

**BRUSHY CREEK MUNICIPAL UTILITY DISTRICT
ORDER NO. 10-0826- 01**

**ORDER ADOPTING WASTEWATER PRETREATMENT PROGRAM AND SEWER USE
RULES**

THE STATE OF TEXAS §

COUNTY OF WILLIAMSON §

WHEREAS, Brushy Creek Municipal Utility District (the “District”) is a duly created and existing municipal utility district created and operating under Chapters 49 and 54 of the Texas Water Code, as amended;

WHEREAS, the District and the City of Round Rock (the “City”) are parties to that certain Wastewater Service Agreement executed October 30, 2009 (the “Wholesale Wastewater Services Agreement”) setting forth the terms and conditions pursuant to which the City has agreed to provide wholesale wastewater treatment and disposal services on behalf of the District;

WHEREAS, the Wholesale Wastewater Services Agreement contains a number of limitations regarding discharges that may be made into the Regional Wastewater System, and requires the District to implement and enforce a wastewater pretreatment program and sewer use regulations;

WHEREAS, Section 26.176 of the Texas Water Code authorizes local governments to enact and enforce rules, orders, or resolutions to control and regulate the type, character, and quality of waste that may be discharged to a sewer system and where necessary, require pretreatment of wastewater to be discharged to the sewer system;

WHEREAS, the District has previously adopted certain rules relating to the discharge of wastes into the District’s sanitary sewer collection system; and

WHEREAS, in accordance with the Wholesale Wastewater Services Agreement and pursuant to the authority set forth in the Texas Water Code, the Board of Directors now desires to adopt revised pretreatment program and sewer use rules.

NOW THEREFORE, BE IT ORDERED BY THE BOARD OF DIRECTORS OF BRUSHY CREEK MUNICIPAL UTILITY DISTRICT THAT:

Section 1. The matters and facts recited in the preamble to this Order are found to be true and correct and the same are incorporated herein as a part of this Order.

Section 2. The Board of Directors hereby adopts the Wastewater Pretreatment Program and Sewer Use Rules in the form attached hereto.

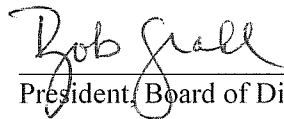
Section 3. Upon adoption of this Order, the Wastewater Pretreatment Program and Sewer Use Rules shall supersede and replace all prior rules of the District regulating discharges into the District’s sewer system.

Section 4. In accordance with Section 54.207 of the Texas Water Code, a substantive statement of the rules and the penalty for their violation shall be published once a week for two consecutive weeks in a newspaper with general circulation in the District;

Section 5. The Wastewater Pretreatment Program and Sewer Use Rules shall be effective upon adoption of this Order.

Section 6. Upon approval and execution, a copy of this Order shall be retained in the permanent records of the District.

PASSED AND APPROVED this the 26 day of August, 2010.



President, Board of Directors

ATTEST:



Secretary, Board of Directors

**BRUSHY CREEK MUNICIPAL UTILITY DISTRICT
WASTEWATER PRETREATMENT PROGRAM AND SEWER USE RULES**

Adopted _____, 2010

Section 1. Pretreatment. The District hereby adopts by reference the applicable regulations of Title 40 Code of Federal Regulations, Part 403, "General Pretreatment Regulations for Existing and New Sources of Pollution," and other applicable State and Federal laws, including but not limited to, the Clean Water Act. These regulations are herein referred to as General Pretreatment Regulations.

Section 2. Purpose and Applicability

(1) Purpose

These rules form the basis of Brushy Creek Municipal Utility District's pretreatment program to regulate nondomestic discharges to its sewage collection facilities. Regulation of such discharges is necessary to prevent interference with the operation of Brushy Creek Regional Wastewater System, which provides wholesale wastewater treatment and disposal services to the District; to prevent pass-through of the treatment facilities; and to prevent any other condition which would be incompatible with the facilities; and to enable the publicly owned treatment works (POTW) to comply with Texas Pollutant Discharge Elimination System permit conditions.

(2) Applicability

This section shall be applicable to all nondomestic dischargers to the District's wastewater collection system.

Section 3. Definitions

(1) The following words and phrases shall have the meanings herein:

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

Approval Authority means the Regional Executive Director of the Texas Commission on Environmental Quality (TCEQ).

Approved Test Procedures means those procedures found at Title 40 Code of Federal Regulations, Part 136 and those alternate procedures approved by the Administrator of the United States Environmental Protection Agency under the provisions of Title 40.

Authorized Representative of User means a duly authorized representative of a user in accordance with the General Pretreatment Regulations.

BCRWS Brushy Creek Regional Wastewater System.

BOD (biochemical oxygen demand) means the oxygen required for the biochemical degradation of organic material in five (5) days at twenty degrees Celsius (20°C), expressed in milligrams per liter (mg/L), as determined by approved test procedures.

Categorical User means a user that is subject to the National Categorical Standards.

City means the City of Round Rock, Texas or any authorized person acting in its behalf.

Cooling Water means the water discharged from any system of condensation, such as air conditioning, cooling, and refrigeration systems.

COD (chemical oxygen demand) means the measure of the oxygen equivalent of the organic matter content that is susceptible to oxidation by a strong chemical oxidant, expressed in mg/L as determined by approved test procedures.

Composite sample means a sample resulting from the combination of individual aliquots taken at equal intervals based on increments of time, flow or both.

Control Authority means the General Manager, Director of Public Works or a duly authorized representative for the purpose of implementation and enforcement of this pretreatment program as approved by the Texas Commission on Environmental Quality.

Control Point means point of access to a user's sewer where sewage monitoring can be done.

Dilution means the addition of any material, either liquid or nonliquid, or any other method to attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the national categorical standards or local limits set by this section.

Director means the District's Director of Public Works or his duly authorized representative unless otherwise specified.

District means Brushy Creek Municipal Utility District.

Domestic Sewage means water-borne materials normally discharged from sanitary conveniences of dwellings, including apartment houses and hotels, office buildings, factories and institutions, free from storm water, utility and process discharges. Normal domestic sewage means normal sewage for the District, in which the average daily concentration of biochemical oxygen demand (BOD) and total suspended solids (TSS) are established at two hundred-fifty (250) mg/L each, on the basis of the normal contribution of twenty-hundredths (0.20) pounds per capita per day each, and in which the average daily concentration of chemical oxygen demand (COD) is established at four hundred-fifty (450) mg/L. It is further expressly provided that for the purpose of this section, any discharge that exceeds the above concentration of BOD, TSS or COD shall be classified as nondomestic and made subject to all regulations pertaining thereto, whether or not such discharge was partially of domestic origin.

Environmental Protection Agency (EPA) means the U.S. Environmental Agency, or where, appropriate, The Regional Water Management Division director, or other duly authorized official of said agency.

Existing Source means any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

General Pretreatment Regulations means Title 40 Code of Federal Regulations, Part 403, "General Pretreatment Regulations for Existing and New Sources of Pollution."

Grab sample means an individual sample collected without regard to flow in a time not to exceed fifteen minutes.

Headworks means the location where raw (untreated) sewage is introduced into the sewage treatment facilities.

Interference means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both; (1) inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and (2) therefore is a cause of a violation of any requirement of the POTW's permit or of the prevention of sewage sludge use or disposal.

Maximum Allowable Discharge Limit means maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

Monthly Average Limit means a discharge limit based on the average of the analytical results of all samples for a parameter taken during a calendar month using approved methods for both sampling and analysis.

National Categorical Standards means the pretreatment regulations of Title 40 of the Code of Federal Regulations, Chapter I, Subchapter N, "EPA Effluent Guidelines and Standards."

New Source shall mean the following:

- (a) Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - (i) The building, structure, facility or installation is constructed at a site which no other source is located; or
 - (ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (iii) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are

substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

- (b) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraphs (b) and (c) in Part I above, but otherwise alters, replaces, or adds to existing process or production equipment.
- (c) Construction of a new source as defined herein has commenced if the owner or operator has:
 - (i) Begun, or caused to begin as part of a continuous onsite construction program any placement, assembly, or installation of facilities or equipment; or significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - (ii) 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.

Noncontact cooling water means water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Noncategorical User means a user that is not subject to the national categorical standards.

Nondomestic Sewage means a discharge to the POTW that is not domestic sewage.

Nonprocess flows means sewage that is not classified as domestic or process, such as noncontact cooling water, cooling tower blowdown, air conditioner condensates, and demineralizer blowdown.

Outfall means a discharge of sewage that is expressly identified by the Control Authority for control and monitoring purposes.

Overload means the imposition of mass or hydraulic loading on a treatment facility in excess of its engineered design capacity.

Pass-through means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Brushy Creek Regional Wastewater System TPDES permits, including an increase in the magnitude or duration of a violation.

Person means 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.

pH means the logarithm (base 10) of the reciprocal of the hydrogen ion concentration. Measure of the acidity or alkalinity measured in standard units.

Pollutant means 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).

POTW (Publicly Owned Treatment Works) means the sewage treatment works owned/operated by the BCRWS. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of sewage. It includes sewers, pipes, and other conveyances of the District only if they convey sewage to the BCRWS.

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40 CFR 403.6(d).

Pretreatment Requirements means all of the requirements that are set forth in Section 1 and in 40 CFR.

Process Flow means sewage that is generated during manufacturing or processing, which comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

Removal is as defined in the General Pretreatment Regulations.

Sewage means solids, liquids, or gaseous materials discharged to the District's wastewater system. Sewage includes both domestic and nondomestic sewage.

Sewer (sanitary sewer) means an artificial pipe or channel that carries sewage and to which storm water and ground water are not intentionally admitted.

Shall means mandatory; May is permissive or discretionary.

Significant User means a user that is: (1) subject to national categorical standards; (2) discharges an average of twenty-five thousand (25,000) gallons per day (gpd) or more of process flow to the POTW; (3) discharges of process flow which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant, or; (4) has a reasonable potential, in the opinion of the Control Authority, to adversely affect the POTW treatment plant.

Sewage sludge means any solid, semi-solid, or liquid residue generated during the treatment of domestic sewage in a treatment works. Sewage sludge includes, but is not

limited to, domestic septage; scum or solids removed in primary, secondary, or advanced wastewater treatment processes; and a material derived from sewage sludge. Sewage sludge does not include ash generated during the firing of sewage sludge in a sewage sludge incinerator or grit and screenings generated during preliminary treatment of domestic sewage in a treatment works.

Slug Load means any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards stated herein.

Standard Industrial Classification (SIC) means a classification pursuant to the Standard Industrial Classification Manual issued by the Office of Management and Budget.

Storm Water means any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

Surcharge means the additional wastewater service charge incurred by any user discharging waste containing higher concentrations of BOD, Oil & Grease, TSS and COD than those defined for domestic sewage herein.

To Discharge includes to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit or suffer any of these acts.

TPDES means Texas Pollutant Discharge Elimination System.

TPDES Permit Holder means the Brazos River Authority for the Brushy Creek Regional Wastewater System.

TSS (total suspended solids, nonfilterable residue) means solids that either float on the surface or are in suspension, measure at one hundred-three to one hundred-five degrees Celsius (103-105°C), expressed in mg/L, as determined by approved test procedures.

User means a discharger of any nondomestic sewage to the POTW. A user includes, but is not limited to, any individual, firm, company, partnership, corporation, group, association, organization, agency, city, county, or district.

Wholesale Wastewater Agreement means the Wastewater Service Agreement entered into by the District and the City on October 30, 2009, setting forth the terms and conditions pursuant which the City agreed to provide wholesale wastewater treatment and disposal services on behalf of the District.

- (2) The meaning of all terms used in these Rules that are not defined above shall be as defined in Title 40, Code of Federal Regulations.

Section 4. Pretreatment Standards

There are three types of pretreatment standards: prohibited discharge standards -including general, specific, and dilution prohibitions; national categorical standards; and local limits. These standards shall apply to a user whether or not the user is subject to other federal, state, or local requirements.

The standards in this section shall apply to each user, as applicable. Users in an industrial manufacturing category specified in Title 40 of the Code of Federal Regulations Chapter I, Subchapter N, "EPA Effluent Guidelines and Standards," shall be subject to prohibited discharge standards, national categorical standards, and local limits. Other users shall be subject to prohibited discharge standards and local limits. Where these standards overlap, the most stringent standard shall apply to the user.

The Control Authority, at his discretion, has the right to apply these standards to individual nondomestic discharges before they are commingled.

(1) Prohibited Discharge Standards

(a) General Prohibitions

A user may not discharge to the POTW any material which causes passthrough or interference, or which is specifically prohibited under the Wholesale Wastewater Agreement.

(b) Specific Prohibitions

The following shall not be discharged to the POTW:

- (i) Discharges which are capable of creating a fire or explosion hazard in the POTW. These discharges include, but are not limited to, discharges with a closed cup flashpoint of less than one hundred forty degrees Fahrenheit (140° F), as determined by a Pensky-Martens Closed Cup Tester, using the test method specified in ASTM (American Society for Testing and Materials) standard D-93-79 or D-93-80K or a Seta flash Closed Cup Tester, using the test method specified in ASTM standard D-3278-78;
- (ii) Discharges which will cause corrosive structural damage to the POTW, but in no case discharges with pH lower than 5.5 or greater than 9.5;
- (iii) Discharges containing (1) solid or viscous materials in amounts which will cause obstruction to the flow in or proper operation of the POTW resulting in interference; (2) any materials such as wax, grease, oil, or plastics that will solidify or become discernibly viscous at temperatures between thirty-two and one hundred-fifty degrees Fahrenheit (32-150° F); (3) petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through; (4) any materials such as ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, whole blood, paunch manure, hair and fleshings, entrails, lime slurry, lime residues, slops, chemical residues, paint residues or bulk solids in such quantities capable of causing interference with the POTW; or (5) any fats, oils, greases or similar materials in excess of a daily average limit of two hundred (200) milligram per liter (mg/L) using approved methods for fats, oils and greases.
- (iv) Discharges having a temperature higher than one hundred-fifty degrees Fahrenheit (150° F) (sixty-five degrees Celsius, 65°C), or any discharge

which contains heat in amounts which will inhibit biological activity or cause interference with the POTW, but in no case heat in such quantities that the temperature at the headworks of the POTW exceeds one hundred-four degrees Fahrenheit (104° F) (forty degrees Celsius, 40°C);

- (v) Discharges that contain any noxious or malodorous materials which can form a gas, which either singly or by interaction with other discharges, are capable of causing objectionable odors; or hazard to life; or creates any other condition deleterious to the POTW; or requires unusual provisions, attention, or expense to handle;
- (vi) Discharges which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute workers health and safety problems;
- (vii) Discharges that are capable of causing excessive discoloration in the POTW effluent;
- (viii) Discharges with unusual flow and concentration, including those with oxygen demanding materials, at a flow rate or concentration which will cause interference with the POTW, or if such materials can cause damage to collection facilities, impair the treatment processes, incur excessive treatment cost, or cause noncompliance with the conditions of BCRWS discharge permits;
- (ix) Discharges containing a BOD (biochemical oxygen demand) or TSS (total suspended solids) concentration in excess of 7,000 mg/L;
- (x) Discharges classified by the Texas Commission on Environmental Quality as hazardous waste at 31 TAC (Texas Administrative Code) Chapter 335 without the written approval of the Control Authority;
- (xi) Discharges containing radioactive materials without the written approval of the Control Authority;
- (xii) Materials that are trucked or hauled in, except at discharge points that are designated by the Control Authority; or
- (xiii) Discharges from steam cleaning and chemical cleaning businesses unless a facility or process is provided that will produce an effluent compliant applicable Pretreatment Requirements. There shall be no discharge of visible foam.

(c) Dilution Prohibitions

- (i) No user shall ever add any material, either liquid or nonliquid, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the national categorical standards or local limits.
- (ii) This prohibition does not include dilution which is a normal part of the

production process or a necessary part of the process to treat a waste, such as adding lime for neutralization or precipitation, or the mixture of compatible wastes in order to treat at capacity levels rather than treating wastes in small batches.

- (iii) The Control Authority, at his discretion, may impose mass limitations on a user that is using dilution to meet applicable pretreatment standards or requirements, or in cases where the imposition of mass limitations is appropriate.

(2) National Categorical Standards

National Categorical standards apply to specific industrial subcategories under Title 40 of the Code of Federal Regulations, Chapter I, Subchapter N, "EPA Effluent Guidelines and Standards." A user that falls into one of these subcategories shall be subject to the pretreatment standards applicable to that subcategory and is classified as a categorical user.

(3) Local Limits

Local limits are quantitative limits on discharges applicable to all users. Local limits are designed to meet the general and specific prohibitions in Section 4 of these Rules.

- (a) Existing Local Limits Local limits are periodically reviewed by the Control Authority and revised as necessary to respond to changes in federal, state, or local regulations, environmental protection criteria, plant design and operational criteria, and the nature of industrial discharges to the POTW. Local limits are as follows:

<u>Constituent*</u>	<u>Maximum Allowable Concentration in a Daily Composite, mg/L</u>
Arsenic	1.06
Cadmium	0.32
Chromium	10.70
Copper	3.83
Cyanide	0.40
Lead	0.95
Mercury	0.0**
Nickel	3.96
Selenium	0.04
Silver	0.81
Zinc	1.80

* Limits for metal based on unfiltered samples.

**Compliance shall be measured at the minimum analytical level (MAL) of 0.0002 mg/L)

- (b) Case-by case Local Limits

Local limits that have not yet been established for a material may be developed on a case-by-case, user specific basis. A user must have the case-by-case local limit(s) included in a permit before discharging to the POTW.

Section 5. Significant Users

(1) Option to Exclude Industrial Users

The Control Authority need not list as significant any industrial user that does not meet the definition of a significant industrial user as found in 40 CFR 403.3.

(2) Delisting of Industrial Users

Any industrial user that has been listed as a significant industrial user may petition the Control Authority to be removed from the significant industrial user list and reclassified as nonsignificant on the grounds that it has no potential for adversely affecting the POTW's operation or for violating any of the Pretreatment Requirements.

(3) Notification Requirements

If an industrial user has been listed as a significant industrial user by the Control Authority for whatever reason, prior to removal from the list, the Control Authority will notify the Approval Authority.

Section 6. Discharge Permits

(1) Applicability

The following shall obtain a discharge permit:

- (a) Significant Users;
- (b) Categorical Users;
- (c) Businesses or industries with a manufacturing process;
- (d) Any other business, individual or entity connected to the sanitary sewer, which in the opinion of the Control Authority requires a permit.

These entities shall obtain a permit from the Control Authority prior to discharging non-domestic sewage to the BCRWS. Permit applications shall be submitted to the Control Authority prior to permit issuance. Either the owner or operator of a user's facility shall submit the application.

(2) Denial or Condition of Permit

The Control Authority has the right to deny or condition a permit for any nondomestic discharges that do not meet the Pretreatment Requirements; that would result in a violation of the conditions of the BCRWS's discharge permits; or that would result in a violation of the Wholesale Wastewater Agreement.

(3) Permit Conditions

(a) Minimum Conditions

The permit will contain the following minimum conditions:

- (i) Period during which the permit is effective, in no case greater than five (5) years;
- (ii) Transferability of the permit to a new owner or operator allowable only with notification and approval of Control Authority;
- (iii) Limits on the volume and quality of sewage discharged based on the Pretreatment Standards;
- (iv) Requirements for self-monitoring programs such as location, type, and frequency of sampling, measurement, and analysis; and
- (v) Requirements for notifications, reports, and record keeping.
- (vi) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines.

(b) Other Conditions

The following conditions, as applicable, will be in the permit:

- (i) Conditions and compliance schedule necessary to achieve compliance with the Pretreatment Requirements.
- (ii) Plans to prevent and control spills and batch discharges;
- (iii) Any other conditions necessary to ensure compliance with the Pretreatment Requirements, and other federal, state and local requirements, and;
- (iv) A statement requiring that all reports contain the certification statement at 40 CFR 403.6(a)(2).

(4) Permit Application Form

Applications for new permits, permit renewals, and permit modifications shall be made on a standard form provided by the Control Authority. Applications shall be submitted to the Control Authority.

(5) New Users

A new user shall submit a permit application and obtain a permit before discharging to the POTW. An application shall be submitted by significant users at least one hundred eighty (180) days before the date the discharge will begin. It is recommended that an application be submitted by other user at least ninety (90) days before the date the discharge will begin.

(6) Discharge and Permit Modifications

If a user with a discharge permit wishes to add or change a process or operation which would change the nature or increase the quantities of materials discharged to the POTW such that the user would be noncompliant with the user's permit requirements or the Pretreatment Requirements, the user shall obtain approval by the Control Authority prior to making these additions or changes to the discharge. Approval shall be given by the Control Authority by a modification, or revocation and re-issuance of the permit. A significant user shall submit an application for permit modification at least one hundred eighty (180) days before the date the change in discharge is expected to begin. It is recommended that an application be submitted by other users at least ninety (90) days before the date the change in discharge is expected to begin.

(7) Permit Renewal

A permit may have a period of duration up to five (5) years. A permit shall be renewed by submitting an application for renewal. An application for the user shall be submitted at least ninety (90) days before the expiration date of the existing permit.

(8) Re-opening of Permit

The Control Authority has the right to re-open a permit before its expiration date to include compliance schedules, or to achieve compliance with new or revised Pretreatment Requirements, federal, state, or local requirements.

(9) Changes in Owner or Operator

(a) Transfer of Permit

A permit shall only be transferred to a new owner or operator if the following conditions are met. The expiration date of the permit is not extended by the transfer. The control Authority will send to the owner or operator a revision to the permit to reflect the change in owner or operator.

- (i) The nature of the discharge or operation of the facility will not change under the new owner or operator;
- (ii) The current owner or operator notifies the Control Authority at least thirty (30) days in advance of the proposed transfer date;
- (iii) The notification includes a written agreement between the current and new owner or operator continuing a specific date for transfer of permit responsibility, coverage, and liability between them; and

- (iv) The Control Authority does not notify the current and new owner or operator of the Control Authority' s intent to revoke and reissue the permit. If the Control Authority does not notify, the transfer is effective on the date specified in the written agreement.

(b) Revocation and Re-issuance of Permit

If above conditions in paragraph (a) are not met, the Control Authority shall require the new owner or operator to submit a permit application as a new user and obtain a permit before discharging to the POTW. In addition, the current owner or operator shall notify the Control Authority at least thirty (30) days in advance of the proposed date on which the ownership will change.

Section 7. Removal Credits

- (1) The Control Authority may, at his discretion, grant removal credits to a categorical user to reflect removal by the POTW of materials specified in the national categorical standards. The Control Authority may grant a removal credit equal to or, at his discretion, less than the POTW' s consistent removal rate. Removal credits may only be given for indicator or surrogate materials regulated in a national categorical standard if the standard so specifies.
- (2) A user shall submit a removal credit application to the Control Authority. Written approval by the Control Authority shall be obtained prior to taking the removal credit. Application shall be made on a standard form provided by the Control Authority.
- (3) The Control Authority has the right to grant removal credits only after meeting the requirements of the General Pretreatment Regulations.

Section 8. Notification Requirements

Notification to the Control Authority is required for any of the matters set forth below. The timing, content, and form of notification are established either in the discharge application or discharge permit, as applicable.

- (1) A condition or event that would cause pass-through of or interference with the POTW, including slug loadings as defined by Sections 2 and 3 herein.
- (2) Permit noncompliance.
- (3) Bypasses and upsets.
- (4) A change in pretreatment processes.
- (5) A change in monitoring facilities such as location and type of equipment.
- (6) Discharges of hazardous waste.
- (7) Discharges containing radioactive materials.

- (8) Other appropriate conditions or events to ensure compliance with the Pretreatment Requirements, and other federal, state, or local requirements.

Section 9. Reporting Requirements

(1) Baseline Report

Categorical users shall submit baseline reports in accordance with the General Pretreatment Regulations.

- (a) Within either one hundred eighty (180) days after the effective date of the categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Control Authority a report which contains the information listed in paragraph (b) below. At least ninety days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Control Authority a report which contains the information listed in paragraph (b) below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- (b) Users described above shall submit the following:
 - (i) Identifying Information - The name and address of the facility, including the name of the operator and owner.
 - (ii) Environmental Permits - A list of any environmental control permits held by or for the facility.
 - (iii) Descriptions of Operations - A brief description of the nature, average 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.
 - (iv) 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 to the combined wastestream formula.
 - (v) Measurement of Pollutants - The categorical pretreatment standards applicable to each regulated process. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Control Authority, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily

operations and shall be collected and analyzed in accordance with procedures set out in 40 CFR 136.

- (vi) Signature and Certification - All baseline monitoring reports must be signed and certified in accordance with 40 CFR 403.6 (a)(2)(ii). This statement must be reviewed by an authorized representative of the IU and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis.

(2) Compliance Schedule Progress Reports

- (a) Should additional pretreatment or operation and maintenance be required to meet pretreatment standards, a compliance schedule will be issued. 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 facilities required for the user to meet the applicable pretreatment requirements.
- (b) No increment shall exceed nine (9) months.
- (c) The user shall submit a progress report to the Control Authority no later than fourteen (14) days following each date in the schedule and the final date of compliance. This report shall include as a minimum, whether or not the user complied with the progress increments, reasons for any delays, and steps being taken by the user to return to the established schedule.

(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 Control Authority a report containing the information described in Section 9(1)(b)(iv)-(vi) herein. For users subject to equivalent mass or concentration limits established in accordance with 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with 40 CFR 403.6(a)(2). Categorical users shall submit reports in accordance with the General Pretreatment Regulations on compliance schedule progress, compliance with categorical pretreatment standard deadlines, and continued compliance with categorical pretreatment standards.

(4) Periodic Reports on Continued Compliance

- (a) All significant industrial users shall, at a frequency determined by the Control Authority but in no case less than twice per year, submit a report indicating the nature and concentration of pollutants and the estimated or measured daily maximum and average flows of the discharges to which pretreatment requirements are applicable. All periodic reports must be complete, signed and certified in accordance with 40 CFR 403.6(a)(2)(ii).

- (b) The Control Authority may require all other users and/or persons discharging nondomestic wastewater into the POTW to submit appropriate reports concerning the nature and concentration of pollutants in the discharge.

(5) Reports of Additional Samples Taken

If a user subject to pretreatment requirements monitors any pollutant more frequently than required using approved test procedures, the results of this monitoring shall be included in the periodic reports.

(6) Repeat Sampling and Reporting

If sampling performed by a user indicates a violation, the user must notify the Control Authority 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 Control Authority within thirty (30) days after becoming aware of the violation.

(7) Sample Collection and Monitoring Requirements

All sampling techniques and pollutant analyses used for compilation of data required to be submitted as part of a wastewater discharge application or report required by any pretreatment requirement shall be performed in accordance with the techniques prescribed in Title 40, Code of Federal Regulations, Part 136 unless otherwise specified in an applicable categorical pretreatment standard.

(8) Additional Reports

The Control Authority has the right to request any additional reports from a user that are necessary to assess and assure compliance with the Pretreatment Requirements.

(9) Record Keeping

- (a) Users subject to the reporting requirements of these Rules shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by these Rules and additional records obtained pursuant to monitoring activities undertaken by the user independent of such requirements.
- (b) Records shall include the date, exact place, method, and time of the sampling and the name of the person(s) taking the sample; dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of the analyses.
- (c) 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 of the Control Authority, or where the user has been specifically notified of a longer retention period by the Control Authority.

Section 10. Pretreatment Facilities

Users shall provide pretreatment facilities if they are necessary in order to comply with the pretreatment standards in Section 4 of these Rules.

(1) Approval of Proposed Pretreatment Facilities

Plans, specifications, and any other pertinent information related to proposed pretreatment facilities for significant users shall be submitted to the Control Authority. Other users may be requested by the Control Authority to submit plans, specifications, and any other pertinent information related to proposed pretreatment facilities. Construction of such facilities prior to acceptance by the Control Authority may be done solely at the risk of the user. This acceptance shall in no way relieve the user of the obligation to install, operate, maintain and, if necessary, modify the pretreatment facilities to maintain compliance with the Pretreatment Requirements. Pretreatment facilities shall be constructed so as to provide the following:

- (a) Prevention of prohibited discharges from entering a sewer;
- (b) Control of the quantities and rates of discharge of nondomestic sewage into a sewer; and
- (c) An accessible entry so that any authorized employee of the District may readily and safely inspect and monitor the nondomestic discharges.

(2) Pretreatment Facilities To Be Maintained

Pretreatment facilities shall be maintained in satisfactory and effective operation by the user at the user's expense. Operation and maintenance records shall be maintained by the user as specified in the user's discharge permit.

(3) Accidental Discharge/Slug Control Plans

Users discharging nondomestic wastewater into the POTW shall provide protection from the accidental discharge of prohibited wastes. Prior to the commencement of any nondomestic discharge and at least once every two years the Control Authority shall evaluate whether each significant user requires an accidental discharge/slug control plan. The Director may require any user to develop, submit for approval, and implement such a plan. Alternatively, the Director may develop such a plan for any user. Each plan shall include the following as a minimum:

- (a) Description of discharge practices, including nonroutine batch discharges;
- (b) Description of stored chemicals;
- (c) Procedures for immediately notifying the Director of any accidental or slug discharge, as required by Section 8 of these Rules.
- (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,

measures and equipment for emergency response and any other procedures deemed necessary to prevent accidental/slug discharges from entering the POTW.

(4) Additional Pretreatment Measures

- (a) Whenever deemed necessary, the Control Authority may require user 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 wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of these Rules.
- (b) Grease, oil and sand interceptors shall be provided when deemed necessary by the Control Authority for the proper handling of wastewater containing excessive amounts of grease and oil or sand. Such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the Control Authority and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.
- (c) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

Section 11. Inspection, Surveillance, and Monitoring

(1) Minimum Monitoring Requirements

- (a) Significant users shall be required to self-monitor to meet, at a minimum, the requirements of the General Pretreatment Regulations.
- (b) Users that have the potential to routinely discharge nondomestic sewage that contains concentrations of BOD, TSS, and COD higher than those defined for domestic sewage herein shall be independently monitored by the District for flow, BOD, TSS, COD and pH at least once a year. The Control Authority shall determine which users have this potential.
- (c) The District shall independently monitor all other users for flow, BOD, TSS, COD, and pH at a frequency in relation to their potential impact on the POTW, as determined by the Control Authority.
- (d) The Control Authority may increase the frequency and/or add parameters to a user's self-monitoring program or the District's independent monitoring program to ensure compliance with the Pretreatment Requirements.

(2) Sampling and Analysis

- (a) Significant users shall meet the requirements of the General Pretreatment Regulations for sampling and analysis. Other users shall meet the requirements for sampling and analysis as stated herein or in the user's control document.

- (b) For all users, containers, preservation techniques, and holding times for samples shall comply with methods and procedures found at Title 40 Code of Federal Regulations, Part 136.
- (c) For all users, sample analysis shall be in accordance with approved test procedures. The Control Authority, at this discretion, may specify which approved test procedure shall be used.
- (d) Type of samples (grab or composite) and flow measurement shall be consistent with the type of discharge and parameters being regulated and shall be specified by the Control Authority in the permit.

(3) Control Point

A user shall provide a control point for the purpose of sampling and flow measurement. The location and design of the control point shall be approved by the Control Authority. The control point shall be placed so that nondomestic sewage can be sampled and measured prior to any commingling with domestic sewage or nonprocess flows. Written approval of exceptions to this requirement shall be obtained by user from the Control Authority. It is recommended that the control point for sampling and flow measurement be at the same location. Flow may be determined by water supply meter measurements if no other flow device is available and no other source of raw water is used. Other methods for estimating wastewater discharge flow must approved by the Control Authority.

(4) Inspection and Entry

Pursuant to the authority set forth in Section 49.221 of the Texas Water Code, the Control Authority or his duly authorized representative, Federal and State Officials, shall be permitted to access to properties within the District as may be necessary for the purpose of inspection, observation, sampling, set up and use of monitoring equipment, and inspection and copying of records having a direct bearing on the discharges of nondomestic sewage. Unreasonable delays in allowing access to the user's premises shall be a violation of these Rules.

(5) Use of Contractors

The Control Authority may select an independent contractor to conduct the independent monitoring by the District.

Section 12. Enforcement

(1) Administrative Order

In addition to any other actions or remedies authorized in these Rules, the Control Authority or its duly authorized representative is authorized to enforce these Rules through the exercise of any one or more of the following administrative actions. Unless otherwise expressly set forth herein, the selection or use of one such action or remedy by the Control Authority shall not be construed to prevent the Control Authority from pursuing any other enforcement actions or remedies nor require the pursuit of a particular action or remedy as a condition precedent to the use of any other such action or remedy.

(2) Notice of Violation

The Control Authority shall serve a user that is found noncompliant with the Pretreatment Requirements with a notice stating the nature of the noncompliance. This notice may or may not be in writing.

Each day of violation constitutes a separate noncompliance.

Within thirty (30) days after the date of receipt of this notice, a user shall submit a written response to the Control Authority with an explanation of the noncompliance, what steps are currently being taken to prevent the noncompliance, and a plan for the correction and continued prevention of the noncompliance. Submission of this response in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation.

(3) Consent Order

The Control Authority may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document.

(4) Show Cause Hearing

The Control Authority may order a user which has violated or continues to violate, any provision of these Rules, a wastewater discharge permit or enforcement action issued, or any other pretreatment requirement, to appear the Director 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 by hand or certified mail at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

(5) Compliance Order/Compliance Schedules

(a) Applicability

If a user cannot comply with the pretreatment standards in Section 4 or any other pretreatment requirement, the Control Authority may provide a compliance order containing a schedule for achieving compliance.

(b) Allowable Time for Compliance

The compliance schedule shall be the shortest time in which the user is able to provide pretreatment facilities or changes in operation and maintenance that will achieve compliance. If a user is given a compliance schedule for national categorical standards, the completion date of this schedule shall not be later than the compliance date established for the applicable national categorical standard and shall be in accordance with the General Pretreatment Requirements. A user

shall not continue discharging in noncompliance of the Pretreatment Requirements beyond the time limit provided in the compliance schedule.

(c) Form of Compliance Schedule

Compliance schedules may be provided by the Control Authority by notice of noncompliance, enforcement order, or as part of the discharge permit. The Control Authority has the right to re-open a user's discharge permit in order to add a compliance schedule.

(6) Cease and Desist Order

When the Control Authority finds that a user has violated, or continues to violate, any provision of these Rules, a wastewater discharge permit or order issued herein, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Control Authority may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- (a) Immediately comply with all requirements; and
- (b) Take such appropriate remedial or preventive actions may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(7) Authority to Disconnect Service

(a) Conditions for Disconnection

The District shall have the right to disconnect a user's sewer service when a user's discharge reasonable appears to:

- (i) Damage sewer lines or POTW treatment processes;
- (ii) Cause the BCRWS to be noncompliant with the conditions of its discharge permits;
- (iii) Present an endangerment to the environment or which threatens to interfere with the operation of the POTW; or
- (iv) Present an imminent endangerment to the health or welfare of persons.

(b) Notification

In the case of an imminent endangerment to the health or welfare of persons, the Control Authority shall give oral or written notice to a user before disconnecting sewer service. Under all other conditions for disconnection, the control Authority shall give written notice to a user before disconnection. Within ten (10) days after receipt of notification of disconnection, the user must submit a written response to the Control Authority with an explanation of the cause of the problem and what measures have and will be taken to prevent any future occurrence.

Submission of this response in no way relieves the user of liability for any violations occurring before or after receipt of the notice of disconnection.

(c) Reconnection of Service

The user' s sewer shall remain disconnected until such time that the user has demonstrated that the cause of this noncompliance has been eliminated.

(d) Liability

The District shall not be liable for any resulting damage to the user' s property as a result of disconnection under the conditions for disconnection.

(8) Termination of Permit

A user that violates any of the following conditions may be subject to permit termination:

- (a) Failure to report a reasonable estimate of the volume and quality of its nondomestic sewage.
- (b) Failure to notify the Control Authority of a change in process or operation which would significantly change the nature or increase the quantities of materials discharged to the POTW that would cause the user to be noncompliant with its discharge permit requirements or the Pretreatment Requirements.
- (c) Refusal of right of entry to the user' s premises in accordance with Section 11 of these Rules.
- (d) Intentional violation of permit conditions.
- (e) Falsifying information.
- (f) Failure to pay sewer charges or fines.

(9) Injunctive Relief

The District may seek injunctive relief to restrain or compel actions of a user.

(10) Civil and Criminal Penalties

Pursuant to the authority set forth in Section 49.004 of the Texas Water Code, the District has the right to seek or assess civil penalties in an amount equal to one thousand dollars (\$1,000) per day for each violation of the user' s permit or the Pretreatment Requirements.

Section 13. Affirmative Defenses to Discharge Violations

(1) Act of God Defense

- (a) The Act of God defense constitutes a statutory affirmative defense [Texas Water Code Section 7.251] in a judicial proceeding brought by the District. If a person

can establish that an event that would otherwise be a violation of a pretreatment rule, or a permit issued under the Rules, was caused solely by an act of God, war, strike, riot or other catastrophe, the event is not a violation of the Rules or permit. Act of God does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

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

- (i) An event that would otherwise be a violation of these Rules or a permit issued under the Rules occurred, and the sole cause of the event was an act of God, war, strike, riot or other catastrophe; and
- (ii) The industrial user has submitted the following information to the POTW and the District within twenty-four (24) hours of becoming aware of the event that would otherwise be a violation of a pretreatment rule or a permit issued under the Rules (if this information is provided orally, a written submission must be provided within five (5) days):
 - 1. A description of the event, and the nature and cause of the event;
 - 2. The time period of the event, including dates and times or, if still continuing, the anticipated time the event is expected to continue; and
 - 3. Steps being taken or planned to reduce, eliminate and prevent recurrence of the event.

(c) Burden of Proof

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

(d) Users shall control production of all discharges to the extent necessary to maintain compliance with pretreatment requirements 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 for the treatment facility is reduced, lost, or fails.

(2) Bypass

- (a) Bypass means the intentional diversion of wastestreams from any portion of a user's treatment facility.
- (b) 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.

- (c) 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.
- (d) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Control Authority at least ten days before the date of the bypass, if possible.
- (e) A user shall submit oral notice to the Control Authority of an unanticipated bypass that exceeds applicable pretreatment requirements 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 from 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 Control Authority may waive the written report on a case-by-case basis if proper oral notice has been given.
- (f) Bypass is prohibited, and the Control Authority may take an enforcement action against a user for a bypass, unless
 - (i) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (ii) There were no feasible alternatives to the bypass, such as the use auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (iii) The user submitted notices as stated herein.
- (g) The Control Authority may approve an anticipated bypass, after considering its adverse effects, if the Control Authority determines that it will meet the three conditions in paragraph (f) above.

Section 14. Confidentiality

Information and data pertaining to an industrial user or other person subject to these Rules obtained from reports, surveys, wastewater discharges, permit applications, wastewater discharge permits, monitoring programs, and from District inspection, sampling and enforcement activities shall be available to the public in accordance with the laws of the State of Texas subject to the following:

- (1) Such information shall be withheld from disclosure if the industrial user or the person subject to this chapter makes a specific and timely request in writing and

demonstrates to the satisfaction of the Control Authority that the release of such information would divulge information, processes or methods of production entitled to protection as trade secret under applicable law;

- (2) When timely requested and demonstrated that such information should be held confidential, the portions of the information that might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon request to governmental agencies for uses related to the TPDES or pretreatment and monitoring program and in enforcement proceedings involving the person furnishing the information;
- (3) Wastewater constituents and characteristics and other “effluent data” as defined by 40 CFR 2.302 will not be recognized as confidential information and will be made available to the public without restriction.

Section 15. Right of Revision

The District shall have the right to revise the Pretreatment Requirements to ensure compliance with federal, state, or local requirements, or any requirements set forth in the Wholesale Wastewater Agreement.

Section 16. Public Participation

The District shall comply with the public participation requirements of Title 40 Code of Federal Regulations, 403.8(f)(2)(vii) in the enforcement of these Pretreatment Requirements.