

# **EASTERN IDAHO REGIONAL SEWER DISTRICT (EIRSD)**

## **ORDINANCE 2024-01**



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# TABLE OF CONTENTS

SECTION 1 – GENERAL PROVISIONS.....	2
1.1    PURPOSE .....	2
1.2    DEFINITION OF TERMS .....	2
1.3    ABBREVIATIONS .....	10
1.4    ADMINISTRATION .....	12
1.5    SCOPE OF CHAPTER.....	12
1.6    REVOCATION OF PRIOR ORDINANCES .....	12
SECTION 2 – GENERAL SEWER USE REQUIREMENTS.....	12
2.1    SEWAGE TO BE DISCHARGED INTO WASTEWATER TREATMENT SYSTEM .....	12
2.2    STORMWATER NOT PERMITTED IN SANITARY SEWER.....	12
2.3    UNPOLLUTED WATER DISCHARGED TO STORM DRAIN.....	12
2.4    PROHIBITED DISCHARGE STANDARDS .....	12
2.5    FEDERAL CATEGORICAL PRETREATMENT STANDARDS.....	15
2.6    STATE REQUIREMENTS .....	15
2.7    LOCAL LIMITS .....	15
2.8    RIGHT OF REVISION.....	16
2.9    DILUTION.....	16
2.10   PERMIT APPROVAL REQUIRED FOR WASTEWATE .....	16
2.11   CONNECTION TO SANITARY SEWER REQUIRED.....	17
2.12   SEWER SERVICES; APLICATION AND REVIEW FEE.....	17
2.13   SEWER SERVICE CONNECTION FEES .....	17
2.14   SEWER SERVICE REPAIR .....	18
2.15   PERMIT REQUIRED TO WORK ON PUBLIC SEWER .....	18
2.16   NOTICE OF INSPECTION .....	19
2.17   RIGHT TO REVOKE PERMISSION.....	19
2.18   SEWER CONSTRUCTION SPECIFICATIONS.....	19
2.19   SUBMISSION OF INFORMATION .....	19
2.20   INJURY TO SEWERAGE SYSTEM UNLAWFUL.....	19
2.21   STATE REQUIREMENT .....	19
SECTION 3 – PRETREATMENT OF WASTEWATER.....	19
3.1    SPECIAL AGREEMENTS .....	19
3.2    PRETREATMENT FACILITIES.....	20

3.3	DEADLINES FOR COMPLIANCE WITH APPLICABLE PRETREATMENT REQUIREMENTS.....	20
3.4	GREASE TRAPS OR INTERCEPTORS REQUIRED.....	21
3.5	OPERATION AND MAINTENANCE OF TRAPS AND INTERCEPTORS .....	21
3.6	ACCIDENTAL DISCHARGES/SLUG CONTROL PLANS .....	22
SECTION 4 – INDIVIDUAL WASTEWATER DISCHARGE PERMITS.....		23
4.1	WASTEWATER DISCHARGE PERMIT REQUIREMENTS.....	23
4.2	WASTEWATER DISCHARGE PERMITTING – EXISTING SIU.....	23
4.3	WASTEWATER DISCHARGE PERMITTING – NEW SOURCE AND NEW USER .....	24
4.4	WASTEWATER DISCHARGE PERMITTING – EXTRA-JURISDICTIONAL USERS.....	24
4.5	WASTEWATER DISCHARGE PERMIT APPLICATION CONTENTS.....	24
4.6	SIGNATORY AND CERTIFICATION REQUIRED .....	27
4.7	WASTEWATER DISCHARGE PERMIT DECISIONS.....	27
SECTION 5 – INDIVIDUAL WASTEWATER DISCHARGE PERMIT ISSUANCE.....		27
5.1	WASTEWATER DISCHARGE PERMIT CONTENTS .....	27
5.2	WASTEWATER DISCHARGE PERMIT APPEALS.....	29
5.3	WASTEWATER DISCHARGE PERMIT DURATION .....	29
5.4	WASTEWATER DISCHARGE PERMIT MODIFICATION .....	29
5.5	WASTEWATER DISCHARGE PERMIT TRANSFER .....	30
5.6	WASTEWATER DISCHARGE PERMIT REVOCATION .....	30
5.7	WASTEWATER DISCHARGE PERMIT REISSUANCE.....	31
SECTION 6 – REPORTING REQUIREMENTS.....		31
6.1	BASELINE MONITORING REPORTS.....	31
6.2	FINAL COMPLIANCE REPORT .....	32
6.3	PERIODIC COMPLIANCE REPORT .....	33
6.4	COMPLIANCE SCHEDULES FOR MEETING APPLICABLE PRETREATMENT STANDARDS.....	35
6.5	NOTIFICATION OF SIGNIFICANT PRODUCTION CHANGES .....	35
6.6	HAZARDOUS WASTE NOTIFICATION.....	36
6.7	NOTICE OF POTENTIAL PROBLEMS, INCLUDING ACCIDENTAL SPILLS, SLUG LOADS .....	37
6.8	NONCOMPLIANCE REPORTING .....	37
6.9	NOTIFICATION OF CHANGED DISCHARGE .....	37
6.10	REPORTS FROM UNPERMITTED USERS.....	38
6.11	RECORDKEEPING.....	38
6.12	SAMPLING REQUIREMENTS FOR USERS .....	38

6.13	ANALYTICAL REQUIREMENTS.....	39
SECTION 7 – COMPLIANCE MONITORING .....		39
7.1	MONITORING OF USER'S WASTEWATER .....	39
7.2	INSPECTION AND SAMPLING .....	39
7.3	MONITORING FACILITIES .....	40
SECTION 8 – CONFIDENTIAL INFORMATION.....		40
8.1	CONFIDENTIAL INFORMATION .....	40
SECTION 9 – PUBLICATION OF USERS IN SIGNIFICANT NON-COMPLIANCE .....		41
9.1	PUBLICATION OF USERS IN SIGNIFICANT NON-COMPLIANCE .....	41
SECTION 10 – ADMINISTRATIVE ENFORCEMENT REMEDIES.....		41
10.1	NOTIFICATION OF VIOLATION.....	41
10.2	CONSENT ORDERS.....	42
10.3	SHOW CAUSE HEARING .....	42
10.4	COMPLIANCE ORDERS.....	42
10.5	CEASE AND DESIST ORDERS .....	42
10.6	ADMINISTRATIVE FINES: .....	43
10.7	EMERGENCY SUSPENSIONS .....	43
10.8	TERMINATION OF DISCHARGE (NON-EMERGENCY) .....	44
SECTION 11 – JUDICIAL ENFORCEMENT REMEDIES.....		44
11.1	INJUNCTIVE RELIEF.....	44
11.2	CIVIL PENALTIES .....	45
11.3	CRIMINAL PROSECUTION.....	45
11.4	REMEDIES NON-EXCLUSIVE .....	46
SECTION 12 – SUPPLEMENTAL ENFORCEMENT ACTION .....		46
12.1	PERFORMANCE BONDS.....	46
12.2	LIABILITY INSURANCE.....	46
12.3	TERMINATION OF UTILITY SERVICES.....	46
12.4	PUBLIC NUISANCES .....	46
12.5	CONTRACTOR LISTING .....	46
SECTION 13 – AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS .....		47
13.1	AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS .....	47
SECTION 14 – WASTEWATER TREATMENT RATES .....		49
14.1	SYSTEM OF CHARGES.....	49

14.2	BASIS FOR DETERMINING INDUSTRIAL WASTE CHARGES .....	49
14.3	COMPUTATION OF INDUSTRIAL WASTE SERVICE CHARGES:.....	49
14.4	METHOD OF COMPUTING UNIT CHARGES: .....	49
14.5	ADJUSTMENT OF UNIT CHARGES.....	50
14.6	METHOD OF INDUSTRIAL USER BILLING .....	50
14.7	ADJUSTMENT OF CHARGES.....	50
14.8	SEWER USER SERVICE CHARGE .....	51
14.9	CLASSIFICATION OF USERS.....	51
14.10	RATES OUTSIDE EIRSD.....	51
14.11	RECOVERY OF COSTS INCURRED BY EIRSD .....	51
SECTION 15 – MISCELLANEOUS PROVISIONS .....		51
15.1	FALSIFYING INFORMATION .....	51
15.2	LIMITATION OF LIABILITY .....	51
15.3	PENALTY .....	52
15.4	UNAUTHORIZED ACCESS TO MANHOLES OR UNAUTHORIZED USE OF SYSTEM .....	52
SECTION 16 – EFFECTIVE DATE OF ORDINANCE .....		52

EASTERN IDAHO REGIONAL SEWER DISTRICT (EIRSD)  
ORDINANCE 2024-01

AN ORDINANCE GOVERNING THE OPERATION OF THE EASTERN IDAHO REGIONAL SEWER DISTRICT; GENERAL PROVISIONS; GENERAL SEWER USE REQUIREMENTS; PRETREATMENT OF WASTEWATER; INDIVIDUAL WASTEWATER DISCHARGE PERMITS; INDIVIDUAL WASTEWATER DISCHARGE PERMIT ISSUANCE; COMPLIANCE MONITORING; CONFIDENTIAL INFORMATION; PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE; ADMINISTRATIVE ENFORCEMENT REMEDIES; JUDICIAL ENFORCEMENT REMEDIES; SUPPLEMENTAL ENFORCEMENT ACTION; AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS; WASTEWATER TREATMENT RATES; AND MISCELLANEOUS PROVISIONS.

WHEREAS, EASTERN IDAHO REGIONAL SEWER DISTRICT (hereinafter “EIRSD” or “the District”), located within defined boundaries in Bonneville County and Bingham County, is operating as an authorized sewer district pursuant to Idaho Code § 42-3201 et. seq.; and

WHEREAS, the District has the powers and authority outlined in I.C. § 42-3201 et. seq., including those power enumerated in I.C. § 42-3212; and

WHEREAS, the District is empowered to ensure proper treatment of collected wastewater, including human waste, for sanitary purposes within its boundaries; and

NOW THEREFORE, BE IT ORDAINED AS FOLLOWS:

## SECTION 1 – GENERAL PROVISIONS

### 1.1 PURPOSE

This chapter sets forth uniform requirements for Users of the Publicly-Owned Treatment Works (POTW) for the Eastern Idaho Regional Sewer District (EIRSD) and enables EIRSD to comply with all applicable State and Federal laws including the Clean Water Act and the General Pretreatment Regulations (40 CFR, Part 403). The objectives of this chapter are:

- A. To prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW;
- B. To prevent the passage of pollutants through the POTW, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the POTW;
- C. To improve the opportunity to recycle and reclaim wastewaters and sludges from the system;
- D. To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;
- E. To establish an equitable distribution of the cost of operating the POTW;
- F. To establish an equitable means, through the collection of a sewer main connection fee, of requiring persons connecting to an existing sewer main which directly benefits their property, to participate in the costs of installing such main; and
- G. To establish an equitable means through a sewer service connection fee of requiring persons who connect to the sanitary sewer system and the wastewater treatment plant to participate in the capital costs of constructing the entire system and to pay the direct costs of making such connection.

### 1.2 DEFINITION OF TERMS

Certain terms used in this Chapter shall have the meanings herein given to them.

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

**APPLICABLE:** For any specified pollutant, EIRSD prohibitive standards, EIRSD PRETREATMENT specific pretreatment standards, State of Idaho pretreatment STANDARDS, or EPA's Categorical Pretreatment Standards, whichever standard is appropriate or most stringent.

**AUTHORIZED REPRESENTATIVE OF THE USER:**

- A. If the User is a corporation:
  - 1. The president, secretary, treasurer, or 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
  - 2. The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures;
- B. If the User is a partnership or sole proprietorship: a general partner or proprietor, respectively;
- C. If the User is a Federal, State or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her designee;
- D. The individuals described in paragraphs A through C above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to EIRSD.

**BIOCHEMICAL OXYGEN DEMAND:** The quantity of oxygen utilized in the biochemical oxidation of organic matter (BOD) under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (i.e., parts per million or milligrams per liter).

**BOARD:** The duly elected or appointed members of the board of directors for EIRSD.

**BUILDING DRAIN:** That part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the buildings and conveys it to the side sewer which begins two feet (2') outside the outer face of the building wall or foundation.

**CATEGORICAL PRETREATMENT STANDARD OR CATEGORICAL STANDARD:** Any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of Users and which appear in 40 CFR, Chapter 1, Subchapter N, Parts 405-471.

**CATEGORICAL USER:** A User covered by one or more Categorical Pretreatment Standards.

**CITY:** The City of Shelley, Idaho or the City of Ammon, Idaho.

**CHLORINE REQUIREMENT:** The amount of chlorine, in parts per million by weight which must be added to the sewage to produce a specified residual chlorine content, in accordance with



procedures set forth in "Standard Methods."

CLEAN WATER ACT: The Clean Water Act of 1977 as codified in 33 \_\_ U.S.C. \_\_ § \_\_ 1251 et. seq.

CODE OF FEDERAL REGULATIONS OR C.F.R.: The United States Code of Federal Regulations.

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

COMBINED SEWER: A sewer receiving both surface runoff and sanitary wastewater.

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.

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

DAILY MAXIMUM LIMIT: The maximum allowable discharge limit of a pollutant during a calendar day. Where the daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where the daily maximum limits are expressed in terms of concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

DISCHARGE: The introduction of pollutants into the POTW from any non-domestic source regulated under Section 307(b), (c), or (d) of the Act. 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.

DISTRICT MANAGER: The District Manager of EIRSD or a duly authorized representative of EIRSD appointed by the President of the EIRSD Board and confirmed by the EIRSD Board.

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 as that of a residential dwelling unit.

DWELLING UNIT: A building or structure or portion thereof that is constructed and used primarily for residential purposes, or any building or structure which has been constructed or altered to provide for two (2) or more families or households or which has been constructed or altered to accommodate travelers or transients.

EFFECTIVE DATE: The effective date of the board resolution adopting this ordinance.

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

EQUIVALENT RESIDENTIAL UNIT (ERU): A standardized unit of measure used to equate non-

residential or multi-family residential properties to a specific number of single-family residences. Discharges from an equivalent residential unit (ERU) shall not exceed the following values, which may be modified by the EIRSD Board from time to time to reflect current data:

- Flow – 218 gallons per day
- BOD – 350 parts per million or 0.636 pounds per day
- TSS – 350 parts per million or 0.636 pounds per day
- TP – 7 parts per million or 0.013 pounds per day
- Total Kjeldahl Nitrogen (TKN) – 50 parts per million or 0.091 pounds per day
- Ammonia - 30 parts per million or 0.055 pounds per day
- FOG – 25 parts per million
- PH – 6.5 to 9.0

EXISTING USER: Any noncategorical Users which was discharging wastewater prior to the Effective Date of this ordinance.

FEDERAL PRIORITY POLLUTANT LIST: The list of toxic pollutants identified in the list included in 40 C.F.R., Part 403.

GARBAGE: The residue from the preparation, cooking and dispensing of food, and from the handling, storage and sale of food products and produce.

GRAB SAMPLE: A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.

GROUND GARBAGE: Garbage that has been shredded to such degree that all particles can be carried freely in suspension under flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1/2") in any dimension.

IPDES: Idaho Pollutant Discharge Elimination System permit program as administered by the Idaho Department of Environmental Quality.

INDIRECT DISCHARGE: A discharge.

INDUSTRIAL USER (IU): A non-domestic User.

INDUSTRIAL WASTEWATER DISCHARGE PERMIT: An authorization or equivalent control document issued by EIRSD of Industrial Users discharging wastewater to the POTW. The permit may contain appropriate pretreatment standards and requirement as set forth in this chapter.

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; (2) inhibits or disrupts its sludge processes, use or disposal; or (3) is a cause of a violation of EIRSD's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or more stringent state or local regulations: Section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the SWDA; the Clean Air Act; and the Toxic Substances Control Act.

**INDUSTRIAL WASTE:** The solid liquid or gaseous waste resulting from any industrial, manufacturing, trade or production process or from the development, recovery, refining, or processing of natural resources.

**LOCAL LIMIT:** Specific discharge limits developed and enforced by EIRSD upon nonresidential Users to implement the general and specific discharge prohibitions listed 40 CFR 403.5(a)(1) and (b).

**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.

**MAXIMUM MONTHLY AVERAGE:** The maximum sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

**MEDICAL WASTES:** 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.

**MISDEMEANOR:** A criminal offense as defined by then existing Idaho Law as defined by Idaho Code §18-111 and 18-113. Each day or each event of violation shall be considered an additional misdemeanor. Should such violation constitute a felony under state or federal law, the same shall constitute a felony.

**MONTHLY AVERAGE:** The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

**NEW SOURCE:**

- A. Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
  - 1. The building, structure, facility, or installation is constructed at a site at which no other source is located; or
  - 2. The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- B. 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 Section A.1 or A.2 above, but otherwise

alters, replaces, or adds to existing process or production equipment.

- C. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
1. Begun, or caused to begin as part of a continuous on-site construction program:
    - a. Any placement, assembly or installation of facilities or equipment; or
    - b. Significant site preparation work including clearing, excavation or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment;
  2. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this paragraph.

**NEW USER:** A "New User" is not a "new-source" and is defined as a User that applies for a new building permit or any person who occupies an existing building and plans to discharge wastewater to the collection system after the Effective Date of this ordinance. Any person that buys an existing facility that is discharging non-domestic wastewater will be considered an "existing User" if no significant changes are made in the manufacturing operation.

**NPDES:** National Pollutant Discharge Elimination System permit program as administered by the U.S. Environmental Protection Agency.

**NATURAL OUTLET:** Any outlet into a watercourse, pond, ditch, lake or other body of surface or ground water.

**ODOROUS GAS:** Gas that contains a substance at or above a concentration which stimulates a human olfactory system so that an odor is perceived including but not limited to the following compounds:

- Hydrogen Sulfide – 0.00047 part per million or greater;
- Ammonia – 46.8 parts per million or greater;
- Methyl Mercaptan – 0.0021 parts per million or greater;
- Carbon Disulfide – 0.21 parts per million or greater;
- Biphenyl Sulfide – 0.0047 parts per million or greater;
- Dimethyl Sulfide – 0.001 parts per million or greater.

**pH:** The logarithm (base 10) of the reciprocal of the hydrogen ion concentration expressed in moles per liter and used to measure the acidity or alkalinity of a solution. PH shall be determined by the procedures outlined in "Standard Methods".

**PARTS PER MILLION:** A weight-to-weight ratio; parts per million value multiplied by the factor 8.342 shall be equivalent to pounds per million gallons of water.

**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 dischargers from other sources, causes a violation of any requirement of EIRSD's NPDES permit (including an increase in the magnitude or duration of a violation).

**PERMITTEE:** A person or User issued a wastewater discharge permit.

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

**POLLUTANT:** Any dredged 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 the wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, Chemical Oxygen Demand (COD), ammonia, phosphorus, toxicity or odor).

**POTW:** The publicly-owned treatment works of EIRSD consisting of all sewage treatment facilities, equipment and appurtenances for the treatment and disposal of sewage.

**PRETREATMENT:** The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a 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.

**PRETREATMENT REQUIREMENTS:** Any substantive or procedural requirement related to pretreatment imposed on a User, other than a pretreatment standard.

**PRETREATMENT STANDARDS:** Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards and local limits established by the City or EIRSD.

**PROHIBITED DISCHARGE STANDARDS OR PROHIBITED DISCHARGES:** Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 2.4 of this Chapter.

**PRIVATE SEWER:** All sewers except public sewers.

**PUBLIC SEWER:** A sewer which discharges directly or indirectly into the POTW and which is owned by the City or EIRSD and located on public property or within a publicly-owned easement.

**SANITARY SEWAGE:** Wastes that are derived principally from dwellings, business buildings, institutions and other places of habitation or occupation exclusive of storm and surface water.

**SANITARY SEWER:** A sewer that conveys, or which is intended to convey, sanitary sewage or industrial wastes, or a combination of the two.

**SERVICE CHARGE:** The charge assessed by EIRSD for use of the POTW.

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

SEWER: A pipe or conduit for conveying wastewater.

SEWER CONNECTION FEE: A one-time fee paid by a New User for the right to connect to and use the EIRSD sewer and POTW. This fee may include a capacity replacement fee, charges for inspection and constructing the sewer connection, and any other charges then existing as adopted by the EIRSD Board by resolution or ordinance.

SEWER SERVICE: The pipe extension from the building drain to the public sewer.

SEWER SLUDGE: Any semi liquid mass produced by partial dewatering of potable or spent process waters, sanitary sewer, sewage, or wastewater.

SHALL, MAY: "Shall" is mandatory; "may" is permissive.

SIGNIFICANT INDUSTRIAL USER:

- A. A User subject to Categorical Pretreatment Standards; or
- B. A User that:
  - 1. Discharges an average of 25,000 gpd or more of process wastewater into the POTW (excluding sanitary non- contact cooling and boiler blowdown wastewater); or
  - 2. Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
  - 3. Is designated as such by the City or EIRSD on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
- C. Upon finding that a User meeting the criteria in Subsection B above has no reasonable potential for adversely affecting the POTW's operation or for violating any applicable pretreatment standard or requirement, EIRSD 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 403.8(f)(6), determine that such User should not be considered a significant industrial User.

SLUG LOAD: Any discharge at a flow rate or concentration which could cause a violation of the discharge standards in Sections 2.4 through 2.7 of this chapter or any discharge of a non-routine, episodic nature, including but not limited to, an accidental spill or a non-customary batch discharge.

STANDARD METHODS: The examination and analytical procedures set forth in the most recent edition of "Standard Methods for the Examination of Water, Sewage and Industrial Wastes," published jointly by the American Public Health Association, the American Water Works Association and the Federation of Sewage and Industrial Wastes Association.

**STANDARD SEWAGE:** Sewage and acceptable wastes which meet the specifications set forth in this chapter regarding pH, BOD, dissolved oxygen, suspended solids and grease.

**STORM DRAIN:** A pipe or conduit conveying Storm Water, surface and ground water drainage and which does not convey sanitary sewage or industrial wastes.

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

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

**TOXIC POLLUTANT:** One of 126 pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by EPA under Section 307 (33 U.S.C. 1317) of the Act.

**TREATMENT WORKS:** Those devices and systems defined in Section 35.905-23 of the Federal Register, Vol. 39, Number 29, Pt. III, published February 11, 1974.

**UNPOLLUTED WATER:** Any water or liquid containing none of the following substances: free or emulsified grease or oil; acids or alkalis; substances that may impart taste or color characteristics; toxic or poisonous substances in suspension, colloidal state or solution; odorous or otherwise obnoxious gases.

**UPSET:** An exceptional incident in which a discharger unintentionally and temporarily is in a state of noncompliance with the standards set forth in this chapter due to factors beyond the reasonable control of the discharger, and excluding noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance or careless or improper operation thereof.

**USER:** Any person who discharges wastewater into the POTW including both existing and future dischargers to which all this ordinance applies.

**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.

**WASTEWATER TREATMENT PLANT:** That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

**WATER RECLAMATION FACILITY:** That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

**WATERCOURSE:** A channel in which a flow of water occurs, either continuously or intermittently

### 1.3 ABBREVIATIONS

The following abbreviations shall have the designated meanings:

ASPP: Accidental Spill Prevention Plan

BOD: Biochemical Oxygen Demand  
CFR: Code of Federal Regulations  
COD: Chemical Oxygen Demand  
EIRSD: Eastern Idaho Regional Sewer District  
EPA: U.S. Environmental Protection Agency  
gpd: Gallons per day  
IU: Industrial User  
L: Liter  
LEL: Lower Explosive Limit  
mg: Milligrams  
mg/l: Milligrams per liter  
mgd: Million gallons per day  
NPDES: National Pollutant Discharge Elimination System  
O&M: Operations and Maintenance  
ppd: Pounds per day  
ppm: Parts per million  
POTW: Publicly-Owned Treatment Works  
RCRA: Resource Conservation and Recovery Act  
SIC: Standard Industrial Classifications  
SIU: Significant Industrial User  
TKN: Total Kjeldahl Nitrogen  
TP: Total Phosphorus  
WRF: Water Reclamation Facility  
WTP/WWTP: Wastewater Treatment Plant (same as WRF)  
SWDA: Solid Waste Disposal Act (42 U.S.C. 6901, et seq.)



TSS: Total Suspended Solids

USC: United States Code

#### 1.4 ADMINISTRATION

Except as otherwise provided herein, the District Manager shall administer, implement and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the District Manager may be delegated to other EIRSD personnel.

#### 1.5 SCOPE OF CHAPTER

This chapter shall apply to all Users of the POTW, regardless of whether or not such User is located within the boundaries of EIRSD. EIRSD shall administer, implement, and enforce the provisions of this chapter.

#### 1.6 REVOCATION OF PRIOR ORDINANCES

Ordinance 2022-02 is hereby revoked and withdrawn.

### SECTION 2 – GENERAL SEWER USE REQUIREMENTS

#### 2.1 SEWAGE TO BE DISCHARGED INTO WASTEWATER TREATMENT SYSTEM

All sanitary sewage, industrial wastes or other waters containing any pollutant shall be discharged into the POTW at discharge points designated by EIRSD. No person shall otherwise dispose of sewage, wastes or polluted waters into the POTW unless expressly permitted by this chapter. EIRSD reserves the right to deny, limit, or control discharge from any User at its sole discretion for any reason in EIRSD's best interest.

#### 2.2 STORMWATER NOT PERMITTED IN SANITARY SEWER

No person shall discharge or cause to be discharged any storm water, ground water, roof runoff, sub-surface drainage, cooling water or unpolluted water from any source other than the City water system, into the POTW.

#### 2.3 UNPOLLUTED WATER DISCHARGED TO STORM DRAIN

All storm water shall be discharged to such sewers as are expressly designated or approved by the City or EIRSD as combined sewers or storm drains, or to a natural outlet approved by the City or EIRSD. Industrial cooling water or unpolluted process water may be discharged upon approval of the City or EIRSD to a storm drain, combined sewer or natural outlet.

#### 2.4 PROHIBITED DISCHARGE STANDARDS

- A. General Prohibitions: No User shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes, or could potentially cause, pass through or interference. These general prohibitions apply to all Users of the POTW whether or not they are subject to categorical pretreatment standards or any other national, state or

local pretreatment standards or requirements.

- B. Specific Prohibitions: No User shall introduce or cause to be introduced into the POTW the following pollutants, substances or wastewater:
1. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;
  2. Wastewater having a pH less than 6.5 or more than 9.0, or otherwise causing corrosive structural damage to the POTW or equipment in the WRF;
  3. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, but in no case solids greater than one-half inch (1/2") in any dimension;
  4. Pollutants, including oxygen-demanding pollutants released in a discharge at a flow rate and/or pollutant 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 WRF resulting in interference, but in no case wastewater which causes the temperature at the introduction into the WRF plant to exceed 104°F (40°C) unless EIRSD approves alternate temperature limits;
  6. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
  7. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quality that may cause acute worker health and safety problems;
  8. Trucked or hauled pollutants, except at discharge points designated by EIRSD;
  9. Odorous, 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;
  10. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating EIRSD'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 than ten percent (10%) from the seasonably established norm for aquatic life;
  11. Wastewater containing any radioactive wastes or isotopes except as specifically approved in writing by the District Manager in compliance with applicable state or federal regulations;

12. Storm water, 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 District Manager.
13. Any sewer sludges, screenings, or other residues from the pretreatment of industrial wastes or from industrial processes;
14. Medical wastes, except as specifically authorized by the District Manager;
15. Wastewater causing, along or in conjunction with other sources, the WRF's effluent to fail a toxicity test;
16. Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
17. Any liquid, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the POTW or to the operation of the POTW. At no time shall two (2) successive readings on an explosion meter, at the point of discharge into the system (or at any point in the system), be more than five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter;
18. Any combination of fats, oils, or greases of animal, petroleum, petroleum vegetable, or vegetable origin in concentrations greater than 25.0 parts per million;
19. Grease, garbage other than ground garbage, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dusts, 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;
20. Any substance which will cause the POTW to violate its NPDES/IPDES and/or other disposal system permits;
21. Any wastewater, which in the opinion of the District Manager can cause harm either to the sewers, WWTP or equipment, have an adverse effect on the receiving stream, or can otherwise endanger life, limb, public property or constitute a nuisance, unless allowed under special agreement by the District Manager, except that no special waiver shall be given from categorical pretreatment standards;
22. The contents of any tank or other vessel owned or used by any person in the business of collecting or pumping sewage, effluent or septage;
23. Any hazardous waste as prohibited or regulated by the State of Idaho or in EPA Rules 40 CFR Part 261;

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

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.

Any violation of the provisions of this section shall be deemed to be a misdemeanor.

2.5 FEDERAL CATEGORICAL PRETREATMENT STANDARDS

The National Categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471, or as may be promulgated by the EPA hereafter, are hereby incorporated by reference. One copy of such standards shall be filed with the EIRSD Clerk and two (2) copies of such standards shall be kept on file at all times in the office of the District Manager.

2.6 STATE REQUIREMENTS

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

2.7 LOCAL LIMITS

The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following daily maximum allowable discharge limits.

• Arsenic	0.07 mg/l
• Cadmium	0.69 mg/l
• Chromium (total)	2.77 mg/l
• Copper	3.38 mg/l
• Cyanide	1.20 mg/l
• Lead	0.62 mg/l
• Mercury	0.25 mg/l
• Nickel	3.98 mg/l
• Oil and grease (petroleum or mineral oil products)	
• Oil and grease (animal and vegetable-based)	25.00 mg/l
• Oil and grease (petroleum and vegetable-based)	
• Silver	0.45 mg/l
• Stoddard solvent	0.00 mg/l
• 1,1,1-trichloroethylene	
• Zinc	1.50 mg/l

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 District Manager may impose mass limitations in addition to (or in place of) the concentration-based limitations above. Where a User is subject to a categorical pretreatment

standard and a local limit for a given pollutant, the more stringent limit or applicable pretreatment standard shall apply.

Any violation of the provisions of this section shall be deemed to be a misdemeanor.

## 2.8 RIGHT OF REVISION

EIRSD reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

## 2.9 DILUTION

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 an applicable pretreatment standard or requirement. The District Manager may impose mass limitations on

Users which he believes may be using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

Any violation of the provisions of this section shall be deemed to be a misdemeanor.

## 2.10 PERMIT APPROVAL REQUIRED FOR WASTEWATER

No User outside the service areas of the Cities or non-residential User shall discharge wastewater into the POTW without having first filed an Application for Connection Permit with the District Manager and having obtained a permit to discharge wastewater into the POTW. The EIRSD Application for Connection form and sewer connection review fee(s) shall be adopted by resolution of the EIRSD Board and may be amended and modified from time to time by resolution of the EIRSD Board.

At the time of such application, the applicant shall provide sufficient information concerning the nature, concentration and quantity of his waste or such other information as may be reasonably necessary for the District Manager to assure compliance with this chapter. Upon receipt of said application, the District Manager shall review the same and if necessary, inspect the property and facilities of the applicant to determine if said facilities are in compliance with the provisions of this chapter. Upon making such determination, the District Manager shall forthwith issue a permit to the applicant authorizing discharge of waste to the public sewer. All Significant Industrial Users shall in addition comply with the provisions of Sections 4 through 5 of this Ordinance. Such permit may be issued upon conditions reasonably necessary to assure compliance with this chapter, including, but not limited to, the following:

- A. Limits on the average and maximum wastewater constituents and characteristics;
- B. Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;
- C. Requirements for installation and maintenance of inspection and sampling facilities;

- D. Conditions concerning sampling locations, frequency of sampling, number, types and standards for tests and a reporting schedule therefor;
- E. Compliance schedules;
- F. Periodic submission of technical reports or other discharge reports necessary to determine compliance with this chapter, and the frequency of monitoring of the discharge;
- G. Any other condition reasonably necessary to assure compliance with this chapter.

#### 2.11 CONNECTION TO SANITARY SEWER REQUIRED

Every building or structure located within EIRSD and from which any wastewater is discharged shall be connected to the public sanitary sewer if such sewer is within three hundred feet (300') of such building or structure or within the distance required by the local jurisdiction, whichever is less. All connections to the sewer shall be made at the expense of the owner or person having control thereof. Any person who fails to make such connection within ninety (90) days after receiving a notice from EIRSD advising of the availability of the sewer, shall be guilty of a misdemeanor.

#### 2.12 SEWER SERVICES; APPLICATION AND REVIEW FEE

A separate and independent sewer service shall be installed for every building using or required to use the POTW. Separate sewer services are not required for each space in a travel trailer court. Applications submitted without full payment of all applicable review fee(s) will not be considered.

#### 2.13 SEWER SERVICE CONNECTION FEES

- A. Permits Required: No person shall install or alter any sanitary sewer within EIRSD, or tap onto or connect to any sanitary sewer line, whether lateral, main or interceptor, without first obtaining a permit from the City or EIRSD.
- B. Sewer Connection Fees: Before a permit is issued for the installation or alteration of any sanitary sewer or before any connection is made to any sanitary sewer line, whether lateral, main or interceptor, the applicant shall pay to EIRSD a sewer connection fee. The fees to be imposed shall be adopted by resolution of the EIRSD Board and may be amended and modified from time to time by resolution of EIRSD Board, and the current schedule of charges shall be posted in the office of the EIRSD Clerk and made available to any interested party inquiring concerning connections. The connection fee may include surcharge fees, application review fees, inspection fees, a capital replacement fee, and all other costs incurred by EIRSD with respect to the connection. The City or County of the service location may charge additional fees for connections.

A separate sewer connection permit must be obtained for each building or trailer court or cabin court using the sanitary sewer system of EIRSD, and except as otherwise provided herein, the service connection fee for the amount per ERU as established by EIRSD board resolution and for the number of ERUs determined by the EIRSD District Manager must be paid. Once the required sewer service connection fee has been paid

for any building connected to the POTW, no further connection fee shall be charged for the connection of any sewer serving any building constructed or reconstructed at the same place, or so near the same place that no substantial extension of the original side sewer is necessary to serve it.

Sewer connection fees must be paid prior to obtaining EIRSD's approval and signature on a final plat for a development to be served by EIRSD and prior to obtaining a wastewater discharge permit.

#### 2.14 SEWER SERVICE REPAIR

When any sewer service or private sewer connected to the public sewer becomes obstructed, broken or out of order, the owner, agent or tenant of such premises shall repair the same at his own expense.

- A. At such time as the City or EIRSD determines a customer service line is or is likely to cause damage to roadways, easement, sewer collection or any transmission line, the City Public Works District Manager, the EIRSD District Manager, or their designee shall provide the property owner an explanation, in writing, of the said issue and shall order the problem to be repaired within twenty (20) days or such additional time as permitted in writing.
- B. In the event repairs are not made, then the City or EIRSD shall make such repairs to the extent permitted by law after which, an invoice shall be submitted to the property owner which shall be paid within twenty (20) days or a lien shall be placed on said property.
- C. To the extent that the City or EIRSD cannot do said repair, the City or EIRSD shall be entitled to obtain an order from the court allowing said repair, all costs incurred in obtaining said order including but not limited to attorney fees and court costs shall be included in the cost of performing said repairs.

#### 2.15 PERMIT REQUIRED TO WORK ON PUBLIC SEWER

No person shall uncover, disturb, construct, repair or extend any part of the POTW without first obtaining a sewer service excavation permit. No person shall extend any private sewer or sewer service beyond the limits of the building or property for which a permit has been given without obtaining a permit for the desired extension. The issuance of a sewer service permit shall not be construed to permit any work for which a public right of way excavation permit is required by this Code.

Said permit shall be considered issued for structure connections at such time as a capacity replacement fee has been paid along with the issuance of a building permit.

Said permit shall be considered issued/approved for development extension of a main line/trunk line upon the City or EIRSD Engineer approval of the improvement drawings for a subdivision and/or development.

Any violation of the provisions of this section shall be deemed to be a misdemeanor.

## 2.16 NOTICE OF INSPECTION

No person shall make connection to any public sewer without first giving advance notice to the District Manager at least forty-eight (48) hours prior to the time of making such connection, stating when such work will be ready for inspection. Any person desiring to lay or drive any pipe in a public street, alley or easement shall give at least twenty-four (24) hours' notice to EIRSD. Notices given on any Saturday, Sunday, or legal holiday will not be accepted.

## 2.17 RIGHT TO REVOKE PERMISSION

All sewer service excavation permits issued under this chapter may be revoked upon failure of the holder of the permit to comply with this chapter.

## 2.18 SEWER CONSTRUCTION SPECIFICATIONS

All construction or reconstruction on public and private sewer services shall be in accordance with the provisions of this chapter and all other generally accepted engineering specifications including the Idaho Standards for Public Works Construction and EIRSD's adopted standard specification, details, and engineering standards, whichever is more stringent.

## 2.19 SUBMISSION OF INFORMATION

Plans, specifications and any other pertinent information relating to proposed pretreatment or processing facilities shall be submitted for approval to the approving authority prior to the start of their construction if the effluent from such facilities is to be discharged into the public sewers.

## 2.20 INJURY TO SEWERAGE SYSTEM UNLAWFUL

No person shall damage, break, remove or tamper with any portion of the POTW. No person shall deposit into the POTW any substance which will likely obstruct the flow of wastewater in the POTW.

Any violation of the provisions of this section shall be deemed to be a misdemeanor.

## 2.21 STATE REQUIREMENT

State standards and limitations on discharges to the POTW shall be met by all Users where such standards are more stringent than the standards in this or any other applicable chapter.

Any violation of the provisions of this section shall be deemed to be a misdemeanor.

## SECTION 3 – PRETREATMENT OF WASTEWATER

### 3.1 SPECIAL AGREEMENTS

EIRSD reserves the right to enter into special agreements with Users setting out special terms under which they may discharge to the POTW. In no case will a special agreement waive compliance with a categorical pretreatment standard or federal pretreatment requirement. However, the User may request a net gross adjustment to a categorical standard in accordance



with 40 CFR 403.15. They may also request a variance from the categorical pretreatment standard from the approval authority in accordance with 40 CFR 403.13.

### 3.2 PRETREATMENT FACILITIES

Users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all applicable pretreatment standards and requirements set out in this chapter within the time limitations specified by the EPA, the State, of the District Manager, whichever is more stringent. Any facilities required to pretreat wastewater to a level acceptable to EIRSD shall be provided, operated and maintained at the User's expense. A pretreatment plan with content meeting EIRSD's requirements including design and sizing criteria with existing and future flows and loads, facility description and flow schematics, effluent targets, operational procedures and staffing requirements, and sampling, monitoring, and reporting procedures, and detailed drawings and specifications showing the facility's sewage and floor drain piping and the pretreatment facilities shall be submitted to EIRSD for review, and shall be acceptable to EIRSD before construction of the facility. The review of such plans and documents will in no way relieve the User from the Responsibility of modifying the facility as necessary to produce an acceptable discharge to EIRSD under the provisions of this chapter.

- A. Pretreatment facilities shall not produce odorous gas;
- B. Pretreatment facilities shall not have sewer sludge stored on site for more than 12 hours.
- C. For applicants seeking a permit to discharge ten (10) or more ERU's, EIRSD may charge an additional Permit Review Fee in such amounts as EIRSD may determine from time to time.

### 3.3 DEADLINES FOR COMPLIANCE WITH APPLICABLE PRETREATMENT REQUIREMENTS

Compliance by existing Users covered by categorical pretreatment standards shall be accomplished within 3 years of the date the standard is effective unless a shorter compliance time is specified in the appropriate standard. EIRSD shall establish a final compliance deadline date for any existing User not covered by categorical pretreatment standards or for any categorical User when the local limits for said User are more restrictive than EPA's categorical pretreatment standards.

New source dischargers and "new Users" shall not violate the Prohibited Discharge Standards listed in Section 2.4 at any time and are required to comply with applicable pretreatment standards within the shortest feasible time not to exceed 90 days from the beginning of discharge. New sources and new Users shall install and have in operating condition and shall "start-up" all pollution control equipment required to meet applicable pretreatment standards before beginning to discharge.

Any wastewater discharge permit issued to a categorical User shall not contain a compliance date beyond any deadline date established in EPA's categorical pretreatment standards. Any other existing User or a categorical User that must comply with a more stringent local limit, which is in non-compliance with any local limits shall be provided with a compliance schedule placed in an industrial wastewater permit to ensure compliance within the shortest time feasible.

### 3.4 GREASE TRAPS OR INTERCEPTORS REQUIRED

Whenever a building is used as a hotel, boarding house, restaurant, or other facility where grease, fats, or oils are created and discharged as part of the facility's operation at concentrations or volumes that are greater than that created and discharged by typical single-family residential units, the owner or occupant shall provide a grease trap or interceptors through which all wastes of a greasy nature shall be drained. Such grease trap or interceptor shall be designed to remove all grease and garbage in a manner which allows only wastewater which complies with this chapter to drain into the sanitary sewer.

Grease, oil and sand traps or interceptors or other adequate removal facilities shall be installed on the premises necessary to remove grease in excessive amounts, high concentration of blood, fruit, vegetable or grain liquors, milk wastes, or any flammable wastes, sand and other harmful ingredients.

### 3.5 OPERATION AND MAINTENANCE OF TRAPS AND INTERCEPTORS

All traps and interceptors shall be of a type and capacity approved by the District Manager and shall be so located as to be readily and easily accessible for cleaning and inspection. All interceptors shall be properly and regularly maintained by the owner or occupant.

- A. Grease traps shall be cleaned at a minimum every seven (7) days, unless evidence is provided to the District Manager less frequent cleaning is sufficient. Grease interceptors shall be cleaned at a minimum one (1) time per quarter.
- B. Cities or EIRSD personnel, at their discretion, are authorized to inspect grease traps.
- C. A grease interceptor maintenance log shall be required for all commercial kitchens. Forms are available from the EIRSD Office and shall be as designated by the District Manager. An entry must be made each time the interceptor is cleaned, stating the date and person/company providing the cleaning. Receipts must be maintained if the service is provided by a septic pumper not employed by the business.
- D. City or EIRSD personnel will carry out periodic inspections of food service facilities grease interceptors.
- E. Documentation of inspections and maintenance collected by City personnel shall be provided to the EIRSD District Manager on a quarterly basis.
- F. A grease interceptor or a grease trap is not considered to be properly maintained if for any reason it is not in good working condition with all internal required plumbing of proper design and length in place, or if the operational fluid capacity has been reduced by more than twenty five percent (25%) by the accumulation of floating and settled solids, oils, and greases.
- G. The owner of any premises required to install a grease trap or interceptor; the lessee and sublessee, if there be such; and any proprietor, operator, or Superintendent of such facility are individually and severally liable for any failure of proper maintenance of such grease trap or interceptor.

- H. If the grease trap or interceptor is not maintained adequately under the conditions of use, the grease trap or interceptor shall be resized and the User shall install one which is effective in accomplishing the intended purpose.
- I. When a grease trap or interceptor is cleaned, the sidewalls shall be scraped and hosed down, while all the solids and liquids contained are removed. All wastes removed from any grease trap or interceptor shall be legally disposed of other than to the sewer. EIRSD specifically prohibits the following practices:
  - 1. Pumping to remove only accumulated sediments or floating materials.
  - 2. Pumping operations which specifically separate floating or sediment solid wastes from wastewater and then return or decant the separated wastewater back into the grease trap or interceptor.
  - 3. Transporting any hauled pollutants from another location for discharge into a grease trap or interceptor.
- J. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

Any violation of the provisions of this section shall be deemed to be a misdemeanor.

### 3.6 ACCIDENTAL DISCHARGES/SLUG CONTROL PLANS

- A. The District Manager may require any User to develop and implement an accidental discharge/slug control plan ("ASPP"). Where deemed necessary by EIRSD, 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/slug control plan showing facilities and operating procedures to provide this protection shall be submitted to EIRSD for review and approval before implementation. EIRSD shall determine which User is required to develop a plan and require said plan to be submitted within 30 days after written notification by EIRSD that an ASPP is required. Each User shall implement its ASPP as submitted or as modified after such plan has been reviewed and approved by EIRSD. Review and approval of such plans and operating procedures by EIRSD shall not relieve the User from the responsibility to modify its facility as necessary to meet the requirements of this chapter.
- B. Any User required to develop and implement an ASPP shall submit a plan which addresses, at a minimum, the following:
  - 1. Description of discharge practices, including non-routine batch discharges;
  - 2. Description of stored chemicals;
  - 3. Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the standards in Sections 2.4 through 2.7 of this chapter; and

4. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents) and/or measures and equipment for emergency response.
- C. Users shall notify the District Manager immediately upon the occurrence of a "slug" or "accidental discharge" of substances regulated by this chapter. The notification shall include location of discharge, date and time thereof, type of waste, concentration and volume and correlative actions. Any affected User shall be liable for any expense, loss or damage to the POTW, including the amount of any fines imposed on EIRSD on account thereof under state or federal law.
- D. Within five (5) days following an accidental discharge, the User shall submit to the District Manager a detailed written report describing the cause of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the User of any fines, civil penalties or other liability which may be imposed by this chapter or other applicable law.
- E. Signs shall be permanently posted in conspicuous places on the User's premises advising employees whom to call in the event of a slug or accidental discharge. Employers shall instruct all employees who may cause or discover such a discharge with respect to emergency notification procedures.

## SECTION 4 – INDIVIDUAL WASTEWATER DISCHARGE PERMITS

### 4.1 WASTEWATER DISCHARGE PERMIT REQUIREMENTS

No Commercial, Industrial, or Significant Industrial User shall discharge wastewater into the POTW without first submitting an Application for Connection Permit and obtaining a wastewater discharge permit from the District Manager, or City if located within a City service area. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this chapter and subjects the wastewater discharge permittee to the sanctions set out in this chapter. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state and local law. The District Manager may require other Users, including liquid waste haulers, to obtain wastewater discharge permits (as necessary) to carry out the purposes of this chapter.

Any violation of the provisions of this section shall be deemed to be a misdemeanor.

### 4.2 WASTEWATER DISCHARGE PERMITTING – EXISTING SIU

EXISTING SIU: Any SIU that was discharging wastewater into the POTW prior to the effective date of this Code, and who wishes to continue such discharges in the future shall submit, within 60 days after notification by the District Manager, a permit application to EIRSD in accordance with

Section 4.5 of this chapter. EIRSD's notification to SIU shall comply with the 180-day submittal deadline date established in 40 CFR Section 403.12(b).

Any violation of the provisions of this section shall be deemed to be a misdemeanor.

#### 4.3 WASTEWATER DISCHARGE PERMITTING – NEW SOURCE AND NEW USER

**NEW SOURCE AND NEW USER:** At least 90 days prior to the anticipated start-up, New Sources, sources that become a User subsequent to the promulgation of an applicable categorical pretreatment standard and New Users which are SIU's, shall apply for a wastewater discharge permit and will be required to submit to EIRSD at least the information listed in Section 4.5. A New Source or New User cannot discharge without first receiving a wastewater discharge permit from EIRSD. New Sources and New Users shall be required to include in their application information on the method of pretreatment the User intends to use to meet applicable pretreatment standards. New Sources and New Users shall give estimates of the information requested in Section 4.5.

Any violation of the provisions of this section shall be deemed to be a misdemeanor.

#### 4.4 WASTEWATER DISCHARGE PERMITTING – EXTRA-JURISDICTIONAL USERS

Any Existing User located beyond EIRSD limits required to obtain a wastewater discharge permit shall submit a wastewater discharge permit application as outlined in Section 4.2. New Source and New Users located beyond EIRSD limits required to obtain a wastewater discharge permit shall comply with all provisions of this ordinance.

Any violation of the provisions of this section shall be deemed to be a misdemeanor.

#### 4.5 WASTEWATER DISCHARGE PERMIT APPLICATION CONTENTS

All non-residential Users required to obtain a wastewater discharge permit must submit, at a minimum, the following information. The District Manager shall approve a form to be used as a permit application. When pretreatment is required to meet applicable EIRSD standards and requirements, the User shall also submit a pretreatment plan meeting the requirements of Section 3. Categorical Users submitting the following information shall be deemed to have complied with 40 CFR 403.12(b).

- A. Identifying Information. The User shall submit the name and address of the facility, including the name of the operator and owners.
- B. Permits. The User shall submit a list of any environmental control permits held by or for the facility.
- C. Description of Operations. The User shall submit a brief description of the nature, average rate of production, and standard industrial classification of the operation(s) carried out by such industrial User, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW. number and type of employees; hours of operation; each produce produced by type, amount, process or processes, and rate of production; type

and amount of raw materials processed (average and maximum per day) and the time and duration of discharges. This description should also include a schematic process diagram which indicates points of discharge to the POTW from the regulated or manufacturing processes. Disclosure of site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location and elevation.

- D. Requirements for installation and maintenance of inspection and sampling facilities.
- E. Conditions concerning sampling locations, frequency of sampling, number, types and standards for tests, and a reporting schedule.
- F. Periodic submission of technical reports or other discharge reports necessary to determine compliance with this ordinance and the frequency of monitoring the discharge.
- G. Flow Measurement.
  - 1. Categorical User: The User shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:
    - a. Regulated or manufacturing process streams; and
    - b. Other streams as necessary to allow use of the combined waste stream formula of 40 CFR 403.6(e).
  - 2. Non-Categorical User. The User shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:
    - a. Total process flow, wastewater treatment plant flow, total plant flow or individual manufacturing process flow as required by the District Manager.

EIRSD may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

- H. Measurements of Pollutants.
  - 1. Categorical User:
    - a. The User shall identify the applicable pretreatment standards for each regulated or manufacturing process.
    - b. In addition, the User shall submit the results of sampling and analysis identifying the nature and concentration (or mass) where required by the categorical pretreatment standard or as required by EIRSD of regulated pollutants (including standards contained in Sections 2.4 through 2.7, as appropriate) in the discharge from each regulated or manufacturing process.

Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall conform to sampling and analytical procedures outlined in Sections 6.12 through 6.13.

- c. The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
- d. Where an alternate concentration or mass limit has been calculated in accordance with 40 C.F.R. 403.6(e) for a categorical User covered by a categorical pretreatment standard this adjusted limit along with supporting data shall be submitted as part of the application.

2. Non-Categorical User.

- a. The User shall identify the applicable pretreatment standards for its wastewater discharge.
- b. In addition, the User shall submit the results of sampling and analysis identifying the nature and concentration (or mass where required by EIRSD of regulated pollutants contained in Sections 2.4 through 2.7, as appropriate in the discharge. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall conform to sampling and analytical procedures outlined in Sections 6.12 through 6.13.
- c. The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
- d. Where the District Manager developed alternate concentration or mass limits because of dilution, this adjusted limit along with supporting data shall be submitted as part of the application.

I. Certification. A statement, reviewed by an authorized representative of the User and certified by a qualified professional as outlined in Section 4.6, indicating whether the applicable pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (hereafter referred to as "O and M") or additional pretreatment is required for the User to meet the applicable pretreatment standards and requirements.

J. Compliance Schedule. If additional pretreatment or O and M will be required to meet the applicable pretreatment standards the User shall submit a Compliance Schedule indicating the shortest schedule by which the User will provide such additional pretreatment and/or O and M. The completion date in this schedule shall not be later than the compliance date established pursuant to Section 3.4 of this Ordinance.

- 1. Where the User's categorical pretreatment standard has been modified by removal allowance (40 CFR 403.7), the combined wastestream formula (40 CFR 403.6(e)), or a Fundamentally Different Factors variance (40 CFR 493.13) at the time the User

submits the report required by this paragraph, the information required by paragraphs F and G of this section shall pertain to the modified limits.

2. If the categorical pretreatment standard is modified by a removal allowance (40 CFR 403.7), the combined wastestream formula (40 CFR 403.6(e)), and/or a Fundamentally Different Factors variance (40 CFR 403.13) after the User submits the report required by paragraphs F and G of this section shall be submitted by the User within 60 days after the modified limit is approved.

- K. Any other information as may be deemed necessary by the District Manager to evaluate the wastewater discharge permit application.

#### 4.6 SIGNATORY AND CERTIFICATION REQUIRED

All wastewater discharge permit applications and User reports must be signed by an Authorized Representative of the User and shall contain the following certification statement:

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

#### 4.7 WASTEWATER DISCHARGE PERMIT DECISIONS

The District Manager will evaluate the data furnished by the User and may require additional information. Within thirty (30) days of receipt of a complete wastewater discharge permit application, the District Manager will determine whether or not to issue a wastewater discharge permit. Upon a determination to issue, the permit shall be issued within thirty (30) days of full evaluation and acceptance of the data furnished. The District Manager may deny any application for a wastewater discharge permit if the application fails to conform to this chapter in any respect.

### SECTION 5 – INDIVIDUAL WASTEWATER DISCHARGE PERMIT ISSUANCE

#### 5.1 WASTEWATER DISCHARGE PERMIT CONTENTS

Wastewater discharge permits shall include such conditions as are reasonably deemed necessary by the District Manager, and such general terms and conditions for Users of the POTW as approved from time to time by EIRSD, to prevent pass through or interference, to protect the quality of the body of water receiving the treatment plant's effluent, to protect worker health and safety, to facilitate sludge management and disposal, to ensure compliance and enforcement, and to protect against damage to the POTW.

EIRSD may also require each User to sign a User Agreement in such form as EIRSD may determine from time to time.



- A. Wastewater discharge permits must contain the following conditions:
1. A statement that indicates the duration of the wastewater discharge permit, which in no event shall exceed five (5) years;
  2. A statement that the wastewater discharge permit is non-transferable without prior notification to and approval from EIRSD, and provision for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
  3. Applicable pretreatment standards and requirements, including any special state requirements;
  4. Self monitoring, sampling, reporting, notification, submittal of technical reports, compliance schedules and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency and sample type based on federal, state and local law; and
  5. A requirement for immediate notification to EIRSD where self-monitoring results indicate non-compliance;
  6. A requirement to report a by-pass or upset of a pretreatment facility;
  7. A requirement for a SIU who reports non-compliance to repeat the sampling and analysis and submit the results thereof to EIRSD within 30 days after becoming aware of the violation;
  8. A statement of applicable civil, criminal and administrative penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule.
- B. Wastewater discharge permits may contain, but need not be limited to, the following conditions:
1. Limits on the average or maximum rate of discharge, time of discharge or requirements for flow regulation and equalization;
  2. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
  3. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or routine discharges;
  4. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
  5. The unit charge or schedule of User charges and fees for the management of the wastewater discharge to the POTW;

6. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
7. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit;
8. Other conditions as deemed appropriate by the District Manager to ensure compliance with this chapter and state and federal laws, rules and regulations.

## 5.2 WASTEWATER DISCHARGE PERMIT APPEALS

- A. Any person, including the User, may petition EIRSD to reconsider the terms of a wastewater discharge permit within thirty (30) days of its issuance.
- B. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- C. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- D. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- E. If EIRSD fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit, shall be considered final administrative actions for purposes of judicial review.
- F. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with a court of competent jurisdiction within thirty (30) days after the date such decision was signed and mailed or physically delivered to the User.

## 5.3 WASTEWATER DISCHARGE PERMIT DURATION

Wastewater discharge permits shall be issued for a specified time period, not to exceed five (5) years, at the discretion of the District Manager. Each wastewater discharge permit will indicate a specific date upon which it will expire.

## 5.4 WASTEWATER DISCHARGE PERMIT MODIFICATION

The District Manager may modify the wastewater discharge permit for good cause including, but not limited to, the following:

- A. To incorporate any new or revised federal, state or local pretreatment standards or requirements;

- B. To address significant alterations or additions to the User's operation, processes or wastewater volume or character since the time of wastewater discharge permit issuance;
- C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- D. Information indicating that the permitted discharge poses a threat to EIRSD's POTW, EIRSD or City personnel or the receiving waters;
- E. Violation of any terms or conditions of the wastewater discharge permit;
- F. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- G. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
- H. To correct typographical or other errors in the wastewater discharge permit; or
- I. To reflect a transfer of the facility ownership or operation to a new owner or operator.

#### 5.5 WASTEWATER DISCHARGE PERMIT TRANSFER

Wastewater discharge permits may be reassigned or transferred to a new owner or operator only if the permittee gives at least thirty (30) days' advance notice to the District Manager and the District Manager approves the wastewater discharge permit transfer. The notice to the District Manager must include a written certification by the new owner or operator which:

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

If such certification is delivered to the District Manager and there are no significant changes to the manufacturing operation or wastewater discharge, the new owner will be considered an existing User and be covered by the existing limits and requirements in the previous owner's permit. Failure to provide advance notice of a transfer renders the wastewater discharge permit voidable as of the date of facility transfer.

#### 5.6 WASTEWATER DISCHARGE PERMIT REVOCATION

Wastewater discharge permits may be revoked for, but not limited to, the following reasons:

- A. Failure to notify the District Manager of significant changes to the wastewater prior to the changed discharge;
- B. Failure to provide prior notification to the District Manager of changed conditions;

- C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- D. Falsifying self-monitoring reports;
- E. Tampering with monitoring equipment;
- F. Refusing to allow EIRSD timely access to the facility premises and records;
- G. Failure to meet discharge limitations;
- H. Failure to pay fines;
- I. Failure to pay sewer charges;
- J. Failure to meet compliance schedules;
- K. Failure to complete a wastewater survey or the wastewater discharge permit application;
- L. Failure to provide advance notice of the transfer of a permitted facility; or
- M. If EIRSD has to invoke its emergency provision as cited in Section 10.7 of this chapter.
- N. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this chapter.

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.

## 5.7 WASTEWATER DISCHARGE PERMIT REISSUANCE

A User, required to have a wastewater discharge permit, shall apply for wastewater discharge permit reissuance by submitting a complete wastewater discharge permit application, in accordance with Section 4.5 of this chapter, a minimum of sixty (60) days prior to the expiration of the User's existing wastewater discharge permit. A User, whose existing wastewater discharge permit has expired and has submitted its re-application in the time period specified herein, shall be deemed to have an effective wastewater discharge permit until EIRSD issues or denies the new wastewater discharge permit. A User, whose existing wastewater discharge permit has expired and who failed to submit its re-application in the time period specified herein, will be deemed to be discharging without a wastewater discharge permit.

## SECTION 6 – REPORTING REQUIREMENTS

### 6.1 BASELINE MONITORING REPORTS

Users that become subject to new or revised pretreatment standards are required to comply with the following reporting requirements even if they have been designated as nonsignificant categorical Users:

- A. Submittals: Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a categorical determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical Users currently discharging to or scheduled to discharge to the POTW, or any other User at the request of EIRSD, shall be required to submit to EIRSD a report which contains the information listed in subsection B of this section. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical Users subsequent to the promulgation of an applicable categorical standard, shall be required to submit to EIRSD a report which contains the information listed in Section 4.5 of this chapter. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants to be discharged.
- B. Compliance Schedule: If additional pretreatment and/or operations and maintenance (O&M) will be required to meet the pretreatment standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 6.3 of this chapter.
- C. Modified Categorical Pretreatment Standard: Where the User's categorical pretreatment standard has been modified by a removal allowance (40 CFR 403.7), the combined wastestream formula (40 CFR 403.6(e)), and/or a fundamentally different factors variance (40 CFR 403.13) at the time the User submits the report required by this subsection, the information required by subsections 4.5.F and G of this chapter shall pertain to the modified limits.
- D. Modified Information Required: If the categorical pretreatment standard is modified by a removal allowance (40 CFR 403.7), the combined wastestream formula (40 CFR 403.6(e)), and/or a fundamentally different factors variance (40 CFR 403.13) after the User submits the report required by subsections 4.5.F and G of this chapter, then a report containing modified information shall be submitted by the User within sixty (60) days after the new limit is approved.
- E. Certification Required: All baseline monitoring reports must be certified in accordance with Section 4.6 of this chapter and signed by an authorized representative as defined in Section 1.2 of this chapter.

## 6.2 FINAL COMPLIANCE REPORT

- A. Within ninety (90) days following the date for final compliance of an existing significant industrial User with applicable pretreatment standards and requirements set forth in this chapter, in federal categorical standards, or in a wastewater discharge permit, or, within thirty (30) days following commencement of the introduction of wastewater into the POTW by a new source or a new User considered by EIRSD to fit the definition of SIU, any User subject to this chapter shall submit to EIRSD a report containing the information outlined in Sections 4.5 and 4.6 of this chapter.
- B. For Users subject to equivalent mass or concentration limits established by EIRSD in

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

### 6.3 PERIODIC COMPLIANCE REPORT

Any Users may be required to submit periodic compliance reports by permit or at the request of the District Manager.

- A. All Significant Industrial Users shall comply with all applicable requirements under 40 CFR 403.12 and submit to EIRSD during the months of June and December, unless required on other dates or more frequency by EIRSD, a report indicating the nature of the effluent over the previous reporting period. The frequency of monitoring shall be as prescribed within the industrial waste discharge permit. At a minimum, Users shall sample their discharge at least twice per year. In cases where best management practice (BMP) or pollution prevention alternatives are required, the User must submit documentation required by the District Manager or the applicable pretreatment standard necessary to determine the compliance status of the User.
- B. The report shall include a record of the concentration (and mass if specified in the wastewater discharge permit) of the pollutants listed in the wastewater discharge permit that were measured and record of all flow measurements (average and maximum) taken at the designated sampling locations and shall also include any additional information required by this chapter or wastewater discharge permit. Production data shall be reported if required by the wastewater discharge permit. Both daily maximum and average concentration (or mass, where required) shall be reported. If a User sampled and analyzed more frequently than what was required by EIRSD or by this chapter, using methodologies in 40 CFR 136, it must submit all results of sampling and analysis of the discharge during the reporting period.
- C. Any User subject to equivalent mass or concentration limits established by EIRSD or by unit production limits specified in the applicable categorical pretreatment standards shall report production data as outlined in Section 6.2 of this chapter.
- D. If EIRSD calculated limits to factor out dilution flows or nonregulated flows, the User will be responsible for providing flows from the regulated process flows, dilution flows, and nonregulated flows.
- E. Flows shall be reported on the basis of actual measurement, provided, however, that EIRSD may accept reports of average and maximum flows estimated by verifiable techniques if EIRSD determines that an actual measurement is not feasible.
- F. Discharges sampled shall be representative of the User's daily operation and samples shall be taken in accordance with the requirements specified in Sections 6.12 and 6.13 of this chapter.
- G. EIRSD may require reporting by Users that are not required to have an industrial

wastewater discharge permit if information or data is needed to establish a sewer charge, determine the treatability of the effluent, or determine any other factor which is related to the operation and maintenance of the sewer system.

- H. EIRSD may require self-monitoring by the User or, if requested by the User, EIRSD may agree to perform periodic compliance monitoring needed to prepare the periodic compliance report required under this section. If EIRSD agrees to perform such periodic compliance monitoring, it may charge the User for such monitoring, based upon the costs incurred by EIRSD for the sampling and analyses. Any such charges shall be added to the normal sewer charge and shall be payable as part of the sewer bills. EIRSD is under no obligation to perform periodic compliance monitoring for a User.
  
- I. EIRSD may authorize an Industrial User subject to a categorical Pretreatment Standard to forego sampling of a pollutant regulated by a categorical Pretreatment Standard if the Industrial User has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Industrial User. [See 40 CFR 403.12(e) (2)] This authorization is subject to the following conditions:
  - 1. The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical Standard and otherwise includes no process wastewater.
  - 2. The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than 5 years. The User must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit.
  - 3. In making a demonstration that a pollutant is not present, the Industrial User must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.
  - 4. The request for a monitoring waiver must be signed and include the certification statement in accordance with Section 4.6 of this chapter.
  - 5. Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.
  - 6. Any grant of the monitoring waiver by the District Manager must be included as a condition in the User's permit. The reasons supporting the waiver and any information submitted by the User in its request for the waiver must be maintained by the District Manager for 5 years after expiration of the waiver.
  - 7. Upon approval of the monitoring waiver and revision of the User's permit by the District Manager], the Industrial User must certify on each report with the statement

in Section 4.6, that there has been no increase in the pollutant in its wastestream due to activities of the Industrial User.

8. In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the User's operations, the User must immediately: Comply with the monitoring requirements of Section 6.3.A, or other more frequent monitoring requirements imposed by the District Manager, and notify the District Manager.
9. This provision does not supersede certification processes and requirements established in categorical Pretreatment Standards, except as otherwise specified in the categorical Pretreatment Standards.

#### 6.4 COMPLIANCE SCHEDULES FOR MEETING APPLICABLE PRETREATMENT STANDARDS

- A. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).
- B. No increment referred to in subsection A of this section shall exceed nine (9) months.
- C. Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the User shall submit a progress report to EIRSD including, at a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for the delay, and the steps being taken by the User to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports.

#### 6.5 NOTIFICATION OF SIGNIFICANT PRODUCTION CHANGES

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

- A. The District Manager may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 4.5 of this chapter.
- B. The District Manager may issue a wastewater discharge permit under Section 5.7 of this chapter or modify an existing wastewater discharge permit under Section 5.4 of this chapter in response to changed conditions or anticipated changed conditions.



## 6.6 HAZARDOUS WASTE NOTIFICATION

Any User that is discharging more than fifteen (15) kilograms of hazardous wastes as defined in 40 CFR 261 (listed or characteristic wastes) in a calendar month or any facility discharging any amount of acutely hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e) is required to provide notification in writing to EIRSD and a onetime notification in writing to the EPA region 10 office of air, waste, and toxics director, and to the state of Idaho department of environmental quality hazardous waste manager within ten (10) days of discovery that said discharge occurred. Any existing User exempt from this notification shall comply with the requirements contained herein within thirty (30) days of becoming aware of a discharge of fifteen (15) kilograms of hazardous wastes in a calendar month or any discharge of acutely hazardous wastes to the POTW.

Such notification shall include:

- A. The name of the hazardous waste as set forth in 40 CFR 261;
- B. The EPA hazardous waste number; and
- C. The type of discharge (continuous, batch, or other).
- D. If an industrial User discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent it is known or readily available to the industrial User:
  1. An identification of the hazardous constituents contained in the wastes,
  2. An estimation of the mass and concentration of such constituents in the wastestreams discharged during that calendar month, and
  3. An estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months.

These notification requirements do not apply to pollutants already reported under the self-monitoring requirements.

Whenever the EPA publishes final rules identifying additional hazardous wastes or new characteristics of hazardous waste, a User shall notify EIRSD of the discharge of such a substance within ninety (90) days of the effective date of such regulations.

In the case of any notification made under this section, an industrial User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a wastewater discharge permit issued thereunder, or any applicable federal, state and local law.

## 6.7 NOTICE OF POTENTIAL PROBLEMS, INCLUDING ACCIDENTAL SPILLS, SLUG LOADS

- A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, the User shall immediately telephone and notify the POTW of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User. Any User who discharges a slug load of pollutants shall be liable for any expense, loss, or damage to the POTW, in addition to the amount of any fines imposed on EIRSD under federal, state or local law.
- B. Within five (5) days following such discharge, the User shall, unless waived by EIRSD, 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.
- 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 a discharge described in subsection A of this section. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.
- D. Users are required to notify the POTW immediately of any changes at its facility affecting the potential for a slug discharge.

## 6.8 NONCOMPLIANCE REPORTING

If sampling performed by a User indicates a violation, the User shall notify the District Manager within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis for two (2) consecutive days, within five (5) days of becoming aware of the violation. The results of the repeat analysis shall be submitted to EIRSD within thirty (30) days after becoming aware of the violation. Where EIRSD has performed the sampling and analysis in lieu of the industrial User, EIRSD must perform the repeat sampling and analysis unless it notifies the User of the violation and requires the User to perform the repeat analysis. Resampling is not required if:

- A. EIRSD performs sampling and analysis at the User at a frequency of at least once per month, or
- B. EIRSD performs sampling and analysis at the User between the time when the initial sampling was conducted and the time when the User or EIRSD receives the results of this sampling analysis.

## 6.9 NOTIFICATION OF CHANGED DISCHARGE

All Users shall notify the POTW ninety (90) days in advance of any substantial change in the volume or character of pollutants in their discharge. This includes significant manufacturing

process modifications, pretreatment modifications, facility expansion, production increase, and the listed characteristic hazardous wastes for which the User has submitted initial notification under 40 CFR 403.12(p).

#### 6.10 REPORTS FROM UNPERMITTED USERS

All Users not required to obtain a wastewater discharge permit shall provide appropriate reports to EIRSD as the District Manager may require.

#### 6.11 RECORDKEEPING

Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter and any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements. Records shall include the date, exact place, method, and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses including documentation associated with best management practices. These records shall remain available for a period of at least five (5) years. This period shall be automatically extended for the duration of any litigation concerning the User or the POTW, or where the User has been specifically notified of a longer retention period by the District Manager.

#### 6.12 SAMPLING REQUIREMENTS FOR USERS

- A. A minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organics. The District Manager will determine on a case-by-case basis whether the User will be able to composite the individual grab samples. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques where feasible. EIRSD may waive flow-proportional composite sampling for any User that demonstrates that flow-proportional is infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four (4) grab samples where the User demonstrates that this will provide a representative sample of the effluent being discharged.
- B. Samples and flow measurements shall be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated or manufacturing process if no pretreatment exists or as determined by EIRSD and contained in the User's wastewater discharge permit. For Categorical Users, if other wastewaters are mixed with the regulated wastewater prior to pretreatment, the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e) in order to evaluate compliance with the applicable categorical pretreatment standards. For other SIUs, for which EIRSD has adjusted its local limits to factor out dilution flows, the User should measure the flows and concentrations necessary to evaluate compliance with the adjusted pretreatment standards.
- C. All sample results shall indicate the time, date and place of sampling and methods of

analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges from the User. If a User samples and analyzes 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.

- D. All costs associated with flow measurement, sampling, monitoring, and analysis shall be borne by the User.

Any violation of the provisions of this section shall be deemed to be a misdemeanor.

### 6.13 ANALYTICAL REQUIREMENTS

All pollutant analyses, including sampling techniques, shall be performed 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 accordance with procedures approved by the EPA.

Any violation of the provisions of this section shall be deemed to be a misdemeanor.

## SECTION 7 – COMPLIANCE MONITORING

### 7.1 MONITORING OF USER'S WASTEWATER

EIRSD may follow the same procedures as outlined in Sections 6.12 and 6.13 whenever it deems EIRSD monitoring is appropriate to ensure compliance with this chapter.

### 7.2 INSPECTION AND SAMPLING

EIRSD shall have the right to enter the facilities of any User to ascertain whether the purposes of this chapter, and any wastewater discharge permit or order issued hereunder, are being met and whether the User is complying with all requirements thereof. Users shall allow the District Manager ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying and the performance of any additional duties.

- 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 District Manager will be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The District Manager shall have the right to set up on the User's property, or require installation of, such devices as are necessary to conduct sampling or metering of the User's operations.
- C. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected or sampled shall be promptly removed by the User at the written or verbal request of the District Manager and shall not be replaced. The costs of clearing such

access shall be borne by the User.

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

Any violation of the provisions of this section shall be deemed to be a misdemeanor.

### 7.3 MONITORING FACILITIES

- A. Each User, required to have a wastewater discharge permit, shall provide and operate at its own expense a monitoring facility to allow inspection, sampling and flow measurements of each sewer discharge by EIRSD. Each monitoring facility shall be situated on the User's premises, except where such a location would be impractical or cause undue hardship on the User.
- B. Ample room shall be provided in or near such sampling facility to allow accurate sampling and preparation of samples for analysis. The facility sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the User. All monitoring facilities shall be constructed and maintained in accordance with all applicable local construction standards and specifications.
- C. The District Manager may require the User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated to ensure their accuracy.

Any violation of the provisions of this section shall be deemed to be a misdemeanor

## SECTION 8 – CONFIDENTIAL INFORMATION

### 8.1 CONFIDENTIAL INFORMATION

Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from EIRSD inspection and sampling activities, shall be available to the public without restriction, unless the User specifically requests, and is able to demonstrate to the satisfaction of EIRSD, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law.

When requested and demonstrated by the User furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report.

Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

## SECTION 9 – PUBLICATION OF USERS IN SIGNIFICANT NON-COMPLIANCE

### 9.1 PUBLICATION OF USERS IN SIGNIFICANT NON-COMPLIANCE

EIRSD shall publish annually, in the Official Newspaper, a list of the Users which, during the previous twelve (12) months, were in significant non-compliance with applicable pretreatment standards and requirements. The term significant non-compliance shall mean:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six (6) month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria [1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH];
- C. Any other discharge violation that EIRSD believes has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of EIRSD or City personnel or the general public);
- D. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in EIRSD's exercise of its emergency authority to halt or prevent such a discharge;
- E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report non-compliance; or
- H. Any other violation(s) which EIRSD determines will adversely affect the operation or implementation of the local pretreatment program.

## SECTION 10 – ADMINISTRATIVE ENFORCEMENT REMEDIES

### 10.1 NOTIFICATION OF VIOLATION

When the District Manager finds that a User has violated or continues to violate any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the District Manager may serve upon that User a written Notice of Violation, by certified letter. Within thirty (30) days of the receipt of this notice, an

explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the User to the District Manager. Submission of this plan in no way relieves the User of liability for any violation occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of EIRSD to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation

## 10.2 CONSENT ORDERS

The District Manager may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any User responsible for non-compliance. Such documents will include specific action to be taken by the User to correct the non-compliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 10.4 and 10.5 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.

## 10.3 SHOW CAUSE HEARING

The District Manager may order a User which has violated or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the District 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 personally or by registered or certified mail, return receipt requested, at least fifteen (15) 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.

## 10.4 COMPLIANCE ORDERS

When the District Manager finds that a User has violated or continues to violate any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the District Manager may issue an order to the User responsible for the discharge directing that the User come into compliance within a time specified in the order. If the User does not come into compliance within the time specified in the order, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the non-compliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.

## 10.5 CEASE AND DESIST ORDERS

When the District Manager finds that a User has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the User's past violations are likely to recur, the

District Manager may issue an order to the User directing it to cease and desist all such violations and directing the User to:

- A. Immediately comply with all requirements; and
- B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations 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.

#### 10.6 ADMINISTRATIVE FINES:

- A. When the District Manager finds that a User has violated or continues to violate any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the District Manager may fine such User in an amount not to exceed an amount established by EIRSD Board resolution. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term advantage discharge limits, fines shall be assessed for each day during the period of violation.
- B. Unpaid charges, fines and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of five percent (5%) of the unpaid balance, and interest shall accrue thereafter at a rate of twelve percent (12%) per month.
- C. Users desiring to dispute such fines must file a written request for the District Manager to reconsider the fine along with full payment of the fine amount within fifteen (15) days of being notified of the fine. Upon receipt of such request, the District Manager shall convene a hearing on the matter within fifteen (15) days thereafter. In the event the User's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the User. EIRSD 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.

#### 10.7 EMERGENCY SUSPENSIONS

The District Manager may immediately suspend a User's discharge, after informal notice to the User, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or which causes an imminent or substantial endangerment to the health or welfare of persons. The District Manager may also immediately suspend a User's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents or may present an endangerment to the environment.

- A. Any User notified of a suspension of its discharge shall immediately stop or eliminate its discharge into the POTW. In the event of a User's failure to immediately comply voluntarily with the suspension order, the District Manager shall take 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 District Manager shall allow the User to recommence its discharge when the User has demonstrated to the satisfaction of EIRSD that the period of endangerment has passed, unless the termination proceedings in Section 10.8 of 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 District Manager, prior to the date of any show cause or termination hearing under Sections 10.3 through 10.8 of this chapter.

Nothing in the section shall be interpreted as requiring a hearing prior to an emergency suspension under this section.

## 10.8 TERMINATION OF DISCHARGE (NON-EMERGENCY)

In addition to the provisions in Section 5.6 of this chapter, any User that violates any of the following conditions is subject to discharge termination:

- A. Violation of wastewater discharge permit conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- C. Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;
- D. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring or sampling; or
- E. Violation of the pretreatment standards in Sections 2.4 through 3.7 this chapter.

Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 10.3 of this chapter why the proposed action should not be taken. Exercise of this option by EIRSD shall not be a bar to, or a prerequisite for, taking any other action against the User.

## SECTION 11 – JUDICIAL ENFORCEMENT REMEDIES

### 11.1 INJUNCTIVE RELIEF

When the District Manager finds that a User has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, EIRSD may petition the Seventh Judicial District of the State of Idaho, Bingham County through EIRSD's Attorney, for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this chapter on activities of

the User.

EIRSD may also seek such other action as is appropriate for legal or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

## 11.2 CIVIL PENALTIES

- A. A User which has violated or continues to violate any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to EIRSD for a maximum civil penalty of \$1,000 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
- B. The District Manager may recover reasonable attorneys' fees, court costs and other expenses associated with enforcement activities, including sampling and monitoring expenses and the cost of any actual damages incurred by EIRSD.
- C. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires.
- D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.

## 11.3 CRIMINAL PROSECUTION

- A. A User which has willfully or negligently violated any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$1,000 per violation, per day, or imprisonment for not more than six (6) months, or both.
- B. A User which has willfully or negligently introduced any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least \$1,000 and in addition thereto, be subject to imprisonment for six (6) months. This penalty shall be in addition to any other cause of action for personal injury or property damage available under state law.
- C. A User which knowingly made any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this chapter, wastewater 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 punished by a fine of not more than \$1,000 per violation, per day, or imprisonment for not more than six (6) months, or both.

#### 11.4 REMEDIES NON-EXCLUSIVE

The provisions in Sections 9.1 through 12.5 of this chapter are not exclusive remedies. EIRSD may pursue any one or more of such remedies for any violation of this chapter. Enforcement of pretreatment violations will generally be in accordance with EIRSD's enforcement response plan; however, EIRSD may take other action against any User when the circumstances warrant. Further, EIRSD may simultaneously take more than one enforcement action against any non-compliant User.

### SECTION 12 – SUPPLEMENTAL ENFORCEMENT ACTION

#### 12.1 PERFORMANCE BONDS

The District Manager may decline to issue or reissue a wastewater discharge permit to any User which has failed to comply with any provision of this chapter. The District Manager may decline to issue or reissue a wastewater discharge permit to any User which has failed to comply with any provision of this chapter, a previous wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement unless such User first files a satisfactory bond, payable to EIRSD, in a sum not to exceed a value determined by the District Manager to be necessary to achieve consistent compliance.

#### 12.2 LIABILITY INSURANCE

The District Manager may decline to issue or reissue a wastewater discharge permit to any User which has failed to comply with any provision of this chapter, a previous wastewater discharge permit or order issued hereunder, of any other pretreatment standard or requirement, unless the User first submits proof that it has obtained adequate general liability insurance or other similar financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

#### 12.3 TERMINATION OF UTILITY SERVICES

Whenever a User has violated or continues to violate any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, electric service, water service, or other public utility services to the User may be terminated in accordance with the procedures set forth in this Chapter.

#### 12.4 PUBLIC NUISANCES

A violation of any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, is hereby declared a public nuisance and shall be corrected or abated as directed by the District Manager. Any person(s) creating a public nuisance shall be subject to the provisions of EIRSD or City Code or state law governing such nuisances, including reimbursing EIRSD for any costs incurred in removing, abating or remedying said nuisance.1-71: Not Used

#### 12.5 CONTRACTOR LISTING

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

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

## SECTION 13 – AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

### 13.1 AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

#### A. Upset.

1. For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary non-compliance with applicable pretreatment standards because of factors beyond the reasonable control of the User. An upset does not include 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.
2. An upset shall constitute an affirmative defense to an action brought for non-compliance with applicable pretreatment standards if the requirements of paragraph 3 are met.
3. A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - a. An upset occurred and the User can identify the cause(s) of the upset;
  - b. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
  - c. The User has submitted the following information to the POTW and treatment plant operator within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days:
    - i. A description of the indirect discharge and cause of non-compliance;
    - ii. The period of non-compliance, including exact dates and times or, if not corrected, the anticipated time the non-compliance is expected to continue; and
    - iii. Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the non-compliance.
4. In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof.
5. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for non-compliance with applicable pretreatment standards.

6. Users shall control production of all discharges to the extent necessary to maintain compliance with applicable pretreatment standards upon reduction, loss, or failure of 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.
- B. Prohibited Discharge Standards: A User shall have an affirmative defense to an enforcement action brought against it for non-compliance with the prohibitions in Section 2.4 if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:
1. 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
  2. No local limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when EIRSD was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.
- C. Bypass.
1. For the purposes of this section:
    - a. "Bypass" means the intentional diversion of wastestreams from any portion of a User's treatment facility.
    - b. "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.
  2. A User may allow any bypass to occur which does not cause applicable pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs 3 and 4 of this section.
  3. If a User knows in advance of the need for a bypass, it shall submit prior notice to the POTW, at least ten (10) days before the date of the bypass, if possible.
  4. A User shall submit oral notice to EIRSD of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass. The POTW

may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

5. Bypass is prohibited, and the POTW may take an enforcement action against a User for a bypass, unless:
  - a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  - c. The User submitted notices as required under paragraph 3 of this section.
6. The POTW may approve an anticipated bypass, after considering its adverse effects, if the POTW determines that it will meet the three conditions listed in paragraph 5.a of this section.

## SECTION 14 – WASTEWATER TREATMENT RATES

### 14.1 SYSTEM OF CHARGES

All charges to Users, within and without EIRSD, shall assure that each recipient of waste treatment services will pay its fair share of the costs of operation, maintenance and equipment, including replacement of waste treatment services provided by EIRSD.

### 14.2 BASIS FOR DETERMINING INDUSTRIAL WASTE CHARGES

The total yearly treatment plant operation, maintenance and debt service costs chargeable to each User shall be computed on the basis of the industrial waste load discharged to the wastewater treatment system.

### 14.3 COMPUTATION OF INDUSTRIAL WASTE SERVICE CHARGES:

Industrial waste service charges shall be based upon direct correlation to a domestic User with flow and the other parameters defining an ERU as listed in Section 1.2. Each pollutant shall be considered separately, and the highest number of equivalent residential dwelling units calculated will be rounded up to the nearest whole value.

- A. Sampling, testing and monitoring costs incurred by EIRSD to verify pollutant concentrations shall be paid by discharger, in addition to charges outlined above.

### 14.4 METHOD OF COMPUTING UNIT CHARGES:

- A. Unit charges for each Industrial User shall be computed as the product of the flow and

concentration in direct correlation to a domestic User as follows:

IU ERUs based on Flow = IU Flow in gpd ÷ EIRSD Flow per ERU in gpd

IU ERUs based on BOD = IU BOD in ppd ÷ EIRSD BOD per ERU in ppd

IU ERUs based on TSS = IU TSS in ppd ÷ EIRSD TSS per ERU in ppd

Continue for each parameter defining an ERU as listed in Section 1.2.

Where:

- $\text{ppd} = [\text{flow in mgd}] \times [\text{concentration in ppm}] \times 8.342$
- Maximum monthly average IU values over the past 12 months shall be used unless otherwise approved by EIRSD.
- EIRSD values per ERU for each parameter are given in Section 1.2 of this Chapter.
- The highest calculated value shall be rounded to the nearest whole value and shall be the calculated ERU.

IU Charge = [Greater of calculated IU ERUs based on flow, BOD, TSS, or TP] x [single residential dwelling unit charge]

Example:

IU Flow = 5,000 gpd (0.005 mgd)

IU BOD Concentration = 12,000 ppm

IU TSS Concentration = 925 ppm

IU TP Concentration = 20 ppm

IU ERUs based on Flow =  $5,000 \text{ gpd} \div 218 \text{ gpd/ERU} = 22.9 \text{ ERUs}$

IU ERUs based on BOD =  $[0.005 \text{ mgd} \times 12,000 \text{ ppm} \times 8.342] \div 0.636 \text{ ppd/ERU} = 787 \text{ ERUs}$

IU ERUs based on TSS =  $[0.005 \text{ mgd} \times 925 \text{ ppm} \times 8.342] \div 0.636 \text{ ppd/ERU} = 60.6 \text{ ERUs}$

IU ERUs based on TP =  $[0.005 \text{ mgd} \times 20 \text{ ppm} \times 8.342] \div 0.013 \text{ ppd/ERU} = 65.5 \text{ ERUs}$

IU Charge = (highest calculated value above, which is 787 ERUs based on BOD) x (single residential dwelling unit charge)

#### 14.5 ADJUSTMENT OF UNIT CHARGES

The ERUs may be reviewed periodically and adjusted or updated, if necessary, at EIRSD's discretion.

#### 14.6 METHOD OF INDUSTRIAL USER BILLING

The Industrial User service charge shall be based on estimates of flow, BOD and suspended solids for the previous year. If waste quality and quantity measurements for an Industrial User are not available or if an Industrial User fails to provide any data as required by this chapter, the District Manager shall fairly estimate such charge. In making such estimates the District Manager shall rely on such information as he may reasonably determine to be pertinent and reliable.

#### 14.7 ADJUSTMENT OF CHARGES

If at any time the actual discharge of industrial waste by a User is greater or less than the rate factor used for computing the Industrial User service charge for such User, the User's monthly service charge may be recomputed in order to more fairly reflect the actual costs of providing

sewage treatment services for such User.

#### 14.8 SEWER USER SERVICE CHARGE

A monthly service charge for sewer service shall be charged to all Users and may be amended and modified from time to time by resolution of EIRSD Board. The rates established shall generate sufficient revenue to offset total costs of the sewerage system which includes: (a) Capital costs and (b) operation, maintenance and replacement costs. The costs of the sewerage system shall be reviewed periodically and User rates adjusted, if necessary, to ensure adequate revenue to cover all costs and to ensure that all Users share equally the cost of operation, maintenance and replacement. User rates shall be established by resolution of the EIRSD Board and shall be kept on file in the office of the EIRSD Clerk.

#### 14.9 CLASSIFICATION OF USERS

For billing purposes, all charges established for each classification of sewer User shall be based upon the calculated ERUs based on each parameter defining an ERU as listed in Section 1.2. Such unit rates shall be established by resolution of the EIRSD Board from time to time.

#### 14.10 RATES OUTSIDE EIRSD

All charges for operation and maintenance shall be set by resolution of the EIRSD Board for all Users whether located within or without EIRSD.

#### 14.11 RECOVERY OF COSTS INCURRED BY EIRSD

Any discharger who discharges any wastewater in violation of this chapter or who causes damage to or impairs EIRSD's wastewater disposal system shall be liable to EIRSD for any expense, loss, or damage caused by such violation. EIRSD may bill the discharger for the reasonable cost incurred by EIRSD for any cleaning, repair, or replacement work caused by the violation or discharge. Refusal to pay the assessed costs shall constitute a violation of this chapter.

### SECTION 15 – MISCELLANEOUS PROVISIONS

#### 15.1 FALSIFYING INFORMATION

Any person who knowingly makes any false statement, representation, or certification in any application, record, report and plan or other document filed or required to be maintained pursuant to this chapter, or who falsified, tampers with, or knowingly renders inaccurate any monitoring device or method required under this chapter shall be guilty of a misdemeanor.

#### 15.2 LIMITATION OF LIABILITY

Nothing herein is intended to create any private duty to any customer or discharger or create any private right of action on account of any failure by EIRSD, or its officers, employees or agents to perform any duty or obligation set forth herein.



15.3 PENALTY

Infraction: Any violation of the provisions of this chapter deemed to be an infraction shall be subject to penalties prescribed for such violations, subject to the provisions of Idaho Code 18-111 and 18-113A. Any section of this chapter not designated a penalty classification otherwise shall be considered an infraction and subject to the penalty as stated in this section.

Misdemeanor: Any violation of the provisions of this chapter deemed to be a misdemeanor shall be subject to penalties prescribed for such violations subject to the provisions of Idaho Code 18-111 and 18-113.

Felony: In the event that any act which violates the provisions of this ordinance shall constitute a felony under any laws of the State of Idaho or the United States of America, or any agency thereof, such violation shall be enforced as a felony under said law.

15.4 UNAUTHORIZED ACCESS TO MANHOLES OR UNAUTHORIZED USE OF SYSTEM

No person shall remove any manhole cover and/or enter into the system without authorization from the District Manager or their designee. Any unauthorized discharge into the system or removal of any manhole cover shall be considered an unauthorized use of the system.

Any violation of the provisions of this section shall be deemed to be a misdemeanor.

SECTION 16 – EFFECTIVE DATE OF ORDINANCE

This ordinance shall be effective of the date of entry below and shall immediately be published in accordance with the provisions of I.C. § 31-715.

DATED AND EFFECTIVE THIS 26TH DAY OF MARCH 2024

EASTERN IDAHO REGIONAL SEWER DISTRICT

\_\_\_\_\_  
DATE

\_\_\_\_\_  
PRESIDENT

\_\_\_\_\_  
DATE

\_\_\_\_\_  
BOARD MEMBER

\_\_\_\_\_  
DATE

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BOARD MEMBER

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BOARD MEMBER

<End of Ordinance>