

ORDINANCE NO. _____

AN ORDINANCE relating to the pretreatment requirements; amending SMC sections 13.03A.0101 through 13.03A.1204, of the Spokane Municipal Code; adopting new sections 13.03A.0200, 13.03A.0412, and 13.03A.1106 to Chapter 13.03A SMC; repealing sections SMC 13.03A.1105, 13.03A.1501, and 13.03A.1502; and setting an effective date.

The City of Spokane does ordain:

Section 1: That SMC section 13.03A.0101 is amended to read as follows:

13.03A.0101 Purpose and Objectives [1.1]

- A. The purpose of this chapter is to provide for a local pretreatment regulatory program. The program derives from applicable parts of the Federal Water Pollution Control Act, as amended by the Clean Water Act of 1977 (the "Act," 33 United States Code [U.S.C.] section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the Code of Federal Regulations [CFR], Chapter I, Sub ch. N, Part 403), as well as state law requirements in chapter 90.48 RCW and chapter 173-216 WAC. (Reference: 40 CFR §403.1(a))
- B. The objectives of this chapter are to:
1. prevent the introduction of pollutants into the POTW that will interfere with its operation (Cross Reference: "Interference," [SMC 13.03A.0103](#));
 2. prevent the introduction of pollutants into the POTW that will pass through the POTW inadequately treated into receiving waters or otherwise be incompatible with such works (Cross Reference: "Pass Through," [SMC 13.03A.0103](#));
 3. ensure that the quality of the POTW sludge, a residual from reclaimed wastewater, is maintained at a level which allows its use or disposal in compliance with any applicable statutes or regulations;
 4. protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;
 5. promote reuse and recycling of wastewater and sludge from the POTW;
 6. enable the City to comply with its National Pollutant Discharge Elimination System (NPDES) discharge permit conditions, sludge use and disposal requirements, and any other applicable federal or state requirements related to pretreatment; and
 7. provide for cost recovery (Cross Reference: 40 CFR §403.2 (part)).

- C. Pollutants regulated under this chapter are associated with non-domestic sources introduced into the POTW, whether through regular sewer service or any other means (e.g. pipe, truck, or rail). The chapter provides for issuance of individual or general discharge permits and for reporting, monitoring, compliance, and enforcement activities(~~(,);~~); ~~((and))~~ establishes administrative review procedures(~~(,);~~); and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein. (Reference: 40 CFR §403.1 (b) (part) and appendices hereto)

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of (~~February 28, 2008~~) March 27, 2012.

Section 2: That SMC section 13.03A.0102 is amended to read as follows:

13.03A.0102 Administration – Revision – Initiation [1.2]

- A. (~~Superintendent~~)Plant Manager.
The (~~superintendent~~) Plant Manager shall administer, implement, and enforce this chapter. The (~~superintendent~~) Plant Manager may delegate functions to other duly authorized individuals.
- B. Discretion.
Exercise of administrative discretion under this chapter is guided by the purpose and objectives; the Act and its implementing pretreatment regulations in 40 CFR, primarily part 403; and chapter 90.48 RCW; chapter 173-216 WAC; chapter 173-240; and [SMC 13.03A.0101](#); and the (~~superintendent~~) Plant Manager's knowledge, training, and experience.
- C. Decisions in Writing – Revision.
Except where expressly noted, all decisions of the (~~superintendent~~) Plant Manager under this chapter shall be in writing. No decision, action or inaction creates any vested or property rights. Decisions may be revoked or modified consistent with the purpose and objectives, change in law, or otherwise as the (~~superintendent~~) Plant Manager deems necessary. (Cross reference: [SMC 13.03A.0205](#))
- D. Permits, Applications May Be Ordered.
Whenever provision is made for a person to apply for a permit, permission, exemption, waiver, or other privilege under this chapter, the (~~superintendent~~) Plant Manager may order such application to be made or exercise any authority as provided on the (~~superintendent~~) Plant Manager's own initiative, with or without application, and issue any orders to such person as deemed necessary and consistent with such action.
- E. No approval by the (~~superintendent~~) Plant Manager under this section or chapter or acceptance by the City of any report, information, analysis, sampling, or data shall be considered in any way as an endorsement of the results by the City or in any way

releases any person required to submit any report, information, analysis, sampling, or monitoring under this chapter from full responsibility for compliance with this chapter or related federal or state requirements.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of (~~December 20, 2007~~) March 27, 2012.

Section 3: That SMC section 13.03A.0103 is amended to read as follows:

13.03A.0103 Definitions [1.3]

Unless a provision explicitly states otherwise, the following definitions, terms and phrases, as used in this chapter shall have the following meanings.

A. Act or “the Act.”

The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. section 1251 et seq.

B. Applicable Pretreatment Standard.

For any specified pollutant, City prohibitive standards, City specific pretreatment standards (local limits), State of Washington pretreatment standards, or EPA categorical pretreatment standards, (when effective), whichever standard is appropriate or most stringent.

C. Approval Authority.

The Washington (~~state department~~) State Department of (~~ecology~~) Ecology through its authorized representative as delegate agency of the EPA.

D. Authorized Representative (~~(Authorized Representative)~~) of a User.

1. If the user is a corporation:

- a. The president, secretary, treasurer, or a vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or
- b. The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiating and directing 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 writing, in accordance with corporate procedures.

2. If the user is a partnership or sole proprietorship, a general partner or proprietor respectively.
3. If the user is a federal, state, or local governmental facility, a director or highest official appointed or designated to oversee the operation and performance of the activities of the facility, or their designee.
4. The individuals described in paragraphs 1 through 3 of this section may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the user, and the written authorization is submitted to the City.

E. Baseline Monitoring Report or BMR.

A specific informational report which may be required under sections of this chapter or ordered by the ~~((superintendent))~~ Plant Manager for particular informational needs. The report may relate to industrial processes, flows, sampling information, or other data, and may be used as a reference point against which comparisons may be made to measure data or sampling changes. BMR information requirements arise under discharge permit applications, reporting requirements for categorical users, industrial users subject to equivalent mass limits (baseline production rate information) and other areas. (Cross Reference: 40 CFR §403.6 (c)(5)(ii)(C), 40 CFR §403.12(b))

F. Best Management Practices or BMPs.

~~((Best management practices or BMPs means schedules))~~ Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in [SMC 13.03A.0201\(A\) and \(B\)](#) (or as expressed in 40 CFR §403.5(a)(1) and (b)) or other provisions of the chapter as ordered by the ~~((superintendent))~~ Plant Manager or required under state or federal regulation. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. ~~((BMPs also include alternative means (i.e., management plans) of complying with, or in place of certain established categorical pretreatment standards and effluent limits.))~~ They may be used in individual or general discharge permits or any other circumstances. (Cross Reference: 40 CFR §403.3(e))

G. Biochemical Oxygen Demand or BOD.

The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at twenty degrees Celsius, usually expressed as a concentration (e.g., milligrams per liter or mg/L).

H. Categorical Industrial User or CIU, also sometimes abbreviated to “Categorical User.”
A user regulated by one of EPA’s categorical pretreatment standards.

- I. **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. section 1317) that applies to a specific category of users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405 - 471.
- J. **Chemical Oxygen Demand or COD.**
A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.
- K. **City.**
The City of Spokane (~~(WA)~~), a Washington (~~(state)~~) State municipal corporation, acting by and through its wastewater management department.
- L. **Color.**
The optical density at the visual wave length of maximum absorption, relative to distilled water. One hundred percent transmittance is equivalent to zero optical density.
- M. **Composite Sample.**
The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.
- N. **Control Authority.**
~~((The term Control Authority refers to))~~ (1) ~~((the))~~ The POTW if the POTW's Pretreatment Program Submission has been approved in accordance with the requirements of § 403.11; or (2) the Approval Authority if the Submission has not been approved.
- O. **Cooling Water.**
See "Non-contact Cooling Water".
- P. **Daily Maximum Limit (DML) or Daily Limit.**
The maximum allowable discharge of a pollutant over a calendar day or equivalent twenty-four hour period. Where DML is expressed in units of mass, compliance is the product of the Daily Concentration and the flow over the same period.
- Q. **Discharge Permit or Wastewater Discharge Permit.**
A grant of approval by the (~~(superintendent))~~ Plant Manager to discharge wastewater into the POTW to a person required to hold a discharge permit under this chapter. Discharge permits may be individual discharge permits, which contain individually developed permit requirements, or general discharge permits, which contain the same or similar requirements developed to cover a group or class of industrial users who have been identified as eligible for general permit status. The contents of either a general or individual discharge permit are similar, as required herein. (See 40 CFR §403.8 (f)(2))

- R. Domestic User (Residential User).
Any person who contributes, causes, or allows the contribution of wastewater into the POTW that is of a similar volume and/or chemical make-up to that of a residential dwelling unit. Discharges from a residential dwelling unit typically include up to one hundred gallons per capita per day, two-tenths pounds of BOD per capita per day, and seventeen one-hundredths pounds of TSS per capita per day.
- S. Environmental Protection Agency or EPA.
The U.S. Environmental Protection Agency, or where appropriate, the director of the Region 10 Office of Water, or other duly authorized official of the agency.
- T. Existing Source.
A categorical industrial user, the construction or operation of whose facility commenced prior to the publication by EPA of proposed categorical pretreatment standards which would be applicable to such source if and when the standard is thereafter promulgated in accordance with Section 307 of the Act.
- U. Existing User.
Any non-categorical user which was discharging wastewater prior to the effective date of this ordinance of April 1, 2012.
- V. Grab Sample.
A sample which is taken from a waste stream on a one-time basis without regard to flow in the waste stream and without consideration of time. (Source: 40 CFR §403.7 (b)(2)(iv))
- W. Indirect Discharge or Discharge.
The introduction of pollutants into the POTW from any non-domestic source regulated under section 307 (b), (c) or (d) of the Act (33 USC §1317). The discharge into the POTW is normally by means of pipes, conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, and all constructed devices and appliances appurtenant thereto.
- X. Industrial User (IU) or User.
A source of indirect discharge. (Source: 40 CFR §403.3 (j)) The source shall not include "Domestic User" as defined herein.
- Y. Instantaneous Limit.
The maximum or minimum pH₁ or amount of flow₁ ((ef)) or pollutant allowed to be discharged at any point in time, determined by either continuous monitoring or discrete sample analysis.
- Z. Interference.
A discharge which, alone or in conjunction with a discharge or discharges from other sources, either:

1. inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; or
2. is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with applicable laws and regulations. Such laws and regulations include section 405 of the Clean Water Act (33 USC §1345) and the Solid Waste Disposal Act (SWDA). This further includes Title II, the Resource Conservation and Recovery Act or RCRA, 42 U.S.C. §§ 6901-6992k. Further included are state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the SWDA and sludge regulations in 40 CFR Part 503. Further included are the Clean Air Act (42 USC §§7401 et seq); the Toxic Substances Control Act (15 USC §§2601 et seq); and the Marine Protection, Research and Sanctuaries Act (33 USC §§1401-1445 and 16 USC §§1431-1445). Further included are any other state or local requirements. (Source: 40 CFR §403.3 (k)) (Cross Reference: WAC 173-216-030 (9))

AA. Local Limit.

Effluent limitation developed for users by the (~~superintendent~~) Plant Manager to specifically protect the POTW from the potential of pass through, interference, and intended biosolids uses. The limits shall be based on the POTW's site-specific flow and loading capacities, receiving water considerations, and reasonable treatment expectations for non-domestic wastewater.

AB. Maximum Allowable Discharge Limit.

The maximum concentration or loading of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

AC. Medical Waste.

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

AD. Monthly Average.

The arithmetic mean of the effluent sample results collected during a calendar month or specified thirty day period. Where the control authority has taken a sample during the period, it must be included in the monthly average if provided in time. However, where composite samples are required, grab samples taken for process control or by the control authority are not to be included in a monthly average.

AE. Monthly Average Limit, also sometimes referenced as "Average Monthly Limit."

The limit to be applied to the monthly average to determine compliance with the requirements of this chapter.

AF. New Source.

1. Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under section 307(c) of the Act (33 USC §1317) which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that the:
 - a. building, structure, facility or installation is constructed at a site at which no other source is located; or
 - b. building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - c. production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.
2. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of subsection 1(b) or (c) of this section, but otherwise alters, replaces, or adds to existing process or production equipment.
3. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
 - a. begun, or caused to begin, as part of a continuous onsite construction program:
 - i. any placement, assembly, or installation of facilities, processes, or equipment; or
 - ii. 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, processes, or equipment; or
 - b. entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a

reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph. (Source: 40 CFR §403.3 (m))

AG. New User.

Any user that is not regulated under federal categorical pretreatment standards but that applies to the City for a new building permit or occupies an existing building and plans to commence discharge of wastewater to the City's collection system after the effective date of this ordinance, April 1, 2012. Any person that buys an existing facility that is discharging non-domestic wastewater will be considered an "existing user" if no significant changes are made in the manufacturing operation.

AH. Non-contact Cooling Water.

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

AI. Pass Through.

A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's NPDES permit, including an increase in the magnitude or duration of a violation, or which is a violation of a state water quality standard. (Source: 40 CFR §403.3(p))

AJ. Permittee.

A person, source, or user issued a discharge permit.

AK. Person.

Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes federal, state, and local governmental agencies or entities.

AL. pH.

A measure of the acidity or alkalinity of a solution, expressed in standard units.

AM. Plant Manager.

The person designated by the City of Spokane to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this chapter, or a duly authorized representative.

~~((AM))~~AN. Pollutant.

Any dredged ~~((spoil))~~ soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and the characteristics of wastewater (i.e. pH, temperature, TSS, turbidity, color, BOD, chemical oxygen demand (COD), toxicity, or odor).

~~((AN))~~AO. POTW Treatment Plant. (see definition of POTW below)

That portion of the POTW which is designed to provide treatment (including recycling and reclamation) of wastewater, including municipal sewage and industrial waste. (Source: 40 CFR §403.3(r))

~~((AO))~~AP. Pretreatment.

The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes, or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard. Dilution is not considered pretreatment.

~~((AP))~~AQ. Pretreatment Requirements.

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

~~((AQ))~~AR. Pretreatment Standards or Standards.

Prohibited discharge standards ([SMC 13.03A.0201](#)), categorical pretreatment standards ([SMC 13.03A.0202](#)), state pretreatment standards ([SMC 13.03A.0203](#)), and local limits ([SMC 13.03A.0204](#)), and/or BMP's established by the POTW. In addition, this definition includes anything encompassed in 40 CFR §403.3(l) and/or WAC 173-216-030 (17). (Cross Reference: [SMC 13.03A.0201](#) through [SMC 13.03A.0204](#))

~~((AR))~~AS. Prohibited Discharge Standards or Prohibited Discharges.

Absolute prohibitions against the discharge of certain substances, grouped as "General Prohibitions" and "Specific Prohibitions." (Cross Reference: [SMC 13.03A.0201](#))

~~((AS))~~AT. Publicly Owned Treatment Works or POTW.

A treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292), which is owned by the City. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant. The term also means the City.

~~((AT))~~ AU. Septic Tank Waste.

~~((Wastewater from septic tanks or similar holding tanks, vessels, chemical toilets, campers, trailers, and the like.))~~

Sewage and typically associated solids from domestic activities pumped from a septic tank serving one or more private residences. The Plant Manager may also consider wastes from other holding tanks such as boat/RV blackwater, bilge water, cesspools, and treatment lagoons to be Septic Tank Waste so long as they are absent chemicals which might inhibit biological activity or adversely affect the POTW

~~((AU))~~ AV. Sewage.

Human excrement and gray water (household showers, toilets, kitchens, clothes and dishwashing operations, and related domestic activities).

AW. Sewer.

Any pipe, conduit ditch, or other device used to collect and transport sewage from the generating source.

~~((AV))~~ AX. Shall, May.

“Shall” is mandatory, “may” is permissive.

~~((AW))~~ AY. Significant Industrial User (SIU).

1. A user subject to categorical pretreatment standards, or
2. A user that:
 - a. discharges an average of twenty five thousand gpd or more of process wastewater to the POTW (excluding sanitary, ~~((non-contact))~~ non-contact cooling and boiler blow down wastewater); or
 - b. contributes a process waste stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant. As used herein “organic capacity” means the capacity of the treatment plant to treat wastewater as opposed to the “hydraulic capacity” or capability to accept and handle fluids; or
 - c. is designated as such by the ~~((superintendent))~~ Plant Manager on the basis that it has a reasonable potential to cause an adverse effect on the POTW’s operation, adverse impact on the City’s ability to comply with its NPDES permit, cause the POTW to violate any pretreatment standard or requirement or because of other regulatory control needs. (Source: 40 CFR §403.3(v))
3. The ~~((superintendent))~~ Plant Manager may determine that a user subject to categorical pretreatment standards is a non-significant categorical industrial user rather than a significant industrial user on a finding that the user never

discharges more than one-hundred gpd of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:

- a. The user, prior to the ~~((superintendent))~~ Plant Manager's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;
 - b. The user annually submits the certification statement required in 40 CFR Part 403.12(q), together with ~~((a))~~ any additional information necessary to support the certification statement; and
 - c. The user never discharges any untreated concentrated wastewater.
4. Upon a finding that a user meeting the criteria in subsection (2) has no reasonable potential for adversely affecting the POTW's operation or for violating any applicable pretreatment standard or requirement, the City may at any time, on its own initiative or in response to a petition received from a user and in accordance with procedures in 40 CFR Part 403.08(f)(6) determine that the user should not be considered a significant industrial user.

~~((AX))~~ AZ. Slug Discharge or Slug Load.

Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards, categorical standards, state requirements or local limits, or any discharge of a ~~((non-routine))~~ non-routine, episodic nature, including but not limited to an accidental spill or a ~~((non-customary))~~ non-customary batch discharge.

~~((AY))~~ BA. Standard Industrial Classification (SIC) Code.

A classification pursuant to the Standard Industrial Classification Manual issued by the United States office of management and budget. The City uses the North American Industry Classification System if available.

~~((AZ))~~ BB. Stormwater.

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

~~((BA. Superintendent.~~

~~The City director of wastewater management or the director's authorized representative.))~~

~~((BB))~~ BC. Total Suspended Solids (TSS).

The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

~~((BC))~~ BD. Treatment Facility Effluent

The discharge from the POTW Treatment Plant into the waters of the United States.

~~((BD))~~ BE. User or Industrial User.

A source of indirect discharge. The source shall not include “domestic user” as defined herein.

~~((BE))~~ BF. Wastewater.

Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

~~((BF))~~ BG. Wastewater Treatment Plant, Water Reclamation Plant, or Treatment Plant.

That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of (~~February 28, 2008~~) March 27, 2012.

Section 4: That SMC section 13.03A.0104 is amended to read as follows:

13.03A.0104 Abbreviations [1.4]

The following abbreviations, when used in this chapter, have the designated meanings:

A. AKART.

All known, available, and reasonable methods of prevention, control, and treatment. (Cross Reference: RCW 90.48.010, WAC 173-200(2)(c)(ii), and WAC 173-216-110(1)(a))

B. ASPP.

Accidental Spill Prevention Plan, or Slug Control Plan

C. Reserved.

D. BOD.

Biochemical Oxygen Demand

E. BMP.

Best Management Practice

F. BMR.

Baseline Monitoring Report

G. Reserved.

- H. CWF.
Combined Wastestream Formula
- I. CFR.
Code of Federal Regulations
- J. CIU.
Categorical Industrial User
- K. COD.
Chemical Oxygen Demand
- L. DML.
Daily Maximum Limit
- M. EPA.
U.S. Environmental Protection Agency
- N. FIFRA.
Federal Insecticide Fungicide Rodenticide Act
- O. Reserved.
- P. gpd.
gallons per day
- Q. IU.
Industrial User
- R. mg/L.
milligrams per liter
- S. NAICS.
North American Industry Classification System
- T. NPDES.
National Pollutant Discharge Elimination System
- U. NSCIU.
Non-significant Categorical Industrial User
- V. POTW.
Publicly-~~(owned)~~ Owned Treatment Works
- W. RCRA.
Resource Conservation and Recovery Act

- X. RCW.
Revised Code of Washington
- Y. SIU.
Significant Industrial User
- Z. SMC.
Spokane Municipal Code
- AA. SNC.
Significant (~~Noncompliance~~) Non-Compliance
- AB. TSS.
Total Suspended Solids
- AC. TTO.
Total Toxic Organics
- AD. U.S.C. (USC).
United States Code
- AE. WAC.
Washington Administrative Code

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of (~~February 28, 2008~~) March 27, 2012.

Section 5: That SMC section 13.03A.0105 is amended to read as follows:

13.03A.0105 Incorporation – Headings – Interpretation (~~4-5~~)

- A. This chapter is enacted to comply with federal and state pretreatment requirements, principally those in 40 CFR chapter I, subchapter N, part 403 and WAC 173-216. All federal or state statutes and regulations referenced in this chapter are intended to be incorporated in full by reference where applicable to the City’s local pretreatment program, whether or not otherwise expressly stated where referenced. Such incorporation also includes any referenced statutes or regulations referenced internally within the incorporated statutes or regulations, whether or not otherwise specified.
- B. Headings do not limit or restrict the meaning of a section, but may assist in interpretation. In general, capitalized terms are defined, but the presence or absence of capitalization shall not limit the application of defined terms unless indicated by context.

C. In the event of any conflict or ambiguity within this chapter, between this chapter and applicable federal or state laws or regulations, or otherwise, the following rules of interpretation apply, in the order listed:

1. Where local authority is preempted by federal or state law, the preemption applies to the extent required by law.
2. An interpretation to preserve the City's NPDES permit is applied to the extent required.
3. Cost or liability to the City shall be avoided to the maximum extent possible.
4. Normal rules of statutory interpretation apply, considering [SMC 13.03A.0101](#).
5. The more stringent rule applicable to regulated customers or other members of the public applies.

~~((NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of December 20, 2007.))~~

Section 6: That SMC section 13.03A.0106 is amended to read as follows:

13.03A.0106 Legislative History – Comments ~~((1-6))~~

- A. Adoption of a local pretreatment ordinance approved by state and federal authorities is a requirement for the City to comply with its NPDES permit. The City sewer code, [chapter 13.03 SMC](#), was originally codified and adopted as such in [Title 13 SMC](#) by Ordinance No. C26294, passed October 12, 1981. Provisions for the City's wastewater pretreatment program were adopted as sewer code amendments in Ordinance No. C28888, passed October 19, 1987. Pretreatment provisions were further revised by Ordinance No. C30677, passed January 19, 1993. The City's pretreatment program has now been revised in this [chapter SMC 13.03A](#) which replaces that portion of [chapter 13.03 SMC](#) concerning pretreatment.
- B. This chapter seeks to accommodate federal, state, and local regulatory policies and the practical and operational needs of the POTW, its customers, and the public, supporting the law for the common good. Members of the general public, as well as users and state and federal regulatory officials are encouraged and requested to contact the ~~((superintendent))~~ Plant Manager, City of Spokane, wastewater management department, with any questions or comments for improvement or clarification.

~~((NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of December 20, 2007.))~~

Section 7: That SMC section 13.03A.0107 is amended to read as follows:

13.03A.0107 No Special Duty Created ((4-7))

Notwithstanding any other provision, no special duty or liability for the City to any person or class is created by this chapter. Any duty nonetheless deemed created shall be exclusively a duty to the general public as a whole. This provision shall be liberally construed.

~~((NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of December 20, 2007.))~~

Section 8: That SMC section 13.03A.0108 is amended to read as follows:

13.03A.0108 Computation of Time ((4-8))

~~((When ever))~~ Whenever an action is specified to be done within a stated number of days, the date upon which the time begins to run is not counted and the last day is counted. Whenever a time period is specified of five days or less, weekends and holidays are not included. Time periods over five days shall mean calendar days. If the last day by which an action must be accomplished falls on a weekend or holiday, the time is extended to the next day not a weekend or holiday. Holidays means legal holidays as stated in [SMC 3.03.010](#).

~~((NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of December 20, 2007.))~~

Section 9: That there is adopted a new section 13.03A.0200 to Chapter 13.03A of the Spokane Municipal Code to read as follows:

13.03A.0200 Industrial User Survey

The City of Spokane is obligated under Federal law to identify all users potentially subject to the pretreatment program, and the character and volume of pollutants discharged by such users. To satisfy this requirement, all sources of non-domestic wastewater which is discharged to the POTW must, upon request by the Plant Manager, or its designee, periodically complete an Industrial User Survey form. Users shall fully disclose the information requested and sign the completed form in accordance with SMC 13.03A.0305. Proper completion of survey requirements is a condition of initial and continued discharge to the public sewer system. Users failing to fully comply with survey requirements shall be subject to all enforcement measures authorized under this chapter including without limitation termination of service. The Plant Manager is authorized to prepare several forms for this purpose and require completion of the particular form which the Plant Manager determines appropriate to provide the information needed to categorize each user. The Plant Manager shall be authorized to categorize each User,

provide written notice of a user's categorization and what it means, and revise this categorization at any time.

Section 10: That SMC section 13.03A.0201 is amended to read as follows:

13.03A.0201 Prohibited Discharge Standards [2.1]

A. General Prohibition.

No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. This requirement applies to all users of the POTW, whether or not they are subject to categorical pretreatment standards or any other federal, state or local pretreatment standards or requirements.

B. Specific Prohibitions.

No user shall introduce or cause to be introduced into the POTW anything listed hereafter. Where two or more items apply, the more stringent governs:

1. Pollutants which either alone or by interaction may create a fire or explosive hazard in the POTW or any part thereof, a public nuisance or hazard to life, or prevent entry into the sewers for maintenance and repair or which are in any way injurious to the operation of the system or operating personnel. This includes wastestreams with a closed cup flashpoint of less than one hundred forty degrees F (sixty degrees C) using the test methods specified in 40 CFR §261.21.
2. Wastewater having a pH less than 5.0 or more than 12.0, or otherwise having any other corrosive property capable of causing damage or hazard to structures, equipment, or personnel. (~~Discharges outside the pH range of 5.0 to 12.0 may be approved by written authorization of the superintendent pursuant to a finding that the system is specifically designed to accommodate a discharge of that pH. Authorization is revocable at any time in the superintendent's sole discretion.~~) (Cross Reference: [SMC 13.03A.0204\(A\)](#))
3. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW. In general, the cutting up or reducing to smaller pieces of any solid materials as a means to enable their introduction into the POTW is prohibited. In addition, in no case shall solids greater than one-quarter inch (0.64 cm) in any dimension be discharged.
4. Pollutants, including oxygen demanding pollutants (BOD, etc.), released at a flow rate and/or concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW.
5. Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in interference, but in no case, wastewater which causes the temperature at the point of introduction into the treatment plant to exceed one hundred four degrees F (forty degrees C) unless the approval

- authority, upon request of the ((~~superintendent~~)) Plant Manager, approves alternative temperature limits.
6. Wastewater which causes the temperature at the point of introduction into the sanitary sewer to exceed one hundred thirty degrees F (fifty-four degrees C).
 7. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause obstruction of the POTW, interference or pass through.
 8. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause risk to worker health and safety, in the ((~~superintendent's~~)) Plant Manager's judgment and/or substances identified as toxic pollutants ((~~see SMC 13.03A.0104~~)) or any wastewater containing any pollutant, including oxygen demanding pollutants, in sufficient quantity, either singly or by interaction, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, or be in violation of any applicable statute, rule, regulation, or ordinance of any public agency, including the EPA.
 9. Trucked or hauled pollutants, wastewater or other materials (hauled wastewater), except at discharge points designated by the ((~~superintendent~~)) Plant Manager in accordance with [SMC 13.03A.0212](#).
 10. The following are prohibited unless approved by the ((~~superintendent~~)) Plant Manager under special circumstances, such as lack of direct discharge alternatives due to combined sewer service or need to augment domestic wastewater flows due to septic conditions as required under WAC 173-216-050:
 - a. Non-contact cooling water in volumes deemed significant by the ((~~superintendent~~)) Plant Manager because of adverse effects of consequences.
 - b. Stormwater, or other direct inflow sources.
 - c. Wastewater significantly affecting POTW hydraulic loading, which does not require treatment or would not be afforded a significant degree of treatment by the POTW.
 11. Wastewater which imparts color which cannot be removed by the treatment process, such as dye wastes and vegetable tanning solutions, which imparts color to the treatment plant effluent causing violation of the City's NPDES permit. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more ((~~the~~)) than ten percent from the seasonably established norm for aquatic life, as determined by the ((~~superintendent~~)) Plant Manager.

12. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair.
13. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations and approved by the ~~((superintendent))~~ Plant Manager.
14. Stormwater, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water, and unpolluted wastewater, unless specifically authorized by the ~~((superintendent))~~ Plant Manager.
15. Sludges, screenings, or other residues from the pretreatment of industrial wastewaters, or from industrial processes unless authorized by the ~~((superintendent))~~ Plant Manager.
16. Medical wastes, except as specifically authorized by the ~~((superintendent))~~ Plant Manager through a discharge permit issued under Article 3.
17. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity tests from applicable regulations. (Cross Reference: WAC 173-205-020, 40 C.F.R. § 122.21 (5))
18. Detergents, surface active agents, or other substances that might cause excessive foaming or interfere with effective function of the POTW.
19. Fats, oils, or greases or any other materials of animal (including human) or vegetable origin in quantities which could cause obstruction of the POTW or interference with conveyance or treatment ~~((or any discharges with total petroleum hydrocarbon concentrations greater than one hundred mg/L. (Cross Reference: [SMC 13.03A.0204\(A\)](#))))~~
20. Animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, ~~((Cinders))~~ cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.
21. Liquids, solids, or gas, which by reason of their nature or quantity may be sufficient, alone or by interaction with other materials, to cause fire or explosion, which might cause obstruction or interference or be injurious in any other way to the POTW, its operations, staff or the environment. At no time shall two successive readings on an explosion hazard meter at the point of discharge into the POTW system, or at any point in the POTW system, exceed five

percent or any single reading exceed ten percent of the lower explosive limit based on an explosivity meter reading.

22. Anything which in the opinion of the ~~((superintendent))~~ Plant Manager may cause harm either to the sewers, sewage treatment process, or equipment, have an adverse effect on the receiving waters or outside environment, or otherwise endanger life, limb or property, or constitute a nuisance, unless allowed under special agreement, except that no special waiver shall be given from categorical pretreatment standards.

23. Any dangerous wastes as defined in WAC 173-216-030 or hazardous wastes as defined in 40 CFR Part 261.

24. Hazardous waste pharmaceuticals as listed in 40 CFR 261 subparts C, D generated from healthcare facilities or reverse distributors, pursuant to 40 CFR 266.505.

25. Bulk, expired, outdated, or concentrated prescription or non-prescription drugs.

~~((24))~~ 26. Persistent pesticides and/or pesticides regulated by FIFRA (Federal Insecticide Fungicide Rodenticide Act).

27. The contents of any tank or other vessel owned or used by any person in the business of collecting or pumping sewage, effluent, septic tank waste, or other wastewater unless said person has first obtained testing and approval as may be generally required by the City of Spokane and paid all fees assessed for the privilege of said discharge.

~~((25))~~ 28. Anything else not authorized by the ~~((superintendent))~~ Plant Manager. ~~((The superintendent may specify such substances in a specific user permit, considering the appendices hereto.))~~

29. Any substance which will cause the POTW to violate its NPDES and/or other disposal system permits.

C. Supplementing subsections (A) and (B) of this section, no industrial user shall violate the provisions of 40 CFR §403.5(a) and (b) or WAC 173-216-060 or any statute or regulation referenced therein. Such provisions are all fully incorporated herein.

D. Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ~~((February 28, 2008))~~ March 27, 2012.

Section 11: That SMC section 13.03A.0202 is amended to read as follows:

13.03A.0202 Federal Categorical Pretreatment Standards [2.2]

The national categorical pretreatment standards, as amended and promulgated by the EPA pursuant to the Act and as found at 40 CFR chapter I, subchapter N, parts 405–471, are incorporated by reference herein as a part of this chapter. All users must comply with these standards.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of (~~December 20, 2007~~) March 27, 2012.

Section 12: That SMC section 13.03A.0203 is amended to read as follows:

13.03A.0203 State Requirements

- A. State requirements and limitations on discharges to the POTW shall be met by all users subject to such items whenever they are more stringent than federal or local pretreatment requirements and limitations. Washington State Pretreatment Standards and Requirements, located at chapter 173-216 WAC, were developed under authority of the State Water Pollution Control Act, chapter 90.48 RCW and are hereby incorporated. All wastewaters discharged from a commercial or industrial operation as determined by the (~~superintendent~~) Plant Manager into the POTW must satisfy the provisions of chapter 173-216 WAC.
- B. Any person who constructs, modifies or proposes to construct or modify wastewater treatment facilities must first comply with the regulations for submission of plans and reports for construction of wastewater facilities, chapter 173-240 WAC. (~~Until the~~) The City (is) has been delegated the authority to review and approve such plans and reports under RCW 90.48.110(~~;~~). (~~sources~~) Sources of non-domestic discharges (industrial wastewater) shall request approval for such plans and reports through the (~~department of ecology~~) City of Spokane. (~~To ensure conformance with this requirement, proof of the approval of such plans and reports, and one~~) One copy of each (~~approved~~) plan and report shall be provided to the (~~superintendent~~) Plant Manager before commencing any such construction or modification. Said plans and reports must be filed with the (~~superintendent~~) Plant Manager, together with such information as required by the (~~superintendent~~) Plant Manager, signed by an authorized representative and certified as provided in [SMC 13.03A.0305\(B\)](#), and include the fee as provided in [SMC 13.03A.1401](#). (Cross reference: WAC 173-216-050(1))
- C. All users shall apply all known, available, and reasonable treatment methods (AKART) to prevent and control wastewater releases into the waters of the state. (Cross reference: WAC 173-216-050(3))
- D. Discharge restrictions of chapter 173-303 WAC (Dangerous Waste) shall apply to all users.

- E. All required monitoring data shall be analyzed by a laboratory or person accepted by the ~~((superintendent))~~ Plant Manager as qualified to perform such services, in the ~~((superintendent's))~~ Plant Manager's sole discretion. The lab or person shall be registered or accredited under the provisions of chapter 173-50 WAC. The ~~((superintendent))~~ Plant Manager may determine this is not required for flow, temperature, settleable solids, conductivity, pH, turbidity, and internal process control parameters. However, if the laboratory analyzing samples for conductivity, pH, and turbidity must otherwise be accredited, it shall be accredited for these parameters as well.
- F. ~~((Persons))~~ The City shall public notice for users applying for a new permit or a permit renewal or modification which allows a new or increased pollutant loading, at the user's expense. ~~((shall publish notice for each application in the format provided by the City.))~~ The notices shall fulfill the requirements of WAC 173-216-090. These requirements include publishing:
1. The name and address of the applicant and facility/activity to be permitted;
 2. A brief description of the activities or operations which result in discharge;
 3. Whether any tentative determination has been reached with respect to allowing the discharge;
 4. The address and phone number of the office of the ~~((superintendent))~~ Plant Manager where persons can obtain additional information;
 5. The dates of the comment period (which shall be at least thirty days); and
 6. How and where to submit comments or have any other input into the permitting process, including requesting a public hearing.
- G. The ~~((superintendent))~~ Plant Manager may ~~((require the applicant to))~~ also mail this notice to persons who have expressed an interest in being notified, to state agencies and local governments with a regulatory interest, and to post the notice on the premises. If the ~~((superintendent))~~ Plant Manager determines there is sufficient public interest, the City shall hold a public meeting following the rules of WAC 173-216-100. The ~~((superintendent))~~ Plant Manager may assume responsibility for public notice requirements for any persons, and may waive this requirement for any user not classified as CIU or SIU by the ~~((superintendent))~~ Plant Manager.

~~((H. Permit terms shall include, wherever applicable, the requirement to apply All Known, Available and Reasonable methods of prevention, control, and Treatment (AKART).))~~

Section 13: That SMC section 13.03A.0204 is amended to read as follows:

13.03A.0204 Local Limits [2.4]

- A. The following limits are established as local limits, expressed as Maximum Allowable Discharge Limits. No Significant Industrial User may discharge wastewater into the POTW in excess of the following concentrations:
1. Arsenic: 0.12 mg/L.
 2. Benzene: <0.5 mg/L
 3. Cadmium: 0.093 mg/L.
 4. Total Chromium: <5.0 mg/L.
 5. Copper: 0.74 mg/L.
 6. Cyanide: 1.01 mg/L.
 7. Fats, oils, and, grease: See SMC 13.03A.0201(B)(19).
 8. Lead: 0.32 mg/L.
 9. Mercury: 0.012 mg/L.
 10. Nickel: 1.74 mg/L.
 11. Silver: 0.46 mg/L.
 12. Zinc: 2.59 mg/L.
 13. The pH limit set in SMC 13.03A.0201(B)(2) may also be enforced as a local limit.
 14. Molybdenum: 0.66 mg/L.
 15. Selenium: 0.40 mg/L.
- B. Users that discharge wastewater into any sewer that conveys wastewater to Spokane County Regional Water Reclamation Facility must comply with the limits set forth in Spokane County Code Chapter ~~((8.03A-0204))~~ 8.03A.0204.
- C. The above limits apply at the point where the wastewater is discharged to the POTW (end of the pipe). All concentrations for metallic substances are for “total” metal unless indicated otherwise. The ~~((superintendent))~~ Plant Manager may impose mass limitations in addition to or in place of the concentration-based limitations shown in

subsection (A) of this section. Where a user is subject to a categorical pretreatment standard and a local limit for a given pollutant, the more stringent limit (~~applies as the applicable pretreatment standard~~) or applicable pretreatment standard shall apply.

- D. Limits may be established for all users, groups, or specific users. They may be designed to ameliorate temporary or permanent discharge characteristics, or to accommodate any new or special temporary or permanent condition of the POTW, its effluent receiving water, or other environmental problem. The ~~((superintendent))~~ Plant Manager may set limits as instantaneous maximums or for other durations (e.g., daily maximum or monthly average limits) where deemed proper.
- E. Whenever determined appropriate, the ~~((superintendent))~~ Plant Manager may develop best management practices (BMPs) for general application, in individual discharge permits or general discharge permits, to implement local limits and the requirements of article II of this chapter and require documentation of compliance. Failure to follow such requirements is a violation of this chapter.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model

Section 14: That SMC section 13.03A.0205 is amended to read as follows:

13.03A.0205 Right of Revision [2.5]

This chapter and any permits or approvals granted pursuant to its authority create no vested or property rights and the City at times reserves the right to revise any provision at any time, with or without showing of cause or need. (Cross reference: [SMC 13.03A.0102\(C\)](#))

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of (~~December 20, 2007~~) March 27, 2012.

Section 15: That SMC section 13.03A.0206 is amended to read as follows:

13.03A.0206 Special ~~((Handling))~~ Agreement [2.6]

- A. The City reserves the right to enter into ~~((specific))~~ special agreements with customers or users setting out specific terms for discharge into the POTW. All such agreements must be in writing and approved by the ~~((superintendent))~~ Plant Manager. This function is not subject to delegation by the ~~((superintendent))~~ Plant Manager. In no case will any categorical pretreatment standard or federal pretreatment requirement be waived.
- B. A user may request a net/gross adjustment to a categorical standard under the provisions of 40 CFR §403.15 by filing a written application therefore with such information as required by the ~~((superintendent))~~ Plant Manager. The application must

be certified as provided in [SMC 13.03A.0305\(B\)](#) and include the fee provided in [SMC 13.03A.1401](#).

- C. A user may also request a variance from the categorical pretreatment standard from the approval authority under 40 CFR §403.13 by filing a written application therefore with such information as required by the ~~((superintendent))~~ Plant Manager. The application must be certified as provided in [SMC 13.03A.0305\(B\)](#) and include the fee provided in [SMC 13.03A.1401](#).

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ~~((December 20, 2007))~~ March 27, 2012.

Section 16: That SMC section 13.03A.0207 is amended to read as follows:

13.03A.0207 Dilution [2.7]

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with an applicable pretreatment standard or requirement unless expressly authorized by the pretreatment standard or requirement. The ~~((superintendent))~~ Plant Manager may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements or in other cases when the ~~((superintendent))~~ Plant Manager deems that imposition of mass limitations is appropriate.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ~~((December 20, 2007))~~ March 27, 2012.

Section 17: That SMC section 13.03A.0208 is amended to read as follows:

13.03A.0208 Pretreatment Facilities [2.8]

- A. Users are responsible for all cost and liability to provide wastewater pretreatment to comply with this chapter and shall achieve compliance with all applicable pretreatment standards and requirements contained or referenced in this chapter as specified by the EPA, state, City, or ~~((superintendent))~~ Plant Manager as may be most stringent. Any facilities required to pretreat wastewater to acceptable levels must be provided, operated, and well maintained at the user's sole expense and liability. Engineering reports, detailed plans and specifications, and an operation~~((s))~~ and maintenance manual acceptable to the ~~((superintendent))~~ Plant Manager showing pretreatment facilities and operating procedures, together with any other information required by the ~~((superintendent))~~ Plant Manager shall be submitted to the ~~((superintendent))~~ Plant Manager for review and approval before construction. Review and/or approval of plans, operating procedures or other submittals never relieves the user or submitting party from full compliance. Facilities must be maintained by the user in accordance with approved reports, plans, operating procedures, and other submittals.

- B. Application for plan approvals must be ~~((made on forms acceptable to the superintendent,))~~ signed in accord with [SMC 13.03A.0305\(B\)](#), ~~((with fees as provided in))~~ Fees will be assessed in accordance with [SMC 13.03A.1401](#).

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ~~((December 20, 2007))~~ March 27, 2012.

Section 18: That SMC section 13.03A.0209 is amended to read as follows:

13.03A.0209 Deadline for Compliance with Applicable Pretreatment Standards [2.9]

- A. Compliance by existing sources covered by categorical pretreatment standards shall be within three years of the date the standard is effective unless a shorter compliance time is specified in the applicable standard, other provision, or ~~((superintendent))~~ Plant Manager order. The ~~((superintendent))~~ Plant Manager establishes a final compliance deadline for any existing user not covered by categorical pretreatment standards or any categorical user where state requirements or local limits are more restrictive.
- B. New sources and new users are required to comply with applicable pretreatment standards within the shortest feasible time, not to exceed ninety days from beginning of discharge. New sources and new users shall install, have in good operating condition, and shall start up all pollution control equipment (including sampling equipment) required to meet applicable pretreatment standards before beginning to discharge.
- C. Any discharge permit to a CIU shall not contain a compliance date beyond the deadline established in EPA categorical pretreatment standards. Not by way of limitation, other existing users or CIUs who must comply with more stringent state requirements or local limits shall be provided with a compliance deadline in their permit to insure compliance in the shortest feasible time, in the ~~((superintendent))~~ Plant Manager's opinion.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ~~((December 20, 2007))~~ March 27, 2012.

Section 19: That SMC section 13.03A.0210 is amended to read as follows:

13.03A.0210 Additional Pretreatment [2.10]

- A. Whenever deemed necessary, the ~~((superintendent))~~ Plant Manager may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage (domestic wastewater) from industrial wastestreams (industrial wastewater), and such other conditions deemed necessary to protect the POTW and determine a user's compliance with this chapter.

- B. Each user discharging greater than one hundred thousand gallons per day, or lower volumes where determined by the ~~((superintendent))~~ Plant Manager, shall install and maintain, on its property and at its expense, a suitable storage and flow-control facility to insure equalization of flows over a twenty-four hour period. The facility shall have a capacity for at least twenty-five percent of the daily discharge volume of the user and shall be equipped with alarms and a rate of discharge controller, subject to ~~((superintendent))~~ Plant Manager approval and regulation. A wastewater discharge permit may be issued solely for flow equalization.
- C. Grease, oil, and sand interceptors (interception units) shall be ~~((provided))~~ installed whenever determined necessary by the ~~((superintendent))~~ Plant Manager for proper handling of wastewater containing excessive amounts of such substances, except that such interceptors shall not be required for residential users. Interception units are subject to the control and regulation of the ~~((superintendent))~~ Plant Manager and must be inspected, cleaned, and kept in good repair by the user.
- D. Users with a potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.
- E. All users are required to adhere to the City of Spokane Department of Wastewater Management Industrial Pretreatment Program Mercury Control and Abatement Plan.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of March 27, 2012.

Section 20: That SMC section 13.03A.0211 is amended to read as follows:

13.03A.0211 Accidental Spill Prevention Plans /Slug ((Discharge)) Control Plans [2.11]

- A. ~~The ((superintendent)) Plant Manager may require any user to develop and implement an accidental spill prevention plan (ASPP) ((and/)) or slug control plan((,-including any facilities or procedures ordered to support the same, all at the user's expense. Such plans must be submitted for approval within such time limits as ordered by the superintendent, generally not to exceed ninety days. The user must implement the plans as approved by the superintendent. These requirements are cumulative with other requirements and not in the alternative)). Where deemed necessary by the City, facilities to prevent accidental discharge or slug discharges of pollutants shall be provided and maintained at the user's cost and expense. An accidental spill prevention plan or slug control plan showing facilities and operating procedures to provide this protection shall be submitted to the City for review and approval before implementation. The City shall determine which user is required to develop a plan and require said plan to be submitted within 90 days after notification by the City. Each user shall implement its ASPP as submitted or as modified after such plan has been reviewed and approved by the City. Review and approval of such plans and operating~~

procedures by the City shall not relieve the user from the responsibility to modify its facility as necessary to meet the requirements of this chapter.

- B. An ASPP and/or slug (~~(discharge)~~) control plan shall address, at a minimum, the following:
1. Description of discharge practices, including (~~(nonroutine)~~) non-routine batch discharges.
 2. Description of stored chemicals.
 3. Procedures for (~~(immediately notifying)~~) immediate notification to the (~~(superintendent)~~) Plant Manager of (~~(an)~~) any accidental spill or slug discharge which (~~(would)~~) could violate [SMC 13.03A.0201 through \(SMC 13.03A.204\)](#) SMC 13.03A.0204.
 4. Procedures to prevent adverse impact from an accidental spill and/or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response. (Cross reference: 40 CFR §403.8(f)(2)(vi). See also EPA Region 10 Accidental Spill Prevention and Guidance Manual for POTWs and non-domestic users)
 5. (~~(Applications for ASPP)~~) ASPPs and/or slug (~~(discharge)~~) control (~~(plan approvals)~~) plans must be filed with the (~~(superintendent)~~) Plant Manager, upon such forms and with such information as required by the (~~(superintendent)~~) Plant Manager, signed by an authorized representative and certified as provided in [SMC 13.03A.0305\(B\)](#), and may include (~~(the)~~) a fee as provided in [SMC 13.03A.1401](#).
- C. The requirement for (~~(An)~~) an ASPP or slug (~~(discharge)~~) control plan may be incorporated into a discharge permit. Updates and renewals must be filed with any request for permit transfer, modification, or renewal, change at the user facility, and whenever the user knows or reasonably should know of information affecting the plan or facts upon (~~(with)~~) which the plan was based. In addition, the (~~(superintendent)~~) Plant Manager evaluates the sufficiency of any ASPP and/or slug (~~(discharge)~~) control plan or other action to control spills or slug discharges and may order changes or updates as deemed necessary, including analysis or reports by a qualified engineer or other professional certification. If determined to be insufficient, the (~~(superintendent)~~) Plant Manager may develop such a plan at the user's expense. (Cross reference: [SMC 13.03A.0407](#))

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ~~((December 20, 2007))~~ March 27, 2012.

Section 21: That SMC section 13.03A.0212 is amended to read as follows:

13.03A.0212 Hauled Wastewater [2.12]

- A. Hauled wastewater, including septic tank waste or industrial wastewater, may ~~((be))~~ not be introduced into the POTW except at locations and with such conditions as directed by the ~~((superintendent))~~ Plant Manager. Such wastes shall not violate this Section of this chapter or any other requirements established or adopted by the City. Wastewater Discharge Permits for individual vehicles to use such facilities shall be issued by the Plant Manager.
- B. All such wastewater is required to be tested and sampled as ordered by the ~~((superintendent))~~ Plant Manager, consistent with the purpose and objectives of this chapter and applicable federal, state, or local requirements.
- C. The ~~((superintendent))~~ Plant Manager may decline to accept any hauled wastewater or may require wastewater haulers or generators as designated by the ~~((superintendent))~~ Plant Manager to apply for discharge permit coverage.
- D. Wastewater haulers must provide a ~~((tracking form))~~ Discharge Record as required and approved by the ~~((superintendent))~~ Plant Manager for every load. ~~((This form shall include, at a minimum, the name and address of the industrial wastewater hauler, discharge permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.))~~
- E. ~~((Forms))~~ Non-domestic Wastewater Manifests under this section must be filed with the ~~((superintendent))~~ Plant Manager, with such information as required by the ~~((superintendent))~~ Plant Manager, and signed by an authorized representative and certified as provided in [SMC 13.03A.0305\(A\)](#), ~~((and include the fee as provided in [SMC 13.03A.1401](#)))~~ Failure to submit a report form as required or apply for permit coverage when required is a violation of this chapter. (Cross reference: [SMC 13.03A.0201\(B\)\(9\)](#))
- F. Fees for dumping hauled wastes will be established as part of the user fee system as authorized in SMC 13.03 and SMC 13.03A.1401.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ~~((December 20, 2007))~~ March 27, 2012.

Section 22: That SMC section 13.03A.0213 is amended to read as follows:

13.03A.0213 Causing, Contributing to Sewer Overflow Events (~~{2-13}~~)

- A. No (~~customer~~) user or member of the public or other governmental entity may cause or contribute to causing a sewer overflow event, either during wet or dry weather, such that a portion of the City sewer system becomes blocked or impaired with the result that sewage flows out of the sewer system directly into the Spokane River or any place else besides remaining in the City sewer system. Where it appears that someone may be creating this kind of problem, the (~~superintendent~~) Plant Manager may notify such person and require additional monitoring or screening equipment or inspections at such person's expense. Examples of problems are (~~customer~~) user created or enhanced blockages from grease, industrial or commercial processes, or from nursing homes flushing large diapers, rags or other materials inserted into the system which are too large for the City sewer system to accommodate, which then may become lodged so to block flows.
- B. Anyone determined to have caused or contributed to an overflow or blockage event is responsible for all damage, loss or liability created thereby, including environmental damage in addition to other applicable penalties.

~~((NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of December 20, 2007.))~~

Article III. Wastewater Discharge Permit

Section 23: That SMC section 13.03A.0300 is amended to read as follows:

13.03A.0300 Wastewater Discharge Permit Requirement – Individual, General Permits (~~{3-0}~~)

- A. No significant industrial user (SIU) shall discharge wastewater into the POTW without first obtaining a discharge permit from the (~~superintendent~~) Plant Manager. Such permit must be enforceable and contain all the elements as required by 40 CFR 403.8(f)(1)(iii)(B). Failure to obtain a permit or permit violations are violations of this chapter. All applicable federal, state, and local pretreatment requirements and standards apply to permittees, whether or not stated in the permit.
- B. A discharge permit may be designed for an individual user (individual permit) or an identified class of users (general permit). A general permit is issued where a given class of users:
1. involve the same or substantially similar types of operations;
 2. involve applicant classes as established by the (~~superintendent~~) Plant Manager discharging the same types of wastes;

3. require the same effluent limitations;
4. require the same or similar monitoring; and
5. in the opinion of the ~~((superintendent))~~ Plant Manager, are more appropriately controlled under a general discharge permit than under individual discharge permits. (Cross reference: 40 CFR §403.8(f)(2))

~~((NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of December 20, 2007.))~~

Section 24: That SMC section 13.03A.0301 is amended to read as follows:

13.03A.0301 Permits as to Existing Sources, Existing Users [3.1]

Any existing source or existing user SIU not already permitted shall apply for a permit under this chapter. The ~~((superintendent))~~ Plant Manager may notify such persons of the requirement and allow up to sixty days for existing users and such time as required by federal law for existing sources, but this shall not exceed sixty days unless an applicant demonstrates it is entitled to additional time. This requirement also applies to existing permittees subject to new requirements under this chapter. Regardless of notification or other requirements, in no event shall an SIU subject to categorical standards fail to submit a baseline report within the one hundred eighty day deadline in 40 CFR §403.12(b). Baseline reports must be signed as provided in [SMC 13.03A.0305\(A\)](#) and fees will be assessed in accordance with ~~((accompanied by a fee as provided in))~~ [SMC 13.03A.1401](#).

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ~~((December 20, 2007))~~ March 27, 2012.

Section 25: That SMC section 13.03A.0302 is amended to read as follows:

13.03A.0302 Permits as to New Sources, New Users [3.2]

At least ninety days prior to the anticipated start-up, any new source and any new user determined by the ~~((superintendent))~~ Plant Manager to be an SIU shall apply for a discharge permit and submit to the ~~((superintendent))~~ Plant Manager at a minimum, the information in [SMC 13.03A.0304\(A\) through \(E\)](#) as well as any applicable engineering reports (reference [SMC 13.03A.0203\(B\)](#) and [SMC 13.03A.0208\(A\)](#)). A new source or a new user cannot discharge without first obtaining a discharge permit. New sources and new users must include in their application the method of pretreatment they will use to meet applicable pretreatment standards and requirements as well as estimates of information in [SMC 13.03A.0304\(D\) and \(E\)](#).

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ~~((December 20, 2007))~~ March 27, 2012.

Section 26: That SMC section 13.03A.0303 is amended to read as follows:

13.03A.0303 Discharge Permit – Extrajurisdictional Users [3.3]

Any existing user located outside the City of Spokane city limits must comply with this chapter or a similar local pretreatment ordinance or program approved by the EPA and/or the State of Washington, specifically including existing user requirements under [SMC 13.03A.0301](#) and new source/new user requirements under [SMC 13.03A.0302](#), as a condition of any discharge permit. Compliance is a condition of continuing discharge into the POTW and violators shall ~~((in addition))~~ be subject to any and all penalties as may lawfully apply hereunder or the jurisdictional local government's approved pretreatment program.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ~~((December 20, 2007))~~ March 27, 2012.

Section 27: That SMC section 13.03A.0304 is amended to read as follows:

13.03A.0304 Discharge Permit Application Contents [3.4]

A. Permit Application Form.

1. The ~~((superintendent))~~ Plant Manager approves the permit application form. All users required to obtain a discharge permit must submit to the ~~((superintendent))~~ Plant Manager, at a minimum, the information stated in this section and any other information requested by the ~~((superintendent))~~ Plant Manager. Categorical users must further comply with 40 CFR 403.12(b). ~~((Applications must include the permit application fee in))~~ Permit fees will be assessed in accordance with [SMC 13.03A.1401](#). Incomplete, inaccurate, or unsigned applications ~~((or applications without payment may be returned or conditionally processed))~~ will not be processed and will be returned to the user for revision.
2. Identifying information: The application must state the name and address of the facility, operator and owners.

B. Permits.

The applicant must furnish a list of any environmental control discharge permits held by or for the facility.

C. Description of Operations.

The application must state a brief description of the nature, average rate of production, and the applicable North American Industry Classification System (2007 or latest version) of the operation(s) carried out by such user, including a list of all raw materials and chemicals stored or used at the facility which are or could be accidentally or intentionally discharged into the POTW. The applicant shall further state the number

and type of employees, hours of operation, each product produced by type, process(es), and rate of production. The applicant shall state type and amount of raw materials processed (average and maximum per day) and the time and duration of discharges. The application must include a schematic process diagram which indicates points of discharge to the POTW from the regulated or manufacturing processes, site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, sewer connections, inspection manholes, sampling chambers, and appurtenances by size and location, floor drains, and appurtenances by size, location, and elevation.

D. Flow Measurement Application Information.

1. Categorical user: Average information showing the measured average daily and daily maximum flow, in gallons per day, to the POTW from each of the following:

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

2. Non-categorical user: Information showing the measured daily average and daily maximum flows, in ~~((gpd))~~ gallons per day to the POTW from each of the following: Total process flow, wastewater treatment plant flow, total plant flow, or individual manufacturing process flow as required by the ~~((superintendent))~~ Plant Manager.

3. The City may allow for verifiable estimates of these flows where justified by cost or feasibility consideration

E. Measurement of Pollutants.

1. Categorical User.

- a. The user shall identify the applicable pretreatment standards for each regulated or manufacturing process.
- b. The user shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the categorical pretreatment standard or the ~~((superintendent))~~ Plant Manager) of regulated pollutants, including those encompassed in the standards in [SMC 13.03A.0201 through SMC 13.03A.0204](#) as appropriate in the discharge from each regulated or manufacturing process. Both the daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and conform to the sampling and analytical procedures in Article V of this chapter.

- c. The user shall take a minimum of one representative sample to compile data necessary to comply with subsection (E) of this section.
- d. Where an alternate concentration or mass limit has been calculated in accord with 40 CFR 403.6(e) for a categorical user, this adjusted limit, together with supporting data shall be submitted as part of the application.

2. Non-categorical User.

- a. The user shall identify the applicable pretreatment standards for its discharge.
- b. In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration in the discharge (or mass, where required by the ~~((superintendent))~~ Plant Manager) of regulated pollutants encompassed in the standards in [SMC 13.03A.0201 through SMC 13.03A.0204](#) as applicable. Both the daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and conform to the sampling and analytical procedures in Article V of this chapter.
- c. The user shall take a minimum of one representative sample to compile data necessary to comply with subsection (E) of this section.
- d. Where the ~~((superintendent))~~ Plant Manager has developed an alternate concentration or mass limit because of dilution or other reasons, this limit, together with supporting data shall be submitted as part of the application.

F. Certification – Qualified Professional Statement.

The application certification required in [SMC 13.03A.0305\(A\)](#) must also include a statement certified by a qualified professional, indicating whether the applicable pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet the applicable pretreatment standards and requirements~~((:-))~~ , including AKART.

G. Compliance Schedule.

If additional pretreatment/O&M are required to meet the applicable pretreatment standards, the user must include the shortest schedule by which it will provide such additional pretreatment/ O&M remediation, conforming with [SMC 13.03A.0404](#) but not later than the deadlines in [SMC 13.03A.0209](#).

~~((NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of December 20, 2007))~~

~~(([Section 13.03A.03042](#) Combined Wastestream Formula — Fundamentally Different Factors modifications [3.4 part]))~~

1. Where a user's applicable categorical standard is modified because of a removal allowance under 40 CFR §403.7, combined wastestream formula eligibility under 40 CFR §403.6(e) or fundamentally different factors variance under 40 CFR §403.13 at the time of submission of information required under [SMC 13.03A.0304\(G\)](#), the information required under [SMC 13.03A.0304\(F\) and \(G\)](#) apply to the modified limits. It is the ~~((submitter's))~~ user's responsibility to identify and disclose the modification conditions stated.

2. Where an applicable categorical standard is modified because of a removal allowance under 40 CFR §403.7, combined wastestream formula eligibility under 40 CFR §403.6(e), or fundamentally different factors under 40 CFR §403.13 after submission of information required under [SMC 13.03A.0304\(F\) and \(G\)](#), a report containing information pertaining to such modification shall be submitted within sixty days after the new limit is approved, signed as required in [SMC 13.03A.0305\(A\)](#) with a report review fee specified in [SMC 13.03A.1401](#).

3. The user must obtain ~~((superintendent))~~ Plant Manager approval for combined wastestream formula or fundamentally different factors variations if not submitted as part of a permit application. This may also be done through permit modification where applicable. However accomplished, the user must make an application therefore on forms supplied or approved by the ~~((superintendent))~~ Plant Manager, sign the form as provided in [SMC 13.03A.0305\(B\)](#) and pay the fee for review specified in [SMC 13.03A.1401](#) to the extent documents needed by the ~~((superintendent))~~ Plant Manager have not been otherwise submitted and a review fee otherwise paid.

H. The user shall submit any other information as may be deemed necessary by the Plant Manager, in their discretion, to evaluate the Wastewater Discharge Permit Application.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ~~((December 20, 2007))~~ March 27, 2012.

Section 28: That SMC section 13.03A.0305 is amended to read as follows:

13.03A.0305 Signatory and Certification Requirement [3.5]

A. All discharge permit applications and user reports under this chapter must be signed by an authorized representative as defined in [SMC 13.03A.0103](#). The signatory must further included the following certification:

I certify under penalty of perjury of the laws of the State of Washington (or state of execution):

1. That I am authorized to sign this statement on behalf of the person or entity for which it is submitted.
 2. That this document and all attachments are reliable and were prepared based upon my personal knowledge or under my direction or supervision, after diligent inquiry in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted.
 3. Based on my knowledge or inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting inaccurate or false information, including the possibility of fine and imprisonment. ~~((NOTE: [SMC 10.08.085](#) provides that negligent or careless submission of false or inaccurate statements is a misdemeanor and gross negligence or a knowing or willful submission of false or inaccurate statements is a gross misdemeanor.)))~~
- B. Anything other than the documents noted in subsection (A) of this section must be signed by an authorized representative of the person submitting such item and include a statement that the signatory is authorized to make the submission, has made diligent inquiry to verify any information. The submittal must be made and state that it is made under penalty of perjury of the laws of the state of the signing person, together with any proof of authority or authorization to execute and any statements required in this section or ordered by the ~~((superintendent))~~ Plant Manager.
- C. The person submitting any item is under a continuous duty and obligation to update in writing, under the same formalities, in a prompt and complete manner, any information provided whenever there is a material change. (NOTE: Designations of authorized representative must be kept updated at all times.)

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ~~((December 20, 2007))~~ March 27, 2012.

Section 29: That SMC section 13.03A.0306 is amended to read as follows:

13.03A.0306 Discharge Permit Decisions [3.6]

- A. The ~~((superintendent))~~ Plant Manager ~~((evaluates the permit application and determines whether to grant the application within thirty days of receipt of a complete application and full responses to any questions the superintendent may have. The superintendent may extend this time an additional thirty days. After sixty days, if no action has been taken, the application is deemed denied, the sixty first day being the~~

date of issuance for appeal purposes.)) will evaluate the data furnished by the user and may require additional information. Within 30 days of receipt of a complete wastewater discharge permit application, the Plant Manager will determine whether or not to issue a wastewater discharge permit. Upon a determination to issue, the permit shall be issued within 180 days of full evaluation and acceptance of the data furnished. The Plant Manager may deny any application for a wastewater discharge permit.

- B. Except where otherwise noted, the ~~((superintendent))~~ Plant Manager acts by issuing a written decision to the applicant. In addition, the decision shall be published on the City's Industrial Pretreatment Program website, or in a newspaper of general circulation in Spokane County ((posted on the City's web site or published in the City's Official Gazette)). When a decision is issued, the date of issuance for purposes of appeal by the applicant is three days from mailing, if mailed, the date of electronic delivery, if delivered electronically (e.g. email), or date of personal delivery, whichever first occurs. As to persons other than the applicant, when a decision is issued, the date of issuance is the date of posting of the decision on the City's web site, publication of a notice of the decision in a newspaper of general circulation in Spokane County ((in the City's Official Gazette publication)), or delivery of the decision to persons requesting delivery, whichever occurs first ~~((occurs))~~.
- C. The ~~((superintendent))~~ Plant Manager may require any user, as a condition of permit issuance, renewal or otherwise, to pay any outstanding fines, penalties, service charges or other applicable outstanding fees relating to its discharge, enjoyment of municipal utility services or any enforcement order.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ~~((December 20, 2007))~~ March 27, 2012.

Section 30: That SMC section 13.03A.0307 is amended to read as follows:

13.03A.0307 Discharge Permit Contents [3.7]

- A. Discharge permits include such conditions determined appropriate by the ~~((superintendent))~~ Plant Manager to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, protect against damage to the POTW or otherwise deemed necessary under the City's pretreatment regulatory program. All discharge permits must further specifically include all the elements as required by 40 CFR §403.8(f)(1)(iii)(B). Not by way of limitation, these include:
1. the issuance date, effective date (if different), and expiration date. The expiration date may not exceed five years from the effective date;
 2. provision for annual inspection and any applicable arrangements therefore. Payment of the annual inspection fee is required as specified in [SMC 13.03A.1401](#);

3. a statement that the discharge permit is (~~nontransferable~~) non-transferable except upon written (~~superintendent~~) Plant Manager approval and acceptance by the transferee/owner/operator of all permit (control mechanism) conditions, together with any additional requirements of transfer approval;
4. effluent limits, including best management practices, based on applicable pretreatment standards and requirements, including any special state requirements;
5. self-monitoring, sampling, reporting, notification, submittal of technical reports, compliance schedules, and record-keeping requirements, including an identification of pollutants to be monitored, BMPs, sampling location, sampling frequency, and sample type, based upon federal, state and local requirements;
6. requirement for immediate notification to the City whenever self-monitoring or other information indicates non-compliance;
7. requirement to report bypass or upset of a pretreatment facility;
8. requirement to report immediately to the City all discharges, including slug loadings, that could cause problems to the POTW;
9. requirements for the SIU reporting non-compliance to repeat sampling and analysis and submit results to the (~~superintendent~~) Plant Manager within thirty days of becoming aware, or from the time the SIU should reasonably have become aware of a violation;
10. a statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule, which shall not exceed that required by law;
11. requirements to control accidental spill/slug discharge, which may be included in an accidental spill prevention/slug discharge control plan. The (~~superintendent~~) Plant Manager orders such a plan whenever determined necessary as provided in [SMC 13.03A.0211](#);
12. any grant of a monitoring waiver by the (~~superintendent~~) Plant Manager must be included as a condition in the user's discharge permit or other control mechanism.

B. Discharge permits may include, but need not be limited to, the following conditions:

1. limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

2. requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the POTW;
 3. requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or ~~((nonroutine))~~ non-routine discharges;
 4. development and implementation of wastewater minimization plans to reduce the amount of pollutants discharged to the POTW;
 5. the unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW, but any charges or fees remain subject to adjustment;
 6. requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
 7. a statement that compliance with the individual discharge permit or the general discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state or local pretreatment standards, including those which become effective during the term of the individual discharge permit or the general discharge permit;
 8. any special terms and/or agreements the ~~((superintendent))~~ Plant Manager chooses to continue or develop between the City and user; and
 9. other BMPs or conditions as deemed appropriate by the ~~((superintendent))~~ Plant Manager to assist compliance with this chapter, and applicable federal and state requirements.
- C. The ~~((superintendent))~~ Plant Manager may require any user to submit an onsite stormwater management plan or other provisions deemed necessary to meet the purpose and intent of this chapter and include such requirements in the discharge permit. The ~~((superintendent))~~ Plant Manager may require provisions for handling, monitoring, and sampling of stormwater to be included in the plan or permit. The ~~((superintendent))~~ Plant Manager may require other information, including an analysis, report or certification by an engineer or other qualified professional to support permit or plan requirements, signed as required in [SMC 13.03A.0305\(A\)](#) and submitted with a fee required in [SMC 13.03A.1401](#).
- D. An incomplete or inaccurate permit is no defense for non-compliance with applicable pretreatment standards and requirements. The City relies upon regulated users and persons to proactively identify and disclose compliance problems and permit inaccuracies or deficiencies, as specialists in those particular industries and

occupations they may pursue. Notwithstanding, the ~~((superintendent's))~~ Plant Manager's exercise of discretion and judgment consistent with this chapter shall always be granted full deferential consideration of enforcing agency expertise, in case of dispute with any regulated user or person.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ~~((February 28, 2008))~~ March 27, 2012.

Section 31: That SMC section 13.03A.0308 is amended to read as follows:

13.03A.0308 Permit Appeals

See ~~((SMC 13.03A.0904))~~ SMC 13.03A.0904.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ~~((December 20, 2007))~~ March 27, 2012.

Section 32: That SMC section 13.03A.0310 is amended to read as follows:

13.03A.0310 Permit Modification [3.10]

- A. The ~~((superintendent))~~ Plant Manager may modify a discharge permit with or without a request to do so:
1. to incorporate any new or revised federal, state, or local pretreatment standards or requirements;
 2. to address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of the discharge permit issuance in the opinion of the ~~((superintendent))~~ Plant Manager;
 3. where there is a change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge in the opinion of the ~~((superintendent))~~ Plant Manager;
 4. where there is information indicating that the discharge poses a threat to the POTW, City personnel, any beneficial sludge use, or the receiving waters in the opinion of the ~~((superintendent))~~ Plant Manager;
 5. because of violation of any terms or conditions of the individual discharge permit;
 6. because of misrepresentations or failure to fully disclose all relevant facts in the permit application or in any required reporting;

7. because of a revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR §403.13;
8. to correct typographical or other errors in the individual discharge permit; or
9. to reflect a transfer of the facility ownership or operation to a new owner or operator where requested; or
10. for any other reason deemed due and sufficient.

B. Modification Requests.

Permit modification requests must be verified, signed by an authorized representative as provided in [SMC 13.03A.0305\(B\)](#) and include a fee as specified in [SMC 13.03A.1401](#). Submitting a permit modification request does not stay the running of the time within which an administrative appeal from a permit decision must be filed with the City hearing examiner. A permit modification is not required if there is no substantial change in a discharge, no increased pollutants or other conditions upon which modifications may be based, all in the opinion of the ~~((superintendent))~~ Plant Manager. Permit modification requests must address changes in slug control plans and industrial stormwater.

C. Notice.

If the ~~((superintendent))~~ Plant Manager deems the modification significant, notice is issued in like manner as an original permit decision and may be appealed in the same manner as for a permit decision.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ~~((February 28, 2008))~~ March 27, 2012.

Section 33: That SMC section 13.03A.0311 is amended to read as follows:

13.03A.0311 Permit Transfer [3.11]

- A. Upon written approval of the ~~((superintendent))~~ Plant Manager, discharge permits may be transferred to a new owner or operator. An applicant must give at least thirty days advance notice to the ~~((superintendent))~~ Plant Manager. Applications must be filed with the ~~((superintendent))~~ Plant Manager, upon such forms and with such information as required by the ~~((superintendent))~~ Plant Manager, signed by an authorized representative and certified as provided in [SMC 13.03A.0305\(B\)](#), and include the fee as provided in [SMC 13.03A.1401](#).
- B. Applications must include a written statement by an authorized representative of the transferee, signed under penalty of perjury of the laws of the State of Washington or the state ~~((of))~~ of residence of the signatory which:

1. states that the transferee applicant has no plans to change the facility's operations and processes;
2. acknowledges the obligation to apply for a discharge permit modification in writing should any such change be planned prior to implementing such change;
3. identifies the specific date on which the transfer is requested to occur; and
4. acknowledges full responsibility for complying with the existing discharge permit;
5. permit modification requests must address changes in slug control plans and industrial stormwater.

C. If there are no changes in the facility, operation, or discharge and proper advance notice was given, the ~~((superintendent))~~ Plant Manager may consider the transferee as an existing user upon satisfaction of the conditions of this section. If a transfer request is not submitted as required, the permit expires and a new application must be made. The ~~((superintendent))~~ Plant Manager may impose any temporary conditions on continuing discharge of permit expiring under this provision until a new permit is obtained.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ~~((December 20, 2007))~~ March 27, 2012.

Section 34: That SMC section 13.03A.0312 is amended to read as follows:

13.03A.0312 Discharge Permit Revocation, Suspension [3.12]

The ~~((superintendent))~~ Plant Manager may suspend or revoke any discharge permit because of:

- A. failure to notify the ~~((superintendent))~~ Plant Manager of significant changes to the wastewater in advance. A "significant change" is one which affects compliance with applicable pretreatment standards or requirements;
- B. failure to provide prior written notification to the ~~((superintendent))~~ Plant Manager of changed conditions;
- C. misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- D. late filing or significant or repeated errors or falsifying ~~((self-monitoring))~~ self-monitoring reports, certification statements, or any other disclosures;
- E. tampering with monitoring equipment;

- F. refusing to allow the ~~((superintendent))~~ Plant Manager timely access to the facility premises and records;
- G. failure to meet discharge/effluent limitations;
- H. failure to pay discharge permit fees or other charges assessed under the authority of this chapter, including fines or penalties;
- I. failure to pay application, sewer, or other applicable charges;
- J. failure to meet compliance schedules;
- K. failure to complete a wastewater survey or wastewater discharge permit application;
- L. failure to ~~((apply))~~ provide advance notice ~~((for))~~ of a permit transfer or modification where needed;
- M. if the City has to invoke its emergency provision as cited in SMC 13.03A.0903
- ~~((M))~~ N. violation of any pretreatment standard or requirement, or any terms or conditions of an applicable discharge permit or this chapter; or
- ~~((N))~~ O. any other reason stated in this chapter or otherwise deemed due and sufficient.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ~~((December 20, 2007))~~ March 27, 2012.

Section 35: That SMC section 13.03A.0313 is amended to read as follows:

13.03A.0313 Discharge Permit Renewal [3.13]

A user with an expiring discharge permit desiring to continue to discharge must apply for a renewal, updating all information required in the original application. Applications must be filed with the ~~((superintendent))~~ Plant Manager, upon such forms and with such information as required by the ~~((superintendent))~~ Plant Manager, signed by an authorized representative and certified as provided in SMC 13.03A.0305(B). ~~((and include the fee as provided in SMC 13.03A.1401.))~~ Permit fees will be assessed in accordance with SMC 13.03A.1401. The renewal application must be received as required no later than one hundred eighty calendar days prior to the expiration of the user's existing discharge permit. If a renewal is timely submitted in complete form, signed and with appropriate fees, the expiring permit may be deemed to continue until the permit is renewed, a new

permit issued, the permit is denied or other action is taken. A user whose existing wastewater discharge permit has expired and who failed to submit its re-application in the time period specified herein will be deemed to be discharging without a wastewater discharge permit.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of (~~December 20, 2007~~) March 27, 2012.

Section 36: That SMC section 13.03A.0314 is amended to read as follows:

13.03A.0314 Regulation of Wastewater Received from Other Jurisdictions

- A. Any user outside the City sanitary sewer service area who proposes to discharge wastewater into the City's POTW shall enter into an inter-local agreement with the contributing governmental entity (city, town, county, sewer district, or other municipal corporation recognized by state law). The agreement shall affix responsibilities in an enforceable manner to ensure that the pretreatment program is fully and equitably administered in all contributing jurisdictions. Any agreement or modification to such an agreement shall be reviewed by the City's legal counsel and shall be submitted, together with the opinion that it is legally sufficient, to the approval authority (State department of ecology) and processed as a minor program modification.
- B. Prior to entering into an agreement required above, the (~~superintendent~~) Plant Manager shall request the following information from the contributing governmental entity:
 - 1. A description of the quality and volume of wastewater discharged to the POTW by the contributing governmental entity;
 - 2. An inventory of all users located within the contributing governmental entity that are discharging to the POTW; and
 - 3. Such other information as the (~~superintendent~~) Plant Manager may deem necessary.
- C. An inter-local agreement, as provided above shall contain the following provisions:
 - 1. Requirements for contributing governmental entities to adopt a sewer use ordinance or pretreatment ordinance which establishes pretreatment standards and requirements as stringent as in this chapter. The ordinance provisions and limits must be revised to conform within a reasonable time frame (within nine months) to any future revisions of this chapter;
 - 2. Requirements for the contributing governmental entity to submit a revised user inventory on at least an annual basis, and reinforce requirements to obtain a permit prior to discharge;

3. A clear division of responsibilities for implementing each pretreatment related activity under this chapter or in the City's NPDES permit(s). The tasks include reinforcing prohibitions, locating users, issuing wastewater discharge permits, conducting inspections, sampling, evaluating compliance, initiating enforcement, and reporting compliance. Any activities which will be conducted jointly by the contributing governmental entity and the ((~~superintendent~~)) Plant Manager must also be identified;
4. Requirements for the contributing governmental entity to provide the ((~~superintendent~~)) Plant Manager access to all information that the contributing governmental entity obtains as part of its pretreatment activities;
5. The nature, quality (e.g. conventional and toxic pollutant concentrations), and volume (peak and average flow rates) the contributing municipality is allowed to discharge to the City, how and where compliance will be measured, how fees for service and surcharges will be established, and how additional loading capacity, if needed, will be negotiated;
6. Provisions ensuring that the ((~~superintendent~~)) Plant Manager may enter and inspect users located within the contributing governmental entity's jurisdictional boundaries to confirm that the pretreatment program is being properly administered and users are properly categorized; and
7. Provisions for addressing any breach of the terms of the inter-local agreement.

Section 37: That SMC section 13.03A.0401 is amended to read as follows:

13.03A.0401 Baseline Monitoring Reports [4.1]

A. Existing and New Sources.

1. Existing Source.

Within either one hundred eighty days after the effective date of a categorical pretreatment standard, or the final EPA administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing sources shall submit to the ((~~superintendent~~)) Plant Manager a report as required in this section, also called a baseline monitoring report or BMR. BMRs must be signed as provided in [SMC 13.03A.0305\(A\)](#) and accompanied by a fee as provided in [SMC 13.03A.1401](#).

2. New Source.

No more than ninety days ((~~after~~)) prior to commencement of their discharge, new sources, and sources that become CIUs subsequent to the promulgation of an applicable categorical standard, shall submit to the ((~~superintendent~~)) Plant Manager a report as required in this section. A new source shall

additionally report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged. Reports must be signed as provided in [SMC 13.03A.0305\(A\)](#). ~~((and accompanied by a fee as provided))~~ Fees will be assessed in accordance with ((in)) [SMC 13.03A.1401](#). (Cross reference: 40 CFR §403.12(b)(1)-(7))

B. Users identified in subsection (A) of this section must submit the following information:

1. Identifying information: The name and address of the facility, operator, and owners.
2. Permits: A list of any environmental control discharge permits held by or for the facility.
3. Description of operations: A brief description of the nature, average rate of production, and the North American Industry Classification of the operation(s) carried out by such user. This must include a schematic process diagram which indicates points of discharge to the POTW from the regulated or manufacturing processes.
4. Flow measurement ~~((application information))~~: Information showing the measured average daily and daily maximum flow, in gallons per day, to the POTW from each of the regulated or manufacturing process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e). (See also definition in [SMC 13.03A.0103](#))
5. Measurement of Pollutants.
 - a. The categorical pretreatment standards for each regulated or manufacturing process.
 - b. The results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the categorical pretreatment standard or the ~~((superintendent))~~ Plant Manager) in the discharge from each regulated or manufacturing process. Instantaneous, daily maximum, and long-term average concentrations (or mass, where required) shall be reported on forms signed as required under [SMC 13.03A.0305\(A\)](#). Fees will be assessed in accordance with [SMC](#) ~~((with a review fee as provided in))~~ [SMC 13.03A.1401](#). The sample shall be representative of daily operations and conform to the sampling and analytical procedures in Article V of this chapter.
6. Statement by qualified professional: The user must submit a statement reviewed by an authorized representative and certified by a qualified professional signed as provided in [SMC 13.03A.0305\(A\)](#). ~~((and with the fees~~

provided in)) Fees will be assessed in accordance with SMC 13.03A.1401. The statement must indicate whether the applicable pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required for the user to meet the applicable pretreatment standards and requirements, to include without limitation AKART.

7. Compliance schedule: If additional pretreatment/O&M are required to meet the applicable pretreatment standards, the user must include the shortest schedule by which it will provide such additional pretreatment and/or O&M remediation. The compliance schedule must meet the requirements in [SMC 13.03A.0404](#). It must be signed as provided in [SMC 13.03A.0305\(A\)](#). Fees will be assessed in accordance with ~~((and be submitted with the fee provided in))~~ [SMC 13.03A.1401](#).

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ~~((December 20, 2007))~~ March 27, 2012.

Section 38: That SMC section 13.03A.0402 is amended to read as follows:

13.03A.0402 Compliance Report Deadlines – Initial Reports [4.2]

A. Deadlines.

1. Within the earliest applicable date of ninety days following:
 - a. The date for final compliance of an existing significant industrial user with applicable pretreatment standards and requirements,
 - b. The date for final compliance in federal categorical standards, or
 - c. The date for final compliance set in a discharge permit; or
 2. In the case of a new source or a new user determined by the ~~((superintendent))~~ Plant Manager to fit the definition of a significant industrial user, within ninety days following the commencement of discharge.
 3. The affected user must submit to the ~~((superintendent))~~ Plant Manager a report as outlined in [SMC 13.03A.0304\(D\) through \(F\)](#) inclusive, and certified as provided in [SMC 13.03A.0305\(A\)](#), Fees will be assessed in accordance with [SMC](#) ~~((with fee paid as provided in))~~ [SMC 13.03A.1401](#) ~~((if not already paid))~~.
- B. For users subject to equivalent mass or concentration limits established by the City in accord with 40 CFR 403.6(c), the report in subsection (A) of this section shall contain a reasonable measure of the user's long term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable

pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period, and signed as provided in [SMC 13.03A.0305\(A\)](#). Fees will be assessed in accordance with ~~((with review fee provided in))~~ [SMC 13.03A.1401](#).

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ~~((December 20, 2007))~~ March 27, 2012.

Section 39: That SMC section 13.03A.0403 is amended to read as follows:

13.03A.0403 Periodic Compliance Reports [4.3]

- A. Any user that is required to have a discharge permit and performs self-monitoring must comply with 40 CFR §403.12 and submit to the ~~((superintendent))~~ Plant Manager by June fifteenth and December fifteenth of each year, unless required on other dates or more frequently ~~((or more often))~~ if ordered by the ~~((superintendent))~~ Plant Manager, a report on the nature of its effluent (discharge) over the previous reporting period. The frequency of monitoring is stated in the discharge permit, but no less than two samples per year at least five months apart.
- B. The report must include a record of the nature and concentration (and mass if specified in the discharge permit) of pollutants listed in the discharge permit and a record of all flow measurements (average and maximum) taken at the designated sampling locations as well as any other information required in this chapter or the permit for the reporting period. Production data must be reported if required by the permit. Both daily maximum (maximum daily) and average concentration (or mass, where required) must be reported. If a user sampled and analyzed more frequently than required using methodologies in 40 CFR Part 136 during the reporting period, those results must also be submitted.
- C. If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the ~~((superintendent))~~ Plant Manager, using the procedures prescribed in Article V of this ~~((ordinance))~~ chapter, the results of the monitoring shall be included in the report. (See 40 CFR §403.12(g)(6)).
- D. In cases where the pretreatment standard requires compliance with a BMP or pollution prevention alternative, the user must submit documentation required by the ~~((superintendent))~~ Plant Manager or the pretreatment standard necessary to determine the compliance status of the user.
- E. Any user subject to equivalent mass or concentration limits established by the ~~((superintendent))~~ Plant Manager or by unit production limits in an applicable categorical pretreatment standard must report production data as stated in [SMC 13.03A.0402\(B\)](#).

- F. If the ~~((superintendent))~~ Plant Manager calculated limits to factor out dilution flows or non-regulated flows, the user is responsible to provide flows from regulated process flows, dilution flows and non-regulated process flows.
- G. Flows must be reported on the basis of actual measurement, provided however, that the ~~((superintendent))~~ Plant Manager may accept reports of average and maximum flows estimated by verifiable techniques if the ~~((superintendent))~~ Plant Manager determines that actual measurement is not feasible.
- H. All wastewater samples must be representative of the user's ~~((discharge))~~ daily operations and shall be taken in accordance with the requirements specified in Article 5 of this chapter. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- I. The ~~((superintendent))~~ Plant Manager may require reporting by users that are not required to have a discharge permit if information or data is needed to establish a sewer rate, determine the treatability of the user's effluent (discharge), or any other factor related to the operations or maintenance of the POTW.
- J. The ~~((superintendent))~~ Plant Manager may require self-monitoring by the user, or if requested by the user, may but need not agree to perform compliance monitoring needed to prepare compliance reports required under this section. If the ~~((superintendent))~~ Plant Manager performs such service, the user must pay all charges as specified by the ~~((superintendent))~~ Plant Manager as an additional cost of utility service. The City is under no obligation to perform periodic compliance monitoring for a user.
- K. All submittals under this section must be signed as provided in [SMC 13.03A.0305\(A\)](#). Fees will be assessed in accordance with ~~((and accompanied by a review fee as provided in))~~ [SMC 13.03A.1401](#).

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ~~((February 28, 2008))~~ March 27, 2012.

Section 40: That SMC section 13.03A.0404 is amended to read as follows:

13.03A.0404 Compliance Schedules to Meet Applicable Pretreatment Requirements [4.4]

- A. Whenever a compliance schedule is set up under this chapter, it must include increments of progress or milestones with dates for accomplishment of each milestone. The milestones are major events leading to construction and operation of pretreatment required for the user to meet applicable pretreatment standards (e.g.

hiring an engineer, completing preliminary plans, final plans, signing contracts, commencing construction, completing construction, by way of examples).

- B. No milestone time increment in subsection (A) of this section (~~may~~) shall exceed nine months.
- C. Not later than fourteen days following each milestone date, and the final date for compliance, the user must submit a progress report to the (~~superintendent~~) Plant Manager specifying whether it has complied with the schedule and if not, when it expects to comply, reasons for delay and steps taken to avoid further delays. Not more than nine months (~~may~~) shall elapse between milestone reports. All submittals under this section must be signed as provided in [SMC 13.03A.0305\(A\)](#) Fees will be assessed in accordance with (~~and accompanied by a review fee as provided in~~) [SMC 13.03A.1401](#).

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of (~~December 20, 2007~~) March 27, 2012.

Section 41: That SMC section 13.03A.0405 is amended to read as follows:

13.03A.0405 Notification of Significant Production Changes [4.5]

- A. Any user operating under a discharge permit incorporating equivalent mass or concentration limits shall notify the (~~superintendent~~) Plant Manager in writing within two business days after the user knows or has a reasonable basis to know that production levels will significantly change in the ensuing calendar month and request approval. A user failing to give such notice and obtain approval in writing is required to comply with existing limits in the permit. A significant production level change is one as has been specified by the (~~superintendent~~) Plant Manager as significant, or in absence of this, a change of twenty percent or greater. All submittals under this section must be signed as provided in [SMC 13.03A.0305\(A\)](#) and accompanied by a review fee as provided in [SMC 13.03A.1401](#).
- B. Additionally, the user must submit a permit modification application as provided in [SMC 13.03A.0310](#), which must include an engineering report detailing the features of the change, including pertinent data and analysis.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of (~~December 20, 2007~~) March 27, 2012.

Section 42: That SMC section 13.03A.0407 is amended to read as follows:

13.03A.0407 Notice of Potential Problems, Accidental Spills, Slug Loads [4.7]

- A. In the case of an accidental spill or slug (~~discharge~~) load, the user shall immediately telephone and notify the (~~superintendent~~) Plant Manager of the incident. This

notification shall include the location of the discharge, date and time thereof, type of waste, concentration and volume, and corrective actions taken by the user. The user must pay any costs incurred by the City to remediate the spill or discharge, including out of pocket and in-house time and expense costs, fish kills, environmental remediation, other damages to person or property, as well as any applicable fines and penalties from any regulatory agency. Service charges or costs incurred by the City shall be ~~((added to the service bill))~~ invoiced to the customer from which the accidental spill or slug ~~((discharge))~~ load originated. This shall not limit any right of recovery of such damages, expenses, fines and penalties against any other responsible party.

- B. Within five days following an accidental spill or slug ~~((discharge))~~ load, the user shall, unless waived by the ~~((superintendent))~~ Plant Manager, submit a detailed written report describing the cause(s) of the accidental spill or slug ~~((discharge))~~ load and the measures to be taken by the user to prevent similar future occurrences. All submittals under this section must be signed as provided in [SMC 13.03A.0305\(A\)](#) and accompanied by a review fee as provided in [SMC 13.03A.1401](#).
- C. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of an accidental spill or slug ~~((discharge))~~ load. Employers shall ensure that all employees who could cause or might be aware of an accidental spill or slug ~~((discharge))~~ load occurring are advised of the emergency notification procedure. (Cross reference: [SMC 13.03A.0211](#)).
- D. Significant ~~((industrial))~~ Industrial ~~((users))~~ Users are required to notify the ~~((superintendent))~~ Plant Manager immediately of any changes at its facility affecting the potential for a slug ~~((discharge))~~ load.
- E. Failure to pay any fees, costs or assessments associated with potential problems, accidental spills and/or slug loads may result in revocation of permit or termination of service.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ~~((February 28, 2008))~~ March 27, 2012.

Section 43: That SMC section 13.03A.0408 is amended to read as follows:

13.03A.0408 Non-compliance Reporting [4.8 modified]

If sampling performed by a user indicates a violation, the user must notify the ~~((superintendent))~~ Plant Manager within twenty-four hours of becoming aware of the violation. Within five (5) days following such discharge, the User shall submit a detailed written report describing the cause(s) 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 expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this chapter. The user shall also repeat the sampling and analysis

and submit the results of a repeat analysis to the ~~((superintendent))~~ Plant Manager within thirty days after becoming aware of the violation. Where the City has performed the sampling and analysis in lieu of the Industrial User, the City 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 ~~((by the industrial user))~~ is not required if:

- A. the City performs sampling at the user's facility at least once a month, or
- B. if the City performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the City ~~((received))~~ receives the results of this sampling. ~~((, or if the City has performed the sampling and analysis in lieu of the industrial user.))~~ (See 40 CFR §403.12(g)(2)).

Any costs associated with sampling or resampling shall be borne by the User.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of March 27, 2012.

Section 44: That SMC section 13.03A.0409 is amended to read as follows:

13.03A.0409 Notice of Changed Discharge [4.9]

- A. Users must notify the ~~((superintendent))~~ Plant Manager in writing at least ninety days (preliminary notice), followed by a confirming notice at least thirty days before any substantial change in volume or character of pollutants in their discharge, and any significant manufacturing process changes or pretreatment modifications which could be reasonably expected to result in such a pollutant change. As used herein, a substantial or significant change is a change of twenty percent or more in production levels or levels of any pollutant or other parameter specified by the ~~((superintendent))~~ Plant Manager. Where advance notice is not possible or has not been given, notice shall be given as required in [SMC 13.03A.0407](#), but that does not excuse compliance with this section. All submittals under this section must be signed as provided in [SMC 13.03A.0305\(A\)](#). Fees will be assessed in accordance with ~~((and accompanied by a review fee as provided in))~~ [SMC 13.03A.1401](#).
- B. Additionally, the user must submit a permit modification application as provided in [SMC 13.03A.0310](#), which must include an engineering report detailing the features of the change, including pertinent data and analysis.

Section 45: That SMC section 13.03A.0410 is amended to read as follows:

13.03A.0410 Notice from Users Without Permits [4.10]

The ~~((superintendent))~~ Plant Manager may order users not subject to permits to submit any reports, information or sampling as deemed necessary, or require said users to permit City inspection of any records or inspection and sampling of their premises and facilities

at their expense. This is a condition of continued utility service, in addition to any other applicable remedies. All submittals under this section must be signed as provided in [SMC 13.03A.0305\(A\)](#) and accompanied by a review fee as provided in [SMC 13.03A.1401](#).

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of (~~December 20, 2007~~) March 27, 2012.

Section 46: That SMC section 13.03A.0411 is amended to read as follows:

13.03A.0411 Record Keeping [4.11]

All users must maintain records of any information relating to any reporting or disclosure requirements under this chapter and the same shall be readily available for inspection and copying by the (~~superintendent~~) Plant Manager (~~in Spokane County~~) upon request. Such records shall further include any monitoring results, whether or not required under this chapter. Sampling records must include the date, exact place, method, and time of sampling, name of the person taking the sample, dates analyses were performed, who performed them, analytical techniques or methods used, and the results, including documentation under best management practices. All such records must be maintained for at least three years, unless a longer time is ordered by the (~~superintendent~~) Plant Manager. If any enforcement action or litigation arises in relation to this chapter, the retention period is automatically extended to an additional one year after final disposition by the last court of resort.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of (~~December 20, 2007~~) March 27, 2012.

Section 47: That there is adopted a new section 13.03.0412 to Chapter 13.03A of the Spokane Municipal Code to read as follows:

13.03A.0412 Electronic Reporting

The City of Spokane Industrial Pretreatment Program accepts electronic documents and signatures using a system compliant with 40 CFR Part 3 (Cross-Media Electronic Reporting). Users that are required to send electronic documents and signatures to the City to satisfy the requirements of this Chapter must submit a signed Subscriber Agreement to the City for approval, and register online for the reporting service that the City has available.

Article V. Sampling and Analytical Requirements

Section 48: That SMC section 13.03A.0501 is amended to read as follows:

13.03A.0501 Sampling Requirements for Users [5.1]

A. Samples.

1. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds. For all other pollutants, twenty-four hour composite samples must be obtained through ~~((flow-proportional))~~ time-proportional composite sampling techniques, unless ~~((time-proportional))~~ flow-proportional composite sampling or grab sampling is ~~((authorized))~~ required by the ~~((superintendent))~~ Plant Manager. The samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the industrial user file for the facility or facilities.
 2. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and applicable EPA guidance, multiple grab samples collected during a twenty-four hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field. For volatile organics and oil and grease, the samples may be composited in the laboratory.
 3. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the ~~((superintendent))~~ Plant Manager, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
- B. For sampling required in support of baseline monitoring and ninety day compliance reports, a minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities or processes for which historical sampling data do not exist. For facilities for which historical sampling data are available, the ~~((superintendent))~~ Plant Manager may authorize a lower minimum. For the reports required by 40 CFR 403.12(e) and (h), the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements. (Cross reference: Ninety-day report, see [SMC 13.03A.0402](#) and 40 CFR 403.12(b) and (d))
- C. Samples shall be taken immediately downstream from pretreatment facilities if such exist, or immediately downstream from the regulated or manufacturing process if no pretreatment facilities exist. The location shall be specified in the discharge permit. For categorical users, when wastewater subject to a categorical pretreatment standard is mixed with other wastewater, the user shall measure the flows and concentrations necessary to allow use of a combined wastestream formula (CWF) in accordance with 40 CFR 403.6(e) to evaluate compliance with applicable categorical standards. For other SIUs, wastewater for which the City has adjusted its local limits to factor out dilution flows, the user shall measure the flows and concentrations necessary to evaluate compliance with the adjusted pretreatment standards.

D. All sample results shall indicate the time, date and place of sampling, and methods of analysis and shall certify that the wastestream sampled is representative of normal work cycles and expected pollutant discharges from the user. If a user sampled and analyzed more frequently than what was required in its wastewater discharge permit, using methodologies in 40 CFR Part 136, it must submit all results of sampling and analysis of the discharge as part of its self-monitoring report.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of (~~December 20, 2007~~) March 27, 2012.

Section 49: That SMC section 13.03A.0502 is amended to read as follows:

13.03A.0502 Analytical Requirements [5.2]

All pollutant analyses, including sampling techniques, must be performed by a laboratory accredited by the Washington State Department of Ecology in accordance with the techniques prescribed in 40 CFR Part 136 unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the Pollutant in question, sampling and analyses must be performed in accord with procedures approved by the EPA.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of March 27, 2012.

Section 50: That SMC section 13.03A.0503 is amended to read as follows:

13.03A.0503 City Monitoring of User Wastewater [5.3]

The City uses the procedures in [SMC 13.03A.0501](#) and [SMC 13.03A.0502](#) to monitor user wastewater.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of (~~December 20, 2007~~) March 27, 2012.

Article VI. Compliance Monitoring

Section 51: That SMC section 13.03A.0601 is amended to read as follows:

13.03A.0601 Inspection and Sampling [6.1]

~~((A.))~~ As a condition of continued utility service and requirement of this chapter, the ~~((superintendent))~~ Plant Manager has a right of entry on any premises to determine whether a user is complying with all requirements of this chapter and any discharge permit or order issued hereunder. All users must fully cooperate to allow the ~~((superintendent))~~ Plant Manager ready access to all parts of any premises with their ownership or control for the purposes of inspection, sampling, records examination and

copying, or other needs the ~~((superintendent))~~ Plant Manager may require. Users must make necessary arrangements on request of the ~~((superintendent))~~ Plant Manager or other City representatives for prompt access.

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

B. The ~~((superintendent))~~ Plant Manager may set up or install such devices he may deem necessary to conduct sampling and/or metering of the user's operations at any location needed, or may require the user to install and maintain monitoring equipment as he deems necessary. The user must protect such equipment and promptly report any problems or comply with any other ~~((superintendent))~~ Plant Manager instructions relating to said equipment. All devices used to measure wastewater flow and quality shall be calibrated on such schedule as ordered by the ~~((superintendent))~~ Plant Manager to ensure accuracy. Any expenses related to cost or use of equipment and testing or access thereto must be paid by the user within thirty days of billing by the ~~((superintendent))~~ Plant Manager.

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

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

~~((G))~~ E. All costs incurred by the City shall be billed in accord with applicable rates or on a time and materials basis, as ordered by the ~~((superintendent))~~ Plant Manager and paid by the party billed or otherwise responsible. ~~((Charges remaining unpaid shall be added to the user's utility bill after thirty days.))~~

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ~~((December 20, 2007))~~ March 27, 2012.

Section 52: That SMC section 13.03A.0602 is amended to read as follows:

13.03A.0602 Monitoring Facilities [6.2]

A. Each user must provide and operate at its own expense and liability a good and sufficient monitoring facility to allow inspections, sampling, and flow measurement of all discharges to the POTW or for other needs identified by the ~~((superintendent))~~ Plant Manager. The monitoring facility must be located on the user's premises unless otherwise authorized by the ~~((superintendent))~~ Plant Manager. No facilities may be

located in the public right-of-way without permission of the ((~~superintendent~~)) Plant Manager and the City's director of public works. All such facilities must further comply with all City right-of-way obstruction and use permitting requirements and such authorization is subject to revocation at any time. In addition, as a condition of location in the right-of-way, a user must participate in the one-call underground locator requirements consistent with applicable provisions of chapter 19.122 RCW and must fully indemnify and hold harmless the City from all loss or liability connected with right-of-way use. A user must move its facilities at its expense and liability whenever requested by the City director of public works and utilities because of other municipal needs.

- B. A User must always maintain adequate space for sampling access. The monitoring facility and any sampling or measuring equipment must be well maintained by the user at all times. All devices used to measure wastewater flows and quality must be properly calibrated to ensure accuracy, with records of such calibration maintained by the user.
- C. The ((~~superintendent~~)) Plant Manager may require the user to install additional monitoring facilities and equipment as deemed necessary. All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications. In default of user action, the City may proceed to accomplish any requirements and the cost thereof will be added to the user's utility bill if unpaid.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ((~~December 20, 2007~~)) March 27, 2012.

Section 53: That SMC section 13.03A.0603 is amended to read as follows:

13.03A.0603 Search Warrants [6.3]

If the ((~~superintendent~~)) Plant Manager has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter or any other laws relative to the ((~~superintendent~~)) Plant Manager's authority, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the City designed to verify compliance with this chapter or any discharge permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the ((~~superintendent~~)) Plant Manager may seek issuance of a search and/or seizure warrant from any court of competent jurisdiction. Such warrant shall be served at reasonable hours by the Plant Manager and/or a uniformed police officer of the City.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ((~~December 20, 2007~~)) March 27, 2012.

Section 54: That SMC section 13.03A.0604 is amended to read as follows:

13.03A.0604 Vandalism, Tampering, Disturbing Equipment or Property [6.4]

It is a violation of this chapter for anyone to vandalize, damage, disturb, tamper with, or injure any facility, equipment or property used in connection with fulfilling the requirements of this chapter or any part or appurtenance of the POTW.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of (~~December 20, 2007~~) March 27, 2012.

Article VII. Confidential Information

Section 55: That SMC section 13.03A.0701 is amended to read as follows:

13.03A.0701 Confidential Information (~~[7.1]~~)

Generally, information submitted to demonstrate compliance with pretreatment standards and requirements will be freely available to the public (See 40 CFR §2.302). Users may request confidentiality however in accord with this section.

- A. When users submit information to the (~~superintendent~~) Plant Manager or provide information to inspectors, users may request that specific information be maintained as confidential. Users must identify the specific information in writing at the time of submittal and describe why it is entitled to confidentiality under 40 CFR §403.14 as information submitted to a POTW or any other applicable law. (Cross reference: 40 CFR Part 2, including 40 CFR §2.302.)
- B. Blanket requests for confidentiality will not be honored. Specific information requested to be held confidential shall be separately submitted, which each page prominently marked "Confidentiality requested by [name, address and telephone of requesting party]."
- C. The (~~superintendent~~) Plant Manager shall review and approve or deny such requests. When approved, the information shall be separately held in a confidential file by the (~~superintendent~~) Plant Manager. If a public records request is made, the (~~superintendent~~) Plant Manager shall seek to notify the party requesting confidentiality prior to release of the time by which the party must commence legal action to protect confidentiality. If legal action is not immediately commenced by a person seeking to protect confidentiality, the records will be released unless otherwise protected by applicable law.
- D. Notwithstanding any other provision and under no circumstances is the (~~superintendent~~) Plant Manager obliged to honor any request for confidentiality if doing so would expose the City to any risk of loss or liability for damages for penalties and attorneys' fees under the Washington State Public Records Act or any other

applicable laws. It is not the City's function to expose itself to mandatory penalties and attorney's fees under Washington State Public Records Act, RCW 42.56.550. This exposure does not apply to non-governmental persons seeking to protect confidentiality, so it is the affirmative burden of such persons to establish entitlement to confidentiality, not the City's.

- E. Except as provided, all other information submitted to the ~~((superintendent))~~ Plant Manager and obtained from the ~~((superintendent))~~ Plant Manager's oversight shall be available to the public subject to the City records review policy. Federal rules prevent wastewater constituents and characteristics and other effluent data, as defined by 40 CFR 2.302 from being recognized as confidential information.
- F. Information held as confidential may not be withheld from governmental agencies for uses related to the NPDES program or pretreatment program, or in enforcement proceedings involving the person furnishing the report.

~~((NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of December 20, 2007.))~~

Article VIII. Publication of Users in Significant ~~((Noncompliance))~~ Non-compliance

Section 56: That SMC section 13.03A.0801 is amended to read as follows:

13.03A.0801 Annual Publication of Violators ~~((§-1))~~

A. Publishing.

The ~~((superintendent))~~ Plant Manager publishes within sixty days of the new year a list of the users which, at any time during the previous calendar year, were in significant ~~((noncompliance))~~ non-compliance with applicable pretreatment standards and requirements. The list is published in a newspaper of general circulation in Spokane County. Costs of publication will be billed to the users listed as an additional cost of utility service.

B. The term "significant ~~((noncompliance))~~ non-compliance" means:

1. Any violation of a pretreatment standard or requirement, including numerical limits, narrative standards, and prohibitions that the ~~((superintendent))~~ Plant Manager determines has caused, alone or in combination with other causes, interference or pass through, or otherwise endangered the health of POTW personnel or the general public.
2. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the ~~((superintendent))~~ Plant Manager's exercise of emergency authority to halt or prevent such a discharge.

3. Any violation(s), including of BMPs, which the ~~((superintendent))~~ Plant Manager determines will adversely affect the operation or implementation of the local pretreatment program.
4. Chronic violations of wastewater discharge limits, defined here as those in which sixty six percent or more of all of the measurements taken for the same pollutant parameter taken during a rolling six-month period exceed, by any magnitude, a numeric pretreatment standard or requirement, including instantaneous limits.
5. Technical review criteria (TRC) violations, defined here as those in which thirty three percent or more of wastewater measurements taken for each pollutant parameter during a rolling six-month period equal or exceed the product of the numeric pretreatment standard or requirement, (including instantaneous limits, as referenced in Article II, multiplied by the applicable criteria. Applicable criteria are 1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH. ["1.4" and "1.2" as used herein mean one hundred forty percent or one hundred twenty percent respectively of applicable permit limits.]
6. Failure to meet, within ninety days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance.
7. Failure to provide any required report within ~~((forty-five))~~ thirty calendar days after the due date. This includes initial and periodic monitoring reports and reports on initial compliance and on meeting compliance schedules.
8. Failure to accurately report ~~((noncompliance))~~ non-compliance.

C. Applicability.

The criteria in subsections (B)(1) through (3) of this section are applicable to all users, whereas the criteria in subsections (B)(4) through (8) of this section are only applicable to SIUs.

~~((NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model))~~

Article IX. Administrative Enforcement Remedies

Section 57: That SMC section 13.03A.0901 is amended to read as follows:

13.03A.0901 Administrative Enforcement Process [9.1]

Not by way of limitation of other enforcement remedies:

A. Enforcement Function; Administrative Standards.

The ((~~superintendent~~)) Plant Manager enforces this chapter. The administrative standards for the exercise of administrative authority are stated in [SMC 13.03A.0102\(B\)](#).

B. Notice of Violation.

When the ((~~superintendent~~)) Plant Manager finds a violation or violations of any provisions of this chapter, a discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the ((~~superintendent~~)) Plant Manager may send a notice of violation to a user identified as responsible by first class mail and certified letter, return receipt requested. Within thirty days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention, to include specific required actions, shall be submitted by the user to the ((~~superintendent~~)) Plant Manager. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the City to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation. Alternatively, the matter may be referred to the City prosecutor for further enforcement action.

C. Response.

Where there is a response to a notice and undertaking to correct a violation, if a respondent thereafter fails to abide by correction arrangements, the failure is considered an invalid response to the notice of violation.

D. Remediation.

After thirty days, or such other time as specified by the ((~~superintendent~~)) Plant Manager, the City may proceed to remedy the violation at the user's sole expense and liability. Costs of remediation are billed to the user. After sixty days past due, the matter is referred for legal collection action. All sums billed accrue interest at twelve percent per annum on any unpaid balance. Remediation costs include all City out of pocket costs paid to third parties for labor or materials as well as any staff time or materials contributed by the City, and administrative penalties, if applicable. The ((~~superintendent~~)) Plant Manager shall maintain a file documenting these costs and ((~~periodically~~)) quarterly issue billings to a respondent therefore. Nothing in this section limits the authority of the ((~~superintendent~~)) Plant Manager to take any other action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ((~~February 28, 2008~~)) March 27, 2012.

Section 58: That SMC section 13.03A.0902 is amended to read as follows:

13.03A.0902 Other Administrative Options [9.2, 9.3, 9.4, 9.5]

Not by way of limitation of other enforcement remedies:

A. Consent Order.

The ~~((superintendent))~~ Plant Manager may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for ~~((noncompliance))~~ non-compliance or as deemed appropriate. Such documents shall include specific action to be taken by the user to correct the problem or ~~((noncompliance))~~ non-compliance within a time period specified by the document. Such documents shall have the same force and effect as other administrative orders of this chapter and shall be judicially enforceable. Use of a consent order shall not be a bar against, or prerequisite for, taking any other action against the user.

B. Show Cause Hearing.

The ~~((superintendent))~~ Plant Manager may order a user which has violated, or continues to violate, any provision of this chapter, a discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, to appear before the ~~((superintendent))~~ Plant Manager and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served or delivered personally or by registered or certified mail (return receipt requested) at least ten calendar days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

C. Compliance Order.

When the ~~((superintendent))~~ Plant Manager finds that a user has violated, or continues to violate, any provision of this chapter, a permit or order issued hereunder, or any other pretreatment standard or requirement, the ~~((superintendent))~~ Plant Manager may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time specified in the order, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the ~~((noncompliance))~~ non-compliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

D. Cease and Desist Order.

When the ~~((superintendent))~~ Plant Manager finds that a user has violated, or continues to violate, any provision of this chapter, a discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations

are likely to recur, the ((~~superintendent~~)) Plant Manager may issue an order to the user directing it to cease and desist all such violations and directing the user to:

1. immediately comply with all requirements; and
2. take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ((~~February 28, 2008~~)) March 27, 2012.

Section 59: That SMC section 13.03A.0903 is amended to read as follows:

13.03A.0903 Suspension, Termination of Service Orders [9.7, 9.8]

Not by way of limitation of other enforcement remedies:

A. Emergency Suspensions.

1. The ((~~superintendent~~)) Plant Manager may immediately suspend a user's discharge, after informal notice to the user, whenever the suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The ((~~superintendent~~)) Plant Manager may also immediately suspend a user's discharge, after notice and an opportunity to respond, that threatens to interfere with the operation of the POTW or which presents or may present an endangerment to the environment. Nothing in this section shall be interpreted as requiring a hearing prior to an emergency suspension under this section.
 - a. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the ((~~superintendent~~)) Plant Manager shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The ((~~superintendent~~)) Plant Manager shall allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the City that the period of endangerment has passed, unless the termination proceedings as outlined in this chapter are initiated against the user.

- b. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the ~~((superintendent))~~ Plant Manager prior to the date of any show cause or termination hearing under this chapter.

B. Termination of Discharge (Non-Emergency).

In addition to [SMC 13.03A.0312](#), any user who violates a following condition is subject to discharge termination:

1. violation of discharge permit conditions, or other requirements of this chapter;
2. failure to apply for a discharge permit as required
3. failure to accurately report the wastewater constituents and characteristics of its discharge;
4. failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
5. refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling;
6. violation of the pretreatment standards in Article II of this chapter; or
7. failure to comply with any administrative order.

The user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under [SMC 13.03A.0902](#) why the proposed action should not be taken. Exercise of this option by the City shall not be a bar to, or a prerequisite for, taking any other action against the user.

C. User Remains Fully Liable.

Users are fully responsible for any loss or liability to the City because of the quality or quantity of a discharge or for any other reason relating to requirements of this chapter and must pay all costs to the City as a condition of continued City utility service. Such costs include out of pocket expenses, as well as in house staff time and materials costs, as well as professional services costs either in house or out of pocket.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of (~~February 28, 2008~~) March 27, 2012.

Section 60: That SMC section 13.03A.0904 is amended to read as follows:

13.03A.0904 Administrative Appeals (~~[[9.4]]~~)

- A. Except where the ((~~superintendent~~)) Plant Manager elects to initiate action to seek immediate judicial relief, any ((~~superintendent~~)) Plant Manager decision, including without limitation permit decisions, assessment of costs, fine or fees, or other administrative decisions may be administratively appealed by an interested party with standing by filing a written appeal in proper form with the City hearing examiner within ten calendar days of the date of determination or in the case of permits, the date of issuance as provided in [SMC 13.03A.0306](#). Copies of the appeal must also be provided within such time to the city attorney and the ((~~superintendent~~)) Plant Manager. If the appealing party is not the permittee, a copy of the appeal must also be provided to the permittee in the same time frame. The date of determination is the date reflected therein or, if mailed, three days from the date of mailing, whichever is later. "Filing" requires actual receipt. As a further condition of appeal, the appealing party must tender, pending the outcome of the appeal, the full amount of any costs, billings, charges, penalties or fees assessed and a fee as specified in [SMC 13.03A.1401](#).
- B. To be accepted, in proper form, as timely, appeals must show:
1. the appealing party's name, telephone number, and business address;
 2. proof of service of the appeal on the city attorney and ((~~superintendent~~)) Plant Manager;
 3. a copy of the decision being appealed;
 4. a receipt or other proof from the City showing payment of any amounts as required, subject to reimbursement if the payments are involved in the appeal and the appeal is upheld;
 5. the basis of the appeal and reasons why it should be granted, together with supporting information as well as the names and contact information of persons with knowledge supporting the appeal;
 6. the best way to contact the appealing party, which must include telephone and mail address, and email if available;
 7. the appeal must be signed, verified under oath and dated by an authorized representative of the appealing party per [SMC 13.03A.0305\(B\)](#).
- C. The hearing examiner may require any party to the appeal to testify under oath and upon personal knowledge and to produce documents or records deemed relevant or necessary. The examiner shall conduct the hearing within thirty days of the appeal being filed and decide the issue within thirty days of the hearing.
- D. At the hearing, the burden of proof is on the initially appealing party, based upon substantial evidence. The examiner may affirm, reverse or modify a ((~~superintendent~~))

Plant Manager's decision if the examiner determines it violates this chapter or is arbitrary and capricious. The decision of the hearing examiner is final, subject to review by either party under the provisions of RCW 7.16.040, so long as the examiner decision appealing party files and serves upon all necessary parties its petition for granting a writ of review within twenty days of the date of issuance of the examiner's decision. The appealing party is responsible to order the record from the hearing examiner and make payment arrangements. The appeal is limited to the record. The hearing examiner preserves a record of the hearing in such form and manner as the examiner deems proper for at least two years.

- E. Filing of an appeal does not stay the effectiveness of the ~~((superintendent))~~ Plant Manager's decision unless agreed by the ~~((superintendent))~~ Plant Manager, and subject to such additional conditions as the ~~((superintendent))~~ Plant Manager may require.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ~~((December 20, 2007))~~ March 27, 2012.

Section 61: That SMC section 13.03A.0906 is amended to read as follows:

13.03A.0906 Administrative Fines [9.6]

- A. When the ~~((superintendent))~~ Plant Manager finds that a user has violated or continues to violate any provision of this ~~((ordinance))~~ chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the ~~((superintendent))~~ Plant Manager may fine the user in an amount not to exceed ten thousand dollars ~~((The fines shall be))~~ assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.
- B. Unpaid charges, fines, and penalties shall after thirty calendar days, be assessed an additional penalty of one percent of the unpaid balance per month. A lien against the user's property will be sought for unpaid charges, fines, and penalties.
- C. Users desiring to dispute such fines must file a written request for reconsideration of the fine along with the full payment of the fine amount within fifteen days of being notified of the fine. Where a request has merit, the ~~((superintendent))~~ Plant Manager shall convene a hearing on the matter within thirty days of receiving the request from the user. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The City may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
- D. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ~~((February 28, 2008))~~ March 27, 2012.

Article X. Judicial Remedies

Section 62: That SMC section 13.03A.1001 is amended to read as follows:

13.03A.1001 Civil Penalties [10.2]

- A. A user which has violated or continues to violate any provision of this chapter, a discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the City for a maximum civil penalty of ten thousand dollars, but not less than one thousand dollars per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
- B. The ~~((superintendent))~~ Plant Manager may recover reasonable attorneys' fees, courts costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the City, as well as environmental remediation deemed necessary.
- C. In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
- D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ~~((February 28, 2008))~~ March 27, 2012.

Section 63: That SMC section 13.03A.1002 is amended to read as follows:

13.03A.1002 Injunctive Relief [10.1]

When the ~~((superintendent))~~ Plant Manager finds that a user has violated, or continues to violate, any provision of this chapter, a discharge permit, order issued hereunder, or any other pretreatment standard or requirement, the ~~((superintendent))~~ Plant Manager may petition any court of competent jurisdiction to seek a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of a discharge permit, order, or other requirement imposed by this chapter on activities of the user. The ~~((superintendent))~~ Plant Manager may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation under applicable local, state, or federal laws. A petition for injunctive relief shall not be a bar against, or prerequisite for, taking any other action against a user.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of (~~February 28, 2008~~) March 27, 2012.

Section 64: That SMC section 13.03A.1003 is amended to read as follows:

13.03A.1003 Criminal Prosecution [10.3]

- A. A user which has willfully or negligently violated any provision of this chapter, a discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a gross misdemeanor, punishable by a fine of not more than ten thousand dollars per violation per day and the costs for prosecution, and (~~per violation per day,~~) or imprisonment for not more than three hundred sixty-four days, or by both.

- B. A user which has willfully or negligently introduced any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a gross misdemeanor and be subject to a penalty of up to ten thousand dollars per violation per day and the costs of prosecution, (~~per violation, per day~~) and/or be subject to imprisonment for up to three hundred sixty-four days, or by both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.

- C. A user which knowingly made any false statements, representation, or certification in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this chapter, discharge permit, or order issued hereunder, or who falsified, tampered with, or knowingly rendered inaccurate any monitoring device or method required under this chapter shall, upon conviction, be guilty of a gross misdemeanor and be subject to a penalty of up to ten thousand dollars and the costs of prosecution, per violation(~~(,)~~) per day, and/or be subject to imprisonment for up to three hundred sixty-four days, or by both.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of (~~February 28, 2008~~) March 27, 2012.

Section 65: That SMC section 13.03A.1004 is amended to read as follows:

13.03A.1004 Remedies Nonexclusive [10.4]

The provisions of (~~SMC 13.03A.0800~~) [SMC 13.03A.0801](#) through [SMC 13.03A.1105](#) of this chapter are not exclusive remedies. The City reserves the right to take any, all, or any combination of these actions against a non-compliant user. Enforcement in response to pretreatment violations will generally be in accordance with the City's enforcement response plan. However the city reserves the right to take other action against any user when the circumstances warrant. Further, the City is empowered to take more than one enforcement action against any non-compliant user. These actions may be taken concurrently.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of (~~February 28, 2008~~) March 27, 2012.

Section 66: That SMC section 13.03A.1005 is amended to read as follows:

13.03A.1005 Violation of this Chapter (~~[10.5]~~)

A violation of this chapter is the failure to take any action required by this chapter or order of the (~~superintendent~~) Plant Manager or taking of any action prohibited by this chapter or the (~~superintendent~~) Plant Manager. Violations include, but are not limited to, items expressly stated to be violations in a given section, failure to obtain permits, give notice, or submit reports as required, failure to properly sign and certify documents submitted as required, and failure to pay required fees.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of (~~December 20, 2007~~) March 27, 2012.

Article XI. Supplemental Enforcement Measures

Section 67: That SMC section 13.03A.1101 is amended to read as follows:

13.03A.1101 Bond, Security for Performance [11.1]

The (~~superintendent~~) Plant Manager may require any user, as a condition of permit issuance, renewal, or otherwise, who has failed to comply with any provision of this chapter, a previous discharge permit, or enforcement order, or any other pretreatment standard or requirement, or for other cause, to procure a bond, letter of credit, or other good and sufficient security acceptable to the (~~superintendent~~) Plant Manager conditioned upon compliance with this chapter, in a sum not to exceed a value reasonably determined by the (~~superintendent~~) Plant Manager to be necessary to achieve consistent compliance.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of (~~December 20, 2007~~) March 27, 2012.

Section 68: That SMC section 13.03A.1102 is amended to read as follows:

13.03A.1102 Liability Insurance [11.2]

The (~~superintendent~~) Plant Manager may require any user, as a condition of permit issuance, renewal, or otherwise, who has failed to comply with any provision of this chapter, a previous discharge permit, or enforcement order, or any other pretreatment standard or requirement, or for other cause, to procure good and sufficient liability insurance, with the City of Spokane as an additional named insured, or other security acceptable to the (~~superintendent~~) Plant Manager, with coverage limits not to exceed a

value reasonably determined by the ~~((superintendent))~~ Plant Manager with the advice of the risk manager sufficient to restore or repair damage to the POTW or other public property caused by its discharge and/or any other damage, loss or liability to which the City may be reasonably exposed because of the users actions or failures to act.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ~~((December 20, 2007))~~ March 27, 2012.

Section 69: That SMC section 13.03A.1104 is amended to read as follows:

13.03A.1104 Public Nuisance [11.4]

Any premises, processes or facilities maintained or operated in violation of any provisions of this chapter, a discharge permit or ~~((superintendent))~~ Plant Manager order issued hereunder, or any other pretreatment standard or requirement are hereby declared a public nuisance, subject to abatement by any lawful means, including summary abatement or other correction or abatement as ordered by the ~~((superintendent))~~ Plant Manager, including chapter 7.48 RCW or any other remedy in contract or law.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ~~((December 20, 2007))~~ March 27, 2012.

Section 70: That SMC section 13.03A.1105 entitled "Informant Rewards" is repealed:

13.03A.1105 Informant Rewards [11.5] - REPEALED

~~((The superintendent may pay up to one thousand dollars reward for information leading to the discovery of noncompliance by a user leading to successful collection of penalties or fines, but not beyond twenty percent of any fines or penalties collected. No one employed or retained by the City to enforce this chapter is eligible for a reward. Applications for payment shall be in writing and demonstrate eligibility for a reward under the requirements of this section.~~

~~NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of December 20, 2007.~~

~~Date Passed: Monday, October 20, 2008~~

~~Effective Date: Sunday, November 23, 2008~~

~~ORD C34317 Section 4))~~

Section 71: That there is adopted a new section 13.03A.1106 to Chapter 13.03A of the Spokane Municipal Code to read as follows:

13.03A.1106 Contractor Listing [11.6]

Users which have not achieved compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or

services to the City. Existing contracts for the sale of goods or services to the City held by a user found to be in significant non-compliance with pretreatment standards or requirements may be terminated at the discretion of the City.

Section 72: That SMC section 13.03A.1201 is amended to read as follows:

13.03A.1201 Upset [12.1]

- A. For the purposes of this section, “upset” means an exceptional incident in which there is unintentional and temporary ~~((noncompliance))~~ non-compliance with applicable pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include ~~((noncompliance))~~ non-compliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- B. An upset shall constitute an affirmative defense to punitive actions in response to ~~((noncompliance))~~ non-compliance with applicable pretreatment standards if the requirements of subsection (C) of this section are met.
- C. A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
1. an upset occurred and the user can identify the cause(s) of the upset;
 2. the facility was at the time being operated in a prudent and workman like manner and in compliance with applicable operation and maintenance procedures; and
 3. the user has submitted the following information to the ~~((superintendent))~~ Plant Manager within twenty four hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five days:
 - a. A description of the discharge and cause of ~~((noncompliance))~~ non-compliance.
 - b. The period of ~~((noncompliance))~~ non-compliance, including exact dates and times or, if not corrected, the anticipated time the ~~((noncompliance))~~ non-compliance is expected to continue; and
 - c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the ~~((noncompliance))~~ non-compliance.
- D. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

- E. Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for ~~((noncompliance))~~ non-compliance with applicable pretreatment standards unless otherwise required by law. Such opportunity may be conditioned on other requirements such as exhaustion of administrative remedies or other applicable conditions.
- F. Users shall control production of 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.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ~~((December 20, 2007))~~ March 27, 2012.

Section 73: That SMC section 13.03A.1202 is amended to read as follows:

13.03A.1202 Prohibited Discharge Standards Affirmative Defenses [12.2]

A user shall have an affirmative defense to an enforcement action brought against it for ~~((noncompliance))~~ non-compliance with the general prohibitions in [SMC 13.03A.0201\(A\)](#) or the specific prohibitions in [SMC 13.03A.0201\(B\)\(3\) through \(7\)](#) if it can prove that it did not know, or have reason to know in the exercise of reasonable prudence and caution, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- A. a local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or
- B. no local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the City was regularly in compliance with its NPDES permit, and in the case of interference, the City was in compliance with applicable sludge use or disposal requirements.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ~~((December 20, 2007))~~ March 27, 2012.

Section 74: That SMC section 13.03A.1203 is amended to read as follows:

13.03A.1203 Bypass Affirmative Defenses [12.3]

A. For the purposes of this section:

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

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

B. A user may allow any bypass to occur which does not cause applicable pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to subsection (C) and (D) of this section although the user must still promptly report the event to the ~~((superintendent))~~ Plant Manager unless excused by the ~~((superintendent))~~ Plant Manager, together with any information requested.

C. Notice of Bypass.

1. If a user knows, or should know in the exercise of reasonable prudence and caution, in advance of the need for a bypass, it shall submit prior notice to the ~~((superintendent))~~ Plant Manager, at least ten days before the date of the bypass, wherever possible.
2. A user shall submit oral notice to the ~~((superintendent))~~ Plant Manager of an unanticipated bypass that exceeds applicable pretreatment standards within twenty four hours from the time the user becomes aware or reasonably should have known of the bypass. The notice must include the information required for the written submission below. A written submission shall also be provided within five days of the time the user becomes aware of the bypass. Unless waived by the ~~((superintendent))~~ Plant Manager on a case-by-case basis, after oral notice has been received within the time required, the written report must contain:
 - a. a description of the bypass (volume, pollutants, etc.);
 - b. what caused the bypass;
 - c. when, specifically, the bypass started and ended;
 - d. when the bypass is expected to stop (if ongoing);
 - e. what steps the user has taken or plans to take to reduce, eliminate, and prevent the bypass from reoccurring.

D. Bypass – Further Prohibitions – Approval.

1. Bypass is prohibited, and the ~~((superintendent))~~ Plant Manager may take an enforcement action against a user for a bypass, unless:

- a. bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - b. there were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - c. the user submitted notices as required under subsection (C) of this section.
2. The ~~((superintendent))~~ Plant Manager may approve an anticipated bypass~~((,))~~ after considering its adverse effects and ~~((,))~~ if the ~~((superintendent))~~ Plant Manager determines that it will meet the three conditions listed in subsection (D)(1) of this section.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ~~((December 20, 2007))~~ March 27, 2012.

Section 75: That SMC section 13.03A.1204 is amended to read as follows:

13.03A.1204 Burden of Proof ~~(([12.4]))~~

It shall always be the burden of proof, based on substantial evidence, of the party asserting any affirmative defense to establish the same.

~~((NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of December 20, 2007.))~~

Article XIV. ~~((Fees))~~ Miscellaneous Provisions

Section 76: That SMC section 13.03A.1401 is amended to read as follows:

13.03A.1401 Pretreatment Fees [14.1]

A. Fees are administrative cost recovery charges. They may be estimates or approximations with a final statement of charges submitted after costs are incurred. All fees are payable at the time of filing any application or request or as directed by the ~~((superintendent))~~ Plant Manager. Upon approval by the ~~((superintendent))~~ Plant Manager, fees may be billed and are payable ~~((in that case))~~ within thirty days of billing. Fees are in addition to any rates for sewer utility service or other expenses or costs not covered by the fees. Fees are subject to change at any time without notice.

B. The City has adopted reasonable fees for reimbursement of costs of setting up and operating the City's Pretreatment Program to include without limitation:

1. Fees for wastewater discharge permit applications including the cost of processing such application;
2. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
3. Fees for reviewing and responding to accidental discharge procedures and construction;
4. Fees for filing appeals; and
5. Other fees as the City may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this ordinance and are separate from all other fees, fines and penalties chargeable by the City.

C. The listing of fees ((in this section)) is not by way of limitation, and the City reserves the right to charge any other fees for applicable services or benefits provided to or burdens created by the person identified as responsible for the fee. Where the ((superintendent)) Plant Manager determines that additional costs, materials, staff time, or other expenses are incurred in processing any permit or application for permission or approval, plan review or other service which are not reasonably covered by a fee assessed, the ((superintendent)) Plant Manager may prepare a supplemental charges billing, to be paid as a condition of further processing an item. In addition, the ((superintendent)) Plant Manager may waive or reduce any fee for good cause shown. All fees and charges are non-refundable and non-proratable.

~~((C. Schedule of Standard Fees:~~

- ~~1. SMC 13.03A.0304((F))(A)(1) — Permit application fee: Five hundred dollars.~~
- ~~2. SMC 13.03A.0307(A)(2) — Annual inspection fee: Two hundred fifty dollars.~~
- ~~3. SMC 13.03A.0313 — Permit renewal application fee: Two hundred fifty dollars.~~
- ~~4. SMC 13.03A.0904(A) — Administrative appeal: Two hundred fifty dollars.~~
- ~~5. SMC 13.03A.0801 — Publication of significant non-compliance notice: Costs as billed, payable in advance.~~
- ~~6. Monitoring, inspection, surveillance, sampling fees: Costs as determined and billed by the ((superintendent)) Plant Manager.~~

~~7. Processing fee for NSF checks: As set by City treasurer.~~

~~8. Administrative penalty: Five hundred dollars.~~

~~9. Any other review or approval by the ((superintendent)) Plant Manager not otherwise specified above: Hourly basis based on staff time at sixty dollars per hour as billed.))~~

D. These fees are established in accordance with City Policy and as set out in Public Rule, which is on file with the Spokane City Clerk's Office.

E. Upon failure of the user to comply with any requirement of this chapter or order of the ((superintendent)) Plant Manager, the user may be billed costs incurred by the City on a time and materials basis. Any unpaid charges may be added to the utility bill of the user or other party identified as responsible if they remain unpaid after thirty days.

NOTE: Bracketed enumerations reference the numbering in the EPA Region 10 Model Ordinance of ((December 20, 2007)) March 27, 2012.

Section 77: That SMC section 13.03A.1501 entitled "Appendix A to 40 Code of Federal Regulations Part 423 - 126" is repealed:

13.03A.1501 Appendix A to 40 Code of Federal Regulations Part 423 – 126 Priority Pollutants REPEALED

~~((001 Acenaphthene~~

~~002 Acrolein~~

~~003 Acrylonitrile~~

~~004 Benzene~~

~~005 Benzidine~~

~~006 Carbon tetrachloride (tetrachloromethane)~~

~~007 Chlorobenzene~~

~~008 1,2,4-trichlorobenzene~~

~~009 Hexachlorobenzene~~

~~010 1,2-dichloroethane~~

~~011 1,1,1-trichloroethane~~

~~012 Hexachloroethane~~

013 1,1-dichloroethane
014 1,1,2-trichloroethane
015 1,1,2,2-tetrachloroethane
016 Chloroethane
018 Bis(2-chloroethyl) ether
019 2-chloroethyl vinyl ether (mixed)
020 2-chloronaphthalene
021 2,4,6-trichlorophenol
022 Parachlorometacresol
023 Chloroform (trichloromethane)
024 2-chlorophenol
025 1,2-dichlorobenzene
026 1,3-dichlorobenzene
027 1,4-dichlorobenzene
028 3,3-dichlorobenzidine
029 1,1-dichloroethylene
030 1,2-trans-dichloroethylene
031 2,4-dichlorophenol
032 1,2-dichloropropane
033 1,2-dichloropropylene (1,3-dichloropropene)
034 2,4-dimethylphenol
035 2,4-dinitrotoluene
036 2,6-dinitrotoluene

037 1,2-diphenylhydrazine
038 Ethylbenzene
039 Fluoranthene
040 4-chlorophenyl phenyl ether
041 4-bromophenyl phenyl ether
042 Bis(2-chloroisopropyl) ether
043 Bis(2-chloroethoxy) methane
044 Methylene chloride (dichloromethane)
045 Methyl chloride (dichloromethane)
046 Methyl bromide (bromomethane)
047 Bromoform (tribromomethane)
048 Dichlorobromomethane
051 Chlorodibromomethane
052 Hexachlorobutadiene
053 Hexachloromyclopentadiene
054 Isophorone
055 Naphthalene
056 Nitrobenzene
057 2-nitrophenol
058 4-nitrophenol
059 2,4-dinitrophenol
060 4,6-dinitro-o-cresol
061 N-nitrosodimethylamine
062 N-nitrosodiphenylamine

063 N-nitrosodi-n-propylamin

064 Pentachlorophenol

065 Phenol

066 Bis(2-ethylhexyl) phthalate

067 Butyl benzyl phthalate

068 Di-N-Butyl Phthalate

069 Di-n-octyl phthalate

070 Diethyl Phthalate

071 Dimethyl phthalate

072 1,2-benzanthracene (benzo(a)-anthracene)

073 Benzo(a)pyrene (3,4-benzo-pyrene)

074 3,4-Benzofluoranthene (benzo(b)-fluoranthene)

075 11,12-benzofluoranthene (benzo(b)-fluoranthene)

076 Chrysene

077 Acenaphthylene

078 Anthracene

079 1,12-benzoperylene (benzo(ghi)-perylene)

080 Fluorene

081 Phenanthrene

082 1,2,5,6-dibenzanthracene (dibenzo(H)-anthracene)

083 Indeno (1,2,3-cd) pyrene (2,3-o-pheynylene pyrene)

084 Pyrene

085 Tetrachloroethylene

086 Toluene

087 Trichloroethylene

088 Vinyl chloride (chloroethylene)

089 Aldrin

090 Dieldrin

091 Chlordane (technical mixture and metabolites)

092 4,4-DDT

093 4,4-DDE (p, p-DDX)

094 4,4-DDD (p, p-TDE)

095 Alpha-endosulfan

096 Beta-endosulfan

097 Endosulfan sulfate

098 Endrin

099 Endrin aldehyde

100 Heptachlor

101 Heptachlor epoxide (BHC-hexachlorocyclohexane)

102 Alpha-BHC

103 Beta-BHC

104 Gamma-BHC (lindane)

105 Delta-BHC (PCB-polychlorinated biphenyls)

106 PCB-1242 (Arochlor 1242)

107 PCB-1254 (Arochlor 1254)

108 PCB-1221 (Arochlor 1221)

109 PCB-1232 (Arochlor 1232)

~~110 PCB-1248 (Arochlor 1248)~~

~~111 PCB-1260 (Arochlor 1260)~~

~~112 PCB-1016 (Arochlor 1016)~~

~~113 Toxaphene~~

~~114 Antimony~~

~~115 Arsenic~~

~~116 Asbestos~~

~~117 Beryllium~~

~~118 Cadmium~~

~~119 Chromium~~

~~120 Copper~~

~~121 Cyanide, Total~~

~~122 Lead~~

~~123 Mercury~~

~~124 Nickel~~

~~125 Selenium~~

~~126 Silver~~

~~127 Thallium~~

~~128 Zinc~~

~~129 2,3,7,8-tetrachloro-dibenzo-p-dioxin (TCDD)~~

~~Date Passed: Monday, October 20, 2008~~

~~Effective Date: Sunday, November 23, 2008~~

~~ORD C34317 Section 1))~~

Section 78: That SMC section 13.03A.1502 entitled “Appendix D to 40 Code of Federal Regulations Part 122 – NPDES Permit Application Testing Requirements (§122.21)” is repealed:

13.03A.1502 Appendix D to 40 Code of Federal Regulations Part 122 – NPDES Permit Application Testing Requirements (§ 122.21) - REPEALED
[\(\(Tables\)\)](#)

Section 79: Effective Date.

This ordinance shall take effect and be in force on _____, 2020.

Passed by the City Council on _____.

Council President

Attest:

Approved as to form:

City Clerk

Assistant City Attorney

Mayor

Date

Effective Date