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ORDINANCE NO. 4503

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AMENDING SECTION 51-24 OF THE CODE OF THE CITY OF CHANDLER, RELATING TO THE CITY OF CHANDLER'S WASTEWATER PRETREATMENT PROGRAM.

WHEREAS, City staff recommends updating the City of Chandler Wastewater Pretreatment Program to amend the standard for molybdenum and to add a provision for authorization of the use of equivalent mass base limits; and

WHEREAS, City staff published a 30-day public notification in the Arizona Republic on August 2, 2013 and received no comments; and

WHEREAS, The City of Chandler received approval for the changes from the Arizona Department of Environmental Quality (ADEQ) in a letter dated September 13, 2013; and

WHEREAS, Council finds that it is in the best interest of the City to adopt these changes.

BE IT ORDAINED by the City Council of the City of Chandler, Arizona that the Code of the City of Chandler, Arizona be amended as follows:

SECTION 1: Chapter 51 is hereby amended as follows:

A. Amend Section 51-24 to read as follows:

51-24. Establishment of wastewater pretreatment program

That certain documents, three (3) copies of which are on file with the City Clerk, marked, known and designated as "City of Chandler ~~2011~~ 2013 Wastewater Pretreatment Program" and each and all of the regulations, terms and provisions contained in such document are hereby adopted by reference thereto and made a part hereof as if set forth at length.

INTRODUCED AND TENTATIVELY approved by City Council of the City of Chandler, Arizona, this ___ day of _____, 2013.

ATTEST:

_____ _____

CITY CLERK MAYOR

PASSED AND ADOPTED by the City Council of the City of Chandler, Arizona, this ____ day of _____, 2013.

ATTEST:

CITY CLERK MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No. ~~4465~~ 4503 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on ____ day of _____, 2013 and that a quorum was present thereat.

CITY CLERK

APPROVED AS TO FORM:

CITY ATTORNEY CH for

CITY OF CHANDLER

~~2011~~ 2013 WASTEWATER PRETREATMENT PROGRAM

ADOPTED ON ~~May 12, 2011~~ November 7, 2013 BY ORDINANCE NO. ~~4238~~ 4503

ESTABLISHING STANDARDS, RULES, REGULATIONS AND REQUIREMENTS TO PREVENT INTRODUCTION OF POLLUTANTS INTO THE MUNICIPAL WASTEWATER SYSTEM

ADOPTED BY ORDINANCE 1012 DATE 11/12/81
REVISED BY ORDINANCE 1120 DATE 12/02/82
REVISED BY ORDINANCE 2557 DATE 05/11/95
REVISED BY ORDINANCE 2938 DATE 04/22/99
REVISED BY ORDINANCE 4238 DATE 05/12/11

C. BOD, TSS and Ammonia Levels 15

1. Pollutant Charges 15
2. BOD Trigger Level 15
3. TSS Trigger Level 15
4. Director Discretion to Limit Discharge 16

D. Continuous Monitoring of pH Levels . . . 16

1. Director Discretion to Forego Enforcement 16
2. Adjust Requirements 16

E. Fluoride BMP's 17

1. Director Discretion to Include BMP's 17
2. BMP Requirements 17
3. SIU Request for BMP's 17
4. Compliance Schedule 18
5. Maintenance 18

F. Upset 18

1. Upset as an Affirmative Defense . . 18
2. Burden of Proof 19

G. Bypass 19

1. Occurrence 19
2. Prior Notice 19
3. Notice of Unanticipated Bypass . . 20
4. Requirements to Avoid Enforcement 20
5. Director Approval 21

H. Hazardous Waste Notification 21

1. Notice Requirement 21
2. Exemptions 22
3. IU Notification of Hazardous Substances 22
4. Certification 22

I. Compliance Schedules 22

J. Equivalent Mass Limits 23

~~J.~~K. General IU Requirements . . . . . ~~23~~25

1. Sampling Protocol . . . . . ~~23~~25
2. Compliance . . . . . ~~24~~26
3. Inspection . . . . . ~~24~~26
4. Records Retention . . . . . ~~24~~26
5. Cooperation . . . . . ~~24~~26
6. Cease Discharge When Directed . . . ~~25~~27
7. Notice of Violation . . . . . ~~25~~27
8. Resampling . . . . . ~~26~~28
9. Payment of Fees . . . . . ~~26~~28
10. Financial Responsibility . . . . . ~~26~~28
11. Corrective Measures and Control of Discharge . . . . . ~~27~~29
12. Accurate Disclosure . . . . . ~~27~~29

~~K.~~L. Additional SIU Requirements . . . . . ~~27~~30

1. Obtain Permits . . . . . ~~27~~30
2. Comply with Permit Terms . . . . . ~~28~~30
3. Provide Pretreatment . . . . . ~~28~~30
4. Notice of Change in Discharge . . . ~~28~~30
5. Notice of Change Affecting Potential for a Slug Discharge . ~~29~~31
6. Access to Compliance Sampling Points . . . . . ~~29~~31
7. Separation of Compliance Sampling Points . . . . . ~~29~~31
8. Batch Discharge . . . . . ~~29~~31
9. Self-Monitoring Reports . . . . . ~~29~~32
10. Sampling and Flow Monitoring Equipment . . . . . ~~32~~34
11. Maintenance of Sampling and Flow Monitoring Equipment . . . . . ~~32~~35
12. Date of Receipt of Reports . . . . ~~33~~35
13. Authorized Representatives . . . . ~~33~~35
14. Discharges After Permit Expiration . . . . . ~~35~~37

SECTION III. PRETREATMENT ADMINISTRATION AND ENFORCEMENT . . . . . ~~35~~37

A. Responsibility of the Director . . . . . ~~35~~37

1. Implement Program . . . . . ~~35~~37
2. Review and Sample . . . . . ~~35~~37
3. Conduct Inspections Regarding Slug Discharges . . . . . ~~36~~38
4. Investigate Non-Compliance . . . . ~~36~~38
5. Notify IU's of Non-Compliance . . . ~~36~~39
6. Encourage Public Participation . . ~~36~~39
7. Mitigate Threats to POTW . . . . . ~~37~~39
8. Publish Violations . . . . . ~~37~~39
9. Provide Notice of Change of Law . . ~~37~~39
10. File Federal Pretreatment Regulations . . . . . ~~37~~39
11. Issue Permits . . . . . ~~37~~40

B. Authority of the Director . . . . . ~~39~~41

1. Prevent Discharge . . . . . ~~39~~41
2. Limit Discharge . . . . . ~~39~~41
3. Establish Compliance Schedules . . ~~39~~41
4. Require Reports . . . . . ~~39~~42
5. Inspect Facilities . . . . . ~~39~~42
6. Enter Premises . . . . . ~~40~~42
7. Revoke or Suspend Permits . . . . . ~~40~~42
8. Modify Permits . . . . . ~~40~~42
9. Issue Notices of Violation . . . . ~~41~~43
10. Adopt Implementing Procedures . . . ~~41~~43
11. Seek Injunctive Relief and Damages . . . . . ~~41~~43
12. Seek Penalties . . . . . ~~41~~43
13. Delegate Authority . . . . . ~~42~~45

C. Petitions for Reconsideration. . . . . ~~42~~45

1. Permit Decision . . . . . ~~42~~45
2. Enforcement Orders and Findings . . ~~43~~45
3. Failure to Submit Petition . . . . ~~43~~45
4. Failure of Director to Act . . . . ~~43~~45
5. Judicial Review . . . . . ~~43~~46
6. No Waiver of Enforcement Authority . . . . . ~~44~~46

SECTION I. GENERAL PROVISIONS

A. Purpose and Policy

This Program sets forth Pretreatment Requirements that are consistent with 40 CFR Part 403 and governs Discharges into a POTW by any IU, even if the IU or POTW is located outside of the municipal boundaries of the City.

B. Abbreviations

The following abbreviations shall have the designated meanings set forth below.

ADEQ, Arizona Department of Environmental Quality

APP, Aquifer Protection Permit

ARS, Arizona Revised Statutes

BMP, Best Management Practices

BOD, Biochemical Oxygen Demand

CFR, Code of Federal Regulations

EPA, Environmental Protection Agency

GRIC, Gila River Indian Community

IU, Industrial User

L, Liter

mg, Milligrams

mg/L, Milligrams per liter

NPDES, National Pollutant Discharge Elimination System

POTW, Publicly Owned Treatment Works

SIC, Federal Standard Industrial Classification

SIU, Significant Industrial User

SNC, Significant Non-Compliance

TRC, Technical Review Criteria

TSS, Total Suspended Solids

USC, United States Code

C. Definitions

Unless the context specifically indicates otherwise the below-listed terms shall have the meanings as set forth below.

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

2. "APP" means a permit issued by ADEQ pursuant to A.R.S. Section 49-241, et seq which imposes state standards relating to the Discharge of Pollutants which may reach an aquifer.

3. "Batch Discharge" means the accumulation of Wastewater over time in a tank or holding container that is later emptied, resulting in a Discharge.

4. "BOD" means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures -- five (5) days at 20 degrees centigrade -- expressed in terms of concentration.

5. "BMP" means schedules of activities, prohibitions of practices, maintenance procedures, or other management practices to satisfy Pretreatment Requirements. BMP's may 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.

6. "Bypass" means the intentional diversion of Wastewater from any portion of an IU's apparatus or control mechanism to treat Wastewater prior to Discharge.

7. "Categorical Standards" means any Federal Pretreatment standard adopted pursuant to 33 USC 1317(b) or (c) -- as codified under 40 CFR Chapter 1 Subchapter N Parts 401-471.

8. "City" means the City of Chandler, Maricopa County, Arizona.

9. "Compliance Sample" means any sample for a Pollutant for which a Discharge standard or prohibition is identified in this Program that is collected at a specified compliance sampling point and analyzed by an EPA approved method pursuant to 40 CFR Part 136.

10. "Compliance Schedule" means the shortest schedule by which an IU will provide additional Pretreatment, and/or operation and maintenance activities, necessary to meet Pretreatment Requirements.

11. "Composite Sample" means a combination of at least four (4) Grab Samples obtained at regular intervals (based on either flow or time) during normal operations on any calendar day. Each Grab Sample is either combined with the others or analyzed individually and the results averaged so as to be representative of the Discharge during the entire Discharge period.

12. "Daily Maximum" means the average maximum concentration of a Pollutant allowed to be Discharged on any calendar day, as determined by the analysis of all Grab Samples collected at a specified compliance sampling point during normal operations. If only one Grab Sample has been taken, that Grab Sample becomes the Daily Maximum (as well as the Instantaneous Maximum). A Composite Sample, by definition, becomes the Daily Maximum for the calendar day in which it is collected.

13. "Director" means the City's Director of Municipal Utilities or other employee of the City designated by the City's Director of Municipal Utilities to act on his or her behalf.

14. "Discharge" means the introduction or disposal of any Pollutant(s), Wastewater or any liquid by any Person into a POTW. A Discharge may be either an Industrial Discharge or a Residential Discharge. The term "Discharge" also means, as the context may require, treated Wastewater exiting from a POTW.

15. "Grab Sample" means an individual sample for a Pollutant that is collected in less than fifteen (15) minutes without regard for flow or time of day.

16. "GRIC Agreement" means Lease Agreement B-GR-150 between the City and GRIC relating to the operation of the POTW at Lone Butte.

17. "Immediately" means as soon as possible, but in no event more than twenty-four (24) hours.

18. "Industrial Discharge" means any Discharge into a POTW other than a Residential Discharge.

19. "IU" means a Person who:

    (a) Causes an Industrial Discharge;

    (b) Has control over the disposal of any Pollutant which ultimately becomes all or part of any Industrial Discharge; or

    (c) Has the right of possession and control over any property from which an Industrial Discharge is made.

20. "Industrial Wastes" means any liquid, free flowing waste, including cooling water, resulting from any industrial or manufacturing process or from the development, recovery or processing of natural resources.

21. "Instantaneous Maximum" means the maximum concentration of a Pollutant allowed to be Discharged at any time determined from the analysis of a Grab Sample collected at a specified compliance sampling point.

22. "Interference" means the inhibition or disruption of any POTW treatment process or operation as a result of a Discharge to a POTW which causes or significantly contributes to the:

(a) Violation of any NPDES Permit, APP, Reuse Permit or other permit term, condition, requirement or standard which has been imposed upon the City (including an increase in the magnitude or duration of any such violation);

(b) Violation of any term, condition, requirement or standard of any agreement relating to the operation of a POTW, including the GRIC Agreement; or

(c) City's inability to beneficially reuse or dispose of all POTW Residuals in accordance with applicable Federal, State or local statutes, rules, regulations and ordinances.

23. "Monthly Average" means the average of the values of all Compliance Samples collected over a calendar month for a Pollutant. The Monthly Average may be either the average of all Grab Samples taken in a given calendar month, or the average of all Composite Samples taken in a given calendar month.

24. "NPDES Permit" means a permit issued by the EPA which imposes Federal standards governing the quality of the treated Wastewater Discharged from a POTW.

25. "New Source" means any building, structure, facility or installation from which there is or may be a Discharge, the construction of which commenced after the publication of proposed Pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:

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

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

(c) The production or Wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

26. "Pass Through" means a Discharge from a POTW in quantities or concentrations which, alone or in conjunction with a Discharge or Discharges from other sources, is a cause of either a violation of any APP, Reuse Permit, NPDES Permit or other permit term, condition, requirement or standard which has been imposed upon the City or a violation of any agreement term, condition, requirement or standard relating to the operation of a POTW, including the GRIC Agreement (including an increase in the magnitude or duration of any such violation).

27. "Person" means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, municipality, Indian tribe, political subdivisions of the state or Federal governmental agency, or any other legal entity including their legal representatives, agents or assigns.

28. "pH" means the negative logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in moles per liter of solution.

29. "Pollutant" means any dredged spoil, solid waste, hazardous waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, dirt, Industrial

Waste, municipal or agricultural waste and any other substances subject to a Pretreatment Requirement.

30. "POTW" means the sewage treatment work(s) and connecting sewer connection system(s) which are owned and/or operated, in whole or in part, by the City and which provide the City with Wastewater collection, treatment and disposal services.

31. "POTW Residuals" means all liquid and/or solids (e.g. sludge, scum, screenings, and grit) which are the by-product of POTW treatment operations and which may be placed into the environment for ultimate disposal and/or reuse.

32. "Pretreatment" means the physical, chemical, biological, or other treatment of any Industrial Discharge, prior to Discharge to a POTW, for the purpose of:

    (a) Reducing the amount or concentration of any Pollutant;

    (b) Eliminating the Discharge of any Pollutant; or

    (c) Altering the nature of any Pollutant characteristic to a less harmful state.

33. "Pretreatment Requirement" means compliance with all Discharge standards and prohibitions set forth in this Program including, without limitation, Categorical Standards, and all of the other duties or responsibilities imposed upon IU's under this Program or any order or permit issued pursuant to this Program.

34. "Program" means this Pretreatment Program.

35. "Reuse Permit" means a permit issued by ADEQ for the use of treated Wastewater Discharged from a POTW and transported from the point of treatment to the point of use without an intervening Discharge to the surface waters of the State for which water quality standards have been established.

36. "Residential Discharge" means a Discharge into a POTW of Sanitary Waste produced entirely from either a single or multi-family dwelling or any other facility, not utilized for any industrial or manufacturing process, that the Director determines will produce a wastestream substantially identical to that produced by a single or multi-family dwelling.

37. "Sanitary Waste" means any liquid or waterborne wastes derived from ordinary living processes, free from Industrial Wastes, and of such a character as to not require any special treatment or Pretreatment under this Program before being Discharged into a POTW.

38. "SIU" means:

(a) An IU subject to any Categorical Standard; or

(b) Any other IU that:

(i) Discharges an average of twenty-five thousand (25,000) gallons per day or more of Wastewater to a POTW (excluding Sanitary Wastes and noncontact cooling and boiler blowdown Wastewaters);

(ii) Contributes a flow of Wastewater which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of a POTW; or

(iii) Is designated as such by the Director on the basis that it has a reasonable potential for adversely affecting a POTW's operation or for violating any Pretreatment Requirement.

39. "SIU Permit" (or "permit") means the permit which each SIU must first obtain from the Director prior to causing or allowing any Industrial Discharge.

40. "SNC" means violations of Section II of this Program which meet one or more of the following criteria:

(a) Chronic violations of any Discharge limits, defined here as those in which sixty-six percent

(66%) or more of all of the measurements taken for the same Pollutant during a six (6) month period exceed (by any magnitude) the Daily Maximum, Instantaneous Maximum or Monthly Average for that Pollutant;

(b) TRC violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements taken for the same Pollutant during a six (6) month period equal or exceed the product of the Daily Maximum, Instantaneous Maximum or Monthly Average for that Pollutant multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other Pollutants except pH);

(c) Any other violation that the Director determines has, alone or in combination with other Discharges, caused Interference or Pass Through or endangered the health of POTW personnel or the public;

(d) Any Discharge of a Pollutant that has caused imminent endangerment to human health or welfare or to the environment, and has resulted in the Director's exercise of his or her emergency authority to halt or prevent such a Discharge;

(e) Violations of Compliance Schedule milestones contained in a SIU Permit or enforcement order, for starting construction, completing construction, or obtaining final compliance, by ninety (90) calendar days or more after the scheduled date for that milestone;

(f) Failure to provide reports for Compliance Schedules, self-monitoring data and applicable Pretreatment Requirements within forty-five (45) calendar days from the due date;

(g) Failure to accurately report non-compliance; or

(h) Any other violation or group of violations of the Act, this Program or the conditions of any permit or order issued pursuant to this Program,

including a violation of BMP'S, that the Director determines to be significant.

41. "Slug Discharge" means any Discharge of a non-routine, episodic nature including, but not limited to, an accidental spill or a non-customary Batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate this Program or any permit issued pursuant to this Program.

42. "Slug Discharge Control Plan" means a plan to control a Slug Discharge.

43. "TSS" means the total suspended matter that floats on the surface of, or is suspended in, Wastewater.

44. "Upset" means an exceptional incident in which there is an unintentional and temporary violation of a Pretreatment Requirement because of factors beyond the reasonable control of the IU. An Upset does not include a violation caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

45. "Wastewater" means any liquid, or any combination of water-carried Pollutant(s), which is Discharged into a POTW from any dwelling, commercial building, industrial facility or institution together with such ground, surface and storm water as may be present.

D. Confidentiality

1. Trade Secret Claims. Information and data about an IU obtained by the City from questionnaires, reports, permit applications, permits, monitoring programs and inspections shall be available to the public or other governmental agencies without restriction unless the IU specifically requests that such information and data not be released and is able to demonstrate to the satisfaction of the Director that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the IU. To claim this trade secret protection, the IU must specify at the time of

submittal to the City, the parts of the information and data it desires to protect. Wastewater constituents for which a Discharge standard or prohibition is identified in this Program shall not be recognized as confidential information.

2. Disclosure Provisions. If a Person furnishing information or data through submitted reports or otherwise, satisfies the above-referenced confidentiality requirements, the portions of the information and data provided which would disclose trade secrets or secret processes shall, subject to applicable public records law set forth in A.R.S. § 39-101, et seq., not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to any NPDES Permit, APP, Reuse Permit or other permit to which the City is subject, and any other uses necessary to carry out the objectives of the Act or this Program; provided, however, that such confidential portions of a report shall be available for use by the City, the State or any governmental agency in judicial review or enforcement proceedings involving the Person furnishing the report. If any governmental agency requests data and information accepted by the City as confidential, the City shall use reasonable efforts to notify the IU of the request prior to transmittal of that data or information to the requesting governmental agency. In the event of a public records request for data or information accepted by the City as confidential, the City will use reasonable efforts to notify the IU of the request to permit the IU the opportunity to intervene and prevent the transmittal of the requested data or information by means of a court order. An IU shall be entitled to inspect information and data relating to that IU to ensure that confidential materials are properly identified as such.

SECTION II. INDUSTRIAL USER PROVISIONS

A. Discharge Prohibitions

No IU shall Discharge to a POTW any Pollutant or Wastewater which will cause Pass Through or Interference. Such Discharge prohibitions include, but are not limited to, the types of Discharges which are set forth below.

1. Flow and Concentration. Discharges that are released at a flow rate and/or Pollutant concentration which will cause Interference.

2. Fire and Explosion Potential. Discharges that create a fire or explosion hazard to a POTW including, but not limited to, Discharges with a closed cup flashpoint of less than 60 degrees C (140 degrees F) using the test methods specified in 40 CFR Part 261.21.

3. Viscous Substances. Discharges that contain any solid or viscous substances in amounts which will obstruct Wastewater flow in any POTW resulting in Interference.

4. Corrosiveness. Discharges that will cause corrosive structural damage to a POTW. In no case shall a Discharge to a POTW have a pH lower than 5.0 or greater than 12.5, unless the Director, in his or her sole discretion, determines that a POTW is specifically designed to accommodate such Discharges.

5. Heat. Discharges that will inhibit biological activity in any POTW sewage treatment works resulting in Interference. In no case shall a Discharge cause heat in such quantities that the temperature at any POTW treatment works exceeds 40 degrees C (104 degrees F) unless the Director, in his or her sole discretion, determines that alternate temperature limits are appropriate.

6. Slug Discharge. Discharges that constitute or contain any Slug Discharge.

7. Noxious Substances. Discharges that contain any noxious or malodorous liquids, gases or solids which, either singly or by interaction with other substances,

will create a public nuisance, a hazard to life, prevent entry into a POTW for maintenance and repair purposes or otherwise cause acute worker health and safety problems.

8. Dilution. Discharges that have in any way been diluted as a substitute for Pretreatment for the purpose of obtaining compliance with any Pretreatment Requirement imposed by this Program. However, dilution is allowed to the extent that it is expressly authorized by any applicable Categorical Standard.

9. Rainwater. Discharges that consist of unpolluted rainwater run-off or single pass cooling water unless no other disposal option is feasible and the Discharge is expressly approved by the Director prior to Discharge.

10. Local Limits. Discharges that exceed the Daily Maximum or Instantaneous Maximum limits specified below for the following substances:

(a) 0.22 mg/L arsenic;
(b) 2.40 mg/L boron;
(c) 0.06 mg/L cadmium;
(d) 0.43 mg/L total chromium;
(e) 0.37 mg/L chloroform;
(f) 1.50 mg/L copper;
(g) 0.36 mg/L total cyanide;
(h) 0.46 mg/L lead;
(i) 1.00 mg/L manganese;
(j) ~~0.03~~0.074 mg/L molybdenum;
(k) 0.02 mg/L mercury;
(l) 0.60 mg/L nickel;
(m) 0.07 mg/L selenium;
(n) 0.30 mg/L silver;
(o) 9.00 mg/L zinc;
(p) 100.00 mg/L total grease, fat, oil, and like substances; or
(q) 10.00 mg/L fluoride (unless the IU is in compliance with a BMP pursuant to subsection E of this Section).

11. Categorical Standards. Discharges that will cause the violation of any applicable Categorical Standard.

12. Pumped Wastes. Discharges of Pollutants that are transported to a POTW by any septic tank pumper, chemical waste hauler or similar transporter except at specified Discharge points, if any, designated by the Director.

13. Toxic Materials. Discharges that are a toxic or poisonous substance in a sufficient amount to either cause Interference or constitute an acute hazard to humans or animals in the receiving stream.

14. Oil Products. Discharges that contain petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause Interference or Pass Through.

B. Affirmative Defense

1. Requirements. An IU shall have an affirmative defense in any action brought against it alleging a violation of the Discharge prohibitions established in subsection A of this Section if the IU can demonstrate that:

(a) It did not know or have reason to know that its Discharge, alone or in conjunction with a Discharge or Discharges from other sources, would violate any Discharge prohibition established in subsection A of this Section;

(b) The Discharge did not violate any specific Discharge prohibition established under paragraphs 1, 3, 5, 7, 10, 11 or 14 of subsection A of this Section; and

(c) If the IU is classified as a SIU, the SIU was operating pursuant to a current SIU Permit issued by the Director and was in compliance with the provisions of that permit at the time of the Discharge.

2. Limitations to Claim of Affirmative Defense. The provisions for an affirmative defense apply only to actions brought pursuant to Section III.B.12 of this Program and do not in any way limit:

(a) An IU's responsibilities pursuant to Section II.J.9 of this Program; or

(b) The Director's authority to modify any permit issued, issue administrative orders relating to the violation or otherwise take action to prevent continued Discharges into a POTW in violation of Section II.A of this Program.

3. Burden of Proof. An IU shall have the burden of proof to establish that it has met the requirements for claiming an affirmative defense.

C. BOD, TSS and Ammonia Levels.

1. Pollutant Charges. IU's exceeding the TSS, BOD or ammonia Discharge levels set forth below shall pay the fee provided in Section 50-13, Chandler City Code:

(a) 350.00 mg/L TSS;
(b) 300.00 mg/L BOD; or
(c) 35.00 mg/L ammonia.

2. BOD Trigger Level. If an SIU is currently Discharging or proposes to Discharge more than 63 lbs./day of BOD, the Director shall set an individual mass based BOD limit in the SIU Permit. The Director shall set the BOD limit considering the following factors:

(a) The existing BOD loading; and
(b) The future, additional BOD loading anticipated from IUs, SIUs and Residential Discharges at the POTW that will receive Discharges from that SIU.

3. TSS Trigger Level. If an SIU is currently Discharging or proposes to Discharge more than 73 lbs./day of TSS, the Director shall set an individual mass based TSS limit in the SIU Permit. The Director shall set the TSS limit considering the following factors:

(a) The existing TSS loading; and
(b) The future, additional TSS loading anticipated from IUs, SIUs and Residential Discharges at the POTW that will receive Discharges from that SIU.

4. Director Discretion to Limit Discharge . Nothing in this subsection shall be deemed to limit the Director's authority to limit the Discharge of BOD, TSS or ammonia to prevent Interference or Pass Through.

D. Continuous Monitoring of pH Levels

1. Director Discretion to Forego Enforcement. The Director shall have the discretionary authority to forgo any formal enforcement action for violations relating to the pH Discharge prohibitions established in subsection A.4 of this Section if the following conditions are satisfied:

(a) The IU continuously measures the pH of its Discharge;

(b) The total time during which the pH values are outside the required range of pH values does not exceed seven (7) hours and twenty-six (26) minutes in any calendar month;

(c) No individual violation from the range of pH values exceeds sixty (60) minutes;

(d) The Discharge does not violate any Discharge prohibition other than that established in subsection A.4;

(e) The cumulative affect of continued violations of this nature will not cause corrosive structural damage to a POTW; and

(f) The IU complies with all notice requirements regarding the violation set forth in Section II.J.7 of this Program.

2. Adjust Requirements. The Director may adjust the requirements set forth in paragraph 1 of this

subsection based upon the POTW treatment system, plant configuration or other technical factors.

E. Fluoride BMP's

1. Director Discretion to Include BMP's. The Director shall have the discretionary authority to issue a SIU Permit allowing a Discharge exceeding the Discharge prohibition established in subsection A.10(q) of this Section if the permit includes enforceable BMP's relating to the Discharge of fluoride designed with an appropriate level of Pretreatment or operational practice(s) to ensure that the Discharge of fluoride pursuant to the SIU Permit will not cause Pass Through. The issuance of a SIU Permit which includes BMP's and/or a Compliance Schedule shall be at the sole discretion of the Director and no SIU shall be deemed to be entitled to a permit which includes BMP's and/or a Compliance Schedule by virtue of this subsection.

2. BMP Requirements. Any BMP's developed in conjunction with the issuance of a SIU Permit may include an evaluation of cost benefit considerations and the total mass loadings contributed by the SIU for whom the permit will be issued. BMP's for facilities with any high concentration flows (maximum concentrations exceeding 200 mg/L) generated by a SIU with a maximum daily fluoride load of 3 pounds or more per day, will generally include calcium precipitation or an equivalent treatment. Treatment requirements for flow concentrations less than 200 mg/L will be based on the need for such treatment to prevent Pass Through, and may include calcium precipitation, activated alumina, alum addition, ion exchange, or any treatment capable of equivalent concentration reductions. BMP's will always include an analysis as to the feasibility of, and need for, waste segregation, source substitution, enhanced sampling, and the impact of water conservation efforts being employed by the SIU. Batching and/or discharge equalization may be considered on a case-by-case basis.

3. SIU Request for BMP's. Unless requested by a SIU, SIU Permits will be issued by the Director without BMP's.

A request to include BMP's in a SIU Permit shall be made to the Director before issuance of the permit and shall include a proposed BMP plan together with a proposed Compliance Schedule, if applicable. The Director shall evaluate the BMP plan proposed, and the need for any additional time requested to achieve full compliance with that plan, and notify the SIU of its initial determination within forty-five (45) calendar days of its receipt of the request. A Compliance Schedule for newly constructed or modified facilities will generally not be accepted by the Director, as full compliance with the BMP is expected upon completion of the construction of the new or modified facility.

4. Compliance Schedule. To the extent that an existing SIU cannot Immediately comply with the BMP's established, the SIU Permit for that SIU may include an enforceable Compliance Schedule setting forth either a date by which the SIU will achieve full compliance, or a series of interim dates reflecting when the SIU will satisfy specified objective milestones. Compliance Schedules shall contain provisions to ensure that the Discharge from that SIU will not cause Pass Through during the period before full compliance is scheduled to be achieved.

5. Maintenance. Fluoride treatment and control systems installed on or before the issuance of a SIU Permit that includes BMP's shall be properly maintained and operated in accordance with the maintenance and operations specifications for that treatment or control system at all times during the term of the SIU Permit issued.

F. Upset.

1. Upset as an Affirmative Defense. An Upset shall constitute an affirmative defense to an action brought for a violation of a Pretreatment Requirement if the IU demonstrates, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(a) An Upset occurred and the IU can identify the cause(s) of the Upset;

(b) The facility was being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures at the time of the Upset;

(c) The IU has submitted the following information to the Director Immediately upon becoming aware of the Upset (if this information is provided verbally, a written submission must be provided within five (5) calendar days):

(i) A description of the Upset and the cause and nature of the violation resulting from the Upset;

(ii) The duration of the violation, including exact dates and times or, if not corrected, the anticipated time the violation is expected to continue; and

(iii) The steps being taken and/or planned to reduce, eliminate and prevent recurrence of the Upset or any resulting violation of Pretreatment Requirements.

2. Burden of Proof. An IU shall have the burden of proof of establishing that any violation that is the subject of any enforcement proceeding was the result of an Upset.

G. Bypass

1. Occurrence. An IU may allow a Bypass to occur which does not cause a violation of any Pretreatment Requirement, but only if such Bypass is for essential maintenance to assure efficient operation. These Bypasses are not subject to the provisions of paragraph (4) of this subsection.

2. Prior Notice. If an IU knows in advance of the need for a Bypass, it shall submit prior notice to the Director, if possible, at least ten (10) calendar days before the date of the Bypass.

3. Notice of Unanticipated Bypass. An IU shall submit verbal notice of an unanticipated Bypass that causes a violation of any Pretreatment Requirements to the Director Immediately upon becoming aware of the Bypass. A written submission shall also be provided within five (5) calendar days of the time the IU becomes aware of the Bypass. The written submission shall contain a description of the Bypass and its cause; the duration of the Bypass, including exact dates and times, and, if the Bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the Bypass. The Director may waive the written report on a case-by-case basis if the verbal report has been received as set forth above.

4. Requirements to Avoid Enforcement. Bypass is prohibited, and the Director may take enforcement action against an IU for a Bypass unless the IU can clearly establish that:

   (a) Bypass was unavoidable to prevent loss of life, personal injury, or substantial physical damage to property, damage to treatment facilities which causes them to become inoperable, or the substantial and permanent loss of natural resources;

   (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 preventative maintenance; and

   (c) The IU submitted notices as required under this subsection.

5. Director Approval. The Director may approve an anticipated Bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in paragraphs 4(a) through (c) of this subsection.

H. Hazardous Waste Notification.

1. Notice Requirement. An IU shall notify the Director, the EPA Regional Waste Management Division Director, and ADEQ in writing of any Discharge into a POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of Discharge (continuous, batch, or other). If the IU Discharges more than 100 kilograms of such waste per calendar month to a POTW, the notification shall also contain the following information to the extent such information is known and readily available to the IU:

(a) An identification of the hazardous constituents contained in the wastes;

(b) An estimation of the mass and concentration of such constituents in the wastestream Discharged during that calendar month; and

(c) An estimation of the mass of constituents in the wastestream expected to be Discharged during the following twelve months.

All notifications must take place within one hundred eighty (180) calendar days after the Discharge of the listed or characteristic hazardous waste. Any notification under this paragraph need be submitted only once for each hazardous waste Discharged. However, notifications of changed Discharges must be submitted under 40 CFR Part 403.12 (j). The notification requirement in this section does not apply to Pollutants already reported under the self-monitoring requirements of Section II.K.9.

2. Exemptions. An IU is exempt from the requirements of paragraph 1 of this subsection during calendar months in which they Discharge no more than fifteen kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR Part 261.30(d) and 261.33(e). Discharge of more than fifteen kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR Part 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the IU Discharges more than such quantities of any hazardous waste do not require additional notification.

3. IU Notification of New Hazardous Substances. In the case of any new EPA regulations identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the IU must notify the Director, the EPA Regional Waste Management Waste Division Director, and ADEQ of the Discharge of such substance within ninety (90) calendar days of the effective date of such regulations.

4. Certification. In the case of any notification made under paragraph 1 of this subsection, the IU shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

I. Compliance Schedules

Any Compliance Schedule issued pursuant to this Program shall contain increments of progress 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 IU to meet the applicable Pretreatment Requirements (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, etc.). Compliance Schedules shall reflect the shortest time period practicable to achieve full compliance and no increment referred to in the Compliance Schedule shall exceed nine (9) months. Not later than fourteen (14) calendar days

following each date in the schedule and the final date for compliance, the IU shall submit a progress report to the Director including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the IU to return to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the Director.

J. Equivalent Mass Limits

1. When the limits in a Categorical Standard are expressed only in terms of Pollutant concentrations, an IU may request that the City convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the City. The City may establish equivalent mass limits only if the IU meets all the following conditions.

   To be eligible for equivalent mass limits, the IU must:

   (a) Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its Permit;

   (b) Currently use control and treatment technologies adequate to achieve compliance with the applicable Categorical Standards, and not have used dilution as a substitute for treatment;

   (c) Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;

   (d) Not have daily flow rates, production levels, or pollutant levels that vary so significantly that

equivalent mass limits are not appropriate to control the Discharge; and have consistently complied with all applicable Categorical Standards during the period prior to the IU request for equivalent mass limits.

2. An IU subject to equivalent mass limits must:

(a) Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;

(b) Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;

(c) Continue to record the facility's production rates and notify the City whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in paragraph J.1.(c) of this section. Upon notification of a revised production rate, the City must reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and

(d) Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to paragraphs J.1.(a)of this section so long as it Discharges under an equivalent mass limit.

3. A City which chooses to establish equivalent mass limits:

(a) Must calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es)of the IU by the concentration-based Daily Maximum and Monthly Average Standard for the applicable Categorical Standards and the appropriate unit conversion factor;

(b) Upon notification of a revised production rate, it may reassess the equivalent mass limit and

recalculate the limit as necessary to reflect changed conditions at the facility; and

(c) May retain the same equivalent mass limit in subsequent Permit terms if the IU's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to Section II. A.8. of this Program. The IU must also be in compliance with Section II.G. of this Program (regarding the prohibition of Bypass).

~~J.~~K. General IU Requirements

1. Sampling Protocol. If an IU is required to collect a Compliance Sample, it shall perform such sampling activities in accordance with procedures established under this Program and 40 CFR Part 136, or with any other test procedures approved by the EPA. Where 40 CFR Part 136 does not include sampling or analytical techniques for the Pollutants 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 using validated analytical methods.

   (a) Grab Samples must be used for pH, cyanide, oil and grease, ammonia and volatile organic compounds. For all other Pollutants, 24-hour Composite Samples must be obtained through flow-proportional Composite Sampling techniques, unless time-proportional Composite Sampling or Grab Sampling is authorized by the Director.

   (b) Where time-proportional Composite Sampling or Grab Sampling is authorized by the Director, the samples must be representative of the Discharge and the decision to allow the alternative sampling must be documented in the IU file for that facility or facilities.

(c) 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 and ammonia 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 Director, as appropriate.

2. Compliance. Each IU shall comply with applicable Pretreatment Requirements and all other requirements of this Program.

3. Inspection. Each IU shall carry out and maintain an adequate record of all self-inspection activities required to establish compliance under this Program including, without limitation, inspection of oil and grease traps.

4. Records Retention. Each IU shall maintain all applicable records regarding compliance with this Program for a minimum period of three (3) years and such records shall be made available for inspection and copying by the Director upon his or her request.

5. Cooperation. Each IU shall assist the Director to determine the exact nature, concentration, and volume of any Pollutant or Wastewater intended for Discharge to the POTW. Therefore, upon request, an IU shall promptly:

(a) Allow the examination and copying of all relevant records or documents available to the IU;

(b) Allow the inspection of all business locations served by a POTW, including all Pretreatment equipment, methods and activities utilized by the IU at such locations;

(c) Install and maintain, at the IU's expense, convenient and adequate monitoring and/or sampling point(s) needed by the Director for monitoring and/or sampling purposes;

(d) Allow the taking and removal of samples from any Wastewater; and

(e) Provide the Director with any other information, including but not limited to chemical analyses of Wastewater and architectural or engineering design data and drawings etc., which are reasonably needed by the Director for the purpose of determining such IU's compliance with this Program.

6. Cease Discharge When Directed. Each IU shall comply with any demand of the Director to halt any actual or threatened Discharge to a POTW when the Director has given notice that such actual or threatened Discharge:

(a) Presents or may present an imminent or substantial endangerment to the health or welfare of any Person or to the environment; or

(b) Will cause Interference or Pass Through.

7. Notice of Violation. Each IU shall Immediately notify the Director of any violation of this Program. For Discharge violations, such notice shall be provided to the Director Immediately after IU receipt of analytical sampling results. This notification shall be followed within five (5) calendar days by a detailed written statement describing the:

(a) Location of the Discharge;

(b) Known or estimated nature, concentration and volume of the Discharged Pollutant(s);

(c) Causes of the Discharge; and

(d) Duration of the Discharge, including exact dates and times of the start and end of the Discharge violation;

(e) Corrective action(s) undertaken, being undertaken and/or to be undertaken by the IU. Any IU causing such a Discharge shall initiate all appropriate corrective action(s) which are needed to:

(i) Prevent any further injury to human health or safety, or to the environment, a POTW or any other property;

(ii) Promptly assess, mitigate, repair, restore or remediate all or part of any injury or damage caused by such Discharge; and

(iii) Prevent a future occurrence.

Such notification shall not relieve the IU of liability for any expense, loss or damage to a POTW, or for any fines or penalties imposed on the City on account thereof and/or for any enforcement action pursuant to this occurrence.

8. Resampling. If a Discharge violation relates to a Compliance Sample taken by either the IU or the City, the IU shall repeat the sampling and analysis establishing the violation and submit, in writing, the results of the second analysis within thirty (30) calendar days of becoming aware of the violation. The IU is not required, unless specifically ordered by the Director, to resample if the City obtained a sample at the same Discharge point for the same Pollutant(s) between the time the IU performed its sampling and the time the IU receives the results of the sampling. This paragraph does not apply to a violation of the pH standard set forth in Section II.A.4 when an IU continuously monitors for pH pursuant to Section II.D of this Program.

9. Payment of Fees. Each IU shall pay applicable fees charged by the City pursuant to Sections 50-12 and 50-13, Code of the City of Chandler.

10. Financial Responsibility. Each IU shall be financially responsible for all injury, damage or loss suffered by

any Person as a result of any Industrial Discharge by such IU which violates any applicable Pretreatment Requirement or any permit condition enforced pursuant to this Program. In particular such IU shall be liable for the:

(a) Personal injury suffered by any Person as a result of such Discharge;

(b) Costs reasonably incurred by any Person in correcting, assessing, remediating or otherwise mitigating any adverse environmental impact which resulted from such Discharge;

(c) Economic loss and property damage suffered by any Person as a result of such Discharge; and

(d) Fines and penalties imposed on any Person in any enforcement action taken against that Person as a result of such Discharge.

11. Corrective Measures and Control of Discharge. Each IU shall take all reasonable steps to minimize or correct any adverse impact to a POTW or the environment resulting from any non-compliance with the Act, this Program or the provisions of any SIU Permit issued, including such accelerated or additional monitoring as necessary to determine the nature and impact of any non-complying Discharge to a POTW. Upon reduction of efficiency of operations, or loss or failure of all or part of an IU's Pretreatment capabilities, each IU shall control its operations or Discharges (or both) until the IU's Pretreatment capabilities are restored or an adequate alternative method of Pretreatment is provided.

12. Accurate Disclosure. No IU shall misrepresent relevant facts relating to any Industrial Discharge, falsify reports submitted to the City pursuant to this Program, tamper with monitoring equipment or otherwise engage in activities contrary to the purposes of this Program.

~~K.~~L. Additional SIU Requirements

In addition to all other requirements which this Program imposes upon all IU's, each SIU shall also be subject to the requirements set forth below.

1. Obtain Permits. Each SIU shall obtain a SIU Permit from the Director. Any application for a permit shall be submitted on a form provided by the Director. Any Person intending to commence any new Industrial Discharge(s), or any additional Industrial Discharge(s) not already allowed pursuant to an existing permit, shall first obtain a new or an amended SIU Permit, as applicable, from the Director prior to initiating such Discharge(s).

2. Comply with Permit Terms. Each SIU shall comply fully with all requirements and conditions of any SIU Permit. Once a permit is issued no SIU shall:

   (a) Make any new or increased Industrial Discharge without first obtaining an amended SIU Permit; or

   (b) Otherwise make any change in the nature of its Industrial Discharge(s) if such change will cause any new or increased Industrial Discharge without first obtaining an amended SIU Permit.

   The Director has the discretionary authority to waive the requirement to obtain an amended permit for insignificant changes to the nature, concentration, and volume of an Industrial Discharge. This waiver may be exercised only when the Director receives prior, accurate, notice of any change to the nature, concentration or volume of a SIU's Industrial Discharge pursuant to subsection K.4 of this Section.

3. Provide Pretreatment. Each SIU shall provide all of the Pretreatment necessary to comply with all applicable Pretreatment Requirements and any SIU Permit issued pursuant to this Program.

4. Notice of Change in Discharge. No SIU shall make a substantial change to its Pretreatment methodology, or

make any facility expansion, production increase or process modification which results, or may result, in new or increased Discharges, or a change in the nature of the Discharge, without providing written notice to the Director at least ninety (90) calendar days prior to implementing that change. Additionally, no SIU shall make any change to a BMP set forth in a SIU Permit without first obtaining a modified permit reflecting that change.

5. Notice of Change Affecting Potential for a Slug Discharge. SIUs are required to notify the Director immediately of any changes at its facility affecting the potential for a Slug Discharge.

6. Access to Compliance Sampling Points. Each SIU shall provide the City adequate access to all Discharge and Compliance Sampling points. The SIU, upon request and at its own expense, shall be allowed to take a split sample of any Compliance Sample taken by the City provided that the request does not delay or interfere with the City's sampling activities. If a SIU requests a split sample as provided herein, the SIU shall deliver the split sample to a laboratory for analysis and submit the analytical results relating to that sample to the City within ten (10) calendar days of its receipt of laboratory results.

7. Separation of Compliance Sampling Points. Each SIU subject to compliance with a Categorical Standard shall, where feasible, provide separate Industrial Waste and Sanitary Waste Wastewater compliance sampling points so as to reduce or eliminate the likelihood of diluting the Industrial Discharge samples to be taken pursuant to this Program or any permit issued hereunder;

8. Batch Discharge. When a Batch Discharge is subject to Compliance Sampling, each SIU shall maintain a Batch Discharge record which clearly identifies the:

   (a) Dates and times of all Batch Discharges; and

   (b) Nature, concentration(s) and volume(s) of all such Discharges.

9. Self-Monitoring Reports. Each SIU shall provide the Director with all of the self-monitoring reports and notices which the SIU is required to submit in accordance with the following sub-paragraphs. In particular, each SIU shall perform the following:

(a) One-Time Baseline Monitoring Report. Within one hundred eighty (180) calendar days after the effective date of a Categorical Standard, or one hundred eighty (180) calendar days after the final administrative decision is made upon a category determination submission under 40 CFR Part 403.6(a)(4), whichever is later, existing SIU's subject to such Categorical Standard and currently Discharging to or, scheduled to Discharge to, a POTW shall be required to submit to the Director a report which contains the information described in 40 CFR 403.12(b)(1)-(7). At least ninety (90) calendar days prior to commencement of Discharge, New Sources, and sources that become SIU's subsequent to the promulgation of an applicable Categorical Standard, shall be required to submit a report to the Director containing the information set forth in 40 CFR Part 403.12(b)(1) - (5). New Sources shall also include in their report information on the method of Pretreatment it will use to meet applicable Pretreatment Requirements;

(b) One-Time 90-day Compliance Report. Within ninety (90) calendar days following the date for final compliance with any applicable Categorical Standard, or, in the case of a New Source, following commencement of the introduction of Wastewater into a POTW, any SIU subject to any Categorical Standard shall submit to the Director a report containing the information described in 40 CFR Part 403.12(b)(4)-(6). For SIU's subject to equivalent mass or concentration limits established by the City in accordance with procedures in 40 CFR Part 403.6(c), this report shall contain a reasonable measure of the SIU's long term production rate. For all other SIU's subject to Categorical Standards expressed in

terms of allowable Pollutant Discharge per unit of production (or other measures of operation), this report shall include the SIU's actual production during the appropriate Compliance Sampling period;

(c) Sampling Requirements for Baseline Monitoring and 90-day Compliance Reports. For sampling required in support of baseline monitoring and 90-day compliance reports required in subparagraphs (a) and (b) above, a minimum of four (4) Grab Samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data does not exist. For facilities for which historical sampling data is available, the Director may authorize a lower minimum. For the reports required by subparagraph (d) below, the Director shall require the number of Grab Samples necessary to assess and assure compliance by SIUs with applicable Pretreatment Requirements.

(d) Self-Monitoring report. Submit reports to the Director indicating the nature and concentration of all Pollutants in the Discharge that are limited by any applicable Pretreatment Requirement, or any permit issued pursuant to this Program. Reports shall be submitted as specified in the permit issued, but in no event less than twice annually or cover more than a seven (7) month period. Both maximum and average daily flows shall be reported for each reporting period. Unless otherwise specified by the Director, maximum and average daily flows may be estimated. At the discretion of the Director more detailed reporting of flows may be required. To the extent that a SIU samples or monitors a Pollutant during a reporting period more frequently than required under this Program, including any permit or order issued pursuant to this Program, the results of such additional sampling or monitoring shall be included in the report submitted for that reporting period; and

(e) Contents. The reports defined in subparagraph (d) above shall contain the results of sampling and analysis of all Pollutants and Wastewater Discharged, including the flow and the nature and concentration of Pollutants contained therein, which are limited by any applicable Categorical Standard or Pretreatment Requirement. These reports must be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of conditions occurring during the reporting period. The Director shall require that frequency of monitoring necessary to assess and assure compliance by SIU's with applicable Pretreatment Requirements. These reports shall also include the following:

(i) The date, exact place, method of sampling, sample preservation techniques or procedures, time of sampling and the names of the Person or Persons taking the samples;

(ii) The date(s) analyses were performed;

(iii) The name of laboratory and/or Person who performed the analyses;

(iv) The analytical techniques/methods used;

(v) The results of each analyses; and

(vi) A copy of chain of custody documentation from the sampling event.

10. Sampling and Flow Monitoring Equipment. The Director may require the SIU to install monitoring equipment as necessary. Any required sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the SIU at its own expense. All equipment used to measure Wastewater flow shall be maintained and calibrated in accordance with the manufacturer's recommendation, but such calibration shall occur no less than annually.

11. Maintenance of Sampling and Flow Monitoring Equipment. All Wastewater samples must be representative of the SIU Discharge. Wastewater monitoring and flow measurement equipment shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a SIU to keep its monitoring equipment in good working order shall not be grounds for the SIU to claim that sample results are not representative of its Discharge.

12. Date of Receipt of Reports. Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, the date of receipt of the report shall govern.

13. Authorized Representatives. Permit applications, baseline monitoring reports, 90-day compliance reports, self-monitoring reports and any other reports or notices addressing permit non-compliance, or that are required pursuant to any enforcement action taken by the City, must be signed by the appropriate signatory or duly authorized representative of the SIU, as follows:

    (a) By a responsible corporate officer, if the SIU is a corporation. For the purposes of this subparagraph, a responsible corporate officer means:

        (i) A president, secretary, treasurer, or 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

        (ii) The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making 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 control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

(b) By a general partner or proprietor if the SIU is a partnership or sole proprietorship respectively;

(c) By a duly authorized representative of the individual designated above if:

(i) The authorization is made in writing by the individual described in subparagraph a or b above;

(ii) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the Industrial Discharge originates, such as the position of plant manager, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the SIU; and

(iii) The written authorization is submitted to the Director;

(d) Any change in signatures or positions shall be submitted to the Director in writing prior to or together with any reports to be signed by an authorized representative, but in no case more than thirty (30) calendar days after the change; and

(e) Any Person signing a document under this paragraph shall make the following certification:

"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."

14. Discharges After Permit Expiration. If a SIU wishes to continue to Discharge after the expiration date of a previously issued permit, the SIU must apply for and obtain a new permit. The application must be submitted to the Director at least sixty (60) calendar days before the expiration date of the previously issued permit, unless written permission for an extension of time is timely requested and the Director grants the request. Subject to the Director's right to modify, revoke or terminate any SIU Permit, a previously issued permit shall continue to remain in full force and effect after the date of expiration if the SIU has applied for a new SIU Permit in accordance with the timeframe required by this paragraph, and a new permit is not issued prior to the expiration date of the previously issued permit.

SECTION III. PRETREATMENT ADMINISTRATION AND ENFORCEMENT

A. Responsibilities of the Director

1. Implement Program. The Director shall undertake reasonable measures necessary to implement the terms of this Program in a consistent, fair and uniform manner.

2. Review and Sample. The Director shall undertake reasonable measures to:

(a) Timely analyze all self-monitoring reports and notices submitted by SIU's;

(b) Randomly sample, pursuant to a sampling protocol determined by the Director, and analyze Discharges from SIU's at least once per year; and

(c) Conduct periodic surveillance and inspection activities in order to identify, independent of information supplied by SIU's, occasional and continuing noncompliance with Pretreatment Requirements at least once per year.

3. Conduct Inspections Regarding Slug Discharges. The Director shall conduct an inspection to determine whether a SIU needs a Slug Discharge Control Plan or other action to control Slug Discharges within one (1) year of an IU being designated a SIU. If a Slug Discharge Control Plan is needed, the plan shall contain, at a minimum, the following requirements:

(a) A description of the SIU's Discharge practices, including non-routine Batch Discharges;

(b) A description of stored chemicals;

(c) A procedure for Immediately notifying the City of Slug Discharges with procedures for follow-up written notification within five (5) calendar days; and

(d) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents) and/or measures and equipment for emergency response.

4. Investigate Non-Compliance. The Director shall investigate for evidence of SNC when notice of any actual or probable non-compliance with any

Pretreatment Requirement has been received by the Director.

5. Notify IU's of Non-Compliance. The Director shall notify IU's upon discovery of non-compliance with applicable Pretreatment Requirements and demand any appropriate corrective action on the part of the IU deemed reasonably necessary to satisfy those Pretreatment Requirements.

6. Encourage Public Participation. The Director shall comply with the public participation requirements of 40 CFR Part 25 in connection with the City's enforcement of any Categorical Standard.

7. Mitigate Threats to POTW. The Director shall make a reasonable effort to determine which actual or threatened Discharge to a POTW will violate a Pretreatment Requirement or will present (or may present) an imminent or substantial endangerment to the health or welfare of any Person and/or to the environment and to abate any such Discharge, including plugging or disconnecting any sewer service connection to a POTW that the Director deems necessary to abate such a Discharge.

8. Publish Violations. The Director shall annually publish, in the largest daily newspaper published in the City, public notice of all IU's who, during the preceding twelve (12) month period, were found to be in SNC. This same notice shall also summarize all enforcement actions taken by the City against those IU's during the same twelve (12) month period.

9. Provide Notice of Change of Law. The Director shall provide all SIU's with notice of any substantial amendment to this Program. Additionally, the Director will make a reasonable effort to notify SIU's of any changes to the Federal or State laws relating to this Program.

10. File Federal Pretreatment Regulations. The Director shall file with the City Clerk three (3) copies of 40 CFR Part 403.

11. Issue Permits. The Director shall take all reasonable steps needed to issue SIU Permits within sixty (60) calendar days of receiving the application for such permit or amended permit. All permits issued will include the following:

(a) A stated duration (in no case more than five years);

(b) A statement of non-transferability;

(c) Discharge limits and, as applicable, BMP's necessary to satisfy all Pretreatment Requirements;

(d) A statement of all self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the Pollutants to be monitored;

(e) A statement of applicable civil and criminal penalties for violations of the permit or Pretreatment Requirements;

(f) Identification of any applicable Compliance Schedule;

(g) A requirement that the results of repeat sampling and analysis conducted as a result of a violation be submitted to the Director within thirty (30) calendar days after becoming aware of the violation;

(h) A requirement to control Slug Discharges when determined by the Director to be necessary;

(i) A requirement to provide notice of a Slug Discharge, a Bypass, an Upset, or non-compliance with the provisions of this Program within twenty-four (24) hours after becoming aware of any such event;

(j) A requirement to provide the ninety (90) calendar day written notice of change is required pursuant to Section II.K.4 of this Program; and

(k) Any other conditions and requirements as deemed reasonably necessary by the Director to prevent Pass Through or Interference, to protect the quality of any water body receiving a Discharge from a POTW, to protect worker health and safety, to facilitate sludge management and disposal, to protect against damage to the POTW, to ensure the maximum beneficial reuse and/or the least expensive disposal method of POTW Residuals, and to ensure SIU compliance with this Program, and State and Federal laws, rules and regulations.

B. Authority of the Director

The Director is authorized to enforce IU compliance with the provisions of this Program and to undertake all actions necessary to satisfy the responsibilities placed on the Director pursuant to subsection A of this Section. In carrying out this responsibility, the Director has, without limitation, authority to take the actions set forth below.

1. Prevent Discharge. Implement procedures to Immediately and effectively halt or prevent any Discharge of Pollutants to a POTW which reasonably appear to:

   (a) Present an imminent endangerment to the health or welfare of any Person;

   (b) Present an endangerment to the environment; or

   (c) Cause Interference or Pass Through.

2. Limit Discharge. Deny or condition new or increased contributions of Pollutants, or changes in the nature of Pollutants, Discharged to a POTW by IU's where such contributions do not meet applicable Pretreatment Requirements.

3. Establish Compliance Schedules. Require the development of Compliance Schedules for the installation of technology required to meet applicable Pretreatment Requirements in any order or permit issued.

4. Require Reports. Require the submission of notices and reports, including self-monitoring reports, necessary to assess and assure compliance with Pretreatment Requirements.

5. Inspect Facilities. Carry out all inspection, surveillance and monitoring procedures necessary to determine compliance or noncompliance with applicable Pretreatment Requirements.

6. Enter Premises. Enter any premises of any IU in which a Discharge source or treatment system is located, or in which records are required to be kept, to assure compliance with Pretreatment Requirements or to determine or verify the level of Pollutant charges that may be applicable to a Discharge pursuant to Section II.C of this Program.

7. Revoke or Suspend Permits. Revoke or suspend any SIU Permit issued under this Program for good cause, including, but not limited to:

   (a) Misrepresentation or failure to fully disclose all relevant facts in a permit application;

   (b) Falsifying self-monitoring reports;

   (c) Tampering with monitoring equipment;

   (d) Refusing to allow the Director timely access to the facility premises and records;

   (e) Failure to meet Discharge limitations;

   (f) Failure to pay fines and penalties;

   (g) Failure to pay fees;

   (h) Failure to meet Compliance Schedules; or

   (i) Violation of any applicable Pretreatment Requirement.

8. Modify Permits. Modify or amend any SIU Permit issued pursuant to this Program for good cause, including but not limited to, modifications necessary to:

(a) Reflect relevant changes to the Act or this Program;

(b) Reflect the results of sampling performed pursuant to the Act, this Program, or any permit issued hereunder;

(c) Prevent endangerment to the environment or to the health or welfare of any Person resulting from the continued Discharge of Pollutants in accordance with the terms of a permit that has been issued pursuant to this Program;

(d) Prevent the continued Discharge of Pollutants in accordance with the terms of a permit that has been issued pursuant to this Program which threatens to damage property or otherwise cause Pass Through or Interference;

(e) Reflect a change in the nature, concentration or volume of an Industrial Discharge; or

(f) Correct errors in the permit issued.

9. Issue Notices of Violation. Issue notices of violation or orders directing IU's to comply with the requirements of this Program.

10. Adopt Implementing Procedures. Adopt procedures deemed necessary to implement and enforce the provisions of this Program including, without limitation, the adoption of an enforcement response plan consistent with the provisions of this Program.

11. Seek Injunctive Relief and Damages. Seek injunctive relief, damages or other equitable relief to address noncompliance with this Program or any damages caused by such noncompliance.

12. Seek Penalties. Seek civil or criminal penalties for non-compliance. Any action undertaken to recover civil penalties shall be consistent with the following:

(a) The Director may enforce this Program by imposing and recovering a civil penalty of one thousand dollars ($1,000) for each violation of any applicable Pretreatment Requirement. For continuing violations, each day may constitute a separate violation;

(b) The Director shall not seek civil penalties under this paragraph if the United States or the State has received civil penalties or is diligently prosecuting a civil penalty action in a court of the United States or the State, or in an administrative enforcement proceeding, with respect to the same allegations, standard, requirement, or order. The Director may, however, seek to intervene in any pending civil, judicial or administrative action for purposes of obtaining injunctive or declaratory relief;

(c) The Director may seek recovery of the civil penalties provided by this paragraph either by an action in superior court or by a negotiated settlement agreement. In determining the appropriate level of civil penalty to assess or seek, the Director shall consider:

(i) The seriousness of the violation;

(ii) The economic benefit, if any, resulting from the violation;

(iii) Any history of such violation;

(iv) Any good faith efforts to comply with the applicable requirements;

(v) The economic impact of the penalty on the violator; and

(vi) Such other factors as justice may require;

(d) All penalties received by the City pursuant to this paragraph shall be deposited in the City's General Fund.

13. Delegate Authority. Delegate the authority granted under this Program to other employees of the City, as he or she deems appropriate.

C. Petitions For Reconsideration.

1. Permit Decision. Any permit applicant or permittee (aggrieved party) may petition the Director to reconsider the conditions and limitations of a permit issued or amended pursuant to this Program or the failure to issue or modify a permit as requested, by filing a written petition for review with the Director within twenty (20) calendar days of receipt of the permit or amended permit. In its petition, the aggrieved party must identify the permit provisions objected to, specify in detail the reasons for objection, and present the alternative condition(s), if any, it seeks to place in the permit. A petition for review shall not be deemed to authorize a SIU to Discharge without first obtaining a SIU Permit.

2. Enforcement Orders and Findings. An IU may petition the Director to reconsider an administrative finding of violation, an action taken or proposed to be taken relating to a violation or an order issued by the Director relating to a violation by filing a written petition for review with the Director within twenty (20) calendar days of receipt of notice of any finding, order or action taken or to be taken by the Director. In its petition, the IU must identify the specific findings, order provisions or proposed activities objected to, specify in detail the reasons for, and basis of, the objection and present alternative findings, provisions or activities, if any, that should be substituted for those proposed by the Director.

3. Failure to Submit Petition. Failure to submit a timely petition for review shall be deemed to be a waiver of the IU's review rights under this subsection.

4. Failure of Director to Act. If the Director fails to act within thirty (30) calendar days from receipt of the petition, it shall be deemed denied. Decisions not to reconsider, or modifications made to any

findings, order provisions or proposed activities resulting from the review process, shall be considered final administrative actions for purposes of judicial review.

5. Judicial Review. An IU seeking judicial review of a final decision may file a complaint with the Superior Court for Maricopa County, Arizona. In the absence of a Court Order to the contrary, final decisions made by the Director shall not be stayed pending judicial review.

6. No Waiver of Enforcement Authority. This subsection shall not be construed to in any way alter, modify or affect the Director's ability to pursue enforcement action pursuant to Sections III.B.11 and 12 of this Program.