

ORDINANCE NO. 09- 17

AN ORDINANCE OF THE CITY OF PORTAGE, INDIANA AMENDING CHAPTER 82
ARTICLE II DIVISION 5 OF THE MUNICIPAL CODE ENTITLED "NON-
DELEGATED PRETREATMENT PROGRAM"

BE IT, AND IT HEREBY IS, ORDAINED by the Common Council of the City of Portage, Porter County, Indiana as follows:

Section 1. Ordinance Amendment. Chapter 82, Article II, Division 5, of the City of Portage Municipal Code, entitled "Non-delegated pretreatment program" is hereby amended by deleting old Chapter 82, Article II, Division 5 and adding new Chapter 82, Article II, Division 5 as follows:

SECTION 1—GENERAL PROVISIONS

1.1 Purpose and Policy

This Ordinance sets forth uniform requirements for Users of the Publicly Owned Treatment Works for the City of Portage and enables the City to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code [U.S.C.] section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the *Code of Federal Regulations* [CFR] Part 403). The objectives of this ordinance are:

- A. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation;
- B. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;
- C. To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- D. To promote reuse and recycling of industrial wastewater and sludge from the Publicly Owned Treatment Works;
- E. To enable the City to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject;
- F. To improve the opportunity to recycle and reclaim wastewaters and sludge from the system;
- G. To empower the investigation and abatement of violations of this Ordinance and provide for the establishment and enforcement of standards, rules and regulations, and the authority to take samples and conduct tests, and establish the right of entry;
- H. To establish authority for User reporting;
- I. To establish the persons liable for violations and provide for fines for violation of the provisions of this Ordinance, and provide just and adequate means by which this Ordinance may be enforced;
- J. To regulate the direct and indirect discharges to the municipal wastewater system through the issuance of discharge permits and through enforcement of general requirements to all users; and
- K. To provide for the setting of fees for the equitable distribution of costs resulting from the Pretreatment program established herein.

This ordinance shall apply to all Users of the Publicly Owned Treatment Works. The ordinance authorizes the issuance of individual 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.

1.2 Administration

Except as otherwise provided herein, the Pretreatment Coordinator and/or the Superintendent shall administer, implement, and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the Pretreatment Coordinator and/or the Superintendent may be delegated by the Pretreatment Coordinator and/or the Superintendent to a duly authorized City employee.

1.3 Abbreviations

The following abbreviations, when used in this ordinance, shall have the designated meanings:

BOD – Biochemical Oxygen Demand
BMP – Best Management Practice
BMR – Baseline Monitoring Report
CBOD – Carbonaceous Biochemical Oxygen Demand
CFR – *Code of Federal Regulations*
CIU – Categorical Industrial User
COD – Chemical Oxygen Demand
ERG – Enforcement Response Guide
EPA – U.S. Environmental Protection Agency
GPD – Gallons per Day
IDEM – Indiana Department of Environmental Management
IU – Industrial User
IWP – Industrial Waste Permit
mg/l – milligrams per liter
NPDES – National Pollutant Discharge Elimination System
NSCIU – Non-Significant Categorical Industrial User
O&M – Operation and Maintenance
POTW – Publicly Owned Treatment Works
SIC – Standard Industrial Classification
SIU – Significant Industrial User
SNC – Significant Noncompliance
SWDA – Solid Waste Disposal Act 42 U.S.C. 6901, et. al.
TPH – Total Petroleum Hydrocarbons
TSS – Total Suspended Solids
U.S.C. – United States Code

40 CFR 403 – General Pretreatment Regulation as published in the Federal Register on June 26, 1978, and in January, 1981, and in subsequent amendments thereto.

1.4 Definitions

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

- A. Act or "the Act" The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. section 1251 et seq.
- B. Applicable Pretreatment Standard Any pretreatment limit or prohibitive standard (federal and/or local) contained in this Ordinance deemed to be the most restrictive with which non-domestic users will be required to comply.
- C. Approval Authority The Commissioner of the Indiana Department of Environmental Management.

D. Authorized or Duly Authorized Representative of the User.

(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 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, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager 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 paragraphs 1 through 3 above may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company and the written authorization is submitted to the City.

E. Batch Discharge. An intermittent or discontinuous flow of wastewater from a tank or vessel into the POTW resulting from a non-continuous operation.

F. Beneficial Uses. These uses include, but are not limited to, domestic, municipal, agricultural and industrial use, power generation, recreation, aesthetic enjoyment, navigation, and the preservation and enhancement of fish, wildlife, and other aquatic resources or reserves, and other uses, either tangible or intangible, as specified by state or federal law.

G. Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees Celsius, usually expressed as a concentration (e.g., mg/l).

H. Best Management Practices or BMPs. The schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 2.1 A and B [40 CFR 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 shall also include alternative means (i.e., management plans) of complying with, or in place of, certain established categorical Pretreatment Standards and effluent limits.

I. Building (or House) Drain. The lowest horizontal piping of a building drainage system that receives the discharge from waste and other drainage pipes inside the walls of the building and conveys it to a point approximately five (5) feet outside the foundation wall of the building.

- (1) Building Drain – Sanitary. A building drain that conveys sanitary or industrial wastewater only.
- (2) Building Drain – Storm. A building drain that conveys stormwater or other clear water drainage, but no wastewater.
- J. Carbonaceous Biochemical Oxygen Demand (CBOD). Of sewage, sewage effluent, polluted waters or industrial wastes shall mean the quantity of dissolved oxygen in milligrams per liter required during stabilization of the decomposable organic matter by aerobic biochemical action under standard laboratory procedures for five (5) days at 20 degrees Celsius. The laboratory determinations shall be made in accordance with procedures set forth in 40 CFR 136.
- K. Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
- L. Categorical Industrial User (CIU). An Industrial User subject to a categorical Pretreatment Standard or Categorical Standard.
- M. Chemical Oxygen Demand (COD). A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.
- N. City. The City of Portage.
- O. Compatible Pollutants. Carbonaceous biochemical oxygen demand, suspended solids, pH, and E. coli bacteria, nitrogen and phosphorus compounds, plus additional pollutants if the treatment works was designed to treat such pollutants, and in fact does remove such pollutants to a substantial degree. The term “substantial degree” is not subject to precise definition but generally contemplates removals in the order of 80 percent or greater.

Minor incidental removals in the order of 10 to 30 percent are not considered substantial.

Examples of additional pollutants that may be compatible include:

- (1) Chemical oxygen demand;
- (2) Total organic carbon; and,
- (3) Fats, oils and greases of animal or vegetable origin (except as prohibited where these materials would interfere with the operation of the treatment works).
- P. Composite Sample. A composite sample should contain a minimum of eight (8) discrete samples taken at equal time intervals over a twenty-four (24) hour period, the compositing period, or proportional to the flow rate over the compositing period. More than the minimum number of discrete samples will be required where the wastewater loading is highly variable.
- Q. Control Authority. The Commissioner of the Indiana Department of Environmental Management.
- R. Daily Discharge. Discharge of pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar days for the purpose of sampling.
- S. Daily Maximum Limit. The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the

arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

- T. Department or District. The Portage Water Reclamation Department.
- U. Easement. An acquired legal right of the specific use of land owned by others.
- V. Effluent. Water, together with any wastes that may be present, flowing out of a drain, sewer, receptacle, or outlet.
- W. End of Pipe. The discharge point where a User's wastewater enters the POTW.
- X. End of Process. The discharge point where a User's wastewater discharges from the User's pretreatment system to the pipe that discharges to the POTW.
- Y. Enforcement Response Guide. A document created by the Department and approved by IDEM that outlines the Department's policies and procedures for issuing fines for violations.
- Z. Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.
- AA. Existing Source. Any source of discharge that is not a "New Source."
- BB. Fats, Oils, and Grease. A group of substances including hydrocarbons, fatty acids, soaps, fats, waxes, oils or any other material that is extracted by a solvent from an acidified sample and that is not volatilized during the laboratory test procedures. Greases and oils are defined by the method of their determination in accordance with 40 CFR 136.
 - (1) Fats, Oils, and Grease, Total. Total of mineral, petroleum, animal and vegetable fats, oils, and grease.
 - (2) Grease and Oil of Animal and Vegetable Origin (Polar). Substances of biodegradable nature such as those which are discharged by meatpacking, vegetable oil and fat industries, food processors, canneries, or restaurants.
 - (3) Fats, Oils, and Grease, of Mineral Origin (Non-Polar). Substances that are less readily biodegradable than grease and oil of animal origin, and are derived from a petroleum source. Such substances include machinery lubricating oils and gasoline station wastes.
- CC. Fecal Coliform. Any number of organisms common to the intestinal tract of man and animals, whose presence in sanitary sewage is an indicator of fecal pollution.
- DD. Garbage. Any organic solids including wastes from the preparation, processing, cooking, or dispensing food and from handling, storage, or sale of produce.
- EE. Grab Sample. A sample that is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.
- FF. Hazardous Waste. Waste that is regulated as hazardous under Federal law if:
 - (1) It exhibits one or more of the following four characteristics: ignitability, corrosivity, reactivity, and toxicity (based on EPA extraction procedures) – it is considered a characteristic waste under RCRA; or,
 - (2) It (or any part of it) is listed in 40 CFR 261.31-261.22, or it is commonly called a listed waste in RCRA regulations.

- GG. Indiana Department of Environmental Management (IDEM). The State of Indiana Agency, which together with the US EPA has the responsibility to regulate the activities of the Portage Water Reclamation Department.
- HH. Indirect Discharge or Discharge. The introduction of pollutants into the POTW from any nondomestic source.
- II. Industrial User. Any industrial or commercial establishment, manufacturing or processing facility that discharges industrial waste to a POTW.
- JJ. Industrial Wastes. Any solid, liquid or gaseous substance, or other form of energy discharged, permitted to flow or escape from an industrial, manufacturing, commercial or business process or from the development, recovery or processing of any natural resource carried on by a person and shall further mean any waste from an industrial user.
- KK. Industrial Waste Permit. A permit to deposit or discharge industrial waste into any sanitary sewer as issued by the Indiana Department of Environmental Management.
- LL. Infiltration. The water entering a sewer system, including sewer service connections, from the ground through such means as, but not limited to, defective pipes, pipe joints, connections, or manhole walls.
- MM. Infiltration/Inflow. The total quantity of water from both infiltration and inflow without distinguishing the source.
- NN. Inflow. The water discharged into a sewer system, including service connections from such sources as, but not limited to, roof leaders, cellar, yard and area drains, foundation drains, cistern overflows, cooling water discharges, drains from springs and swampy areas, manhole covers, cross connections from storm sewers and combined sewers, catch basins, storm waters, surface runoff, street wash waters or drainage. Inflow does not include, and is distinguished from, infiltration.
- OO. Influent. The water, together with any wastes that may be present, flowing into a drain, sewer, receptacle, or inlet.
- PP. Instantaneous Limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.
- QQ. Interference. A discharge that, alone or in conjunction with a discharge or discharges from other sources, does one (1) or more of the following:
- (1) Inhibits or disrupts the POTW, its treatment processes or operations, its sludge processes, or its selected sludge use or disposal methods.
 - (2) Causes a violation of any requirement of the POTW's NPDES permit, including an increase in the magnitude or duration of a violation.
 - (3) Prevents the use of the POTW's sewage sludge or its sludge disposal method selected in compliance with the following statutory provisions, regulations, or permits issued thereunder or more stringent state or local regulations:
 - (a) Section 405 of the Clean Water Act (33 U.S.C. 1345).
 - (b) The Solid Waste Disposal Act (SWDA) (42 U.S.C. 6901), including:
 - (i) Title II, more commonly referred to as the Resource Conservations and Recovery Act (RCRA); and

(ii) The rules contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA (42 U.S.C. 6941).

(c) The Clean Air Act (42 U.S.C. 7401).

(d) The Toxic Substances Control Act (15 U.S.C. 2601)

RR. Local Limit. Specific discharge limits developed and enforced by the City upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

SS. Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

TT. Monthly Average. The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

UU. Monthly Average Limit. The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

VV. National Categorical Pretreatment Standard or Pretreatment Standard. Any regulations containing pollutant discharge limits promulgated by the US EPA in accordance with Section 307(b) and (c) of the Act, which applies to Users. This term includes prohibitive discharge limits established pursuant to 40 CFR 403.5.

WW. New Source.

(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, will 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 Section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:

(a) Begun, or caused to begin, as part of a continuous onsite construction program

- (i) any placement, assembly, or installation of facilities or equipment; or
 - (ii) significant site preparation work including clearing, excavation, or removal of existing 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 are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.
- XX. NH₃-N, Ammonia as Nitrogen. A parameter found in wastewater discharges that has a specific oxygen rate needed for stabilization.
- YY. Noncontact Cooling Water. Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- ZZ. NPDES Permit. National Pollutant Discharge Elimination System permit issued to a POTW setting conditions for the discharge of any pollutant or combination of pollutants to the navigable waters of the United States pursuant to Section 402 of the Act.
- AAA. Nuisance. Anything that is injurious to health or offensive to the senses or an obstruction to the free use of property so as to interfere with the comfort or enjoyment of life or property.
- BBB. Pass Through. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of [the City's] NPDES permit, including an increase in the magnitude or duration of a violation.
- CCC. Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.
- DDD. pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.
- EEE. Pollutant. 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).
- FFF. Pollution. An alteration of the quality of waters of the State by waste to a degree that unreasonably affects such waters for the beneficial uses or facilities, which serve such beneficial uses. The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.
- GGG. Premises. A parcel of real estate including any single improvement thereon which is determined by the Department to be a single User for purposes of receiving, using, and payment for service. Any additional improvement on the same parcel of real estate which is determined by the Department to be a User shall be separately connected to the sewer for the purposes of receiving, using, and payment for service.

- HHH. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable Pretreatment Standard.
- III. Pretreatment Coordinator. Pretreatment Coordinator for the Portage Water Reclamation Department and/or his designee.
- JJJ. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.
- KKK. Pretreatment Standards or Standards. Pretreatment Standards shall mean prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.
- LLL. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 2.1 of this ordinance.
- MMM. Publicly Owned Treatment Works or POTW. A treatment works, as defined by Section 212 of the Act (33 U.S.C. section 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.
- NNN. Receiving Stream. The course, stream, or body of water receiving the wastes or treated effluents from wastewater treatment facilities.
- OOO. Sanitary Sewage. The waste from water closets, urinals, sinks, lavatories, bathtubs, basement drains, household laundries, garage floor drains, bars, soda fountains, cuspidors, refrigerator drips, drinking fountains, stable floor drains, and all other water-carried waste except industrial wastes.
- PPP. Satellite Community. A community or other jurisdiction not located within the POTW that contributes wastewater to the City's POTW.
- QQQ. Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- RRR. Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).
- SSS. Sewer. A pipe, conduit, or device laid for carrying wastewater or other liquids.
- (1) Combined Sewer. A sewer that intentionally carries storm, surface, or ground water runoff and wastewater. Combined sewers are not permitted.
 - (2) Public Sewer. A sewer that all of the owners of abutting property have equal rights to, which is controlled by the Department including the following elements:
 - (a) Collection System – A sewer whose primary purpose is to collect wastewaters from individual point source discharges;
 - (b) Interceptor Sewer – A sewer whose primary purpose is to transport wastewaters from collector sewers to a treatment facility;
 - (c) Force Main – A pipe in which wastewater is carried under pressure; and

(d) Pumping Station – A station positioned in the public sewage system at which wastewater is pumped to a higher level.

(3) Sanitary Sewer. A sewer that carries wastewater and to which storm, surface, groundwater, and unpolluted industrial wastewater are not intentionally admitted.

(4) Storm Sewer. A sewer that carries storm, surface, and ground water drainage but excludes wastewater.

TTT. Significant Industrial User (SIU).

(1) Industrial Users subject to categorical pretreatment standards under 327 IAC 5-18-10.

(2) An industrial user that:

(a) Discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater (excluding sanitary, noncontact cooling and boiler blowdown wastewater) to the POTW;

(b) Contributes a process wastestream that makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(c) Is designated as a Significant Industrial User by the Control Authority on the basis that the Industrial User has a reasonable potential to:

(i) Adversely affect the POTW's operation;

(ii) Violate a pretreatment standard; or

(iii) Violate a requirement of 327 IAC 5-19-3.

(3) The Control Authority may, on its own initiative or in response to a petition received from an Industrial User or a POTW and in accordance with 327 IAC 5-19-3(6), determine that an Industrial User is not a Significant Industrial User if it does not meet Section 2 above.

UUU. Significant Noncompliance. A violation which: (a) occurs in 66 percent or more of the samples taken over a six-month period (any magnitude); (b) exceeds the Technical Review Criteria (TRC) for the same discharge limit for 33 percent or more of the samples taken over a six-month period [TRC = 1.4 (40 percent exceedance) for CBOD, TSS, and Fats, Oils, and Grease; TRC = 1.2 (20 percent exceedance) for all other pollutants [except pH]; (c) causes, alone or in combination with other discharges, interference or pass through, including endangering POTW personnel or the public; (d) endangers human health or the environment, or results in the POTW's exercise of its emergency powers; (e) a delay in meeting a Compliance Schedule Milestone (failure to begin or complete construction, or attain final compliance) by 90 days or more; (f) failure to report noncompliance; (g) failure to submit any required report within 30 days of the due date, or (h) any other significant violation(s).

VVV. Significant Violation. A violation which: (a) is continuous or frequent; (b) results in known Environmental or POTW Treatment Plant damage; (c) was considered "Nonsignificant" and has remained uncorrected for 30 days or more; (d) will result in other violations; (e) has no good or valid cause; or (f) has evidence of negligence or intent.

WWW. Sludge. Any solid, semi-solid, or liquid waste generated from a municipal, commercial, or industrial wastewater treatment plant, water supply treatment plant, or air pollution control facility, or any other waste having similar characteristics and effects as defined in standards issued under Sections 402 and

405 of the Act in the applicable requirements under Sections 3001, 3004, and 4004 of the Solid Waste Disposal Act and Title 329 of the Indiana Administrative Code.

- XXX. Slug Load or Slug Discharge. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 2.1 of this ordinance. A Slug Discharge is 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.
- YYY. Standard Industrial Classification (SIC). A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, latest edition.
- ZZZ. State. The State of Indiana.
- AAAA. Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.
- BBBB. Superintendent. The person designated by the City to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this ordinance. The term also means a Duly Authorized Representative of the or Superintendent.
- CCCC. Surcharge. A charge for services in addition to the basic service charge.
- DDDD. Surfactants (Methylene-Blue Active Substance). Large organic molecules that are slightly soluble in water and that may cause foaming in the wastewater treatment plant and in the receiving stream. Surfactants change the surface properties of liquids.
- EEEE. Total Suspended Solids or Suspended Solids. 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.
- FFFF. Toxic Pollutant. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the EPA under the provision of Section 307(a) of the Act, and any other Acts, the largest edition of the Condensed Chemical Dictionary, the latest edition of Dangerous Properties of Industrial Materials, or the Toxic Material Safety Data Sheets.
- GGGG. Unpolluted Water. Water of quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to sanitary sewers and wastewater treatment facilities provided.
- HHHH. Upset. An exceptional incident in which a discharge unintentionally and temporarily is in a state of noncompliance with the standards set forth in the Ordinance due to factors beyond the reasonable control of the User, but upset does not include noncompliance to the extent caused by improperly designed pretreatment facilities, lack of preventative maintenance, or careless or improper operation thereof.
- III. User or Industrial User. A source of indirect discharge.
- JJJJ. Waste. Includes sanitary sewage and any and all other waste substances, liquid, solid, gaseous, or radioactive, associated with human habitation; of human or animal origin; or from any producing, processing, manufacturing, or industrial operation of whatever nature, including such waste placed within container or whatever nature prior to, and for purposes of disposal.

- KKKK. Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.
- LLLL. Wastewater Constituents and Characteristics. The individual chemical, physical, bacteriological, and radiological parameters, including volume, flow rate, and such other parameters that serve to define, classify, or measure the contents, quality, quantity, and strength of wastewater.
- MMMM. Wastewater Treatment Plant or Treatment Plant. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.
- NNNN. Water Reclamation Board. A Board appointed by the Mayor and City Council with the responsibility for oversight and management of the Portage Water Reclamation Department.
- OOOO. Waters of the State. Any water, surface or underground, within the boundaries of Indiana, except confined waters in sewer, tanks, etc.

The use of the word "shall" indicates a mandatory condition. The use of the word "may" indicates a discretionary condition. The use of the word "will" indicates a mandatory condition.

SECTION 2—GENERAL SEWER USE REQUIREMENTS

2.1 Prohibited Discharge Standards

- A. General Prohibitions. No User shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes Pass Through or Interference. These general prohibitions apply to all Users of the POTW whether or not they are subject to categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Requirements.
- B. Specific Prohibitions. No User shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
- (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21;
 - (2) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
 - (3) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the POTW or sewers for maintenance or repair;
 - (4) Wastewater having a pH less than 5.5 or more than 9.5, or otherwise causing corrosive structural damage to the POTW or equipment;
 - (5) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in Interference but in no case solids greater than one half inch(es) (1/2") in any dimension;
 - (6) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause Interference with the POTW;

- (7) Wastewater having a temperature greater than 150 degrees F (65 degrees C), or which will inhibit biological activity in the treatment plant resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees F (40 degrees C);
- (8) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through;
- (9) Trucked or hauled pollutants, except at discharge points designated by the Pretreatment Coordinator and/or Superintendent in accordance with Section 2.8 of this ordinance;
- (10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the City's NPDES permit;
- (11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
- (12) Storm Water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, Noncontact Cooling Water, and unpolluted wastewater, unless specifically authorized by the Pretreatment Coordinator and/or Superintendent;
- (13) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- (14) Medical Wastes, except as specifically authorized by the Pretreatment Coordinator and/or Superintendent in an individual wastewater discharge permit;
- (15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test;
- (16) Surfactants, detergents, surface-active agents, or other substances that might cause excessive foaming in the POTW;
- (17) Wastewater causing two readings on an explosion hazard meter at the point of discharge into the Collection System or POTW, or at any point in the POTW, of more than ten percent (10%) of the Lower Explosive Limit of the meter;
- (18) Any wastewater containing toxic pollutants in sufficient quantity, whether singly or by interaction with other pollutants, to: (1) injure or interfere with any wastewater treatment process; (2) constitute a hazard to humans or animals; or (3) create a toxic effect in the receiving wastes of the POTW, or to exceed the limitations set forth in a Categorical Pretreatment Standard. A toxic pollutant shall include, but not be limited to any pollutant identified pursuant to Section 307(a) of the Act;
- (19) Any substance in such quantity that will cause the POTW to violate its limits and restrictions, set forth in the Department's NPDES Permit by Pass Through or any other means;
- (20) Any unpolluted water or waters that cannot become polluted including, but not limited to, non-contact cooling water without prior approval by the POTW;
- (21) Any waters or wastes containing acid, metallic pickling wastes or concentrated plating solutions;

- (22) Any waters or wastes containing any toxic substances in quantities that are sufficient to: (1) interfere with the biochemical or mechanical processes of the Wastewater Treatment Plant; (2) Pass Through the plant into the receiving stream in amounts exceeding the standards set by Federal, Interstate, State or other competent authority having jurisdiction; (3) contaminate sewage sludge; (4) contain iron or any toxic ions, compounds, or substances in concentrations or amounts exceeding the limits established by this ordinance; or (5) possibly contribute to the violation of any Local, State, or Federal Environmental Law, Standard, or Requirement;
- (23) Any unusual volume of flow or concentration of wastes consisting of "slugs" that are released in a single extraordinary discharge event which causes interference to the POTW;
- (24) Any waters or wastes that are not compatible pollutants either as suspended solids or dissolved solids of such character and quantity that unusual provision, attention and expense would be required to handle such materials at the Wastewater Treatment Plant, its pumping stations or other facilities;
- (25) Any substance in such quantity as may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with the sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, Resource Conservation and Recovery Act, the Clean Air Act, the Toxic Substance Control Act, or State criteria applicable to the sludge management method being used;
- (26) Any fats, oils or greases shall not be present in such quantities as to create a visible free floating or separate layer, visible sheen, or in such quantities as to interfere in any way with the normal operation of the POTW or in such quantities as to create special treatment or leave deposits on pipe walls, tanks, etc.; and
- (27) No new connection resulting in an increase in net flow shall be made unless there is flow capacity available in all down stream sewers, lift stations, force mains and the wastewater treatment plant, including capacity for CBOD, TSS, ammonia, and phosphorus. Repairs and/or replacement of existing connections shall not be considered a new connection.

Pollutants, substances, or wastewater prohibited by this Section shall be processed and stored in such a manner to prevent discharge to the POTW.

2.2 National Categorical Pretreatment Standards

Users shall comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471.

2.3 State Pretreatment Standards

Users shall comply with U.S. EPA Region V and IDEM standards codified at 327 IAC 5-21.

2.4 Local Limits

- A. The City is authorized to establish Local Limits pursuant to 40 CFR 403.5(c).
- B. The following pollutant limits are established to protect against Pass Through and Interference. No person shall discharge wastewater containing in excess of the following for either daily maximum or instantaneous limits.

Pollutant	Concentration, Maximum average or instantaneous limit
2, 4, 6 Trichlorophenol	0.155 mg/l
Acetone	8.5 mg/l
Ammonia (as N)	50 mg/l Not to exceed 85 lbs/day
Antimony	0.249 mg/l
Arsenic	0.162 mg/l
Bis(2-ethylhexyl) phthalate	0.215 mg/l
Barium	0.427 mg/l
Carbonaceous Biochemical Oxygen Demand (CBOD5)	1000 mg/l Not to exceed 800 lbs/day
Cadmium, total	0.474 mg/l
Carbazole	0.598 mg/l
Chemical Oxygen Demand	1350 mg/l Not to exceed 1,100 lbs/day
Chromium, total	2.77 mg/l
Cobalt	0.746 mg/l
Copper	4.14 mg/l
Cyanide, total	1.9 mg/l
Ethyl Acetate	8.5 mg/l
Fats, Oils and Grease (polar)	100 mg/l
Fats, Oils and Grease (non-polar)	50 mg/l
Fluoranthene	0.0537 mg/l
Iron, Dissolved	3.9 mg/l
Isopropyl Acetate	8.5 mg/l
Lead, total	0.69 mg/l
Mercury, total	0.00234 mg/l
Methylene Chloride	1.2 mg/l
Molybdenum, total	1.01 mg/l
n-Amyl Acetate	8.5 mg/l
n-Decane	0.948 mg/l
Nickel, total	3.98 mg/l
n-Octadecane	0.589 mg/l
o-Cresol	1.92 mg/l
p-Cresol	0.698 mg/l
Phenols	1.3 mg/l
Selenium, total	0.12 mg/l
Silver	0.43 mg/l
Total Phosphorus as P	10 mg/l
Total Suspended Solids	1,000 mg/l Not to exceed 800 lbs/day
Tin	0.409 mg/l
Titanium	0.0947 mg/l
TTO (Sum of TTO Including PCBs)	2.13 mg/l
Vanadium	0.218 mg/l
Zinc, total	2.87 mg/l

C. The above limits apply at the point where the wastewater is discharged to the City's wastewater collection system. All concentrations for metallic substances are for total metal unless indicated otherwise. The City may impose mass limitations in addition to the concentration-based limitations above.

D. The Pretreatment Coordinator and/or Superintendent may develop Best Management Practices (BMPs), by ordinance or in individual local wastewater discharge permits, to implement Local Limits and the requirements of Section 2.1.

2.5 City's Right of Revision

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

2.6 Permit Modification

The POTW reserves the right to request that IDEM amend an IWP permit in order to assure compliance by the POTW with applicable laws and regulations. Where a User subject to a National Categorical Pretreatment Standard has not previously submitted an application to IDEM for an IWP Permit as required by 327 IAC 5-21, the User shall apply for an IWP Permit within one hundred eighty (180) days after the promulgation of the application national categorical standard.

2.7 Dilution

No User shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable Pretreatment Standard or Requirement. The Pretreatment Coordinator and/or Superintendent 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.

2.8 Hauled Wastewater

- A. Septic tank waste may be introduced into the POTW only at locations designated by the Pretreatment Coordinator and/or Superintendent, and at such times as are established by the Pretreatment Coordinator and/or Superintendent. Such waste shall not violate Section 2 of this ordinance or any other requirements established by the City. The City may require septic tank waste haulers to obtain individual wastewater discharge permits.
- B. The City shall prohibit the introduction of trucked or hauled pollutants into the POTW, except under the following conditions:
 - (1) The City has provided prior written permission to the person seeking to discharge the hauled or trucked pollutants into the POTW;
 - (2) The person seeking to discharge the hauled or trucked pollutants into the POTW possesses a valid wastewater management permit and valid vehicle licenses, as required by IDEM; and
 - (3) The pollutants are introduced into the POTW via a discharge point designated by the permittee.
- C. For all trucked or hauled pollutants, the City shall:
 - (1) Obtain and retain, for a minimum forty-eight (48) hours, samples that are representative of the hauled or trucked pollutants;
 - (2) Analyze the samples obtained pursuant to paragraph (1) above in the event that the permittee believes, or has reason to believe, that the hauled or trucked pollutants may be causing and/or contributing to Pass-Through and/or interference; and
 - (3) Maintain records, for each discharge or trucked or hauled pollutants in to the POTW, of the following:
 - (a) Name of the person discharging the trucked or hauled pollutants;
 - (b) Wastewater management permit number (if applicable) and vehicle license number and expiration date;

- (c) Origination, volume, and nature of the trucked or hauled pollutants;
- (d) Date and time of the discharge;
- (e) Any sampling conducted; and
- (f) Analytical results, if any.

2.9 Regulation of Waste Received from Other Jurisdictions (Satellite Community)

- A. If another municipality, or User located within another municipality, contributes wastewater to the POTW, the City shall enter into an inter-municipal agreement with the contributing municipality.
- B. Prior to entering into an agreement required by paragraph A above, the Pretreatment Coordinator and/or Superintendent shall request the following information from the contributing municipality:
 - (1) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
 - (2) An inventory of all Users located within the contributing municipality that are discharging to the POTW; and
 - (3) Such other information as the Pretreatment Coordinator and/or Superintendent may deem necessary.
- C. An inter-municipal agreement, as required by paragraph A above, shall contain the following conditions:
 - (1) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this ordinance and Local Limits, including required Baseline Monitoring Reports (BMRs), which are at least as stringent as those set out in Section 4.1 of this ordinance. The requirement shall specify that such ordinance and limits shall be revised as necessary to reflect changes made to the City's ordinance or Local Limits;
 - (2) A requirement for the contributing municipality to submit a revised User inventory at least twice per year;
 - (3) A provision specifying which pretreatment implementation activities, including inspection and sampling and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Pretreatment Coordinator and/or Superintendent; and which of these activities will be conducted jointly by the contributing municipality and the Pretreatment Coordinator and/or Superintendent;
 - (4) A requirement for the contributing municipality to provide the Pretreatment Coordinator and/or Superintendent with access to all information that the contributing municipality obtains as part of its pretreatment activities;
 - (5) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;
 - (6) Requirements for monitoring the contributing municipality's discharge;
 - (7) A provision ensuring the Pretreatment Coordinator and/or Superintendent access to the facilities of Users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Pretreatment Coordinator and/or Superintendent; and

(8) Enforcement for the breach of terms of the Inter-Governmental Agreement are as follows:

- (a) Where the contributing municipality has primary responsibility for compliance monitoring or enforcement, it shall take legal action to enforce the terms of the contributing municipality's Ordinance;
- (b) When the above Section (a) is not followed, then the Superintendent of the POTW shall take legal action to enforce the terms of the contributing municipality's Ordinance, or impose and enforce pretreatment standards and requirements directly against non-compliant dischargers in the event the contributing jurisdiction is unable or unwilling to take such action; and
- (c) All legal costs of the POTW incurred when enforcing above Section (b) will be paid by the contributing municipality.

SECTION 3—PRETREATMENT OF WASTEWATER

3.1 Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical Pretreatment Standards, State and Local Limits, and the prohibitions set out in Section 2 of this ordinance within the time limitations specified by EPA, the State, or the Pretreatment Coordinator and/or Superintendent, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Control Authority and Pretreatment Coordinator and/or Superintendent for review, and shall be acceptable to the Control Authority, Pretreatment Coordinator and/or Superintendent before such facilities are constructed or modified. 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 ordinance.

3.2 Additional Pretreatment Measures

- A. Whenever deemed necessary, the Pretreatment Coordinator and/or Superintendent may require Users to restrict their discharge during peak flow periods, 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 necessary to protect the POTW and determine the User's compliance with the requirements of this ordinance.
- B. The Pretreatment Coordinator and/or Superintendent may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. An individual wastewater discharge permit may be issued solely for flow equalization.
- C. Establishments involved in the preparation of food for commercial purposes shall provide grease interceptors or traps. Grease, oil and sand interceptors shall be provided by other users when deemed necessary by the Pretreatment Coordinator for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand or other harmful ingredients. All interceptors shall be located as to be readily and easily accessible for inspection. Documentation of one (1) year of maintenance/service records shall be available on-site for review. Inspections will be performed at a minimum of two (2) times a year by the Pretreatment Coordinator or a representative of the POTW. Grease and oil interceptors shall be constructed of impervious materials capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, water-tight, and equipped with easily removable covers that shall be gas-tight and water-tight, and capable of the maximum flow rate of the pipe installed therein. This is to be provided unless an

alternate removal method is approved in writing by the Pretreatment Coordinator and/or Superintendent.

- D. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

3.3 Accidental Discharge/Slug Discharge Control Plans (ASDC)

The Pretreatment Coordinator and/or Superintendent shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges. The Pretreatment Coordinator and/or Superintendent 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. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

- A. Description of discharge practices, including non-routine batch discharges;
- B. Description of stored chemicals;
- C. Procedures for immediately notifying the Pretreatment Coordinator and/or Superintendent of any accidental or Slug Discharge, as required by Section 4.6 of this ordinance; and
- D. 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.

The ASDC Plan shall be updated annually and submitted to the Pretreatment Coordinator no later than February 1 of each calendar year. Said plan shall be accompanied by a compliance affidavit stating that said plan has been reviewed and updated, and shall be signed by the highest ranking official at the User's location.

SECTION 4—REPORTING REQUIREMENTS

4.1 Baseline Monitoring Reports

- A. Within either one hundred eighty (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 CIUs currently discharging to or scheduled to discharge to the POTW shall submit to the Pretreatment Coordinator and/or Superintendent a report which contains the information listed in paragraph D below.
- B. At least ninety (90) days prior to commencement of their discharge, New Sources, and existing sources that become CIUs subsequent to the promulgation of an applicable categorical Standard, shall submit to the Pretreatment Coordinator and/or Superintendent a report which contains the information listed in paragraph D below. Existing and New Sources shall report the method(s) of pretreatment it intends to use to meet applicable categorical Standards. Estimates of its anticipated flow and quantity of pollutants to be discharged shall be provided.
- C. At least ninety (90) days prior to modification of the industrial process, process waste treatment process, or waste stream characteristics, the User shall submit to the Pretreatment Coordinator and/or Superintendent a report containing the information listed in paragraph D below.
- D. Users described in paragraphs A, B, and C above shall submit the information set forth below.

- (1) Identifying Information.
 - (a) The name and address of the facility, including the name of the operator and owner; and
 - (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 brief description of the nature, average rate of production (including each product produced by type, amount, process, and rate of production), and standard industrial classifications 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.
- (4) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).
- (5) Measurement of pollutants.
 - (a) The User shall provide the following information:
 - (i) The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources;
 - (ii) The results of sampling and analysis identifying the nature and concentration and/or mass, where required by the Standard or by the Pretreatment Coordinator and/or Superintendent, of regulated pollutants in the discharge from each regulated process;
 - (iii) Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported; and
 - (iv) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 4.10 of this ordinance. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Pretreatment Coordinator and/or Superintendent or the applicable Standards to determine compliance with the Standard.
 - (b) The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this Section.
 - (c) Samples should 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 and Pretreatment Coordinator and/or Superintendent.

- (d) Sampling and analysis shall be performed in accordance with Section 4.10.
 - (e) The Pretreatment Coordinator and/or Superintendent 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.
- (6) Compliance Certification. A statement, reviewed by the User's Authorized Representative as defined in Section 1.4 D 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.
- (7) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will 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 4.2 of this ordinance.
- (8) Signature and Report Certification. All baseline monitoring reports shall be certified in accordance with Section 4.14 A of this ordinance and signed by an Authorized Representative as defined in Section 1.4 D.

4.2 Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by Section 4.1(D)(7) of this ordinance:

- 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, submitting plans for approval by the Control Authority, receiving construction permit, applying for an IWP if necessary, 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 Pretreatment Coordinator and/or Superintendent no later than fourteen (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 Pretreatment Coordinator and/or Superintendent.

4.3 Reports on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable categorical Pretreatment Standards, or in the case of a New Source, following commencement of the introduction of wastewater into the POTW, any User subject to such Pretreatment Standards and Requirements shall submit to the Pretreatment Coordinator and/or Superintendent a report containing the information described in Section 4.1D(4) and (5) of this ordinance. For Users subject to equivalent mass or concentration limits established in accordance with the procedures in Section 2.2, 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 shall be signed and certified in accordance with Section 4.14A of this ordinance. All sampling shall be done in conformance with Section 4.11.

4.4 Periodic Compliance Reports

- A. Users shall, at a frequency determined by the Pretreatment Coordinator and/or Superintendent, submit no less than twice per year (June and December) 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 shall submit documentation required by the Pretreatment Coordinator and/or Superintendent or the Pretreatment Standard necessary to determine the compliance status of the User.
- B. Reports of permittees shall contain the results of sampling and analysis of discharge, including the flow and the nature and concentration or production and mass where requested by the Pretreatment Coordinator of pollutants contained therein that are limited. The Pretreatment Coordinator may impose mass limitations on Users who are using dilution to meet applicable pretreatment standards or requirements if necessary to meet the objective of this Ordinance. In such cases, the report required by subparagraph (A) of this paragraph shall indicate the mass of pollutants in the effluent of the User.
- C. All analysis shall be performed in accordance with procedures established by the Section 4.10 of this ordinance, Section 304(g) of the Act and 40 CFR Part 136. Sampling shall be performed in accordance with Section 4.11 of this ordinance and the techniques approved by the Pretreatment Coordinator, IDEM and/or the EPA.
- D. All periodic compliance reports shall be signed and certified in accordance with Section 4.14A of this ordinance.
- E. All wastewater samples shall 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 Pretreatment Coordinator and/or Superintendent, using the procedures prescribed in Section 4.11 of this ordinance, the results of this monitoring shall be included in the report.
- G. User shall submit a copy of the Monthly Report of Operations (MRO) and Discharge Monitoring Report (DMR) to the Pretreatment Coordinator and/or Superintendent not later than the 28th day of the month following the reporting period.

4.5 Reports of Changed Conditions

Each User shall notify the Pretreatment Coordinator and/or Superintendent of any changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least fifteen (15) days before the change.

- A. These changes 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 this ordinance to IDEM.
- B. IDEM may issue an individual wastewater discharge permit or modify an existing wastewater discharge permit in response to changed conditions or anticipated changed conditions.

4.6 Reports of Potential Problems

- A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a Slug Discharge or Slug Load that might cause potential problems for the POTW, the User shall immediately telephone and notify the Pretreatment Coordinator and/or Superintendent of the incident. 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 Pretreatment Coordinator and/or Superintendent, 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 ordinance.
- C. A notice shall be permanently posted on the User's bulletin board or other prominent places 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 Pretreatment Coordinator and/or Superintendent immediately of any changes at its facility affecting the potential for a Slug Discharge.

4.7 Reports from Unpermitted Users

All Users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the Pretreatment Coordinator and/or Superintendent as the Pretreatment Coordinator and/or Superintendent may require.

4.8 Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a User indicates a violation, the User shall notify the Pretreatment Coordinator and/or Superintendent within twenty-four (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 Pretreatment Coordinator and/or Superintendent within thirty (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.

4.9 Notification of the Discharge of Hazardous Waste

- A. No hazardous waste may be discharged to the POTW.

4.10 Analytical Requirements

All pollutant analyses, including sampling techniques to be submitted as part of reports, 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 Pretreatment Coordinator and/or Superintendent or other parties approved by EPA.

4.11 Sample Collection

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.

- A. Except as indicated in Section C and D below, the User shall collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Pretreatment Coordinator and/or Superintendent. Where time-proportional composite sampling or grab sampling is authorized by the City, the samples shall 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.
- B. Compliance shall be determined as stated in each IWP. Where not explicitly stated in the Industry's IWP, compliance shall be determined at end of pipe unless end of pipe is located in an unreasonable or inaccessible location. In the event the end of pipe is located in an unreasonable or inaccessible location, compliance shall be determined at end of process location.
- C. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds shall be obtained using grab collection techniques.
- D. For sampling required in support of baseline monitoring and 90-day compliance reports required in 40 CFR 403.12(b) and (d), a minimum of four (4) grab samples shall 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 Pretreatment Coordinator and/or Superintendent may authorize a lower minimum. For the reports required by paragraphs 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.

4.12 Sampling Frequency

Pretreatment Coordinator and/or Superintendent reserve the right to require additional sampling and testing over and above the frequency required in a User's IWP. Additional sampling and testing may be required when a User's discharge is violating limits in the IWP or to verify the consistency of the wastestream with the latest compliance report.

4.13 Date of Receipt of Reports

Written reports will 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.

4.14 Recordkeeping

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance, 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 2.4C. 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 Pretreatment Coordinator and/or Superintendent.

4.15 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 baseline monitoring reports under Section 4.1C (8); Users submitting reports on compliance with the categorical Pretreatment Standard deadlines under Section 4.3; and Users submitting periodic compliance reports required by Section 4.4 A–C. The following certification statement shall be signed by an Authorized Representative as defined in Section 1.4 D:

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.

SECTION 5—COMPLIANCE MONITORING

5.1 Right of Entry: Inspection and Sampling

The Pretreatment Coordinator and/or Superintendent shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this ordinance and any individual wastewater discharge permit or order issued hereunder. Users shall allow the Pretreatment Coordinator and/or Superintendent ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- A. Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Pretreatment Coordinator and/or Superintendent shall be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The Pretreatment Coordinator and/or Superintendent shall have the right to set up on the User's property, or require installation of such devices as are necessary to conduct sampling and/or metering of the User's operations. The User shall provide an easement, if the City determines the public right of way is insufficient in an unobstructed location for the City's compliance monitoring and surveillance. The monitoring facility shall provide ample room in or near the monitoring facility to allow accurate sampling and preparation of samples and analysis. The monitoring facilities shall be provided in accordance with the Pretreatment Coordinator and/or Superintendent's requirements and all applicable local construction standards and specifications, and such facilities shall be constructed and maintained to the specifications of the Pretreatment Coordinator and/or Superintendent such that they are able perform independent monitoring activities.

- C. The Pretreatment Coordinator and/or Superintendent may require the User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated semi-annually to ensure their accuracy.
- D. 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 Pretreatment Coordinator and/or Superintendent and shall not be replaced. The costs of clearing such access shall be born by the User.
- E. Unreasonable delays in allowing the Pretreatment Coordinator and/or Superintendent access to the User's premises shall be a violation of this ordinance.

5.2 Search Warrants

If the Pretreatment Coordinator and/or Superintendent 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 ordinance, 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 ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the Pretreatment Coordinator and/or Superintendent may seek issuance of a search warrant from The Porter Superior Court.

SECTION 6—CONFIDENTIAL INFORMATION

Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, and monitoring programs, and from the Pretreatment Coordinator and/or Superintendent's inspection and sampling activities, shall be available to the public without restriction, unless the User specifically requests, and is able to demonstrate to the satisfaction of the Pretreatment Coordinator and/or Superintendent, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State Law. Any such request shall be asserted at the time of submission of the information or data. When requested and demonstrated by the User furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but 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 at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

SECTION 7—PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

The Pretreatment Coordinator and/or Superintendent shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance shall be applicable to all Significant Industrial Users (or any other Industrial User that violates paragraphs (C), (D) or (H) of this Section) and shall mean:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six- (6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Section 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 2 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

- C. Any other violation of a Pretreatment Standard or Requirement as defined by Section 2 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Pretreatment Coordinator and/or Superintendent 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 a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Pretreatment Coordinator and/or Superintendent'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 an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide within forty-five (45) 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 noncompliance; or
- H. Any other violation(s), which may include a violation of Best Management Practices, which the Pretreatment Coordinator and/or Superintendent determines will adversely affect the operation or implementation of the local pretreatment program.

SECTION 8—ADMINISTRATIVE ENFORCEMENT REMEDIES

8.1 Notification of Violation

When the Pretreatment Coordinator and/or Superintendent finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Pretreatment Coordinator and/or Superintendent may serve upon that User a written Notice of Violation. Within fifteen (15) days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the User to the Pretreatment Coordinator and/or Superintendent. Submission of such a plan in no way relieves the User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this Section shall limit the authority of the Pretreatment Coordinator and/or Superintendent to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

8.2 Consent Orders

The Pretreatment Coordinator and/or Superintendent may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents shall include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 8.4 and 8.5 of this ordinance and shall be judicially enforceable.

8.3 Show Cause Hearing

The Pretreatment Coordinator and/or Superintendent may order a User which has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before the Pretreatment Coordinator and/or Superintendent and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be

taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least five (5) days prior to the hearing. Such notice may be served on any Authorized Representative of the User as defined in Section 1.4D. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

8.4 Compliance Orders

When the Pretreatment Coordinator and/or Superintendent finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Pretreatment Coordinator and/or Superintendent may issue an order to the User responsible for the discharge directing that the User come into compliance within a specified time. If the User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.

8.5 Cease and Desist Orders

When the Pretreatment Coordinator and/or Superintendent finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, the Pretreatment Coordinator and/or Superintendent may issue an order to the User directing it to cease and desist all such violations and directing the User to:

- A. Immediately comply with all requirements; and
- B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.

8.6 Administrative Fines

- A. When the Pretreatment Coordinator and/or Superintendent finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Pretreatment Coordinator and/or Superintendent may fine such User, as a maximum fine, two thousand five hundred dollars (\$2,500.00) per day per violation, in accordance with IC 36-1-3-8(a)(10)(B). The Pretreatment Coordinator and/or Superintendent may impose a fine of less than two thousand five hundred dollars (\$2,500.00) per day per violation, as appropriate. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation. A more detailed outline for the processes and procedures for issuing fines, including a tiered fine system, are contained in the Department's Enforcement Response Guide.
- B. Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of fifteen percent (15%) of the unpaid balance, and interest shall accrue thereafter at a rate of ten percent (10%) per month. After sixty (60) days, a lien against the User's property shall be sought for unpaid charges, fines, and penalties. After ninety (90) days, service shall be suspended.
- C. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User.

8.7 Emergency Suspensions

The Pretreatment Coordinator and/or Superintendent 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 Pretreatment Coordinator and/or Superintendent 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.

- A. 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 Pretreatment Coordinator and/or Superintendent 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 Pretreatment Coordinator and/or Superintendent may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the Pretreatment Coordinator and/or Superintendent that the period of endangerment has passed, unless the termination proceedings in Section 8.8 of this ordinance are initiated against the User.
- B. 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 Pretreatment Coordinator and/or Superintendent prior to the date of any show cause or termination hearing under Sections 8.3 or 8.8 of this ordinance.

Nothing in this Section shall be interpreted as requiring a hearing prior to any Emergency Suspension under this Section.

8.8 Termination of Discharge

Any User who violates the following conditions is subject to discharge termination:

- A. Violation of individual wastewater discharge permit conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- C. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- D. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or
- E. Violation of the Pretreatment Standards in Section 2 of this ordinance.
- F. Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 8.3 of this ordinance why the proposed action should not be taken. Exercise of this option by the Pretreatment Coordinator and/or Superintendent shall not be a bar to, or a prerequisite for, taking any other action against the User.

8.9 Appeals

- A. Users desiring to appeal such Notices of Violation, Orders, Suspensions, and/or Fines shall file a written request to the Pretreatment Coordinator and/or Superintendent to reconsider the Notices of Violation, Orders, Suspensions, and/or Fines along with full payment of the fine amount within fifteen (15) days of being notified of the Notice of Violation, Orders, Suspensions, and/or Fines.
- B. The Pretreatment Coordinator and/or Superintendent shall determine within fifteen (15) days from receipt of written request whether the request has merit. Where a

request has merit, the Pretreatment Coordinator and/or Superintendent may rescind the notice of violation, together with any interest accruing thereto, shall be returned to the User. The portions of the Notices of Violation, Orders, or Suspensions found to be without merit shall be revoked. Notices of Violations, Orders, Suspensions, and/or Fines shall be severable and those portions not revoked shall remain in full force and effect.

- (1) Where the Pretreatment Coordinator and/or Superintendent determines the request does not have merit the fine payment will be retained and the administrative enforcements will remain in full force and effect.
- C. If the User is in disagreement with the Pretreatment Coordinator and/or Superintendent's decision regarding the Notice of Violation, Orders, Suspensions, and/or Fines, the User may request a Hearing with the Board of Water Reclamation. The Request for Hearing must be received by the Board's secretary not later than fifteen (15) days after the Pretreatment Coordinator and/or Superintendent's decision was received by the User.
- D. The Board, at its next regularly scheduled meeting, will schedule a hearing. In the event that the User's discharge has been terminated, the Board will schedule the hearing within five (5) working days of the request.
- (1) Where the Board determines the User's appeal has merit, User's payment, together with any interest accruing thereto, shall be returned to the User. The portions of the Notices of Violation, Orders, or Suspensions found to be without merit shall be revoked. Notices of Violations, Orders, Suspensions, and/or Fines shall be severable and those portions not revoked shall remain in full force and effect.
 - (2) Where the Board determines the request does not have merit the fine payment will be retained and the administrative enforcements will remain in full force and effect.
- E. Once the User has appealed to the Pretreatment Coordinator/Superintendent and the Board of Water Reclamation, the administrative appeals process shall be exhausted.
- F. The Pretreatment Coordinator and/or Superintendent may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

SECTION 9—JUDICIAL ENFORCEMENT REMEDIES

9.1 Injunctive Relief

When the Pretreatment Coordinator and/or Superintendent finds that a User has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Pretreatment Coordinator and/or Superintendent may petition the Porter County Superior Court through the City's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the User. The Pretreatment Coordinator and/or Superintendent may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

9.2 Civil Penalties

- A. A User who has violated, or continues to violate, any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the City for a maximum civil penalty of two thousand five hundred dollars (\$2,500.00) but not less than one thousand dollars (\$1,000.00) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

- B. The Pretreatment Coordinator and/or Superintendent may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.
- C. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires.
- D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.

9.3 Criminal Prosecution

- A. A User who willfully or negligently violates any provision of this ordinance, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall, upon conviction, be guilty of a Class C misdemeanor, punishable by a fine of at least Five Thousand Dollars (\$5,000) but not more than Twenty-Five Thousand Dollars (\$25,000) per violation, per day.
- B. A User who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a be guilty of a Class C misdemeanor, punishable by a fine of at least Five Thousand Dollars (\$5,000) but not more than Twenty-Five Thousand Dollars (\$25,000) per violation, per day. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.
- C. A User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this ordinance, individual wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of at least Five Thousand Dollars (\$5,000) but not more than Ten Thousand Dollars (\$10,000) per violation, per day.

9.4 Remedies Nonexclusive

The remedies provided for in this ordinance are not exclusive. The Pretreatment Coordinator and/or Superintendent 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 City's Enforcement Response Guide. However, the Pretreatment Coordinator and/or Superintendent may take other action against any User when the circumstances warrant. Further, the Pretreatment Coordinator and/or Superintendent are empowered to take more than one enforcement action against any noncompliant User.

SECTION 10—SUPPLEMENTAL ENFORCEMENT ACTION

10.1 Payment of Outstanding Fees and Penalties

The Pretreatment Coordinator and/or Superintendent may request IDEM decline to issue or reissue an individual wastewater discharge permit to any User who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this ordinance, a previous individual wastewater discharge permit, or order issued hereunder.

SECTION 11—AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

11.1 Upset

- A. For the purposes of this Section, upset means an exceptional incident in which there is unintentional and temporary noncompliance with this ordinance or categorical

Pretreatment Standards 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, lack of preventive maintenance, or careless or improper operation.

- B. An upset shall constitute an affirmative defense to an action brought for noncompliance with this Ordinance and/or Categorical Pretreatment Standards if the requirements of paragraph (C) below are met.
- C. A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (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 Pretreatment Coordinator and/or Superintendent within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission shall be provided within five (5) 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.
- D. In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof.
- E. Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with Categorical Pretreatment Standards.
- F. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical Pretreatment 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.

11.2 Prohibited Discharge Standards

A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 2.1(A) of this ordinance or the specific prohibitions in Sections 2.1(B)(3) through (27) of this ordinance if it 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:

- A. 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
- B. 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 NPDES permit, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements.

11.3 Bypass

A. For the purposes of this Section:

- (1) Bypass means the intentional diversion of waste streams from any portion of a User's treatment facility.
- (2) 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.

B. 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 paragraphs (C) and (D) of this Section.

C. Bypass Notifications

- (1) If a User knows in advance of the need for a bypass, it shall submit prior notice to the Pretreatment Coordinator and/or Superintendent at least ten (10) days before the date of the bypass, if possible.
- (2) A User shall submit oral notice to the Pretreatment Coordinator and/or Superintendent of an unanticipated bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) 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 Pretreatment Coordinator and/or Superintendent may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

D. Bypass

- (1) Bypass is prohibited, and the Pretreatment Coordinator and/or Superintendent may take an enforcement action against a User for a bypass, unless:
 - (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 paragraph (C) of this section.
- (2) The Pretreatment Coordinator and/or Superintendent may approve an anticipated bypass after considering its adverse effects if the Pretreatment Coordinator and/or Superintendent determines that it will meet the three (3) conditions listed in paragraph (D)(1) of this Section.

SECTION 12—WASTEWATER TREATMENT RATES - [RESERVED]

SECTION 13—MISCELLANEOUS PROVISIONS

13.1 Pretreatment Charges and Fees

The City may adopt reasonable fees for reimbursement of costs of setting up and operating the City's Pretreatment Program, which may include:

- A. Fees for wastewater discharge permit applications including the cost of processing such applications;
- B. \$150.00 each per day 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;
- C. \$150.00 for reviewing and responding to accidental discharge procedures and construction. An additional \$150.00 shall be charged per site visit;
- D. \$50.00 for inspection of pretreatment facilities of Users that are not required to obtain an individual wastewater discharge permit. These facilities may include, but not be limited to, grease interceptors, oil water separators, etc.;
- E. Fees to recover administrative and legal costs (not included in Section 13.1 B) associated with the enforcement activity taken by the Pretreatment Coordinator and/or Superintendent to address IU noncompliance; and
- F. Other fees as the City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines, and penalties chargeable by the City.

13.2 Records Retention

All Users subject to this Ordinance shall retain and preserve for no less than three (3) years any record of monitoring activities and results. All records that pertain to matters which are the subject of administrative adjustment or any other enforcement of litigation activities brought by the Pretreatment Coordinator and/or Superintendent pursuant hereto shall be retained and preserved by the User until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

The Pretreatment Coordinator shall retain and preserve all permit files, records and enforcement activity records for no less than three (3) years for all Users that maintain individual wastewater discharge permits.

Hard copies of all records shall be kept onsite for immediate inspection.

13.3 Severability

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

13.4 Validity

All ordinances or parts of ordinances in conflict herewith are hereby repealed. The invalidity of any section, clause, sentence or provision of this Ordinance shall not affect the validity of any other part of this Ordinance, which can be given effect without such invalid part or parts.

13.5 Annual Ordinance Review

This Ordinance may be reviewed annually by the Pretreatment Coordinator to insure compliance with current state and federal regulations, and to review standards, limitations, fees, rates and charges and as necessary recommend to the City Council actions to amend or modify this Ordinance.

13.6 Conflicting Ordinances

Any Ordinance or provision of any Ordinance of the City of Portage or of the Municipal code of the City of Portage in conflict with the provisions of this Ordinance is hereby repealed.

13.7 Effective Date.

This ordinance shall be in full force and effect immediately following its passage, approval, and publication, as provided by law.

PASSED AND ADOPTED by the Common Council of the City of Portage, Porter County, Indiana, on the 27th day of April, 2009.


PRESIDING OFFICER

ATTEST:


DONNA M. PAPPAS, CLERK-TREASURER

Presented to me, to the Mayor of the City of Portage, Porter County, Indiana, this 27th day of April, 2009.


DONNA M. PAPPAS, CLERK-TREASURER

Approved by me, the Mayor of the City of Portage, Porter County, Indiana, this 27th day of April, 2009.


OLGA G. VELAZQUEZ, MAYOR