

## ARTICLE IV

### INDUSTRIAL PRETREATMENT PROGRAM

#### 1 GENERAL

- 1.1 Legal Authority: The District is a pre-1965 special district and political subdivision of the State of Colorado, acting pursuant to its pre-1965 standing and certain powers set forth in Colorado laws, including but not limited to the Colorado Special District Act, C.R.S. § 32-1-101, *et seq.* This Article IV is adopted by the District in accordance with the authority conferred in the Clean Water Act, 33 U.S.C. §§ 1251, *et seq.*, and any regulations implementing the Clean Water Act, including, but not limited to, 40 CFR Part 403; the District's approved Industrial Pretreatment Program; the Colorado Water Quality Control Act, C.R.S. §§ 25-8-101, *et seq.*, and any regulations implementing the Colorado Water Quality Control Act; and applicable provisions of the Colorado Special District Act, including the authorization but not limitations contained in §§ 32-1-1001(1)(m) and 32-1-1006(5), C.R.S., with all the powers thereof which are specifically granted to the District, or are necessary or incidental to or implied from power specifically granted therein for carrying out the objectives and purposes of the District and this Article IV. Specifically, the Board of Directors of any special district providing water or sanitation services which implements an industrial wastewater pretreatment program pursuant to the Federal Water Pollution Control Act, also known as the Clean Water Act, is authorized to seek such relief and impose such penalties as are required by the Act and its implementing regulations for such programs. 32-1-1006(5), C.R.S.
- 1.2 Policy and Purpose: This Article sets forth general requirements for actual and potential discharges into the wastewater collection and treatment system of the South Adams County Water and Sanitation District and enables the District to comply with all applicable state and federal laws required by the Clean Water Act of 1977 (P.L. 95-217) and the General Pretreatment Regulations for Sources of Pollution (40 CFR Part 403). The objectives of this Article are:
- 1.2.1 To prevent the introduction of pollutants into the District's municipal wastewater system that will interfere with the operation of the system or contaminate the resulting sludge.
  - 1.2.2 To prevent the introduction of pollutants into the District's municipal wastewater system that will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system.
  - 1.2.3 To improve the opportunity to recycle and reclaim Wastewaters and sludges from the District's system.

- 1.2.4 To protect human health and welfare, the environment, property and the District's Publicly Owned Treatment Works (POTW).
  - 1.2.5 To deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by Industrial Users where such contributions do not meet applicable Pretreatment Standards and Requirements or where such contributions would cause the POTW to violate its NPDES permit.
  - 1.2.6 To control through permit, order, or similar means, the contribution to the POTW by each Industrial User to ensure compliance with applicable Pretreatment Standards and Requirements.
- 1.3 Applicability: This Article shall apply to the South Adams County Water and Sanitation District ("SACWSD" or "District") and its residents, customers and to persons outside the District who are Users of the District's POTW. Except as otherwise provided herein, the District's Industrial Pretreatment Coordinator shall administer, implement and enforce the provisions of this Article.
- 1.4 Enforcement Response Plan: More detailed policies and procedures governing the implementation of this Article are contained in the District's Enforcement Response Plan (ERP). Violation of any of the provisions of this Article may subject the Industrial User to enforcement responses by the District in accordance with the provisions of this Article and the ERP. The ERP contains criteria to guide the District in identifying non-compliant Industrial Users and determining what enforcement actions are appropriate. The ERP is intended to complement and build on the Articles contained in these Rules and Regulations. To the extent possible, the ERP and these Rules and Regulations shall be read to be consistent with one another so as to give effect to the language of both documents. However, whenever that is not possible, the more restrictive or limited language that is more protective of the District's POTW and its facilities and human health and welfare, the environment and property within the District shall govern.

## 2 DEFINITIONS

As used in this Article, the following words and terms shall have the meaning set forth below:

- 2.1 Act: The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §§ 1251, *et seq.*
- 2.2 Approval Authority: The Regional Administrator of the U.S. Environmental Protection Agency (EPA), Region 8.

- 2.3 Authorized Representative of the Industrial User: All reports and information submitted pursuant to the requirements of these Rules and Regulations shall be signed and certified by an authorized representative of the Industrial User, as follows:
- 2.3.1 If permittee is a corporation: A responsible officer of the corporation, specifically the president, secretary, treasurer, or vice-president of the corporation in charge of the principle business activity, or any other person who performs similar policy or decision making functions for the corporation, or the manager of one or more manufacturing, production or operating facilities; provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- 2.3.2 By a general partner if the permittee is a partnership, or by the proprietor if the permittee is a sole proprietorship.
- 2.3.3 By a duly authorized representative of the individual designated above if: the authorization is made in writing by the individual described above; the authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the discharge originates; and the written authorization is submitted to the District.
- 2.3.4 If an authorization is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new authorization satisfying the above requirements must be submitted to the District prior to or together with any reports to be signed by an authorized representative.
- 2.4 Best Management Practices or BMPs: Means schedules of activities, prohibitions of practices, maintenance procedures and other management practices to implement the prohibitions listed in 40 CFR § 403.5(a)(1) and (b). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

- 2.5 Bypass: The intentional diversion of waste streams from any portion of an Industrial User's treatment facility.
- 2.6 Categorical Industrial User: An Industrial User subject to a categorical Pretreatment Standard or Categorical Standard.
- 2.7 Categorical Pretreatment Standard or Categorical Standard: Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. § 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471. This term includes the general and specific prohibitions and Local Limits established pursuant to Article III.
- 2.8 CFR: Code of Federal Regulations, as amended, or as same may be subsequently amended.
- 2.9 Composite Sample or Composite Method: It is recommended that influent and effluent operational data be obtained through 24-hour flow proportional composite samples. Sampling may be done manually or automatically, and discretely or continuously. If discrete sampling is employed, at least 12 aliquots should be composited. Discrete sampling may be flow proportioned either by varying the time interval between each aliquot or the volume of each aliquot. All composites should be flow proportional to either the stream flow at the time of collection of the influent aliquot or to the total influent flow since the previous influent aliquot. Volatile pollutant aliquots must be combined in the laboratory immediately before analysis.
- 2.10 Control Authority: Refers to the South Adams County Water and Sanitation District, its Board of Directors or its authorized representative, and is directly responsible for administering and enforcing Pretreatment Standards and Requirements against Industrial Users.
- 2.11 Daily maximum limit: Means the maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that calendar day.
- 2.12 District or SACWSD: The South Adams County Water and Sanitation District, the Board of Directors of the South Adams County Water and Sanitation District or its authorized representative.
- 2.13 Enforcement Response Plan (ERP): Document that outlines the policies and procedures to be used by the District to identify noncompliant Industrial Users

and to determine the appropriate enforcement action to be taken by the District in response to noncompliance.

- 2.14 EPA or Environmental Protection Agency: The United States Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the Administrator or other duly authorized official of said agency.
- 2.15 Grab Sample or Grab Method: If composite sampling is not an appropriate technique, grab samples should be taken to obtain influent and effluent operational data. A grab sample is an individual sample collected over a period of time not exceeding 15 minutes. The collection of influent grab samples should precede the collection of effluent samples by approximately one detention period except that where the detention period is greater than 24 hours such staggering of the sample collection may not be necessary or appropriate. The detention period should be based on a 24-hour average daily flow value. The average daily flow should in turn be based upon the average of the daily flows during the same month of the previous year. Grab sampling should be employed where the pollutants being evaluated are those, such as cyanide and phenol, which may not be held for an extended period because of biological, chemical or physical interaction which take place after sample collection and affect the results.
- 2.16 Indirect Discharge or Discharge: The introduction of pollutants from any non-domestic source regulated under sections 307(b), (c) or (d) of the Act (33 U.S.C. § 1317) into the POTW.
- 2.17 Industrial Pretreatment Coordinator: Individual primarily responsible for implementing the District's approved pretreatment program, issuing enforcement actions and submitting the annual compliance report.
- 2.18 Industrial User (IU): All Significant Industrial Users and any source of an Indirect Discharge including, but not limited to, any manufacturing or service facility (vehicle maintenance facilities and restaurants, for example) with non-domestic discharges or potential for non-domestic discharges. This definition will also include Users whose operations generate any toxic pollutants or other substances suspected of having an adverse impact on the POTW as determined by the EPA or the Industrial Pretreatment Coordinator.
- 2.19 Industrial Wastewater Discharge Permit: A discharge permit issued by the District to an Industrial User who introduces pollutants into the POTW, which pollutants may interfere with, pass through or be otherwise incompatible with such works. Industrial Wastewater Discharge Permits will be issued for a specified time period, not to exceed five years.

- 2.20 Interference: A Discharge that, alone or in conjunction with a Discharge or Discharges from other sources, both inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal and is a cause of an NPDES Permit violation by the POTW or prevents the POTW from using its chosen sludge use or disposal practice.
- 2.21 Instantaneous limit: Means the maximum concentration of a pollutant allowed to be discharged at any time.
- 2.22 Local Limit: Means specific discharge limits developed and enforced by the District upon industrial users to implement the general and specific discharge prohibitions listed in 40 C.F.R. § 403.5(a)(1) and (b). Local limits are Pretreatment Standards.
- 2.23 National Prohibitive Discharge Standard or Prohibitive Standard: Any regulation developed under the authority of section 307(b) of the Act and 40 CFR § 403.5. This term includes the general and specific prohibitions and Local Limits established pursuant to Article III.
- 2.24 National Pollution Discharge Elimination System (NPDES) Permit: A permit issued to the POTW pursuant to section 402 of the Act (33 U.S.C. § 1342).
- 2.25 New Source:
- 2.25.1 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 Pretreatment Standards are thereafter promulgated in accordance with that section, provided that:
- 2.25.1.1 The building, structure, facility or installation is constructed at a site at which no other source is located; or
- 2.25.1.2 The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
- 2.25.1.3 The production or Wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.
- 2.25.2 Construction on a site at which an existing source is located results in a modification rather than a New Source if the construction does not

create a new building, structure, facility or installation meeting the criteria of paragraphs 2.25.1.2 or 2.25.1.3 of this section, but otherwise alters, replaces, or adds to existing process or production equipment.

2.25.3 Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

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

- Any placement, assembly, or installation of facilities or equipment; or
- Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

2.25.3.2 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.

2.26 Non-Residential User: Any User discharging Wastewater into the POTW from a place of business.

2.27 Pass Through: An Industrial User 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 an NPDES Permit violation by the POTW (including an increase in the magnitude or duration of a violation).

2.28 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.

2.29 Pollutant: Any dredged spoil, solid waste, incinerator residue, Sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste discharged into water.

2.30 Pretreatment: The reduction of the amount of Pollutants, the elimination of Pollutants, or the alteration of the nature of Pollutant properties in Wastewater prior to or in lieu of discharging or otherwise introducing such Pollutants into the POTW. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by

40 CFR § 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or Slug Discharges that might interfere with or otherwise be incompatible with the POTW. However, where Wastewater from a regulated process is mixed in an equalization facility with unregulated Wastewater or with Wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR § 403.6(e).

- 2.31 Pretreatment Requirements: Any substantive or procedural requirement related to Pretreatment, other than a National Pretreatment Standard, imposed on an Industrial User.
- 2.32 Pretreatment Standards or Standards: Means any regulation containing pollutant discharge limits promulgated by the EPA or the District in accordance with sections 307(b) and (c) of the Act, which applies to Industrial Users. This term includes prohibitive discharge limits established pursuant to 40 C.F.R. § 403.5. In cases of differing standards or regulations, the more stringent shall apply.
- 2.33 Publicly Owned Treatment Works (POTW): Publicly Owned Treatment Works or POTW means a treatment works as defined by section 212 of the Act, which is owned by a State or municipality (as defined by section 502(4) of the Act). This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes and other conveyances only if they convey Wastewater to a POTW Treatment Plant. The term also means the municipality as defined in section 502(4) of the Act, which has jurisdiction over the Indirect Discharges to and the discharges from such a treatment works.
- 2.34 POTW Treatment Plant: That portion of the POTW designed to provide treatment (including recycling and reclamation) to Wastewater.
- 2.35 Representative of Industrial User: The District may deliver administrative orders, letters of penalty or other documents to any representative of the Industrial User. The term “representative” is broader than the term “authorized representative,” defined above, and may include an employee of the Industrial User, including, but not limited to, any member of its clerical, administrative or Industrial Pretreatment Managerial personnel.
- 2.36 Severe Property Damage: 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.
- 2.37 Shall, Will, May: Shall and will are mandatory; may is permissive.

2.38 Significant Industrial User (SIU):

- 2.38.1 All Industrial Users subject to National Categorical Pretreatment Standards under 40 CFR § 403.6 and 40 CFR Chapter I, Subchapter N, and any other User that: discharges five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW; discharges an average of 25,000 gallons per day (GPD) or more of process wastewater to the POTW; or is designated as such by the Control Authority on the basis that the Industrial User has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirement (in accordance with 40 CFR § 403.8(f)(6)).
- 2.38.2 Those Industrial Users that Discharge under 25,000 GPD that employ processes that generate any toxic Pollutants or other substances suspected of having an adverse impact on the POTW as determined by the EPA or Industrial Pretreatment Coordinator.
- 2.38.3 An Industrial User may be reclassified by the District as a Significant Industrial User at any time depending upon the severity of violations or changes in discharge characteristics, as well as promulgation of new Categorical Standards.

2.39 Significant Noncompliance Criteria (SNC): Criteria used by Control and Approval Authorities to identify important violations and/or patterns of noncompliance. An Industrial User meeting any one or more of the following criteria is in significant noncompliance:

- 2.39.1 Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter during a six-month period exceed (by any magnitude) the numeric pretreatment standard or requirement, including instantaneous limits for the same pollutant parameter.
- 2.39.2 Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement, including instantaneous limits multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH).
- 2.39.3 Any other violation of a pretreatment standard or requirement (daily maximum, long-term average, instantaneous limit or narrative standard) that the Control Authority determines has caused, alone or

in combination with other Discharges, Interference or Pass Through (including endangering the health of POTW personnel or the general public).

- 2.39.4 Any Discharge of a Pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a Discharge.
  - 2.39.5 Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.
  - 2.39.6 Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.
  - 2.39.7 Failure to accurately report noncompliance.
  - 2.39.8 Any other violation or group of violations which the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program or that the POTW considers to be significant.
- 2.40 Slug Discharge: Means any Discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Article III section 2.3 Specific Prohibitions. A Slug Discharge is any Discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a noncustomary batch discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits, or permit conditions.
- 2.41 Standard Industrial Classification (SIC): Means a classification pursuant to the *Standard Industrial Classification Manual* issued by the Executive Office of the President - Office of Management and Budget, as it may be revised from time to time.
- 2.42 State: State of Colorado Department of Public Health and Environment.
- 2.43 Total Suspended Solids (TSS): Means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids, and that is removable by laboratory filtering.

- 2.44 Toxic Pollutant: Any Pollutant or combination of Pollutants listed as toxic in regulations promulgated by the Administrator of the EPA under section 307(a) of the Act (33 U.S.C. § 1317) or other federal, state or local regulations or as otherwise listed at 40 C.F.R. Part 122, Appendix D.
- 2.45 U.S.C.: United States Code.
- 2.46 Upset: An exceptional incident in which there is unintentional and temporary noncompliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the Industrial User. An Upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- 2.47 User: Any person or entity, including an Industrial User or a Significant Industrial User, using or connected to the District's POTW.
- 2.48 Waters of the State: All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through or border upon the State or any portion thereof.
- 2.49 Zero Discharge Categorical Industrial User: A Significant Industrial User that is subject to National Categorical Pretreatment Standards that does not discharge or have the potential to discharge regulated materials or regulated pollutants into the District's POTW and that has a sewer service line connected to the District's facilities for the Discharge of domestic Wastewater.
- 2.50 Zero Discharge Permit: A permit issued to a Zero-Discharging Categorical Industrial User. Zero Discharge Permits will be issued for a specified time period, not to exceed five years.

### 3 **INDUSTRIAL WASTEWATER DISCHARGE PERMITS AND ZERO DISCHARGE PERMITS**

- 3.1 General: Industrial Wastewater Discharge Permits and Zero Discharge Permits (sometimes referred to collectively herein as "permit(s)") are revocable licenses. The permits are issued at the discretion of the District and may be revoked or suspended, for cause, by the District, in accordance with the procedures set forth in section 19 of this Article and in the ERP. Upon revocation or suspension of a permit, any Wastewater Discharge and/or continued operation of the regulated activity shall be considered prohibited and illegal.
- 3.2 Permit Application: In order to be considered for an Industrial Wastewater Discharge Permit or a Zero Discharge Permit all Industrial Users required to

obtain a permit must submit the following information, where applicable, on an application form (“Wastewater Questionnaire”) approved by the District:

- 3.2.1 Name, address and location (if different from the address).
  - 3.2.2 Standard Industrial Classification (SIC) code of both the industry as a whole and any processes for which federal Categorical Standards have been promulgated.
  - 3.2.3 Wastewater constituents and characteristics including any Pollutants in the discharge which are limited by any federal, state, or local Standards. Sampling and analysis will be undertaken in accordance with 40 CFR Part 136.
  - 3.2.4 Time and duration of Discharge.
  - 3.2.5 Daily maximum, daily average, and monthly average Wastewater flow rates, including daily, monthly, and seasonal variation, if any.
  - 3.2.6 Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used at the facility which are or could accidentally or intentionally be discharged to the POTW.
  - 3.2.7 Facility diagram showing sewers, floor drains, and other pertinent details.
  - 3.2.8 Each product produced by type, amount, process or processes and rate of production.
  - 3.2.9 Type and amount of raw materials processed (average and maximum per day).
  - 3.2.10 Number of employees, hours of operation, and proposed or actual hours of operation of pretreatment system.
  - 3.2.11 Any other information as may be deemed by the Industrial Pretreatment Coordinator to be necessary to evaluate the permit application.
- 3.3 Overdue Wastewater Questionnaire: The Wastewater Questionnaire shall be completed and returned to the District no later than thirty (30) days after the District provides the Wastewater Questionnaire to the Industrial User. The District shall charge the Industrial User the Overdue Wastewater Questionnaire Fee as determined from time to time by the District as set forth in section 4 of Appendix A for any Wastewater Questionnaire that is not completed and

returned to the District within thirty (30) days of the District's provision of the Wastewater Questionnaire to the Industrial User.

- 3.4 Requirements for Significant Industrial Users: All Significant Industrial Users proposing to connect to or Discharge into any part of the Wastewater treatment system shall obtain a permit therefore. A permit is required for all Significant Industrial Users to which National Categorical Pretreatment Standards apply, even if the Significant Industrial User does not Discharge and/or does not plan or intend to Discharge the regulated material(s) or Pollutant(s) into the District's POTW and the reported Discharge into the POTW for the regulated material(s) or Pollutant(s) is zero.
- 3.4.1 No new Significant Industrial User shall commence Discharging into the system and no new Zero Discharge Categorical Industrial User shall commence operations without first completing the District's Wastewater Questionnaire and the District's Industrial Wastewater Discharge Permit application or Zero Discharge Permit application and obtaining an Industrial Wastewater Discharge Permit authorizing discharge under the District's Pretreatment Program providing for compliance with the General Pretreatment Regulations for Sources of Pollution (40 C.F.R. Part 403) or a Zero Discharge Permit, respectively.
- 3.4.2 Within ninety (90) days from the effective date of this regulation, all existing Significant Industrial Users that have not completed the District's Wastewater Questionnaire shall complete the District's Wastewater Questionnaire and obtain either an Industrial Wastewater Discharge Permit authorizing Discharge under the District's Pretreatment Program to continue Discharge into the District's sanitary sewage system or a Zero Discharge Permit authorizing continued operations within the District.
- 3.5 Requirements for Industrial Users: All existing Industrial Users shall obtain either an Industrial Wastewater Discharge Permit or a Zero Discharge Permit, whichever is applicable, within ninety (90) days from notification by the Industrial Pretreatment Coordinator that such a permit is required. A separate permit is required for each building or complex of buildings on separate lots with a separate sewer connection.
- 3.6 Objections to Permit Conditions: The applicant shall have fifteen (15) days from the date of notification to file written objections to any permit conditions with the Industrial Pretreatment Coordinator, who may, but shall not be required to, schedule a meeting with the applicant's authorized representative within fifteen (15) days following receipt of the applicant's objections and attempt to resolve disputed issues concerning permit conditions. If applicant files no objections to permit conditions proposed or if a subsequent agreement is reached

concerning same, the Industrial Pretreatment Coordinator shall issue the permit to the applicant with such conditions incorporated.

- 3.7 No Assignment, Transfer or Sale of Permits: Permits are issued to a specific User for a specific operation. No permit shall be assigned, transferred or sold to a new or changed operation.
- 3.8 Permit Conditions: Permits shall include conditions as are reasonably deemed necessary by the Industrial Pretreatment Coordinator to prevent Pass Through or Interference, protect the quality of the water body receiving the POTW's effluent, protect worker health and safety, facilitate POTW sludge management and disposal, protect ambient air quality, and protect against damage to the POTW collections system or plant. Permits may contain, but need not be limited to, the following:
  - 3.8.1 Limits on the average and/or maximum Wastewater constituents and characteristics.
  - 3.8.2 Limits on the average and/or maximum rate and time of Discharge or requirements for flow regulation and equalization.
  - 3.8.3 Requirements for the installation and maintenance of inspection and sampling facilities.
  - 3.8.4 Requirements for the development of a compliance schedule by each Industrial User for the installation of technology required to meet applicable Pretreatment Standards and Requirements.
  - 3.8.5 Specifications for monitoring programs, which may include sampling locations, frequency of sampling and reporting schedules.
  - 3.8.6 Requirements for submission of technical reports or Discharge reports.
  - 3.8.7 Requirements for maintaining and retaining plant records relating to Wastewater Discharge and/or regulated activities for a minimum of three (3) years as specified by the District and affording the District access thereto.
  - 3.8.8 Requirements for notification of the District of any new introduction of Wastewater constituents or of any substantial change in the volume or character of the Wastewater being introduced into the POTW. A change of volume or Wastewater constituents of 20% or more shall be considered a substantial change.

- 3.8.9 Requirements to control Slug Discharges, if determined by the District to be necessary. If the POTW decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:
  - 3.8.9.1 Description of discharge practices, including non-routine batch Discharges;
  - 3.8.9.2 Description of stored chemicals;
  - 3.8.9.3 Procedures for immediately notifying the POTW of Slug Discharges, including any Discharge that would violate a prohibition under 40 CFR § 403.5(b) with procedures for follow-up written notification within five days;
  - 3.8.9.4 If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.
- 3.8.10 The unit charge or schedule of user charges and fees for the management of the Wastewater Discharged to the POTW.
- 3.8.11 Other conditions as deemed appropriate by the Industrial Pretreatment Coordinator to ensure compliance with this Article, and state and federal laws, rules and regulations.
- 3.8.12 A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal regulations and Pretreatment Standards, including those which become effective during the term of the permit.
- 3.9 Additional Permit Conditions for Significant Industrial Users: In the case of Industrial Users identified as significant under 40 CFR § 403.3(v), including Significant Industrial Users subject to National Categorical Pretreatment Standards who do not discharge regulated material(s) or Pollutants into the District's wastewater system (*i.e.*, Zero Discharge Categorical Industrial Users), the permit may also include, without limitation, the following conditions:
  - 3.9.1 Statement of duration (in no case more than five (5) years).
  - 3.9.2 Statement of non-transferability.
  - 3.9.3 Requirements to comply with prohibited discharges standards as specified in 40 CFR § 403.5 and Article III, section 2 of these Regulations.

- 3.9.4 Effluent limits, including Best Management Practices based on applicable general Pretreatment Standards, Categorical Pretreatment Standards, Local Limits and state and local law. Provided, however, this condition is not applicable to Zero Discharge Categorical Industrial Users.
- 3.9.5 Self-monitoring, sampling, reporting, notification and record keeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type, based on the applicable general Pretreatment Standards in 40 CFR Part 403, Categorical Pretreatment Standards, Local Limits and state and local law. A chain of custody form is required for any sampling and shall be included with the self-monitoring reports. This condition is not applicable to Zero Discharge Categorical Industrial Users.
- 3.9.6 If sampling performed by an industrial user indicates a violation, the user shall notify the District within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the District within 30 days after becoming aware of the violation. Where the District has performed the sampling and analysis in lieu of the industrial user, the District must perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat analysis. Resampling is not required if:
- 3.9.6.1 The District performs sampling at the industrial user at a frequency of at least once per month; or
- 3.9.6.2 The District performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the district receives the results of this sampling.
- 3.9.7 If an Industrial User subject to the reporting requirement in 40 CFR §§ 403.12 (e) or (h) monitors any regulated pollutant at the appropriate sampling location more frequently than required by the District, using the procedures prescribed in paragraph 40 CFR § 403.12 (g)(5), the results of this monitoring shall be included in the report.
- 3.9.8 Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule. Such schedules may not extend the compliance date beyond federal deadlines.

- 3.10 Violation of Conditions: Any violation of the conditions of a permit, of this Article, of Article III, or of applicable federal, state or local laws or regulations shall be reason for suspension or revocation of such permit. A permit may be suspended or revoked by the District in accordance with the procedures set forth in section 19 of this Article and the procedures set forth in the ERP. Upon suspension or revocation of a permit, any Wastewater Discharge from the affected User and/or continued operation of the regulated activity shall be considered prohibited and illegal.
- 3.11 Certification: Any person signing a document (such as Wastewater Questionnaires, monitoring reports and other certifications) under this section shall make the following certification:
- I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are substantial penalties for submitting false information, including the possibility of fines and imprisonment for knowing violations.
- 3.12 Deny or Condition New or Increased Contributions: The District may deny or condition new or increased contributions of Pollutants, or changes in the nature of Pollutants, to the POTW by Industrial Users where such contributions do not meet applicable Pretreatment Standards and Requirements or where such contributions would cause the POTW to violate its NPDES permit.
- 3.13 Denial of Permit: In the event a permit application is denied, the Industrial Pretreatment Coordinator shall notify the applicant in writing of such denial. Such notification shall state the grounds for such denial with a degree of specificity that will inform the applicant of the measures or actions which must be taken by the applicant prior to issuance of a permit.
- 3.14 Permits Limited to Specified Time Period: Permits shall be issued for a specified time period, not to exceed five (5) years.
- 3.15 Reissuance/Expiration of Permits: The permittee is responsible for filing an application for reissuance of the permit a minimum of ninety (90) days prior to the expiration date of the permit. Under no circumstances shall the permittee continue to Discharge or operate the regulated activity after the expiration of the permit.
- 3.16 Modifications of Permit Terms and Conditions: The terms and conditions of a permit may be subject to modifications and changes by the Industrial

Pretreatment Coordinator throughout the term of the permit, as limitations or requirements identified in this Article, in Article III, or in federal, state or local laws or regulations are modified and changed. Any modification of the permit, including the imposition of new conditions on the permit holder, shall include a reasonable time schedule for compliance as allowed by local, state and federal laws and regulations. A permit may be modified in whole or in part with cause in accordance with the provisions of the District's Rules and Regulations, as amended from time to time. Causes that could lead to modifying a permit include, but are not limited to, the following:

- 3.16.1 Promulgation of any new, additional, revised or more stringent Pretreatment Standards or Requirements or effluent limitations by the District, state, or federal agencies.
  - 3.16.2 Changes(s) in the process(es) used by the permittee or change(s) in the volume or character of the process Discharge(s), or failure to meet effluent limitations.
  - 3.16.3 Change(s) in design or capability of the receiving POTW Treatment Plant.
  - 3.16.4 Change(s) in any condition of the permittee, or the District, that requires either a temporary or permanent reduction or elimination of the authorized Discharge.
  - 3.16.5 Revision or grant of a variance from such Categorical Standards pursuant to 40 CFR § 403.13.
  - 3.16.6 To correct typographical or other errors in the permit.
  - 3.16.7 Upon request of the permittee, provided such request does not create a violation of any applicable requirements, standards, laws, or Rules and Regulations. The filing of a request by the permittee for a permit modification, revocation and reissuance, termination or a notification of planned changes or anticipated noncompliance does not stay any permit condition.
- 3.17 Permit Administration Fee: All Industrial Wastewater Discharge Permit holders shall annually pay to the District the Industrial User Permit Administration Fee, as determined by the Board from time to time as provided in section 2 of Appendix A. All Zero Discharge Permit holders shall annually pay to the District the Zero Discharge Permit Administration Fee as determined by the Board from time to time as provided in section 3 of Appendix A.

#### 4 NATIONAL CATEGORICAL PRETREATMENT STANDARDS

- 4.1 Prohibited Pretreatment Discharge Standards: No User of the District's POTW shall Discharge, cause to be discharged or introduce into the POTW and the District's wastewater facilities, any storm water, surface water, ground water, roof run-off, subsurface drainage, cooling water, air conditioning wastewater or any other commercial or industrial wastewater unless the water meets the standards specified in Articles III and IV of these Rules and Regulations.
- 4.2 National Categorical Pretreatment Standards:
- 4.2.1 National Categorical Pretreatment Standards specifying quantities or concentrations of Pollutants with Pollutant properties which may be Discharged to a POTW by existing or new Industrial Users in specific industrial subcategories will be established under the appropriate subpart of 40 CFR, Chapter I, Subchapter N. These standards shall be in addition to the general and specific prohibitions, including Local Limits, established in 40 CFR § 403.5 and in Article III of these Rules and Regulations.
- 4.2.2 Upon promulgation of National Categorical Pretreatment Standards for a particular industrial subcategory, the Categorical Standard, if more stringent than the limitations imposed under Articles III and IV for sources in that subcategory, shall supersede the less stringent limitations.
- 4.2.3 The Industrial Pretreatment Coordinator shall notify all identified affected Industrial Users of any applicable National Categorical Pretreatment Standards, the applicable reporting requirements as provided in Article III and the schedule for compliance. However, the Industrial User is responsible for complying with all National Categorical Pretreatment Standards and requirements independent of specific notification by the District.
- 4.2.4 Within sixty (60) days after the effective date of a National Categorical Pretreatment Standard for a subcategory under which an Industrial User may be included, the Industrial User or POTW may request that the Approval Authority provide a written determination as to whether the Industrial User falls within that particular subcategory. Each such request shall conform to the requirements of 40 CFR § 403.6(a).

## 5 **LOCAL LIMITS**

- 5.1 The District may develop BMPs to implement the requirements as provided in 40 CFR § 403.5(c)(1) and (2). Such BMPs shall be considered Local Limits and Pretreatment Standards for the purposes of this Article and section 307(d) of the Act.

## 6 REMOVAL CREDITS

- 6.1 Removal Credits for Categorical Pretreatment Standards: Any POTW receiving wastes from an Industrial User to which a categorical Pretreatment Standard(s) applies may, at its discretion and subject to the conditions of 40 CFR § 403.7, grant removal credits to reflect removal by the POTW of Pollutants specified in the categorical Pretreatment Standard(s). The POTW may grant a removal credit equal to or, at its discretion, less than its consistent removal rate. Upon being granted a removal credit, each affected Industrial User shall calculate its revised discharge limits in accordance with paragraph 40 CFR § 403.7(a)(4). Removal credits may only be given for indicator or surrogate pollutants regulated in a categorical Pretreatment Standard if the categorical Pretreatment Standard so specifies.

## 7 NET/GROSS CALCULATIONS

- 7.1 Adjustment of Standards: Pretreatment Standards may be adjusted to reflect the presence of Pollutants in the Industrial Users intake water in accordance with the provisions of 40 CFR § 403.15.

## 8 FEDERAL, STATE OR LOCAL REQUIREMENTS

- 8.1 More Stringent Requirements May Apply: Federal, state or local requirements and limitations on discharges shall apply in any case where they are more stringent than the pretreatment requirements and limitations contained in this Article.

## 9 COMPLIANCE SCHEDULE

- 9.1 If additional Pretreatment and/or Operation and Maintenance (O & M) will be required to meet the Pretreatment Standards; the Industrial User must implement the shortest schedule which will provide such additional Pretreatment and/or O and M. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard.
- 9.2 The following conditions apply to the compliance schedule:
- 9.2.1 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 Industrial User to meet the applicable categorical Pretreatment Standards (*e.g.*, hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).
- 9.2.2 No increment referred to in paragraph 40 CFR § 403.12(c)(1) and paragraph 9.2.1 of this section shall exceed nine (9) months.

- 9.2.3 Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the Industrial User shall submit a progress report to the Control Authority 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 Industrial User to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the Control Authority.

## 10 COMPLIANCE SCHEDULE FOR CATEGORICAL STANDARDS

- 10.1 Existing Industrial Users: Compliance by existing sources with Categorical Standards shall be within three (3) years of the date the Categorical Standard is effective, unless a different compliance date is specified in the appropriate subpart of 40 CFR, Chapter I, Subchapter N. These Industrial Users shall be classified as Significant Industrial Users.
- 10.2 New Sources: Existing sources which become Industrial Users subsequent to promulgation of an applicable Categorical Standard shall be considered existing Industrial Users except where such sources meet the definition of a New Source. New Sources 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. Within the shortest period of time (not to exceed 90 days), New Sources must meet all applicable Pretreatment Standards. Compliance with Categorical Standards for New Sources will be required upon promulgation or as otherwise specified in the applicable Categorical Standard.
- 10.3 Progress Reports on Compliance: Affected Industrial Users shall report in writing to the Industrial Pretreatment Coordinator on incremental progress in meeting their schedule of compliance.

## 11 REPORTING REQUIREMENTS

- 11.1 Code of Federal Regulations Applies: All existing Industrial Users and New Sources subject to such standards shall comply with all the reporting and other requirements specified in 40 CFR § 403.12. Reporting requirements shall apply to all Industrial Users subject to National Categorical Pretreatment Standards whether or not they discharge regulated material(s) or pollutants into the District’s wastewater system.
- 11.2 Modification of Reporting Requirements: At its discretion, the Control Authority may agree to alter the months for reporting, but in no event shall reporting be less than once every six (6) months. The Control Authority may also impose mass limitations on Industrial Users which are using dilution to

meet applicable Pretreatment Standards, or in other cases where the imposition of mass limitations is appropriate.

- 11.3 Unlawful Reporting: It is unlawful for any person to knowingly make any false statement, representation, or certification in any application, Wastewater Questionnaire, record, report, plan, or other document filed or required to be maintained pursuant to this Article or any Industrial Wastewater Discharge Permit or Zero Discharge Permit, or to knowingly falsify, tamper with, or render inaccurate any monitoring device or method required under this Article.
- 11.4 Additional Reporting Requirements: Non-Categorical Significant Industrial Users shall submit to the Control Authority at least once every six (6) months (on dates specified by the Control Authority) a description of the nature, concentration, and flow of the Pollutants required to be reported by the Control Authority. These reports shall be based on sampling and analysis performed in the period covered by the report, and performed in accordance with the techniques described in 40 CFR Part 136 and amendments thereto. This sampling and analysis may be performed by the Control Authority in lieu of the Non-Categorical Significant Industrial User. Where the POTW itself collects all the information for the report, the Non-Categorical Significant Industrial User will not be required to submit the report. It is the Significant Industrial Users' responsibility to determine if the POTW has conducted the sampling in lieu of the Significant Industrial User. The Significant Industrial User is always responsible for ensuring that all sampling and reports are completed and submitted to the POTW.

## 12 **EXCESSIVE DISCHARGE**

- 12.1 Dilution Prohibition: No User shall increase the use of process water or, in any other way, attempt to dilute a Discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the National Categorical Pretreatment Standards, or in any other specific pretreatment standard developed by the District, State or EPA.
- 12.2 Equivalent Concentration Limit: Where process effluent is mixed, prior to treatment, with Wastewaters other than those generated by the regulated process, an equivalent concentration limit will be derived by the discharger with the written concurrence of the Control Authority and applied to the mixed effluent so as to account for the presence of flows not contributed by the regulated process.
- 12.2.1 In no event may an equivalent concentration limit be used if the regulated Pollutants would no longer be detectable by the equipment monitoring the combined Wastewaters.

12.2.2 The equivalent concentration limit for a specified Pollutant will be derived by use of the formula contained in 40 CFR § 403.6(e) or as said section and formula may be hereafter amended. Under no circumstances will a derived concentration limit be permitted that is below the minimum detection limit for the analytical method.

## 13 ACCIDENTAL DISCHARGE

- 13.1 Notification: Each Significant Industrial User shall provide protection from accidental discharge of prohibited materials or other substances regulated by this Article. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the User's own cost and expense. In the case of accidental discharge by a Significant Industrial User, such User shall immediately telephone and notify the POTW of the incident at the following telephone numbers: 720.206.0466 or 720.206.0467. The notification shall include location of discharge, type of waste, concentration and volume and corrective actions.
- 13.2 Written Notice: Within five (5) days following an accidental Discharge, the User shall submit to the Industrial Pretreatment Coordinator a detailed written report describing the cause of the Discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any fines, civil penalties or other liability which may be imposed by this Article or other applicable law.
- 13.3 Notice to Employees: The Industrial User's employees will be advised of the procedures to follow for preventing spills and action to be taken in the case of an accidental spill. A notice must be permanently posted on the Industrial User's bulletin board or other prominent place informing employees whom to call in the event of an accidental discharge. An Industrial User shall advise its employees, who may cause or suffer such an accidental discharge, of the emergency notification procedure.
- 13.4 Slug Control Plans: The District shall evaluate and document whether each Significant Industrial User needs a plan or other action to control Slug Discharges. For Industrial Users identified as significant prior to November 14, 2005, this evaluation must be conducted at least once by October 14, 2006; additional Significant Industrial Users will be evaluated by the District within one (1) year of being designated a Significant Industrial User. For purposes of this subsection, a Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the District's regulations, Local Limits or NPDES conditions. The results of such activities shall be available to the Approval Authority upon request. Significant Industrial Users shall notify the District immediately of any changes at its facility affecting the potential for Slug

Discharge. If the POTW decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

- 13.4.1 Description of Discharge practices, including non-routine batch Discharges.
- 13.4.2 Description of stored chemicals.
- 13.4.3 Procedures for immediately notifying the POTW of Slug Discharges, including any Discharge that would violate a prohibition under 40 CFR § 403.5(b), with procedures for follow-up notification within five (5) days.
- 13.4.4 If necessary, procedures to prevent adverse impacts from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

#### 14 **PRETREATMENT**

- 14.1 General: Industrial Users shall provide necessary Wastewater treatment as required to comply with Articles III and IV of the Rules and Regulations prior to the point where the Industrial User discharges into the POTW. Any facilities required to pretreat Wastewater to an acceptable level shall be provided, operated, used and maintained by the User at the User's own expense.
- 14.2 Pretreatment Technology: Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges that might interfere with or otherwise be incompatible with the POTW. Where there is reason to believe that the use of equalization tanks or other facilities which have potential for dilution are resulting in dilution, the Control Authority shall impose mass limitations or an equivalent concentration limits on an Industrial User employing such tanks or other facilities in accordance with section 11 or 12 of this Article.

#### 15 **UPSET PROVISION**

- 15.1 Effect of an Upset: An Upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards if the requirements of section 15.2 are met.
- 15.2 Conditions Necessary for a Demonstration of Upset: An Industrial User who wishes to establish the affirmative defense of Upset shall demonstrate, through

properly signed, contemporaneous operating logs, or other relevant evidence that:

- 15.2.1 An Upset occurred and the Industrial User can identify the cause(s) of the Upset;
- 15.2.2 The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures;
- 15.2.3 The Industrial User has submitted the following information to the District within 24 hours of becoming aware of the Upset (if this information is provided orally, a written submission must be provided within five (5) days):
  - 15.2.3.1 A description of the Indirect Discharge and cause of noncompliance;
  - 15.2.3.2 The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;
  - 15.2.3.3 Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

15.3 Burden of proof: In any enforcement proceeding the Industrial User seeking to establish the occurrence of an Upset shall have the burden of proof.

15.4 Reviewability of agency consideration of claims of Upset: In the usual exercise of prosecutorial discretion, Agency enforcement personnel should review any claims that noncompliance was caused by an Upset. No determinations made in the course of the review constitute final Agency action subject to judicial review. Industrial Users will have the opportunity for a judicial determination on any claim of Upset only in an enforcement action brought for noncompliance with Categorical Pretreatment Standards.

15.5 User responsibility in case of upset: The Industrial User shall control production or all Discharges to the extent necessary to maintain compliance with Categorical 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.

## 16 **BYPASS**

16.1 Bypass Not Violating Applicable Pretreatment Standards or Requirements: An Industrial User may allow any Bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These Bypasses are not subject to the provision of paragraphs 16.2 and 16.3 of this section.

16.2 Notice:

- 16.2.1 If an Industrial User knows in advance of the need for a Bypass, it shall submit prior notice to the District, if possible at least ten (10) days before the date of the Bypass.
- 16.2.2 An Industrial User shall submit verbal notice of an unanticipated Bypass that exceeds applicable Pretreatment Standards to the District within 24 hours from the time the Industrial User becomes aware of the Bypass. A written submission shall also be provided within five (5) days of the time the Industrial User becomes aware of the Bypass. The written submission shall contain a description of the Bypass and its cause; the duration of the Bypass, including exact dates and times, and, if the Bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the Bypass. The District may waive the written report on a case-by-case basis if the verbal report has been received within 24 hours.

16.3 Prohibition of Bypass:

- 16.3.1 Bypass is prohibited, and the District may take enforcement action against an Industrial User for a Bypass, unless:
  - 16.3.1.1 Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - 16.3.1.2 There were no feasible alternatives to the Bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a Bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
  - 16.3.1.3 The Industrial User submitted notices as required under paragraph 16.2 of this section.
- 16.3.2 The District may approve an anticipated Bypass after considering its adverse effects, if the District determines that it will meet the three conditions listed in paragraph 16.3.1 of this section.

17 **CHARGES AND COSTS**

- 17.1 Responsibility for Costs: Each Industrial User subject to National Categorical Pretreatment Standards or Pretreatment Standards shall pay all costs incurred by the District in the operation and maintenance of the pretreatment program, which costs relate to the User's facility. Such costs shall include, but are not limited to:
- 17.1.1 Costs for administration.
  - 17.1.2 Costs for continued implementation of the User's Pretreatment Program on an annual basis.
  - 17.1.3 Costs for monitoring, inspections and surveillance procedures, including laboratory analysis costs.
  - 17.1.4 Costs for collection of samples, equipment, preparation, data review, etc., as set forth in the District's Sampling Fee as determined by the Board from time to time as provided in Section 4 of Appendix A.
  - 17.1.5 All non-residential users which discharge a waste with five-day biochemical oxygen demand (BOD-5) and Total Suspended Solids (TSS) greater than that of the average wastewater treatment plant influent shall pay a BOD and/or TSS Non-Residential Surcharge in addition to connection fees. The BOD and/or TSS Non-Residential Surcharge will be sufficient to cover the cost of treating wastes above normal strength. Normal strength influent wastes of the South Adams County Water and Sanitation District treatment plant have an average BOD-5 of 272 mg/L and average TSS of 264 mg/L. The formula shown in Section 5 of Appendix A shall be utilized in computing the monthly surcharge.
  - 17.1.6 The non-residential user shall pay 100% of the monitoring costs incurred by the District in establishing the User's BOD and/or TSS Non-Residential Surcharge.
  - 17.1.7 The District reserves the right to restrict BOD and TSS loading rates if levels are sufficient to interfere with the Wastewater treatment processes.
  - 17.1.8 Non-residential discharges that originate from: (a) centralized Wastewater collection and/or treatment companies (note: this Wastewater shall only be accepted by the District if preapproved by the Industrial Pretreatment Coordinator, the Board of Directors, and permitted prior to discharge) and (b) permitted discharges of storm water, surface water, ground water, roof runoff, subsurface drainage, commercial or industrial Wastewater shall be subject to the Volume

Surcharge Fee as determined by the Board from time to time as set forth in Section 6 of Appendix A.

- 17.1.9 Costs for reviewing accidental Discharge procedures and construction.
- 17.1.10 Costs for filing appeals.
- 17.1.11 All costs incurred by the District for enforcement, including all legal fees.
- 17.1.12 Other costs as the District may deem necessary to carry out the requirements contained herein.

The above costs relate solely to the matters covered by this Article and are separate from all other fees or costs chargeable by the District.

## 18 MONITORING AND INSPECTION

18.1 Monitoring Requirements: The Industrial Pretreatment Coordinator has the right to require the installation of monitoring equipment and facilities to allow inspection, sampling and flow measurement of Wastewater flows from Industrial Users. Such facilities may include a monitoring and sampling manhole in the User's sanitary service line. All monitoring facilities shall be provided, operated, used and maintained by the User at the User's own expense. All devices used to measure Wastewater flow and quality shall be calibrated to ensure their accuracy.

18.2 Right of Entry:

18.2.1 The Industrial Pretreatment Coordinator and/or his authorized representative(s) shall have the right to enter upon: (a) the property and premises of any Industrial User in which a Discharge source or treatment system is located or in which records are required to be kept at all times for the purposes of inspection, sampling, monitoring, records examination and copying or in the performance of any of the duties required to implement and enforce the provisions of this Article and to determine, independent of information supplied by Industrial Users, compliance or noncompliance by Industrial Users with applicable Pretreatment Standards and other Rules and Regulations of the District.

18.2.2 The Industrial Pretreatment Coordinator and/or his authorized representative(s) shall have the right to enter upon the property and premises of any industrial user located within the District, regardless of whether they Discharge to the POTW, to determine whether a

Discharge source or treatment system is located on the property or should be required.

18.2.3 Upon arrival at the facility, the Industrial Pretreatment Coordinator and/or his authorized representative(s) shall identify themselves to the manager or supervising staff person on duty at the facility, prior to conducting inspections, sampling, or records examination.

18.3 Sampling and Inspection: The POTW shall randomly sample and analyze the effluent from Industrial Users and conduct surveillance activities in order to identify, independent of information supplied by the Industrial Users, the compliance status of the Industrial User with Pretreatment Standards and requirements. In addition, the POTW shall inspect and sample the effluent from each Significant Industrial User at least once a year except as otherwise specified in 40 CFR § 403.8(f)(2)(v).

## 19 ENFORCEMENT

19.1 General: Violation of any terms of this Article, of Article III, of an Industrial Wastewater Discharge Permit, of a Zero Discharge Permit or of local, state or federal laws or regulations may subject the Industrial User to enforcement responses by the District, in accordance with this Article and with the Enforcement Response Plan (ERP).

19.2 Suspension or Revocation of Permit: The District, the District Board or its representative has the authority to suspend or revoke an Industrial User's Industrial Wastewater Discharge Permit and/or a Zero Discharge Permit, suspend or disconnect water and/or sewer service, or both. Revocation, suspension and/or disconnection will generally be used for significant discharge violations or significant violations of the terms of the permit, especially where the discharge or threat of discharge presents a danger to the public health or welfare, property, the environment or the POTW, or may cause the District to violate its NPDES permit or for repeat violations.

19.2.1 Grounds for suspension or revocation include, but are not limited to, the following:

19.2.1.1 Violation of the District's Rules and Regulations.

19.2.1.2 Violation of federal, state or local laws or regulations.

19.2.1.3 Violation of any term of the permit.

19.2.1.4 Obtaining a permit by misrepresentation or failure to disclose fully all relevant facts in either the permit or any required report.

- 19.2.1.5 Failure to pay fines, comply with Administrative Orders or to meet compliance schedules, tampering with monitoring equipment, or refusing to allow reasonable access to the facility premises or records.
- 19.2.2 Upon a decision by the Board or its representative to suspend or revoke an Industrial User's permit, an Administrative Order ("AO") containing a formal order of suspension or revocation shall be issued. The order shall notify the User of its right to contest the suspension or revocation, either by requesting a hearing before the District's Board of Directors (or its designated hearing officer), or by responding in writing to the Industrial Pretreatment Coordinator. In either case, the written response or request for a hearing must be received by the District within fifteen (15) days of the User's receipt of the AO. Submission of a request for a hearing or a written response shall not excuse compliance with the AO pending resolution of the Industrial User's claim.
- 19.3 Emergency Suspension: The District's Board of Directors or its authorized representative shall make all final determinations regarding the termination of services and the revocation of permits. However, the District Manager or Industrial Pretreatment Coordinator shall have authority to initiate emergency suspensions. An emergency suspension may be required to immediately and effectively halt or prevent a Discharge or activity which reasonably appears to present an imminent endangerment to the health or welfare of persons, which presents or may present an endangerment to property, the environment, or the POTW, or which could cause the District to violate its NPDES permit. To initiate an emergency suspension, the District Manager or the Industrial Pretreatment Coordinator shall use its best efforts to notify the Industrial User, by phone or in person, that it must immediately suspend the harmful Discharge or activity. However, if giving such notice is impossible, would jeopardize the safety of human health or welfare, property, the environment, or the POTW, or if the Industrial User fails to immediately comply, the District or the Industrial Pretreatment Coordinator may take such steps as are deemed necessary, including immediate severance of the sewer connection.
- 19.3.1 An emergency suspension shall be followed by an AO containing a formal suspension order. The AO shall notify the Industrial User of its right to contest the suspension, either by requesting a hearing before the District's Board of Directors (or its designated hearing officer), or by responding in writing to the Industrial Pretreatment Coordinator. In either case, the written request for a hearing or written response must be received by the District within fifteen (15) days of the Industrial User's receipt of the notice. Submission of a request for a hearing or a written response shall not excuse

compliance with the order pending resolution of the Industrial User's claim.

- 19.4 Non-Emergency Suspension, Revocation or Disconnection: In all other "non-emergency" suspensions or revocations of permits and/or suspension or disconnection of water and/or sewer services, where no threat to human health or welfare, property, the environment, or the POTW exists, the Industrial User shall be issued an AO informing it of the violation and the impending severance of water and/or sewer services. Non-emergency suspensions, revocations or disconnections may be initiated in response to repeated violations by an Industrial User of the District's Rules and Regulations or of the permit. The AO shall notify the Industrial User of its right to contest the suspension, revocation or disconnection before its services are actually suspended, either by requesting a hearing before the District's Board of Directors (or its designated hearing officer), or by responding in writing to the Industrial Pretreatment Coordinator. In either case, the written request for a hearing or written response must be received by the District within fifteen (15) days of the User's receipt of the AO. The Board or its authorized representative shall make a final decision on the suspension, revocation and/or disconnection. Submission of a request for a hearing or a written response shall not excuse compliance with the order pending resolution of the Industrial User's claim.
- 19.5 Action Upon Suspension: Once water and/or sewer service has been suspended, whether or not the suspension was an emergency suspension, or disconnected or a permit has been suspended or revoked, the Industrial User must submit within five (5) days of the Discharge or activity giving rise to the action a detailed written statement describing the cause of the underlying Discharge or activity and outlining the measures that will be taken to prevent any harmful Discharges or activities in the future. Upon verifying that the problem has been resolved, the District may reinstate the water and/or wastewater treatment service upon proof that the harmful Discharge or activity has been eliminated, unless revocation proceedings are initiated against the Industrial User.
- 19.6 Notification of Violation: Whenever the Industrial Pretreatment Coordinator finds that an Industrial User has violated any provision of Articles III or IV, the User's permit, or any local, state or federal law or regulation, the Industrial Pretreatment Coordinator shall notify the User and respond in accordance with this Article or the District's Enforcement Response Plan (ERP).
- 19.7 Legal Action: If any person Discharges sewage, industrial wastes or other wastes, or similar substances into the District's POTW or takes action contrary to the provisions of Articles III or IV, National or State Pretreatment Requirements, or any order, rule, regulation, or permit issued hereunder, the District may commence actions for appropriate relief, including injunctive relief, in any court of competent jurisdiction. In addition, the District may seek such damages or penalties as may be provided by law or equity, or by the Rules and

Regulations of the District, in accordance with the procedures set forth in the ERP, including suspension / disconnection of water and/or wastewater treatment services to the User and/or suspension / revocation of a permit.

- 19.8 Public Notification: The District shall annually publish in the largest daily newspaper of circulation in the District a list of all Industrial Users who were in significant noncompliance with any Pretreatment Standards at least once during the twelve (12) previous months. For purposes of this provision, an Industrial User is in significant noncompliance if its violation meets one or more of the following criteria:
- 19.8.1 Chronic violations of Wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter during a six-month period exceed (by any magnitude) the numeric pretreatment standard or requirement including instantaneous limits for the same pollutant parameter.
  - 19.8.2 Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH.).
  - 19.8.3 Any other violation of a pretreatment standard or requirement (daily maximum, long-term average, instantaneous limit or narrative standard) that the POTW determines has caused, alone or in combination with other Discharges, Interference or Pass Through (including endangering the health of POTW personnel or the general public).
  - 19.8.4 Any discharge of a Pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority to halt or prevent such a Discharge. Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance.
  - 19.8.5 Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules.

- 19.8.6 Failure to accurately report noncompliance.
- 19.8.7 Any other violation or group of violations which may include a violation of Best Management Practices, which the POTW determines will adversely affect the operation or implementation of the local pretreatment program.
- 19.9 Hearing Procedure: In order to ensure due process to any party to whom a letter of violation assessing a penalty, or an administrative order, except for a show cause order, has been sent or served, the party shall be given the opportunity to contest the order or penalty either by requesting a hearing before the Board of Directors (or its designated hearing officer) or by responding in writing to the Industrial Pretreatment Coordinator. If a hearing is requested, the Board may hear the matter or designate a hearing officer of its choice to conduct the hearing. All requests for a hearing and written responses must be received by the District within fifteen (15) days after the Industrial User's receipt of the letter of violation or administrative order. The Industrial User shall have twenty (20) days from its receipt of a Letter of Penalty (LOP) to pay the fine, whether or not it submits a request for a hearing or written response. Submission of a request for a hearing or written response shall not excuse noncompliance with an administrative order pending resolution of the Industrial User's claim.
- 19.9.1 Upon receipt of a request for a hearing, the Board or its duly appointed hearing officer shall set the time and place of the hearing. The Board shall provide notice by certified mail to the party requesting the hearing of the appointment of a hearing officer, if one has been appointed, and of the date, time and place of the hearing.
- 19.9.2 The hearing officer or the Board shall establish a procedure for conduct of the hearing which shall allow for an orderly presentation by all parties. The hearing officer or the Board shall permit all parties to respond to the letter of penalty or administrative order, to present evidence and argument on all issues, to cross-examine witnesses who testify at the proceeding to the extent necessary for a full and true disclosure of facts, and to make objections at the proceedings. All parties to the proceedings shall have the right to present their case or defense by verbal or documentary evidence and to submit rebuttal evidence. All parties shall also be entitled to the benefit of legal counsel at that party's own expense, but a party may also appear on its own behalf. An attorney who is a witness may not act as counsel for the party calling him or her as a witness.
- 19.9.3 The hearing officer or the Board shall not be bound by the Colorado Rules of Civil Procedure or the Colorado Rules of Evidence, but may follow selected parts of the rules as are deemed appropriate. The hearing officer or the Board may consider hearsay evidence, or any

other evidence reasonably calculated to assist in rendering a decision. However, no *ex parte* materials or representation of any kind shall be received or considered by the hearing officer or the Board.

- 19.9.4 The hearing officer or the Board shall have authority, but not the obligation, to administer oaths and affirmations, sign and issue subpoenas, rule upon offers of proof and receive evidence; dispose of motions relating to the discovery and production of relevant documents and things for inspection, copying, or photographing; regulate the course of the hearing, set the time and place for continued hearings; fix the time for filing of briefs and other documents; direct the parties to appear and confer to consider the implications of the issues, admission of fact or of documents to avoid unnecessary proof, and limitation of the number of expert witnesses; issue appropriate orders that shall control the subsequent course of the proceeding; reprimand or exclude from the hearing any person for any improper conduct in his or her presence; or take any other action authorized by Board rules; or take action consistent with the procedures that generally govern comparable administrative hearings.
- 19.9.5 The hearing officer or the Board shall cause the proceedings to be recorded by a reporter or by an electronic recording device. Any party, upon payment of a reasonable charge therefore, shall be entitled to procure a transcript of the record or any part thereof. At the conclusion of the hearing, the hearing officer or the Board shall, within thirty (30) days, issue a written decision and provide each party with a copy thereof, unless the time frame for entering the decision is extended.
- 19.9.6 The decision of the Board or its hearing officer shall be based on the record. The record shall include all testimony, pleadings, applications, evidence, exhibits and other documents presented or considered, matters officially noticed, rulings upon exceptions, any findings of fact and conclusions of law proposed by any party, and all briefs filed. The decision shall include a statement of the findings and conclusions upon all the material issues of fact, law, or discretion presented by the record and the appropriate order, sanction, relief or denial thereof.
- 19.9.7 If a timely request for a hearing is made, the decision of the hearing officer or the Board shall be a final order. Any party adversely affected by the decision may appeal to Colorado District Court with jurisdiction, pursuant to Rule 106(a)(4) of the Colorado Rules of Civil Procedure. If the alleged violator fails to submit a timely written request for a hearing, the alleged violator has failed to exhaust administrative remedies and may not appeal the letter of penalty or administrative order to the District Court.

20 **PENALTIES**

- 20.1 Administrative and Civil Penalties: Any User who is found to have violated any provision of Articles III or IV, the User's permit, or any local, state or federal law or regulation, or any order or rule, shall be subject to an administrative, criminal or civil penalty of up to One Thousand Dollars (\$1,000), or an amount deemed appropriate by the Industrial Pretreatment Coordinator, for each violation per day plus interest as provided by statute, in accordance with the procedures set forth in the ERP. Each day on which a violation shall occur or continue shall be deemed a separate offense. In addition to the penalties provided herein, the District may recover reasonable actual damages incurred by the District. Such damages shall include, but not be limited to, reasonable attorneys fees, court costs and fees, and other expenses of litigation by appropriate suit at law. Also included are actual damages incurred by the District and costs incurred by the POTW for violation of its NPDES permit where such permit violation is a direct result of the violation of Articles III or IV.
- 20.2 Criminal Penalties: The District will actively pursue prosecution of any person causing impairment to its wastewater or water system pursuant to local, state and federal laws and regulations.
- 20.3 Remedies Available to the District: The District may pursue any and all remedies, damages and penalties as may be provided by the Colorado Special District Act, Article 1, Title 32, Colorado Revised Statutes, the Rules and Regulations of the South Adams County Water and Sanitation District, the District's ERP and federal law, which includes but is not limited to the following enforcement actions: consent orders, show cause hearing, cease and desist order, administrative order, and administrative penalty.
- 20.4 Reimbursement: The District may pursue reimbursement for any fine, assessment, levy or charge by the Environmental Protection Agency, the Colorado Department of Health, or any other governmental agency having jurisdiction over the subject matter and the District, which fine, assessment, levy or charge is imposed on the District as a result of a violation by the User.
- 20.5 Liens: All charges, costs and penalties, if unpaid, shall become a lien on the User's property pursuant to section 32-1-1001(1)(j)(I), C.R.S.
- 20.6 Recovery of Costs and Fees: In addition to the penalties provided herein, the District may recover reasonable attorney fees, court costs and fees, and other expenses of litigation by appropriate suit at law against the person found to have violated this division or the orders, rules, regulations, and permits issued hereunder.

## 21 CONFIDENTIAL INFORMATION

- 21.1 Public Information: Information and data on an Industrial User obtained from reports, questionnaires, and monitoring programs and inspections shall be available to the public or other governmental agency without restriction unless the Industrial User specifically requests and is able to demonstrate to the satisfaction of the Industrial Pretreatment Coordinator that the release of such information would divulge information, process or methods of production entitled to protection as trade secrets of the Industrial User or otherwise confidential where release would be injurious to the Industrial User or the Industrial User's business.
- 21.2 Confidential Information: When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes and accepted by the Industrial Pretreatment Coordinator as confidential shall not be made available for inspection by the public but shall be made available to governmental agencies, upon receipt of a written request by the Industrial Pretreatment Coordinator from the agency, for uses related to this Article, the National Pollutant Discharge Elimination System (NPDES) Permit, State Disposal System Permit and/or the Pretreatment Programs. In addition, such portions of a report shall be available for use by the State and any state or local agency in judicial review or enforcement proceedings. Wastewater constituents and characteristics, including effluent data, standards or limitations, will not be recognized as confidential information. Notwithstanding anything to the contrary, the District may disclose documents if required pursuant to the valid court order.

## 22 HAZARDOUS WASTE NOTIFICATION

- 22.1 Reporting Requirements: All Industrial Users shall submit reports pursuant to the reporting requirements for Industrial Users discharging hazardous wastes to POTWs found in 40 CFR § 403.12(p) as follows:
- 22.1.1 The Industrial User shall notify the POTW, the EPA Regional Waste Management Division Director, and the state hazardous waste authorities in writing of any discharge into the POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch or other).
- 22.1.2 If the Industrial User discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the Industrial User: an identification of the hazardous constituents contained in the

wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months.

22.1.3 All notifications must take place within one hundred eighty (180) days after the discharge of the listed or characteristic hazardous waste. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under 40 CFR § 403.12(j). The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of 40 CFR §§ 403.12(b),(d) and (e).

22.1.4 In the case of any notification made under paragraph (p) of 40 CFR § 403.12, the 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.

22.2 Exemptions from Reporting Requirements: Dischargers are exempt from the above-stated requirements of this section during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR §§ 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30 (d) and 261.33 (e), requires a one-time notification. Subsequent months during which the Industrial User discharges more than such quantities of any hazardous waste do not require additional notification.

22.3 Notification Upon New Regulations: In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the Industrial User must notify the POTW, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

22.4 Agencies to notify:

Region VIII Director  
Hazardous Waste Management Division  
Environmental Protection Agency  
One Denver Place, 999 18th Street, Suite 500  
Denver, CO 80202-2405

Director, Waste Management Division  
Colorado Department of Health

4210 E. 11th Avenue  
Denver, CO 80220

Industrial Pretreatment Coordinator  
South Adams County Water and Sanitation District  
P. O. Box 597  
Commerce City, CO 80037-0597

23 **CONFLICT**

23.1 All other Articles or Resolutions and parts of other Articles or Resolutions inconsistent or conflicting with any part of this Article are hereby repealed or superseded to the extent of such inconsistencies or conflict.

24 **VALIDITY/CONSTITUTIONALITY**

24.1 If any section, subsection, sentence, clause, phrase or portion of this Article is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such portion shall be deemed a separate, distinct and independent provision and such holding shall not affect the validity of the remaining portions hereof.