

ORDINANCE

994

CITY OF LACEY

AN ORDINANCE OF THE CITY OF LACEY, WASHINGTON, RELATING TO INDUSTRIAL PRETREATMENT REQUIREMENTS AND REGULATIONS OF DISCHARGES INTO THE CITY'S WASTEWATER SYSTEM, ADOPTING REVISED LOTT DISCHARGE AND INDUSTRIAL PRETREATMENT REGULATIONS AND AMENDING SECTION 13.10.010 OF THE LACEY MUNICIPAL CODE.

WHEREAS, the city through the adoption of Ordinance 957, adopted the Lott Discharge and Industrial Pretreatment Regulations as section 13.10.010 of the Lacey Municipal Code, and

WHEREAS, certain changes have been made to said regulations pursuant to requirements of the Washington State Department of Ecology and the United States Environmental Protection Agency and it is necessary that the City adopt said revised regulations, now, therefore,

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON, as follows:

Section 1. Section 13.10.010 of the Lacey Municipal Code is hereby amended to read as follows: That certain document titled "LOTT Discharge and Industrial Pretreatment Regulations" as revised 4-29-94 is hereby adopted as the official rules and regulations of the City of Lacey setting forth industrial pretreatment requirements and regulations of discharges into the City's wastewater system.

Section 2. The summary of this Ordinance, which is attached hereto, is approved for publication.

PASSED BY THE CITY COUNCIL OF THE CITY OF LACEY, WASHINGTON,
this 14TH day of July, 1994.

CITY COUNCIL

By Jon W. Johnson
Mayor

Attest:

Approved as to form:

Charlotte M Taylor
City Clerk

[Signature]
City Attorney

Published: July 20, 1994
Wednesday

SUMMARY FOR PUBLICATION
ORDINANCE 994

CITY OF LACEY

The City Council of the City of Lacey, Washington, passed on the 14th day of July, 1994, Ordinance No. 994 entitled "AN ORDINANCE RELATING TO INDUSTRIAL PRETREATMENT REQUIREMENTS AND REGULATIONS OF DISCHARGES INTO THE CITY'S WASTEWATER SYSTEM, ADOPTING REVISED LOTT DISCHARGE AND INDUSTRIAL PRETREATMENT REGULATION AND AMENDING SECTION 13.10.010 OF THE LACEY MUNICIPAL CODE."

A section by section summary of this Ordinance is as follows:

Section 1 amends section 13.01.010 of the Lacey Municipal Code to adopt the LOTT Discharge and Industrial Pretreatment Regulations as revised 4-29-94. The specific sections of those regulations as so adopted are summarized as follows:

Section 1 declares the purpose and policy of the Ordinance to adopt uniform requirements for direct and indirect contributors into the wastewater collection systems of the County and the Cities which systems eventually flow into the regional wastewater treatment facility.

Section 2 defines the terms used within the Ordinance.

Section 3 sets forth the general prohibitions against discharging of waste or wastewater of the kinds or nature as described in this Section into the municipal sewer system.

Section 4 prohibits the discharge of stormwater and other unpolluted waters into the sanitary sewer unless approval has been obtained pursuant to the conditions of this Section.

Section 5 limits the type of wastewater or waste which may be discharged into the sanitary sewer system.

Section 6 prohibits the discharge of substances directly into a manhole or other opening in the sewer system unless a permit has been granted for such discharge and regulates the point of discharge for septage haulers.

Section 7 specifies the types of waters that may be discharged into storm drains.

Section 8 provides for inspection and testing of wastewater discharges and the right of access for such purposes.

Section 9 provides for special agreements relating to discharge by users.

Section 10 prescribes pretreatment for certain industrial

waste prior to their discharge into the municipal sewer system.

Section 11 requires grease and oil interceptors under certain conditions.

Section 12 specifies the requirements for monitoring facilities.

Section 13 provides for steps to be taken to prevent and deal with accidental discharges and provides for the development and implementation of accidental discharge/slug control plans.

Section 14 specifies the formulas which will be used in determining charges for excess strength industrial waste or other discharges.

Section 15 provides for the development of discharge permit fees.

Section 16 requires permits for significant and minor dischargers.

Section 17 requires that all industrial dischargers complete and file, upon request, an Industrial Waste Survey.

Section 18 specifies the information required and steps to be taken in applying for discharge permits.

Section 19 provides for the modification of permits.

Section 20 establishes minimum permit conditions.

Section 21 specifies the duration of permits and provides for their reissuance.

Section 22 limits the transfer of permits.

Section 23 limits the rights gained by the issuance of a permit.

Section 24 provides for public notice.

Section 25 establishes procedures for appealing permit conditions.

Section 26 sets forth reporting requirements.

Section 27 specifies which information is and is not confidential.

Section 28 regulates the allowance of a bypass by a user.

Section 29 allows the emergency suspension of service and permit.

Section 30 sets forth the procedures and authority for termination of treatment services and permit revocation.

Section 31 directs the type of notification of violation.

Section 32 provides for consent orders.

Section 33 allows the setting of compliance schedule orders.

Section 34 establishes authority for the issuance of cease and desist orders.

Section 35 provides as follows:

"A. When the Plant Manager finds that a user has violated or continues to violate any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Participant may fine such user in an amount not to exceed \$10,000. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.

B. Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of fifteen percent (15%) of the unpaid balance, and interest shall accrue thereafter at a rate of ten percent (10%) per month. A lien against the user's property will be sought for unpaid charges, fines, and penalties.

C. Users desiring to dispute such fines must file a written request for the Participant to reconsider the fine along with full payment of the fine amount within fifteen (15) days of being notified of the fine. Where a request has merit the Participant, in conjunction with the Plant Manager shall convene a hearing on the matter with fifteen (15) days of receiving the request from the user. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The Participant may add the costs of preparing administrative enforcement actions, such as notices and order, to the fine.

D. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user."

Section 36 provides for an administrative hearing to contest determinations.

Section 37 provides for injunctive relief.

Section 38 provides as follows:

"A. A user which has violated or continues to violate

any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the Participant for a maximum civil penalty of \$10,000. per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

B. The Participant may recover reasonable attorneys fee, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the POTW and/or Participant.

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

D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user."

Section 39 specifies judicial review.

Section 40 requires the annual publication of enforcement actions.

Section 41 grants any user the right to a written interpretation of these regulations.

Section 42 describes operating upsets and actions required when such event occurs.

Section 43 provides for the retention of records.

Section 44 specifies that these regulations may be revised.

Section 45 allows the recovery of costs incurred by each of the participating jurisdictions.

Section 46 provides as follows:

"A. A user which has willfully or negligently violated any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$10,000. per violation per day, or imprisonment for not more than one (1) year, or both.

B. A user which has willfully or negligently introduced any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of not more than \$10,000. and/or be

subject to imprisonment for one (1) year. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

C. A user which knowingly made any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to maintained, pursuant to this ordinance, wastewater discharge permit, or order issued hereunder, or who falsified, tampered with, or knowingly rendered inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more than \$10,000. per violation per day, or imprisonment for not more than one (1) year, or both."

Section 47 sets forth the fact that the remedies in the chapter are not exclusive.

Section 48 requires state requirements for discharge to be met.

Section 49 is a severability clause.

Section 50 provides for the repeal of any conflicting ordinances or regulations.

Section 2 approves this summary for publication.

A copy of the full text of this Ordinance will be mailed without charge to any person requesting the same from the City of Lacey.

Published: July 20, 1994.

Wednesday

LOTT DISCHARGE AND INDUSTRIAL PRETREATMENT REGULATIONS

1. PURPOSE AND POLICY.

This ordinance sets forth uniform requirements for direct and indirect contributors into the wastewater collection systems and the Regional Wastewater Treatment Facility for the Cities of Lacey, Olympia and Tumwater and for Thurston County. This ordinance enables the Cities of Lacey, Olympia, and Tumwater and Thurston County to comply with all applicable State and Federal laws required by the Clean Water Act of 1977, and amendments thereof, and the General Pretreatment Regulations (40 CFR, Part 403). The objectives of this ordinance are:

- A. To prevent the introduction of pollutants into the POTW (Publicly Owned Treatment Works) which will interfere with the operation of the system or contaminate the resulting sludge;
- B. To prevent the introduction of pollutants into the POTW which will pass through the system inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;
- C. To ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;
- D. To provide for equitable distribution of the cost of the municipal wastewater system;
- E. To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;

Except as otherwise provided herein, the Plant Manager shall administer and implement the provisions of this ordinance, and shall conduct other activities as set forth in Sections 6,7 and 8 of the Intergovernmental Agreement for Industrial Waste Pretreatment Program of April 23, 1993. Any powers granted to or duties imposed upon the Plant Manager may be delegated by the Plant Manager to personnel under the Plant Manager's direction.

This ordinance shall apply to all users of the POTW. The ordinance authorizes the issuance of wastewater discharge permits; authorizes monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

2. **DEFINITIONS.**

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

A. **ACT** - The Clean Water Act (33 U.S.C. 1251 et. seq.), as amended.

B. **AKART** - This is an acronym for All Known, Available, and Reasonable methods of prevention, control, and Treatment. AKART shall represent the most current methodology that can be reasonably required for preventing, controlling, or abating the pollutants associated with a discharge. The concept of AKART applies to both point and nonpoint sources of pollution. The term "best management practices" is considered a subset of the AKART requirement.

C. **APPLICABLE PRETREATMENT STANDARD** - For any specified pollutant, prohibited discharge standards and discharge limitations as defined herein, State of Washington pretreatment standards, or EPA's Categorical Pretreatment Standards (when effective), whichever standard is appropriate or most stringent.

D. **APPROVAL AUTHORITY** - The Washington State Department of Ecology.

E. **AUTHORIZED REPRESENTATIVE OF THE USER** shall mean:

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 operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;

2. If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively;

3. If the user is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her designee;

2. DEFINITIONS continued...

4. The individuals described in paragraphs 1 through 3 above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Plant Manager.

F. BOD (denoting Biochemical Oxygen Demand) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees C., expressed in parts per million (mg/l) by weight.

G. CATEGORICAL PRETREATMENT STANDARDS shall mean any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Section 307(b) and (c) of the Act which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

H. CATEGORICAL USER - a user covered by one of EPA's Categorical Pretreatment Standards.

I. COLOR - The optical density at the visual wave length of maximum absorption, relative to distilled water. One-hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.

J. COOLING WATER/NON-CONTACT COOLING WATER - Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product. Cooling water may be generated from any use, such as air conditioning, heat exchangers, cooling or refrigeration to which the only pollutant added is heat.

K. COMPOSITE SAMPLE - The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

L. DOMESTIC USER (RESIDENTIAL USER) shall mean any person who contributes, causes, or allows the contribution of wastewater into the POTW that is of a similar volume and/or chemical make-up as that of a residential dwelling unit. Discharges from a residential dwelling unit include up to 900 cu.ft. of flow, with up to 300 mg/l of BOD, and 300 mg/l of TSS, per month.

M. ENVIRONMENTAL PROTECTION AGENCY (EPA) - The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Division Director, or other duly authorized official of said agency.

2. **DEFINITIONS continued...**

N. EXISTING SOURCE - Any Categorical Industrial User whose construction or operation commenced prior to the publication by EPA of proposed Categorical Pretreatment Standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

O. EXISTING USER shall refer to all Industrial Users except Categorical Users which were discharging wastewater prior to the effective date of this ordinance. Any person that buys an existing facility that is discharging non-domestic wastewater will be considered an "Existing User" if no significant changes are made in the manufacturing operation.

P. GRAB SAMPLE - A sample which is taken from a wastestream on a one-time basis without regard to the flow in the wastestream and without consideration of time.

Q. INTERFERENCE - Any discharge which, alone or in conjunction with a discharge or discharges from other sources, either:

1. Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; or

2. Is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations); Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), or 40 CFR part 503, and including State Regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

R. MAXIMUM ALLOWABLE DISCHARGE LIMIT (DISCHARGE LIMITATION) - The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

2. **DEFINITIONS** continued...

S. MINOR INDUSTRIAL USER - Any Industrial User which does not otherwise qualify as a Significant Industrial User of the POTW, identified by the Plant Manager as having the potential to spill or discharge chemicals or slugs of wastewater to the POTW, or the potential to discharge a waste stream that, when taken into account with the waste streams of other industrial users, may have a significant impact on the POTW.

T. NPDES - National Pollutant Discharge Elimination System permit program as administered by the U.S.EPA or State.

U. NEW SOURCE

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

a. The building, structure, facility, or installation is constructed at a site at which no other source is located; 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 process 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 Part 1, b. or c. above but otherwise alters, replaces, or adds to existing process or production equipment.

2. **DEFINITIONS continued...**

U. NEW SOURCE continued...

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 on-site construction program any placement, assembly, or installation of facilities or equipment; or significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities necessary for the placement, assembly, or installation of new source facilities or equipment; or

b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

V. NEW USER - Any Non-Categorical Industrial User that applies to the Participant for a new building permit or otherwise makes known their intentions to begin operations which will generate non-domestic wastes. This includes any person occupying existing buildings and planning to discharge wastewater to the POTW's collection system after the effective date of this ordinance. Also included are Industrial Users which have been previously overlooked or otherwise not identified by the Plant Manager as a Minor or Significant Industrial User.

W. pH - The logarithm of the reciprocal of the weight of hydrogen ions, in grams per liter of solution.

X. PARTICIPANT - means the City or County of _____ Washington, a municipal corporation or county organized and existing under and by virtue of the laws of the State of Washington. "WITHIN THE PARTICIPANT JURISDICTION" shall mean within the Participant jurisdiction boundaries as now or hereafter constituted.

Y. PASS THROUGH - 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 POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

Z. PERMITTEE - A Person or Industrial User issued a wastewater discharge permit.

2. DEFINITIONS continued...

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

BB. PLANT MANAGER shall mean the Manager of the regional Publicly Owned Treatment Works (POTW) facilities as described and built pursuant to the "Intergovernmental Contract for Wastewater Facilities Management" of November, 1976, designated by the Participant as the person responsible determining Industrial User compliance with applicable pretreatment standards and requirements set forth in this ordinance, or that person's duly authorized representatives.

CC. POLLUTANT - Any substance discharged into the POTW which if discharged directly would alter the chemical, physical, biological, or radiological integrity of the water of the state. This includes, but is not limited to the priority pollutant list listed in 40 CFR Part 403.

DD. POTW shall mean the system of conduits, pumps, treatment plants, structures and properties, including without limitation all properties, interests, physical and intangible rights of every kind or nature owned or held by the Participant and all appurtenances thereto, however acquired, insofar as they relate to or concern drainage, transportation, storage, or treatment, in any manner whatsoever, of waste matter or storm and surface water of any nature now or hereafter permitted by this chapter to enter the POTW which is tributary to treatment facilities described in or built pursuant to the Intergovernmental Contract for Wastewater Facilities Management of November, 1976. Sanitary Sewers and Storm Drains, separately and in combination, are, without limitation, included in the POTW.

EE. PREMISES shall be defined as a continuous tract of land, building, or group of adjacent buildings under a single control with respect to use of water and responsibility for payment therefore. Subdivision of such use or responsibility shall constitute a division into separate premises as herein defined, except where more than one dwelling is being served through the same water meter, in which case, each of said dwellings shall constitute a separate premises and shall be subject to the same separate charges as if separate single-family dwellings.

FF. PRETREATMENT - The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in waste water to a less harmful state, prior to or in lieu of discharging or otherwise introducing such pollutants to the POTW in order to be consistent with the discharge requirements of this Ordinance. 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 specifically allowed by an applicable pretreatment standard.

2. **DEFINITIONS continued...**

GG. PRETREATMENT REQUIREMENT(S) - Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard. Pretreatment requirements shall include, but not be limited to all permit requirements, reporting requirements, and other requirements specified by the Plant Manager as necessary to comply with the provisions of this ordinance.

HH. PRIORITY POLLUTANT - Any of the substances so designated by the Washington State Department of Ecology or the United States Environmental Protection Administration such as the Priority Pollutants listed in 40 CFR Part 403.

II. SANITARY SEWERS shall mean only those portions of the POTW which are designated by the Participant to carry, treat or dispose of waste matter not constituting storm or surface water permitted by or under this ordinance to enter the POTW.

JJ. SIGNIFICANT INDUSTRIAL USER - Any industrial user of the POTW who:

1. Is subject to categorical pretreatment standards; or
2. Has a process wastewater flow of 25,000 gallons or more per average work day; or
3. Has a discharge flow greater than 5 percent or more of the average dry weather hydraulic or organic capacity of the treatment plant; or
4. Is designated as such by the Plant Manager on the basis that it has a reasonable potential, either singly or in combination with other contributing industries, for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement;
5. Upon a finding that a user meeting the criteria in Subsections 2-4 has no reasonable potential for adversely affecting the POTW's operation or for violating any applicable pretreatment standard or requirement, the Plant Manager may at any time, on his own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6) determine that such user should not be considered a significant industrial user.

KK. SLUGLOAD shall mean any discharge of a non-routine, episodic nature including, but not limited to an accidental spill or non-customary batch discharge.

2. DEFINITIONS continued...

LL. STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODE - A classification pursuant to the "Standard Industrial Classification Manual" issued by the United States Office of Management and Budget.

MM. STORM DRAINS shall mean only those collection and conveyance systems which do, or are designated by the Participant to; detain or retain, carry or dispose of storm and surface water and such other waters as are not required by or under this ordinance or other applicable law to be disposed of through sanitary sewers, in accordance with the provisions hereinafter set forth. Storm drains shall, without limitation, include all properties, interests, and rights of the Participant insofar as they relate to or concern storm or surface water sewerage, whether natural or constructed, in and to the drainage or storage, or both, of storm or surface waters, or both, including without limitation through, under or over lands, landforms, watercourses, sloughs, streams, ponds, lakes, and swamps.

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

OO. TOTAL SUSPENDED SOLIDS (TSS) shall mean the total matter suspended in water removable by laboratory filtration using standard method 2540 D or equivalent, and expressed in mg/l.

PP. TOXIC POLLUTANT shall mean those pollutants, or combination of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly from the environment or indirectly by ingestion through food chains, will, on the basis of information available to the Plant Manager, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions (including malfunctions in reproduction), or physical deformations, in such organisms or their offspring, including those listed as toxic in regulations promulgated by the U.S.EPA.

QQ. TREATMENT PLANT EFFLUENT - Discharge from the POTW into waters of the United States.

RR. UPSET shall mean an exceptional incident in which a user unintentionally and temporarily is in a state of noncompliance with the applicable pretreatment standards due to factors beyond the reasonable control of the user, and excluding noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation thereof.

2. **DEFINITIONS continued...**

SS. USER (INDUSTRIAL USER) shall mean any Person with a source of discharge which does not qualify that person as a Domestic User who discharges an effluent into the POTW by means of pipes, conduits, pumping stations, force mains, tank trucks, constructed drainage ditches, intercepting ditches, and all constructed devices and appliances appurtenant thereto.

TT. WASTEWATER - Industrial waste, sewage, treated or untreated waters, or any other waste including that which may be combined with any ground water, surface water or storm water, that may be discharged to the POTW.

UU. WASTEWATER DISCHARGE PERMIT (INDUSTRIAL WASTEWATER DISCHARGE PERMIT, OR DISCHARGE PERMIT) - An authorization or equivalent control document issued by the Participant to users discharging wastewater to the POTW. The permit may contain appropriate pretreatment standards and requirements as set forth in this ordinance.

3. **PROHIBITED DISCHARGE STANDARDS.**

General Prohibitions:

No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.

Specific Prohibitions:

No person, business, industry or entity shall discharge or permit or cause the discharge of waste or wastewater of any kind or nature into the POTW with any of the following properties:

A. Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction to cause fire or explosion, or which have closed-cup flash point of less than 140 degrees F (60 degrees C), or be injurious in any other way to the operation of the POTW. At no time shall two successive readings on a combustible gas meter, at the point of discharge into the system, (or at any point in the system) be more than five percent (5%) or any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter.

3. **PROHIBITED DISCHARGE STANDARDS** continued...

B. Solid or viscous substances which will or may cause obstruction to the flow in a sewer or other interference with the operation of the POTW, including but not limited to, any garbage or putrescible material that has not been properly comminuted to one-fourth inch or less in any direction. Waste from garbage grinders shall not be discharged into the POTW except wastes generated in preparation of food normally consumed on the premises. Such grinders must shred the waste to such a degree that all particles are comminuted to one fourth inch or less in any direction and are carried freely under normal flow conditions prevailing in sanitary sewers. Garbage grinders shall be connected to an approved grease trap. No discharge permitted by this section may contain plastic, paper products, or inert material.

C. Any wastewater having a pH of less than 6.0 or greater than 9.0 or having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel of the system.

D. Any wastewater having a fat waste, oil, or grease (FOG) content, whether or not emulsified, in excess of fifty (50) milligrams per liter; or any substance which may solidify or become discernibly viscous at temperatures above zero degrees Centigrade (32 degrees F.) This restriction applies to non-biodegradable cutting oil, or products of mineral origin. FOG is defined as the combined total of vegetable, animal, and petroleum based fats, oils, and greases.

E. Any wastewater containing any pollutant, including oxygen demanding pollutants, in sufficient quantity, either singly or by interaction, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, or be in violation of any applicable statute, rule, regulation or ordinance of any public agency, including U.S.EPA.

F. Any noxious or malodorous liquids, gases, or solids which either singly or by interaction are capable of creating a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for their maintenance and repair, or capable of causing acute worker health or safety problems.

G. Any substance which may cause the POTW's treatment residues, sludges, or scums to be unsuitable for reclamation and reuse or permitted disposal or to interfere with the reclamation or disposal process. In no case shall a substance be discharged to the POTW that will cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 503 of the Act; or with any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act; or with the Clean Air Act, the Toxic Substances Disposal Act, or State standards applicable to the sludge management method being used.

3. **PROHIBITED DISCHARGE STANDARDS** continued...

H. Any substance which will cause the POTW to violate its NPDES and/or other Disposal System Permits, or cause a violation of any state air or water quality standard or solid and hazardous waste regulation.

I. Any substance with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

J. Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees F (40 degrees C) unless the Approval Authority, upon the request of the POTW, approves alternate temperature limits..

K. Any trucked or hauled pollutants, except at discharge points designated by the POTW, under permits issued by the Participant with the approval of the Plant Manager.

L. Any slugload of any type of pollutant, including Oxygen Demanding Pollutants.

M. Persistent pesticides and/or pesticides regulated by the Federal Insecticide Fungicide Rodenticide Act (FIFRA).

N. Concentrations of dissolved solids including but not limited to, sodium chloride, calcium chloride, or sodium sulfate which are so high as to constitute a danger to the wastewater treatment processes or equipment.

O. Concentrations of inert suspended solids such as, but not limited to, fuller's earth, lime slurries, lime residue, or fly ash which are so high as to constitute a danger to the POTW.

P. Any infectious wastes that, in the opinion of the County Health Officer, significantly increase the risk of disease transmission beyond the level of risk normally associated with domestic sewage.

Q. Wastewater containing any radioactive wastes or isotopes except under conditions developed by the Plant Manager in compliance with applicable State or Federal regulations. No person shall discharge or cause to be discharged any radioactive waste into the POTW except when that person is licensed for the use of those radioactive materials by the Department of Health and the waste meets all requirements of WAC 246-221-190, "Disposal By Release Into Sanitary Sewerage Systems", and the average concentration limits as defined in WAC 246-221-290 Appendix A, Table I, Column 2, and WAC 246-221-300 Appendix B and all other applicable local, State and Federal regulations.

3. PROHIBITED DISCHARGE STANDARDS continued...

R. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.

4. PROHIBITIONS ON STORM DRAINAGE, GROUNDWATER AND UNPOLLUTED WATER.

Storm water, groundwater, rainwater, street drainage, subsurface drainage, yard drainage, roof drainage, or unpolluted water, including, but not limited to, non-contact cooling water, or blow-down from cooling towers or evaporative coolers, shall not be discharged through direct or indirect connection to any sanitary sewer. With the approval of the Plant Manager, the Participant may, but shall not be required to, permit such discharge when no reasonable alternative method of disposal is available. If a permit is granted for the discharge of such water into a sanitary sewer, the user shall pay the applicable charges and fees and meet such other conditions as required from time to time by the Participant.

5. DISCHARGE LIMITATIONS.

A. No person shall discharge wastewater containing in excess of (as measured on a daily average of composite samples):

mg/l	component
0.2 mg/l	arsenic
0.2 mg/l	cadmium
1.0 mg/l	chromium, total
0.25 mg/l	chromium, hexavalent
0.5 mg/l	copper
0.64 mg/l	cyanide, total
0.25 mg/l	cyanide, free
0.4 mg/l	lead
0.05 mg/l	mercury
0.5 mg/l	nickel
0.2 mg/l	non-halogenated phenols or cresols
0.2 mg/l	silver
1.0 mg/l	zinc

5. **DISCHARGE LIMITATIONS** continued...

B. The above limits apply at the point where the wastewater is discharged to the POTW (end of pipe). All concentrations for metallic substances are for "total" metal unless indicated otherwise. The Plant Manager may develop mass limitations to be imposed in addition to, or in place of, the concentration-based limitations above. Where a user is subject to a categorical pretreatment standard and a discharge limitation as defined herein for a given pollutant, the more stringent limit or applicable pretreatment standard shall apply. A person will also be subject to more stringent and/or additional limits if required by the application of AKART.

C. No person, business, industry or entity shall increase the use of potable or process water in any way, nor mix separate waste streams for the purpose of diluting a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the standards set forth in this chapter.

D. The discharge into the POTW of any wastewater or wastes having:

1. A 5 day biochemical oxygen demand greater than three hundred (300) parts per million by weight.
2. Containing more than three hundred (300) parts per million by weight of suspended solids,
3. Containing any quantity of substances having the characteristics described above in this section; or
4. Having an average daily flow greater than two percent (2%) of the average daily flow of the POTW;

shall require the evaluation and concurrence of the Plant Manager and be subject to payment as determined by applicable fees for waste strength and flow.

E. The National categorical pretreatment standards found in 40 CFR Chapter I, Subchapter N, Parts 405-471, as amended, are incorporated herein by reference as though fully set forth and shall apply to industries subject to these standards whenever categorical standards are more stringent than applicable state or local discharge limitations.

6. LIMITATIONS ON POINT OF DISCHARGE.

No person shall discharge any substance directly into a manhole or other opening in the POTW other than through an approved building sewer, unless that person has been issued a permit by the Participant. If a permit is issued for such direct discharge, the user shall pay the applicable charges and fees and shall meet such other conditions as determined by the Plant Manager. Septage haulers shall comply with the limitations set forth in their permits, as specified by the Plant Manager and;

A. Septic tank waste may be introduced into the POTW only at a designated receiving structure within the treatment plant area, and at such times as are established by the Plant Manager. Such wastes shall not violate this section of the ordinance or any other requirements established or adopted by the Participant. Wastewater discharge permits for individual vehicles to use such facilities shall be issued by the City of Olympia.

B. Septage haulers may only discharge loads at locations specifically designated by the Plant Manager. No load may be discharged without prior consent of the Plant Manager. The Plant Manager may collect samples of each hauled load to ensure compliance with applicable pretreatment standards. The Plant Manager may require the hauler to provide a waste analysis of any load prior to discharge.

C. Septage haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the waste hauler, permit number, truck identification, sources of waste, and volume and characteristics of waste.

D. Fees for dumping hauled wastes may be established as part of the user fee system as authorized within this ordinance.

E. Septic Haulers may not discharge material designated as hazardous or dangerous wastes as specified by 173.303 WAC or knowingly discharge septage mixed with hazardous and/or dangerous wastes.

7. MATTER EXCLUDED FROM STORM DRAINS.

Unpolluted water regulated by this ordinance including, but not limited to, cooling water, or blow-down from cooling towers or evaporative coolers may not be directed into a storm drain except under the authorization and direction of the Participant and under engineering and technical conditions set by the Plant Manager to carry out the purposes of this chapter.

8. SAMPLING AND TESTING OF WASTEWATER.

Users shall allow the Plant Manager or his/her designee ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

8. **SAMPLING AND TESTING OF WASTEWATER continued...**

A. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Plant Manager will be permitted to enter without delay for the purposes of performing specific responsibilities.

B. The Plant Manager shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

C. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Plant Manager and shall not be replaced. The costs of clearing such access shall be born by the user.

D. Unreasonable delays in allowing the Plant Manager access to the user's premises shall be a violation of this ordinance.

E. Failure to allow inspection, sampling, monitoring, or metering as authorized by this section shall be grounds for revocation of the user's discharge permit.

F. Nothing herein shall be construed to limit the Participant's rights to obtain a criminal search warrant.

G. The Plant Manager will follow the sampling and testing procedures outlined in Section 26.

H. No person shall willfully or negligently break, damage, destroy, uncover, deface, tamper with, or prevent access to any structure, appurtenance or equipment, or other part of the POTW. Any person found in violation of this requirement shall be subject to the sanctions set out in this ordinance.

9. **APPROVAL OF WASTEWATER DISCHARGES.**

The Participant reserves the right to enter into special agreements with users setting out special terms under which they may discharge to the POTW. Any such special agreements must be approved in advance by the Plant Manager. In no case will a special agreement waive compliance with a categorical pretreatment standard or federal pretreatment requirement. However, the user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15. They may also request a variance from the categorical pretreatment standard from the Approval Authority in accordance with 403.13. The Participant may allow discharge of high BOD, TSS, or flow rate for any permittee upon approval of the Plant Manager, and subject to charges as provided by section 14 of this ordinance.

10. PRETREATMENT OF INDUSTRIAL WASTES.

When at any time it becomes apparent to the Plant Manager or Participant that there is or will be discharged into the POTW any matter from any user which does not conform to the requirements outlined in Sections 3 through 7, or the applicable pretreatment standards or requirements; it is hereby required that before such matter may be discharged into the POTW, the producer thereof shall treat same at the producer's own expense to a degree that will produce an effluent which does conform to the said requirements.

A. Users shall provide all known, available, and reasonable methods of prevention, control and treatment (AKART) as required to comply with this ordinance and State and Federal regulations and shall achieve compliance with all applicable pretreatment standards and requirements within the time limitations as specified by appropriate statutes, regulations, chapters and ordinances. Any facilities required to treat wastewater to satisfy applicable pretreatment standards and requirements, shall be supplied, properly operated, and maintained at the user's expense. Such treatment plants may include, but shall not be limited to, grease traps, chemical or biochemical plants, sedimentation chambers, and any other devices which effect a change of any nature in the characteristics of the matter being treated toward the characteristics of matter permitted.

B. Detailed plans showing the pretreatment facilities shall be submitted to the Plant Manager for review and must be acceptable to the Plant Manager and the Participant, and meet the requirements of Chapter 173-240 WAC for Department of Ecology review, before construction of the facility. The review of such plans by the Participant shall in no way relieve the user from the responsibility of modifying its facility as necessary to produce an effluent acceptable to the Plant Manager under the provisions of this ordinance. The user shall obtain all necessary construction-operating permits from the Participant. Prior to completion of the Wastewater Treatment Facility, the user shall furnish its plan of operations and maintenance procedures for review. All treatment devices shall be subject to the approval of the Plant Manager.

11. GREASE AND OIL INTERCEPTORS.

Grease and oil interceptors shall be provided if, in the Plant Manager's opinion, they are necessary, or if required by the Uniform Plumbing Code, for the proper handling of liquid wastes containing grease in excessive amounts, or any flammable wastes, sand and other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Plant Manager and shall be located as to be readily and easily accessible for cleaning and inspection at the expense of the user or applicant. Where installed, all grease, oil and sand interceptors shall be maintained by the owner, or at his expense, in a manner that will always prevent fat wastes, oil, grease and sediments from being carried into the sewer system. Fat waste, oil, grease or solids removed from such a facility shall not be disposed of in sanitary or storm sewers.

12. **MONITORING FACILITIES.**

A. Each user shall provide and operate at its own expense a monitoring facility to allow inspection, sampling, and flow measurements of each sewer discharge to the POTW.

B. Each monitoring facility shall be situated on the user's premises, except where such a location would be impractical or cause undue hardship on the user. The Participant may concur with the facility being constructed in the public street or sidewalk area, providing that the facility is located so that it will not be obstructed by landscaping or parked vehicles. The Plant Manager, whenever applicable, may specify the construction and maintenance of sampling facilities at other locations (for example, at the end of a manufacturing line or wastewater treatment system).

C. There shall be ample room in or near such sampling facility to allow accurate sampling and preparation of samples for analysis. Each user shall at all times maintain required facilities and sampling and measuring equipment in a safe and proper operating condition, at the user's own expense.

D. All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications.

E. The Participant may require the user to install monitoring equipment determined by the Plant Manager to be necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition, by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated to ensure their accuracy.

13. **ACCIDENTAL DISCHARGE/SLUG CONTROL PLANS.**

Each user shall provide protection from accidental discharge of prohibited or regulated materials or substances established by this ordinance. Where necessary, facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted as specified in this section.

Users shall immediately take action to correct the situation and verbally notify the LOTT facility console monitor upon the occurrence of a "slugload" or accidental discharge of substances prohibited by this ordinance. Written notification including location of the discharge, date and time thereof, type of waste, concentration and volume, and corrective actions must be filed with the Plant Manager within five days of the accidental discharge.

13. ACCIDENTAL DISCHARGE/SLUG CONTROL PLANS continued...

Any user who discharges a slugload of prohibited materials shall be liable for any expense, loss, or damage to the POTW, in addition to any other liabilities established by this ordinance and the amount of any fines imposed on the Participant and/or Plant Manager on account thereof under State or Federal law.

Signs shall be permanently posted in conspicuous places on the user's premises, advising employees whom to call in the event of a slug or accidental discharge. Employers shall instruct all employees who may cause or discover such a discharge with respect to emergency notification procedures.

The Participant may require any user to develop and implement an accidental discharge/slug control plan. Where deemed necessary by the Plant Manager or Participant, facilities to prevent accidental discharge or slug discharges of pollutants shall be provided and maintained at the user's cost and expense. An accidental discharge/slug control plan showing facilities and operating procedures to provide this protection shall be submitted to the Plant Manager for review and approval before implementation. The Plant Manager shall determine which user is required to develop a plan and require said plan to be submitted within 180 days after notification by the Plant Manager or Participant. Each user shall implement its accidental discharge/slug control plan as submitted or as modified after such plan has been reviewed and approved by the Plant Manager. Review and approval of such plans and operating procedures by the Plant Manager shall not relieve the user from the responsibility to modify its facility as necessary to meet the requirements of this Section.

A. Any user required to develop and implement an accidental discharge/slug control plan shall submit a plan which addresses, at a minimum, the following:

1. Description of discharge practices, including non-routine batch discharges;
2. Description of stored chemicals;
3. Procedures for immediately notifying the Plant Manager and Participant of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the standards in Sections 3 through 7 of this ordinance; and
4. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

14. **EXCESS STRENGTH CHARGES.**

For industrial waste or other discharges exceeding the BOD and/or Suspended Solids limits defined in Section 5., the following formula shall be used to determine the ERU equivalency of the waste flow. This formula applies only to BOD and/or SS concentrations in excess of 300 mg/l.

A. ERU Equivalent for High Strength Waste shall be the sum of the following:

1. Flow Calculation

$$(P-FLOW) \times \frac{\text{Industry flow, cu. ft./ Month}}{900 \text{ cu. ft. /ERU}} = \text{FLOW ERUs}$$

2. BOD Calculation

$$(P-BOD) \times \frac{\text{Industry BOD, mg/l}}{300 \text{ mg/l}} \times \frac{\text{Industry Flow, cu ft/Month}}{900 \text{ cu ft/ERU}} = \text{BOD ERUs}$$

3. Suspended Solids (SS) Calculation

$$(P-SS) \times \frac{\text{Industry SS, mg/l}}{300 \text{ mg/l}} \times \frac{\text{Industry Flow, cu ft/Month}}{900 \text{ cu ft/ERU}} = \text{SS ERUs}$$

B. Explanation of terms

1. (P-FLOW) = Percentage treatment costs associated with hydraulic flow

2. (P-BOD) = Percentage treatment costs associated with BOD

3. (P-SS) = Percentage treatment costs associated with SS

4. ERU: (Equivalent Residential Unit) equal to 900 cubic feet of wastewater containing a maximum of 300 mg/l of suspended solids and a maximum of 300 mg/l of BOD.

5. Wastewater Treatment costs used in items 1,2 and 3 above are calculated at years end. The ratios determined shall apply throughout the following year.

14. **EXCESS STRENGTH CHARGES** continued...

6. All monthly charges per ERU established by the LOTT Intergovernmental Contract for Wastewater Facilities Management of November 1976, as amended, shall apply to ERU's calculated by the above formulas.

15. **DISCHARGE PERMIT FEES.**

The Plant Manager shall develop, for The Advisory Committee's review and approval, a system of charges uniform among all Partners to recover the cost of implementing this ordinance. The system of charges shall reflect actual cost of service based on classification of customers or for specific services provided by the Participant. The fee structure will be implemented within 1 year of the adoption of this ordinance.

16. **PERMITS REQUIRED.**

A. **Permits Required:** No Significant Industrial User (SIU) shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Participant. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subject the permittee to the sanctions set out in this ordinance. Obtaining a wastewater discharge permit does not relieve a permittee of their obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, and local law. Leachate from a solid waste landfill, and condensate from gas recovery systems at a solid waste landfill shall be considered an industrial wastewater and a permit shall be required by the Participant in accordance with this ordinance.

B. **Others Regulated:** The Plant Manager or Participant may require users not meeting the criteria for a SIU, including liquid waste haulers, to obtain wastewater discharge permits to carry out the purposes of this ordinance, and shall designate these users as Minor Industrial Users (MIUs).

C. **Permits for Existing IUs:** Any SIU or MIU discharging wastewater into the POTW prior to the effective date of this ordinance, that wishes to continue such discharges, shall within 30 days after notification submit a permit application to the Plant Manager in accordance with Section 18 of this ordinance. Such Dischargers shall not cause or allow discharges to the POTW to continue after one hundred eighty (180) days of the effective date of this ordinance except in accordance with a wastewater discharge permit issued by the Participant.

16. PERMITS REQUIRED continued...

D. Permits for New Sources and New Users: At least 90 days prior to anticipated start-up, New Sources and New Users that fit the definition of an SIU or MIU shall apply for a wastewater discharge permit and will be required to submit to the Plant Manager at least the information listed in paragraphs (A)-(E) of Section 18. A New Source or New User cannot discharge without first receiving a wastewater discharge permit from the Participant. New Sources and New Users shall give estimates of the information requested in paragraphs C, D, and E of Section 18.

E. Newly Promulgated or Recognized Categorical Wastestreams: Users with wastewater from processes for which applicable categorical pretreatment standards are promulgated and users which are recognized by the Plant Manager as being subject to any existing applicable categorical pretreatment standard will provide actual data for all information of section 18 within 180 days after the effective date of the applicable categorical standard, or within 90 days of being informed by the Plant Manager of applicable categorical standards, whichever is sooner. Such users may continue discharging, subject to the approval and conditions of the Plant Manager, until a permit is issued.

F. Extrajurisdictional Users: Any non-domestic user located within the Lacey, Olympia, Tumwater, and Thurston County service districts shall be required to follow the above procedures.

17. INDUSTRIAL USER SURVEY.

All persons, upon request, shall complete an Industrial User Survey. Each person will provide the survey information in the form prescribed by the Plant Manager or Participant, complete the form to the best of their ability, and return it to the Participant within the allotted time. This requirement is separate from any requirements under this ordinance to complete a permit application.

18. PERMIT APPLICATION.

All users required to obtain a wastewater discharge permit must submit, at a minimum, the following information. The Plant Manager shall approve a form to be used as a permit application. Categorical users submitting the following information shall have complied with 40 CFR 403.12 (b).

A. Identifying information. The user shall submit the name and address of the facility including the name of the operator and owners.

B. Permits. The user shall submit a list of any environmental control permits held by or for the facility.

18. PERMIT APPLICATION continued...

C. Description of operations. 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, including 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; number and type of employees; hours of operation; each product produced by type, amount, process or processes, and rate of production; type and amount of raw materials processed (average and maximum per day) and the time and duration of discharges. This description should also include a schematic process diagram which indicates points of discharge to the POTW from the regulated or manufacturing processes. Disclosure of site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location and elevation.

D. Flow Measurement.

1. Categorical User:

The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:

- a. Regulated or manufacturing process streams; and
- b. Other streams as necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e).

2. Non-Categorical User

The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:

- a. Total process flow, wastewater treatment plant flow, total plant flow or individual manufacturing process flow as specified by the Plant Manager.

The Plant Manager may accept verifiable estimates of these flows where justified by cost or feasibility considerations.

18. PERMIT APPLICATION continued...

E. Measurements of pollutants.

1. Categorical User:

a. The user shall identify the applicable pretreatment standards for each regulated or manufacturing process.

b. In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass), where required by the Categorical Pretreatment Standard or as specified by the Plant Manager, of regulated pollutants (including standards contained in Sections 3 through 7, as appropriate) in the discharge from each regulated or manufacturing process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall conform to sampling and analytical procedures outlined in Section 26.

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

d. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) for a categorical user covered by a categorical pretreatment standard this adjusted limit along with supporting data shall be submitted as part of the application.

2. Non-Categorical User

a. The user shall identify the applicable pretreatment standards for its wastewater discharge.

b. In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass) where specified by the Plant Manager, of regulated pollutants contained in Sections 3 through 7 as appropriate in the discharge. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall conform to sampling and analytical procedures outlined in Section 26.

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

18. PERMIT APPLICATION continued...

d. Where the Plant Manager has specified alternate concentration or mass limits because of dilution this adjusted limit along with supporting data shall be submitted as part of the application.

F. Certification. A statement, reviewed by an authorized representative of the user and certified by a qualified professional as outlined in subparagraph I of this section, indicating whether the applicable Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O and M) and/or additional pretreatment is required for the user to meet the applicable Pretreatment Standards and Requirements;

G. Compliance Schedule. If additional pretreatment and/or O and M will be required to meet the applicable Pretreatment Standards; the shortest schedule by which the user will provide such additional pretreatment and/or O and M.

1. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the 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.).

2. No increment referred to in paragraph (A) of this section shall exceed 9 months.

3. Not later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the Plant Manager including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established. In no event shall more than 9 months elapse between such progress reports.

4. Where the user's categorical Pretreatment Standard has been modified by the combined wastestream formula (40 CFR 403.6(e)), and/or a Fundamentally Different Factors variance (40 CFR 403.13) at the time the user submits the report required by this paragraph, the information required by paragraphs (F) and (G) of this section shall pertain to the modified limits.

18. PERMIT APPLICATION continued...

5. If the categorical Pretreatment Standard is modified by the combined wastestream formula (40 CFR 403.6(e)), and/or a Fundamentally Different Factors variance (40 CFR 403.13) after the user submits the report required by paragraphs (F) and (G) of this section; a new report pertaining to the modified limit shall be submitted by the user within 60 days after the modified limit is approved.

The completion date in this schedule shall not be later than the compliance date established pursuant to Section 20 of this Ordinance.

H. Any other information as may be deemed necessary by the Plant Manager to evaluate the wastewater discharge permit application.

I. All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

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

Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

The Plant Manager will evaluate the data furnished by the user and may require additional information. The Plant Manager will prepare a written recommendation regarding issuance or non-issuance of the permit and submit it to the Participant. Within 30 days of receipt of a complete wastewater discharge permit application, including the Plant Manager's recommendation, the Participant will determine whether or not to issue a wastewater discharge permit. Upon a determination to issue, the permit shall be issued within 30 days of full evaluation and acceptance of the data furnished. The Participant may deny any application for a wastewater discharge permit. An Industrial User denied a discharge permit may petition the Participant to reconsider the issuance of a discharge permit as described in section 25 of this ordinance.

19. **PERMIT MODIFICATIONS.**

The Participant reserves the right to amend any Wastewater Discharge permit issued hereunder in order to assure compliance or continued compliance by the Participant with applicable laws and regulations. Within nine (9) months of the promulgation of a National Categorical Pretreatment Standard, but not later than the deadline for final compliance with a standard when such is specified, the Wastewater Discharge Permit of each user subject to such standards shall be revised to require compliance with such standards within the time frame prescribed by such standards.

Where a user, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for a Wastewater Discharge Permit as required by section 18; the user shall apply for a Wastewater Discharge Permit from the Participant within 90 days after the promulgation of the applicable National Categorical Pretreatment Standards by the EPA. In addition, the user with an existing Wastewater Discharge Permit shall submit to the Plant Manager within 90 days after the promulgation of an applicable National Categorical Pretreatment Standard, the information required by paragraphs (C) and (H) of section 18. The user shall be informed of any proposed changes in its permit at least 30 days prior to the effective date of change. Any changes or new conditions upon the user may require modifications of the Wastewater Discharge Permit, as well as include a reasonable time schedule for compliance.

On approval by the Plant Manager, the Participant may modify a wastewater discharge permit for any good cause, including but not limited to the following:

- A. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
- B. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
- C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- D. Information indicating that the permitted discharge poses a threat to the Participant's, the POTW's, or other personnel, or the receiving waters;
- E. Violation of any terms or conditions of the wastewater discharge permit;
- F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- G. Revision of, or a grant of variance from, categorical pretreatment standards pursuant to 40 CFR 403.13;

19. **PERMIT MODIFICATIONS continued...**

- H. To correct typographical or other errors in the wastewater discharge permit; or
- I. To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

20. **PERMIT CONDITIONS.**

Wastewater Discharge Permits for Significant Industrial Users shall specify no less than all of the following, and for Minor Industrial Users, shall specify the provisions from the following, as determined applicable by the Plant Manager:

A. Wastewater discharge permits must contain the following conditions:

1. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;
2. A statement that the wastewater discharge permits are transferable only upon compliance with section 22 of this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
3. Applicable pretreatment standards and requirements, including any special State requirements;
4. Self monitoring, sampling, reporting notification, submittal of technical reports, compliance schedules, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law; and
5. Requirement for immediate notification to the Plant Manager where self-monitoring results indicate non-compliance;
6. Requirement to report a by-pass or upset of a pretreatment facility;
7. Requirement for the SIU or MIU who reports non-compliance to repeat the sampling and analysis and submit results to the Plant Manager within 30 days after becoming aware of the violation;
8. A statement of applicable civil, criminal, and administrative penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule;
9. The requirement to apply AKART to all wastewaters discharged.

20. PERMIT CONDITIONS continued...

B. Wastewater discharge permits may contain, but need no be limited to, the following conditions:

1. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
2. 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 treatment works;
3. Requirements for developing and implementing spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges;
4. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
5. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
6. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
7. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards and requirements, including those which become effective during the term of the wastewater discharge permit;
8. Any special agreements developed or continued between the Participant and user with the approval of the Plant Manager;
9. Compliance schedule(s) for meeting applicable pretreatment standards and requirements. Compliance schedules shall conform to the requirements specified in Section 18 subparts G.1. through G.3. of this ordinance.
10. Other conditions as deemed appropriate by the Plant Manager to ensure compliance with this ordinance, and State and Federal laws, rules, and regulations.

20. PERMIT CONDITIONS continued...

C. Deadline for Compliance with Applicable Pretreatment Requirements

Compliance by existing users (categorical users) covered by Categorical Pretreatment Standards shall be within 3 years of the date the Standard is effective unless a shorter compliance time is specified in the appropriate Standard. The Plant Manager shall establish a final compliance deadline date for any existing user not covered by Categorical Pretreatment Standards or for any categorical user when the local limits for said user are more restrictive than EPA's Categorical Pretreatment Standards. New source users and new users are required to comply with applicable pretreatment standards within the shortest feasible time (not to exceed 90 days from the beginning of discharge). New sources and new users shall install and have in operating condition, and shall start-up all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge. Any wastewater discharge permit issued to a categorical user shall not contain a compliance date beyond any deadline date established in EPA's Categorical Pretreatment Standards.

Any other existing user or a categorical user that must comply with a more stringent local limit, which is in non-compliance with any local limits shall be provided with a compliance schedule placed in an industrial wastewater permit to insure compliance within the shortest time feasible.

21. PERMIT DURATION AND REISSUANCE.

All wastewater discharge permits shall be issued for a period of five years, subject to appendment or revocation as provided in this ordinance. Under extraordinary circumstances, a permit may be issued for a shorter period or may be stated on its face to expire on a specific date.

A user, required to have a wastewater discharge permit, shall apply for wastewater discharge permit reissuance by submitting a complete wastewater discharge permit application, in accordance with Section 18 of this ordinance, a minimum of 90 days prior to the expiration of the user's existing wastewater discharge permit. A user, whose existing wastewater discharge permit has expired and has submitted its re-application in the time period specified herein, shall be deemed to have an effective wastewater discharge permit until the Participant issues or denies the new wastewater discharge permit. A user, whose existing wastewater discharge permit has expired and who failed to submit its re-application in the time period specified herein, will be deemed to be discharging without a wastewater discharge permit.

22. **LIMITATIONS ON PERMIT TRANSFER.**

Wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least 90 days advance notice to the Participant, and the Plant Manager approves the wastewater discharge permit transfer. The notice to the Participant must include a written certification by the new owner/operator which;

- A. States that the new owner/operator has no immediate intent to change the facility's operations and processes;
- B. Identifies the specific date on which the transfer is to occur; and
- C. Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide advance notice of a transfer renders the wastewater discharge permit voidable as of the date of facility transfer.

Provided that the above occurs, and that there were no significant changes to the manufacturing operation or wastewater discharge, the new owner/operator will be considered an existing user and be covered by the existing limits and requirements in the previous owner/operator's permit.

23. **PROPERTY RIGHTS.**

The issuance of a permit shall not convey any property rights in either real or personal property, or any exclusive privileges, nor shall it authorize any invasion of personal rights nor any infringement of Federal, State or Local regulations.

24. **PUBLIC NOTICE.**

Public notice shall be given in accordance with Section 173-216-090 WAC. The Participant may initiate the Public Notice rather than requiring it of the user.

25. APPEAL OF PERMIT CONDITIONS.

Any person, including the user, may petition the Participant to reconsider the terms of a wastewater discharge permit within thirty (30) days of its issuance or denial.

A. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

B. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

C. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.

D. If the Participant fails to act within ninety (90) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit, shall be considered final administrative actions for purposes of judicial review.

E. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decisions must do so by filing a petition with the Superior Court 10 days of final administrative action.

F. Industrial Users may request a meeting with the Plant Manager and Participant to present the petition required in this section. The Plant Manager shall arrange such a meeting within 30 days of the request by the Industrial User.

26. REPORTING REQUIREMENTS.

Reporting requirements specified in this section shall be inclusive of all Significant Industrial Users and shall also apply to those Minor Industrial Users as specifically required in their Waste Discharge Permits.

All reports of permittees shall contain all results of sampling and analysis of the discharge, including the flow and the nature and concentration or production and mass as specified by the Plant Manager. The frequency of monitoring by the user shall be as prescribed in the Wastewater Discharge Permit. All analyses shall be performed in accordance with 40 CFR, Part 136 and amendments thereto. Where 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication, "Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants", April 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the Administrator of the EPA.

26. REPORTING REQUIREMENTS continued...

A. Initial Compliance Report.

Within 90 days following the date for final compliance with Applicable Pretreatment Standards and requirements set forth in this ordinance, or following commencement of the discharge of wastewaters into the POTW, any user subject to this ordinance shall submit a report to the Plant Manager that indicates compliance with Section 18, parts D through I, of this ordinance. The report shall state whether the Applicable Pretreatment Standards or requirements are being met on a consistent basis and, if not, what additional O & M and/or pretreatment is necessary to bring the user into compliance with the Applicable Pretreatment Standards or requirements. This statement shall be signed by an authorized representative of the user. If permit conditions are not being met, the statement also must be signed by an engineer qualified in pretreatment system design.

For users subject to equivalent mass or concentration limits developed by the Plant Manager in accordance with procedures established in 40 CFR 403.6 (c), this report shall contain a reasonable measure of the user's long term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the users's actual production during the appropriate sampling period.

B. Periodic Compliance Report.

Any user subject to the Pretreatment Standards set forth in this ordinance, after the compliance date of such Pretreatment Standard or, in the case of a new user, after commencement of the discharge to the POTW, shall submit to the Plant Manager during the months of May and November of each year, unless specified more frequently by the Plant Manager, a report indicating the nature and concentration of prohibited or regulated substances in the effluent which are limited by the Permit and/or Pretreatment Standards hereof. Industrial Users subject to mass limitations as provided for in this ordinance and/or the Federal Categorical Pretreatment Standards shall indicate the mass of pollutants regulated by Pretreatment Standards in the discharge from the Industrial User. For users subject to equivalent mass or concentration limits developed by the Plant Manager in accordance with procedures established in 40 CFR 403.6 (c), this report shall contain a reasonable measure of the user's long term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the users's actual production during the appropriate sampling period.

26. REPORTING REQUIREMENTS continued...

B. Periodic Compliance Report continued...

In addition, this report shall include a record of all measured or estimated average and maximum daily flows during the reporting period specified in Section 20 hereof, and if a user monitors a pollutant more frequently than specified by the Plant Manager, using the procedures prescribed in 40 CFR part 136, the results of this monitoring shall be included in the report. Flows shall be reported on the basis of actual measurement, provided however, where cost or feasibility considerations justify, the Plant Manager may accept reports of average and maximum flows estimated by verifiable techniques. The Plant Manager, for good cause shown, considering such factors as local high or low flow rates, holidays, budget cycles, or other extenuating factors, may authorize the submission of said reports on months other than those specified above.

C. Notification of Significant Production Changes.

Any user operating under a wastewater discharge permit incorporating equivalent mass or concentration limits shall notify the Plant Manager within two (2) business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not providing a notice of such anticipated change will be required to comply with the existing limits contained in its wastewater discharge permit.

D. Hazardous Waste Notification.

Any user that is discharging 15 kilograms of hazardous wastes as defined in 40 CFR 261 (listed or characteristic wastes) in a calendar month or any facility discharging any amount of acutely hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e) is required to provide a one time notification in writing to the Plant Manager, EPA Regional Waste Management Division Plant Manager, and Hazardous Waste Division of Ecology. Any existing user exempt from this notification shall comply with the requirements contained herein within 30 days of becoming aware of a discharge of 15 kilograms of hazardous wastes in a calendar month or the discharge of acutely hazardous wastes to the LOTT sewer system. Such notification shall include:

1. The name of the hazardous waste as set forth in 40 CFR Part 261,
2. The EPA Hazardous waste number; and
3. The type of discharge (continuous, batch, or other),

26. **REPORTING REQUIREMENTS** continued...

4. If an industrial user discharges more than 100 kilograms of such waste per calendar month to the sewer system, the notification shall also contain the following information to the extent it is known or readily available to the industrial user:

- a. an identification of the hazardous constituents contained in the wastes,
- b. an estimation of the mass and concentration of such constituents in the wastestreams discharged during that calendar month, and
- c. an estimation of the mass of constituents in the wastestreams expected to be discharged during the following 12 months.

These notification requirements do not apply to pollutants already reported under the self-monitoring requirements. Whenever the EPA publishes final rules identifying additional hazardous wastes or new characteristics of hazardous waste, a user shall notify the Plant Manager of the discharge of such a substance within 90 days of the effective date of such regulations. In the case of any notification made under this paragraph, an industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

E. Notice of potential problems, including accidental spills and/or slug loadings.

Any user shall notify the Plant Manager immediately of all discharges that could cause problems to the POTW, including any slug loadings, as defined in Section 2. The notification shall include the concentration and volume and corrective action. Steps being taken to reduce any adverse impact should also be noted during the notification. Any user who discharges a slug (or slugs) of pollutants shall be liable for any expense, loss, or damage to the POTW, in addition to the amount of any fines imposed on the Participant or Plant Manager under State or Federal law.

F. Notification of Changed Discharge.

All users shall promptly notify the Plant Manager in advance of any substantial change in the volume or character of pollutants in their discharge, including significant manufacturing process changes, pretreatment modifications, and the listed or characteristic hazardous wastes for which the user has submitted initial notification under 40 CFR 403.12(p).

26. **REPORTING REQUIREMENTS** continued...

G. Users subject to equivalent mass or concentration limits.

For users subject to equivalent mass or concentration limits developed by the Plant Manager in accordance with procedures established in 40 CFR 403.6 (c), this report shall contain a reasonable measure of the user's long term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the users's actual production during the appropriate sampling period.

H. Non-Compliance Reporting.

If sampling performed by a user indicates a violation, the user shall notify the Plant Manager within 24 hours of becoming aware of the violation. The user shall also repeat the sampling within 5 days and submit the results of the report analysis to the Plant Manager within 30 days after becoming aware of the violation, except the user is not required to resample if:

1. The Plant Manager performs sampling at the user at a frequency of at least once per month, or
2. The Plant Manager performs sampling at the user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

I. TTO Reporting.

Categorical users which are required by EPA to eliminate and/or reduce the levels of toxic organics (TTO's) discharged into the sewer system must follow the Categorical Pretreatment Standards for that industry. Those users must also meet the following three requirements:

1. Sample, as part of the application requirements, for all the organics listed under the TTO limit (no exceptions);
2. Either: routinely monitor for TTOs, (as specified in permit conditions), certify that no Toxic Organics are used at the facility, or develop a solvent management plan in lieu of required TTO monitoring;
3. Include a certification statement in self-monitoring reports that there has been no dumping of concentrated toxic organics into the wastewater and that it is implementing a solvent management plan as approved by the Plant Manager.

26. REPORTING REQUIREMENTS continued...

J. Reports from Minor Industrial Users.

Minor Industrial Users shall provide appropriate reports as the Plant Manager may require.

K. Reports for Unpermitted Users.

The Plant Manager may require non-domestic users which are otherwise not required to obtain a wastewater discharge permit or authorization to provide appropriate reports and complete Industrial User survey forms as necessary to properly implement the pretreatment program.

L. Sampling Requirements for Users.

A minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. The Plant Manager will determine on a case-by-case basis whether the user will be able to composite the individual grab samples. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques where feasible.

The Plant Manager may waive flow-proportional composite sampling for any user that demonstrates that flow-proportional is infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.

Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated or manufacturing process if no pretreatment exists or as determined by the Plant Manager and contained in the user's wastewater discharge permit. For categorical users, 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 403.6(e) in order to evaluate compliance with the Applicable Categorical Pretreatment Standards. For other SIUs, for which the Plant Manager has adjusted discharge limitations to factor out dilution flows, the user should measure the flows and concentrations necessary to evaluate compliance with the adjusted pretreatment standard(s).

All sample results 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 from the user. If a user sampled and analyzed more frequently than was required in its wastewater discharge permit, using methodologies in 40 CFR Part 136, it must submit all results of sampling and analysis of the discharge as part of its self-monitoring report.

27. **CONFIDENTIAL INFORMATION.**

Information and data furnished to the Plant Manager and/or Participant with respect to the nature and frequency of discharge shall be available without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the Plant Manager and/or Participant that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets or proprietary information of the user under the laws or regulations of the State or Federal Government. If a user furnishing a report requests that information provided as part of a report or permit process be kept confidential, and the user marks said pages as confidential, then the portions of a report or other information which may disclose trade secrets or secret processes protected by State or Federal law shall not be made available for inspection by the public, subject to the provisions of RCW chapter 42.17, but shall be made available upon written request to governmental agencies for uses related to this ordinance, the National Pollutant Discharge Elimination System (NPDES) Permit, State Disposal System Permit and/or the Pretreatment Program; provided however that such portions of a report or other information shall be available for use by the State or any State Agency in judicial review or enforcement proceedings involving the user furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

Information accepted by the Plant Manager and/or Participant as confidential, shall not be transmitted to any governmental agency or to the general public by the Plant Manager and/or Participant until and unless a ten-day notification is given to the user. Once notice of intent to release information has been given to the user, if the user fails to contest the release, then any rights created by this section shall be deemed to have been waived.

28. **BYPASS.**

A. For the purposes of this section;

1. "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.

2. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

B. A user may allow any bypass to occur which does not cause applicable pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this section.

28. **BYPASS continued...**

- C. 1. If a user knows in advance of the need for a bypass, it shall submit prior notice to the Plant Manager, at least ten (10) days before the date of the bypass, if possible.
2. A user shall submit oral notice to the Plant Manager of an unanticipated bypass that exceeds applicable pretreatment standards within twenty four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Plant Manager may waive the written report on a case-by-case basis if the oral report has been received within twenty four (24) hours.
- D. 1. Bypass is prohibited, and the Participant may take an enforcement action against a user for a bypass, unless:
- a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - c. The user submitted notices as required under paragraph (C) of this section.
2. The Participant may approve an anticipated bypass, after considering its adverse effects, if the Plant Manager determines that it will meet the three conditions listed in paragraph (D)(1) of this section.

29. **EMERGENCY SUSPENSION OF SERVICE AND PERMIT.**

The Participant may order the suspension of wastewater treatment service and of the Discharge Permit of a user without advance notice if it appears to the Plant Manager and/or Participant that an actual or potential discharge:

29. EMERGENCY SUSPENSION OF SERVICE AND PERMIT continued...

A. Presents or threatens a substantial danger to the health or welfare of persons or to the environment; or,

B. Threatens to interfere with the operation of the POTW or to violate any pretreatment limits imposed by this chapter or by any Discharge Permit issued pursuant to this ordinance.

Any user notified of the Participant's suspension order shall cease immediately all discharges.

Any user whose permit has been suspended pursuant to this section shall have the right to a post-suspension hearing to be conducted in accordance with the procedures set forth in Section 36. The Participant shall reinstate the Discharge Permit and wastewater treatment services upon proof by the user of the elimination of the risk of actual or potential discharge, unless the Participant has commenced proceedings for service termination and permit revocation pursuant to Section 30.

In addition to all other rights and remedies, the Participant shall have the authority to physically cap, block, or seal the side sewer line at its juncture with the sewer line or elsewhere (whether on public or private property) if the Plant Manager determines that such action is reasonably necessary to suspend service as authorized by this section. The Participant shall have the right of access onto the user's private property to accomplish such capping, blocking, or sealing of the sewer line.

If the Participant has invoked an emergency suspension of service, the user must file a written report to the Plant Manager, describing the causes of the harmful contribution, and the measures taken to prevent any future occurrence. This report is required before service can resume.

30. TERMINATION OF TREATMENT SERVICES, PERMIT REVOCATION.

The Participant shall have authority to terminate wastewater treatment services and to revoke the discharge permit of any user if it determines that the user has:

A. Failed to accurately report wastewater constituents and characteristics;

B. Failed to report significant changes in wastewater constituents, volume, characteristics, or user operations;

C. Refused reasonable access to the user's premises for purposes of inspection, sampling, or monitoring;

D. Violated conditions of the wastewater discharge permit;

30. **TERMINATION OF TREATMENT SERVICES, PERMIT REVOCATION continued...**

E. Violated any of the provisions of this ordinance or regulations promulgated thereunder; or

F. Violated any lawful order of the Participant issued with respect to the user's permit or this ordinance.

The user shall be given written notice of the Participant's decision (and basis or bases therefore) to terminate wastewater services and shall have the right to a pre-termination hearing in accordance with the provisions of Section 36.

31. **NOTIFICATION OF VIOLATION.**

When the Plant Manager finds that a user has violated (or continues to violate) any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Participant may serve upon that user a written Notice of Violation, via certified letter. Within ten (10) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Plant Manager. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Participant to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

32. **CONSENT ORDERS.**

The Participant may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for non-compliance. Such documents will include specific action to be taken by the user to correct the non-compliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 33 and 34 of this ordinance and shall be judicially enforceable. Use of a Consent Order shall not be a bar against, or prerequisite for, taking any other action against the user.

33. **COMPLIANCE SCHEDULE ORDER.**

When the Plant Manager finds that a user has violated or continues to violate any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Participant may issue an order to the user responsible for the discharge directing that the user come into compliance within a time specified in the order.

33. COMPLIANCE SCHEDULE ORDER continued...

If the user does not come into compliance within the time specified in the order, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the non-compliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user. Compliance schedules shall conform to the requirements specified in Section 18 subparts G.1. through G.3. of this ordinance.

34. CEASE AND DESIST ORDERS.

When the Plant Manager finds that a user has violated (or continues to violate) any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Participant may issue an order to the user directing it to cease and desist all such violations and directing the user to:

A. Immediately comply with all requirements; and

B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

35. ADMINISTRATIVE FINES.

A. When the Plant Manager finds that a user has violated or continues to violate any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Participant may fine such user in an amount not to exceed \$10,000. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.

B. Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of fifteen percent (15%) of the unpaid balance, and interest shall accrue thereafter at a rate of ten percent (10%) per month. A lien against the user's property will be sought for unpaid charges, fines, and penalties.

35. ADMINISTRATIVE FINES continued...

C. Users desiring to dispute such fines must file a written request for the Participant to reconsider the fine along with full payment of the fine amount within fifteen (15) days of being notified of the fine. Where a request has merit, the Participant, in conjunction with the Plant Manager shall convene a hearing on the matter within fifteen (15) days of receiving the request from the user. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The Participant may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

D. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

36. ADMINISTRATIVE HEARING.

A. A user shall have the right to an administrative hearing to contest the Participant's determination:

1. To impose an enforcement action provided for by this ordinance;
2. That the user has violated a compliance schedule order.

B. Any hearing pursuant to this section must be requested by the user in writing within fifteen (15) business days after the user receives notice of the Participant's decision. The user's written request for hearing shall be filed with the Plant Manager.

The Plant Manager and Participant shall conduct the hearing within fifteen (15) business days of the receipt of the request (or within five (5) business days if the user is contesting suspension of wastewater services and discharge permit.)

C. The administrative hearing authorized by this section shall be held before the Plant Manager and two other representatives designated by the Participant. Formal rules of evidence shall not apply but the user and the Participant shall have the right to present witnesses and documentary evidence. The Participant shall issue a written decision within five (5) business days of the conclusion of the hearing.

D. Any user requesting a hearing shall have the right to make an electronic or stenographic record of the proceedings. Such record shall be made at the user's expense.

36. ADMINISTRATIVE HEARING continued ...

E. The Participant may by resolution adopt additional rules for the conduct of hearings pursuant to this section.

F. The Participant shall serve notice of the meeting personally or by registered or certified mail (return receipt requested) at least five (5) days prior to the hearing. Such notice may be served on any authorized representative of the user.

37. INJUNCTIVE RELIEF.

When the Plant Manager finds that a user has violated (or continues to violate) any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Participant may petition the Superior Court 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 ordinance on activities of the user. The Participant may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

38. CIVIL PENALTIES.

A. A user which has violated or continues to violate any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the Participant for a maximum civil penalty of \$10,000 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

B. The Participant 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 POTW and/or the Participant.

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

D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

39. JUDICIAL REVIEW.

Any final administrative decision of the Participant rendered pursuant to this Ordinance may be reviewed only by the Superior Court. The review shall be initiated by a petition filed by the Industrial User. Such review shall be timely and shall be filed no later than ten (10) business days after the Participant has provided notice of the decision.

40. ANNUAL PUBLICATION OF ENFORCEMENT ACTIONS.

The Participant shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous twelve (12) months, were in significant non-compliance with applicable pretreatment standards and requirements. The term significant non-compliance shall mean:

A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six (6) month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;

B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria [1.4 for BOD, TSS, FOG, and 1.2 for all other pollutants except pH];

C. Any other discharge violation that the Plant Manager believes has caused alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);

D. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Plant Manager or Participant's exercise of its emergency authority to halt or prevent such a discharge;

E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

F. Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

40. ANNUAL PUBLICATION OF ENFORCEMENT ACTIONS continued...

G. Failure to accurately report non-compliance; or

H. Any other violation(s) which the Plant Manager or Participant determines will adversely affect the operation or implementation of the local pretreatment program.

41. RIGHT TO WRITTEN INTERPRETATION OF CHAPTER.

Any user or any interested party shall have the right to request an interpretation or ruling by the Participant on any matter covered by this ordinance. The request must be in writing and must be addressed to the Participant. The Plant Manager and/or Participant shall provide a prompt written response. A request pursuant to this section shall not stay or otherwise affect enforcement proceedings.

42. OPERATING UPSETS.

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 non-compliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

A. Reporting Requirements: The user will immediately inform the Plant Manager of an upset and submit the following information to the Plant Manager within five (5) days:

1. A description of the indirect discharge and cause of non-compliance;
2. The period of non-compliance, including exact dates and times or, if not corrected, the anticipated time the non-compliance is expected to continue;
3. Steps being taken and/or planned to reduce, eliminate, and prevent the recurrence of the non-compliance.

B. Required Actions: users shall control production of all discharges to the extent necessary to maintain compliance with applicable pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

42. OPERATING UPSETS continued...

C. Affirmative Defense: an upset shall constitute an affirmative defense to an action brought for non-compliance with applicable pretreatment standards if the user can demonstrate through properly signed, contemporaneous operation logs, or other relevant evidence that:

1. An upset occurred and the user can identify the cause(s) of the upset;
2. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
3. The user has complied with the reporting requirements of "A" (above).

D. Burden of Proof: In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

E. Defense applies only to enforcement actions: Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for non-compliance with applicable pretreatment standards. Such defense shall not relieve the user of any liability for the upset, including liability for damages to the POTW, the Participant, or third persons.

43. RECORDS RETENTION.

All users subject to this ordinance shall retain and preserve for no less than three (3) years, any records, books, documents, memoranda, reports, correspondence and any and all summaries thereof, relating to monitoring, sampling and chemical analyses made by or in behalf of a user in connection with its discharge. Records shall include the date, exact place, method, and time of sampling; the name of the persons taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analysis. All records which pertain to matters which are the subject of an enforcement action or litigation shall be retained and preserved by the user until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

44. REGULATIONS AND RIGHT OF REVISION.

The Plant Manager shall propose, subject to approval and adoption by the Participant, additional regulations consistent with this ordinance when necessary to reflect changes in applicable State and/or Federal regulations.

44. REGULATIONS AND RIGHT OF REVISION continued...

The Participant reserves the right to amend this ordinance and any permits it issues under it in a manner consistent with Section 4 of the Intergovernmental Agreement for Industrial Waste Pretreatment Program to provide for more stringent limitations or requirements on discharges to the POTW if such amendments are deemed necessary to comply with the objectives set forth in this ordinance, or are otherwise in the public interest. No vested right shall be created by the issuance of any permit under this ordinance.

45. RECOVERY OF COSTS INCURRED BY THE PARTICIPANT.

Any user violating any of the provisions of this ordinance who discharges or causes a discharge producing a deposit or obstruction or causes damage to or impairs the POTW shall be liable to the Participant for any reasonable expense, loss, fines or damage caused by such violation or discharge. The Participant shall bill the user for the cost incurred by the Participant for any cleaning, repair, replacement work, or other damages caused by the violation or discharge. Refusal to pay the assessed costs shall constitute a violation of this ordinance enforceable under the provisions of Part 35 of this ordinance.

46. CRIMINAL PROSECUTION.

A. A user which has willfully or negligently violated any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$10,000 per violation per day, or imprisonment for not more than one (1) year, or both.

B. A user which has willfully or negligently introduced any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of not more than \$10,000 and/or be subject to imprisonment for one (1) year. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

C. A user which knowingly made any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to maintained, pursuant to this ordinance, wastewater discharge permit, or order issued hereunder, or who falsified, tampered with, or knowingly rendered inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not more that \$10,000 per violation per day, or imprisonment for not more than one (1) year, or both.

47. REMEDIES NON-EXCLUSIVE.

The provisions in Sections 29 through 38 and sections 45 and 46 of this ordinance are not exclusive remedies. The Participant reserves the right to take any, all, or any combination of these actions against a non-compliant user. Enforcement of pretreatment violations will generally be in accordance with the enforcement response plan provided by the Plant Manager. However, the Participant reserves the right to take other action against any user when the circumstances warrant. Subject to constitutional provisions relating to double jeopardy, the Participant is empowered to take more than one enforcement action against any non-compliant user. These actions may be taken concurrently.

48. STATE REQUIREMENTS.

State requirements and limitations on discharges to the POTW shall be met by all users which are subject to such standards in any instance in which they are more stringent than federal requirements and limitations, or those in this ordinance or other applicable ordinance.

49. SEVERABILITY.

If any provision, paragraph, word, section or article of this ordinance is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

50. CONFLICT.

All other previously issued ordinances and parts of other ordinances inconsistent or conflicting with any part of this ordinance are hereby repealed to the extent of such inconsistency or conflict.