

ENB-4.03 - Industrial Wastewater Discharges Administrative Rules

INDUSTRIAL WASTEWATER DISCHARGES ADMINISTRATIVE RULES

Administrative Rule

Adopted by Bureau

Pursuant to Rule-Making

Authority

ARB-ENB-4.03

I. DEFINITIONS

For purposes of these Administrative Rules and Chapter 17.34 of the City Code, the following definitions are provided:

(1) **Alternative Discharge Control Mechanisms.** Alternative discharge control mechanisms (ADCMs) are mechanisms issued by the Director in lieu of an industrial wastewater discharge permit to control the discharge of industrial wastewater to the City sewer system. Alternative discharge control mechanisms include, but are not limited to, discharge authorizations, best management practices, or a letter of discharge approval.

(2) **Applicable pretreatment standards.** Applicable pretreatment standards are any National Pretreatment standards (when effective), State of Oregon pretreatment standards (when effective) or discharge prohibitions and local limits established in the City Code or rules adopted thereunder, whichever standard is most stringent.

(3) **Authorized representative of an industrial user.** An authorized representative of an industrial user may be:

(a) A principal executive officer of at least the level of vice president if the industrial user is a corporation;

(b) A general partner or proprietor if the industrial user is a partnership or sole proprietorship, respectively;

(c) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation or has overall responsibility for environmental matters of the facility from which the indirect discharge originates.

(4) **Batch Discharge.** Batch discharge shall mean the controlled discharge of a discrete, contained volume of wastewater.

(5) **Best Management Practices.** Best management practices (BMPs) are administrative

controls that are used to reduce pollutant discharges through changes to structural controls, facility processes, or to operating and housekeeping pollution control practices.

(6) Biochemical Oxygen Demand (BOD). The term "biochemical oxygen demand" or abbreviation thereof, as "BOD", shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter over a period of 5 days at a temperature of 20 degrees Celsius (as described in the American Public Health Association publication, *Standard Methods for the Examination of Water and Wastewaters*, current edition, or other applicable references, contained in 40 CFR 136 and amendments thereto).

(7) Bypass. Bypass means the intentional diversion of wastestreams from any portion of an industrial user's treatment facility.

(a) An industrial user may allow any bypass to occur which does not cause applicable pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (b) and (c) of this definition.

(b) Notice. If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the Director of Environmental Services at least 10 days before the date of the bypass, if possible; an industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards or requirements to the Director within 24 hours from the time of becoming aware of the bypass. A written report shall also be provided within 5 days from the time the industrial user becomes aware of the bypass. The written report shall contain a description of the bypass and its cause, the duration of the bypass (including exact dates and times) and, if the bypass has not been corrected, the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass.

(c) Bypass is prohibited, and the Director may take enforcement action against an industrial user for a bypass, unless;

(i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(ii) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(iii) The industrial user submitted notices as required under paragraph (b) of this definition.

(8) Categorical User. A categorical user is an industrial user subject to a categorical pretreatment standard.

(9) Compatible pollutant. The term compatible pollutant shall mean biochemical oxygen demand, suspended solids, pH, fecal coliform bacteria, plus additional pollutants which the Publicly Owned Treatment Works is designed to treat.

(10) Composite sample. A composite sample is a series of individual discrete samples taken at selected intervals based on either an increment of flow or time. The samples are mixed together to approximate the average composition of discharge to the City sewer system. A composite sample for one day shall consist of a pool of samples, collected over the operational period of the production day. Where special conditions warrant, the Director may designate an alternative procedure that is acceptable.

(11) Dilution. Dilution is defined as the prohibited practice of adding water or, in any other way, attempting to dilute a discharge as a partial or complete substitution for adequate treatment to achieve compliance with discharge standards or requirements.

(12) Discharge Authorization. A discharge authorization is an alternative discharge control mechanism issued by the Director which prescribes certain conditions, requirements, or restrictions on the discharge of pollutants to the City sewer system and may contain elements described in Section VI(2).

(13) Discharger. A discharger is any industrial user that discharges industrial wastewater to the City sewer system.

(14) Fats, Oils and Grease Total. Total fats, oils and grease are those substances which are measured by EPA Hexane Extraction Method (HEM) 1664.

(a) Non-polar fats, oils and grease (those from petroleum sources) are the fats, oils and grease that remain after passing the sample extract through silica gel.

(b) Polar fats, oils and grease (those of animal or vegetable origin) are determined by subtracting non-polar fats, oils and grease from total fats, oils and grease.

(15) Grab Sample. A grab sample is an individual sample collected over a period of time not exceeding 15 minutes.

(16) Hazardous Waste. A hazardous waste is that waste as defined in accordance with 40

CFR 261.3 as amended or Oregon Administrative Rules, Chapter 340, Division 100 through 120.

(17) Lower Explosive Limit (LEL). Lower explosive limit is the lowest concentration of a gas-in-air mixture at which the gas can ignite.

(18) New Source. The term New Source means 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 categorical pretreatment standards under section 307(c) of the Clean Water Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that;

(a) The building, structure, facility or installation is constructed at a site at which no other source is located; or

(b) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(c) The production of 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.

(d) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraphs (b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.

(e) Construction of a new source as defined herein has commenced if the owner or operator has begun or caused to begin as part of a continuous on-site construction program any placement, assembly or installation of facilities or equipment, or significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(f) Construction of a new source as defined herein has commenced if the owner or operator has entered into 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.

(19) New Source Discharger. New Source Discharger means any New Source or person who discharges industrial wastewater containing any pollutants with discharge limitations that were adopted by the Director prior to commencement of the discharge to the City sewer system.

(20) Non-contact cooling water. Non-contact cooling water means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product or finished product.

(21) Non-domestic User. A non-domestic user is an industrial user.

(22) Non-domestic Wastewater. Non-domestic wastewater is industrial wastewater or other wastes as determined by the Director.

(23) Pass Through. The term Pass Through means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's National Pollution Discharge Elimination System permit (including an increase in the magnitude or duration of a violation).

(24) Permit. The term permit shall mean an industrial wastewater discharge permit as provided for in the City Code.

(25) pH. The "pH" shall mean the negative logarithm of the hydrogen ion concentration or the logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions in moles per liter of solution. (Neutral water, for example, has a pH of 7 and a hydrogen ion concentration of 10 to the minus seventh power.)

(26) Point of Compliance. The point of compliance is the location where representative industrial wastewater samples are collected from industrial users to determine compliance with discharge standards. For categorical pretreatment standards, the point of compliance shall be at a location where the effluent of the process regulated by the standard is collected, or as otherwise specified by the standard. For other limits identified in Section II of these rules, the point of compliance shall be at end of pipe where the wastewater from the industrial user enters the City sewer system. The Director may designate an alternative location to accommodate collecting representative compliance monitoring samples.

(27) Pretreatment Requirements. Pretreatment requirements are any substantive or procedural requirements, other than a national pretreatment standard, imposed on an industrial user.

(28) **Settleable Solids.** Settleable solids are that portion of suspended solids that will settle to the bottom of an Imhoff cone in a 60 minute period (as described in Standard Methods for the Examination of Water and Wastewaters, current edition, or Guidelines establishing test procedures for the Analysis of Pollutants, contained in 40 CFR 136, as published in the Federal Register).

(29) **Single Operational Upset.** A single operational upset is an exceptional incident which causes simultaneous, unintentional, unknowing (not the result of a knowing act or omission), temporary noncompliance with more than one effluent discharge pollutant parameter. Single operational upset does not include violations involving discharge without an industrial wastewater discharge permit or noncompliance to the extent caused by improperly designed or inadequate treatment facilities. A single operational upset which leads to simultaneous violations of more than one pollutant parameter shall be treated as a single violation. The discharger bears the burden of proving, by a preponderance of the evidence, the occurrence of the single operational upset event and its relationship to the effluent limitation exceedances in question.

(30) **Slugload.** A slugload is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge.

(31) **Standard Industrial Classification (SIC) Code.** A classification pursuant to the *Standard Industrial Classification Manual* issued by the United States Office of Management and Budget.

(32) **State.** State of Oregon.

(33) **Total Solids.** Total solids of a wastewater is all matter that remains as residue upon evaporation at 103 degrees Centigrade to 105 degrees Centigrade. Total solids, or residue upon evaporation, can be classified as either nonfilterable (suspended) solids or filterable (dissolved) solids by passing a known volume of liquid through a filter (as described in Standard Methods for the Examination of Water and Wastewaters, current edition, or Guidelines Establishing Test Procedures for the Analysis of Pollutants, contained in 40 CFR 136, as published in the Federal Register).

(34) **Total Suspended Solids.** Total suspended solids shall mean total suspended matter that either floats on the surface or is in suspension in water or wastewater and that is removable by laboratory filtering (as described in Standard Methods for the Examination of Water and Wastewaters, current edition, or other applicable references cited at 40 CFR 136, as published in the Federal Register and referred to as nonfilterable residue.)

(35) **Upset.** Upset means an exceptional incident in which a discharger unintentionally and temporarily is in a state of noncompliance with the applicable pretreatment standards or

requirements set forth in Chapter 17.34 or rules adopted thereunder due to factors beyond the reasonable control of the discharger, and excluding noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation thereof. To establish the affirmative defense of upset, an industrial user must demonstrate that:

- (a) An upset occurred, and the industrial user can identify its cause;
- (b) The permitted facility was at the time being properly operated; and
- (c) The industrial user submitted notice of the upset immediately upon learning of the upset, or as required by its industrial waste discharge permit. In no case shall notice be submitted later than 24 hours after the upset occurred. A written report shall be submitted to the Director of Environmental Services within 5 days of the upset which shall include the following information:
 - (i) A description of the occurrence and cause of noncompliance;
 - (ii) The period of noncompliance including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;
 - (iii) Steps being taken to reduce, eliminate and prevent recurrence of the noncompliance; and
- (d) The industrial user took all reasonable steps to minimize or prevent any discharge resulting from an upset.

(36) User. The term user means an industrial user or any person that discharges industrial wastewater to the City sewer system.

II. DISCHARGE LIMITATIONS

The following discharge limitations are established by the Director to meet the objectives of Section 17.34.040 of the City Code:

(1) Categorical Pretreatment Standards. All industrial users shall comply with applicable categorical pretreatment standards and requirements found at 40 CFR Chapter I, Subchapter N, Parts 405-471. All requirements and limitations shall be applied in accordance with 40 CFR 403.6(c)-(e) and 40 CFR 403.15. These standards and requirements, and any amendments, are hereby incorporated by reference.

(2) State Pretreatment Standards. All industrial users shall comply with applicable State

pretreatment standards and requirements set out in OAR Chapter 340 in any instance in which they are more stringent than federal requirements and limitations, or discharge limitations established in the City Code or these rules. These standards and requirements, and any amendments, are hereby incorporated by reference.

(3) Local Limits (40 CFR 403.5 (d)). Each industrial user required by the Director to obtain an industrial wastewater discharge permit shall not discharge industrial wastewater into the City sewer system in excess of the following daily maximum limits:

POLLUTANT	Daily Maximum Limit (mg/l)
METALS	
Arsenic, (T)	0.2
Cadmium, (T)	0.7
Chromium, (T)	5.0
Copper, (T)	3.7
Lead, (T)	0.7
Mercury, (T)	0.010
Molybdenum, (T)	1.4
Nickel, (T)	2.8
Selenium, (T)	0.6
Silver, (T)	0.4
Zinc, (T)	3.7
NON-METALS	
Cyanide, (T)	1.2
Fats, Oils and Grease (non-polar)	110.0
Sulfide, (D)	4.0
ORGANICS	
Acrylonitrile	1.0
Chlordane	0.03
Chlorobenzene	0.20
Chloroform	0.20
1, 2 Dichloroethane	0.5
2, 4 Dinitrotoluene	0.13
Nitrobenzene	2.0
Pentachlorophenol	0.04

Trichloroethylene

0.20

T=Total

D=Dissolved

Local limits shall apply to industrial users at the point of compliance. Compliance with local limits shall be determined through the use of composite or grab samples that are representative of the industrial user's wastewater that enters the City sewer system.

(4) Industrial User Permit-Specific Limits. The Director may establish discharge limitations for an industrial user on a case-by-case basis. Industrial user permit-specific limits shall be based on a technical evaluation for pollutants that: 1) are not amenable to treatment by the processes employed at the POTW, 2) may cause pass through or interference, or 3) may create worker health and safety problems within the POTW. At a minimum, the following approaches shall be considered in the technical evaluation:

- (a) Existing permit limits for comparable industrial facilities
- (b) Demonstrated performance of the user's currently installed treatment technologies (performance-based limits)
- (c) Performance of treatment technologies as documented in engineering literature for similar facilities or with similar wastestreams
- (d) Adapting federal standards that regulate similar wastestreams (transfer of regulations)
- (e) City of Portland chemical specific matrix evaluation process
- (f) Restrictions on headworks loading (not greater than 1% of the 1994 headworks loading) to the POTW
- (g) Other EPA accepted best professional judgment limitation development processes

The Director shall maintain an inventory of industrial users issued permit-specific limits that contains the permit-specific limits and date of issuance of the limits. Such limits, as applied in individual permits, are herein deemed pretreatment standards as per 40 CFR 403.5(d). The Director may apply industrial user permit-specific limits, where applicable, to other industrial users. The Director shall provide the inventory to persons or groups as per 40 CFR 403.5(c) (3).

(5) Pollutant Prohibitions. The Director will maintain an inventory of pollutant prohibitions

that are determined from technical evaluations using methods similar to Section II (3) and (4) of these rules. The inventory will contain the pollutant prohibitions and the detection level used to establish a violation. Pollutant prohibitions shall be applicable for all non-permitted industrial users. The Director shall provide the inventory to persons or groups as per 40 CFR 403.5(c)(3).

(6) Final Compliance Date with Applicable Discharge Limitations. New source dischargers shall comply with applicable limits upon commencement of discharge to the City sewer system. Existing industrial users shall comply with the following compliance dates for any new discharge limit, or for any existing limit that becomes more restrictive. Industrial users may be required to comply earlier, if the Director determines that a pollutant causes pass through, interference or imminent endangerment to the POTW.

(a) Compliance with categorical pretreatment standards shall be required within the time specified in the appropriate subpart of Subchapter N and in conformance with 40 CFR Â§ 403.6(b).

(b) New or more restrictive local limits shall become effective and legally enforceable at the time they are incorporated into the Cityâ€™s NPDES permit.

(c) Compliance with industrial user specific limits shall be required upon issuance of the limit in the industrial userâ€™s permit.

(7) Acceptance of Batch or Special Wastewater. The Director may enter into an agreement with a non-domestic user to provide temporary wastewater treatment services for wastewater with unusual characteristics. The agreement may include discharge limitations, charges and fees, and other requirements of the Director. No agreement between the Director and the non-domestic user shall violate discharge prohibitions and limitations set forth in the City Code, these administrative rules, or any other state or categorical pretreatment regulations or standards.

(8) City Limits. Industrial users not required to obtain an industrial wastewater discharge permit from the Director shall comply with City limits. At a minimum, City limits include the numeric equivalent limits identified in Section II(3) of these Administrative Rules.

(a) In lieu of complying with the numeric City limits, an industrial user may implement an alternative discharge control mechanism (ADCM) that is approved by the Director. Compliance with an ADCM shall constitute compliance with City limits.

(b) An ADCM may be submitted to the Director for approval by an individual user or for an industry sector that perform similar operations and discharge industrial wastewater of similar character for which the ADCM is an effective wastewater discharge control mechanism. An ADCM may also be developed jointly with the City for approval by the Director. The Director will maintain a listing of ADCMs approved for use by industrial users that control specific industrial wastewater discharges or pollutants.

(c) The duration of an ADCM shall be the time frame during which the industrial wastewater discharge, that is controlled by the ADCM, does not significantly change in character or volume. The ADCM shall not be transferable.

(d) An ADCM may be modified by the Director during its duration if an industrial user's wastewater discharge significantly changes in volume and/or pollutant level. An ADCM may also be modified where new methods or technologies are developed and determined by the Director to be more appropriate for complying with City limits.

(e) An industrial user or an industry sector of similar businesses may submit an ADCM for conditional approval by the Director as an interim ADCM until such time as a final ADCM is approved by the Director. Compliance with an approved interim ADCM shall constitute compliance with City limits.

III. MONITORING AND REPORTING REQUIREMENTS

(1) Notification of Hazardous Waste Discharge. An industrial user shall notify the Director of Environmental Services in writing of any discharge into the sewer system of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261.

(a) Notification shall be no later than 180 days from August 23, 1990, for existing discharges, and within 180 days after commencement of the discharge for industrial users who commence such discharges after August 23, 1990. Such notification shall include:

(i) The name of the hazardous waste as set forth in 40 CFR Part 261;

(ii) The EPA hazardous waste number; and

(iii) The type of discharge (continuous, batch, or other).

(iv) If an industrial user discharges more than 100 kilograms of such waste per calendar month to the sewer system, the notification shall also contain the following information to the extent it 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 wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve months.

(v) These notification requirements do not apply to pollutants already reported under the self-monitoring requirements of Chapter 17.34.060 and 17.34.070 of the City Code.

(b) Dischargers are exempt from the requirements of paragraph (a) above during a calendar month in which they discharge no more than fifteen 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 kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes requires a one-time notification. Subsequent months during which an industrial user discharges more than such quantities of any hazardous waste do not require additional notification.

(c) Whenever U.S. EPA publishes final rules identifying additional hazardous wastes or new characteristics of hazardous waste, an industrial user shall notify the Director of Environmental Services of the discharge of such a substance within 90 days of the effective date of such regulations.

(d) In the case of any notification made under this rule, an 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.

(2) Continuous pH Monitoring for Compliance. The Director may establish compliance monitoring requirements for continuous metering devices to determine compliance with pH discharge limits established pursuant to the City Code. The Director may specify the period and conditions of a pH excursion, including, but not limited to, equipment maintenance and calibration. No excursion shall be allowed which conflicts with federal or state discharge limitations or may endanger the POTW, worker health and safety or the public.

(3) Technical Information Reports. The Director may require industrial users to submit completed technical information reports to obtain information for environmental surveys, applications and other reports as required in Sections 17.34.060 and 17.34.070 of the City Code. Technical information reports may include, but are not limited to, the following information:

(a) Name, address and location of the Industrial User;

(b) Description of activities, facilities and plant processes on the premises and number of employees, hours of operation and seasonal operation information;

(c) Standard industrial classification (SIC) code of both the industry as a whole and any process for which federal categorical standards have been promulgated;

(d) Each product produced by type, amount, process or processes and rate of production;

- (e) Type and amount, average and maximum per day, of raw materials utilized;
- (f) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location and elevation;
- (g) Time and duration of discharges;
- (h) Measurements or verifiable estimates of average, daily, and instantaneous peak wastewater flow rates, in gallons per day, including any daily, monthly and seasonal variations;
- (i) Nature and concentration of pollutants or toxic substances in the discharge limited by Chapter 17.34 of the City Code. All sampling and analysis shall be performed in accordance with 40 CFR Part 136;
- (j) Description of any pretreatment systems and operational information;
- (k) Description of materials that are reused, recycled or disposed of off site;
- (l) A list of all environmental control permits issued to the industrial user;
- (m) Statement regarding whether compliance with the City Code is being achieved on a consistent basis; and, if not, whether additional operation and maintenance activities and/or additional pretreatment is required;
- (n) Any other information or data concerning the industrial user's operations and/or wastewater required by 40 CFR 403.12(b) or that the Director deems necessary to evaluate compliance with requirements of the City's approved pretreatment program.

(4) Total Toxic Organics (TTO) and/or Total Cyanide Reporting. Categorical users which are required by EPA to eliminate and/or reduce the levels of total cyanide and/or TTOs discharged into the POTW must follow the categorical pretreatment standards for the industrial user. Industrial users must also meet the following requirements:

- (a) The industrial user must sample, as part of the initial application requirements, for total cyanide and/or all the organic compounds listed under the TTO limit.
- (b) If no cyanide and/or TTOs are used at the facility or the industrial user elects to develop a best management practices plan in lieu of self-monitoring, as provided for in the categorical pretreatment standard, then the industrial user must routinely submit a certification statement as part of its self-monitoring report. The report must certify that there has been no discharge of cyanide and/or concentrated TTOs into the wastewater

and that the industrial user is implementing a management plan as approved by the Director.

Industrial users who have sampled initially and can verify that there are no cyanide and/or TTO compounds utilized are not required to develop a management plan but must make the certification statement of no use of cyanide and/or TTO compounds during the reporting period.

(5) No Discharge Certification Report. Non-discharging categorical industrial users must submit periodic certification reports, as required by the Director, that certify there has been no discharge of regulated industrial wastewater during the reporting period.

IV. BEST MANAGEMENT PLAN

(1) The Director may require an industrial user to develop and submit to the City a Best Management Plan (plan) for users who handle, store or use on their sites hazardous or toxic substances or substances limited under Sections 17.34.030 and 17.34.040 of the City Code. The plan shall be submitted within 60 days after notification by the Director or as otherwise required by an industrial wastewater discharge permit. The plan shall be directed at preventing the entrance of pollutants, directly or indirectly, into the City sewer system. A plan may incorporate the common elements of the following plans: Accidental Spill Prevention Plan, Solvent Management Plan, Spill Prevention Countermeasure Control Plan, Toxic Organic Management Plan, Slugload Plan or Stormwater Pollution Control Plan. Additionally, the Director may accept other plans where the plan adequately protects the City sewer system. The plan shall be available for inspection at the facility during normal business hours and shall include, but not be limited to, the following elements:

- (a) General information on the facility;
- (b) Detailed facility layout and site diagram showing points of entry into the City sewer system;
- (c) An inventory and description of the types and quantities of hazardous and toxic substances handled and their potential points of entry into the City sewer system;
- (d) A description of the emergency measures to be taken to prevent entry at the described points before a spill occurs;
- (e) A description of preventive maintenance practices and procedures for assuring that hazardous and toxic organic substances do not routinely spill or leak into the City sewer system;

- (f) A list of available equipment and measures to be taken to contain a spill if one occurs;
- (g) Description of discharge practices including non-routine batch discharges and the disposal method used in lieu of discharging to the City sewer system;
- (h) A description of employee training in the prevention and control of spills, leaks, slugloads, or non-customary episodic discharges.
- (i) Procedures for immediately notifying the Director of spills, leaks, slugloads, or non-customary episodic discharges, with written notification within five days;
- (j) Certification by a qualified professional, officer of the company or operations manager that the plan is adequate to prevent spills, leaks, slugloads, or non-customary discharges of regulated substances.

(2) The Director may require revisions to an industrial wastewater discharger's plan if the plan contains elements that are inadequate, as determined by the Director, or the discharger has a spill, leak or uncontrolled discharge of a hazardous or toxic substance or a substance prohibited under Sections 17.34.030 and 17.34.040 into the City sewer system. Review of such plans and operating procedures by the Director shall not relieve the discharger from the responsibility to modify its facility as necessary to comply with local, state and federal laws and regulations.

V. ENFORCEMENT

(1) Mechanisms for Enforcement Against Violations of Requirements under Chapter 17.34 of the City Code and Administrative Rules adopted thereunder:

(a) Compliance Telephone Memorandum. A Compliance Telephone Memorandum shall be in writing, shall specify the violation, and a copy shall be mailed to the Industrial User.

(b) Letter of Violation. A Letter of Violation shall be in writing, shall specify the violation, may require compliance measures, shall assess a civil penalty and shall be mailed to the Industrial User.

(c) Warning Notice. A Warning Notice shall be in writing, shall specify the violation, may require compliance measures, shall assess a civil penalty, and shall be served upon the Industrial User either personally, by office or substitutes service, or by certified or registered mail, return receipt requested.

(d) Notice of Violation. A Notice of Violation shall be in writing, shall specify the violation, may require compliance measures, shall assess a civil penalty, and shall be served upon the Industrial User either personally, by office or substitute service, or by certified or registered mail, return receipt requested.

(e) Compliance Order. The Director may issue a Compliance Order when an Industrial User is in violation of any requirements of Chapter 17.34 of the City Code or rules adopted thereunder. The Compliance Order shall state what measures the Industrial User must take to achieve compliance with such requirements and shall state a deadline for each measure. Violation of a term of a Compliance Order shall be a violation of Chapter 17.34.

(2) Schedule of Civil Penalties. In addition to any liability, duty or other penalty provided by law, the Director may assess a civil penalty for any violation of requirements under the Portland City Code, Administrative Rules adopted thereunder, or an industrial wastewater discharge permit.

(a) Civil Penalties Assessed in a Letter of Violation. No civil penalty assessed in a Letter of Violation shall be less than fifty dollars (\$50) or more than two hundred, fifty dollars (\$250) for each day of each violation.

(b) Civil Penalties Assessed in Warning Notice. No civil penalty assessed in a Warning Notice shall be less than two hundred, fifty dollars (\$250) or more than one thousand dollars (\$1,000) for each day of each violation.

(c) Civil Penalties Assessed in a Notice of Violation. No civil penalty assessed in a Notice of Violation shall be less than one thousand dollars (\$1,000) or more than two thousand, five hundred dollars (\$2500) for each day of each violation.

(d) Civil Penalties Assessed for Violation of a Compliance Order. No civil Penalty assessed for violation of any requirement of a Compliance Order shall be less than two thousand, five hundred dollars (\$2500) or more than five thousand dollars (\$5000) for each day of each violation.

(3) Answer Required: Response to Assessment of Civil Penalty.

Within twenty (20) days of the date of receipt of a notice of assessment of a civil penalty, an Industrial User shall respond in writing to the notice advising of its position with respect to the allegations and appropriateness of the civil penalty.

(a) An Industrial User must admit or deny all factual allegations and shall affirmatively allege all claims or defenses. Failure to deny a factual allegation will be deemed an

admission and failure to affirmatively allege claims or defenses shall be presumed to be a waiver of such claims or defenses.

(b) Failure to submit a timely answer shall result in assessment of the civil penalty stated in the notice.

(c) A civil penalty is due and payable upon receipt of the notice of assessment.

(4) Settlement of Civil Penalty. Upon receipt of a notice of assessment of a civil penalty, an Industrial User may request a settlement conference or arrange for a conference call with the Director. The Director may settle any unpaid civil penalty where deemed appropriate.

(5) Appeal of Assessment of Civil Penalty. Upon receipt of a notice of assessment of a civil penalty, an Industrial User may appeal the assessment to the Code Hearings Officer in accordance with procedures set out at Chapter 22 of the Portland City Code.

(6) Falsification of Data. Falsification of data in an application for an industrial wastewater discharge permit, monitoring or sampling data, or any other data submitted to the Bureau of Environmental Services, or tampering with monitoring equipment may result in the assessment of a civil penalty of a minimum of \$1000 per violation, permit revocation, institution of an action before the Code Hearings Officer, or institution of an action before a court of competent jurisdiction, or any other remedies, civil and criminal, provided by other local, state or federal statutes or regulations.

VI. GENERAL ADMINISTRATION

(1) Classification System. The Director may establish procedures to classify industrial users to fairly and objectively apply the requirements of the General Pretreatment Regulations (40 CFR 403) to all industrial users.

(2) Contents of Industrial Wastewater Discharge Permits. In addition to Section 17.34.070 of the City Code, any industrial wastewater discharge permit issued by the Director shall contain conditions (a)-(d) and may also contain conditions (e)-(o), as determined by the Director.

(a) A statement of non-transferability without prior notification to and approval from the Director and provisions for furnishing the new owner or operator with a copy of the existing industrial wastewater discharge permit;

(b) Discharge limits and/or restrictions based on applicable pretreatment standards;

(c) Sampling, testing, reporting, notification, and record-keeping requirements. These

- requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, or City laws or Codes;
- (d) A statement of applicable civil and criminal penalties for violations of pretreatment standards and requirements;
 - (e) Limits and/or restrictions on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
 - (f) 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 City sewer system;
 - (g) Requirements for the development and implementation of best management plans to prevent accidental, unanticipated or non-routine discharges, or to reduce the amount of pollutants discharged to the City sewer system;
 - (h) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the City sewer system;
 - (i) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
 - (j) Requirements for maintaining and retaining records relating to wastewater discharges and solids disposal;
 - (k) Requirements for notification of any new introduction of wastewater constituents, hazardous wastes, or of any substantial change in the volume or character of the wastewater being introduced into the City sewer system;
 - (l) Requirements for the notification of any change in the manufacturing and/or pretreatment process used;
 - (m) Requirements for notification of excessive, accidental or slug discharges;
 - (n) A statement that compliance with the industrial wastewater discharge permit does not relieve the industrial user of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the permit; and
 - (o) Other conditions as deemed appropriate by the Director to ensure compliance with the City Code and applicable state and federal laws, rules and regulations.

APPENDIX - [Portland City Code 17.34.025 Authority of Director of Environmental Services to Adopt Rules.](#)

HISTORY

Filed for inclusion in PPD September 29, 2004.

Signed by Environmental Services Director September 29, 2004.