



# CITY OF SANTA BARBARA

## ORDINANCE COMMITTEE AGENDA REPORT

**AGENDA DATE:** November 11, 2014

**TO:** Ordinance Committee

**FROM:** Water Resources Division, Public Works Department

**SUBJECT:** Review of Amendments to Municipal Code Title 16, Liquid And Industrial Waste Disposal

### RECOMMENDATION:

That the Ordinance Committee review amendments to Municipal Code Title 16 Pertaining to Liquid and Industrial Waste Disposal and forward proposed amendments to the City Council.

### DISCUSSION:

The City's wastewater system operates under a National Pollution Discharge Elimination System (NPDES) Permit, issued by the California Regional Water Quality Control Board (RWQCB). The NPDES Permit contains federal requirements of the Clean Water Act and Title 40 of the Code of Federal Regulations (40 CFR) Part 403, which is administered by the United States Environmental Protection Agency (EPA). One requirement of the Clean Water Act, 40 CFR Part 403, and the NPDES permit is that the City implement an industrial liquid waste Pretreatment Program governing the quality and quantity of wastewater that is discharged to the City's wastewater collection system.

The purpose of the Pretreatment Program is to prevent the discharge of wastes that could interfere with the wastewater treatment process at the El Estero Wastewater Treatment Plant (El Estero). The program ensures that the City complies with its NPDES Permit requirements at El Estero, which includes the following parameters:

- Specific effluent limitations;
- Water quality-based toxic pollutant limitations;
- Criteria for sludge use or disposal;
- Removal efficiency requirements; and
- Overall requirements regarding facility operations and maintenance.

Santa Barbara Municipal Code Title 16 provides the standards and the legal authority for enforcement of the Pretreatment Program.

Since the last revision to Title 16, the EPA has made changes to the requirements for the Pretreatment Program, which must be incorporated into the City's Municipal Code. EPA/RWQCB inspections of local municipalities are conducted periodically in accordance with EPA protocols to ensure that Pretreatment Programs are administered according to federal requirements. Inspections of the City's Pretreatment Program have been conducted several times in recent years. This has resulted in a list of requirements and changes needed for the City's Pretreatment Program to comply with current federal regulations.

Since 2010, the City has contracted with Larry Walker Associates (LWA) to assist in revising the existing Title 16 Ordinance, as required by the EPA. The Title 16 Ordinance language has now been redrafted in its entirety to comport with these updated EPA regulatory requirements. Changes have been made throughout this document to reflect current federal regulations, to add strength and clarity to the City's legal authority, and to update the Pretreatment Program's administrative structure, allowing for a more streamlined implementation of City activities involved with its regulated industrial community. Some of the noted changes include:

- Adopting the general structure of EPA's 2006 Model Sewer Use Ordinance
- Implementing Pretreatment Streamlining Rule requirements
- Implementing requirements from EPA/RWQCB Pretreatment Compliance Inspections and Audits
- Updating and adding definitions
- Defining three tiers of wastewater discharge permits and types of discharges
- Strengthening enforcement authority and tying enforcement procedures to the Enforcement Response Plan

The proposed Title 16 Ordinance implements non-substantive changes (40 CFR Part 403.18), which only require notification to the RWQCB at least forty-five (45) days prior to implementation. The Board of Water Commissioners was informed of this Title 16 Ordinance revision at its meeting on November 10, 2014.

#### **BUDGET/FINANCIAL INFORMATION:**

The Title 16 Ordinance update process will have no budgetary impact on the Wastewater Fund.

#### **ENVIRONMENTAL INFORMATION:**

These Title 16 modifications are exempt from the California Environmental Quality Act pursuant to Section 15308 (Actions by Regulatory Agencies for the Protection of the

Environment) as the changes proposed make the project consistent with federal and state regulations designed to protect the environment.

**PREPARED BY:** Christopher Toth, Wastewater System Manager/mh

**SUBMITTED BY:** Rebecca J. Bjork, Public Works Director

**APPROVED BY:** City Administrator's Office

ORDINANCE NO. \_\_\_\_\_

AN ORDINANCE OF THE COUNCIL OF THE CITY OF SANTA BARBARA AMENDING THE MUNICIPAL CODE BY REPEALING TITLE 16 IN ITS ENTIRETY AND ADDING TITLE 16 PERTAINING TO LIQUID AND INDUSTRIAL WASTE DISPOSAL.

THE CITY COUNCIL OF THE CITY OF SANTA BARBARA DOES ORDAIN AS FOLLOWS:

SECTION 1. Title 16 of the Santa Barbara Municipal Code is amended by repealing Title 16 in its entirety and adding Title 16 which reads as follows:

**Chapter 16.02 General Provisions.**

**16.02.010. Purpose.**

The purpose of this Title is to protect the Waters of the State; provide against pollution of streams, creeks and storm drains; control and regulate Discharges to storm drains; and to control and regulate all Discharges of Waste or Wastewater into, either directly or indirectly, the sewerage system and Publicly Owned Treatment Works (POTW) of the City of Santa Barbara.

**16.02.020. Scope; Conflict with Other Provisions of Code.**

**A. GENERAL APPLICABILITY.** This Title establishes rules, regulations, and standards for the elimination of Pollutants, and governs the quality and quantity of discharged Wastes, the degree of waste pretreatment required, the issuance of Wastewater Discharge Permits, the assessment of fees and charges and the imposition of penalties for violation of this Title. Subject to the exception of subsection B hereof,

the provisions of this Title shall apply to all Discharges, directly or indirectly into the ocean, creeks, lagoons, storm drains and other Waters of the State, and to all Discharges of Wastes and Wastewater directly or indirectly into any Community Sewer or POTW of the City. To the extent that the provisions of this Title are in conflict with any other provisions of this Code, this Title shall prevail. It is not intended, however, that this Title shall operate to repeal any other provisions of this Code or to relieve any responsibility or liability imposed by or incurred under any other provision of this Code.

**B. AIRPORT DISCHARGE REGULATIONS.** The provisions of this Title that control Discharges into the Community Sewer or POTW of the City shall not apply to Discharges of Wastes and Wastewater into a wastewater treatment system for those areas of the City that are provided sewer service by the Goleta Sanitary District (primarily the City Airport). Rules, regulations and standards governing the quality and quantity of discharged Wastes, the degree of required pretreatment, the issuance of Wastewater Discharge Permits, the assessment of fees and charges for discharge into the Goleta Sanitary District treatment or wastewater system, and the enforcement of applicable ordinances, rules and regulations for the Goleta Sanitary District shall be determined by the Goleta Sanitary District and as described in Ordinances of the Goleta Sanitary District as presently enacted or hereinafter amended.

**16.02.030. Policy.**

**A. PROTECTION OF HEALTH, WELFARE AND SAFETY.** The City of Santa Barbara protects the health, welfare and safety of its residents by constructing, operating and maintaining a system of local Sewers, pump stations, trunk sewers and

interceptors, and liquid waste treatment and disposal facilities that serve homes, industries, commercial establishments, and institutional facilities throughout the City and surrounding area and in accordance with the requirements of State and Federal law. The following policies apply to all Sewage and liquid and industrial Waste discharged directly or indirectly into the POTW:

1. Sewage and liquid and industrial Waste will be accepted into the City sewer system, provided their acceptance will not: (a) threaten or endanger public health, (b) result in Pass Through, (c) create nuisances such as odors, insects, etc., (d) damage structures, (e) impose excessive or unnecessary collection, treatment or disposal costs on the City, (f) significantly interfere with Wastewater collection or treatment processes, (g) interfere with Wastewater and biosolids reclamation processes, (h) exceed quality limits and quantity requirements set forth in this Title or other Applicable Regulations, or (i) cause the City to violate its NPDES Permit.

2. The highest and best use of the sewerage system is the collection, treatment and reclamation or disposal of Commercial, Domestic and Industrial Wastewater.

3. Industrial Users are encouraged to meet the limitations on discharges of industrial Waste and Wastewater through the development and use of recovery and reuse procedures rather than procedures designed solely to meet Discharge limitations.

4. The City is committed to a policy of Wastewater renovation and reuse designed to provide an additional source of water supply and to reduce overall costs of Wastewater treatment and disposal.

5. Optimum use of City facilities may require scheduling discharge of Wastewater during periods of low flow in the sewerage system as established by the Public Works Director.

6. Provisions are made in this Title to regulate industrial and other waste Discharges, to comply with applicable State and Federal government requirements and policies regarding industrial Discharges of Wastes and Wastewaters to Sewers and POTW, and to meet increasingly higher standards for treatment plant effluent quality and related environmental considerations. This Title establishes quantity and quality limitations on Sewage, liquid waste and industrial waste Discharges where such Discharges may adversely affect the sewerage system or the effluent quality. Methods of cost recovery are also established where industrial waste Discharges impose on the City additional, unnecessary or unreasonable collection, treatment, monitoring or disposal costs. Fees and charges for issuance of permits and fines for violations of the provisions of this Title shall be established by resolution of the City Council.

**16.02.040. Definitions.**

Unless otherwise defined herein, terms shall be as adopted in the most recent edition of *Standard Methods for the Examination of Water and Wastewater*, published by the American Public Health Association, the American Water Works Association, and the Water Environment Federation. Waste constituents and characteristics shall be measured in accordance with the procedures established by the Administrator under Section 304(h) of the Federal Act, and as set forth in detail in methods promulgated or

approved pursuant to 40 CFR Part 136, Test Procedures for the Analysis of Pollutants. Methods for sampling and analysis of wastewater may deviate from these regulations only when 40 CFR Part 136 fails to address sampling or analytical techniques for a particular Pollutant or when alternative methods of analysis have been approved by the Administrator as equivalent procedures. Unless the context requires a different meaning, the following words shall have the meaning indicated:

**A. ADMINISTRATOR.** The EPA Administrator or his or her designee.

**B. APPLICABLE REGULATION(S).** All City, State, and Federal regulations, rules, laws, ordinances, and codes as they apply to Discharges by Users to, on, or in the POTW and/or any Community Sewer.

**C. AUTHORIZED OR DULY AUTHORIZED REPRESENTATIVE OF THE USER.**

1. If the User is a corporation:

a. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

b. The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for

Wastewater Discharge Permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

2. If the User is a partnership or sole proprietorship:

a. A general partner or proprietor, respectively.

3. If the User is a Federal, State, or local government facility:

a. A director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

4. The individuals described in subdivisions 1 through 3 above, may designate a duly authorized representative, if the authorization is in writing. The authorization specifies the individual or position responsible for the overall operation of the facility from which the Discharge originates or having overall responsibility for environmental matters for the facility. This authorization must be made in writing by the principal executive officer or ranking elected official, and submitted to the City prior to or together with any document being submitted.

**D. BATCH DUMP or BATCH DISCHARGE.** The Discharge of concentrated, Non-Compatible Pollutants of a quality or in a manner or method which does not comply with this Title or other applicable State or Federal laws and regulations.

**E. BEST MANAGEMENT PRACTICES or BMPs.** The schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR Part 403.5(a)(1) and (b). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials

storage.

**F. BUILDING SEWER.** A Sewer conveying Wastewater from the Premises of a User to a Community Sewer.

**G. BENEFICIAL USES.** Any and all use of the Waters of the State that are protected against quality degradation, including but not limited to domestic, municipal, and agricultural use, use for industrial supply, power generation, recreation, aesthetic enjoyment, or navigation, use for the preservation and enhancement of fish, wildlife and other aquatic resources or reserves, and other beneficial uses, tangible and intangible, as specified by Federal or State law or other Applicable Regulations.

**H. BIOCHEMICAL OXYGEN DEMAND or BOD.** The quantity of oxygen required for the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at twenty (20) degrees centigrade, usually expressed as a concentration (e.g., mg/L).

**I. BYPASS.** The intentional diversion of waste streams from any portion of a User's treatment facility.

**J. CALIFORNIA CODE OF REGULATIONS or CCR.** The publication of the State of California government containing finalized State regulations.

**K. CATEGORICAL INDUSTRIAL USER.** Any User subject to a Categorical Pretreatment Standard or Categorical Standard.

**L. CATEGORICAL PRETREATMENT STANDARD or CATEGORICAL STANDARDS.** Any regulation containing Pollutant Discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Federal Act (33 U.S.C. 1317) that apply to specific category of Users and that appear in 40 CFR Chapter I,

Subchapter N, Parts 405-471.

**M. CODE OF FEDERAL REGULATIONS or CFR.** The publication of the United States government that contains finalized Federal regulations.

**N. CITY.** City of Santa Barbara.

**O. COMMERCIAL USER.** Any source of Wastewater Discharge originating from a commercial business.

**P. COMMERCIAL WASTEWATER.** Liquid wastes originating from a commercial business, excluding Domestic Wastewater and Industrial Wastewater.

**Q. COMMUNITY SEWER or SEWER.** A sewer owned and operated by the City or other public agency and tributary to the POTW operated by the City.

**R. COMPATIBLE POLLUTANT.** Pollutants that include Biochemical Oxygen Demand, suspended solids, pH and fecal coliform bacteria. Compatible Pollutants are non-compatible when discharged in quantities that have an adverse effect on the City's collection system, treatment plant or NPDES Permit.

**S. CONTAMINATION.** An impairment of the quality of the Waters of the State by Waste to a degree which creates a hazard to the public health through poisoning or through the spread of disease, aquatic life, or beneficial uses. Contamination shall include any equivalent effect resulting from the disposal of Wastewater, whether or not Waters of the State are affected.

**T. DISCHARGE (including Discharged, Discharging, Discharges).** Any spilling, leaking, pumping, pouring, emitting, emptying, injecting, escaping, leaching, dumping, disposing or releasing of any Waste or Wastewater to, on or in the POTW or any Community Sewer.

**U. DOMESTIC WASTEWATER.** Liquid Wastes (a) from the non-commercial preparation, cooking, and handling of food; or (b) containing human excrement and similar matter from the sanitary conveniences of dwellings, commercial buildings, industrial facilities and institutions and as are distinct from Industrial Wastewater.

**V. ENVIRONMENTAL PROTECTION AGENCY or EPA.** The United States Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.

**W. EXISTING SOURCE.** Any source of Discharge that is not a “New Source”.

**X. FEDERAL ACT.** The Federal Water Pollution Control Act, PL 92-500, also known as the Clean Water Act, codified as amended at 33 USC Section 1251 et seq., and any amendments thereto; as well as any guidelines, limitations and standards promulgated by EPA pursuant to the Federal Act.

**Y. FOOD ESTABLISHMENT.** Any restaurant, kitchen or other similar facility, whether or not operated commercially or for profit, which is required by the County of Santa Barbara to have a permit for the preparation or provision of food for human consumption.

**Z. GRAB SAMPLE.** A sample that is taken from the wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

**AA. HOLDING TANK WASTE.** Any waste discharged from a holding tank, including but not limited to vessels, chemical toilets, recreational vehicles, septic tanks,

and vacuum pump tank trucks.

**BB. INCOMPATIBLE POLLUTANT or NON-COMPATIBLE POLLUTANT.**

Any Pollutant which is not a Compatible Pollutant as defined in Section 16.02.040 of this Title. Incompatible Pollutants shall be regulated by applicable Pretreatment Standards, as set forth in this Title.

**CC. INDUSTRIAL USER.** Any source of Industrial Wastewater Discharge.

**DD. INDUSTRIAL WASTEWATER.** All water-carried Wastes, excluding Domestic Wastewater and Commercial Wastewater, resulting from the processing or manufacture of goods or products.

**EE. INTERFERENCE.** A Discharge that, alone or in conjunction with a Discharge or Discharges from other sources, inhibits or disrupts the POTW's treatment processes or operations or the processing, use or disposal of sludge by the POTW; or which causes a violation of the City's NPDES Permit or prevents lawful sludge disposal or use in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the Federal Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge management plan prepared to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

**FF. LOCAL LIMIT.** Specific Discharge limits developed and enforced by the City upon a permitted User to implement general and specific Discharge prohibitions listed in 40 CFR Part 403.5(a)(1) and (b).

**GG. LOWER EXPLOSIVE LIMIT or LEL.** The minimum concentration of a combustible gas or vapor (usually expressed in percent by volume at sea level) which will ignite if an ignition source (sufficient ignition energy) is present. These concentrations can be found in the National Institute of Occupational Safety and Health Pocket Guide to Chemical Hazards.

**HH. MASS EMISSION RATE.** The weight of material discharged to the Community Sewer during a given time interval. Unless otherwise specified, the Mass Emission Rate shall mean pounds per day of a particular constituent or combination of constituents.

**II. MEDICAL WASTE.** Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

**JJ. 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 Federal Act, which applies to Industrial Users. This term includes prohibitive Discharge limits.

**KK. NEW SOURCE.**

1. Any building, structure, facility or installation from which there is (or may be) a Discharge of Pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under Section 307(c) of the Federal Act that will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, *provided that:*

a. The building, structure, facility, or installation is constructed

at a site at which no other source is located; or

b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the Discharge of Pollutants at an Existing Source; or

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

2. Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of paragraphs 16.02.040(KK)(1)(b) or (c) of this Title, but otherwise alters, replaces, or adds to existing process or production equipment.

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

a. Begun, or caused to begin as part of a continuous onsite construction program:

(1) Any placement, assembly, or installation of facilities or equipment; or

(2) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary

for the placement, assembly, or installation of New Source facilities or equipment; or

b. Entered into a binding contractual obligation for the purchase of facilities or equipment which 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 contract under this paragraph.

**LL. NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMIT**  
**or NPDES PERMIT.** The permit issued to control Discharges from the POTW to Waters of the United States.

**MM. NUISANCE.** Anything which is injurious to health or is indecent or offensive to the senses or an obstruction to the free use of property so as to interfere with the comfort or enjoyment of life or property or which affects at the same time an entire community or neighborhood or any considerable number of Persons, although the extent of the annoyance or damage inflicted upon individuals may be unequal.

**NN. PASS THROUGH.** A Discharge which exits the POTW into waters of the United States in quantities or concentrations, which alone or in conjunction with a Discharge or Discharges from other sources, is a cause of a violation of any requirement of the City's NPDES Permit, including an increase in the magnitude or duration of a Discharge.

**OO. PATTERN OF NON-COMPLIANCE.**

1. Six or more Discharges during a twelve- (12-) month period, at least thirty-three percent (33%) of which contain the same Non-Compatible Pollutant in a concentration which exceeds the amount allowed by any applicable regulation; or

2. the failure of a User on three (3) or more occasions within a twelve- (12-) month period to file timely any report or other document required to be filed by the User pursuant to any applicable regulation.

**PP. PERSON.** Any individual, partnership, co-partnership, firm, company, association, corporation, joint stock company, trust, estate, government entity, or any other legal entity, or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local government entities.

**QQ. POLLUTANT.** Dredged spoil, solid waste, incinerator residue, filter backwash, sanitary sewage, garbage, sewage sludge, munitions, Medical Waste, chemical waste, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural, and industrial waste, and certain characteristics of Wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

**RR. POLLUTION.** An alteration of the quality of the Waters of the State by waste to a degree which unreasonably affects or impairs such waters for Beneficial Use or facilities which serve such Beneficial Uses. Pollution may include Contamination.

**SS. PREMISES.** Any land, including any improvements or structures thereon, which is owned, used, occupied, leased or operated by a User and from or on which Discharges occur or Wastewater is created.

**TT. PRETREATMENT.** The reduction of the amount of Pollutants, the elimination of Pollutants, or the alteration of the nature of pollutant properties in Wastewater prior to, or in lieu of, introducing such Pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes;

by process changes; or by other means, except by diluting the concentration of the Pollutants unless allowed by an Applicable Pretreatment Standard.

**UU. PRETREATMENT FACILITY.** Any wastewater treatment system consisting of one or more treatment devices designed to remove sufficient Pollutants from waste streams to allow a User to comply with effluent limits.

**VV. PRETREATMENT REQUIREMENTS.** Any substantive or procedural requirement related to Pretreatment, other than a National Pretreatment Standard, imposed on a User.

**WW. PRETREATMENT STANDARD or STANDARDS.** Prohibited Discharge Standards, Categorical Pretreatment Standards, and Local Limits.

**XX. PROCESS WASTEWATER.** Any water, which during manufacturing or processing, 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 from any industrial, commercial, institutional, or agricultural source.

**YY. PROHIBITED DISCHARGE STANDARDS.** Absolute prohibitions against Discharge of certain substances, as specified in this Title.

**ZZ. PUBLICLY OWNED TREATMENT WORKS or POTW.** A treatment works, as defined by Section 212 of the Federal Act (33 USC Section 1292), which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of Sewage or Industrial Wastewater and any conveyances, which convey Wastewater to a treatment plant.

**AAA. PUBLIC WORKS DIRECTOR.** The Director of Public Works for the City of Santa Barbara or his or her designated representative.

**BBB. SEWAGE.** Human excrement and gray water (household showers, dishwashing operations, etc.).

**CCC. STANDARD INDUSTRIAL CLASSIFICATION or SIC.** The system of classifying industries as identified in the SIC Manual, 1972, Office of Management and Budget and as may be amended.

**DDD. SIGNIFICANT INDUSTRIAL USER or SIU.**

1. Any User who has Waste Discharge subject to Categorical Pretreatment Standards under 40 CFR Part 403.6 and 40 CFR chapter I, subchapter N;  
or

2. Any User who:

a. Discharges an average of 10,000 gallons per day or more of Process Wastewater to the POTW, excluding sanitary, non-contact cooling, and boiler blowdown wastewater; or

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

c. Is designated by the City on the basis that the User:

(1) Has a reasonable potential, either individually or in combination with other contributing industries, for adversely affecting the POTW operation or the quality of effluent from the POTW; or

(2) May cause or threaten to cause the City to violate its

NPDES Permit; or

(3) Has a reasonable potential to violate any

Pretreatment Standard; or

(4) Has in its Waste Discharge, an Incompatible

Pollutant.

3. The City may determine that an Industrial User subject to categorical Pretreatment Standards is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical Wastewater, excluding sanitary, non-contact cooling and boiler blowdown Wastewater, unless specifically included in the Pretreatment Standard, and the following conditions are met:

a. The Industrial User, prior to the City's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;

b. The Industrial User annually submits the certification statement required in this Title, together with any additional information necessary to support the certification statement; and

c. The Industrial User never discharges untreated concentrated Wastewater.

**EEE. SIGNIFICANT NONCOMPLIANCE or SNC.** Any action or conduct by a User which constitutes a violation of any applicable regulation and which consists of one or more of the following:

1. Chronic violations of Wastewater Discharge limits, defined here as those in which 66 percent (66%) or more of all of the measurements taken for the same Pollutant parameter during a 6-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR Part 403.3(l);

2. Technical Review Criteria (TRC) violations, defined here as those in which 33 percent (33%) or more of all of the measurements taken for the same Pollutant parameter during a 6-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l) multiplied by the applicable TRC (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 as defined by 40 CFR Part 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative Standard) that the City determines has caused, alone or in combination with other Discharges, Interference, or Pass Through (including endangering the health and safety of City 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 City's exercise of its emergency authority to halt or prevent such a Discharge;

5. Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

6. Failure to provide, within 45 days after the due date, required

reports such as baseline monitoring reports, 90-day compliance reports, periodic self monitoring reports, and reports on compliance with compliance schedules;

7. Failure to accurately report noncompliance; or

8. Any other violation or group of violations, which may include a violation of BMPs, which the City determines will adversely affect the operation or implementation of its Pretreatment Program.

**FFF. SLUG LOAD or SLUG DISCHARGE.** Any Discharge at a flow rate or concentration, which could cause a violation of the Prohibited Discharge Standards in Chapter 16.04 of this Title. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary Batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the City's regulations, Local Limits or Wastewater Discharge Permit conditions.

**GGG. STATE.** The State of California, including any department or agency thereof.

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

**III. TOTAL TOXIC ORGANICS.** The sum of all quantifiable values greater than 0.01 mg/L for the toxic organics listed below:

<u>Acenaphthene</u>	<u>4-Chlorophenyl ether</u>	<u>phenyl</u>	<u>Benzo(ghi) perylene</u>
<u>Acrolein</u>	<u>4-Bromophenyl ether</u>	<u>phenyl</u>	<u>Fluorene</u>
<u>Acrylonitrile</u>	<u>Bis(2-chloroisopropyl) ether</u>		<u>Phenanthrene</u>
<u>Benzene</u>	<u>Bis(2-chloroethoxy) ether</u>		<u>Dibenzo(a,h) anthracene</u>
<u>Benidine</u>	<u>Methylene chloride</u>		<u>Indeno(1,2,3-cd) pyrene</u>

<u>Carbon tetrachloride</u>	<u>Methyl chloride</u>	<u>Pyrene</u>
<u>Chlorobenzene</u>	<u>Methyl bromide</u>	<u>Tetrachloroethylene</u>
<u>1,2,4-Trichlorobenzene</u>	<u>Bromoform</u>	<u>Toluene</u>
<u>Hexachlorobenzene</u>	<u>Dichlorobromomethane</u>	<u>Trichloroethylene</u>
<u>1,2-Dichloroethane</u>	<u>Chlorodibromomethane</u>	<u>Vinyl chloride</u>
<u>1,1,1-Trichloroethane</u>	<u>Hexachlorobutadiene</u>	<u>Aldrin</u>
<u>Hexachloroethane</u>	<u>Hexachlorocyclopentadiene</u>	<u>Dieldrin</u>
<u>1,1-Dichloroethane</u>	<u>Isophorone</u>	<u>4,4'-DDT</u>
<u>1,1,2-Trichloroethane</u>	<u>Naphthalene</u>	<u>4,4'-DDE</u>
<u>1,1,2,2-</u>	<u>Nitrobenzene</u>	<u>4,4'-DDD</u>
<u>Tetrachloroethane</u>		
<u>Chloroethane</u>	<u>2-Nitrophenol</u>	<u>alpha-Endosulfan</u>
<u>Bis(2-chloroethyl) ether</u>	<u>4-Nitrophenol</u>	<u>beta-Endosulfan</u>
<u>2-Chloroethyl vinyl ether</u>	<u>2,4-Dinitrophenol</u>	<u>Endosulfan sulfate</u>
<u>2-Chloronaphthalene</u>	<u>4,6-Dinitro-o-cresol</u>	<u>Endrin</u>
<u>p-Chloro-m-cresol</u>	<u>N-nitrosodimethylamine</u>	<u>Endrin aldehyde</u>
<u>Chloroform</u>	<u>N-nitrosodiphenylamine</u>	<u>Heptachlor</u>
<u>2-Chlorophenol</u>	<u>N-nitrosodi-n-propylamine</u>	<u>Heptachlor epoxide</u>
<u>1,2-Dichlorobenzene</u>	<u>Pentachlorophenol</u>	<u>alpha-BHC</u>
<u>1,3-Dichlorobenzene</u>	<u>Phenol</u>	<u>beta-BHC</u>
<u>1,4-Dichlorobenzene</u>	<u>Bis(2-ethylhexyl) phthalate</u>	<u>gamma-BHC</u>
<u>3,3'-Dichlorobenzidine</u>	<u>Butyl benzyl phthalate</u>	<u>delta-BHC</u>
<u>1,1-Dichloroethylene</u>	<u>Di-n-butyl phthalate</u>	<u>Arochlor 1242</u>
<u>1,2-trans-</u>	<u>Di-n-octyl phthalate</u>	<u>Arochlor 1254</u>
<u>Dichloroethylene</u>		
<u>2,4-Dichlorophenol</u>	<u>Diethyl phthalate</u>	<u>Arochlor 1221</u>
<u>1,2-Dichloropropane</u>	<u>Dimethyl phthalate</u>	<u>Arochlor 1232</u>
<u>1,3-Dichloropropylene</u>	<u>Benzo(a)anthracene</u>	<u>Arochlor 1248</u>
<u>2,4-Dimethylphenol</u>	<u>Benzo(a)pyrene</u>	<u>Arochlor 1260</u>
<u>2,4-Dinitrotoluene</u>	<u>Benzo(b)fluoranthene</u>	<u>Arochlor 1016</u>
<u>2,6-Dinitrotoluene</u>	<u>Benzo(k)fluoranthene</u>	<u>Toxaphene</u>
<u>1,2-Diphenylhydrazine</u>	<u>Chrysene</u>	<u>Fluoranthene</u>
<u>Ethylbenzene</u>	<u>Acenaphthylene</u>	<u>Anthracene</u>
<u>Chlordane (tech and metabolites)</u>		

**JJJ. TOTAL SUSPENDED SOLIDS or SUSPENDED SOLIDS.** The total suspended matter that floats on the surface of, or is suspended in, water, Wastewater, or other liquid, and that is removable by laboratory filtering.

**KKK. UNPOLLUTED WATER.** Water to which no constituent has been added, either intentionally or accidentally, which would render such water unacceptable to the

City having jurisdiction thereof for disposal to storm or natural drainages or directly to surface waters.

**LLL. USER.** Any Person who discharges from any Premises used, in whole or in part, and whether intermittently or continuously, for any commercial, industrial, manufacturing, or institutional purpose.

**MMM. WASTE.** Sewage and any and all other waste substances, liquid, solid, gaseous or radioactive, associated with human habitation, or of human or animal origin, or from any producing, manufacturing or processing operation of whatever nature, including such Waste placed within containers of whatever nature prior to, and for purposes of, disposal.

**NNN. WASTEWATER.** Liquid and water-carried industrial Wastes and Sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which contribute to the POTW.

**OOO. WASTEWATER CONSTITUENTS AND CHARACTERISTICS.** The individual chemical, physical, bacteriological and radiological parameters, including volume and flow rate and such other parameters, that serve to define, classify or measure the contents, quality, quantity and strength of Wastewater.

**PPP. WASTEWATER DISCHARGE PERMIT.** A permit issued to a User that allows it to discharge Wastewater to the Community Sewer and POTW.

**QQQ. WATERS OF THE STATE.** Any water, surface or underground, including saline waters within the boundaries of the State as defined in 40 CFR Part 230.3(s).

## **Chapter 16.04 Regulations.**

**16.04.010. General Prohibitions on Discharges.**

No Person shall introduce or cause to be introduced into a Community Sewer or the POTW any Waste or Wastewater which causes Pass Through or Interference. Additionally, no User shall introduce or cause to be introduced into the POTW the following Pollutants, substances, or Wastewater:

A. That create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees Fahrenheit (60 degrees centigrade) using the test methods specified in 40 CFR Part 261.21. Closed-cup flashpoint values may be found in the National Institute of Occupational Safety and Health (NIOSH) *Pocket Guide to Chemical Hazards*;

B. That have a pH lower than 6.0 or greater than 10.0, or otherwise causing corrosive structural damage to the POTW or equipment;

C. That contain solids or viscous substances in amounts which will cause obstruction of flow in the POTW resulting in Interference or damage;

D. That include oxygen-demanding substances (BOD, etc.) which are released at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause Interference with the POTW;

E. That cause the temperature at the POTW to be greater than 104 degrees Fahrenheit (40 degrees centigrade), impairment or inhibition of biological treatment processes or temperatures of greater than 140 degrees Fahrenheit (60 degrees centigrade) at the point of Discharge;

F. That include petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through;

G. That result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

H. From any trucked or hauled Pollutants, except at Discharge points designated by the City;

I. That are noxious or malodorous liquids, gases, solids, or other Wastewater which, either singly or by interaction with other Wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the Community Sewer for maintenance and repair;

J. That causes the City's effluent or any other product of the treatment process, residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process;

K. That causes a detrimental environmental impact or a nuisance in the Waters of the State or a condition unacceptable to any public agency having regulatory jurisdiction over the City;

L. That create conditions at or near the City's POTW which violate any statute or any rule, regulation, or ordinance of any public agency or State or Federal regulatory body, or which cause the City to violate its NPDES Permit;

M. Quantities or rates of flow which overload the City's collection or treatment facilities, cause excessive City collection or treatment costs, or use a disproportionate share of the City facilities;

N. That causes an LEL reading of greater than ten percent (10%) as hexane at any point within the POTW. LEL values may be found in the NIOSH *Pocket Guide to Chemical Hazards*;

O. That causes obstruction or increased treatment costs due to the presence of any sand, grit, straw, metal, glass, rags, feathers, tar, plastic, wood, manure, dead animals, offal or any other solid viscous substance which in any way interferes with the proper operation of the POTW; or

P. That causes toxicity at the treatment plant or in the collection system due to the presence of toxic or poisonous substances in sufficient quantities to constitute a hazard to humans or animals or to create a hazard at the treatment plant or to injure or interfere with any sewage treatment processes.

Q. Medical Wastes, except as specifically authorized by Public Works Director in a Wastewater Discharge Permit.

R. Hazardous Waste, which meets the definition under CCR Title 22, Article 11, except as specifically authorized by the Public Works Director in a Wastewater Discharge Permit.

S. Radioactive waste

T. Containing gasoline, naphtha, petroleum oils or any volatile, flammable or explosive gas, liquid or solid in sufficient quantities or combinations to constitute a hazard to humans or animals, to create a hazard in the POTW or to injure or interfere with any sewage treatment process.

Pollutants, substances, or Wastewater prohibited by this Section shall not be processed or stored in such a manner that it could be discharged to the POTW.

**16.04.040. Prohibition on Unpolluted Water.**

**A. PROHIBITED DISCHARGE INTO COMMUNITY SEWER. No Person**

shall discharge or cause to be discharged any Storm Water, surface water, ground water, subsurface drainage, or any uncontaminated, unseptic, or non-septic cooling water, boiler exhaust, blow-off water, non-septic wash-rack drainage, or uncontaminated and non-septic industrial process water, directly or indirectly, to, on or into a Community Sewer unless a permit has previously been issued thereof by the City. The City may approve the Discharge of such water only when no reasonable alternative method of disposal is available.

If a permit is granted for the Discharge of such water into a Community Sewer, the Person shall pay the applicable user charges and fees and meet such other conditions as required by the City.

**16.04.050. Slug Discharges.**

No User shall discharge or cause to be discharged any Slug Load of materials, chemicals, products, or Waste into the POTW.

**16.04.070. Limitations on the Use of Commercial Garbage Grinders.**

Waste from commercial garbage grinders shall not be discharged into a Community Sewer.

**16.04.080. Requirement for Interceptors.**

A. Sand and Oil Interceptors.

Sand and oil, interceptors shall be provided when, in the opinion of the Public Works Director, they are necessary for the removal of sand or oil. All interceptors units shall

be of a type and capacity approved by the Public Works Director shall be located to be easily accessible for cleaning and inspection. Such interceptors shall be installed, utilized and properly maintained in continuous and efficient operation at all times and at the expense of the User.

B. Food Establishments.

Grease and oil interceptors shall be provided at all Food Establishments, or when the Health Officer of the County or the Public Works Director determines that they are necessary for the proper handling of liquid waste containing excessive amounts of grease or oil. No such interceptor shall be required for private dwellings. Grease and oil interceptors shall be installed, utilized and properly maintained in continuous and efficient operation at all times and at the expense of the User. All interceptors shall be of a type, capacity and construction approved in writing by the Public Works Director. Interceptors shall be located so as to be readily and easily accessible for cleaning and inspection and shall be accessible at all times to personnel from the City and the Health Officer of the County for inspection and sampling. Food Establishments which do not have a dishwashing machine or garbage grinder and which show that the Discharge does not contribute grease or oil in excess of the limitations of this Title may apply for a variance from the requirement to install an interceptor.

**16.04.090. Requirement for Installation of Sampling Box.**

When directed by the Public Works Director, Food Establishments shall install a sampling box of a size and type to be specified by the Public Works Director.

**16.04.100. Limitations on Point of Discharge.**

No Person shall discharge any substances directly into a manhole or other opening in a Community Sewer other than through a City-approved Building Sewer. The User must submit a written application and payment of the applicable User charges and fees to the City.

**16.04.110. Holding Tank Waste.**

A User proposing to discharge Holding Tank Waste into a Community Sewer must obtain a City permit. Unless allowed by the City under the terms and conditions of the permit, a separate permit must be obtained for each separate Discharge. This permit will state the specific location of Discharge, the time of day the Discharge is to occur, the volume of the Discharge and the Wastewater Constituents and Characteristics. If a permit is granted for Discharge of such waste into a Community Sewer, the User shall pay the applicable User charges and fees and shall meet such other conditions as required by the City.

**16.04.120. Local Limitations on Wastewater Strength.**

**A. LIMITS ON WASTEWATER STRENGTH.** No Person shall discharge

Wastewater containing an excess of (as a daily maximum):

0.27 milligrams per liter (mg/L) arsenic  
0.09 mg/L cadmium  
1.1 mg/L copper  
0.97 mg/L cyanide  
2.0 mg/L lead

0.032 mg/L mercury  
1.86 mg/L nickel  
0.59 mg/L silver  
2.64 mg/L total chromium  
7.11 mg/L zinc  
9.37 mg/L selenium  
0.189 mg/L chlorinated phenolics  
42.47 mg/L phenolics  
100 mg/L oil or grease of animal or vegetable origin  
100 mg/L oil or grease of mineral or petroleum origin  
1.3 micrograms per liter (µg/L) endosulfan  
0.6 µg/L endrin  
0.7 µg/L HCH, or  
0.222 mg/L PCBs.

The above limits apply at the point where the Wastewater is discharged to the Community Sewer. All concentrations for metallic substances are for total metal, unless indicated otherwise. The City may impose mass limitation in addition to the concentration-based limitations above.

**B. DILUTION PROHIBITED.**

No User shall ever increase the use of process waste, or in any way attempt to dilute a Discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a Discharge limitation unless expressly authorized by an applicable Pretreatment Standard or Requirement. The City may impose mass limitations on Users who are using dilution to meet applicable Pretreatment Standards or Requirements, or in cases when the imposition of mass limitation is appropriate.

**C. NATIONAL CATEGORICAL PRETREATMENT STANDARDS.**

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

**D. BMPS.** The Public Works Director may develop BMPs, by ordinance

or in Wastewater Discharge Permits to implement Local Limits and the requirements of Chapter 16.04.

**16.04.140. Fire Precautions.**

Smoking, open fires, the striking of matches, open flame lamps or lanterns, and electrical equipment and appliances that will generate or produce sparks or fire shall not be permitted in any tunnel, storm drain, Sewer or portion thereof where there is or may be an accumulation of flammable gas in explosive quantities.

**16.04.150. Right to Revision.**

The City reserves the right to establish, by ordinance or in Wastewater Discharge Permits, more stringent Standards or Requirements on Discharges to the POTW consistent with the purpose of this Title.

**Chapter 16.08 Administration.**

**16.08.010. Baseline Monitoring Report.**

**A. REQUIRED REPORTING.** Within 180 days after the effective date of a Categorical Pretreatment Standard or 180 days after the final administrative decision made upon a category determination submission under 40 CFR Part 403.6(a)(4), whichever is later, Existing Sources subject to such Categorical Pretreatment Standards and currently discharging to or scheduled to discharge to the POTW shall be required to submit to the City a report which contains the information listed in Sections 16.08.010 (B)(1)-(8) of this Title. At least ninety (90) days prior to commencement of Discharge,

New Sources, and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable Categorical Standard, shall be required to submit to the City a report which contains the information listed in Sections 16.08.010(B)(1)-(5) of this Title. New Sources shall report the method of pretreatment they intend to use to meet applicable Categorical Standards. New Sources shall give estimates of the information requested in Sections 16.08.010(B)(4) and (5) of this Title:

**B. REQUIRED REPORTING INFORMATION.** Users, including Existing Users and New Sources, shall submit to the City within the time limits set forth above, the information provided below:

1. Identifying information. The User shall submit the name and address of the facility including the name of the operator and owners;

2. Permits. The User shall submit a list of any environmental control permits held by or for the facility;

3. Description of operation. The 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 POTW from the regulated processes.

4. Flow measurement. The User shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the City 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 CFR Part 403.6(e). (See paragraph (B)(5)(f) of this section.)

5. Measurement of Pollutants.

a. The User shall identify the Categorical Pretreatment Standards applicable to each regulated process and any new categorically-regulated processes for Existing Sources;

b. The User shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the City) of regulated Pollutants in the Discharge from each regulated process.

c. Instantaneous, daily maximum, and long-term average concentrations (or mass, where required) shall be reported.

d. The sample shall be representative of daily operations. In cases where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the City or the applicable Standards to determine compliance with the Standard;

e. The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.

f. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated Wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 CFR Part 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 CFR

Part 403.6(e) this adjusted limit along with supporting data shall be submitted to the City;

g. Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto. Where 40 CFR Part 136 does not contain sampling or analytical techniques for the Pollutant in question, or where the Administrator determines that the 40 CFR Part 136 sampling and analytical techniques are inappropriate for the Pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures approved by the Administrator, including procedures suggested by the City or other parties;

h. The City may allow the submission of a baseline report which utilizes only historical data as long as the data provides information sufficient to determine the need for industrial Pretreatment measures;

i. The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected Pollutant Discharges to the POTW.

6. Compliance Certification. A statement, reviewed by an Authorized Representative of the 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&M) and/or additional pretreatment is required for the User to meet the Pretreatment Standards and Requirements;

7. Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the

User will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard.

8. Signature and Report Certification. All baseline monitoring reports must be certified in accordance with Section 16.08.060 of this Title and signed by an Authorized Representative of the User.

**16.08.020. Compliance Schedule Progress Report.**

The following conditions shall apply to the schedule required by Section 16.08.010(B)(7) of this Title:

A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional Pretreatment required for the User to meet the applicable Pretreatment Standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.);

B. No increment referred to the above shall exceed nine (9) months;

C. The User shall submit a progress report to the City no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for delay, and if appropriate, the steps being taken by the User to return to the established schedule; and

D. In no event shall more than nine (9) months elapse between such

progress reports to the City.

**16.08.030. 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 Pretreatment Standards and Requirements shall submit to the City a report containing the information described in Section 16.08.010(B)(4) and (5) of this Title. For Users subject to equivalent mass or concentration limits established by the City in accordance with the procedures in 40 CFR Part 403.6(c), this report shall contain a reasonable measure of the User's long term production rate. For all other Users subject to Categorical Pretreatment Standards expressed in terms of allowable Pollutant Discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 16.08.060 of this Title.

**16.08.040. Compliance Reports.**

**A. INDUSTRIAL USER REPORTS.** All Significant Industrial Users (Tier I Users in Section 16.08.120(B)(1)) shall submit reports to the City in accordance with 40 CFR Part 403.12(e) and (h). These reports shall be submitted twice each year for the

periods July 1 through December 31; and January 1 through June 30; and shall be due on January 30 and July 30 of each year, respectively. If a User monitors any regulated Pollutant at the appropriate sampling location more frequently than required, using the procedures specified in Section 16.08.130 of this Title, the results of this monitoring shall be included in these reports.

**B. PERMITTED USER REPORTS.** All other permitted Users (Tier II and Tier III as defined in Section 16.08.120(B)(2) and (3)) shall submit reports to the City in accordance with its Wastewater Discharge Permit requirements.

**C. REQUIRED CERTIFICATION OF REPORTS.** All periodic compliance reports must be signed and certified in accordance with Section 16.08.060 of this Title.

**16.08.050. Hauled Waste Reporting/Requirements.**

Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and address of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

**16.08.060. Certification Requirement.**

**A. Certification of Permit Applications and User Reports.** All reports shall include the following certification: "I certify under penalty of perjury that this document and all attachments to it were prepared under my direction or supervision and 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." Reports shall be signed by a responsible corporate officer, general partner, or a duly authorized individual as defined in 40 CFR Part 403.12(l).

B. Annual Certification for Non-Significant Categorical Industrial Users. A facility determined to be a Non-Significant Categorical Industrial User by the City pursuant to Sections 16.02.040.DDD and 16.08.120.D.9 of this Title must annually submit the following certification statement signed in accordance with the signatory requirements in Section 16.02.040 C. This certification must accompany an alternative report required by the City:

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

(1) The facility described as \_\_\_\_\_ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in Section 16.02.040 DDD of this Title;

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

(3) The facility never discharged more than 100 gallons of total categorical

wastewater on any given day during this reporting period.

This compliance certification is based on the following information.”

**16.08.070. Notification of Changed Discharge.**

All Users shall promptly notify the City in advance of any substantial change in the volume or character of Pollutants in their Discharge, or of any planned significant changes to the User's operations or system which might alter the nature, quality or volume of the Discharge. The City may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a Wastewater Discharge Permit application under Sections 16.08.120 of this Title, if necessary.

**16.08.090. Notification of Violation.**

If sampling performed by a User indicates a violation, the User must notify the City 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 City within thirty (30) days after becoming aware of the violation. Resampling by the User is not required if the City performs sampling at the User's facility at least once a month, or if the City performs sampling at the User's facility between the time when the initial sampling was conducted and the time when the User or the City receives the results of this sampling, or if City has performed the sampling and analysis in lieu of the User.

If the City performed the sampling and analysis in lieu of the User, the City will

perform the repeat sampling and analysis unless it notifies the User of the violation and requires the User to perform the repeat sampling and analysis.

**16.08.100. Notification of Potential Problems.**

**A. REQUIRED NOTICE OF DISCHARGE.** In case of any Discharge, including, but not limited to, accidental Discharges, Discharges of a non-routine, episodic nature, a noncustomary Batch Discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the User shall immediately telephone and notify the Public Works Director of the incident. This notification shall include the location of the Discharge, type of waste, concentration, and volume, if known, and corrective actions taken by the User.

**B. REPORT ON DISCHARGE.** Within five (5) days following such Discharge, the User shall, unless waived by the Public Works Director, submit a detailed written report describing the cause(s) of the Discharge and measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability that might be incurred as the result of damage to the POTW, natural resources, or any other damage to Person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant of this Title.

**C. NOTIFICATION PROTOCOL.** A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a Discharge described in Section 16.08.100(A). Employers shall ensure that all

employees, who cause such a Discharge to occur, are advised of the emergency notification procedure.

**D. NOTICE OF SLUG DISCHARGE.** Users are required to notify the Public Works Director immediately of any changes at its facility affecting the potential for a Slug Discharge.

**16.08.120. Wastewater Discharge Permits.**

**A. PERMIT ADMINISTRATION.** All permits under this Title shall be administered by Public Works Director or designee.

**B. MANDATORY PERMITS.** Users proposing to connect or to discharge into a Community Sewer must obtain a Wastewater Discharge Permit prior to discharge:

1. Tier I Significant Industrial User - Any User who meets any of the following conditions:

a. Has a Waste Discharge subject to Categorical Pretreatment Standards;

b. Has an average Discharge flow of 10,000 gallons per day or more of Process Wastewater to the POTW, excluding sanitary, non-contact cooling water, and boiler blowdown wastewater;

c. Contributes a process waste stream that makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW; or

d. Is designated by the City on the basis that the User:

(1) Has a reasonable potential, either individually or in

combination with other contributing industries, for adversely affecting the POTW operation or upon the quality of effluent from the POTW;

(2) May cause or threaten to cause the City to violate its NPDES permit;

(3) Has reasonable potential to violate any Pretreatment Standard; or

(4) Has in its Waste Discharge, a toxic Pollutant.

2. Tier II Non-Significant Industrial User - Any User who meets any of the following criteria:

a. Is not required to obtain a Tier I Permit;

b. Is a Non-Significant Categorical Industrial User;

c. Has Discharge characteristics greater than typical Domestic

Wastewater;

d. Discharges industrial or commercial wastewater which may have potential effects on the City's POTW; or

e. Has a reasonable potential to violate any Local Limit, Pretreatment Standard, or Pretreatment Requirement.

3. Tier III Groundwater Dischargers - Any User who discharges groundwater to the POTW.

**C. OPTIONAL PERMITS.** The Public Works Director may issue a Wastewater Discharge Permit, upon application and in accordance with the terms of this Title, for any of the following kinds of Users:

1. A User who has elected that user charges and fees be based on an estimation of Wastewater flow;

2. A User who has installed or been required to install equipment designed or intended to reduce Wastewater strength; or

3. A User for whom the Public Works Director has determined that monitoring is required to ensure that Discharges comply with all Applicable Regulations.

**D. PERMIT APPLICATION.** Prospective or existing Users seeking a Wastewater Discharge Permit shall complete and file with the City an application in the form prescribed by the Public Works Director, accompanied by the applicable fees. The applicant shall be required to submit, in units and terms appropriate for evaluation, the following information:

1. Identifying Information.

a. The name and address of the facility, including the name of the operator and owner.

b. Contact information, description of activities, facilities, and plant production processes on the Premises.

2. Environmental Permits.

A list of any environmental control permits held by or for the facility.

3. Description of Operations, including all of the information listed below.

a. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and SIC number(s) of the operation(s) carried out by such User. This description

should include a schematic process diagram, which indicates the points of Discharge to the POTW from regulated processes.

b. Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW.

c. Number and type of employees, hours of operation, and proposed or actual hours of operation.

d. Type and amount of raw materials processed (average and maximum per day).

e. Site plans, floor plans, mechanical and plumbing plans, and details to show all Sewers, floor drains, and appurtenances by size, location, and elevation, and all points of Discharge.

4. Time and duration of Discharges.

5. The location of monitoring all Wastes covered by the Wastewater Discharge Permit.

6. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula (40 CFR Part 403.6(e)). Flow rates should also include the 30-minute peak wastewater flow rate and monthly and seasonal variations if they exist.

7. Measurement of Pollutants.

a. The User shall identify the Categorical Pretreatment Standards applicable to each regulated process and any new categorically-regulated

processes for Existing Sources.

b. The User shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the City) of regulated Pollutants in the Discharge from each regulated process.

c. Instantaneous, daily maximum, and long-term average concentrations (or mass, where required) shall be reported.

d. The sample shall be representative of daily operations. In cases where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the City or the applicable Standards to determine compliance with the Standard.

8. Any other information deemed by the Public Works Director to be necessary to evaluate the permit application.

9. Application Signatories and Certifications. All Wastewater Discharge Permit applications must be certified in accordance with Section 16.08.060 of this Title and signed by an Authorized Representative of the User.

A facility determined to be a Non-Significant Categorical Industrial User by the Public Works Director pursuant to 16.02.040.DDD must annually submit the signed certification statement in Section 16.08.060.B.

**E. PUBLIC WORKS DIRECTOR PERMIT REVIEW AND DETERMINATION.**

The Public Works Director will evaluate the data furnished by the User. After evaluation and acceptance of the data furnished, the Public Works Director may issue a Wastewater Discharge Permit subject to terms and conditions provided herein. The Public Works Director may deny issuance of a permit where the Discharge alone, or in

combination with other Discharges, has the potential to cause:

1. Interference;
2. Pass Through;
3. Insufficient capacity; or
4. Risk to health and safety.

**F. PERMIT CONDITIONS.**

Wastewater Discharge Permits shall be subject to all Applicable Regulations, User charges and fees established by the City. The conditions of Wastewater Discharge Permits shall be enforced by the Public Works Director in accordance with all Applicable Regulations.

Wastewater Discharge Permits must contain the following:

1. A statement that indicates the Wastewater Discharge Permit issuance date, expiration date, and effective date.
2. A statement that the Wastewater Discharge Permit is nontransferable.
3. Effluent limits, including BMPs, based on applicable Pretreatment Standards.
4. Self-monitoring, sampling, reporting, notification, and recordkeeping requirements. These requirements shall include an identification of Pollutants (or BMPs) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.
5. A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule.

Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.

6. Requirements to control Slug Discharge, if determined by the Public Works Director to be necessary.

7. Compliance with the Wastewater Discharge Permit does not relieve the User of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the Wastewater Discharge Permit.

8. Wastewater Discharge Permits may include any of the following:

a. Limits on rate and time of discharge and/or requirements for flow regulations and equalization;

b. Requirements for the installation of Pretreatment technology, pollution control, or construction of appropriate containment devices designed to reduce, eliminate, or prevent the introduction of Pollutants into the POTW;

c. Requirements for the development and implementation of spill control plans or other special conditions including BMPs necessary to adequately prevent accidental, unanticipated, or non-routine Discharges;

d. Development and implementation of waste minimization plans to reduce the amount of Pollutants discharged to the POTW;

e. Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;

f. Statements of applicable administrative, civil, and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable

compliance schedule. Such schedule may not extend the time for compliance beyond that requirement by applicable Federal, State, or local law; and

g. Other conditions as deemed appropriate by the Public Works Director to ensure compliance with this Title, and State and Federal laws, rules, and regulations.

**G. DURATION OF PERMITS.** Permits shall be issued for a specified time period, not to exceed five (5) consecutive years from the effective date of the permit. If the User wants to continue discharge after the expiration of the Wastewater Discharge Permit, a Wastewater Discharge Permit application must be submitted a minimum of forty-five (45) days prior to the expiration date of the Wastewater Discharge Permit. If the User submits a completed Wastewater Discharge Permit application and through no fault of the User, a new Wastewater Discharge Permit is not issued prior to the expiration of the existing Wastewater Discharge Permit, the existing Wastewater Discharge Permit will remain in effect until the City reissues, or denies, as the case may be, a new Wastewater Discharge Permit.

All Wastewater Discharge Permits issued to a User are void upon issuance of a new Wastewater Discharge Permit to that User.

**H. PERMIT FEES.** Wastewater Discharge Permit fees shall be set by a resolution of the City Council and shall reflect all costs associated with administering the permit.

**I. PERMIT MODIFICATIONS.** The terms and conditions of the Wastewater Discharge Permit are subject to modification and change by the Public Works Director prior to the expiration of the permit. The Public Works Director shall attempt to inform

the User of modifications to a Wastewater Discharge Permit at least thirty (30) days prior to the modification effective date. Unless the circumstances require otherwise as determined by the Public Works Director, modifications or new conditions to a Wastewater Discharge Permit shall be issued in writing and shall include a reasonable time schedule for compliance. A Wastewater Discharge Permit may be modified for any of the following reasons:

1. To incorporate any new or revised Federal, State, or local Pretreatment Standards or Requirements.

2. To address significant alterations or additions to the User's operations, processes, or wastewater volume or character since the time of permit issuance.

3. A change in the POTW that requires either a temporary or permanent reduction or elimination of an authorized Discharge.

4. Information indicating that the permitted User poses a threat to the City's POTW, personnel, or receiving waters.

5. Violation of any terms or conditions of the permit.

6. Misrepresentation or failure to fully disclose all relevant facts in the permit application or in any required reporting.

7. Revision of, or a grant of variance from, any Categorical Pretreatment Standard.

8. To correct typographical or other errors in the permit.

**J. NO PERMIT TRANSFER.** Wastewater Discharge Permits are issued to a specific User for a specific operation. A Wastewater Discharge Permit shall not be

reassigned, transferred or sold to a new or different owner, User, or Premises, or to a new or changed operation at or on any permitted or previously permitted Premises. Wastewater Discharge Permits shall be void upon cessation of operations or transfer to a different User.

**K. PERMIT REVOCATION.** Any User who violates any of the following conditions of the Wastewater Discharge Permit or of this Title, or applicable State and Federal regulations, is subject to having its permit revoked:

1. Failure to provide prior notification to the Public Works Director of changed conditions pursuant of Section 16.08.070 of this Title;

2. Misrepresentation or failure to fully disclose all relevant facts in the Wastewater Discharge Permit application;

3. Falsifying self-monitoring reports and certification statements;

4. Tampering with monitoring equipment;

5. Refusing to allow the Public Works Director timely access to the facility Premises and/or records;

6. Failure to meet effluent limitations;

7. Failure to pay fines;

8. Failure to pay sewer charges;

9. Failure to meet compliance schedules;

10. Information indicating that the permitted User poses a threat to the City's POTW, personnel, or receiving waters; or

11. Violation of any Pretreatment Standard or Requirement, or any terms of the Wastewater Discharge Permit or this Title.

**16.08.130. Monitoring Facilities and Sampling Procedures.**

**A. INSTALLATION OF MONITORING FACILITIES.** The Public Works Director shall require the User to construct, at its own expense, monitoring facilities adequate to allow inspection and sampling of the Sewer or internal drainage systems at, upon, or in the User's Premises. The Public Works Director may also require the construction of flow measurement facilities and sampling or metering equipment, and may specify which facilities and equipment shall be provided, installed, and operated at the User's expense. The monitoring facility should normally be situated on the User's Premises, but the Public Works Director may, when such a location would be impractical or would cause undue hardship on the User, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles; provided, however, that the User shall be required to comply with all applicable encroachment and other land use requirements.

**B. ACCESS TO MONITORING FACILITIES.** If the monitoring facility is inside or on the User's Premises, User shall allow ready access for City personnel. Any change to the accessibility of the User's Premises, such as a new lock or combination, must be provided to the Public Works Director within twenty-four (24) hours following the change.

**C. OBSTRUCTION TO ACCESS.** Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the request of the Public Works Director and shall not be replaced. The costs of clearing such access shall be paid by the User. All costs of

removing temporary or permanent obstructions shall be paid by the User.

**D. CONSTRUCTION OF MONITORING FACILITIES.** Whether

constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the City's requirements and all applicable construction standards and specifications. Construction shall be completed within ninety (90) days following written notification by the City; unless a time extension is otherwise granted by the City.

**E. SAMPLING PROCEDURES.**

1. Except as provided in Subsection 16.08.130(E)(2) and (3) of this Chapter, the User must collect Wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Public Works Director. Where time-proportional composite sampling or grab sampling is authorized by the Public Works Director, the samples must be representative of the Discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple Grab Samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the City, as appropriate. In addition, Grab Samples may be required to show compliance with instantaneous limits.

2. Samples for oil and grease, temperature, pH, cyanide, total

phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques. Actual sample type requirements shall be included in the Wastewater Discharge Permit.

3. For sampling required in support of the reports required in Sections 16.08.010 and 16.08.030 of this Chapter, a minimum of four (4) Grab Samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Public Works Director may authorize a fewer grab samples.

4. For reports required by Section 16.08.040 of this Title, the User is required to collect the number of Grab Samples necessary to assess and assure compliance with applicable Pretreatment Standards and Requirements.

**16.08.140. Recordkeeping.**

Users subject to the reporting requirements of this Title shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Title, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with BMPs established under Section 16.04.120(E) of this Title. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a

period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the City, or where the User has been specifically notified of a longer retention period by the Public Works Director.

**16.08.150. Inspection and Sampling.**

The Public Works Director shall have the right to enter the Premises of any User to determine whether the User is complying with all requirements of this Title and any Wastewater Discharge Permit or order issued hereunder. Users shall allow the Public Works Director access to all parts of the Premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

**A. USER SECURITY.** Where a User has security measures in force which require proper identification and clearance before entry into its Premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Public Works Director shall be permitted to enter without delay for the purposes of performing specific responsibilities.

**B. INSPECTION INSTALLATIONS.** The Public Works Director shall have the right to install devices on the User's property, or require installation of devices, as are necessary to conduct sampling and/or metering of the User's operation.

**C. DELAY IN ACCESS.** Unreasonable delays in allowing the Public Works Director access to the User's Premises shall be a violation of this Title.

**D. PUBLIC WORKS DIRECTOR SEARCH WARRANT.** If the Public Works Director has been refused access to a building, structure, or property, or any part

thereof, and holds a reasonable suspicion that there may be a violation of this Title, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this Title or any permit or order issued hereunder, or to protect overall public health, safety, and welfare of the City, the Public Works Director may seek issuance of a search warrant from the City Attorney.

**16.08.160. Pretreatment.**

Users shall meet limitations established herein before Discharging to any Community Sewer. Any facilities required to pretreat Wastewater shall be provided, and maintained and continuously operated at the User's expense. Prior to construction of any facility subject to regulation under the provisions of this Title, detailed plans showing pretreatment facilities and operating procedures shall be submitted to the Public Works Director for review, and shall be approved by the City before construction of the facility. The review of such plans and operating procedures will in no way relieve the User of responsibility for modifying the facility as necessary to produce a wastewater that meets the provisions of this Title. Any subsequent changes in the pretreatment facilities or operation thereof shall be reported to and approved by the Public Works Director prior to implementation.

**16.08.170. Protection from Accidental Discharge.**

**A. ACCIDENTIAL DISCHARGE.** Each User shall provide facilities to prevent the accidental Discharge of prohibited materials or other Wastes regulated by

this Title. Such facilities shall be provided and maintained at the User's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the City for review, and shall be approved by the City before construction of the facility.

**B. USER RESPONSIBILITY.** The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying the facility as needed to provide the protection necessary to meet the requirements of this Title.

**16.08.180. Confidential Information.**

Information and data regarding a User obtained from reports, surveys, Wastewater Discharge Permit applications, Wastewater Discharge Permits, monitoring programs, and from the Public Works Director's inspection and sampling activities, shall be made available to the public without restriction unless the User specifically requests in writing, and is able to demonstrate to the satisfaction of the Public Works Director, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be made at the time of submission of the information or data. When sufficiently demonstrated by the User furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or Pretreatment program, and in enforcement proceedings involving

the person furnishing the report. Notwithstanding the above, Wastewater Constituents and Characteristics and other effluent data as defined in 40 CFR Part 2.302 shall not be recognized as confidential information and shall be made available to the public without restriction.

**16.08.190. Users Outside City.**

The provisions of the Title shall apply to all Users who discharge Wastewater to, on or into any Community Sewer or the POTW from Premises located inside or outside the City limits.

**16.08.200. Special Agreements.**

Special agreements and arrangements between the City and any Person may be established when, in the opinion of the Public Works Director, unusual or extraordinary circumstances compel special terms and conditions. However, in no instance, shall special agreements relieve a Person from compliance with Categorical Pretreatment Limits or the National Pretreatment Regulations found in 40 CFR Part 403.

**Chapter 16.10 DETERMINATIONS AND CHARGES**

**16.10.010. Determination of Components.**

In order to ensure compliance with the local limitations on Wastewater strength in Section 16.04.120 of this Title, a determination of components contained in Sewage, liquid waste, and industrial waste Discharges will be conducted by the Public Works Director. Monitoring will be performed by means of a sampling device approved by the

Public Works Director. Sampling, resampling, and laboratory work performed by the City for monitoring will be performed at the expense of the User.

**16.10.020. Tests, Etc., of Sewage Waste Characteristics.**

All analyses shall be performed in accordance with procedures established by the Administrator pursuant to Section 304(h) of the Federal Act and contained in 40 CFR Part 136 and amendments thereto or with any other test procedures approved by the Administrator. (See 40 CFR Parts 136.4 and 136.5.) Sampling shall be performed in accordance with the techniques approved by the Administrator. Where 40 CFR Part 136 does not include sampling or analytical techniques for the Pollutants in question, or where the Administrator determines that the 40 CFR 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 procedures approved by the Administrator, including procedures suggested by the City or other parties.

**Chapter 16.12 Enforcement.**

**16.12.010. Enforcement Response Plan.**

The Public Works Director shall investigate instances of noncompliance with any provision of this Title, or with any Pretreatment Standards and Requirements, as indicated in the reports and notices required under 40 CFR Part 403.12, or indicated by analysis, inspection, and surveillance activities performed by the Public Works Director. The City shall conduct enforcement proceedings in accordance with its Enforcement

Response Plan. The Enforcement Response Plan, adopted by resolution by the City Council, is incorporated herein by reference and may be amended from time to time to ensure consistent application of the provisions of this Title and Federal and State regulations.

**16.12.020. Non-Complying Discharges.**

**A. NOTIFICATION OF DISCHARGE.** Any User who causes or permits a Discharge which violates any applicable law, regulation, or the Wastewater Discharge Permit, shall immediately notify the Public Works Director. Notification by the User as required in this Section, shall not, however, relieve the User of liability for any expense, loss or damage to any Community Sewer or the POTW which occurs, directly or indirectly, as a result of the Discharge. Nor shall notification by the User relieve the User of liability for any expense, fee or fine incurred by the City as a result of the Discharge. No later than fourteen (14) days after the Discharge, the User shall deliver to the Public Works Director a detailed written statement describing the cause(s) of the Discharge and the measures taken and/or to be taken to prevent similar Discharges.

**B. NOTICES TO EMPLOYEES.** Each User shall make available to its employees, if any, current copies of this Title and all other information or notices sent to the User by the City that describe or discuss effective water pollution control.

**C. PREVENTIVE MEASURES.** Each User shall eliminate any direct or indirect connection or entry point in the plumbing and/or drainage system on the User's Premises if the connection or entry point can or does allow any Incompatible Pollutant to enter a Community Sewer. Where it would be impracticable or unreasonable to

eliminate this kind of connection or entry point, the User shall label these connections and entry points in a manner designed to prevent Persons from causing Incompatible Pollutants to enter the Community Sewer.

**16.12.030. Notice of Violation.**

When the Public Works Director finds that any User has violated, or continues to violate, a provision of this Title, a Wastewater Discharge Permit, an order issued hereunder, a Pretreatment Standard or Requirement or any applicable local, State or Federal law, the Public Works Director may serve upon such User a written Notice of Violation. Within fourteen (14) calendar days of the date of the Notice of Violation, User shall submit to the City a written explanation of the violation and a plan for the satisfactory correction and prevention thereof, which shall include specific required actions to be taken. Submission of this plan in no way relieves the User of liability for any violations occurring before or after the date of the notice of violation. Nothing in this Section limits the authority of the City to take emergency action, or any other enforcement action, without issuing a Notice of Violation.

**16.12.040. Cease and Desist Orders.**

When the Public Works Director finds that a User has violated, or continues to violate, any provision of this Title, a Wastewater Discharge Permit or order issued hereunder, or any other Pretreatment Standards or Requirement, or that the User's past violations are likely to reoccur, the City may issue an order to the User directing it to cease and desist all violations and directing the User to immediately comply with all

requirements of this Title and applicable local, State and Federal law. Nothing in this Section limits the authority of the City to take emergency action, or any other enforcement action, without issuing a Cease and Desist Order.

**16.12.050. Submission of Time Schedule.**

When the Public Works Director finds that a Discharge of Wastewater has been taking place, in violation of prohibitions or limitations prescribed in this Title, Wastewater source control requirements, effluent limitations or pretreatment standards, or the provisions of a Wastewater Discharge Permit, the City may require the User to submit for approval, with such modifications as it deems necessary, a detailed time schedule of specific actions which the User shall take in order to prevent or correct a violation of any of these requirements.

If the Public Works Director determines that a Discharge has occurred or is occurring and that the Discharge violates any applicable regulation or Wastewater Discharge Permit, the Public Works Director may require the Person who caused or permitted the Discharge to submit to the City a detailed time schedule of specific actions which the Person shall take in order to prevent or correct any violation of any applicable regulation or Wastewater Discharge Permit.

**16.12.060. Appeals.**

**A. REQUEST FOR RECONSIDERATION.** Any User, permit applicant, permit holder, or Person affected by any decision, action or determination, including the assessment of fines and civil penalties, Cease and Desist Orders, revocation of a

permit, and other administrative remedies, made by the Public Works Director, interpreting or implementing the provisions of this Title or in any permit issued herein, may file with the Public Works Director a written request for reconsideration within fifteen (15) calendar days of such decision, action, or determination, setting forth in detail the facts supporting the User's or Person's request for reconsideration.

**B. PUBLIC WORKS DIRECTOR DECISION REMAINS IN EFFECT PENDING APPEAL.** The decision, action or determination of the Public Works Director shall remain in effect during such period of reconsideration and during the period of any appeal or judicial review under the provisions of this Code.

**C. APPEAL TO CITY COUNCIL.** A decision, action or determination of the Public Works Director, after reconsideration is granted or denied, may be appealed to the City Council under the provisions of Chapter 1.30 of this Code, except that, as to decisions to assess a administrative penalties in accordance with Sections 16.12 herein, the time limit for judicial review that is to be found in California Code of Regulations Section 54740.6, as may be amended from time to time, shall control, to the extent allowed by law.

**16.12.070. Affirmative Defenses to Discharge Violations.**

**A. UPSET.**

1. For the purposes of this Section, "upset" means an exceptional incident in which there is unintentional and temporary non-compliance with applicable Pretreatment Standards because of factors beyond the reasonable control of the User. An upset does not include noncompliance to the extent caused by operational error,

improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

2. An upset shall constitute an affirmative defense to an action brought for noncompliance with applicable Pretreatment Standards if the requirements of Section 16.12.070(A)(3) of this Title are met.

3. A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

a. An upset occurred and the User can identify the cause(s) of the upset;

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

c. The User has submitted the following information to the City within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):

(1) A description of the indirect Discharge and cause of noncompliance;

(2) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

(3) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

4. In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof.

5. Users may seek a judicial determination of a claim of upset only in an enforcement action brought for noncompliance with applicable Pretreatment Standards.

6. Users shall control production of all Discharges to the extent necessary to maintain compliance with applicable Pretreatment Standards upon reduction, loss, or failure of their treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

**B. PROHIBITED DISCHARGE STANDARDS.**

1. A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general and specific prohibitions in Chapter 16.04 of this Title if it can prove that it did not know, or have reason to know, that its Discharge, alone or in conjunction with Discharges from other sources, would cause Pass Through or Interference and that either:

a. A Local Limit exists for each Pollutant discharged and the User was in compliance with each limit directly prior to, and during the Pass Through or Interference; or

b. No Local Limit exists, but the Discharge did not change substantially in nature or constituents from the User's prior Discharge when the City was regularly in compliance with its NPDES permit, and in the case of Interference, was in

compliance with applicable sludge use or disposal requirements.

**C. BYPASS.**

1. A User may allow a Bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is essential for maintenance to assure efficient operation. A Bypass meeting this limitation is not subject to the provisions of Sections 16.12.070(C)(2) or (3) of this Title.

2. Bypass Notifications

a. If a User knows in advance of the need for a Bypass, it shall submit prior notice to the Public Works Director, at least ten (10) days before the date of the Bypass, if possible.

b. A User shall submit oral notice to the Public Works Director of an unanticipated Bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours from the time it becomes aware of the Bypass. A written submission shall also be provided within five (5) calendar days of the time that 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 Public Works Director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

3. Prohibited Bypass

a. Bypass is prohibited and the Public Works Director may take an enforcement action against a User for a Bypass unless all of the following are met:

(1) Bypass is unavoidable to prevent loss of life, personal injury or Severe Property Damage which means substantial physical damage to property, damage to the treatment facilities which causes them to be inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a Bypass. Severe Property Damage does not mean economic loss caused by delays in production;

(2) There was no feasible alternative to the Bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a Bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

(3) The User submitted notices as required by Section 16.12.070(C)(2) of this Title.

b. The Public Works Director may approve an anticipated Bypass after considering its adverse effects, if the Public Works Director determines that the Bypass will meet the three conditions listed in Section 16.12.070(C)(3)(a) of this Title.

## **Chapter 16.14 Abatement.**

### **16.14.010. Public Nuisance.**

Discharges of Wastewater which in any way violate this Title or any permit or order issued by the Public Works Director pursuant to this Title are a public nuisance

and shall be corrected or abated as directed by the Public Works Director.

**16.14.020. Injunction.**

When the Public Works Director finds that a User has violated, or continues to violate, any provision of this Title, a Wastewater Discharge Permit or order issued hereunder, or any other Pretreatment Standard or Requirement, the Public Works Director may petition the Superior Court through the City Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the Wastewater Discharge Permit, order, or other requirement imposed by this order on activities of the User. The Public Works Director may also seek such other action as appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

**16.14.030. Damage to Facilities.**

When a User causes a Discharge of Waste which obstructs, damages or impairs the POTW or a Community Sewer, the City may assess a charge against the User for the work required to clean or repair the facility and add such charge to the User's sewer service charges.

**16.14.040. Published Notices of Significant Violators.**

The City will publish annually, in a newspaper of general circulation that provides

meaningful public notice within the jurisdiction served by the City, a list of the Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance, as defined in Section 16.02.040(EEE) of this Title, shall be applicable to all Tier I Users. This term also shall apply to any other Users that violate Sections 16.02.040(EEE)(3) and (4), or (8) of this Title and those Users will also be included in this list.

**16.14.050. Administrative Civil Penalties.**

Any provision of this Title may be enforced by the Public Works Director acting through use of administrative procedures and imposing administrative civil penalties for violations, as follows:

A. The Public Works Director may determine violations of this Title by administrative hearing and, based upon the results of that hearing, order administrative civil penalty(ies) to be assessed against the party responsible for the violation, in accord with the provisions of this Title and California Code of Regulations Section 54740.5, as may be amended from time to time.

B. In addition to general enforcement through administrative civil penalties as authorized herein, the Public Works Director is designated to be the hearing officer for administrative enforcement authorized pursuant to the California Code of Regulations Sections 54740.5 and 54740.6.

C. Hearing, waiver of hearing, orders, reconsideration, appeal to the City Council, judicial review, delinquencies, lien, and confirmation regarding administrative

remedies shall be as provided in accordance with California Code of Regulations Sections 54740.5 and 54740.6, as may be amended from time to time, and as provided in this Title.

D. In determining the amount of civil liability, the hearing officer or board may take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the nature and persistence of the violation, any economic benefit gained through the User's violation, the length of time over which the violation occurs and corrective actions taken by the User.

E. Civil penalties may be imposed by the City as follows:

1. In an amount which shall not exceed two thousand dollars (\$2,000) for each day for failing or refusing to furnish technical or monitoring reports.

2. In an amount which shall not exceed three thousand dollars (\$3,000) for each day for failing or refusing to timely comply with any compliance schedule established by the City.

3. In an amount which shall not exceed five thousand dollars (\$5,000) per violation for each day for Discharges in violation of any waste Discharge limitation, permit condition, or requirement issued, reissued, or adopted by the local agency.

4. In an amount which does not exceed ten dollars (\$10) per gallon for Discharges in violation of any suspension, cease and desist order or other orders, or prohibition issued, reissued, or adopted by a City.

5. The amount of any civil penalties imposed under this section which have remained delinquent for a period of 60 days shall constitute a lien against the real property of the discharger from which the Discharge originated resulting in the

imposition of the civil penalty. The lien provided herein shall have no force and effect until recorded with the county recorder and when recorded shall have the force and effect and priority of a judgment lien and continue for 10 years from the time of recording unless sooner released, and shall be renewable in accordance with the provisions of law.

6. All moneys collected under this section shall be deposited in a special account of the City and shall be made available for the monitoring, treatment, and control of Discharges into the City's Community Sewer or POTW or for other mitigation measures.

7. Unless appealed, orders setting administrative civil penalties shall become effective and final upon issuance thereof, and payment shall be made within 30 days. Copies of these orders shall be served by personal service or by registered mail upon the party served with the administrative complaint and upon other persons who appeared at the hearing and requested a copy.

8. The City may, at its option, elect to petition the Superior Court to confirm any order establishing civil penalties and enter judgment in conformity therewith in accordance with the provisions of law.

F. Except as provided in this Section, remedies under this Section are in addition to, and do not supersede or limit the use of, any and all other remedies, civil or criminal, available under this Title and under the statutes and regulations of the State of California and the United States of America. No penalties shall be recoverable under this Section 16.14.050 for any violation for which civil liability is recovered under Section 16.14.060 or California Code of Regulations Section 54740.

G. Administrative remedies, fines and other civil penalties imposed pursuant to the provisions of this Title may, at the sole discretion of the Public Works Director, be added to and collected with the applicable User's sewer service charges.

H. Except as provided in this Section, issuance of an administrative penalty shall not be a bar against, or a prerequisite for, taking any other action against the User.

**16.14.060. Judicial Civil Penalties.**

A. CIVIL PENALTIES. Any User who violated, or continues to violate, any provision of this Title, a Wastewater Discharge Permit or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the City for a maximum civil penalty of \$25,000 a day for each violation. In the case of an exceedance of a monthly or other long-term average Discharge limit, penalties shall accrue for each day during the period of the violation. The City Attorney, upon order of the City Council, shall petition the Superior Court to impose, assess and recover such sums.

B. ATTORNEY'S FEES. The City may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City.

C. FACTORS RELEVANT TO LIABILITY. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions taken by the User, the compliance history of the User, and any other factor as justice

requires.

**D. REMEDIES NOT EXCLUSIVE.** Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User; provided, however, no liability shall be recoverable under this Section for any violation for which liability is recovered under Section 16.14.050, herein, or California Code of Regulations Section 54740.

**16.14.070. Criminal Penalties.**

Any Person who intentionally or negligently violates any provision of this Title, a Wastewater Discharge Permit or an order issued hereunder, or any other Pretreatment Standard or Requirement, upon conviction, shall be liable for a sum not less than \$1,000 per violation per day, or for imprisonment for not more than six (6) months in the County jail, or both.

**16.14.080. Falsifying of Information.**

It is unlawful for any Person to make or file, or cause to be made or filed, any statement, representation, record, report, plan or other document which is false and which is required to be made or filed pursuant to any applicable regulation or Wastewater Discharge Permit, or to falsify, tamper with, or knowingly render inaccurate any monitoring device, sampling or method required under this Title and shall be subject to any and all enforcement provisions provided in this Title.

**16.14.090. Emergency Suspension.**

The Public Works Director may immediately suspend a User's Discharge, after informal notice to the User, whenever such suspension is necessary to stop an actual or threatened Discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons. The Public Works Director may also immediately suspend a User's Discharge after notice and opportunity to respond that threatens to interfere with the operation of the Community Sewer or POTW, or which presents, or may present, an endangerment to the environment. Nothing in this Section shall be interpreted as requiring a hearing prior to any emergency suspension under this Title.

**A. NOTIFICATION OF SUSPENSION.** Any User notified of a suspension of its Discharge shall immediately stop or eliminate its Discharge. In the event of a User's failure to immediately voluntarily comply with the suspension order, the Public Works Director may take such steps as deemed necessary, including immediate severance of the Sewer connection, or turning off water supply, to prevent or minimize damage to the Community Sewer or POTW, its receiving stream, danger to any individuals or to prevent continued violation of this Title or Wastewater Discharge Permit. The Public Works Director may allow the User to recommence its Discharge when the User has demonstrated to the satisfaction of the Public Works Director that the violation has passed, unless termination proceedings in accordance with Section 16.14.100 of this Title are initiated against the User.

**B. USER RESPONSIBILITY.** A User responsible, in whole or in part, for any Discharge presenting imminent danger shall submit a detailed written statement,

describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Public Works Director prior to the date of any termination hearing under Section 16.14.100 of this Title.

**C. COST TO SUSPEND OR MITIGATE.** The User is responsible for any costs incurred to suspend or mitigate the impact of the Discharge. Such costs may be added to the User's sewer service charges.

**16.14.100. Termination of Discharge.**

Any User who violates any of the following conditions is subject to Discharge termination:

A. Violation of Wastewater Discharge Permit conditions.

B. Failure to accurately report Wastewater Constituents and Characteristics of its Discharge.

C. Failure to report significant changes in operations or Wastewater Constituents, and Characteristics prior to discharge.

D. Refusal of reasonable access to the User's Premises for the purpose of inspection, monitoring, or sampling.

E. Violation of the Pretreatment Standards in Chapter 16.04 of this Title.

Such User shall be notified of the proposed termination of its Discharge and be offered an opportunity to show why the proposed action should not be taken. Termination of the User's Discharge by the Public Works Director shall not be a bar, or a prerequisite for, taking any other action against the User.

**Chapter 16.15 Urban Pollution Controls Non-PointSource Discharge Restrictions.**

**16.15.010. Water Pollution Prohibited.**

No Person, who does not possess a current and valid permit or agreement for the discharge, shall throw, discharge or otherwise deposit or place or cause or permit to be placed into the Waters of the State or into any drain, drop inlet, conduit, or natural or artificial watercourse flowing into any storm drain, creek, lagoon or other Waters of the State, any Waste, Medical Waste, Contamination or Pollution or other substance which impairs the quality of the drainage, including without limitation:

A. Any Pollution or Contamination or any substance, matter, or thing, liquid, solid or gas, which materially impairs the aesthetics or usefulness of such water, except as may be provided for in this Chapter;

B. Any commercial or industrial waste, including, without limitation, any fuel, solvent, detergent, plastic pieces or other pellets, hazardous substances, fertilizers, pesticides, slag, ash, or sludge;

C. Any measurable quantity of heavy metals including without limitation, any cadmium, lead, zinc, copper, silver, nickel, mercury or chromium, or the elements of phosphorous, arsenic, or nitrogen;

D. Any animal feces, any animal waste or animal discharge from confinement facilities for animals, kennel, coup, pen, stable, or recreational or show facilities;

E. Any human feces, diseased matter or matter containing significant concentrations of fecal coliform, fecal streptococcus, or enterococcus;

F. Any substance having a pH of less than 6 or greater than 9;

G. Any quantity of petroleum hydrocarbons, including without limitation, any crude oil or any fraction thereof, hydrocarbon fuel, solvent, lubricants, surfactants, waste oil, coolant, or grease;

H. Any water or other solvent or substance used for commercial or industrial processing; for commercial washing of automobiles or parts of automobiles; for cleaning industrial or commercial operations or Premises; for cleaning debris, Waste or residue collectors; for cleaning carpets, pads, flooring or walkways; or for cleaning construction, pavement, concrete, paint or plaster;

I. Any residue or collection from portable toilets or water softeners;

J. Any water or other solvent or substance collected after the use of the substance to clean, cleanse, flush, rinse or otherwise treat any commercial or industrial premises, process or equipment, or food production;

K. Any water for swimming pools, spas or Jacuzzis; or

L. Any economic poison, toxic or hazardous material.

Any permit for such discharge must be approved by the Public Works Director, or a California State official or U.S. Government Official having jurisdiction over such discharge.

**16.15.020. Discharges Exempt from Prohibition.**

The following discharges are exempt from the prohibitions of Section 16.15.010 of this Title:

A. Uncontaminated discharges from landscape irrigation;

- B. Uncontaminated discharges from water line flushing;
- C. Uncontaminated discharges from potable water sources;
- D. Uncontaminated discharges from foundation drains;
- E. Uncontaminated discharges from footing drains;
- F. Uncontaminated discharges from air conditioning condensate;
- G. Uncontaminated discharges from irrigation water;
- H. Uncontaminated discharges from lawn watering;
- I. Uncontaminated discharges from crawl space pumps;
- J. Uncontaminated discharges from individual residential automobile

washing; and

K. Uncontaminated discharges from street washing, including sidewalk washing.

**16.15.030. Discharge of Hazardous Substances Prohibited.**

No Person shall throw, discharge or otherwise deposit or cause or permit to be placed into the Waters of the State or into any drain, drop inlet, conduit, or natural or artificial watercourse flowing into any storm drain, creek, lagoon or other Waters of the State, any quantity of hazardous substance as included or defined in CCR Section 25316, without a permit or agreement approved by the Public Works Director, a California State official or U.S. Government Official having jurisdiction over the Discharge.

**Chapter 16.16 SEVERABILITY.**

**16.16.010. Severability.**

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