

**RESOLUTION NO. 2023-2338**

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, DECLARING A PUBLIC RECORD THAT CERTAIN DOCUMENT FILED WITH THE CITY CLERK AND TITLED "AMENDING CHAPTER 12A (SEWER PRETREATMENT) OF THE GOODYEAR CITY CODE."

Be it resolved by the Mayor and Council of the City of Goodyear, Maricopa County, Arizona, as follows:

SECTION 1.    DECLARATION OF PUBLIC RECORDS

That a certain document titled "Amending Chapter 12A (Sewer Pretreatment) of the Goodyear City Code," a copy of which is attached hereto as Exhibit A, is hereby declared a public record.

SECTION 2.    PURPOSE

The aforementioned documents are declared public records in connection with the adoption of Ordinance 2023-1584.

SECTION 3.    COPIES FILED WITH THE CITY CLERK

Either three paper copies or one paper copy and one electronic copy maintained in compliance with section A.R.S 44-7041 of each of the aforementioned documents being declared public records herein are ordered to remain on file with the City Clerk and to be available for public use and inspection during regular business hours.

PASSED AND ADOPTED by the Mayor and Council of the City of Goodyear, Maricopa County, Arizona, by a \_\_\_\_\_ vote, this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_\_.

\_\_\_\_\_  
Joe Pizzillo, Mayor

Date: \_\_\_\_\_

ATTEST:

APPROVED AS TO FORM:

\_\_\_\_\_  
Darcie McCracken, City Clerk

\_\_\_\_\_  
Roric Massey, City Attorney

## **EXHIBIT “A”**

### **AMENDING CHAPTER 12A (SEWER PRETREATMENT) OF THE GOODYEAR CITY CODE**

Pursuant to Ordinance No. 2023-1584 adopted by the City of Goodyear City Council on September 25, 2023, all Articles, Sections, and Subsections of Goodyear City Code CHAPTER 12A (Sewer Pretreatment) shall be deleted and replaced in their entirety, as set forth below:

## **Chapter 12A SEWER PRETREATMENT**

### **Articles:**

- 12A-1 General Provisions
- 12A-2 General Sewer Use Requirements
- 12A-3 Pretreatment of Wastewater
- 12A-4 Wastewater Discharge Permits
- 12A-5 Reporting Requirements
- 12A-6 Compliance Monitoring
- 12A-7 Release of Information
- 12A-8 Enforcement Response Plan
- 12A-9 Affirmative Defenses for Discharge Violations
- 12A-10 Miscellaneous Provisions

## **Article 12A-1 GENERAL PROVISIONS**

### **Sections:**

- 12A-1-1 Purpose and Policy
- 12A-1-2 Administration
- 12A-1-3 Abbreviations and Definitions

### **12A-1-1 PURPOSE AND POLICY**

(A) This chapter sets forth uniform requirements for Users of Publicly Owned Treatment Works (POTW) for the City and enables the City to comply with State and Federal laws, including the Clean Water Act (33 U.S.C. § 1251 et seq.) and General Pretreatment Regulations (40 C.F.R. § 403 ET SEQ.). The objectives of this chapter are to do the following:

- (1) Prevent the introduction of pollutants into the POTW that will interfere with its operation;
- (2) Prevent the introduction of pollutants into the POTW that will cause interference or pass through the POTW, inadequately treated, into receiving waters, or otherwise be incompatible with the POTW;
- (3) Protect both POTW personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- (4) Promote reuse and recycling of industrial wastewater and sludge from the POTW; and
- (5) Enable the City to comply with its Arizona Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the POTW is subject.

(B) This chapter shall apply to all Users of the POTW. This chapter authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires User reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

### **12A-1-2 ADMINISTRATION**

Except as otherwise provided herein, the City Manager or their designee shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the City Manager may be delegated by the City Manager to a duly authorized City employee.

### **12A-1-3 ABBREVIATIONS AND DEFINITIONS**

(A) The following abbreviations, when used in this chapter, shall have the designated meanings:

|          |                                                |
|----------|------------------------------------------------|
| ADEQ –   | ARIZONA DEPARTMENT OF ENVIRONMENTAL QUALITY    |
| AZPDES – | ARIZONA POLLUTANT DISCHARGE ELIMINATION SYSTEM |
| BMP –    | BEST MANAGEMENT PRACTICES                      |
| BMR –    | BASELINE MONITORING REPORT                     |
| BOD –    | BIOCHEMICAL OXYGEN DEMAND                      |
| CIU –    | CATEGORICAL INDUSTRIAL USER                    |
| COD –    | CHEMICAL OXYGEN DEMAND                         |
| DML –    | DAILY MAXIMUM LIMIT                            |
| PS –     | PRETREATMENT SUPERVISOR                        |
| EPA –    | ENVIRONMENTAL PROTECTION AGENCY                |
| ERP –    | ENFORCEMENT RESPONSE PLAN                      |
| FOG –    | FATS, OILS, AND GREASES                        |
| FSE –    | FOOD SERVICE ESTABLISHMENT                     |
| GPD –    | GALLONS PER DAY                                |
| IPI –    | INDUSTRIAL PRETREATMENT INSPECTOR              |

|         |                                                 |
|---------|-------------------------------------------------|
| IPP -   | INDUSTRIAL PRETREATMENT PROGRAM                 |
| IPQ -   | INDUSTRIAL PRETREATMENT QUESTIONNAIRE           |
| IU -    | INDUSTRIAL USER                                 |
| MTCIU - | MIDDLE TIER CATEGORICAL INDUSTRIAL USER         |
| MG/L -  | MILLIGRAMS PER LITER                            |
| NAICS - | NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM   |
| NOV -   | NOTICE OF VIOLATION                             |
| NPDES - | NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM |
| NSCIU - | NON-SIGNIFICANT CATEGORICAL INDUSTRIAL USER     |
| POTW -  | PUBLICLY OWNED TREATMENT WORKS                  |
| SIC -   | STANDARD INDUSTRIAL CLASSIFICATION CODE         |
| SIU -   | SIGNIFICANT INDUSTRIAL USER                     |
| SMR -   | SELF-MONITORING REPORT                          |
| SNC -   | SIGNIFICANT NONCOMPLIANCE                       |
| SS -    | SUSPENDED SOLIDS                                |
| TRC -   | TECHNICAL REVIEW CRITERIA                       |
| TSS -   | TOTAL SUSPENDED SOLIDS                          |
| µG/L -  | MICROGRAMS PER LITER                            |
| WDP-    | WASTEWATER DISCHARGE PERMIT                     |

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

*ACT* means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 et seq.

*ADMINISTRATIVE ORDERS* means enforcement documents that direct Industrial Users to undertake, or to cease, specified activities and may incorporate compliance schedules, timeframes, administrative fines, and termination of service orders.

*ADMINISTRATIVE WARRANT* means a warrant issued by a court which authorizes City staff to conduct an administrative search to ensure compliance with the provisions of this chapter and permits.

*APPROVAL AUTHORITY* means the State of Arizona Department of Environmental Quality (ADEQ) or Regional Administrator for Region IX of the U.S. EPA.

*ARIZONA POLLUTANT DISCHARGE ELIMINATION SYSTEM (AZPDES)* means the state program for issuing, modifying, revoking, reissuing, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment and bio-solids requirements under A.R.S. Title 49, Chapter 2, Article 3.1 and 18 A.A.C. 9, Articles 9 and 10.

*AUTHORIZED OR DULY AUTHORIZED REPRESENTATIVE OF THE USER* means the following:

- (1) If the User is a corporation:
  - (a) 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
  - (b) The manager of one or more manufacturing, production, or operating facilities, provided the manager:

- (1) Is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations;
  - (2) Is authorized to initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations;
  - (3) Can ensure that the necessary systems are established or actions taken to gather complete and accurate information for wastewater discharge permit requirements; and
  - (4) Has been assigned or delegated authority to sign documents in accordance with corporate procedures.
- (2) If the User is a partnership or sole proprietorship; a general partner or proprietor, respectively.
- (3) If the User is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- (4) The individuals described in subsections (1) through (3) of this definition may designate a Duly Authorized Representative if:
- (a) The authorization is in writing,
  - (b) The authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and
  - (c) The written authorization is submitted to the City.

If an authorization in this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section shall be submitted to the city prior to or together with any reports to be signed by an authorized representative.

*BASELINE MONITORING REPORT (BMR)* means a report submitted by CIU which indicates the compliance status of the CIU within an applicable categorical standard.

*BEST MANAGEMENT PRACTICES (BMP)* means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement prohibitions identified in City Code and 40 C.F.R. § 403.5(a)(1) and (b). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. BMPs also include alternative means, i.e. Management Plans, of complying with or in place of certain established categorical pretreatment standards and effluent limits. BMPs shall be subject to all requirements and enforcement actions contained in this chapter.

*BIOCHEMICAL OXYGEN DEMAND (BOD)* means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).

*BLOWDOWN* means the minimum discharge of re-circulating water for the purpose of discharging materials contained in the water, the further buildup of which would cause concentration in amounts exceeding established limits.

*BYPASS* means the intentional diversion of waste streams from any portion of a treatment facility.

*CATEGORICAL INDUSTRIAL USER (CIU)* means an Industrial User subject to a categorical pretreatment standard or categorical standard.

*CATEGORICAL PRETREATMENT STANDARD OR CATEGORICAL STANDARD* means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307 (B) and (C) of the ACT (33 U.S.C. § 1317) that apply to a specific category of Users and that appear in 40 C.F.R. Chapter I, Subchapter N, Parts 405-471.

*CHEMICAL OXYGEN DEMAND (COD)* means a measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

*CITY* means the City of Goodyear.

*CITY MANAGER* means the City manager of the City of Goodyear or their designee.

*CIVIL ACTION* means order(s), hearing(s), or other action(s) to enforce the City Code and other local, federal, and Arizona regulations, including judicial proceedings; orders may include fines, damages, and injunctive relief and/or any other action or remedy available by law.

*COMPLIANCE INSPECTION* means inspection(s) to determine compliance status and identify practices that may lead to noncompliance; inspections may or may not be scheduled in advance.

*COMPLIANCE MEETING* means meeting with Industrial User to discuss the causes of noncompliance, corrective actions to achieve compliance, and time frames for implementation of corrective actions.

*COMPLIANCE SCHEDULE* means a schedule of remedial measures included in a permit or an enforcement order, including a sequence of requirements (e.g. actions, operations, or milestone events), that lead to compliance with this chapter or the User's permit.

*COMPOSITE SAMPLE*

- (1) A combination of individual samples obtained at regular intervals over a specified time period. The volume of each individual sample shall be either proportional to the flow rate during the sample period (flow-proportional composite) or constant and collected at equal time intervals during the composite period (time-proportional composite) as defined in the permit. Aliquots may be collected manually or automatically. Each sample aliquot must be at least 100 ml in volume unless collected using automatic self-purging sampling equipment.
- (2) For volatile pollutants required to be combined for analysis, aliquots must be combined in the laboratory immediately before analysis. The volatile composite samples must be collected by flow proportional means; either the time interval between each aliquot or the volume of each aliquot must be proportional to either the stream flow at the time of sampling or the total stream flow since the collection of the previous aliquot.
- (3) If one day is defined as a 24-hour period other than a calendar day, the analytical result for the 24-hour period will be considered as the result for the calendar day in which the 24-hour period ends.

*CONTROL AUTHORITY* means the City of Goodyear.

*CONSISTENT COMPLIANCE* means full compliance with all applicable pretreatment standards and reporting requirements during the most recent reporting year (*or most recent 12 month reporting period*).

*CRIMINAL ACTION* means order(s), hearing(s), or other action(s) to enforce the City Code and other local, federal, and Arizona law, including judicial proceedings, involving violations for criminal offenses; orders may include fines, damages, injunctive relief, prohibition, and imprisonment and/or any other action or remedy available by law.

*DAILY DISCHARGE* means the "discharge of a pollutant" measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the day. For

pollutants with limitations expressed in other units of measurements, the “daily discharge” is calculated as the average measurement of the pollutant over the day.

*DAILY MAXIMUM* or *DAILY MAXIMUM LIMIT* or *MAXIMUM DAILY DISCHARGE LIMITATION* means the highest allowable daily discharge.

*DAY* means calendar days unless otherwise specified in the text.

*DIRECT DISCHARGE* means the wastewater that goes directly into waters of the state (groundwater, streams, lakes, rivers, etc.) without treatment from a POTW. This includes through a storm sewer system that enters waters of the state, a ditch, or other conveyance.

*DIRECTOR* means the Water Services Director who is authorized by the City Manager to administer, implement, and enforce the provisions of this chapter, or other city personnel designated by the Director to act on their behalf under this chapter.

*DISCHARGE* means the introduction of Pollutants into the POTW from any nondomestic source.

*ENFORCEMENT RESPONSE PLAN (ERP)* means a document which outlines procedures that the POTW will use to identify, track and respond to noncompliance of this chapter.

*ENVIRONMENTAL PROTECTION AGENCY (EPA)* means the U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized EPA official.

*EXISTING SOURCE* means any source of discharge that is not a New Source or a new indirect discharger.

*FATS, OILS, AND GREASES (FOG)* means the category which requires regulation to control fats, oils and greases which includes FSEs, automotive repair, laundries, car washes, salon, barber/beauty shop that wash hair, medical clinic, etc. This includes substances that may solidify or become viscous between the temperatures of 32°F and 150°F (0°C to 65°C), and or that separate from wastewater by gravity.

*FOOD SERVICE ESTABLISHMENT (FSE)* means any facility that prepares or serves food for consumption and discharges kitchen or food preparation wastewater including; hotel/motel kitchens, hospitals, school kitchens, bars, factory, cafeterias, clubs, delis, kiosks, tea rooms, snack bars, ice cream shops, fudge shops, food courts, coffee shops, diners and any other facility that in the City’s determination shall require a grease trap or interceptor installation by virtue of its operations. This also includes any establishment that requires a county food service license.

*GOOD FAITH EFFORT* means Industrial User’s honest intention to achieve compliance and/or remedy noncompliance coupled by actions supporting this intention.

*GRAB SAMPLE* means a sample that is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.

*GREASE TRAP* means a device for separating and retaining waterborne greases and grease complexes prior to the wastewater exiting the trap and entering the sanitary sewer collection and treatment system. Such traps are typically compact under-the-sink units that are near food preparation areas.

*GREASE INTERCEPTOR* means a structure or device designed for the purpose of removing and preventing fats, oils, and grease from entering the sanitary sewer collection system. These devices are often below-ground units in outside areas and are built as two or three-chamber baffled tanks.

*GUIDELINE* means the City of Goodyear Waste Water Discharge Permit Application Process Guideline, which is found in the City of Goodyear Administrative Process Manual.

*HAULER* means a person who transports sanitary sewage, industrial wastewater, or sludge off-site by other than the POTW conveyance system.

*HAZARDOUS SUBSTANCE* means as defined in 40 C.F.R Part 300.5.

*HAZARDOUS WASTE* means as defined in 40 C.F.R Part 261.3.

*INCONSISTENT COMPLIANCE* is the compliance status of a user not meeting the definition of *CONSISTENT COMPLIANCE* and not meeting the definition of *SIGNIFICANT NONCOMPLIANCE*.

*INDIRECT DISCHARGE* means the introduction of pollutants into the POTW from any non-domestic source through a sanitary sewer or through a storm sewer.

*INDUSTRIAL USER (User or IU)* means the nondomestic sewer user; a source of discharge into the POTW from a nondomestic source; a source of indirect discharge.

*INDUSTRIAL WASTE* means waste produced by Industrial User activity.

*INSTANTANEOUS LIMIT* means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any grab or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

*INTERFERENCE* means a discharge which, alone or in conjunction with a discharge or discharges from other sources, that either:

- (1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; or
- (2) Causes a violation of the City of Goodyear's AZPDES Permit or prevents sewage sludge use or disposal in compliance with any of the following statutory provisions and regulations (or more stringent state or local regulations) or permits issued thereunder:
  - (a) Section 405 of the Clean Water Act;
  - (b) The Solid Waste Disposal Act (SWDA), and any regulations contained in any State Sludge Management Plan prepared pursuant to Subtitle D of the SWDA;
  - (c) The Clean Air Act;
  - (d) The Toxic Substance Control Act; and
  - (e) The Marine Protection, Research and Sanctuaries Act.

*LOCAL LIMIT* means the effluent discharge limits or BMPs applicable to Significant Industrial Users or other controlled industrial users of the City of Goodyear's system developed by the City of Goodyear in accordance with 40 CFR 403 and any other applicable laws.

*MANHOLE* means a structure of suitable design and construction to permit safe access to the public sewer from the surface for inspection, control and maintenance.

*MASS LIMITATION* means regulatory limitations expressed in units of mass, e.g., pounds per day, as opposed to concentration, e.g., milligrams per liter.

*MEDICAL WASTE* means the isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, dialysis wastes, and marijuana, in any form, including but not limited to pharmaceutical drug and pharmaceutical waste.

*MONITORING EQUIPMENT OR SAMPLING EQUIPMENT* means equipment that is used for investigating, surveying and sampling wastewater sources in an effort to obtain information on the quality and quantity of wastewater flows.

*MONTHLY AVERAGE* means the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

*MONTHLY AVERAGE LIMIT* means 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 of "daily discharges" measured during that month.

*NEW SOURCE* means the following:

- (1) 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 that 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 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.
- (2) 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 subsection (1)(b) or (c) of this section but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a New Source as defined under this subsection has commenced if the owner or operator has:
  - (a) Begun, or caused to begin, as part of a continuous onsite construction program:
    - (1) Any placement, assembly, or installation of facilities or equipment; or
    - (2) 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
  - (b) Entered into a binding contractual obligation for the purchase of facilities or equipment, which is 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 subsection.

*NONCONTACT COOLING WATER* means the water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

*NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS)* means the standard used by Federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing

statistical data related to the U.S. business economy; formerly known as the Standard Industrial Classification System (SIC).

*NOTICE OF VIOLATION (NOV)* means the official notice of violation delivered to the Industrial User requiring a formal response and action.

*NOTICE TO SHOW CAUSE* means the official notice provided to the Industrial User of the meeting with the Director, or a duly authorized representative, to provide reasons why a proposed enforcement action should not occur.

*OPERATOR* means a person who operates a business and therefore controls the operation and discharge.

*PASS THROUGH* means the 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 City's AZPDES permit, including an increase in the magnitude or duration of a violation.

*PERSON* means any individual, partnership, co-partnership, firm, company, corporation, association, trust, estate, governmental entity, municipality, state or federal agency or any other legal entity; or their legal representatives, agents, assigns or employees thereof.

*pH* means the measure of the acidity or alkalinity of a solution, expressed in standard units.

*PHARMACEUTICAL WASTE* means any prescription drug or any nonprescription drug (legal or non-legal substance) or any proprietary medicine, regardless of form, that is no longer suitable for its intended purpose or is otherwise being discarded.

*POLLUTANT* means the dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g. pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor). This includes man-made or man-induced alteration of the chemical, physical, biological or radiological integrity of the water.

*POLLUTION PREVENTION* means the steps taken to reduce or eliminate the creation of pollutants through:

- (1) Increased efficiency in the use of raw materials, energy, water, or other resources, or
- (2) Protection of resources through conservation. Examples include substituting nontoxic materials for toxic materials, reformulating products, modifying manufacturing, and recycling.

*PRETREATMENT* means 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.

*PRETREATMENT DEVICE* means the equipment, material, or structures used to reduce, eliminate, or alter the nature of pollutant properties in wastewater before, or in lieu of, introducing pollutants into the POTW.

*PRETREATMENT PROGRAM* means the City's regulation of Industrial User discharges to the POTW.

*PRETREATMENT REQUIREMENTS* means any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.

*PRETREATMENT STANDARDS OR STANDARDS* means the limitations of pollutant discharges to POTW promulgated by EPA in accordance with Section 307 of the Clean Water Act, prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.

*PRETREATMENT SUPERVISOR (PS)* means the supervisor of the City of Goodyear IPP.

*PROHIBITED DISCHARGE STANDARDS OR PROHIBITED DISCHARGES* means the absolute prohibitions against the discharge of certain substances as provided in this chapter.

*PUBLICLY OWNED TREATMENT WORKS (POTW)* means a treatment works, as defined by section 212 of the Act (33 U.S.C. § 1292), which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

*REPRESENTATIVE SAMPLE* means a sample portion of material or waste stream that is as nearly identical in content and consistency as possible to the material or industrial wastewater being sampled.

*SELF-MONITORING* means the sampling and analyses performed by a User to determine compliance with a permit or other regulatory requirements.

*SELF-MONITORING REPORT (SMR)* means the report submitted by the User to demonstrate compliance.

*SEVERE PROPERTY DAMAGE* means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

*SEWER SYSTEM* means the complete municipal sewer system, including, sanitary sewer mains, manholes, lateral sewer lines, pipelines, conduits, pumping stations, forced mains and all other structures, devices, appurtenances, and facilities used for collecting or conducting waters to an ultimate point for treatment or disposal.

*SEWAGE* means human excrement and gray water (household showers, dishwashing operations, etc.).

*SHOW CAUSE ORDER* means the official notice provided to the Industrial User of the meeting with the Director, or a duly authorized representative, to provide reasons why a proposed enforcement action should not occur.

*SIGNIFICANT CHANGES* means, but is not limited to, any planned physical alterations, additions or changed conditions at a User's facility or any changes to a permittees operation or system; or pollutants that may alter the waste stream nature and/or quality or change in the volume of User's wastewater discharge. A significant change in discharge volume, production level, or any factor affecting the calculation of Effluent Limits applied to a User is a change specified by the Director in writing. When not otherwise specified by the Director a change of twenty (20) percent or greater applies.

*SIGNIFICANT INDUSTRIAL USER (SIU)* means the following:

- (1) An Industrial User subject to categorical Pretreatment Standards; or
- (2) An Industrial User that:
  - (a) Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blow down wastewater); or
  - (b) Contributes a process waste stream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
  - (c) Is designated as such by the City on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.

(3) *NON-SIGNIFICANT CATEGORICAL INDUSTRIAL USER (NSCIU)* - The City may determine that an Industrial User subject to Categorical Pretreatment Standards is a non-significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 GPD of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically including in the pretreatment standard) and the following conditions are met:

- (a) The Industrial User, prior to the City finding, has consistently complied with all applicable categorical pretreatment standards and requirements; and
- (b) The Industrial User annually submits the certification statement prescribed in 40 C.F.R. § 403.12(Q), together with any additional information necessary to support the certification statement; and
- (c) The Industrial User never discharges any untreated concentrate wastewater.

(4) Upon a finding that a User meeting the criteria in subsection (2) of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the City may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with procedures in 40 C.F.R. § 403.8(f)(6), determine that such User should not be considered a Significant Industrial User.

*SLUG LOAD OR SLUG DISCHARGE* means 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.

*SOLID WASTE* means any garbage, refuse, or sludge from a treatment plant, water supply treatment plant, or air pollution control facility and other discarded material, including solid, liquid, semisolid, or containing gaseous materials resulting from industrial, commercial, mining, and agricultural operations, and from community activities.

*STORM WATER* means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

*TOTAL SUSPENDED SOLIDS (TSS) OR SUSPENDED SOLIDS (SS)* means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering. *UPSET* means an exceptional incident in which there is unintentional and temporary noncompliance with discharge limits because of factors beyond the reasonable control of the User. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, and lack of preventive maintenance or careless or improper operation.

*WASTEWATER* means the 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.

*WASTEWATER DISCHARGE PERMIT* means an authorization or equivalent control document issued by the City to Users discharging wastewater to the POW. The Permit may contain appropriate Pretreatment Standards and Requirements as set forth in this Chapter.

*WASTEWATER SLUDGE* means the solids or semisolids, residues, and precipitates separated from or created in wastewater.

## **Article 12A-2**

### **GENERAL SEWER USE REQUIREMENTS**

#### **Sections:**

|          |                                                                |
|----------|----------------------------------------------------------------|
| 12A-2-1  | Prohibited discharge standards.                                |
| 12A-2-2  | Preliminary pretreatment.                                      |
| 12A-2-3  | Industrial Monitoring Facilities Requirements.                 |
| 12A-2-4  | Special agreements with industrial concerns.                   |
| 12A-2-5  | National categorical pretreatment standards.                   |
| 12A-2-6  | Local limits.                                                  |
| 12A-2-7  | Medical waste.                                                 |
| 12A-2-8  | Right of revision.                                             |
| 12A-2-9  | Dilution of Discharge.                                         |
| 12A-2-10 | Tampering; Sewer system; Manhole.                              |
| 12A-2-11 | Tampering; Monitoring/sampling equipment, pretreatment device. |

#### **12A-2-1 Prohibited discharge standards**

- (A) General Prohibitions. No person shall discharge or cause to be discharged to the POTW any pollutant or wastewater which causes Pass Through or Interference.

These general prohibitions apply to all Users of the POTW whether or not they are subject to categorical Pretreatment Standards or any other federal, state, or local Pretreatment Standards or Requirements. Pollutants, substances, or wastewater prohibited in this shall not be processed or stored in such a manner that they could be discharged to the POTW. This provision applies unless otherwise permitted by rules and regulations promulgated by the Director.

- (B) The Director, in determining the acceptability of specific waste, shall consider the nature of the waste and the adequacy and nature of the collection, treatment and disposal system available to accept the waste.

- (C) Specific Prohibitions. No person shall discharge or cause to be discharged into the POTW the following pollutants, substances, or wastewater:

- (1) Any Pollutant that may be adverse or harmful to the POTW, POTW personnel, POTW equipment or POTW effluent quality including but not limited to:
  - (a) Any gasoline, fuel oils, or any other liquids, solids, or gases which create or tend to create a fire or explosion hazard in the POTW, or to be injurious in any other way to the POTW, including, but not limited to, waste streams with a closed cup flash point of less than 140 degrees Fahrenheit;
  - (b) Any solids or viscous substances, or any waste that may precipitate, solidify, gel, polymerize, or become viscous under conditions normally found in the sewer system, or of such size or in such quantities that they may cause obstruction to flow in the sewer or be detrimental to POTW operations. Specifically, any solid waste not normally occurring in domestic waste that cannot pass through a 3/8 inch mesh screen. These objectionable substances include, but are not limited to, asphalt, dead animals, ashes, sand, mud, straw, industrial process shavings, metal, glass, rags, feathers, hair, grass clippings, tar, plastic resins, wood, blood, paunch manure, grease, bones, hair, fleshings, entrails, paper cups, paper dishes, milk cartons or other similar paper products, either whole or ground;
  - (c) Any amounts of petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin that would cause or tend to cause interference or pass-through;

- (d) Any biodegradable oils, fats and greases, such as lard, tallow, or vegetable oil, in concentrations or quantities which could cause obstruction of the POTW or interference with conveyance or treatment.;
- (e) Any waste in such concentration or volume that is toxic to humans, animals, the local environment or to POTW treatment processes, or which causes interference, upset or pass-through at the POTW;
- (f) Any waste having a pH lower than 5.5 or greater than 10 standard units; or which causes incrustations or scale, or precipitates on sewer walls; or having any corrosive or detrimental characteristics that may cause injury to the POTW or service and maintenance personnel;
- (g) Any waste having a temperature of 140 degrees Fahrenheit or higher at the discharge point, or which causes the POTW influent to exceed 104 degrees Fahrenheit;
- (h) Any excessive amounts of chlorinated hydrocarbon or organic phosphorous-type compounds;
- (i) Wastewater that imparts color that cannot be removed by the POTW treatment process, such as but not limited to, dye waste and vegetable tanning solutions.
- (j) Any waste containing detergents, surface active agents, or other substances, which may cause excessive foaming in the sewerage system;
- (k) Any sludge from water or wastewater treatment plants not owned and operated by the City. The Director may permit a User to discharge this substance upon a finding that the discharge will not adversely affect the operation of the POTW and the pollutant concentrations do not exceed those in the sludge produced by the POTW. No such permit shall be issued which would violate any other federal, state or local rule, regulation or standards;
- (l) Any hazardous wastes discharged to any portion of the POTW by truck, rail or dedicated pipeline;
- (m) Any trucked or hauled pollutants except at discharge points as designated by the Director;
- (n) Any slug load;
- (o) Industrial wastewater which may be dangerous to the public, the environment, or which creates a public nuisance, including, but not limited to:
  - (1) Any radioactive material wastes not in compliance with applicable federal or state regulations;
  - (2) Any waste containing toxic or poisonous solids, liquids or gases in such quantities that alone, or in combination with other waste substances, may create a hazard for humans, animals, or the local environment, interfere detrimentally with wastewater treatment processes, cause a public nuisance, or cause any condition requiring emergency response in the POTW;
  - (3) Any pollutants which can result in the formation or presence of toxic gases, vapors, or fumes within the POTW that may cause or tend to cause worker health and safety problems;
  - (4) Any strongly odorous waste or waste tending to create odors;
  - (5) Any industrial wastewater in such concentration or volume that may cause failure in the effluent toxicity testing;
  - (6) Any recognizable portions of the human anatomy.
- (p) Industrial wastewater that may cause POTW hydraulic loading problems or may dilute the biological strength of the POTW's headworks, including, but not limited to:
  - (1) Any water added for the purpose of diluting wastes which would otherwise exceed maximum concentration limits;
  - (2) Any rainwater, storm water runoff, groundwater, street drainage, roof drainage, yard drainage, water from yard fountains, ponds, swimming pools, lawn sprays or uncontaminated water except where prior approval for such discharge is given by the Director;
  - (3) Any deionized water, steam condensate or distilled water in amounts which cause problems with hydraulic loading;
  - (4) Any blow down or bleed water from heating, ventilating, air conditioning or other evaporative systems exceeding one-third of the makeup water in a 24-hour period;

(5) Any single pass cooling or heating water.

(q) Any of the following prohibited substances:

|                                           |
|-------------------------------------------|
| 4,4'-DDE                                  |
| 4,4'-DDT                                  |
| Aldrin                                    |
| BHC-Alpha                                 |
| BHC-Beta                                  |
| BHC-Gamma (Lindane)                       |
| Heptachlor                                |
| Heptachlor Epoxide                        |
| Polychlorinated Biphenyl Compounds (PCBs) |

(r) Any water or waste exceeding the limits for the following substances that are expressed in the total form except if otherwise stated;

| Instantaneous Maximum Allowable Discharge Limitations |              |
|-------------------------------------------------------|--------------|
| Substance                                             | Limitation   |
| Benzene                                               | 35 ( ug/l)   |
| Chloroform                                            | 2000 ( ug/l) |

## **12A-2-2 PRELIMINARY PRETREATMENT**

(A) Required. Where necessary in the opinion of the City, the owner shall provide, at his or her expense, such preliminary treatment as may be necessary to the provisions in this Chapter.

(B) Approval. Plans, specifications and any other pertinent information relating to proposed preliminary treatment facilities shall be submitted for all approval by state and local government. No construction of such facilities shall be commenced until such approvals are obtained in writing.

(1) Users shall submit to the IPP detailed drawings for review of existing or proposed construction of pretreatment facilities, spill containment facilities and monitoring or metering facilities. Users shall not begin construction of the proposed facility without prior approval of the IPP. The IPP's review or approval of the drawings shall in no way relieve the User of any future responsibility for modifying the facilities or procedures to meet the requirements of this chapter.

(2) All drawings shall include the following:

(a) North arrow;

- (b) Scale size;
  - (c) User name and address;
  - (d) Drawing name and drawing number
  - (e) Date drawn or revised
  - (f) Name of draftsman and name of person approving drawing
- (3) The IPP may require drawings to scale or schematic drawings depicting the manufacturing process (waste generating sources), spill containment, pretreatment facilities, and/or monitoring and metering facilities.
- (4) The IPP shall require the drawings be prepared, signed, and sealed by a registered Arizona engineer.
- (C) Maintenance of Facilities. Where preliminary treatment facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the owner at his or her expense.

### **12A-2-3 INDUSTRIAL MONITORING FACILITIES REQUIREMENTS**

- (A) When required by the City, the owner of any property served by a building sewer carrying industrial wastes shall install suitable monitoring facilities in the building sewer to facilitate observation and sampling of wastes. Such facilities, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the City and section 12A-6-1. The monitoring facilities shall be installed by the owner at his or her expense and shall be maintained by him or her so as to be safe and accessible at all times.
- (B) All tests and analyses of the characteristics of waters and wastes shall be determined in accordance with section 12A-5-10 and shall be determined at the monitoring facilities provided for in this section.
- (C) Monitoring facilities inspection fees and costs for sampling and analysis of industrial wastewater shall be charged to the customer in addition to regular sewer charges.

### **12A-2-4 SPECIAL AGREEMENTS WITH INDUSTRIAL CONCERNS**

No statement contained in this article shall be construed as preventing any special agreement or arrangement between the City and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the City for treatment, subject to payment to the City from the Industrial User.

### **12A-2-5 NATIONAL CATEGORICAL PRETREATMENT STANDARDS**

- (A) Users shall comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471.
- (1) Where a categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the City may impose equivalent concentration or mass limits in accordance with 40 CFR § 403.6(c).
  - (2) A User may obtain a variance from a categorical pretreatment standard, pursuant to the procedural and substantive provisions in 40 CFR § 403.13.
  - (3) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Director shall impose an alternate limit using the combined waste stream formula in 40 CFR § 403.6(e).

- (4) A User may obtain a net/gross adjustment to a categorical standard in accordance with 40 CFR § 403.15.

#### **12A-2-6 LOCAL LIMITS**

- (A) The City is authorized to establish local limits pursuant to 40 CFR § 403.5(c).
- (B) All persons owning or operating facilities or engaged in activities that will or may reasonably be expected to result in pollutants entering the City sanitary sewer system or affecting the sanitary sewer system or affecting the POTW shall undertake all practicable best management practices identified by the Director to minimize the discharge of pollutants. Such measures shall include the requirements imposed by this Chapter, any applicable NPDES or AZPDES permits, and any written guidelines promulgated for general use by the Director.
- (C) The Director shall have the authority to:
- (1) Establish limitations for Industrial Users for various pollutants, materials, waters, or wastes that can be accepted into the sanitary sewer system;
  - (2) Specify those pollutants, materials, waters, or wastes that are prohibited from entering the sanitary sewer system;
  - (3) Identify those pollutants, materials, waters, or wastes that shall be controlled with best management practices; and
  - (4) Require Industrial Users to implement best management practices for any pollutant.
- (D) All affected Industrial Users shall comply with the prohibitions and effluent limitations established pursuant to this article, and with any best management practices required by the Director.
- (E) All prohibitions and effluent limitations so established and all best management practices identified by the Director will be placed on file with the City Clerk and become effective and enforceable on the 31st day after the date of filing.
- (F) The following pollutant concentration limitations are established to protect the POTW against pass through and interference. Each User who discharges an indirect discharge to the POTW and is required to obtain a Wastewater Discharge Permit pursuant to Article 12A-4 of this Chapter shall not discharge or cause to be discharged at any entry point to the POTW any wastewater containing in excess of the following daily maximum limits as set forth below:

| Parameter (1) | Daily Maximum Limit<br>(milligrams per liter) | Sample Type |
|---------------|-----------------------------------------------|-------------|
| Arsenic       | 0.250                                         | Composite   |
| Boron         | 3.94                                          | Composite   |
| Cadmium       | 0.049                                         | Composite   |
| Copper        | 1.668                                         | Composite   |
| Cyanide       | 1.29                                          | Grab        |
| Lead          | 0.291                                         | Composite   |
| Mercury       | 0.172                                         | Composite   |

| Parameter (1)  | Daily Maximum Limit<br>(milligrams per liter) | Sample Type |
|----------------|-----------------------------------------------|-------------|
| Molybdenum     | 444                                           | Composite   |
| Nickel         | 0.714                                         | Composite   |
| Silver         | 10.4                                          | Composite   |
| Zinc           | 1.81                                          | Composite   |
| BOD            | 640                                           | Composite   |
| TSS            | 951                                           | Composite   |
| Total Nitrogen | 140                                           | Composite   |

- (1) All concentrations for metallic substances are for total metals unless indicated otherwise.
- (2) The Director may impose or allow mass limitations in addition to or in place of the concentration-based limitations above.
- (3) The Director is authorized to calculate User-Specific Limits based on available capacity of the POTW served by the Industrial User on a case-by-case situation based on factors such as User flows, pollutant discharge levels, POTW performance, and regulatory controls imposed upon the POTW.

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations are expressed in the "total" form unless indicated otherwise. The Director may impose mass limitations in addition to, or in place of, the concentration-based limitations above. The Director may incorporate local limits on a user-specified basis into wastewater discharge permits where necessary to meet maximum allowable industrial loading limitations. Any violation of a user-specific pollutant limitation as may be set for by the city shall subject the user to the same administrative actions, penalties, and enforcement actions as would be available for any other violations of these regulations.

(G) When the Director determines that a User is discharging to the POTW any wastes not previously identified as prohibited in such amounts as may interfere with, pass through, or upset the operation of the POTW, the Director shall:

- (1) Advise the User of the impact of the contribution on the POTW;
- (2) Develop a discharge limitation for such User to correct the interference with the POTW; and
- (3) Require the User to comply with the discharge limits.

(H) User Specific limits

- (1) The Director is authorized to calculate User-Specific Limits based on available capacity of the treatment plant served by the Industrial User.
- (2) Available capacity is affected by several factors such as Industrial User flows, pollutant discharge levels, POTW performance, and regulatory controls imposed upon the POTW.
- (3) The Director may develop Best Management Practices (BMPs), by chapter or in individual wastewater discharge permits to implement Local Limits and the requirements of Section 12A-2.

The following Pollutants may be incorporated into the WDP by the Director as User Specific Limitations or as Alert Levels.

| Parameter        | Daily Maximum Limit<br>(milligrams per liter) | Alert Level<br>(milligrams per liter) | Sample Type |
|------------------|-----------------------------------------------|---------------------------------------|-------------|
| Chromium (Total) | User Specific Limitation                      | 2.23                                  | Composite   |
| TDS              | User Specific Limitation                      | 1400                                  | Composite   |
| Selenium         | User Specific Limitation                      | 0.028                                 | Composite   |

#### **12A-2-7 MEDICAL WASTE**

(A) Regulated Facilities. Hospitals, clinics, offices of medical doctors, mortuaries, morgues, long-term health care facilities, and other institutional facilities of a medical or healthcare nature:

- (1) May discharge through a grinder installation after Director's approval. The installation will have inlet size and design features suitable for its intended use and so constructed that all particles pass through a maximum 3/8-inch mesh opening;
- (2) Shall not discharge to the sewer by any means:
  - (a) Solid wastes generated in the rooms of patients who are isolated because of a suspected or diagnosed communicable disease;
  - (b) Recognizable portions of the human anatomy;
  - (c) Equipment, instruments, utensils and other materials of a disposable nature that may harbor or transmit pathogenic organisms and that are used in the rooms of patients having a suspected or diagnosed communicable disease which by the nature of the disease is required to be isolated by public health agencies;
  - (d) Wastes excluded by other provisions of this chapter.

(B) Limit of Authority. Nothing in this section shall be construed to limit the authority of the Arizona Department of Environmental Quality or other federal, state or local authorities to define waste as being medical waste and, with the concurrence of the Director, to require that the waste will not be discharged to the POTW.

#### **12A-2-8 RIGHT OF REVISION**

The City of Goodyear reserves the right to establish, by chapter or in wastewater discharge permits more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of this Chapter.

#### **12A-2-9 DILUTION OF DISCHARGE**

No User, intentionally, deliberately, knowingly or willingly, 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 City Pretreatment Standard or Requirement. The Director may impose mass limitations on Users who are using dilution to meet applicable Pretreatment Standards or requirements or in other cases when the imposition of mass limitations is appropriate.

#### **12A-2-10 TAMPERING; SEWER SYSTEM; MANHOLE.**

(A) No person, without lawful authority, shall knowingly do any of the following:

- (1) Knowingly open, remove or interfere with or tamper with, in any manner, any manhole, manhole cover or public sewer of the City.
  - (2) Knowingly divert or direct, or cause to divert or direct, the flow of water or any other fluid or foreign substances into manholes installed in the sanitary sewer system of the City.
  - (3) Knowingly enter into any City owned manhole or deposit any substance, regardless of form, into a City owned manhole or City sewer system.
- (B) A violation of this section is subject to all civil and criminal penalties provided in Article 1-8 and Chapter 18 of the Goodyear City Code.

**12A-2-11 TAMPERING; MONITORING/SAMPLING EQUIPMENT, PRETREATMENT DEVICE**

(C) No person, without lawful authority, shall knowingly do any of the following:

- (1) Alter, interfere, modify, remove, damage, or destroy any public or privately owned monitoring or sampling equipment, or any part of the monitoring or sampling equipment, in a manner that could improperly modify the readings, analysis or operation of the monitoring or sampling equipment.
  - (2) Alter, bypass, or reroute the discharge or flow of wastewater in a manner that could improperly modify the readings, analysis or operation of the monitoring or sampling equipment.
  - (3) Alter, modify, tamper, damage, destroy or bypass a pretreatment device in a matter that could improperly modify the readings, analysis or operation of a pretreatment device.
- (D) A violation of this section is subject to all civil and criminal penalties provided in Article 1-8 and Chapter 18 of the Goodyear City Code.

## **Article 12A-3 PRETREATMENT OF WASTEWATER**

### **Section:**

- 12A-3-1 Pretreatment Facilities
- 12A-3-2 Additional Pretreatment Measures
- 12A-3-3 Accidental Discharge/Slug Discharge Control Plans

### **12A-3-1 PRETREATMENT FACILITIES**

- (A) Users shall provide wastewater treatment as necessary to comply with this chapter and shall achieve compliance with all categorical Pretreatment Standards, Local Limits, and the prohibitions provided in this Article within the time limitations specified by EPA, the State, or the City, whichever is more stringent. Any facilities and equipment necessary for compliance shall be provided, operated, and maintained at the User's sole expense.
- (B) User shall provide detailed plans describing its wastewater treatment facilities, equipment and operating procedures to the Director for review. This requirement applies to both initial approval and any subsequent modifications. The plans must be accepted and approved by the City prior to commencing construction or installation of the facilities or equipment. The approval of the plans and inspection of construction shall not relieve the owner from complying with, and achieving, discharge limitations set forth in this chapter. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce a Discharge acceptable to the City under the provisions of this Chapter.
- (C) The process for plan submission, approval and denial shall be in accordance with the procedures and timeframes outlined in the City of Goodyear Administrative Process Manual.

### **12A-3-2 ADDITIONAL PRETREATMENT MEASURES**

- (A) The Director may require Users to restrict their discharge, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be determined necessary by the Director to protect the POTW and determine the User's compliance with the requirements of this Chapter.
- (B) The Director may require any person discharging into the POTW to install and maintain, on their property and at their sole expense, a suitable storage and flow control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
- (C) The Director may require Users, which includes food preparation facilities, to install grease, lint, sand/oil interceptors, oil/water separators, hair or grease trap(s) as needed for the proper handling of wastewater containing excessive amounts of fats, oils, grease, lint or sand; except that such interceptors or traps shall not be required for residential users. Requirements for the proper handling of fats, oils, grease, lint, sand and solids in wastewater are as follows:
  - (1) Grease interceptors and grease traps shall be required, installed, and maintained as specified in this Chapter for the sizing and cleaning of interceptors and traps for the required industrial users.
  - (2) Lint, sand/oil interceptors and oil/water separators shall be installed in compliance with the City code.
  - (3) All interceptors, separators and traps shall be of the type and capacity approved by the Director and shall be located to be easily accessible for cleaning and inspection. Interceptors, separators and traps shall be inspected, cleaned, and repaired regularly (90 days or less) by the user at the user's expense. The User

shall keep records of all cleaning, repair and maintenance for at least three years. Such records shall be readily available for inspection by the Director upon request at no expense to the City.

- (4) The User shall be responsible for reimbursing the City for any and all expenses, costs, and penalty fees and fines for the cleanup of any sanitary sewer overflow from the Sewer System as a result, directly or indirectly, of the User actions.
- (D) The method for determining the size of traps or interceptors is the drainage fixture unit value. The minimum size for all interceptors is a capacity of 500 gallons and the maximum size for all interceptors is a capacity of 2,500 gallons. Interceptors must be constructed with at least two chambers. Sizing for all traps is a minimum of a 50 gallon per minute, 100 pound capacity with the flow control valve installed in a manner that provides access at all times. High-Capacity Hydraulic grease traps and interceptors are allowed with Director approval. The appropriate size for interceptors and traps is determined as follows:
- (1) *Interceptor Sizing.* The interceptor shall be sized using the drainage fixture-unit value as defined in the following table. Using the drain outlet or trap size, these sizes are converted to discharge rates on the basis that one fixture-unit equals 7.5 gpm.

| <b>Fixture Outlet or Trap Size<br/>(Inches)</b> | <b>Drainage Fixture-Unit<br/>Value</b> | <b>GPM Equivalent</b> |
|-------------------------------------------------|----------------------------------------|-----------------------|
| 1 1/4                                           | 1                                      | 7.5                   |
| 1 1/2                                           | 2                                      | 15.0                  |
| 2                                               | 3                                      | 22.0                  |
| 2 1/2                                           | 4                                      | 30.0                  |
| 3                                               | 5                                      | 37.5                  |
| 4                                               | 6                                      | 45.0                  |
| Floor Drains (All Sizes)                        | 2                                      | 15.0                  |
| Dishwashers                                     | Double Size                            |                       |

- (2) *Calculating Interceptor Size.* Formula to calculate the size of the interceptor is:
  - (a) Determine total fixture-unit value by multiplying fixture type count by drainage value;
  - (b) Total all values;
  - (c) Determine total flow by multiplying total value by flow rate of three gpm;
  - (d) Multiply total flow by 12; and
  - (e) Round up to the next nearest size interceptor.
- (3) *Requirements for Interceptors.* The interceptor shall be:
  - (a) A minimum of 500 gallon capacity, two chamber concrete container (fiberglass and/or other type material must be approved by the Director);

- (b) When calculated to have a capacity of 750 gallons or more, the interceptor must have three chambers, each with a manway;
  - (c) Constructed with inlet piping with a 90-degree elbow and minimum of an 18-inch down spout;
  - (d) Constructed with outlet piping with a tee connection and a threaded cover with a minimum of an 18-inch down spout;
  - (e) Installed with a two way clean-out within five feet before and five feet after the interceptor; and
  - (f) Constructed with the appropriate traffic-rated cover. The cover(s) must not be marked with any wording indicating it is owned by the City of Goodyear.
  - (g) Grease and oil interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight and equipped with easily removable covers which, when bolted in place, shall be gas-tight and watertight.
  - (h) Lockable shut-off valves shall be provided between interceptors and service taps into sewer mains where required by rules and regulations promulgated by the Director.
- (4) *Grease Trap Installation and Sizing.* Grease traps are allowed only when there are four or fewer than four fixtures used for food preparation. Any facility installing a dishwasher shall install a grease interceptor. For the purpose of sizing a grease trap, a fixture means the entire unit, e.g., a three-compartment sink is considered one unit. Grease traps must be installed as follows:
- (a) A grease trap shall be installed whenever a three-compartment sink is required and or required by Maricopa County;
  - (b) The minimum size grease trap to be installed shall be rated no smaller than 50 gallon-per-minute with a 100-pound grease capacity; and
  - (c) A flow restriction valve shall be installed upstream of the grease trap and vented properly. If placed below floor level the flow restriction valve must be installed in a manner which allows for inspection and maintenance.
- (E) All grease traps, oil, sand and grease interceptors shall be pumped out or cleaned out completely at least once every 90 days, or more frequently as required by the City, unless otherwise authorized in writing by the Director.
- (F) Except for residential sources, users shall not install or replace equipment designed to convert garbage or solid waste into liquefied waste and introduce such waste into the POTW by means of a garbage grinder/disposal. Garbage and solid waste shall be disposed of as provided in Article 10 of the Goodyear City Code.
- (G) Administrative and penalty fees and costs will be assessed by the City for the inspections and tracking compliance with this subsection.

### **12A-3-3 ACCIDENTAL DISCHARGE/SLUG DISCHARGE CONTROL PLANS**

- (A) The Director shall evaluate whether each SIU needs an accidental discharge and/or slug discharge control plan or other action to control Slug Discharges. The Director may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges. Alternatively, the Director may develop such a plan for any User. An accidental discharge/slug discharge control plan shall address, 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 Director of any accidental or Slug Discharge, as required by this chapter; and
- (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 runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

## **Article 12A-4**

### **Wastewater Discharge Permits**

#### **Sections:**

|          |                                                       |
|----------|-------------------------------------------------------|
| 12A-4-1  | Wastewater Discharger Information Requirements        |
| 12A-4-2  | Wastewater Discharge Permit (WDP) Classifications     |
| 12A-4-3  | Wastewater Discharge Permit Requirement               |
| 12A-4-4  | Wastewater Discharge Permit Application Contents      |
| 12A-4-5  | Wastewater Discharge Permit Duration                  |
| 12A-4-6  | Wastewater Discharge Permit Contents                  |
| 12A-4-7  | Wastewater Discharge Permit Appeals                   |
| 12A-4-8  | Wastewater Discharge Permit Modification              |
| 12A-4-9  | Wastewater Discharge Permit Transfer                  |
| 12A-4-10 | Wastewater Discharge Permit Renewal                   |
| 12A-4-11 | Regulation of Waste Received from Other Jurisdictions |
| 12A-4-12 | Signatory and Certification Requirement               |

#### **12A-4-1 WASTEWATER DISCHARGER INFORMATION REQUIREMENTS**

- (A) It shall be unlawful for any person to connect, discharge or cause to be discharged any industrial wastewater directly or indirectly to the POTW without first obtaining Director approval.
- (B) When requested by the Director, a user shall submit information on the nature and characteristics of its wastewater within 45 days of the request. The Director is authorized to prepare a form for this purpose and may periodically require users to update this information. All tests and analyses of the characteristics of water and wastewater shall be determined in accordance with approved laboratory procedures as that term is defined at Section 12A-5-10 of this chapter.

#### **12A-4-2 WASTEWATER DISCHARGE PERMIT CLASSIFICATIONS**

- (A) The Director is authorized to issue the following types of Industrial User Permits:
- (1) Class I Permits shall be issued to Significant Industrial Users (SIUs).
  - (2) Class II Permits may be issued to High Strength Users who are not otherwise required to obtain a Permit. A High Strength User is one whose discharge of process wastewater contains an average of 135 pounds or more per discharge day of the sum of BOD, TSS and TN.
  - (3) Class III Permits may be issued to a Zero Process SIU or to a User meeting the definition of NSCIU in Section 12A-1-3.
- (B) Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of this chapter and subjects the wastewater discharge permittee to the sanctions set out in this chapter. Obtaining an individual wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or Requirements or with any other requirements of Federal, State, and local law.

### **12A-4-3 WASTEWATER DISCHARGE PERMIT REQUIREMENT**

- (A) Any User meeting the definition of Significant Industrial User and or potential to meet permit classifications per 12A-4-2 is required to apply for a Wastewater Discharge permit in compliance with City Code with an application fee set by resolution of council. The Director is responsible for issuing all permits.
- (B) No person shall discharge or cause to be discharged any industrial wastewater directly or indirectly to the POTW without first obtaining Director approval. The Director shall set requirements at least as stringent as applicable state or federal rules, regulations or pretreatment standards.
- (C) All Industrial Users discharging pursuant to this section shall comply with the following requirements:
  - (1) Comply with all applicable federal, state and local laws, rules, regulations and processes, including but not limited to the Act and the general pretreatment regulations (40 Code of Federal Regulations Part 403);
  - (2) Not introduce pollutants into the POTW that will interfere with its operation and the efficient functioning of the system;
  - (3) Conduct periodic maintenance of the User's treatment and monitoring facilities to ensure that it is cleaned and functioning properly according to federal, state and local law, rules, and regulations;
  - (4) Take all necessary actions to prevent an overflow of sewage from the User's treatment and monitoring facilities. Should an overflow occur, the User shall be responsible, at its sole expense, to clean and properly sanitize any area that could create a public health hazard; and
  - (5) Notify the IPP primary contact immediately by phone and at [IPP.goodyearaz.gov](http://IPP.goodyearaz.gov) if a sewage overflow enters the public right-of-way or the property of another.
- (D) No Significant Industrial User shall discharge wastewater into the POTW without first obtaining a permit or form of authorization from the Director to discharge wastewater.
- (E) The Director may require other Users to obtain wastewater discharge permits as necessary to carry out the purposes of this Chapter.
- (F) Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state Pretreatment Standards or Requirements or with any other requirements of federal, state, and local law.
- (G) A separate permit may be required for each connection to the POTW. Any User required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW shall obtain a new permit prior to the beginning or recommencing of such discharge.
- (H) The Director may require a separate permit from each tenant as well as the owner or manager of any multi-tenant property, including, but not limited to: shopping centers, medical centers, and industrial or commercial parks.
- (I) Any failure to complete the required questionnaire, apply for and obtain a required permit, or violate the terms and conditions of a wastewater discharge permit shall be deemed violations of this chapter and subject the User to enforcement actions pursuant to Section 12A-8 of this chapter.
- (J) Any User planning to discharge non-domestic wastewater into the sewer system and POTW, shall first complete

either an Industrial Pretreatment Questionnaire form (if they do not expect a permit is needed) or a permit application. Any User identified by the pretreatment program through the IPQ as needing a permit shall file a permit application. Applications for wastewater discharge permits, in accordance with this chapter, shall be filed at least ninety (90) days prior to the desired date of discharge, and the discharge permit obtained prior to commencing discharge.

#### **12A-4-4 WASTEWATER DISCHARGE PERMIT APPLICATION CONTENTS**

(A) All Users required to obtain an individual wastewater discharge permit shall submit a permit application on a form approved by the Director. The Director may require Users to submit all or some of the following information as part of a permit application:

(1) Identifying Information.

- (a) The name and address of the facility, including the name of the operator and owner.
- (b) Contact information, description of activities, facilities, and plant production processes on the premises;

(2) Environmental Permits. A list of any environmental control permits held by or for the facility.

(3) Description of Operations.

- (a) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications (SIC) / North American Industry Classification System Code (NAICS) of the operation(s) carried out by such User. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.
- (b) Types of wastes generated, and 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;
- (c) Number and type of employees, hours of operation, and proposed or actual hours of operation;
- (d) Type and amount of raw materials processed (average and maximum per day);
- (e) 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;

(4) Time and duration of discharges;

(5) The location for monitoring all wastes covered by the permit;

(6) 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 Section 12A-2-5(3) (40 CFR 403.6(e)).

(7) Measurement of Pollutants.

- (a) The Categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
- (b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the Director, of regulated pollutants in the discharge from each regulated process.
- (c) Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall

- be reported.
  - (d) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 12A-5-10 of this chapter. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Director or the applicable Standards to determine compliance with the Standard.
  - (e) Sampling shall be performed in accordance with procedures set out in Section 12A-5-11 of this chapter.
- (8) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on Section 12A-5-4B [40 CFR 403.12(e)(2)] .
- (9) Any other information as may be deemed necessary by the Director to evaluate the permit application.
- (B) Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

#### **12A-4-5 WASTEWATER DISCHARGE PERMIT DURATION**

A wastewater discharge permit shall be issued for a specified time period, not to exceed five years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five years or period of use, at the discretion of the Director. Each wastewater discharge permit will indicate a specific date upon which it will expire.

#### **12A-4-6 WASTEWATER DISCHARGE PERMIT CONTENTS**

- (A) A Wastewater Discharge Permit shall include such conditions as are deemed reasonably necessary by the Director to prevent Pass Through or Interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.
- (1) Wastewater discharge permits shall contain:
- (a) A statement that indicates Wastewater Discharge Permit issuance date, effective date and expiration date;
  - (b) A statement that the Wastewater Discharge Permit is non-transferable without prior notification to and approval from the city in accordance with Section 12A-4-9 of this chapter, and provisions for furnishing the new owner or operator with a copy of the existing Wastewater Discharge Permit;
  - (c) Effluent Limits including applicable Pretreatment Standards and Requirements, including any special state requirements and best management practices (BMPs);
  - (d) Self-monitoring, sampling, reporting, notification, submittal of technical reports, compliance schedules, 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, and local law, and reporting of BMP implementation;
  - (e) A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines.
  - (f) Requirement for immediate notification to Pretreatment Program where self-monitoring results indicate non-compliance;
  - (g) Requirement to report a bypass or upset of a Pretreatment Facility;

- (h) Requirement to report immediately to the Pretreatment Program all discharges, including slug loadings, that could cause problems to the POTW;
- (i) Requirement for the SIU who reports non-compliance to repeat the sampling and analysis and submit results to the IPP within 30 days after becoming aware of the violation.
- (j) Requirements to control slug discharges, if determined by the POTW to be necessary.

(B) Wastewater discharge permits may contain, but need not be limited to, the following conditions:

- (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- (2) 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;
- (3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
- (4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
- (5) The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW;
- (6) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
- (7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the wastewater discharge permit; and
- (8) Any special agreements the Director chooses to continue or develop between the Pretreatment Program and User as set forth in 12A-2-4;
- (9) Other conditions as deemed appropriate by the Director to ensure compliance with this chapter, and State and Federal laws, rules, regulations and guidelines.

#### **12A-4-7 WASTEWATER DISCHARGE PERMIT APPEALS**

(A) Any person, including the User, may appeal to the Director to reconsider the terms of a wastewater discharge permit within 20 business days of its issuance.

- (1) Failure to submit an appeal within 20 business days of the issuance of the discharge permit will constitute a waiver of the right to petition for review.
- (2) In the petition, the appealing party must identify the wastewater discharge permit provisions objected to, the basis for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- (3) The effectiveness of the wastewater discharge permit shall not be stayed pending an appeal.

- (4) Upon receipt of a petition for review, the Director has 30 calendar days to respond to the petition and may modify, revoke, or affirm the wastewater discharge permit in whole or part. If the Director fails to act within 30 calendar days from receipt of the petition, the petition will be deemed to be denied. The Director's decision, including all denials, shall be considered final administrative action for purposes of judicial review.

#### **12A-4-8 WASTEWATER DISCHARGE PERMIT MODIFICATION**

- (A) A Wastewater Discharge Permit Modification may be initiated by the Director or by the Permittee. The Director may modify the wastewater discharge permit for good cause including, but not limited to, the following reasons:
  - (1) To incorporate any new or revised federal, state, or local Pretreatment Standards or Requirements;
  - (2) To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the issuance of the wastewater discharge permit;
  - (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, City personnel, biosolids, 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;
  - (9) Increased monitoring or reporting required as a result of enforcement activities.

#### **12A-4-9 WASTEWATER DISCHARGE PERMIT TRANSFER**

- (A) Wastewater Discharge Permits may be transferred to a new owner and/or operator only if the Permittee gives at least 90 days advance notice to the Director and the Director approves the Wastewater Discharge Permit Transfer. The notice to the Director must include a written certification by the new owner and/or operator which:
  - (1) States that the new owner and/or operator has no immediate intent to change the facility's operations and process;
  - (2) Identifies the specific date on which the transfer is to occur; and;
- (B) Failure to provide 90 day notice of a transfer renders the Wastewater Discharge Permit voidable as of the date to facility transfer.

#### **12A-4-10 WASTEWATER DISCHARGE PERMIT RENEWAL**

A User with an expiring wastewater discharge permit shall apply for the reissuance of their wastewater discharge permit by submitting a completed permit application, in accordance with Section 12A-4-4 and application fee at least 90 days prior to the expiration of the User's existing wastewater discharge permit. A User whose existing wastewater discharge permit has expired and who has submitted a reapplication in the time period specified herein shall be deemed to have an effective wastewater discharge permit until the Director issues or denies the new wastewater discharge permit. A User whose existing wastewater discharge permit has expired and who failed to submit a reapplication in the time period specified herein will be deemed to be discharging without a wastewater discharge permit and subject to enforcement action.

#### **12A-4-11 REGULATION OF WASTE RECEIVED FROM OTHER JURISDICTIONS**

- (A) Before another municipality, User located within another municipality, or private utility contributes wastewater to the POTW they must enter into an agreement with the City, and comply with the provision of subsection (B) of this section.
- (B) All agreements with any municipality, User located within another municipality, or private utility shall contain the following, along with such other provisions and information requested by the Director:
- (1) Provide a description of the quality and volume of wastewater to be discharged to the POTW;
  - (2) A requirement for the contributing municipality, User located in another municipality, or private utility to adopt a sewer use ordinance which is at least as stringent as this chapter and Local Limits, including required Baseline Monitoring Reports (BMRs) which are at least as stringent as those provided in this chapter. The requirement shall specify that such chapter and limits must be revised as necessary to reflect changes made to the City's ordinance or Local Limits;
  - (3) A requirement for the contributing municipality, User located within another municipality, or private utility to submit a revised User inventory on an annual basis or request from the Director and provide immediate access to the facilities of the Users identified on the inventory for the purposes of inspection, sampling and any duties deemed necessary by the Director;
  - (4) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality, User located within another municipality, or private utility; which of these activities will be conducted by the Director; and which of these activities will be conducted jointly by the contributing municipality, User located within another municipality, or private utility and the Director;
  - (5) A requirement for the contributing municipality, User located within another municipality, or private utility to provide the Director with access to all information that the contributing municipality obtains as part of its pretreatment activities at no expense to the City;
  - (6) Limits on the nature, quality, and volume of the contributing municipality, User located within another municipality, or private utility's wastewater at the point where it discharges to the POTW; and
  - (7) Requirements for monitoring the contributing municipality, User located within another municipality, or private utility discharge.

#### **12A-4-12 SIGNATORY AND CERTIFICATION REQUIREMENT**

- (A) All reports required by this chapter, federal or state regulations including but not limited to wastewater discharge permit applications, Baseline Monitoring Reports and User reports and Notices must be signed by an authorized or duly authorized representative as defined in this chapter at Section 12A-1-3
- (B) All reports being submitted from the User shall contain the following certification statement: "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."

## **Article 12A-5**

### **Reporting Requirements**

**Section:**

|          |                                                                       |
|----------|-----------------------------------------------------------------------|
| 12A-5-1  | Baseline Monitoring Reports                                           |
| 12A-5-2  | Compliance Schedule Progress Reports                                  |
| 12A-5-3  | Reports on Compliance with Categorical Pretreatment Standard Deadline |
| 12A-5-4  | Periodic Compliance Reports                                           |
| 12A-5-5  | Reports of Changed Conditions                                         |
| 12A-5-6  | Reports of Potential Problems                                         |
| 12A-5-7  | Reports from Unpermitted Users                                        |
| 12A-5-8  | Notice of Violation/Repeat Sampling and Reporting                     |
| 12A-5-9  | Notification of the Discharge of Hazardous Waste                      |
| 12A-5-10 | Analytical Requirements                                               |
| 12A-5-11 | Sample Collection                                                     |
| 12A-5-12 | Date of Receipt of Reports                                            |
| 12A-5-13 | Record Keeping                                                        |
| 12A-5-14 | Certification Statements                                              |

#### **12A-5-1 BASELINE MONITORING REPORTS**

- (A) 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 Categorical Industrial Users currently discharging to or scheduled to discharge to the POTW shall submit to the Director a report which contains the information listed in Section 12A-5-1B, below. At least 90 days prior to commencement of their discharge, New Sources, and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable Categorical Standard, shall submit to the Director a report which contains the information listed in paragraph B, below. A New Source shall report the method of pretreatment it intends to use to meet applicable Categorical Standards. A New Source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- (B) Users described above shall submit the information set forth below.
- (1) All information required in Section 12A-4-4A(1)(a), Section 12A-4-4A(2), Section 12A-4-4A(3)(a), and Section 12A-4-4A(6).
  - (2) Measurement of pollutants.
    - (a) The user shall provide the information required in Section 12A-4-4A(7)(a) through (e).
    - (b) The user shall take a minimum of one representative sample to compile the data necessary to comply with the requirements of this paragraph.
    - (c) Samples shall be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the user should measure the flows and concentrations necessary to allow use of the combined waste stream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority;

- (d) Sampling and analysis shall be performed in accordance with Section 12A-5-10 and Section 12A-5-11;
  - (e) The Director 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) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.
- (3) Compliance Certification. A statement, reviewed by the user's Authorized Representative as defined in Section 12A-1-3 and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.
- (4) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the user shall provide such additional pretreatment and/or O&M shall be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this Section shall meet the requirements set out in Section 12A-5-2 of this chapter.
- (5) Signature and Report Certification. All baseline monitoring reports must be certified in accordance with Section 12A-5-14 of this chapter and signed by an Authorized Representative as defined in Section 12A-1-3.

## **12A-5-2 COMPLIANCE SCHEDULE PROGRESS REPORTS**

The following conditions shall apply to the compliance schedule required by Section 12A-5-1B(4) of this chapter.

- (A) 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 include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation;
- (B) No increment referred to above shall exceed nine (9) months;
- (C) The user shall submit a progress report to the Director 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 user to return to the established schedule; and
- (D) In no event shall more than nine (9) months elapse between such progress reports to the Director. More frequent reporting may be required by the Director.

- (E) The Director is authorized to review and approve compliance schedules and may require shorter increments of progress between events.

#### **12A-5-3           REPORTS ON COMPLIANCE WITH CATEGORICAL PRETREATMENT STANDARD DEADLINE**

Within 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 user subject to such Pretreatment Standards and Requirements shall submit to the Director a report containing the information described in Section 12A-4-4(6) and (7) and 12A-5-1B(2) of this chapter. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to Categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 12A-5-14A of this chapter. All sampling shall be done in conformance with Section 12A-5-11.

#### **12A-5-4           PERIODIC COMPLIANCE REPORTS**

- (A) Except as specified in Section 12A-5-4C, all Significant Industrial Users must, at a frequency determined by the Director submit no less than twice per year (January and July or on dates specified in its Permit) reports 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 for the reporting 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 the Director or the Pretreatment Standard necessary to determine the compliance status of the user.
- (B) The city may authorize an Industrial User subject to a Categorical Pretreatment Standard to forego sampling of a pollutant regulated by a Categorical Pretreatment Standard if the Industrial User has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Industrial User. [See 40 CFR 403.12(e)(2)] This authorization is subject to the following conditions:
- (1) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable Categorical Standard and otherwise includes no process wastewater.
  - (2) The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than five (5) years. The user must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit. See Section 12A-4-4A(8).
  - (3) In making a demonstration that a pollutant is not present, the Industrial User must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.
  - (4) The request for a monitoring waiver must be signed in accordance with Section 12A-1-3 and include the certification statement in 12A-5-14A (40 CFR 403.6(a)(2)(ii)).

- (5) Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.
  - (6) Any grant of the monitoring waiver by the Director must be included as a condition in the user's permit. The reasons supporting the waiver and any information submitted by the user in its request for the waiver must be maintained by the Director for 3 years after expiration of the waiver.
  - (7) Upon approval of the monitoring waiver and revision of the user's permit by the Director, the Industrial User must certify on each report with the statement in Section 12A-5-14C, that there has been no increase in the pollutant in its waste stream due to activities of the Industrial User.
  - (8) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the user's operations, the user must immediately: Comply with the monitoring requirements of Section 12A-5-4A, or other more frequent monitoring requirements imposed by the Director, and notify the Director.
  - (9) This provision does not supersede certification processes and requirements established in Categorical Pretreatment Standards, except as otherwise specified in the Categorical Pretreatment Standard.
- (C) The city may reduce the requirement for periodic compliance reports to a requirement to report no less frequently than once a year, unless required more frequently in the Pretreatment Standard, where the Industrial User's total categorical wastewater flow does not exceed any of the following:
- (1) 0.01 percent of the POTW's design dry-weather *hydraulic capacity* of the POTW, or five thousand (5,000) gallons per day, whichever is smaller, as measured by a continuous effluent flow monitoring device unless the Industrial User discharges in batches;
  - (2) 0.01 percent of the design dry-weather *organic treatment capacity* of the POTW; and
  - (3) 0.01 percent of the maximum allowable headworks loading for any pollutant regulated by the applicable Categorical Pretreatment Standard for which approved Local Limits were developed in accordance with Section 12A-2-6 of this chapter.

Reduced reporting is not available to Industrial Users that have in the last two (2) years been in Significant Noncompliance, as defined in Section 12A-7-2 of this chapter. In addition, reduced reporting is not available to an Industrial User with daily flow rates, production levels, or pollutant levels that vary so significantly that, in the opinion of the Director, decreasing the reporting requirement for this Industrial User would result in data that are not representative of conditions occurring during the reporting period.

- (D) All periodic compliance reports must be signed and certified in accordance with Section 12A-5-14A of this chapter.
- (E) All wastewater samples must be representative of the 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 a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

- (F) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Director, using the procedures prescribed in Section 12A-5-11 of this chapter, the results of this monitoring shall be included in the report.

#### **12A-5-5           REPORTS OF CHANGED CONDITIONS**

Each user must notify the Director of any significant changes (as defined at Section 12A-1-3) to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 90 days before the change.

- (A) The Director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 12A-4-4 of this chapter.
- (B) The Director may issue an individual wastewater discharge permit under Section 12A-4-2 of this chapter or modify an existing wastewater discharge permit under Section 12A-4-2 of this chapter in response to changed conditions or anticipated changed conditions.

#### **12A-5-6           REPORTS OF POTENTIAL PROBLEMS**

- (A) 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, accidental discharge of hazardous waste, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the user shall immediately telephone and notify the Director of the incident followed up with an email to [ipp@goodyearaz.gov](mailto:ipp@goodyearaz.gov). This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- (B) Within five (5) days following such discharge, the user shall, unless waived by the Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might 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 user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.
- (C) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.
- (D) Significant Industrial Users are required to notify the Director immediately of any changes at its facility affecting the potential for a Slug Discharge.

#### **12A-5-7           REPORTS FROM UNPERMITTED USERS**

All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the Director as the Director may require.

#### **12A-5-8 NOTICE OF VIOLATION/REPEAT SAMPLING AND REPORTING**

If sampling performed by a user indicates a violation, the user must notify the Director within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Director within 30 days after becoming aware of the violation. Resampling by the Industrial User is not required if the city performs sampling at the user's facility at least once a month, or if the city performs sampling at the user's facility between the time when the initial sampling was conducted and the time when the user or the city receives the results of this sampling, or if the city has performed the sampling and analysis in lieu of the Industrial User.

#### **12A-5-9 NOTIFICATION OF THE DISCHARGE OF HAZARDOUS WASTE**

- (A) The discharge of hazardous waste is prohibited as provided in 40 CFR Part 261. Any 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 must 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 user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the 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 12 months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 12A-5-5 of this chapter. The notification requirement in this Section does not apply to pollutants already reported by users subject to Categorical Pretreatment Standards under the self-monitoring requirements of Sections 12A-5-1, 12A-5-3, and 12A-5-4 of this chapter.
- (B) Dischargers are exempt from the requirements of paragraph A, above, during a calendar month in which they discharge no more than 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 15 kilograms of nonacute 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 user discharges more than such quantities of any hazardous waste do not require additional notification.
- (C) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Director, 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.
- (D) In the case of any notification made under this Section, the 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.
- (E) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued thereunder, or any applicable Federal or State law.

#### **12A-5-10 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 and amendments thereto, 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, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Director or other parties approved by EPA.

#### **12A-5-11 SAMPLE COLLECTION**

- (A) Samples collected to satisfy reporting requirements shall be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.
- (B) Except as indicated in Section C and D below, the user must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Director. Where time-proportional composite sampling or grab sampling is authorized by the city, 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 city, as appropriate. In addition, Grab Samples may be required to show compliance with Instantaneous Limits.
- (C) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
- (D) For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 12A-5-1 and 12A-5-3 [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 Director may authorize a lower minimum. For the reports required by paragraphs Section 12A-5-4 (40 CFR 403.12(e) and 403.12(h)), the Industrial User is required to collect the number of Grab Samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

#### **12A-5-12 DATE OF RECEIPT OF REPORTS**

Written reports shall be deemed to have been submitted on the date postmarked. For reports, which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

#### **12A-5-13 RECORDKEEPING**

Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with Best Management Practices established under Section

12A-2-H(3). Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. 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 the user or the city, or where the user has been specifically notified of a longer retention period by the Director.

#### 12A-5-14 CERTIFICATION STATEMENTS

- (A) Certification of Permit Applications, User Reports and Initial Monitoring Waiver. The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with Section 12A-4-12; users submitting baseline monitoring reports under Section 12A-5-1B(5); users submitting reports on compliance with the Categorical Pretreatment Standard deadlines under Section 12A-5-3; users submitting periodic compliance reports required by Section 12A-5-4A–D, and users submitting an initial request to forego sampling of a pollutant on the basis of Section 12A-5-4B(4). The following certification statement must be signed by an Authorized Representative as defined in Section 12A-1-3:

*“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.”*

- (B) Annual Certification for Non-Significant Categorical Industrial Users. A facility determined to be a Non-Significant Categorical Industrial User by the Director pursuant to 12A-1-3 must annually submit the following certification statement signed in accordance with the signatory requirements in 12A-1-3. This certification must accompany an alternative report required by the Director:

*Based on my inquiry of the person or persons directly responsible for managing compliance with the Categorical Pretreatment Standards under 40 CFR \_\_\_\_\_, I certify that, to the best of my knowledge and belief, during the period from \_\_\_\_\_, \_\_\_\_\_ to \_\_\_\_\_, \_\_\_\_\_ [months, days, year]:*

*(a) The facility described as \_\_\_\_\_*

*[facility name] met the definition of a Non-Significant Categorical Industrial User as described in 12A-1-3;*

*(b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and*

*(c) The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.*

*This compliance certification is based on the following information.*

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- (C) Certification of Pollutants Not Present. Users that have an approved monitoring waiver based on Section 12A-5-4B must certify on each report with the following statement that there has been no increase in the pollutant in its waste stream due to activities of the user.

*Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR \_\_\_\_\_ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best*

*of my knowledge and belief, there has been no increase in the level of \_\_\_\_\_ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under Section 12A-5-4A.*

## **Article 12A-6 COMPLIANCE MONITORING**

**Section:**

12A-6-1 Right of Entry; Inspection and Sampling  
12A-6-2 Search Warrants

### **12A-6-1 RIGHT OF ENTRY; INSPECTION AND SAMPLING**

- (A) The Director, upon presentation of credentials, shall have the right of entry to, upon, or through the facilities of any User to determine whether the User is complying with all requirements of this chapter and any individual wastewater discharge permit, other permit or order. Users shall allow the Director ready access to all parts of the facilities for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.
- (1) Where a User has security measures in force which require proper identification and clearance before entry into its facilities, the User shall make necessary arrangements with its staff so that, upon presentation of credentials, the Director shall be permitted to enter for the purposes for exercising all inspection and review authorities under this chapter.
  - (2) The Director shall have the right to set up on the User's property, and/or require the User to permit installation of the City equipment at the User's expense, of such devices as determined necessary by the Director to conduct sampling and/or metering of the User's operations.
  - (3) Unreasonable delays in allowing the Director access to the User's premises shall be a violation of this chapter.
- (B) Monitoring Facilities
- (1) The Director may require the User to install monitoring equipment on the User's property as determined necessary by the Director, at the User's expense. This monitoring facility shall be of a design or configuration and location approved by the Director and may include wastewater flow measurement equipment, automatic flow-proportional sampling equipment and automatic wastewater analysis and data recording equipment.
  - (2) The facility's sampling and monitoring equipment shall be maintained at all times in a clean, safe and proper operating condition. All devices used to measure wastewater flow and quality shall be calibrated per manufacturer specifications to ensure their accuracy. Proof of the most recent calibrations shall be maintained by the User and provided to the City when requested.
  - (3) User shall maintain their facilities to ensure the City staff have safe and easy access and ample room in or near the monitoring facility to perform independent monitoring activities and allow for accurate sampling and preparation of samples and inspection. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the Director and shall not be replaced. The costs of clearing such access shall be borne by the User.

(C) Digital Images

Digital images may be used to document conditions observed during inspections and investigations and sampling. Digital image means any photograph or video taken using a digital camera or device, including the audio portion of the video. Inspections and sampling are conducted to evaluate a user for the purpose of gathering information to determine if the user is in compliance with applicable environmental requirements. Inspections and sampling may also assess a regulated entity's ability to maintain compliance. Standard Operating Procedures for the taking, use and storage of Digital Images shall be made available to the user.

(D) The user has the following rights during any inspection by an authorized employee of the Water Services Department:

- (1) IU may accompany the City inspector on the premises (except during confidential interviews).
- (2) In accordance with the City of Goodyear Code, Chapter 12A, the City may charge an annual inspection amount and assess a re-inspection fee. Refer to the most current USER FEE schedule for the dollar amount.

|                                   |                   |               |
|-----------------------------------|-------------------|---------------|
| <input type="checkbox"/> FOG fees | Annual Inspection | Re-Inspection |
| <input type="checkbox"/> WDP fees | Annual Inspection | Re-Inspection |

- (3) IU has the right to make copies of any original document(s) taken from the premises by the City inspector during the inspection if the City is permitted by law to take the original document(s).
- (4) IU has the right to have a "split" or "duplicate" of any samples taken during the inspection, but only if the split or duplicate would not prohibit an analysis from being conducted or render an analysis inconclusive.
- (5) IU has a right to receive a copy of any analysis performed on samples taken during the inspection.
- (6) The City inspector will advise anyone if conversations or interviews are being recorded.
- (7) The City inspector will inform all interviewees that statements provided during the interview may be included in the inspection
- (8) That the IU has the right to appeal final City decisions in accordance with the City of Goodyear Code Chapter 12A and any applicable State law provisions.
- (9) That actions taken to correct deficiencies which have been identified during the inspection and noted in the inspection report are not appealable actions.

**12A-6-2 SEARCH WARRANTS**

- (A) If Director or their designee has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the Director may seek issuance of an administrative search warrant from the Goodyear Municipal Court or other court of competent jurisdiction. Such warrant shall be served at reasonable hours by the Director or designee in the company of a uniformed police officer.
- (B) Nothing in this section is intended to preclude the issuance of a criminal warrant in lieu of or in addition to a civil administrative warrant to conduct a criminal investigation of a violation of this chapter or any other lawful purpose.
- (C) A warrant shall be executed and returned to the magistrate/judge who issued it within 10 days after its date. After the expiration of that time, the warrant shall unless executed be void.

## **Article 12A-7**

### **Release of Information**

#### **Section**

12A-7-1 Confidential Information

12A-7-2 Publication of Users in Significant Noncompliance

#### **12A-7-1 CONFIDENTIAL INFORMATION**

Information and data regarding a User obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, monitoring programs, and from the City's inspection and sampling activities, shall be available to the public without restriction and are subject to release pursuant to public records requests. When obtaining a permit, it is the responsibility of the User to clearly identify in writing to the Director those items the User believes would qualify as a trade secret or propriety information. The City will use reasonable efforts to inform the User of public records requests, for information the User has previously identified in writing to the Director as data involving trade secrets or propriety information, prior to the City releasing that information. It will then be the responsibility of the User to seek a court order to preclude disclosure. The City will not be legally responsible for the disclosure of information pursuant to federal or state law. Trade secrets or secret processes shall be made available immediately upon request to governmental agencies for uses related to the NPDES 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.

#### **12A-7-2 PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE**

The city shall publish annually, in a newspaper(s) of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW, a list of the Users, which during the previous twelve (12) months, were in significant non-compliance with applicable pretreatment standards and requirements. For the purposes of this provision, a User is in significant noncompliance if its violation meets one or more of the following criteria:

- (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 six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined by Section 12A-2;
- (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 six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement, including instantaneous limits, as defined by Section 12A-2 multiplied by the TRC [TRC=1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except PH];
- (C) Any other discharge violation of a pretreatment standard or requirement as defined by Section 12A-2 (daily maximum, longer-term average, instantaneous limit, or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of POTW personnel or the general public);
- (D) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the city's exercise of its emergency authority to halt or prevent such a discharge;
- (E) Failure to meet, within ninety (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 thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (G) Failure to accurately report non-compliance; or
- (H) Any other violation or group of violations, which may include a violation of best management practices, which the POTW determines will adversely affect the operation or implementation of the local pretreatment program.

## **Article 12A-8**

### **Enforcement Response Plan**

#### **Section**

|          |                                                           |
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#### **12A-8-1      ENFORCEMENT AUTHORITY AND RESPONSIBILITIES**

- (A) The Enforcement Response Plan (ERP) outlines the procedures followed by City staff to identify, document, and respond to discharge violations in a manner appropriate to the nature of the violation. This ERP was developed in accordance with 40 CFR 403.8(f)(5); and Goodyear City Code 12A. In addition, the ERP describes the responsibilities of the City's Pretreatment Program staff and procedures.
- (B) The Director shall enforce and provide consistency in the implementation, application, regulation and enforcement of this chapter; approve enforcement actions; oversee proceedings; assessment administrative fines and approve termination of water and wastewater services when appropriate.
- (C) The City Attorney will provide consultation as requested by staff for issues needing legal clarification, regulatory issues, developments, changes, and for procuring search warrants; advise City staff during Administrative Enforcement matters as required; consult with the Program Manager on Administrative Enforcement actions. The attorney will act as lead on all referrals by staff for civil litigation or criminal

investigations or any other Judicial Enforcement on behalf of the City.

- (D) The Programs Manager (PM) is responsible for the overall management of the Industrial Pretreatment Program (IPP). The PM position is responsible for ensuring that the IPP meets all Federal, State, and local pretreatment program requirements and the City Code Chapter 12A and policies. The PM has signatory responsibility for issuance of major enforcement actions; administrative complaints and presents the case at an administrative hearing if necessary. The PM prepares documentation and determination of noncompliance, drafts appropriate enforcement action, tracks enforcement follow-up and recommend closure for major enforcement actions, including emergency suspension and termination of service.
- (E) The Pretreatment Supervisor (PS) is responsible for general oversight and planning of all activities pertaining to user compliance. The PS supervises the identification and characterization of any instances of noncompliance by users. This includes documentation of all inspection and monitoring activities necessary to determine the compliance or noncompliance of a discharger with Chapter 12A, Wastewater Discharge Permits (WDPs), and Federal Pretreatment Standards and Requirements. The PS is responsible for development of an overall inspection and sampling plan, including resource scheduling and standard operating procedures. The PS is responsible for the day-to-day oversight of staff implementation of all activities pertaining to user compliance, including administering user inspection and monitoring programs. As necessary, the PS reviews inspection reports, sampling, and quality control/quality assurance documentation prepared by staff prior to filing. The PS is responsible for ensuring that time frames for sampling, inspections, user compliance, and filing of documentation are achieved in accordance with the requirements of the ERP and IPP policies. The PS has signatory responsibility for issuance of minor level enforcement (warning letters and notices of violation) and intermediate level enforcement (administrative orders) and assists in documentation for assessment of administrative fines.
- (F) The Sr. Industrial Pretreatment Inspector and Industrial Pretreatment Inspector (IPI) is responsible for conducting the user monitoring and inspection program. The IPI has routine, direct contact with the various users of the sewer system. The IPI prepares inspection reports for review and submittal to users. In addition, the IPI is responsible for implementing the general monitoring program in accordance with the IPP policies and required quality control procedures. The IPI reviews all sampling and monitoring data. Based on site inspections and review of user reports, sampling and monitoring data, the IPI is responsible for determining any instance of user noncompliance. The IPI drafts warning letters and notices of violation where appropriate. The IPI has signatory responsibility for issuance of minor level enforcement in the absence of the PS. All finalized enforcement actions will be documented and tracked into the IU's file.

(G) Levels of Responsibility for Instances of Noncompliance

The following table summarizes staff level of responsibility for enforcement actions. Staff is listed by level of signatory responsibility. It is acknowledged that subordinate staff will assist as necessary in compilation and documentation of noncompliance at all levels of enforcement.

| Enforcement Level                                                    | Staff Responsible                 | Action                                                                                                                                                                           |
|----------------------------------------------------------------------|-----------------------------------|----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
| Minor<br>(Informal Notice, Notice of Violation, Administrative Fine) | Industrial Pretreatment Inspector | Determine and document noncompliance: Draft appropriate enforcement action. Track enforcement follow-up and recommend closure. Sign and issue enforcement actions in PS absence. |

|                                                                                                             |                                   |                                                                                                                                                                                                                                                                             |
|-------------------------------------------------------------------------------------------------------------|-----------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|
|                                                                                                             | Pretreatment Supervisor           | Sign and issue enforcement actions.<br>Sign closure actions.                                                                                                                                                                                                                |
| Intermediate<br>(Administrative Order,<br>Administrative Fine)                                              | Industrial Pretreatment Inspector | Determine and document noncompliance: Draft appropriate enforcement action. Track enforcement follow-up and recommend closure.                                                                                                                                              |
|                                                                                                             | Pretreatment Supervisor           | Oversee determination and documentation of noncompliance. Sign and issue enforcement actions. Sign closure actions.                                                                                                                                                         |
| Civil Action                                                                                                | Pretreatment Supervisor           | Oversee determination and documentation of noncompliance. Draft administrative complaint and supportive documentation. Track enforcement follow-up and recommend closure.                                                                                                   |
|                                                                                                             | Programs Manager                  | Sign and issue administrative complaint. Sign closure actions. Present case at administrative hearing.                                                                                                                                                                      |
| Major<br>(Show Cause Order, Permit Revocation, Emergency Suspension, Termination, and Judicial Proceedings) | Programs Manager                  | Oversee determination and documentation of noncompliance. Draft appropriate enforcement action. Track enforcement follow-up and recommend closure. Prepare notification for actions involving termination of service.                                                       |
|                                                                                                             | Director                          | Sign and issue show cause order or enforcement orders including emergency suspensions. Conduct show cause hearing or assign hearing officer. Refer to Counsel for noncompliance involving civil action. Refer to Attorney for noncompliance involving criminal prosecution. |

## 12A-8-2 TYPES OF VIOLATIONS

(A) It is the intent of this enforcement section to provide adequate mechanisms to achieve a maximum degree of compliance with this Chapter by all Users in an equitable and consistent manner. These enforcement provisions apply to all classes of Users, to the extent such User violates any provision of this chapter or administrative order of the city pursuant to this chapter. To achieve compliance, the IPP will use a variety of enforcement mechanisms. The enforcement mechanisms set forth range from informal administrative action to formal criminal prosecution. Goodyear City Code Chapter 12A is in place to protect public health and safety, the City's investment in infrastructure, and the health and safety of personnel working in or on the publicly owned treatment works (POTW) and the environment.

(B) Types of violation include but are not limited to the following:

- (1) Random Violation means any violation that exceeds a federal, Arizona, or local discharge limitation or compliance schedule. Random violations may include the first, second, or third offense and may not be severe or frequent enough to be classified as a Significant Noncompliance or a Pattern Violation.
- (2) Pattern Violation or Pattern of Noncompliance means a series of random violations that is otherwise not considered to be Significant Noncompliance, but which contribute to a pattern of noncompliance when viewed over a moving 12-month period. Noncompliance for any two consecutive calendar quarters for the same parameter or four or more instances of noncompliance within a 6-month period would constitute a Pattern Violation.
- (3) Significant Noncompliance (SNC) Violation means any violation meeting the definition at Section 12A-7-2. For Chronic Violations and TRC Violations as defined at Section 12A-7-2, the determination is on a rolling quarter basis.

### **12A-8-3 DETERMINING ENFORCEMENT RESPONSE**

- (A) The city enforcement procedures are based on three levels of enforcement responses: minor, intermediate, and major. Although the following procedures are primarily directed at permitted users, they can generally apply to any user violating city rules and regulations. User violations of monitoring, reporting, BMPs, and treatment requirements may range from relatively minor violations (e.g., late reports without effluent discharge limit violation) to major violations resulting in treatment plant or collection system upsets. Each instance of noncompliance is a violation and as such is reviewed and appropriately addressed. Selection of the appropriate enforcement response will relate to whether the violation is major or minor, and other factors such as the following:
- (1) Duration and magnitude of Violation: The City will evaluate the duration of the violation to determine the possible effects that may have occurred in the POTW. The assessment of each specific violation should take into account the volume and strength or concentration of the discharge. Depending on the severity, even an isolated violation could threaten public health and the environment, damage public and private property, or threaten the operational integrity of the POTW.
  - (2) Compliance History of User: The compliance history of the facility is reviewed prior to selecting the appropriate level of enforcement response. More aggressive enforcement actions will be taken when a facility has frequent violations. Also considered is the effectiveness of previous enforcement actions.
  - (3) Good Faith Effort of User to resolve noncompliance: The City will consider the actions of the User, before and after a noncompliance incident, on a case-by-case basis to assess whether the User is acting in good faith.
  - (4) Degree of Harm Caused by Violation: Violations that have negative impacts to the POTW are typically considered major. For example, violations may result in significant increases in treatment costs; interfere with operations; harm POTW personnel or equipment, cause exceedances of the POTW permit limitations that result in fines from federal or Arizona agencies, or cause sludge contamination resulting in increased disposal costs. These violations may result in an administrative fine or civil fine and an Administrative Order to correct the violation, in addition to recovery of costs.
  - (5) Effect of the Violation on the receiving stream: One of the primary objectives of the Pretreatment Program is to prevent pollutants from “passing through” the POTW and entering the receiving waters. Consequently, any violation which results in environmental harm will be met with an escalated enforcement response.

Environmental harm will be presumed whenever an industry discharges a pollutant into the sanitary sewer which:

- (a) Passes through the POTW
- (b) Causes a violation of the POTW's NPDES permit limits
- (c) Has a toxic effect on the receiving waters
- (d) A minimum response to these types of violations would be an administrative order and referral to the attorney. In addition, the response should ensure the recovery from the IU of any NPDES fines and penalties paid by the POTW.
- (e) Termination of service may also be considered for repeat violations.

The following table presents an outline of escalating levels of enforcement.

| Enforcement Level | Response                                      | Types                                                                                                                                                     |
|-------------------|-----------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------------------------|
| Minor             | Informal Notice                               | Warning letter<br>Correction notice<br>Telephone call<br>Meeting<br>Provide educational material                                                          |
|                   | Notice of Violation                           |                                                                                                                                                           |
|                   | Administrative Fines                          |                                                                                                                                                           |
| Intermediate      | Administrative Order                          | Modification of Wastewater discharge permits<br>Compliance schedules<br>Prohibited actions or obligations to cease and desist<br>Other appropriate orders |
|                   | Administrative Fines                          |                                                                                                                                                           |
| Major             | Emergency Suspension or termination of Permit |                                                                                                                                                           |
|                   | Hearings to show cause                        |                                                                                                                                                           |
|                   | Administrative Fines                          |                                                                                                                                                           |
|                   | Publication of SNC and imposition of fines    |                                                                                                                                                           |
|                   | Terminate Service                             |                                                                                                                                                           |
|                   | Judicial Proceedings                          | Civil<br>Criminal                                                                                                                                         |

Upon learning of a violation, the IPP will determine the appropriate enforcement action. All compliance notifications at the level of a notice of violation or above will be in writing but may be initiated by verbal notification. Notification of major, intermediate, and notice of violation enforcement actions will be delivered to the user by certified mail, return receipt requested, or in person.

#### 12A-8-4 ENFORCEMENT ACTIONS

- (A) Determination of the appropriate enforcement response to noncompliance will vary based on the type, nature and severity of the violation as provided in the Enforcement Response Table. Each act and each day of noncompliance will constitute a separate violation. Once noncompliance is determined, the Director will provide notice of the violation(s) to the User. The type of notification will vary depending on the severity of the violation.
- (B) The Director may take the enforcement action determined appropriate by the Director. The Enforcement Response Table is a guideline and in no way is intended to limit the Director's ability to pursue any and all

action it deems appropriate and warranted based on the allegations and in whatever order is determined to be appropriate.

(1) Inspection and Monitoring

When permit or discharge violations occur, the Director may perform an inspection of the facility to assess if the violation has been corrected and if the facility is operating normally. Inspections are typically not scheduled ahead of time. The User must allow the Director access to the facility for sampling and inspection purposes within a reasonable timeframe from inspection notification.

(2) Informal Notification

- (a) Verbal Warning Notice may be given for minor violations and involves the Director notifying the User that a violation(s) has occurred, identifies the required corrective action(s) and the time frame in which the corrective action(s) must be completed. The Director may also schedule additional inspections and/or sampling and/or any other action deemed appropriate by the Director.
- (b) Written Warning Notice may be given for minor or moderate violations and involves the Director notifying the User that a violation(s) has occurred, identifies the required corrective action(s) and the time frame in which the correction action(s) must be completed. The Director may also schedule additional inspections and/or sampling and/or any other action deemed appropriate by the Director.
- (c) All enforcement actions will be documented in writing and placed in the Users pretreatment file.

#### **12A-8-5           ISSUANCE OF NOTICE OF VIOLATION**

(A) Notice of Violation (NOV)

- (1) Whenever the Pretreatment Supervisor (PS) finds a User is in violation of any section of this Chapter, any provision and/or condition of the User's permit, compliance or corrective action order, or any other pretreatment standard requirement, the PS may serve, or cause to be served, an NOV to the User.
- (2) The NOV shall be served on the User and identify the nature of the alleged violation, the specific time frame for follow-up and/or other corrective actions and include a statement that additional enforcement actions may be pursued by the Director if corrective actions are not achieved as required.

(B) Response to Notification of Violation. The User shall respond in writing to the PS within the specified time frame, but not later than 15 calendar days from receipt of the NOV by the User. The response shall provide an explanation of the violation and the corrective action taken. Submission of this response in no way relieves the User of criminal and civil liability for any violations occurring before or after receipt of the NOV.

(C) The PS will determine the validity or appropriateness of the response. If the PS finds the response to be appropriate and satisfactory, the NOV will be closed and recorded in the facility file as part of compliance history. Closure to the NOV will be documented in writing and provided to the User. Closure of the NOV does not preclude further enforcement action.

(D) Deficient Response to Notification of Violation. Upon review of a response to a notification of violation the PS finds the response to be deficient, the PS may require additional information, issue an administrative fine, suspend or revoke the User's permit, order the User to cease discharge, and/or seek appropriate injunctive relief and criminal and/or civil penalties.

#### **12A-8-6           COMPLIANCE MEETINGS**

- (A) Compliance Meetings are required when a pattern of noncompliance occurs or when previous violations appear to remain uncorrected, as evidenced by repeated violations. Compliance Meetings between the User and City Pretreatment Program staff are scheduled as a last step to ensure compliance before pursuing a more stringent intervention, such as an order to cease further discharge. During a Compliance Meeting, a Compliance Schedule is developed and tracked by the PS. Compliance Meetings may be scheduled when any one of the following occurs, and at such other times deemed appropriate by the Director:
- (1) Discharge concentration exceeds five times the applicable discharge limit, or six times the applicable discharge limit for oil and grease;
  - (2) Discharge has a pH violation of less than 5.5 or greater than 10 for duration of 30 minutes or more and/or a volume greater than 100 gallons; or
  - (3) The IU has demonstrated a pattern of noncompliance as defined at 12A-8-2(B)(2).
- (B) Compliance Schedule. When the discharger is found to be in noncompliance, a compliance schedule may be made part of an enforcement order. The deadline dates in the compliance schedule are enforceable requirements and are subject to the same enforcement actions and penalties as any other requirement of this Chapter.

#### **12A-8-7 NOTICE TO SHOW CAUSE**

- (A) The Director may issue a Notice to Show Cause to a User which has violated, or continues to violate, any provision of this chapter; a wastewater discharge permit or compliance order; or any other pretreatment standard or requirement. A Notice to Show Cause meeting provides the User with the opportunity to present information to the Director about why a proposed enforcement action should not be taken. The notice will be served to the User specifying the time and place of the Show Cause meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken.
- (B) The notice will be served personally or by registered or certified mail (return receipt requested) at least 10 calendar days prior to the meeting. A Show Cause meeting will not be a bar against, or prerequisite for, taking any other action against the User. The User may waive the right for a Show Cause meeting.

#### **12A-8-8 ADMINISTRATIVE ORDERS**

The Director may issue an Administrative Orders requiring a facility to achieve compliance with pretreatment standards or other requirements of the City Code. The Administrative Order will place a facility on an enforceable compliance schedule or require immediate compliance. The Director may require a facility to install treatment devices and/or to operate and maintain treatment equipment correctly.

#### **12A-8-9 ADMINISTRATIVE FINES**

- (A) Administrative Fines for violations of any provision of this chapter; a wastewater discharge permit or compliance order; or any other pretreatment standard or requirement may be assessed by the Director. Each day that a violation continues may constitute a separate violation.
- (B) When determining the amount of an Administrative Fine, other factors including but not limited to, compliance history, good faith by the User, nature and type of violation, and history of the User may be taken into account,

as well as any economic benefit resulting from the violation, the economic impact of the penalty on the violator, and the severity of the violation. See Table under Enforcement Response Guide 12A-8-18 for administrative fines that may be assessed based on the type and nature of the violation.

- (C) Administrative fines differ from civil penalties in that they do not require court intervention unless the User contests the action or refuses to pay the fine. Administrative fines are punitive in nature and may not be related to a specific cost incurred by the city. Legal authority for administrative fines has been established in the Goodyear Sewer Use Chapter. The Director or his/her designee has the authority to assess fines at any time.

## **12A-8-10            TERMINATION OR SUSPENSION OF WATER OR WASTEWATER SERVICES**

- (A) The Director may issue a Cease-and-Desist Order to any User that has violated, or continues to violate, any provision of this chapter; a wastewater discharge permit or compliance order; or any other pretreatment standard or requirement. The Cease-and-Desist Order may direct the User to immediately comply with pretreatment standards and requirements and to 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.
- (B) The Cease-and-Desist Order will be served personally or by registered or certified mail (return receipt requested). Issuance of a Cease-and-Desist Order will not be a bar against, or a prerequisite for, taking any other action against the User.
- (C) Termination or suspension of water or wastewater service may be an appropriate response to facilities that have not complied with previous enforcement actions. This action is an administrative response, which may be implemented by the Director without initiating civil and/or criminal proceedings.
- (D) Circumstances warranting termination or suspension of water or wastewater services include any of the following:
  - (1) Unpermitted discharge which results in violation of POTW permit(s);
  - (2) Any dangerous situation threatening human health, the environment, or the POTW;
  - (3) Discharges that exceed local limits or categorical discharge limits and/or result in damage to the environment or the POTW;
  - (4) Slug loads that result in interference, pass-through, or which may cause any dangerous situation threatening human health, the environment, or the POTW;
  - (5) Failure of the facility to notify the Director of effluent violations of slug load discharge, or recurring slug loads, that causes any dangerous situation threatening human health, the environment, or the POTW;
  - (6) Failure of the facility to install monitoring equipment as required by an Administrative Order; and/or
  - (7) Any major violation of permit conditions or administrative action accompanied by evidence of negligence or intentional violation.
- (E) The process for terminating or suspending a User's water or wastewater service is described below:
  - (1) The User will be provided written notification of the proposed termination or suspension, the basis for the

proposed action and the date for the show cause meeting as provided in this chapter.

- (2) If the User appears to have an actual or threatened discharge that may cause interference with the POTW or will present an imminent endangerment to the health, safety or welfare of any person or environment, or to the environment or pass-through interference, upset to, the POTW, the Director may immediately suspend any sewer service connection to the POTW without a Show Cause meeting. In such cases, the User will be entitled to a meeting within five calendar days of the suspension/termination.
- (3) Service will be restored only after compliance has been achieved to the satisfaction of the Director.
- (F) When notified of a termination or suspension of services, the user shall cease discharge of all industrial wastewater to the POTW.
- (G) In the event of a failure of the User to comply voluntarily with the notification of service termination or suspension, the Director shall take such steps as necessary to insure compliance up to and including termination of service by court order or physical barrier.
- (H) The Director shall, by written statement, reinstate the user's services upon proof of satisfactory compliance with all requirements of the notification of suspension/termination. Damages and costs incurred by the city, and administrative fee, in suspending, disconnecting and/or reconnecting the User shall be paid for by the user before reinstatement of services.

#### **12A-8-11            REVOCATION OF PERMIT**

- (A) The Director may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:
  - (1) Failure to notify the Director in writing of significant changes to the wastewater prior to the change as required by this chapter.
  - (2) Failure to provide prior notification to the Director of changed conditions as required by this chapter.
  - (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 or sampling equipment or a pretreatment device;
  - (6) Refusing to allow the Director immediate access to the facility premises and records;
  - (7) Exceeding effluent limitations;
  - (8) Failure to pay fines, costs or fees;
  - (9) Failure to pay sewer charges;
  - (10) Failure to meet compliance schedules;
  - (11) Failure to complete a wastewater survey; or

- (12) Violation of any Pretreatment Standard or Requirement, or any terms of the wastewater discharge permit or this chapter.
- (B) Any user whose permit has been revoked shall immediately cease all discharge of any industrial wastewater to the POTW.
- (C) Failure to Comply with Permit Revocation. In the event of a failure of the user to comply voluntarily with the notification of permit revocation, the Director shall take such steps as necessary to insure compliance.
- (D) Resolution of Permit Revocation. Before any further discharge of industrial wastewater may be made by the User, the User must apply for and obtain a new permit for industrial wastewater discharge, pay all charges that would be required upon initial application, and pay all delinquent fees, charges and such other sums as the user may owe to the county. Administrative fee assessed by the director in revoking the permit and disconnecting/reconnecting the industrial sewer shall be paid for by the user before issuance of a new permit.
- (E) Wastewater discharge permits shall be automatically revoked upon cessation of operations or in the case of a transfer of business ownership not made in compliance with Section 12A-4-6.

#### **12A-8-12 USER APPEAL**

An appeal may be made to the City Manager by filing a request with the City Clerk in the event that satisfactory resolution of Sections 12A-8-1, 12A-8-2, and 12A-8-3 is not agreed upon.

#### **12A-8-13 CIVIL ACTIONS**

- (A) The Director has the authority to file a Civil Action against Users for violations of applicable pretreatment standards and seek injunctive relief, compliance, civil fines, and/or damages. Civil fines may be assessed in an amount up to \$25,000 with a minimum of at least \$1,000 per violation per day in accordance with A.R.S. §49-391. Filing Civil Actions is an appropriate enforcement response in the following situations:
  - (1) An emergency situation where injunctive relief is necessary to halt or prevent discharges which threaten human health, or the environment, or interfere with the POTW;
  - (2) When efforts to restore compliance through cooperation with the IU has failed and action is necessary to enforce Pretreatment Program requirements;
  - (3) To seek fines and other remedies in law, or equity, or statutory for violations;
  - (4) Any other situation deemed reasonable by the Director for the protection of the public health, safety, and welfare of the community, POTW, or the environment.
- (B) In instances that require filing a Civil Action, the PS will collect all pertinent information sufficient to support the complaint, and provide the information to the City Attorney.

#### **12A-8-14 CRIMINAL ACTIONS**

- (A) Any person found guilty of violating any provision of this chapter or a User Wastewater Discharge Permit condition or requirement shall be guilty of a Class 1 misdemeanor, punishable by a fine of at least \$1,000 not to

exceed \$2,500 for an individual and of at least \$1,000 not to exceed \$20,000 for an enterprise or by imprisonment for a period not to exceed six months, or by both fine and imprisonment. Each day that a violation continues shall be a separate offense.

- (B) The City Attorney is authorized to seek criminal punishment for any person who violates pretreatment standards or any person who knowingly makes false statements in any report, application, record, or other document required by pretreatment regulations and City Code.

#### **12A-8-15            LIABILITY OF USER**

Any user who discharges, or causes the discharge of wastewaters which cause damage to the POTW, interference, pass-through, upset, or any other damages resulting in costs to the POTW shall be liable for all damages, costs, fees, fines and all other penalties resulting from or arising out of the user's actions.

#### **12A-8-16            JUDICIAL PROCEEDINGS**

- (A) Initiation of Legal Action. Whenever the Director finds that a user has violated any of the provisions of this chapter, the Director may ask the City Attorney to take appropriate legal action. This legal action may include, among other things, the following:

- (1) Prohibitive injunctions;
- (2) Mandatory injunctions for corrective action and cleanup, or other equitable relief;
- (3) Civil penalties in accordance with this chapter;
- (4) Criminal penalties, including restitution. In addition to any other restitution deemed appropriate by the Court, the Court may order that the violator pay restitution to reimburse the City for the costs and expenses incurred by the City as a result of the violation, including but not limited to those resulting from the enforcement, testing, emergency response and cleanup activities.
- (5) Recovery of civil damages, penalties, and costs to the POTW.

- (B) Civil and Criminal Penalties for Violation.

- (1) The civil penalties for violation of any provision of this chapter, any part of a permit written and issued in compliance with this chapter and/or any requirement of a notification of violation written and issued in compliance with this chapter, shall not exceed \$25,000 for each violation. For continuing violations, each day may constitute a separate offense. In determining the amount of a civil penalty the following shall be taken into consideration:
  - (a) The seriousness of the violation.
  - (b) The economic benefit, if any, resulting from the violation.
  - (c) Any history of such violation.
  - (d) Any good faith efforts to comply with the applicable requirements.
  - (e) The economic impact of the penalty on the violator.
  - (f) Such other factors as justice may require.

- (C) The civil penalties for non-submittal of reports, noncompliance with the reporting and/or application

requirements required in this chapter or permit, or failure to complete an increment of progress of a compliance schedule, shall not exceed \$1,000 for each day in which the requirements are not fulfilled.

- (D) Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue thereafter at a rate of one percent (1%) per month. A lien against the User's property shall be sought for unpaid charges, fines, and penalties.
- (E) Any person who attempts to deceive a government agency by submitting documents to the agency or by making statements to a representative of the agency which they know to be false, or by destroying or concealing or refusing to deliver papers or records required by the agency to be kept for its information, is subject to prosecution for tampering with a public record, or fraudulent schemes and practices. Tampering with a public record and fraudulent schemes and practices are both felony violations pursuant to Arizona Revised Statutes.
- (F) Any violation of any provision of this chapter, a wastewater discharge permit, or order issued hereunder, by any Person, are class 1 misdemeanors and may be pursued civilly and criminally subject to the penalties provided herein, Article 1-8, Chapter 18, A.R.S. § 49-391 and as provided by law. Each day any violation of any provision of this code or any chapter incorporated herein, or the failure to perform any act or duty required by this code or chapter incorporated herein, continues shall constitute a separate offense.
- (G) The remedies provided for in this chapter are not exclusive. The Director may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the chapter. However, the Director has the discretion to take other action against any User which the Director deems to be appropriate under the circumstances. Further, the Director is empowered to take more than one enforcement action against any noncompliant User.

#### **12A-8-17            LEVELS OF ACTION**

- (A) Enforcement of Judicial Action. A user's participation in any written or oral communication concerning violations will not exempt a User from formal enforcement or judicial action.
- (B) Written Permission Requirement. A user seeking any modification of an enforcement requirement or other permission sought by a User from the Director must be in writing.
- (C) Separate Actions. Any judicial proceedings initiated because of a violation of any section of this chapter shall not exempt a User from any judicial proceedings initiated because of a violation of any other provision of this chapter.

#### **12A-8-18            ENFORCEMENT RESPONSE GUIDE**

- (A) The following table identifies violations and the general enforcement response options that may be taken by the Director that shall apply to all Industrial Users. The table is intended to be a reference only, and is not intended to identify all possible violations or limit the Director's response to a violation. At all times the Director retains the right to take any enforcement action, in response to an identified violation, which it deems appropriate including all civil and/or criminal actions available by law. All enforcement response options include the possible imposition of fees, fines, costs, reasonable attorney fees, court costs and any and all other expenses associated with inspection, and enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.
- (B) Enforcement Response Table

| Violation                                                   | Nature of Violation                                                         | Enforcement Response Option                                                                                                                | Administrative Fines                 |
|-------------------------------------------------------------|-----------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|
| <b>Un-Permitted Discharges</b>                              |                                                                             |                                                                                                                                            |                                      |
| Un-Permitted Discharge                                      | User Aware Of Requirement; No Harm to the POTW Or Environment               | Verbal Warning, Warning Notice, NOV With Permit Application Form, Resample Discharge, Unannounced Inspection, Unannounced City Monitoring  | Up to \$1,000 per day per violation  |
|                                                             | User Aware Of Requirement; Discharge Causes Harm to the POTW Or Environment | NOV, Resample Discharge, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action                        | Up to \$10,000 per day per violation |
|                                                             | Failure To Comply; Discharge Continues After Notice By City                 | NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit | Up to \$25,000 per day per violation |
| Failure to Renew Permit                                     | Permit Expired; No Application Submitted                                    | NOV, Administrative Order, Civil and/or Criminal Action, Terminate Sewer Connection                                                        | Up to \$10,000 per day per violation |
| <b>Discharge Limit Violations</b>                           |                                                                             |                                                                                                                                            |                                      |
| Exceedance of Local Limit, Permit Limit or Federal Standard | Random Violation; No Harm to POTW or Environment                            | Verbal Warning, Warning Notice, NOV, Resample discharge, Unannounced inspection, Unannounced City monitoring                               |                                      |
|                                                             | Random violation; Discharge Caused Harm to POTW or Environment (SNC)        | NOV, Resample discharge, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action                        | Up to \$10,000 per day per violation |
|                                                             | Pattern Violation; No Harm to POTW or                                       | NOV, Compliance Meeting, Show Cause Meeting,                                                                                               | Up to \$10,000 per day per           |

|                                            |                                                                                         |                                                                                                                        |                                      |
|--------------------------------------------|-----------------------------------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------|--------------------------------------|
|                                            | Environment                                                                             | Administrative Order, Civil and/or Criminal Action                                                                     | violation                            |
|                                            | Pattern Violation;<br>Discharge Caused Harm to POTW or Environment (SNC)                | NOV, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate sewer connection, Revoke Permit | Up to \$10,000 per day per violation |
|                                            | Pattern Violation with Knowledge, Intent or Negligence (SNC)                            | NOV, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate sewer connection, Revoke Permit | Up to \$25,000 per day per violation |
| <b>Monitoring and Reporting Violations</b> |                                                                                         |                                                                                                                        |                                      |
| Reporting Violation                        | Report Improperly Signed or Certified                                                   | Verbal Warning, Warning Notice, NOV                                                                                    |                                      |
|                                            | Report Improperly Signed or Certified After Notification By City                        | NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action                        | Up to \$1,000 per day per violation  |
|                                            | Random Violation No Harm to POTW or Environment Report, Reported Less Than 30 Days Late | Verbal Warning, Warning Notice, NOV,                                                                                   |                                      |
|                                            |                                                                                         | Unannounced inspection                                                                                                 |                                      |
|                                            | Report late <= 5 days                                                                   | Verbal Warning, Warning Notice, NOV                                                                                    | \$50 per day                         |
|                                            | Report late 6 - 29 days                                                                 | NOV, Compliance Meeting                                                                                                | \$100 per day                        |
|                                            | Report late, 30 days or more                                                            | NOV, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action                                            | \$500 per day                        |
|                                            | Missing or Incomplete Information in Report                                             | Verbal Warning, Warning Notice, NOV,                                                                                   |                                      |
|                                            | Failure to Correct Report with Missing or                                               | NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil                                               | Up to \$5,000 per day per violation  |

|                              |                                                                                                  |                                                                                                                                            |                                      |
|------------------------------|--------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|
|                              | Incomplete Information After Notification by City                                                | and/or Criminal Action                                                                                                                     |                                      |
|                              | Failure to Report Spill or Changed Discharge; No Harm to POTW or Environment                     | Verbal Warning, Warning Notice, NOV, Resample discharge, Unannounced inspection, Unannounced City monitoring,                              | Up to \$1,000 per day per violation  |
|                              | Failure to Report Spill or Changed Discharge; Discharge Caused Harm to POTW or Environment (SNC) | NOV, Resample discharge, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action                        | Up to \$10,000 per day per violation |
|                              | Repeated Failure to Report Spills or Changed Discharge                                           | NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate sewer connection, Revoke Permit | Up to \$10,000 per day per violation |
|                              | Falsification of Information in Report                                                           | NOV, Show Cause Meeting, Administrative Order, Criminal and/or Civil Action, Terminate Sewer Connection, Revoke Permit                     | Up to \$1,000 per day per violation  |
| Failure to Monitor Correctly | Failure to Monitor All Pollutants as Required by Permit                                          | Verbal Warning, Warning Notice, NOV                                                                                                        |                                      |
|                              | Pattern Violation or Evidence of Intent (SNC)                                                    | NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil Action, Terminate Sewer Connection, Revoke Permit                 | Up to \$5,000 per day per violation  |
| Improper Sampling            | Random Violation                                                                                 | Verbal Warning, Warning Notice, NOV, Resample Discharge, Unannounced Inspection, Unannounced City Monitoring                               |                                      |

|                                            |                                                                                                |                                                                                                                                            |                                     |
|--------------------------------------------|------------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------|-------------------------------------|
|                                            | Pattern violation or Evidence of Intent (SNC)                                                  | NOV, Show Cause Meeting, Administrative Order, Criminal Action, Terminate Sewer Connection, Revoke Permit                                  | Up to \$5,000 per day per violation |
| Failure to Install Monitoring Equipment    | Delay of 30 days or more after notification by City                                            | NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit | Up to \$1,000 per day per violation |
| Compliance Schedules                       | Missed Compliance Deadline by Less Than 30 Days                                                | Verbal Warning, Warning Notice, NOV                                                                                                        |                                     |
|                                            | Missed Compliance Deadline by More Than 30 Days; USER Has Good Cause For Delay                 | NOV, Compliance Meeting, Show Cause Meeting, Administrative Order                                                                          | Up to \$500 per day per violation   |
|                                            | Missed Compliance Deadline by More Than 30 Days; USER Does Not Have Good Cause For Delay (SNC) | NOV, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit                     | Up to \$1,000 per day per violation |
|                                            | Pattern Violation or Violation of Schedule in Administrative Order                             | NOV, Show Cause Meeting, Administrative Order, Fines, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit              | Up to \$5,000 per day per violation |
| <b>Other Permit Violations</b>             |                                                                                                |                                                                                                                                            |                                     |
| Water Streams Diluted in Lieu of Treatment | Random Violation                                                                               | Verbal Warning, Warning Notice, NOV, Resample Discharge, Unannounced Inspection, Unannounced City Monitoring,                              |                                     |
|                                            | Pattern Violation                                                                              | NOV, Compliance Meeting, Show Cause Meeting, Administrative Order,                                                                         | Up to \$5,000 per day per violation |

|                                                                |                                                             |                                                                                                                                                            |                                      |
|----------------------------------------------------------------|-------------------------------------------------------------|------------------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|
|                                                                |                                                             | Fees/Fines, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit                                                                        |                                      |
| Failure to Mitigate Noncompliance or Halt Production           | Discharge Causes No Harm to POTW or Environment             | Verbal Warning, Warning Notice, NOV, Resample Discharge, Unannounced Inspection, Unannounced City Monitoring,                                              | Up to \$1,000 per day per violation  |
|                                                                | Discharge Causes Harm to POTW or Environment                | NOV, Resample Discharge, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action                                        | Up to \$10,000 per day per violation |
| Failure to Properly Operate and Maintain Pretreatment Facility | Random Violation                                            | Verbal Warning, Warning Notice, NOV, Resample Discharge, Unannounced Inspection, Unannounced City Monitoring                                               |                                      |
|                                                                | Pattern Violation                                           | NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit                 | Up to \$1,000 per day per violation  |
| <b>Violations Observed During Site Visit/Inspection</b>        |                                                             |                                                                                                                                                            |                                      |
| Entry Denial                                                   | Entry denied or Consent Withdrawn; Copies of Records Denied | Warning Notice, NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit | Up to \$100 per day per violation    |
| Illegal Discharge                                              | Discharge Causes No Harm to POTW or Environment             | Verbal Warning, Warning Notice, NOV, Resample Discharge, Unannounced Inspection, Unannounced City Monitoring                                               | Up to \$500 per day per violation    |

|                                            |                                                                                           |                                                                                                                                                  |                                      |
|--------------------------------------------|-------------------------------------------------------------------------------------------|--------------------------------------------------------------------------------------------------------------------------------------------------|--------------------------------------|
|                                            | Pattern Violation; No Harm to POTW or Environment                                         | NOV, Compliance Meeting, Show Cause Meeting, Administrative Order                                                                                | Up to \$1,000 per day per violation  |
|                                            | Discharge Causes Harm to POTW or Environment or There is Evidence of Intent or Negligence | NOV, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action, Terminate Sewer Connection, Revoke Permit                           | Up to \$10,000 per day per violation |
| Improper Sampling                          | Incorrect Location, Sample Type, or Collection Procedure                                  | Verbal Warning, Warning Notice, NOV, Resample discharge                                                                                          |                                      |
| Inadequate Record Keeping or Documentation | Files incomplete or Missing Information; Initial Violation                                | Verbal Warning, Warning Notice, NOV                                                                                                              |                                      |
|                                            | Pattern Violation After Notice From City to Correct                                       | NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Civil and/or Criminal Action                                                  | Up to \$5,000 per day per violation  |
| Failure to Report Additional Monitoring    | Inspector Finds additional Files/Records; Initial Violation                               | Verbal Warning, Warning Notice, NOV                                                                                                              |                                      |
|                                            | Pattern Violation After Notice From City to Correct                                       | NOV, Compliance Meeting, Show Cause Meeting, Administrative Order, Administrative Fines, Civil Action, Terminate Sewer Connection, Revoke Permit | Up to \$5,000 per day per violation  |

## 12A-8-19 NOTICES

Any notice required to be provided by any City staff under this chapter shall be in writing and served in person or by certified mail, return receipt requested. The notice shall be served upon an authorized representative, at the last address known to the director or the occupants or owners of record of property upon which the alleged violations occurred.

#### **12A-8-20            EMERGENCY SUSPENSIONS**

- (A) The Director may immediately suspend a User's discharge, after informal notice to the User, whenever such suspension is necessary 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 persons. The Director 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.
- (B) 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 Director 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 individuals. The Director may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the Director that the period of endangerment has passed, unless the other proceeding initiated against the User preclude recommencing of the discharge.
- (C) 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 the measures taken to prevent any future occurrence, to the Director.
- (D) Nothing in this Section shall be interpreted as requiring a judicial proceeding or hearing prior to any emergency suspension under this section. For the purposes of this section, informal notice may mean either oral or written notice and does not mean actual notice.

#### **12A-8-21            PERFORMANCE BONDS; LIABILITY INSURANCE; CONTRACT AWARD**

- (A) The Director may decline to issue or reissue a wastewater discharge permit to any User who has failed to comply with any provision of this chapter, a previous wastewater discharge permit, or order issued hereunder, or any other applicable federal, state, or local Pretreatment Standard or Requirement, unless such User first files a satisfactory bond, letter of credit, cash, or other security device, payable to the City, in a sum not to exceed a value determined by the Director to be necessary to achieve consistent compliance.
- (B) The Director may decline to issue or reissue a wastewater discharge to any Person who has failed to comply with any provision of this chapter, a previous wastewater discharge permit, other permit or order issued hereunder, or any other Pretreatment Standard or Requirement, unless the Person first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.
- (C) Users which have not achieved compliance with applicable Pretreatment Standards and Requirements are not eligible to receive a contractual award for the sale of goods or services to the City. Existing contracts for the sale of goods or services to the City held by a User found to be in Significant Noncompliance with Pretreatment Standards or Requirements may be terminated at the discretion of the Director.

#### **12A-8-22            ENFORCEMENT RESPONSE TIME FRAME**

- (A) Enforcement responses to initial Pretreatment Program Violations will be initiated within thirty (30) days of discovery. Whenever use of an NOV as an enforcement response is selected, immediate issuance is allowed.
- (B) When appropriate, follow-up inspections will occur within thirty (30) days of a due date specified in a Notice of

Violation.

- (C) Follow-up escalated action for repeat or reoccurring offenses will be taken within thirty (30) days of discovery of the repeat or reoccurring offenses and may include additional Administrative Enforcement, including Administrative Orders, Administrative Fines, and or Judicial Enforcement.
- (D) In emergency situations caused by Violations, including imminent danger to the public health, safety, or welfare, and endangerment to City personnel or the environment, the Water Services Director or his delegated representative may initiate enforcement responses, including without limitation:
  - (1) Issuance of cease-and-desist orders;
  - (2) Water or wastewater service termination;
  - (3) Revocation or termination of any permits issued by the Water Services Department.

**Article 12A-9**  
**AFFIRMATIVE DEFENSES FOR DISCHARGE VIOLATIONS**

**Sections:**

- 12A-9-1 Upset
- 12A-9-2 Prohibited Discharge Standards
- 12A-9-3 Bypass

**12A-9-1 UPSET**

- (A) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Standards if the requirements of subsection (B) of this section are met.
- (B) A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence all of the following:
  - (1) An upset occurred and the User can identify the cause(s) of the upset;
  - (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
  - (3) The User has submitted the following information to the Director within 24 hours of becoming aware of the upset; if this information is provided orally, a written submission must be provided within five days:
    - (a) A description of the indirect discharge and cause of noncompliance;
    - (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
    - (c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- (C) In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof by a preponderance of the evidence.
- (D) Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with a categorical Standards.
- (E) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

**12A-9-2 PROHIBITED DISCHARGE STANDARDS**

- (A) User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the prohibitions in Section 12A-2-1 of this chapter if the User can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause Pass Through or Interference and that either:
  - (1) A Local Limit exists for each pollutant discharged and the User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or

- (2) No Local Limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when the City was regularly in compliance with its AZPDES permit, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements.

### **12A-9-3 BYPASS**

- (A) A User may allow any bypass to occur which does not cause 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 subsections (C) and (D) of this section.

#### **(B) Bypass Notifications.**

- (1) If a User knows in advance of the need for a bypass, it shall submit prior notice to the Director, at least 10 days before the date of the bypass, if possible.
- (2) A User shall submit oral notice to the Director of an unanticipated bypass that exceeds applicable Pretreatment Standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of the time the User becomes aware of the bypass. The written submission 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. The Director may waive the written report on an individual basis if the oral report has been received within 24 hours.

#### **(C) Bypass Conditions.**

- (1) Bypass is prohibited, and the Director may take an enforcement action against a User for a bypass, unless all of the following exist:
  - (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - (b) 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
  - (c) The User submitted notices as required under subsection (B) of this section.
- (D) The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it shall meet the three conditions listed in subsection (C)(1) of this section.

## **Article 12A-10**

### **Miscellaneous Provisions**

**Section:**

- 12A-10-1 Water and Sewer Service Severance
- 12A-10-2 Public Nuisances
- 12A-10-3 Pretreatment Charges and Fees
- 12A-10-4 Severability
- 12A-10-5 Conflicts

#### **12A-10-1 WATER AND SEWER SERVICE SEVERANCE**

Whenever a User has violated or continues to violate any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other applicable federal, state, or local Pretreatment Standard or Requirement, water service and/or sewer service to the User may be severed. Service will recommence, at the User's expense, only after the User has satisfactorily demonstrated to the Director that it is able and will comply.

#### **12A-10-2 PUBLIC NUISANCES**

A violation of any provision of this chapter, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the Director. Any person(s) creating a public nuisance shall be subject to the provisions of City Code governing such nuisances and shall be required to reimburse the City for any costs incurred in removing, abating, or remedying said nuisance.

#### **12A-10-3 PRETREATMENT CHARGES AND FEES**

(A) The City council by resolution may adopt reasonable fees for reimbursement of costs of setting up and operating the City's Pretreatment Program, which may include:

(B) Fees for wastewater discharge permit applications including but not limited to the following:

- (1) Cost of processing applications;
- (2) Initial application and annual permitting fees;
- (3) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a User's discharge, and reviewing monitoring reports and certification statements submitted by Users;
- (4) Fees for reviewing and responding to accidental discharge procedures;
- (5) Fees for reviewing plans and inspection for construction;
- (6) Fees for filing appeals; and
- (7) Other fees as the City may deem appropriate to carry out the requirements contained herein. These fees relate solely to the matters covered by this chapter and are separate from all other fees, fines, and penalties chargeable by the City.

#### **12A-10-4 SEVERABILITY**

If any provision of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

#### **12A-10-5            CONFLICTS**

All other chapters and parts of other chapters inconsistent or conflicting with any part of this chapter are hereby repealed to the extent of the inconsistency or conflict.