:
- (1) Immediately comply with all requirements; and
 - (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

Sec. 22.150. Judicial enforcement remedies.

- (A) *Criminal prosecution.*

- (1) Any user that intentionally, knowingly, recklessly or with criminal negligence, violates any provision of this article, any orders or wastewater discharge permits issued hereunder, or any other pretreatment requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than two thousand dollars (\$2,000) per violation per day.
 - (2) Any user that intentionally, knowingly, recklessly or with criminal negligence, introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of not less than one thousand dollars (\$1,000) or not more than two thousand dollars (\$2,000) per violation per day. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation. This penalty shall be in addition to, and not exclusive of, any other cause of action for personal injury or property damage available under law.
 - (3) Any user that knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other documentation filed, or require to be maintained, pursuant to this article, wastewater discharge permit or order, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction, be punished by a fine of not more than two thousand dollars (\$2,000) per violation per day.
- (B) *Injunctive relief.* Whenever an industrial user has violated a pretreatment standard or requirement or continues to violate the provisions of this article, wastewater discharge permits or orders issued hereunder, or any other pretreatment requirement, the control authority may petition a court of proper jurisdiction in Dallas County, Texas through the City Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this article on activities of the industrial user. Such other action as appropriate for legal or equitable relief may also be sought by the control authority. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a user.
- (C) *Remedies nonexclusive.* The provisions in Sections 22.149 and this section are not exclusive remedies. The City reserves the right to take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations shall at minimum be consistent with the control authority's enforcement response plan. However, the control authority reserves the right to take other action against any user when the circumstances warrant. Further, the control authority is empowered to take more than one enforcement action against any noncompliant user. These actions may be taken concurrently.

Sec. 22.151. Supplemental enforcement action/water supply termination.

Whenever a user has violated or continues to violate the provisions of this article, orders, or wastewater discharge permits issued hereunder, water service to the user may be terminated. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

Sec. 22.152. Pretreatment charges and fees.

The control authority may adopt reasonable charges and fees for reimbursement of costs of setting up and operating its pretreatment program which may include:

- (A) Fees for wastewater discharge permit applications including the cost of processing such applications,
- (B) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing an industrial user's discharge and reviewing monitoring reports submitted by industrial users.
- (C) Fees for reviewing and responding to accidental discharge procedures and construction.
- (D) Fees for filing appeals.
- (E) Other fees as may be necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this article and are separate from all other fees, fines and penalties chargeable by Garland."