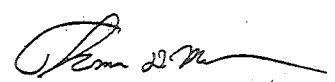


In City Council September 23, 2019

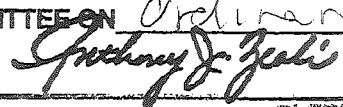
ORDINANCE:

An Ordinance Amending the Revised Ordinances of the City of Brockton, Chapter 23-Water, Sewer and Sewage Disposal, Article III-Sewer and Sewerage Disposal to add reference to Best Management Practices and also to amend sections 23-38 through 23-92.

  
Councillor

Councillor Thomas Monahan

IN CITY COUNCIL

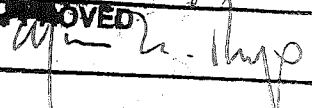
September 23, 2019  
**READ AND REFERRED TO STANDING**  
**COMMITTEE ON** Ordinances  
  
CLERK

In City Council October 28, 2019

Passed to a third reading by a hand vote.

  
City Clerk

SENT TO MAYOR FOR APPROVAL

November 15, 2019  
**APPROVED**  
  
MAYOR

In City Council November 12, 2019

Adopted by a roll call vote taken by "yeas" and "nays"; ten members present and all voting in the affirmative. Councillor Monahan absent.

  
City Clerk

DIVISION I. - GENERALLY

Sec. 23-38. - Purpose and policy.

Article III of this chapter sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the City of Brockton Wastewater Treatment Facility (the "facility"), and enable the facility to comply with all applicable requirements under Massachusetts and federal law, including, without limitation, the Clean Water Act of 1977 and the general pretreatment regulations promulgated thereunder at 40 C.F.R. Part 403; the national pollutant discharge elimination system permit, issued to the city by the United States Environmental Protection Agency (Federal Permit No. MA 0101010) and the Massachusetts Department of Environmental Protection (State Permit No. M-89); and G.L. chapter 21 and the pretreatment regulations promulgated thereunder at 314 C.M.R. sections 2.00, 7.00, and 12.00.

Article III of this chapter (this "article") shall apply to the facility and to persons who are, by contract, agreement or permit with the facility, users of the facility. This article supersedes in its entirety Article III of Chapter 23 as adopted by the city council on December 30, 1985 (Ord. No. D204), and as most recently amended on June 25, 1992 (Ord. No. D320). Except as otherwise provided herein, the commissioner of the city department of public works (the "commissioner") shall, pursuant to the authorization of the city council, administer, implement and enforce the provisions of this article.

(Ord. No. D395, 10-18-96)

Sec. 23-39. - Definitions.

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this article, shall have the meanings hereinafter designated:

*Act.* The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. section 1251 et seq., and the regulations promulgated thereunder, as amended from time to time.

*Authorized representative of industrial user.* An authorized representative of an industrial user is the person identified in 40 C.F.R. section 403.12(1), including:

- (1) A principal executive officer of at least the level of vice president, if the user is a corporation;
- (2) A general partner or proprietor if the user is a partnership or sole proprietorship, respectively;
- (3) A member of the governing board or executive office of a governmental entity, if the user is a governmental facility, or;
- (4) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates, or has overall responsibility for environmental matters for the user; provided, however, that the authorization is made in writing by the individual described above, and the written authorization is submitted to the facility.

*ADD...* "Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibition listed in OAC 3745-3-04. BMPs also 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."

*Biochemical oxygen demand ("BOD").* The quantity of oxygen utilized in the biochemical oxidation of organic matter, under standard laboratory procedures in five (5) days at 20° centigrade, expressed in terms of milligrams per liter (mg/l), in the biochemical oxidation of organic matter under standard laboratory procedure.

4/3

shall be assessed on the basis of samples of the person's wastewater discharge collected at each point of connection between the person's building, structure, facility or installation and the facility's sewerage system. If a national categorical pretreatment standard establishes limitations for industrial users in a particular industrial subcategory which are more stringent than the limitations specified in Schedule A, those more stringent limitations shall immediately apply to those users subject to that national categorical pretreatment standard. Compliance with national categorical pretreatment standard limitations shall be assessed in accordance with the requirements set forth at 40 C.F.R. section 403.12(b)(5).

Sec. 23-78. - Industrial user pretreatment.

- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all measurements add "for each pollutant parameter, taken at each of the SIUs permitted monitoring points", taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement including instantaneous limits as defined by 40 CFR 403.3.
- (2) Technical review criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all of the measurements for each pollutant parameter add "taken at each of the SIUs permitted monitoring points," taken during the six-month period equal or exceed the product of a numeric pretreatment standard or requirement including instantaneous limits as defined by 40 CFR 403.3 (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH).

Sec. 23-81. - Slug discharge plans.

At least once every two (2) years, the commissioner shall evaluate whether each significant industrial user needs a plan to control slug discharges. The significant industrial user shall comply with the provisions of any such slug control plan which the commissioner determines to be necessary, including, but not limited to:

Delete two (2) years and replace with "control mechanism cycle"

Sec. 23-85. - Permit application requirements.

- (6) *Certification.* move to below \*\*\*A statement, reviewed by an authorized representative of the industrial user and certified to by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and if not, whether additional operation and maintenance ("O and M") and/or additional pretreatment is required for the industrial user to meet the pretreatment standards and requirements; and

Insert the following after the word "Certification"

"All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user, someone who has general management authority and responsibilities and has the authority to make capital investment decisions, and of initiating and directing other comprehensive measures to assure long term environmental compliance, and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the

*Industrial waste.* Any liquid, gaseous or solid waste substance, or a combination thereof, resulting from any process of industry, manufacturing, trade or business or from the development or recovery of any natural resources.

*Interference.* A discharge which, alone or in conjunction with discharges from other sources, inhibits or disrupts the facility, its treatment processes or operations, or its sludge processes, use or disposal and which is a cause of a violation of any requirement of the facility's NPDES permit (including an increase in the magnitude or duration of a violation), or of the prevention of sewage sludge use or disposal by the facility in accordance with applicable federal, state or local statutes and regulations or permits issued thereunder, as set forth in 40 C.F.R section 403.3(1).

*Municipality.* A municipal corporate body created by the Massachusetts Legislature or other entity which, by contract or other agreement, contributes wastewater to the facility, acting through its mayor, city council, town council, board of selectmen, board of water and sewer commissioners, or their duly authorized representative.

*National pretreatment standard, pretreatment standard or standard.* Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with sections 307(b) and (c) of the act which applies to industrial users, including the specific discharge prohibitions found in 40 C.F.R section 403.5.

*New source.* Any building, structure, facility or installation, as described in 40 C.F.R. section 403.3(k)(1), 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.

*NPDES (national pollutant discharge elimination system) permit.* A permit issued pursuant to section 402 of the act, 33 U.S.C. section 1342, and M.G.L chapter 21, section 43.

*Pass through.* The discharge of pollutants through the facility 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 facility's NPDES permit (including an increase in the magnitude or duration of a violation).

*Person.* Any individual, partnership, public or private corporation or authority, association, trust, estate, governmental entity, agency or political subdivision of a municipality, the Commonwealth of Massachusetts, or the United States, or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, and the singular shall include the plural where indicated by the context.

*pH.* The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

*Pollutant.* Any element or property of sewage, agricultural, industrial or commercial waste, runoff, leachate, heated effluent, or other matter, in whatever form and whether originating at a point or major non-point source, which is or may be discharged, drained, or otherwise introduced into any sewerage system, treatment works, or waters of the Commonwealth.

*Pollution.* The presence in the environment of conditions or contaminants in quantities or characteristics which are or may be injurious to human, plant, or animal life or to property, or which unreasonably interferes with the comfortable enjoyment of life and property throughout such areas as may be affected thereby.

*Pretreatment.* The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into the facility. The reduction or alteration can be obtained by physical, chemical or biological processes, process changes, or other means, except as prohibited by 40 C.F.R. section 403.6(d).

*Pretreatment requirements.* Any substantive or procedural requirement related to pretreatment, other than a national pretreatment standard, imposed on a user.

431

*Sanitary sewage* shall mean liquid and water-carried human and domestic wastes from residences, commercial buildings, industrial plants and institutions, exclusive of ground, storm and surface water and exclusive of industrial wastes.

*Sanitary sewer* shall mean a sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants and institutions together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.

*Sewage* is the spent water of a community. The preferred term is "wastewater."

*Sewer* shall mean a pipe or conduit that carries wastewater.

*Sewerage system* shall mean any device, equipment, or works used in the transportation, pumping, storage, treatment, recycling, and reclamation of sewage and industrial wastes.

*Shall* is mandatory, *may* is permissive.

*Significant industrial user.*

(1) Except as provided in subsection (2) of this definition, "significant industrial user" means:

- a. All industrial users subject to categorical pretreatment standards under 40 C.F.R. 403.6 and 40 C.F.R. chapter I, subchapter N; and
- b. Any other industrial user that discharges an average of twenty-five thousand (25,000) gallons per day or more of process wastewater to the facility (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the facility treatment plant; or is designated as such by the commissioner on the basis that the industrial user has a reasonable potential for adversely affecting the facility's operation or for violating any pretreatment standard or requirement (in accordance with 40 C.F.R. 403.8(f)(6)).

- (2) Upon a finding that an industrial user meeting the criteria in subsection (1)a. of this definition has no reasonable potential for adversely affecting the facility's operation or for violating any pretreatment standard or requirement, the commissioner may at any time, upon his or her own initiative or in response to a petition received from an industrial user, and in accordance with 40 C.F.R. section 403.8(f)(6), determine that such industrial user is not a significant industrial user.

*Sludge* shall mean waste containing varying amounts of solid contaminants removed from water, sanitary sewage, wastewater or industrial wastes by physical, chemical and biological treatment.

*Slug discharge.* Any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge.

*Standard industrial classification ("SIC").* A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972, as amended from time to time.

*Storm water.* Any flow occurring during or following any form of natural precipitation, and resulting therefrom.

*Suspended solids.* The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

*Toxic pollutant.* Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under section 307(a) of the act, or other acts; or in regulations promulgated under G.L. chapter 21, including, but not limited to, 314 C.M.R. sections 3.00, 7.00 and 12.00.

*User.* Any domestic source or industrial user, whether located inside or outside of the city, which discharges wastewater to the facility.

*Wastewater.* The liquid and water-carried industrial, non-domestic or domestic wastes, including sewage, industrial waste, other wastes, or any combination thereof, from dwellings, commercial buildings, industrial facilities and institutions, together with any groundwater, surface water and storm water that may be present.

*Wastewater discharge permit or permit.* The document issued by the city, as set forth in sections 23-100 and 23-101 of this article.

*Waters of the Commonwealth.* All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, border upon or are within the jurisdiction of the Commonwealth.

(Ord. No. D395, 10-18-96)

Sec. 23-40. - Function of department of public works.

The department of public works shall make and prepare all plans and needed specifications designed to govern the work of sewer construction. It shall cause accurate plans thereof to be made, representing the location, depth and material, with a section plan of each sewer, indicating its size, shape, thickness and construction, and cause to be shown upon such plan all existing connections of sewers and all other connections when made.

(Ord. No. D395, 10-18-96)

Sec. 23-41. - Cutting, interfering, etc. with public sewer generally.

No person shall cut into, interfere with or obstruct a public sewer.

(Ord. No. D395, 10-18-96)

Sec. 23-42. - Pipes or construction work which interferes with sewers.

All laying of pipe and construction work which entails the opening of any street shall be done in such a manner as not to obstruct the course, capacity or construction of a public sewer. If any such pipes or work are found to exist at such depth or in such location as to interfere with any existing sewer, or with the building of any public sewer of the required size and at the proper depth and grades, the person maintaining the same shall, upon notice thereof, at once remove, change or alter such pipes, or other works, in such manner as the commissioner may direct. If such person neglects to comply immediately with the terms of such notification, the commissioner may make such removal, change or alteration, and the cost thereof shall be paid by such person.

(Ord. No. D395, 10-18-96)

Sec. 23-43. - Applications for construction, connections, etc.

All applications for the construction of building sewers and their entrances into public sewers, and for permits to enter the same, shall be in such form as the department of public works shall prescribe, and be filed with the department of public works.

All such building sewers and their entrances into the public sewers shall be constructed, maintained and kept in proper repair by the department of public works, and shall be the property of the city. The cost thereof shall be paid by the owners of the estates connecting, before the same are used or house

431  
connections made therewith, and the cost of all repairs made thereon shall be paid by the owners of estates connecting.

(Ord. No. D395, 10-18-96)

Sec. 23-44. - License required to connect with public sewer.

No person shall connect a private drain or sewer into a public sewer or its connections, or into the underdrain constructed in connection therewith, unless he is duly licensed thereto.

(Ord. No. D395, 10-18-96)

Sec. 23-45. - Facility sewer connection specifications.

With respect to connection of a building sewer into a sewer interceptor owned by the facility:

- (1) The size, slope, alignment, materials or construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing and backfilling the trench, shall all conform to the requirements of the building and plumbing code or other applicable rules and regulations of the commissioner and relevant municipality. In the absence of code provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the A.S.T.M. and W.P.C.F. Manual of Practice No. 9 shall apply.
- (2) No person shall make connection of roof downspout, exterior foundation drains, areaway drains, or other sources of surface runoff or ground water to a building sewer or building drain which in turn is connected directly or indirectly to a facility sewer interceptor.
- (3) The connection of the building sewer in the facility sewer interceptor shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the commissioner and relevant municipality, or the procedures set forth in appropriate specifications of the A.S.T.M. and the W.P.C.F. Manual of Practice No. 9. All such connections shall be made gastight and watertight. Any deviation from the prescribed procedures and materials must be approved by the commissioner and the municipality before installation.
- (4) The applicant for a sewer connection permit for a connection into a facility sewer interceptor shall notify the commissioner and the municipality when the building sewer is ready for inspection and connection to the facility sewer interceptor. The connection shall be made under the supervision of the commissioner or its designee.
- (5) All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other property disturbed in the course of the work shall be restored in a manner satisfactory to the commissioner and the municipality.
- (6) All costs and expenses incident to the installation and connection of the building sewer to the facility's sewer interceptor shall be borne by the owner. The owner shall indemnify the city and the municipality from any loss or damage that may directly or indirectly be occasioned by the installation or connection of the building sewer.

(Ord. No. D395, 10-18-96)

Secs. 23-46—23-55. - Reserved.

DIVISION 2. - RATES AND CHARGES<sup>[4]</sup>

431

Footnotes:

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State Law reference— Sewer charges 13-1-10, 13-1-18

Sec. 23-56. - Annual charges for use of public sewer.

Every person or owner of an estate who enters his building sewer into a public sewer shall pay for the use of such public sewer an annual rental determined upon the basis of water service, and set forth on Schedule B annexed hereto, as the same may be amended from time to time. The quantity used shall be determined by the meter readings taken by the water division of the department of public works. In cases where the commissioner of the department of public works may deem to be equitable, a discount may be made, such discount to be determined by the commissioner and approved by the mayor and city council, and any such person or owner may place at his own expense, a water meter, which shall be approved by the commissioner, to measure the amount of water which does not enter the sewer.

(Ord. No. D395, 10-18-96; Ord. No. D430, 8-27-98)

**Editor's note**— Schedule B, referenced in this section, is set out at the end of Division 2 of this article.

Sec. 23-57. - Charges for disposal of privately collected domestic wastes.

- (a) All domestic waste collections shall be disposed of at the facility treatment plant only, and shall be subject to the requirements of section 23-82 hereof.
- (b) Charges for the depositing of such wastes from septic tank or cesspool cleaning, whenever and wherever permitted by the commissioner, shall be based on truck capacity and concentration of chemical oxygen demand (COD), and shall be as set forth on Schedule B annexed hereto, as the same may be amended from time to time.

(Ord. No. D395, 10-18-96)

**Editor's note**— Schedule B, referenced in this section, is set out at the end of Division 2 of this article.

Sec. 23-58. - Charges for connections to sewer system.

- (a) Whenever any property is connected to the city sewer system, the estate so connected shall be assessed, in addition to the actual costs of construction, a premium as set forth on Schedule B hereto, as the same may be amended from time to time.
- (b) All homes completed and a certificate of occupancy issued prior to July 1, 1978, shall be exempt from payment of this assessment. All homes on streets which do not have city sewer lines as of July 1, 1985, shall also be exempt from the provisions of this chapter.



- 431
- (c) All charges shall be a lien against the real estate so connected and as the premium assessments are collected, they shall be allocated to a special fund for capital improvements to the water supply system.

(Ord. No. D395, 10-18-96)

**Editor's note**— Schedule B, referenced in this section, is set out at the end of Division 2 of this article.

Sec. 23-59. - Charges and fees.

It is one of the purposes of this article to provide for the recovery of costs from persons who use the facility's wastewater disposal system in order to implement the programs established herein. The city may adopt charges and fees which may include:

- (1) Fees for reimbursement of the costs of setting up and operating the facility's pretreatment program;
- (2) Fees for monitoring, sampling, inspections and surveillance procedures;
- (3) Fees for reviewing accidental discharge procedures and construction;
- (4) Fees for permit applications and modifications;
- (5) Fees for consistent removal (by the facility) of pollutants otherwise subject to national categorical pretreatment standards;
- (6) Fees for sludge disposal;
- (7) Other fees as the city may deem necessary to carry out the requirements contained herein.

(Ord. No. D395, 10-18-96)

Sec. 23-60. - Assessment of charges and fees.

The applicable charges or fees for the items enumerated in section 23-59, above, shall be set from time to time by the city council, and shall be assessed via the city's agreements for wastewater treatment services or other contracts with municipalities or other users in accordance with division 2 herein, or on a fee-for-specific-service basis, in accordance with a schedule duly adopted by the city council and annexed hereto as Schedule B, as the same may be amended from time to time.

(Ord. No. D395, 10-18-96)

**Editor's note**— Schedule B, referenced in this section, is set out at the end of Division 2 of this article.

Secs. 23-61—23-69. - Reserved.

#### **SCHEDULE B CHARGES AND FEES**

*Annual Charges for Use of Public Sewer (Section 23-56)*

Rates on all sewer bills mailed on or after January 1, 1999:

| Rate Block of Quarterly Usage (per 100 cubic ft of water usage) | Rate effective on all bills mailed on or after January 1, 2005 | Rate effective on all bills mailed on or after January 1, 2006 | Rate effective on all bills mailed on or after January 1, 2008 |
|---|--|--|--|
| 0 to 2,500  | \$1.92   | \$2.02   | \$2.22   |
| 2,501 to 5,000  | \$2.40   | \$2.52   | \$2.77   |
| 5,001 to 10,000   | \$2.81   | \$2.95   | \$3.25   |
| 10,001 to 25,000  | \$3.28   | \$3.44   | \$3.78   |
| 25,001 to 875,000   | \$3.84   | \$4.03   | \$4.43   |
| Greater than 875,000  | \$4.83   | \$5.07   | \$5.58   |

*Charges for Disposal of Privately Collected Domestic Wastes (Section 23-57)*

- (a) There shall be a minimum charge of eight cents (\$0.08) per gallon for each such deposit and the maximum capacity of the truck shall be billed for each dumping.
- (b) For a chemical oxygen demand ("COD") of fifteen thousand (15,000) to twenty-five thousand (25,000) mg/l, eleven dollars (\$11.00) additional. For a COD of twenty-five thousand (25,000) to forty thousand (40,000) mg/l, twenty dollars (\$20.00) additional.

*Charges for Connection to Sewer System (Section 23-58)*

- (a) Single-family or duplex home, per each connection to main line ..... \$275.00
- (2) Multiple housing unit (more than two-family) per each connection to main line .....\$550.00
- (3) Commercial or industrial building, per each connection to main line .....\$825.00

*Industrial Discharge Permit Application Fee (Section 23-85)*

An application for an industrial discharge permit shall be accompanied by a permit of two hundred twenty dollars (\$220.00), as prescribed in section 23-85 of this article. Change to \$260.00

(Ord. No. D395, 10-18-96; Ord. No. D430, 8-27-98; Ord. No. G016, 5-17-04)

**DIVISION 3. - REGULATION OF WASTEWATER DISCHARGES AND INDUSTRIAL PRETREATMENT**

**Subdivision 1. - Prohibited Activities**

**Sec. 23-70. - General discharge prohibitions.**

431

No person may introduce into the facility any pollutant(s) which cause pass through or interference. These general prohibitions and the specific prohibitions in section 23-71 of this article apply to each person introducing pollutants into the facility, whether or not the person is subject to other national pretreatment standards or any national, state or local pretreatment requirements.

(Ord. No. D395, 10-18-96)

Sec. 23-71. - Specific discharge prohibitions.

Supplementing the provisions of section 23-70 above, and not by way of limitation, the following discharges to the facility are specifically prohibited:

- (1) Ground, storm and surface waters, roof runoff, subsurface drainage, uncontaminated cooling water and uncontaminated industrial process waters. These discharges shall be made only to such sewers as are specifically designated by the commissioner as storm sewers, or to a natural outlet, as may be permitted under an applicable NPDES permit.
- (2) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to create a fire or explosion hazard or be injurious in any other way to the facility or to the operation of the facility. Pollutants which create a fire or explosion hazard include, but are not limited to, wastestreams with a closed-cup flashpoint of less than one hundred forty (140) degrees Fahrenheit or sixty (60) degrees centigrade using the test methods specified in 40 C.F.R. section 261.21. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, fuel oil, crude oil, lubricating oils, any other oils or greases of hydrocarbon or petroleum origin, toluene, xylene, ethers, alcohols, ketones, aldehydes peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides, and any other substances which the commissioner, the division, or EPA has notified the person is a fire hazard or a hazard to the system.
- (3) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers or other interference with the proper operation of the facility such as, but not limited to: grease, garbage with particles greater than one-half (½) inch in any dimension, animal guts or tissues, paunch, manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, rubber, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes.
- (4) Any wastewater having a pH lower than 6.0 or higher than 11.0, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the facility.
- (5) Any wastewater containing toxic or objectionable pollutants in sufficient quantity or concentration, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the facility, or exceed the limitations set forth in a national categorical pretreatment standard, the local discharge limitations prescribed herein at section 23-74, or an industrial discharge permit issued pursuant to this article. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to section 307(a) of the act listed at 40 C.F.R. Part 403, App. B.
- (6) Any substances which result in the presence of toxic gases, vapors or fumes within the facility in a quantity that may cause acute worker health and safety problems.
- (7) Any substance which may cause the facility's effluent or any other product of the facility such as residues, sludges, or scums, to be unsuitable for disposal in a permitted landfill or for reclamation and reuse, or to interfere with the reclamation and reuse, or to interfere with the reclamation process. In no case shall a substance discharge to the facility or cause the facility

431  
to be in noncompliance with sludge use or disposal criteria, guidelines, or regulations developed under section 405 of the act; or with any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, or state criteria applicable to the sludge management method being used.

- (8) All pollutants, including oxygen-demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause interference to the facility.
- (9) Any slug discharge, as defined at section 23-39.
- (10) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
- (11) Any wastewater having a temperature which will inhibit biological activity in the facility resulting in interference, but in no case wastewater with a temperature at the introduction into the facility which exceeds forty (40) degrees centigrade (one hundred four (104) degrees Fahrenheit).
- (12) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits necessary to comply with applicable state or federal regulations.
- (13) Any sludges or deposited solids resulting from an industrial pretreatment process.
- (14) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.
- (15) Any trucked or hauled pollutants, except at discharge points designated by the commissioner.
- (16) Any water or waste containing fats, wax, grease or oils, whether emulsified or not, in excess of one hundred (100) milligrams per liter, or containing substances which may solidify or become viscous at temperatures between zero (0) degrees centigrade (thirty-two (32) degrees Fahrenheit) and sixteen (16) degrees centigrade (sixty (60) degrees Fahrenheit).

(Ord. No. D395, 10-18-96)

Sec. 23-72. - National categorical pretreatment standards.

Upon the promulgation of national categorical pretreatment standards for a particular industrial subcategory, the pretreatment standard, if more stringent than limitations imposed under this article, shall immediately supersede, for industrial users in that subcategory, the limitations imposed under this article. The commissioner shall notify all affected industrial users of the applicable requirements under the Act; 314 C.M.R. sections 2.00, 7.00 and 12.00; and subtitles C and D of the Resource Conservation and Recovery Act.

(Ord. No. D395, 10-18-96)

Sec. 23-73. - Modification of national categorical pretreatment standards.

Pursuant to 40 C.F.R. section 403.76 where the facility achieves consistent removal of pollutants limited by a national categorical pretreatment standard, the city may apply to the division for modification of the discharge limits for a specific pollutant covered in the relevant national categorical pretreatment standards in order to reflect the facility's ability to remove said pollutant. The city may modify pollutant discharge limits contained in a national categorical pretreatment standard only if the requirements of 40 C.F.R. section 403.7 are fulfilled and prior approval from the division is obtained.

(Ord. No. D395, 10-18-96)

Sec. 23-74. - Local discharge limitations.

431

No person shall discharge wastewater containing any pollutant specified in Schedule A, annexed hereto and incorporated herein by reference, in excess of the limitations for each of said pollutants as specified in said Schedule A. Add "In addition, Best Management Practices, where applicable, shall be incorporated as an enforceable local limitation." Compliance with the provisions of this section 23-74 shall be assessed on the basis of samples of the person's wastewater discharge collected at each point of connection between the person's building, structure, facility or installation and the facility's sewerage system. If a national categorical pretreatment standard establishes limitations for industrial users in a particular industrial subcategory which are more stringent than the limitations specified in Schedule A, those more stringent limitations shall immediately apply to those users subject to that national categorical pretreatment standard. Compliance with national categorical pretreatment standard limitations shall be assessed in accordance with the requirements set forth at 40 C.F.R. section 403.12(b)(5).

(Ord. No. D395, 10-18-96)

**Editor's note**— Schedule A, referenced in this section, is set out at the end of Division 3, Subdivision 1 of this article.

Sec. 23-75. - State requirements.

Requirements and limitations on discharges set by the Massachusetts Department of Environmental Protection (DEP) shall apply in any case where they are more stringent than federal requirements and limitations or those requirements and limitations contained in this article.

(Ord. No. D395, 10-18-96)

Sec. 23-76. - City's right of revision.

The city reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the facility if deemed necessary to comply with the objectives presented in section 23-38 of this article.

(Ord. No. D395, 10-18-96)

Sec. 23-77. - Dilution prohibited in absence of treatment.

Except where expressly authorized to do so by an applicable national pretreatment standard or requirement, no user shall ever increase the use of process water or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in any national pretreatment standard or requirement.

(Ord. No. D395, 10-18-96; Ord. No. G046, 3-10-08)

Sec. 23-78. - Industrial user pretreatment.

Each industrial user shall provide necessary wastewater treatment as required to comply with this article, including the local discharge limitations set forth in schedule A hereto, and shall achieve compliance with all applicable national categorical pretreatment standards within the time limitations specified by said standards. Any facilities required to pretreat wastewater to a level which will achieve compliance with this article shall be provided, operated, and maintained at the industrial user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the commissioner for review, and shall be acceptable to the commissioner before construction of the facility.

431

The review of such plans and operating procedures will in no way relieve the industrial user from the responsibility of modifying the facility as necessary to produce an effluent which complies with the provisions of this article. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the commissioner prior to the industrial user's initiation of the changes.

All records relating to compliance with applicable pretreatment standards and requirements shall be made available to officials of the EPA or division upon request. In addition, pursuant to the public participation requirements of 40 C.F.R. part 25, the city shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdiction served by the POTW, a list of the industrial users, which, during the preceding twelve (12) months, were in significant noncompliance with applicable pretreatment standards or requirements. The term significant non-compliance shall be applicable to all significant industrial users (or any industrial user) that violates at any time during the preceding twelve (12) months or were in significant noncompliance with applicable pretreatment standards or requirements of one or more of the following criteria:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all measurements ADD for each pollutant, taken at each of the SIUs permitted monitoring points, during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement including instantaneous limits as defined by 40 CFR 403.3.
- (2) Technical review criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all of the measurements for each pollutant parameter taken ADD " at each of the SIUs permitted monitoring points, during the six-month period equal or exceed the product of a numeric pretreatment standard or requirement including instantaneous limits as defined by 40 CFR 403.3 (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH).
- (3) Any other violation of a pretreatment standard or requirement defined by 40 CFR 403.3 including, but not limited to, daily maximum, or longer term average, instantaneous limits or narrative standards that the commissioner determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of the POTW personnel or the general public);
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the commissioner's exercise of its emergency authority to halt or prevent such discharge;
- (5) Failure to meet, within ninety (90) days after the schedule[d] date, a compliance milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide, within forty-five (45) days after the due date, required reports such as baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring reports, on compliance schedules;
- (7) Failure to accurately report noncompliance;
- (8) Any other violation or group of violations, which may include a violation of best management practices, which the POTW determines will adversely affect the operation or implementation of the local pretreatment program.

(Ord. No. D395, 10-18-96; Ord. No. G046, §§ 1—6, 3-10-08)

**Editor's note**— Schedule A, referenced in this section, is set out at the end of division 3, subdivision 1 of this article.

Sec. 23-79. - Accidental discharges.

- (a) *Plans and procedures.* Each industrial user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this article. Mechanisms to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or industrial user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the commissioner for review and shall be approved by the commissioner before construction of the mechanism.

All existing industrial users shall submit such a plan within sixty (60) days of the effective date of this article. No industrial user who commences discharging into the facility after the effective date of this article shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the commissioner. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this article.

In the case of an accidental discharge, it is the responsibility of the industrial user to telephone immediately and notify the commissioner of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and any and all corrective actions.

- (b) *Written notice.* Within five (5) days following an accidental discharge, the industrial user shall submit to the commissioner a detailed written report describing the cause of the discharge and the measures which have been and shall be taken by the user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the facility, fish kills, or any other damage to persons, animals or property; nor shall such notification relieve the industrial user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.
- (c) *Notice to employees.* A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur, or who may know or have reason to know thereof, are advised of the emergency notification procedures.

(Ord. No. D395, 10-18-96)

Sec. 23-80. - Bypass prohibited.

- (a) *Prohibition of bypass.*

- (1) Bypass is prohibited, and the city may take enforcement action against an industrial user for a bypass, unless:
- Bypass was unavoidable to prevent loss of life, personal injury, or "severe property damage" as defined under 40 C.F.R. section 403.17(a);
  - 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 backup equipment should have been installed in the exercise of reasonable engineering judgement to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
  - The industrial user submitted notices as required under paragraph (b) of this section.
- (2) The commissioner may approve an anticipated bypass, after considering its adverse effects, if the commissioner determines that it will meet the three (3) conditions listed in paragraph (a)(1) of this section.

(b) *Notice.*

- (1) If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the commissioner, if possible at least ten (10) days before the date of the bypass.
  - (2) An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the commissioner within twenty-four (24) hours from the time the industrial user becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the industrial 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 commissioner may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
- (c) *Bypass not violating applicable pretreatment standards or requirements.* An industrial user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (a) and (b) of this section.

(Ord. No. D395, 10-18-96)

Sec. 23-81. - Slug discharge plans.

At least once every ~~delete two (2) years~~ ADD "control mechanism cycle", the commissioner shall evaluate whether each significant industrial user needs a plan to control slug discharges. The significant industrial user shall comply with the provisions of any such slug control plan which the commissioner determines to be necessary, including, but not limited to:

- (1) A description of discharge practices, including non-routine batch discharges;
- (2) A description of stored chemicals;
- (3) Procedures for immediately notifying the commissioner and the superintendent of slug discharges, including any discharge that would violate a prohibition under 40 C.F.R. section 403.5(b), with procedures for follow-up written notification; and
- (4) If necessary, procedures to prevent adverse impact from accidental spills, including those procedures set forth in 40 C.F.R. section 403.B(f)(2)(v)(D).

(Ord. No. D395, 10-18-96)

Sec. 23-82. - Septage discharge.

- (a) *Septage discharge limitations.* Septage may be introduced into the facility treatment plant only, and only at the location(s) and time(s) designated therefor by the commissioner. No septage load may be discharged without prior consent of the commissioner.

All septage discharges must comply with the discharge prohibitions and limitations, and the other requirements, set forth in this article. The commissioner has the authority to prohibit the discharge of hauled industrial wastes. The commissioner also has the authority to require that sources of hauled industrial wastes obtain industrial discharge permits.

- (b) *Septage discharge permits.* All persons proposing to discharge septage into the facility treatment plant shall be licensed by the town(s) in which they collect septage, and shall obtain a septage discharge permit from the city. Application for a septage discharge permit shall be made on a form supplied by the commissioner. The septage discharge permit shall be issued for a twelve-month



period, and the commissioner is authorized to revoke septage discharge permit for violation of any of the requirements of this article or the conditions set forth in the septage discharge permit.

The holder of a septage discharge permit shall file with the city treasurer a certificate of insurance in the sums of fifty thousand dollars/one hundred thousand dollars (\$50,000.00/\$100,000.00) to cover public liability and a certificate of insurance in the sum of ten thousand dollars (\$10,000.00) covering property damage. In addition, a certificate of insurance covering workers' compensation shall be filed. All of the referenced insurance policies shall remain in full force and effect for a period of at least a year from the date of issuance of the septage discharge permit. Said insurance shall indemnify the city against any and all claims, liability or action for damages incurred in or in any way connected with the performance of the work by a hauler, and for or by reason of any acts of omission of said hauler in the performance of its work.

- (c) *Septage load certificate.* Each septage load shall be accompanied by a certificate signed by the hauler, showing the name and address of the hauler, the name and address of the source of each septage load, and the volume and waste characteristics of each septage load contained in the load to be discharged. The certificate shall also identify the type of industry (if any) in which each source is engaged, known or suspected waste constituent and whether any wastes are RCRA hazardous wastes.
- (d) *Sampling of septage load.* The hauler may be required to provide a sample of the septage load contents, taken in the presence of the facility treatment plant's operator, in order to ensure compliance with applicable standards. The commissioner may require that the nature of the sample be verified before the truck is permitted to unload. If the hauler's load is a composite of waste collected from more than one person or location, the commissioner may require that a sample of each waste collection must be provided for verification.
- (e) *Rejection of septage load.* The commissioner is authorized to reject a load of septage proposed for discharge at the facility, for reasons including, but not limited to, the following:
  - (1) The waste is not properly identified as to source and content;
  - (2) There is not sufficient capacity in the facility treatment plant for the load;
  - (3) For protection of the health and safety of the public, facility treatment plant workers, or the environment;
  - (4) The septage was not generated in a town approved by the city for septage discharges at the facility treatment plant.

(Ord. No. D395, 10-18-96)

SCHEDULE A

LOCAL DISCHARGE LIMITATIONS

| Parameters | Local Limits                              | Background Limits* |
|------------|---|--------------------|
| Copper     | 0.168 mg/l (interim limit of 0.64 mg/l)** | 0.168 mg/l         |
| Lead       | 1.24 mg/l                                 | 0.056 mg/l         |

|               |           |            |
|---------------|-----------|------------|
| Silver        | 1.59 mg/l | 0.01 mg/l  |
| Zinc          | 4.05 mg/l | 0.293 mg/l |
| Total cyanide | 1.00 mg/l | 0.01 mg/l  |

\*Background limits are set for significant industrial users that are non-contributory for certain parameters. The background limits are the non-industrial discharge concentrations. The list of significant industrial users and their respective contributing flows is provided in the city's approved industrial pretreatment program document.

\*\*The approved and adopted local limit for copper is 0.168 mg/l. However, an interim local limit of 0.64 mg/l was developed from the interim NPDES limit set for copper in the administrative order dated March 25, 1996. The limit will be reevaluated by the city at the expiration of the administrative order, which requires the city to reduce copper loadings to the facility.

#### Subdivision 2. - Permits

##### Sec. 23-83. - Sewer connection permits.

All users proposing to connect to or discharge into the facility shall obtain a sewer connection permit from the municipality in which such user is located before connecting to or discharging into the facility. An application for said sewer connection permit shall be filed with the municipality at least five (5) business days prior to the proposed connection or discharge to the facility. Existing users connected to the facility as of the effective date of this article need not apply for a sewer connection permit.

Notwithstanding the foregoing, any person proposing a change in the nature, characteristics or constituents of its wastewater, or who proposes to increase its discharge so that the daily volume, strength, or rate of its discharge is at least ten (10) percent greater than its existing and/or currently permitted discharge shall, no less than thirty (30) days prior to the proposed change or increase, apply to the municipality for issuance of a sewer connection permit or, if applicable, modification of its existing sewer connection permit.

(Ord. No. D395, 10-18-96)

##### Sec. 23-84. - Industrial discharge permits.

In addition to obtaining the sewer connection permit prescribed in section 23-83 of this article, all industrial users, wherever located, shall obtain an industrial discharge permit from the commissioner for discharges to the facility. All existing industrial users connected to or discharging into the facility shall apply for an industrial discharge permit within one hundred eighty (180) days after the effective date of this article. All industrial users proposing to connect to or discharge into the facility shall obtain an industrial discharge permit before connecting to or discharging into the facility. An application for said industrial discharge permit shall be filed with the commissioner, with a copy to the municipality, at least ninety (90) days prior to the proposed connection or discharge to the facility. The city has the authority to deny or condition new or increased contributions of pollutants to the facility by industrial users, pursuant to 40 C.F.R. section 403.8(f)(1)(I).

431  
(Ord. No. D395, 10-18-96)

Sec. 23-85. - Permit application requirements.

All users required to obtain a sewer connection permit shall complete and file with the municipality in which they are located an application in the form prescribed by the municipality and the commissioner, and accompanied by the appropriate fee as prescribed by the municipality. In addition, an industrial user shall complete and file with the commissioner an application for an industrial discharge permit in the form prescribed by the commissioner, and accompanied by the appropriate fee as indicated on the fee schedule set forth in Division 2 herein or annexed hereto as Schedule B. In support of the application for an industrial discharge permit, the industrial user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) *Identifying information.* The industrial user shall submit the name and address of the facility, including the name of the operator and owners;
- (2) *Permits.* The industrial user shall submit a list of any environmental control permits held by or for the facility;
- (3) *Description of operations.* The industrial user shall submit a brief description of the nature, average rate of production and standard industrial classification of the operation(s) carried out by such industrial user. This description should include a schematic process diagram which indicates points of discharge to the facility from the regulated processes.
- (4) *Flow measurement.* The industrial user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the facility from each of the following:
  - a. Regulated process streams; and
  - b. Other streams as necessary to allow use of the combined waste stream formula of 40 C.F.R. section 403.6(e). The commissioner may allow for verifiable estimates of these flows where justified by cost or feasibility considered.
- (5) *Measurement of pollutants.*
  - a. The industrial user shall identify the pretreatment standards applicable to each regulated process;
  - b. In addition, the industrial user shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the standard or facility) of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) will be reported. The sample will be representative of daily operations;
  - c. A minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, twenty-four-hour composite samples must be obtained through flow-proportional composite sampling techniques where feasible. The facility may waive flow-proportional composite sampling for any industrial user that demonstrates that flow-proportional sampling is infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four (4) grab samples where the industrial user demonstrates that this will provide a representative sample of the effluent being discharged.
  - d. The industrial user shall take a minimum of one (1) representative sample to compile that data necessary to comply with the requirements of this paragraph.
  - e. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the industrial user should measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 C.F.R. section 403.6(e) in order to evaluate compliance with the

pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 C.F.R. section 403.6(e) this adjusted limit along with supporting data will be submitted to the facility;

- f. Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 C.F.R. Part 136 and amendments thereto. Where 40 C.F.R. Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis will be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the facility or other parties, approved by the EPA;
  - g. The commissioner may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;
  - h. The baseline report shall indicate the time, date and place of sampling, and methods of analysis, and will certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the facility;
- (6) *Certification.* move to below \*\*\* A statement, reviewed by an authorized representative of the industrial user and certified to by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and if not, whether additional operation and maintenance ("O and M") and/or additional pretreatment is required for the industrial user to meet the pretreatment standards and requirements; and

Insert the following after the word "Certification"

"All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user, someone who has general management authority and responsibilities and has the authority to make capital investment decisions, and of initiating and directing other comprehensive measures to assure long term environmental compliance, and contain the following certification statement:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

add "A discharge permit applications shall also include" \*\*\* a statement, reviewed by an authorized representative of the industrial user and certified to by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and if not, whether additional operation and maintenance ("O and M") and/or additional pretreatment is required for the industrial user to meet the pretreatment standards and requirements; and

A statement, reviewed by an authorized representative of the industrial user and certified to by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and if not, whether additional operation and maintenance ("O and M") and/or additional pretreatment is required for the industrial user to meet the pretreatment standards and requirements; and

- (7) *Compliance schedule.* If additional pretreatment and/or O and M will be required to meet the pretreatment standards, the shortest schedule by which the industrial user will provide such

additional pretreatment and/or O and M. The completion date in this schedule will not be later than the compliance date established for the applicable pretreatment standard.

- a. Where the industrial user's categorical pretreatment standard has been modified by a removal allowance (40 C.F.R. section 403.7) the combined wastestream formula (40 C.F.R. section 403.6(e)), and/or a fundamentally different factors variance (40 C.F.R. section 403.13) at the time the industrial user submits the report required by section 23-91(a) of this article, the information required by paragraphs (6) and (7) of this section will pertain to the modified limits.
  - b. If the categorical pretreatment standard is modified by a removal allowance (40 C.F.R. section 403.7) the combined waste stream formula (40 C.F.R. section 403.6(e)), and/or a fundamentally different factors variance (40 C.F.R. section 403.13) after the industrial user submits the report required by section 23-91(a) of this article, any necessary amendments to the information required by paragraphs (6) and (7) of this section will be submitted by the industrial user to the facility within sixty (60) days after the modified limit is approved.
- (8) *Other information.* Any other information as may be deemed by the commissioner to be necessary to evaluate the permit application. The commissioner will evaluate the data furnished by the industrial user and may require additional information. After evaluation and acceptance of the data furnished, the commissioner may issue an industrial discharge permit subject to terms and conditions provided herein.

(Ord. No. D395, 10-18-96)

**Editor's note**— Schedule B, referenced in this section, is set out at the end of Division 2 of this article.

Sec. 23-86. - Permit conditions.

Sewer connection permits and industrial discharge permits shall be expressly subject to all provisions of this article and all other applicable regulations, user charges and fees established by the city and/or the relevant municipality. In addition, industrial discharge permits shall contain the following:

- (1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to the facility;
- (2) Limits on average and maximum wastewater constituents and characteristics, including those determined in accordance with federal and state requirements, as well as the limits specified in Schedule A;
- (3) Limits on average and maximum rate and time of discharge or requirements for flow regulation and equalization;
- (4) Requirements for installation and maintenance of inspection and sampling facilities;
- (5) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
- (6) Compliance schedules (but in no event may a compliance deadline in a permit be later than a national categorical pretreatment standard compliance deadline);
- (7) Requirements for submission of technical reports or discharge reports;
- (8) Requirements for maintenance and retention of records relating to wastewater discharges as specified by the commissioner, and affording the commissioner access thereto;
- (9) Requirements for advance notification to the commissioner of any change in operations, new introduction of wastewater constituents, or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater disposal system;

431

- (10) Requirements for notification to the commissioner of slug discharges and bypass;
- (11) A statement of permit duration in accordance with section 23-88 hereof, which shall in no case be more than five (5) years;
- (12) A statement of permit transferability in accordance with section 23-89 hereof;
- (13) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule in accordance with section 23-104 hereof; and
- (14) Other conditions as deemed appropriate by the commissioner to ensure compliance with this article.

(Ord. No. D395, 10-18-96)

**Editor's note**— Schedule A, referenced in this section, is set out at the end of Division 3, Subdivision 1 of this article.

Sec. 23-87. - Industrial discharge permit modifications.

- (a) *Necessitated by promulgation of national categorical pretreatment standard.* Within ninety (90) days of the promulgation of a national categorical pretreatment standard, the industrial discharge permit of industrial users who are subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. An industrial user with an existing industrial discharge permit shall submit to the commissioner within one hundred eighty (180) days after the effective date of an applicable national categorical pretreatment standard the baseline report required by section 23-91(a) of this article and 40 C.F.R. section 403.12.
- (b) *Necessitated by change in wastewater discharge.* Any industrial user which proposes to introduce a change in the nature, characteristics or constituents of its wastewater, or which proposes to increase the daily volume, strength, or rate of its permitted discharge by ten (10) percent or more shall, no less than thirty (30) days prior to said proposed change or increase, apply, on a form prescribed by the commissioner, for a modification to its industrial discharge permit. Any user which proposes to introduce a change in the volume or characteristics of its wastewater which will cause it to become an industrial user shall apply for an industrial discharge permit, as prescribed in section 23-84 of this article. After evaluation and acceptance of the data furnished the commissioner may modify the industrial user's industrial discharge permit subject to the terms and conditions provided herein. Any increase in the daily volume, strength, or rate of a user's permitted discharge by less than ten (10) percent may only be allowed from the base numbers in such user's industrial discharge permit and may not result in violations of any federal, state or local discharge limitations.
- (c) *Necessitated by change in applicable limitations or requirements.* The terms and conditions of an industrial discharge permit issued hereunder may be subject to modification by the commissioner during the duration of the permit as the limitations or requirements of this article are modified or amended. The industrial user shall be notified of any proposed modifications or amendments to its industrial discharge permit at least thirty (30) days prior to the proposed effective date of such modification. Any modifications or amendments to the industrial discharge permit shall include a reasonable time schedule for compliance therewith, but no compliance deadline therein shall be later than the deadline for compliance with an applicable national categorical pretreatment standard.

(Ord. No. D395, 10-18-96)

Sec. 23-88. - Duration of industrial discharge permits.

- (a) *Baseline report.* Within one hundred eighty (180) days following the effective date of a national categorical pretreatment standard, an existing industrial user subject to said standard and currently discharging to or scheduled to discharge to the facility shall submit to the commissioner a report as prescribed in 40 C.F.R. section 403.12(b), which shall include the information required under section 23-85(1) through (8) of this article. ADD "The Commissioner shall require documentation indicating compliance with a BMP when determined to be necessary." This report shall be signed and certified pursuant to 40 C.F.R. section 403.12(l) by an authorized representative of the industrial user, and shall contain a statement certified by a qualified professional engineer indicating whether pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the industrial user to meet the pretreatment standards and requirements.

At least ninety (90) days prior to commencement of discharge, new sources, and sources that become industrial users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to the commissioner a report which contains the information required in section 23-85(1) through (8) of this article. Reports by new sources shall include information on the method of pretreatment the new source intends to use to meet applicable pretreatment standards. The report shall be signed and certified pursuant to 40 C.F.R. section 403.12(l) by an authorized representative of the industrial user and shall contain the certification described above.

- (b) *Compliance schedule progress reports.* If the certification statement described in paragraph (a) above states that additional pretreatment and/or operation and maintenance (O&M) will be required to meet the pretreatment standards and requirements, the industrial user shall submit to the commissioner a compliance schedule as described in section 23-85(7) hereof. Not later than fourteen (14) days following each date in the compliance schedule and the final date for compliance, the industrial user shall submit a progress report to the commissioner as prescribed at 40 C.F.R. section 403.12(c) stating, at a minimum, whether or not the industrial user 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 the delay; and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the commissioner.
- (c) *Compliance deadline report.* 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 facility, any industrial user subject to pretreatment standards and requirements shall submit to the commissioner a report containing the information described in section 23-85(4) through (6) of this article. The report shall be signed and certified pursuant to 40 C.F.R. section 403.12(l) by an authorized representative of the industrial user. For industrial users subject to equivalent mass or concentration limits established by the facility in accordance with the procedures in 40 C.F.R. section 403.6(c), this report shall contain a reasonable measure of the industrial user's long term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report will include the industrial user's actual production during the appropriate sampling period.
- (d) *Periodic reports on continued compliance.*
  - (1) Any industrial user subject to a categorical pretreatment standard, after the compliance date of such pretreatment standard, or, in the case of a new source, after commencement of the discharge into the facility, shall submit to the commissioner during the months of June and December, unless required more frequently in the pretreatment standard or by the commissioner, EPA, or DEP, a report indicating the nature and concentration of pollutants in the effluent which are limited by such categorical pretreatment standards. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the discharge reported in paragraph (4) of section 23-85 of this article, except that the commissioner may require more detailed reporting of flows. At the discretion of the commissioner and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the commissioner may agree to alter the months during which the above

reports are to be submitted. This report shall be signed and certified pursuant to 40 C.F.R. section 403.12(l) by an authorized representative of the industrial user.

- (2) Where the city has imposed mass limitations on industrial users as provided for by 40 C.F.R. section 403.6(d), the report required by section 23-91(d)(1) of this article shall indicate the mass of pollutants regulated by pretreatment standards in the discharge from the industrial user.

#### ADD

- (3) Where the city had imposed Best Management Practices on industrial users, the report required by section 23-91 (d)(1) of this article shall indicate compliance with said BMP.

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- (4) For industrial users subject to equivalent mass or concentration limits established by the city in accordance with the procedures in 40 C.F.R. section 403.6(c), the report required by section 23-91(d)(1) of this article shall contain a reasonable measure of the industrial user's long term production rate. For all other industrial users subject to categorical pretreatment standards expressed only in terms of allowable pollutant discharge per unit of production (or other measure of operation), the report required by section 23-91(d)(1) of this article shall include the industrial user's actual average production rate for the reporting period.
- (e) *Reports by significant industrial users not subject to pretreatment standards.* Any significant industrial user which is not subject to categorical pretreatment standards or requirements shall submit to the commissioner, during the months of June and December (unless required more frequently by the commissioner), a report as prescribed under 40 C.F.R. section 403.12(h) describing the nature, concentration and flow of those pollutants specified by the commissioner.
- (f) *Notification of hazardous waste discharge.*
  - (1) An industrial user shall notify the commissioner, the municipality, the EPA Regional Waste Management Division Director, and the director of DEP's division of solid and hazardous waste, in writing, of any discharge into the facility of a substance which, if otherwise disposed of, would be a hazardous waste under 40 C.F.R. Part 261. Such notification shall include the name of the hazardous waste as set forth in 40 C.F.R. Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the industrial user discharges more than one hundred (100) kilograms of such waste per calendar month to the facility, the notification shall contain the following information to the extent such information is known and readily available to the industrial user; an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during the calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months.  
  
All existing industrial users must file such notification no later than one hundred eighty (180) days after the discharge of the listed or characteristic waste. Any notification under this section 23-91(f) need be submitted only once for each hazardous waste discharged. However, all industrial users must notify the commissioner in advance, in accordance with section 23-87(b) of this article, of any change in their wastewater discharge. The notification requirement set forth herein does not apply to any pollutants already reported under the self-monitoring requirements set forth in sections 23-91(a), (b), (c), (d) and (e), above.
  - (2) Industrial users are exempt from the requirements of section 23-91(f)(1), above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 C.F.R. sections 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or any quantity of acute hazardous waste as specified in 40 C.F.R. sections 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.



431

Industrial discharge permits shall be issued for a specified time period not to exceed five (5) years. An industrial discharge permit may be issued for a period less than a year or may be stated to expire on a specific date. An industrial user shall apply for industrial discharge permit reissuance, on a form prescribed by the commissioner, at least ninety (90) days prior to the expiration of the industrial user's existing permit. Sewer connection permits are exempt from this reapplication requirement, as long as the subject connection has been constructed, effected and maintained in accordance with said permit. Any modification, increase in flow or change in use of said connection is not exempt and shall be the subject of a sewer connection permit application pursuant to section 23-83.

(Ord. No. D395, 10-18-96)

Sec. 23-89. - Industrial discharge permit transfer.

Industrial discharge permits are issued to a specific industrial user for a specific operation. An industrial discharge permit shall not be reassigned or transferred or sold to a new owner, new industrial user, different premises or a new or changed operation without the approval of the commissioner, which must be obtained at least thirty (30) days in advance of the proposed transfer date. No such approval shall be granted absent submission to the commissioner of a written agreement between the existing and proposed new permittee which sets forth the date for and terms of the transfer of the industrial discharge permit and all responsibilities, obligations and liabilities thereunder. Any succeeding owner or industrial user shall comply with the terms and conditions of the existing industrial discharge permit and all of the terms and requirements of this article.

(Ord. No. D395, 10-18-96)

Sec. 23-90. - Industrial discharge permit decisions.

The commissioner shall provide all interested persons with notice of final decisions concerning industrial discharge permit issuance and transfer. Any person, including the industrial user to whom the industrial discharge permit was issued, may petition the commissioner for review of the industrial discharge permit issuance, modification, or transfer decision within thirty (30) days of the date on which the decision was issued. Failure to submit a timely petition for review shall be deemed to be a waiver of industrial discharge permit review.

A petition for review must set forth the industrial discharge permit provisions or decision objected to, the reasons for the objection, and the alternative provisions, if any, which the petitioner seeks to have included in the industrial discharge permit. The city council shall conduct the permit review in accordance with the procedures set forth at section 23-102 of this article. The effectiveness of an industrial discharge permit shall not be stayed pending the city council's review, but the industrial discharge permit provisions objected to (other than those relating to achievement of compliance deadlines established under national categorical pretreatment standards, national prohibited discharge standards and local discharge limitations) will be stayed pending the city council's review. The decision of the city council concerning the petition for review shall be a final administrative action.

(Ord. No. D395, 10-18-96)

Subdivision 3. - Reporting Requirements, Monitoring and Inspections

Sec. 23-91. - Reporting requirements.

- 431
- (3) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as hazardous waste, the industrial user must notify the commissioner, the municipality, the EPA Regional Waste Management Division Director, and the director of DEP's division of solid and hazardous waste, of the discharge of such substance within ninety (90) days of the effective date of such regulations.
  - (4) In the case of any notification made under this section 23-91(f), an industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
  - (g) *Notification of changed discharge or potential problems.* All users shall notify the commissioner immediately of all discharges that could cause problems to the facility, including any slug loadings by an industrial user. In addition, all industrial users shall promptly notify the commissioner in advance of any substantial change in the volume or character of pollutants in their discharge including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under the provisions of section 23-91(f) hereof.
  - (h) *Reports by industrial users not subject to pretreatment standards.* The commissioner shall require appropriate reporting from those industrial users with discharges that are not subject to pretreatment standards or requirements.

(Ord. No. D395, 10-18-96)

Sec. 23-92. - Industrial discharge monitoring and analysis.

The reports required in sections 23-91 and 23-85(4) and (5), supra, and such other reports as the commissioner may require under this article, shall contain the results of all sampling and analysis of the industrial user's discharge, whether or not conducted more frequently than required by the commissioner, including the flow and the nature and concentration of pollutants contained therein which are limited by applicable pretreatment standards and requirements. The sampling and analysis may be performed by the commissioner in lieu of the industrial user, in which event the industrial user will not be required to submit the compliance certification set forth in section 23-85(1), above. In addition, where the commissioner collects all of the information required for the report, including analytical results and flow data, the industrial user is not required to submit the report or compliance certification required therein.

If the industrial user's sampling indicates a violation, the user must notify the commissioner within twenty-four (24) hours of becoming aware of such violation. The user must also repeat the sampling and analysis, and submit the results of the repeat analysis to the commissioner within thirty (30) days after becoming aware of the violation. The industrial user is not required to resample, however, if the commissioner performs sampling at the industrial user at a frequency of at least once per month, or the commissioner performs sampling at the industrial user between the time when the industrial user performs its initial sampling and the time when said user receives the results of the sampling.

The frequency of monitoring shall be prescribed in the industrial discharge permit and, for industrial users subject to national categorical pretreatment standards, shall not be less frequent than prescribed in section 23-91(c). All analyses shall be performed in accordance with procedures established by the EPA pursuant to Section 304(h) of the act and contained in 40 C.F.R. Part 136 and amendments thereto, or with any other test procedures approved by the EPA. Sampling shall be performed in accordance with the techniques approved by the EPA. Where 40 C.F.R. 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 or any other sampling and analytical procedures, including procedures suggested by the commissioner or other parties, approved by the EPA.