

# METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO



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## Sewage and Waste Control Ordinance

As Amended

~~April 9 2015~~ **May 20, 2021**

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**METROPOLITAN WATER RECLAMATION DISTRICT  
OF GREATER CHICAGO  
100 East Erie Street  
Chicago, Illinois 60611  
(312) 751-5600**

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## **AN ORDINANCE**

**AN ORDINANCE TO PROVIDE FOR THE ABATEMENT AND PREVENTION OF POLLUTION BY REGULATING AND CONTROLLING THE QUANTITY AND QUALITY OF SEWAGE AND INDUSTRIAL WASTE ADMITTED TO OR DISCHARGED INTO THE SEWERAGE SYSTEMS AND WATERS UNDER THE JURISDICTION OF THE METROPOLITAN WATER RECLAMATION DISTRICT OF GREATER CHICAGO, HEREINAFTER TO BE KNOWN AS "THE SEWAGE AND WASTE CONTROL ORDINANCE" ADOPTED BY THE BOARD OF TRUSTEES OF THE METROPOLITAN SANITARY DISTRICT OF GREATER CHICAGO ON SEPTEMBER 18, 1969; AND AS AMENDED TO AND INCLUDING FEBRUARY 24, 1972; OCTOBER 2, 1975; JANUARY 19, 1978; OCTOBER 12, 1978; NOVEMBER 6, 1980; APRIL 21, 1983; SEPTEMBER 6, 1984; SEPTEMBER 5, 1985; JULY 30, 1987; JANUARY 21, 1988; MARCH 10, 1988; JULY 7, 1988; SEPTEMBER 7, 1989; DECEMBER 6, 1990; SEPTEMBER 5, 1991; SEPTEMBER 24, 1992; JANUARY 28, 1993; MARCH 24, 1994; DECEMBER 22, 1994; NOVEMBER 21, 1996; JULY 9, 1998; JULY 13, 2000; JUNE 21, 2001; SEPTEMBER 20, 2001; NOVEMBER 1, 2001; OCTOBER 3, 2002; NOVEMBER 4, 2004; NOVEMBER 3, 2005; MAY 4, 2006; NOVEMBER 16, 2006; NOVEMBER 1, 2007; NOVEMBER 19, 2009; FEBRUARY 16, 2012; AUGUST 9, 2012; APRIL 9, 2015; and MAY 20, 2021.**



*BE IT ORDAINED by the Board of Commissioners of the Metropolitan Water Reclamation District of Greater Chicago: That the Sewage and Waste Control Ordinance, originally passed by the Board of Trustees of The Metropolitan Sanitary District of Greater Chicago on September 18, 1969, and as amended, is herewith and now comprehensively amended to read as follows:*

## **ARTICLE I**

### **Purpose**

This Ordinance, promulgated by the Metropolitan Water Reclamation District of Greater Chicago, hereinafter called the "District," pursuant to the authority vested in it by the Illinois legislature, has as its purpose the protection of the public health and safety by abating and preventing pollution through the regulation and control of the quantity and quality of sewage, industrial wastes, and other wastes admitted to or discharged into the sewerage systems, sewage treatment facilities, and waters under the jurisdiction of the District.

## **ARTICLE II**

### **Definitions and Abbreviations**

The meaning of the terms used in this Ordinance shall be as follows:

"Administrator" shall mean the Administrator of the United States Environmental Protection Agency.

"Applicable pretreatment standard" means any criteria, limitation or prohibition upon the discharge of any pollutant into a publicly owned treatment works.

"Approval Authority" shall mean the Regional Administrator of the United States Environmental Protection Agency or the Illinois Environmental Protection Agency, if so designated by the Regional Administrator.

"Authorized representative" means an owner or corporate officer of the industrial user authorized to legally bind the user in any and all negotiations and agreements.

"Baseline monitoring report" or "BMR" shall mean a form supplied by the District for reporting by an industrial user on the nature of the industrial user's operations and discharge of pollutants to the water reclamation facilities of the District.

"Biochemical Oxygen Demand (BOD)" means the quantity of dissolved oxygen required for biochemical oxidation of decomposable matter under aerobic conditions in a period of five days at a temperature of 20° C.

"Board of Commissioners" or "Board" means the Board of Commissioners of the Metropolitan Water Reclamation District of Greater Chicago.

"Categorical pretreatment standards" or "CPS" means any effluent limitation or standard applicable to an industrial category promulgated by the USEPA.

"Clean Water Act" means the Federal Water Pollution Control Act as amended by the Clean Water Act of 1977 (Pub. L. 95-217). It establishes responsibilities of Federal, State, and local government, industry and the public to implement National Pretreatment Standards to control pollutants which pass through or interfere with treatment processes in Publicly Owned Treatment Works (POTWs) or which may contaminate sewage sludge.

"Code of Federal Regulations" or "CFR" shall mean the codification of the general and permanent rules published in the **Federal Register** by the executive departments and agencies of the United States Government.

"Combined waste stream formula" shall mean the formulae contained in 40 CFR 403.6(e) for calculating alternative concentration limits or alternative mass limits for determining compliance with categorical pretreatment standards.

"Composite sample" means a representative mixture of a minimum three grab sample aliquots obtained over a period of time.

"Control authority" means the Metropolitan Water Reclamation District of Greater Chicago.

"Control manhole" or "sampling chamber" means a device or structure suitable and appropriate to permit sampling and flow measurement of a wastewater stream to determine compliance with this Ordinance.

"Deficient" means materially lacking information sufficient to determine compliance with applicable standards or requirements, or lacking required authorized representative, Registered Professional Engineer or notary certifications.

"Discharge Authorization" or "DA" means the document issued by the District to a significant industrial user granting permission to discharge process wastewater into the sewerage system of the District.

"Discharge Authorization Request" or "DAR" means the document submitted by a significant industrial user, on forms supplied by the District, requesting permission to discharge process wastewater into the sewerage system of the District.

“Executive Director” means the Executive Director of the Metropolitan Water Reclamation District of Greater Chicago.

“Existing source” shall mean any point source whose operations commenced prior to the date of proposal by the USEPA of any applicable categorical pretreatment standard in the **Federal Register**.

“**Federal Register**” shall mean the publication of the executive departments of the United States Government.

“Flow” means the volumetric measure per unit of time of wastewater, water, industrial waste or other flow.

“Fats, oils and greases (FOG)” means organic polar and non-polar compounds. Polar compounds are derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. Organic non-polar fraction of oil and grease (petroleum hydrocarbons) is identified as Silica gel treated n-hexane extractable materials (SGT-HEM) in the pretreatment standards.

“Fundamentally different factors” shall mean factors pertaining to the nature of an industrial user’s operations which are fundamentally different from the factors considered by the USEPA in development of an applicable categorical pretreatment standard.

“Garbage” means solid wastes from the preparation, cooking and dispensing of food, and from the handling, storage or sale of meat, fish, fowl, fruit, or vegetables and condemned food.

“General pretreatment standards” or “GPS” means the standards contained in Appendix B of this Ordinance which are applicable to all discharges into sewerage systems tributary to water reclamation facilities.

“Grab sample” means a single aliquot sample collected over a period not to exceed 15 minutes.

“Hazardous waste” means any industrial waste, production residue, sewage or sludge which is classified as a hazardous waste pursuant to 40 CFR 261.

“Illinois Environmental Protection Agency” or “IEPA” means the Environmental Protection Agency of the state of Illinois.

“Illinois Pollution Control Board” or “IPCB” means the Pollution Control Board of the state of Illinois.

“Incompatible pollutant” shall mean a pollutant or waste characteristic which causes, or has the potential to cause, interference with the operation of a water reclamation facility or which is not amenable to treatment by a water reclamation facility and passes

through such a water reclamation facility and is contained in the discharged final effluent.

“Industrial user” or “IU” means a person who conducts any industrial, manufacturing, agricultural, trade or business process or who conducts the development, recovery or processing of natural resources.

“Industrial waste” means all solid, liquid or gaseous waste resulting from any commercial, industrial, manufacturing, agricultural, trade or business operation or process or from the development, recovery or processing of natural resources.

“Intake water adjustment” shall mean the adjustment of a categorical pretreatment standard to reflect the presence of a pollutant in a user’s intake water.

“Interference” means a discharge which alone or in conjunction with a discharge or discharges from other sources inhibits or disrupts the normal operation of any treatment processes, including sludge processes, use or disposal, which causes a violation of any requirement of a NPDES permit or other permit issued to the District by the IEPA or the USEPA.

“National Pollutant Discharge Elimination System” or “NPDES” means the permit and regulation system governing direct discharges into navigable waters administered by the IEPA and USEPA.

“New source” shall mean any industrial point source of pollutants for which the construction or installation of process facilities or the housing for containing process facilities commenced on or after the date of proposal of regulations in the **Federal Register** of any applicable categorical pretreatment standard for pollutants which applies to said source.

“Ordinance” means the Sewage and Waste Control Ordinance of the Metropolitan Water Reclamation District of Greater Chicago and any rules, regulations and orders adopted by the Board pertaining thereto.

“Other wastes” means all decayed wood, sawdust, shavings, bark, lime, refuse, ashes, garbage, offal, oil, tar, chemicals, and all other substances except sewage and industrial wastes.

“Pass-through” means a discharge which exits the District’s water reclamation facilities into waters in quantities, or concentrations which, alone or in conjunction with a discharge or discharges from other sources, causes a violation of any requirement of a NPDES permit or other permit issued to the District by the IEPA or the USEPA.

“Person” means any individual, partnership, co-partnership, firm, company, corporation, association, joint venture, joint stock company, sole proprietorship, trust, estate, co-partnership, unit of



government, school district, or private corporation organized or existing under the laws of the state of Illinois or any other state or country.

~~“Person in Significant Noncompliance” means any person who is so designated by the District in accordance with the criteria contained in Appendix E of this Ordinance.~~

“Pollution” means the discharge of a substance, set forth in Appendices A, B, and C hereto, to any waters, sewer, or other facility under the jurisdiction of the District, in excess of those quantities or strengths permitted by said Appendices A, B, and C hereto or in a manner contrary to that set forth herein. The discharge of any material or substance hereunder in quantities or strengths greater than those permitted under Appendices A, B, and C hereto or contrary to the manner set forth in this Ordinance shall constitute prima facie “pollution” and no further proof of detriment or harm shall be required by the District in any and all enforcement activities undertaken pursuant to the Ordinance.

“Pretreatment” means any method, construction, device, arrangement or appliance appurtenant thereto, installed for the purpose of treating, neutralizing, stabilizing, disinfecting, or disposing of sewage, industrial waste or other wastes prior to the discharge of such sewage, industrial waste or other wastes into the sewerage system under the jurisdiction of the District, or for the recovery of by-products from such sewage, industrial waste or other wastes.

“Pretreatment Standards” means any restriction on quantities, quality, rates, or concentrations of pollutants discharged into a Publicly Owned Treatment Works (POTW).

“Process wastewater” means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product or waste product.

“Production residue” means any liquid, solid, or gas which is residual source material, waste product or production by-product capable of being disposed in the sewerage system under the jurisdiction of the District.

“POTW” means treatment works owned and operated by a public entity, such as the District’s water reclamation facilities.

“Registered Professional Engineer” or “P.E.” means a professional engineer licensed by the Illinois Department of Financial and Professional Regulation to practice that profession.

“Sewage” means water-carried human wastes or a combination of water-carried wastes from residences, business, buildings, institutions and indus-

trial establishments, together with any ground, surface, storm or other waters that may be present.

“Sewerage system” means sewers, intercepting sewers, pipes or conduits, pumping stations, force mains, constructed drainage ditches, surface water intercepting ditches, and all other constructions, devices and appliances appurtenant thereto used for collecting or conducting sewage, industrial waste or other wastes to a point of treatment or ultimate disposal.

“Significant industrial user” or “SIU” means any person who: (i) is subject to categorical pretreatment standards, or (ii) discharges greater than 25,000 gallons per day of process wastewater to the sewerage system, excluding water-carried human wastes from sanitary conveniences such as toilets, wash bowls, bathtubs, showers and residential laundries, noncontact cooling water, boiler blowdown water, and uncontaminated storm water, or (iii) discharges process wastewater in excess of five percent or more of the average dry weather hydraulic or organic capacity of the receiving water reclamation facilities, or (iv) is designated by the District as having a reasonable potential for adversely affecting the operations of the water reclamation facilities or for violating any standard or requirement of this Ordinance. Upon finding that an IU meeting the above criteria has no reasonable potential for adversely affecting the operations of the District’s water reclamation facilities or for violating any pretreatment standards or requirements, the District may at any time, on its own initiative or in response to a petition from an IU, determine that such IU is not an SIU.

“Significant Noncompliance” means any instance of noncompliance by any person exhibiting any of the following: (i) chronic violations of wastewater Discharge limits, defined here as those in which 66 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(1); (ii) Technical Review Criteria (TRC) violations (Acute violations), defined here as those in which 33 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR 403.3(1) multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oils, and greases, and 1.2 for all other pollutants except pH); (iii) any violation of an effluent discharge standard or prohibition which causes or contributes to pass-through or interference, the imminent threat of fire, explosion or other damage to the sewerage system, imminent endangerment to human health or the environment or which results in

the District exercising its emergency authority to halt such violation; (iv) failure to submit a completed and certified report within 45 calendar days of a report due date; (v) failure to meet, within 90 calendar days after the schedule date, a compliance milestone date or final compliance date contained in a compliance schedule or Discharge Authorization; (vi) failure to provide access to the industrial user's premises to representatives of the District for the purposes of inspection and sampling; (vii) failure to comply with the spill containment and notification requirements regarding spills, malfunctions, bypasses, and slug loadings contained in Article V, Sections 4 and 15 or this Ordinance; (viii) failure to report any instance of noncompliance of which the person becomes aware by self-monitoring, as required under Article V, Section 8 of this Ordinance; or (ix) non-compliance with any of the terms or conditions of the Ordinance, upon the determination of the Executive Director.

"Sludge" means liquid and precipitated or suspended solid material therein contained, generated from the treatment of water, sewage, industrial waste or other wastes.

"Slug Discharge" means any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or non-customary batch Discharge, which has a reasonable potential to cause interference, pass-through, or in any other way to cause a violation of the District's regulations, local limits or Permit conditions.

"Standard Methods" means the most recent edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association.

"United States Environmental Protection Agency" or "USEPA" means the Environmental Protection Agency of the United States Government and its designated agents.

"Water reclamation facilities" means any method, construction, device, arrangement or appliance appurtenant thereto, installed for the purpose of treating, neutralizing, stabilizing, disinfecting, or disposing of sewage, industrial wastes or other wastes, or for the recovery of by-products from such sewage, industrial waste or other wastes and includes sewers, pipes and other conveyances if they convey wastewater to a POTW.

"Waters" means all accumulations of water, surface and underground, natural or artificial, public or private or parts thereof, which are wholly or partially under the jurisdiction of the District or which flow through the territory of the District.

## **ARTICLE III**

### **Prohibited Wastes**

#### **Section 1. Unlawful Discharges**

It shall be unlawful for any person to discharge sewage, industrial wastes, or other wastes of any kind into any waters of the state of Illinois under the jurisdiction of the District, in the absence of a current and valid National Pollutant Discharge Elimination System Permit issued by the Illinois Environmental Protection Agency, or into any sewerage system under the jurisdiction of the District, which does not conform to the criteria or effluent quality standards established and/or adopted by the District, as set forth in Appendices A, B, and C hereto of this Ordinance.

In addition to the prohibitions indicated in the above paragraph, it shall be unlawful for any significant industrial user, as defined herein, to cause or allow the discharge of process wastewater into the sewerage system under the jurisdiction of the District in violation of the terms and conditions contained in a Discharge Authorization issued to said person pursuant to the provisions of Appendix D of this Ordinance.

#### **Section 2. Waterway Discharge Standards**

Effluent quality standards and criteria for discharges into and pollution of waters of the state of Illinois in the absence of a current and valid National Pollutant Discharge Elimination System Permit issued by the Illinois Environmental Protection Agency, enacted by the Illinois Pollution Control Board and adopted by the Board of Commissioners of the District, are contained in Appendix A of this Ordinance.

#### **Section 3. General Pretreatment Standards ("GPS")**

General pretreatment standards and criteria for discharges into and pollution of sewerage systems tributary to water reclamation facilities of the District, enacted by the Board of Commissioners of the District, are contained in Appendix B of this Ordinance.

#### **Section 4. Categorical Pretreatment Standards ("CPS")**

Categorical pretreatment standards for discharges into and pollution of sewerage systems tributary to publicly owned treatment works, promulgated by the United States Environmental Protection Agency, are adopted by the Board of Commissioners for discharges to sewers under the jurisdiction of the District. Where there is a conflict in the application of general pretreatment standards contained in Appendix B and categorical pretreatment standards listed in Appendix C, the more stringent standard shall apply.

**Section 5. ~~New or Increased Pollutant or Flow~~  
New, Increased or Decreased Pollu-  
tant or Flow**

All persons shall promptly notify the District in advance of any substantial changes in volume or character of pollutants in their wastewater discharge such as new or changed flow volume, new or changed concentrations or mass loadings of pollutants, or a change in the point of entry of a discharge into the sewerage system, if any of which does not conform to the provisions of this Ordinance or a Discharge Authorization issued to said person by the District. Such notification shall be submitted in writing for approval at least 30 days prior to the commencement of the desired change. The date of commencement of the desired change shall in no case be earlier than 30 days following receipt of the request by the District. The District shall respond within 30 days of the date of receipt of the request with approval or denial. No such change in discharge conditions shall take place until the District has granted written approval of the desired change. If the District does not respond within 30 days with a denial or a request for additional information clarifying the request for changes, then the request shall be deemed approved.

Persons subject to the terms of a Discharge Authorization issued by the District under Appendix D of this Ordinance, for which the requested change in discharge conditions constitutes a deviation from any conditions established in the Discharge Authorization issued to said person, shall not commence the desired change until the District has issued a revised or renewed Discharge Authorization.

Any person whose request for change of discharge conditions has been denied by the District, may request a review of the District's determination. Such request must be made in writing to the Director of Monitoring and Research. The request for review must clearly state the reason(s) why such person believes that the District's denial of the requested discharge change should be reviewed.

The Director of Monitoring and Research will inform the Executive Director of all requests for review. The Executive Director shall order that a hearing be held for each request for review. The review hearing shall comply with the hearing procedures of Article VI, Section 3 of this Ordinance and shall be limited in scope to the issues raised in the person's initial request for change of discharge conditions. The final administrative decision on each review will be made by the Board after it receives a report with recommendations from the Review Hearing Officer.

During the pendency of any review requested pursuant to this Section, the person requesting a change of discharge conditions is expressly prohib-

ited from implementing, causing or allowing the proposed change in discharge conditions.

Any pollution control equipment necessary to achieve compliance with the District's standards, as specified in Appendices A, B, and C hereof, must be installed prior to commencement of such change in discharge conditions.

**Section 6. Dilution Prohibition**

No person shall increase the use of process water or, in any way, dilute or attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the criteria or effluent quality standards set forth in this Ordinance.

**Section 7. Dangerous or Threatening Discharge**

Notwithstanding any other remedies which the District may have by statute, common law or this Ordinance, when, in the determination of the Executive Director, any person's discharge presents an imminent danger to the public health, welfare or safety, presents or may present an endangerment to the environment, or which threatens to interfere with the operation of the sewerage system or a water reclamation facility under the jurisdiction of the District, the District, acting through the Executive Director, shall apply to the Circuit Court of Cook County for injunctive relief to cease and desist the dangerous or threatening discharge.

**Section 8. Uncontrolled or Unregulated Wastes**

Each person subject to the terms and conditions of this Ordinance must install and maintain, at its own expense, pretreatment facilities adequate to prevent a violation of the pollutant concentration limits, discharge prohibitions or performance criteria of this Ordinance.

No person shall reintroduce into the sewer system of the District materials which have been removed from the sewer system by catch basins, grease traps, and other pretreatment devices. Physical, chemical or biological agents shall not be introduced into catch basins, grease traps or other pretreatment devices for the purposes of resuspending, dissolving, emulsifying or rendering soluble any pollutants or other materials removed from a wastewater stream by such pretreatment devices and reintroducing these materials into the sewer system.

All new industrial users and existing industrial users wishing to introduce new or increased pollutant flows or changes in the nature or concentration of pollutants discharged to the sewerage system must provide all pretreatment facilities required pursuant

to this Ordinance prior to the commencement of discharge.

### **Section 9. Certification of Wastewater Pretreatment System Operator**

No person shall cause or allow the operation of any pretreatment facilities discharging process wastewater into the sewerage system of the District unless the operation of such pretreatment facilities is under the direct and active field supervision of a person who has been certified by the IEPA as being competent to operate the particular type or size of pretreatment facilities being used or operated.

## **ARTICLE IV**

### **Monitoring Methods and Facilities**

#### **Section 1. Compliance Determination**

In order to determine whether or not the sewage, industrial waste or other wastes discharged by any person into any waters or sewerage system conforms to the criteria or water quality standards of the District, the District may use any accepted engineering or scientific practice, method or device which will lead to such a determination. When practicable, all measurements, tests, and analyses of the waters, sewage, and wastes of any kind shall be conducted in accordance with USEPA approved methods or, in the absence thereof, the latest edition of Standard Methods.

#### **Section 2. Control Manhole/Sampling Chamber – Installation and Access Requirements**

Each person subject to the terms of this Ordinance who is a significant industrial user shall install and maintain, at its own expense, a control manhole or sampling chamber for each separate discharge conveying process wastewater from its facility to the sewerage system. Each such control manhole or sampling chamber shall have ample room to allow the District to perform inspections, sampling, and flow measurement operations.

Each such control manhole shall be located outside of any buildings or enclosed spaces and as near to the facility site boundary as practical; shall not be obstructed by temporary or permanent construction, manufacturing operations or activities, landscaping, parked vehicles or any other activities of the person; and shall be safely and directly accessible to representatives of the District at all times, without restriction of any kind.

Persons subject to this Ordinance who are not significant industrial users, as defined herein, may also be required to install control manholes or sampling chambers in conformance with the provisions of this section, upon the direction of the District's Executive Director.

Persons subject to this requirement of the Ordinance, who represent that this requirement cannot be reasonably complied with, may set forth said representations in writing to the Executive Director and be given an opportunity to be heard regarding said representations. The Executive Director shall make a determination, in writing to the person, granting leave from this requirement upon proof that compliance cannot be reasonably obtained, or dismissing said representations as unfounded.

Any person whose request for exemption from the requirements of this section has been denied by the District, may request a review of the District's determination by the Board. Such request must be made in writing, to the Director of Monitoring and Research and must be received by the District within 30 days of the date of notification that the request for exemption has been denied. The request for review must clearly state the reason(s) why such person believes that the District's denial of the requested exemption should be reviewed.

The Director of Monitoring and Research will inform the Executive Director of all requests for review. The Executive Director shall order that a hearing be held for each request for review. The review hearing shall comply with the hearing procedures of Article VI, Section 3 of this Ordinance and shall be limited in scope to the issues raised in the person's initial request for exemption from this section. The final administrative decision on each review will be made by the Board after it receives a report with recommendations from the Review Hearing Officer.

If a building or enclosed space contains more than one industrial user, then each significant industrial user therein, shall install and maintain, at its own expense, a control manhole or sampling chamber for each discharge from its facility, which shall comply with all of the requirements set forth herein. All process wastewater flows from the facility shall, at all times, pass through a control manhole installed in conformance with this Ordinance and no process wastewater flows shall be discharged without passing through a control manhole or sampling chamber acceptable to the District. Each such control manhole or sampling chamber shall be accessible to representatives of the District at all times, without restrictions of any kind.

Persons who are required to construct a control manhole or sampling chamber to comply with this section shall submit a proposal to, and receive approval from, the District prior to undertaking construction of said control manhole or sampling chamber. The proposal submitted shall be certified by a Registered Professional Engineer licensed by the state of Illinois.

### **Section 3. Right of Access**

Representatives of the District may, during reasonable hours, enter upon the premises of each person subject to this Ordinance for the purposes of installing, maintaining and inspecting measurement or sampling devices or facilities; for conducting necessary measuring, gauging and sampling operations; for inspecting or examining facilities, premises, installations and processes; for inspection and copying of records; and for reviewing pretreatment operating procedures and spill prevention and control plans of such person to determine compliance with this Ordinance or an order of the Board of Commissioners adopted pursuant hereto.

For the purpose of this section, reasonable hours are any time when the industrial user is operating any process or equipment, or any time when the facility is discharging industrial waste to the sewerage system of the District.

Areas subject to inspection are limited to those areas with drains or other connections to the sewerage system in which processes, equipment, and operations which result in industrial waste discharges are located, and storage areas containing any raw material, industrial waste, production residue or sludge. The scope of an inspection, including reviewing and copying of records, is limited to determining whether the industrial user is in compliance with all applicable standards and requirements of this Ordinance.

District personnel, when accessing the premises of a person, will observe and comply with all posted safety and health rules and practices applicable at the premises of the person.

### **Section 4. Monitoring for Public Hazards**

Whenever the Executive Director determines that a public safety hazard exists due to the threat of release of pollutants regulated under Appendix B, Section 2(a), 2(b), or 2(e) of this Ordinance, in the discharge from an industrial user to the sewerage system under the jurisdiction of the District, the Executive Director shall require the industrial user to install and maintain suitable devices to detect the presence of the hazardous materials in the discharge and to notify the District immediately, through a reputable, independent alarm service company acceptable to the District, in the event of such hazardous discharge.

Any monitoring device installed pursuant to this section shall be calibrated at least once per week, and the alarm notification system shall be tested at least monthly. Each person required to install and maintain a monitoring device under this section shall maintain a record of the calibration and testing re-

quired under this paragraph; and make such records available to District personnel for inspection.

### **Section 5. Control Manhole / Sampling Chamber -- Access Requirements**

This section deleted, effective July 9, 1998.

### **Section 6. Requirement for Installation of Flow Measurement Devices for Persons Subject to Categorical Pretreatment Standards**

Each person subject to this Ordinance who is a significant industrial user subject to categorical pretreatment standards shall provide and maintain, at no cost to the District, adequate regulated wastewater flow measurement devices to determine compliance with federal categorical pretreatment standards, including, where applicable, to determine compliance with the Combined Wastestream Formula, which devices shall be accessible to the District at the time of conducting an inspection of the industrial facility and/or pretreatment device. Alternatives to direct metering shall be acceptable where application of the Combined Wastestream Formula is necessary or where the categorical pretreatment standards are based on production. The means by which such metering or alternative means shall be accomplished shall be submitted in writing in advance by the person to the District for approval.

### **Section 7. Interfering with District Monitoring Activities**

It shall be illegal for any person to tamper with, adjust, relocate, remove or damage any monitoring devices installed by the District. Any such activity will be considered a knowing and willful violation of this Ordinance, the applicable statutes of the State of Illinois and applicable federal pretreatment regulations.

The Executive Director may refer such violation to the Office of State's Attorney or the Office of the United States Attorney, for such action as they deem appropriate.

## **ARTICLE V**

### **Reporting Requirements**

#### **Section 1. Volatile/Hazardous Materials**

All persons who, at any time, use, consume, produce or store on their business premises, any volatile/hazardous materials as defined herein, shall annually certify, in writing, to the District, the type and estimated quantities of these materials on forms supplied by the District. The annual certified report is to be signed by an authorized representative of



the entity on whose behalf the report is being made. Where a significant change in the type or quantity of materials used, consumed, produced or stored on the business premises occurs after an annual report has been filed, a new report must be filed immediately.

Volatile/hazardous materials are those identified as wastes under the Resource Conservation and Recovery Act and defined by the USEPA at 40 CFR 261 or those pollutants under the Clean Water Act identified as priority pollutants and defined by the USEPA at 40 CFR 403 Appendix B, published in Final Rule at 46 FR 9458, January 28, 1981.

## **Section 2. Reporting of Production Residue or Sludge**

This section deleted, effective July 9, 1998.

## **Section 3. Facility Categorization**

When so directed by the District, each industrial user shall complete and submit to the District a facility classification questionnaire, on forms supplied by the District. The questionnaire shall be submitted to the District within 30 days of such industrial user's receipt of the form.

## **Section 4. Spill Containment Requirements**

Each industrial user notified of applicability of this section based on said user's use or storage of flammable, volatile, explosive or corrosive materials, or has the potential for a slug discharge, shall provide protection from accidental discharge to the sewerage system of prohibited materials or other substances regulated by this Ordinance. Facilities to prevent such discharge shall be provided and maintained at the user's own cost and expense. Additionally, each such industrial user must have detailed plans on file at the District showing facilities and operating procedures to provide this protection.

Plans shall contain all elements required under 40 CFR 403.8(f)(2)(vi) and shall be approved by the District prior to construction of new facilities. Plans and facilities previously approved by the District shall be re-evaluated by the District at least once every two years and must be modified by the industrial user upon a determination by the Director of Monitoring and Research that modifications are necessary. Plans shall be certified by a Registered Professional Engineer licensed by the state of Illinois.

Each industrial user shall immediately notify the District of any changes at its facility affecting the approved plan or the potential for a slug discharge.

## **Section 5. Reports on Discharges to Surface Waters and to the Sewerage System**

Persons operating sewage treatment facilities discharging effluents to waters or operating pretreatment facilities discharging to the sewerage system under the jurisdiction of the District shall submit operating reports and laboratory analyses of discharges as directed by the Executive Director, at intervals specified by the Executive Director. The reports shall cover all activities of the industrial user from the close of the previous reporting period and must be received at the District not later than 30 calendar days after the end of the reporting period.

Notwithstanding any other non-monetary remedies which the District may have by statute, common law or this Ordinance, any person failing to submit a report or submitting a deficient report to the District, as required hereunder, within the filing period established by the District for such report, shall be assessed a late filing fee, as set forth under Article V, Section 10 of this Ordinance.

## **Section 6. Reporting on Discharges of Hazardous Wastes to the Sewerage System**

Each person subject to the provisions of this Ordinance shall report to the District, on forms supplied by the District, the discharge of hazardous wastes, as defined herein, into the sewerage systems under the jurisdiction of the District. Such reporting shall conform with all applicable terms and conditions of 40 CFR 403.12(p).

Copies of reports filed with the District pursuant to this section shall also be filed with the United States Environmental Protection Agency and the Illinois Environmental Protection Agency, pursuant to 40 CFR 403.12(p).

## **Section 7. Maintenance of Records**

Each person subject to any of the reporting requirements of this Ordinance shall maintain copies of reports and records as required in 40 CFR 403.12(o) resulting from any monitoring activities required by this Ordinance for a minimum of three years and shall make such records available for inspection and/or copying by the District or its representatives. The period of retention shall be extended during the course of any unresolved litigation regarding the person or the District, or at the request of the USEPA, the IEPA or the District. All records pertaining to an incident of noncompliance and the person's actions taken to return to compliance shall be retained for a minimum of three years following the return to compliance resulting from a Cease and Desist Order, Show Cause Board Order or Court Order.

## Section 8. Self-Reporting a Violation

Each person subject to this Ordinance must report all violations identified as a result of self-monitoring to the District by telephone, during normal business hours, to the Industrial Waste Division, Enforcement Section (312) 751-3044 within 24 hours of the time the person becomes aware of such violations. For purposes of this reporting requirement, the person will be considered aware of such violations as of the date of the approval and release of the laboratory analyses indicating the violation. Said person must also submit the results of three days of repeat analyses to the Director of the District's Monitoring and Research Department within 30 days after becoming aware of the violation together with a complete report on all steps taken to resolve the violation. Where the District performs the sampling and analyses in lieu of the industrial user, and if the sampling indicates a violation(s), the District will perform the repeat sampling and analyses unless the District notifies the industrial user of the violation(s) and requires the industrial user to perform the repeat sampling and analyses.

## Section 9. ~~Submittal of all Self-Monitoring Data~~ Self-Monitoring Requirements and Submittal of All Self-Monitoring Data

Each person subject to this Ordinance shall notify the District in writing, no less than 14 calendar days prior to any commencement of its self-monitoring program, whether required by this Ordinance or any other District Ordinances, to allow the District to observe the person's sampling techniques, sample preservation, flow measurements, and other sampling protocols. This written notification shall be made on forms provided by the District, submitted to the District's Pretreatment and Cost Recovery Section by one of the following methods: U.S. mail addressed to the Pretreatment and Cost Recovery Section, P. O. Box 10689, Chicago, Illinois 60610; facsimile transmission sent to (312) 751-5960; or as PDF sent via electronic mail to [mwrducs@mwrdd.org](mailto:mwrducs@mwrdd.org). Users subject to this Ordinance must submit all self-monitoring discharge analytical data to the Director of the District's Monitoring and Research Department, regardless of whether or not the data so obtained is in addition to the District's minimum reporting requirements. Each significant industrial user who monitors any pollutant more frequently than the District's minimum reporting requirements must submit all self-monitoring discharge analytical data with the Continued Compliance Report which covers the reporting period during which the monitoring was performed, in accordance with Appendix C, Article I, Section 4 of this Ordinance.

## Section 10. Late Filing of Reports

Persons required to submit reports by the terms of this Ordinance, including but not limited to Article V, Reporting Requirements; Appendix C, Article I, Reporting Requirements Applicable to Significant Industrial Users and any order of the Executive Director issued pursuant to the terms of this Ordinance, shall submit the required reports by the specified due date. Persons not submitting the reports by the specified due dates shall be subject to late filing fees as follows:

- a. Persons submitting reports up to 15 calendar days following the specified due date shall be assessed \$100.00 for each delinquent report.
- b. Persons submitting reports more than 15 calendar days and up to 45 calendar days following the specified due date shall be assessed \$500.00 for each delinquent report.
- c. Persons submitting reports more than 45 calendar days following the specified due date shall be assessed \$1,000.00 for each delinquent report.

A person may submit required reports following the specified due date together with the late filing fee as specified above. The payment must be in the form of a cashier's check drawn on a United States bank, made payable to the Clerk of the District.

The District shall provide, by Certified Mail, a written notice of the fee assessment which states that the person has 30 days after the receipt of the notice to request a conference with the Monitoring and Research designee to discuss or dispute the appropriateness of the assessed fee. Unless a person objects to paying the fee for filing a report late by timely requesting, in writing to the Director of Monitoring and Research within 30 days of receipt of the late filing fee notice, a conference with a designee of the Executive Director, that person waives his or her right to a conference and the District may impose a lien recorded against the property of the person for the amount of the unpaid fee.

If a person requests a conference and the matter is not resolved at the conference, the person subject to the fee may request an administrative hearing before an impartial hearing officer appointed by the Board under the provisions of Article VI, Section 3 of this Ordinance, to determine the person's liability for and the amount of the fee.

If the hearing officer finds that the late filing fee is owed to the District, the District shall notify the responsible person or persons of the hearing officer's decision. If payment is not made within 30 days after the notice, the District may impose a lien on the property of the person or persons.

Any liens filed under this section shall apply only to the property to which the late filing fee is related. A claim for lien shall be filed in the Office of the Recorder of the county in which the property is located. The filing of a claim for lien by the District does not prevent the District from pursuing other means for collecting a late filing fee. If a claim for lien is filed, the District shall notify the person whose property is subject to the lien.

#### **Section 11. Failure to Report is a Violation**

Whenever a person subject to this Ordinance fails to comply with any of the reporting requirements of this Ordinance or with details regarding reporting requirements as directed by the Executive Director, such failure shall be a violation of the Ordinance. If it is necessary for the District to perform inspections and/or sampling of the person's facility, or prepare a report on behalf of the person, the District shall recover the costs of such activity from the person in the same manner as debts are recoverable at law.

#### **Section 12. Reporting of Batch and/or Intermittent Discharges**

Upon written notification from the District of applicability of this paragraph, each person subject to this Ordinance who discharges industrial waste on a batch and/or intermittent basis shall notify the District's Field Surveillance Section, by telephone at (708) 588-4030, between 7:00 a.m. and 3:30 p.m. on normal business days, at least 48 hours prior to each batch or infrequent discharge. The telephone notification shall be used by the District to facilitate inspection and sampling of the person to coincide with periods during which the batch and/or intermittent discharge may occur. No process wastewater may be discharged into the sanitary sewerage system on a batch basis except in conformance with the batch discharge telephone notification procedure.

For the purpose of this section, a batch discharge is defined as a discharge of industrial waste which does not occur continuously during all working shifts of the person. An intermittent discharge is defined as a discharge of industrial waste which originates from an industrial process or activity which is not performed by the person during all working shifts of the person.

#### **Section 13. Submittal of Facility Closure Schedule**

Each significant industrial user and each industrial user notified of applicability of this section based on said user's use or storage of flammable, volatile, explosive or corrosive materials, who determines that an industrial facility owned or operated by said person shall cease its operations, shall notify the Director of Monitoring and Research of intent to cease such operations, not less than 30 days prior

to the cessation of operations. Such person shall also submit to the District, at that time, a facility closure schedule, which shall identify the dates upon which the person anticipates completion of the lawful removal or disposal of all raw materials, production residues and sludges which contain pollutants regulated under Appendix B or Appendix C of this Ordinance, from the industrial facility and, where applicable, the names of disposal contractors to be used. The District may provide such information as may be submitted under this Section, to the United States Environmental Protection Agency, the Illinois Environmental Protection Agency, or any unit of local government having jurisdiction over the industrial facility.

If such person has submitted a facility closure plan to a federal or state agency and has received approval of such plan from said agency, the person may submit a copy of such facility closure plan to the District in lieu of developing a new facility closure schedule, provided the submitted plan adequately addresses the issues identified in the preceding paragraph.

#### **Section 14. Notification Requirements Regarding a Planned Bypass or Shutdown of Pretreatment Facilities**

In the event of a planned shutdown or bypass of pretreatment facilities installed and operated to maintain compliance with the provisions of this Ordinance or a Discharge Authorization issued to a significant industrial user, such user shall notify the Director of the District's Monitoring and Research Department, in writing, at least ten days prior to the beginning of the shutdown or bypass.

#### **Section 15. Notification Requirements Regarding Spills, Malfunctions, Bypasses, and Slug Loadings**

Each significant industrial user and each industrial user notified of applicability of this section based on said user's use or storage of flammable, volatile, explosive or corrosive materials, shall immediately notify the District, by telephone, in the event of any of the following occurrences:

- a) a mechanical malfunction of any portion of such person's industrial waste pretreatment system, except in cases where (i) no wastewater is discharged to the sewerage system, (ii) in the best professional judgment of the person's certified wastewater pretreatment system operator, the wastewater discharge flow rate or quality is not affected or remains within the normal operating characteristics of the wastewater pretreatment system, or (iii) if the malfunction itself precludes the discharge of wastewater;



- b) an accidental or deliberate discharge without adequate pretreatment of any chemical, product, production residue or other waste into the sewerage system;
- c) an accidental or deliberate discharge which results in a violation of the criteria or applicable discharge standards of this Ordinance; or
- d) a slug discharge.

Such notification shall be made within one hour of the person's becoming aware of the incident, by telephone, to the Monitoring and Research Department, Industrial Waste Division (312) 751-3044 during normal business hours or to the Systems Dispatcher (312) 787-3575 at all other times. Said notification shall be confirmed in writing and received by the District within five calendar days explaining the incident and outlining corrective measures to prevent a recurrence.

## **ARTICLE VI**

### **Administrative Proceedings**

#### **Section 1. Cease and Desist Orders**

Whenever the Executive Director determines that sewage, industrial wastes, or other wastes are being, have been, or may reasonably be expected to be discharged into any waters or the sewerage system under the jurisdiction of the District, which are not in compliance with the provisions of this Ordinance, or that any person has otherwise acted contrary to the provisions of this Ordinance or to a Discharge Authorization issued to such person under this Ordinance, the Executive Director or his designee shall order such person to cease and desist such action. The Cease and Desist Order may be sent via Certified Mail, Return Receipt Requested, or may be served personally by a representative of the District at the site, on the owner, officer, registered agent or individual designated by permit, or operator of the offending person. The Executive Director or his designee may convene a conciliation meeting with the person so ordered to cease and desist for the purpose of establishing a compliance and reporting schedule for the person to come into compliance with the Ordinance or provisions of the Discharge Authorization.

#### **Section 2. Compliance Reports**

During conciliation proceedings, any person may be required to furnish the District with compliance schedules, interim and final compliance reports, sampling and analysis, and such other information as is reasonably necessary to demonstrate compliance with the applicable discharge standards of this Ordinance. All such reports, data, and information shall be executed by an authorized representative of the person and certified as to accuracy and com-

pleteness by a Registered Professional Engineer licensed by the state of Illinois. Interim reports shall be required only when the person fails to achieve compliance within 90 days of the receipt of a Cease and Desist Order and shall be submitted no more frequently than once per month.

Compliance Schedules (RD-112) required under this section must be received at the District not later than 15 calendar days after the person's receipt of a Cease and Desist Order issued by the District.

Final Compliance Reports (RD-114) required under this section must be received at the District not later than 15 calendar days after the final compliance date specified in the RD-112 for a given Cease and Desist Order. Persons submitting RD-114 forms for a Cease and Desist Order pertaining to effluent discharge violations may limit sampling analyses to only the noncomplying pollutants indicated in the Cease and Desist Order.

Representative samples must be obtained at each control manhole/sampling chamber identified in the Cease and Desist Order. Samples must be taken for a minimum of three days within a two-week period for the monitoring of a wastestream with a flow less than 200,000 gallons per day. Where the long-term average flow of a wastestream exceeds 200,000 gallons per day, the user shall take samples for six days within a two-week period. Sample collection shall conform to the requirements of 40 CFR 403.12(g) and all analyses shall be performed in accordance with test procedures established by the United States Environmental Protection Agency in 40 CFR 136.

Notwithstanding any other non-monetary remedies which the District may have by statute, common law or this Ordinance, any person failing to submit a report or submitting a deficient report to the District, as required hereunder, within the filing period established by the District for such report, shall be assessed a late filing fee, as set forth under Article V, Section 10 of this Ordinance.

#### **Section 3. Proceedings for Show Cause / Board Order Compliance**

If any person fails or refuses to achieve compliance with this Ordinance within 90 days after notification of a Cease and Desist Order issued pursuant to this Ordinance, the Executive Director may order such person to show cause before the Board of Commissioners of the District or its designee why they have failed or refused to comply with the Cease and Desist Order. In making the determination to order a person to Show Cause why they have failed or refused to comply with the Cease and Desist Order, the Executive Director shall, (i) with respect to the discharge limits contained in Appendix B of this Ordinance, place preponderant weight on monitoring

data based on composite samples representative of the discharge of the person, unless the approved analytical method does not allow analysis of composite samples, and (ii) with respect to categorical pretreatment standards contained in Appendix C of this Ordinance, place preponderant weight on monitoring data based on sampling which conforms to sampling requirements specified in the applicable categorical pretreatment standards. A notice shall be served on the offending party, specifying the time and place of a hearing to be held by the Board of Commissioners regarding their failure to achieve compliance, and directing the offending party to show cause before the Board why an order should not be entered directing the offending party to come into compliance. The notice of the hearing shall be served personally or by Registered or Certified Mail at least ten (10) days before the hearing; service may be had on any agent or officer of a corporation or municipality.

After the Board of Commissioners has reviewed the evidence, it may issue an order to the party responsible for the violation, directing that within a specified time period, the violation be discontinued, and any other such orders as the Board may deem necessary.

The Board shall establish procedures for assessing fines and issuing orders as follows:

- a. In making its orders and determinations, the Board shall take into consideration all the facts and circumstances bearing on the activities involved and the assessment of civil penalties as shown by the record produced at the hearing.
- b. The Board shall establish a panel of independent hearing officers to conduct all hearings on the issuance of orders and the assessment of civil penalties under this Section. The hearing officers shall be attorneys licensed to practice law in the State of Illinois.
- c. The Board shall promulgate procedural rules governing the proceedings, the issuance of orders and the assessment of civil penalties.
- d. All hearings shall be on the record; and testimony taken must be under oath and recorded stenographically. Transcripts so recorded must be made available to any member of the public or any party to the hearing upon payment of the usual charges for transcripts. At the hearing, the hearing officer may issue, in the name of the Board, notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in the hearing, and may examine witnesses.

- e. The hearing officer shall conduct a full and impartial hearing on the record, with an opportunity for the presentation of evidence and cross-examination of the witnesses. The hearing officer may also recommend, as part of the order of the Board, that the discharge of industrial waste or other waste be discontinued within a specified period of time. After all evidence has been presented, the hearing officer shall issue a Report based upon the preponderance of evidence in the record, which includes finding of fact, conclusions of law, order, and, if violations are proven, recommended civil penalties. Civil penalties shall be assessed at the level of \$1,000.00 to \$2,000.00 per day of violation. Each day's continuation of such violation or failure to abide by the terms of this Ordinance is a separate offense. A regulatory multiple day average that exceeds acceptable limits constitutes a separate violation.
- f. The Report shall be transmitted to the Board, along with a complete record of the hearing.
- g. The Board shall either approve or disapprove the Report. If the Report is rejected, the Board shall remand the matter to the hearing officer for further proceedings. If the Report is accepted by the Board, it shall constitute the final order of the Board.
- h. The Administrative Review Law of the State of Illinois, and the rules adopted under such law, shall govern all proceedings for judicial review of final orders of the Board issued under this Section.
- i. The civil penalty specified by the Board shall be paid within 35 days after the party on whom it is imposed receives a written copy of the order of the Board, unless the person or persons to whom the order is issued seeks judicial review of the order under Article VI, Section 3, Paragraph h of this Ordinance.
- j. If the respondent seeks judicial review of the order assessing a civil penalty, the respondent shall, within 20 days after the date of the final order of the Board, pay the amount of the civil penalty into an escrow account maintained by the District for that purpose or file a bond guaranteeing payment of the civil penalty if the fines are upheld on review.
- k. Civil penalties not paid by the times specified above shall be delinquent and subject to a lien recorded against the property of the person ordered to pay the penalty. The foregoing provisions for asserting liens against real estate by the District shall be in addition to and not in derogation of any other remedy or

right of recovery, in law or equity, that the District may have with respect to the collection or recovery of penalties and charges imposed by the District. Judgment in a civil action brought by the District to recover or collect the charges shall not operate as a release and waiver of the lien upon the real estate for the amount of the judgment. Only satisfaction of the judgment or the filing of a release or satisfaction of lien shall release the lien.

#### **Section 4. Failure to Report is a Violation**

Whenever a person subject to this Ordinance fails to comply with any of the reporting requirements of this Ordinance or with details regarding reporting requirements as directed by the Executive Director, such failure shall be a violation of the Ordinance. If it is necessary for the District to perform inspections and/or sampling of the person's facility, the District may recover the costs of such activity from the person in the same manner as debts are recoverable at law.

#### **Section 5. Penalties**

The Board may also order the party responsible for the violation, to pay a civil penalty in an amount specified by the Board which is not less than \$1,000.00 nor more than \$2,000.00 per day for each day on which such person was found in violation. The Board may also order the party responsible for the violation to pay court reporter costs and hearing officer fees in a total amount not exceeding \$3,000.00. Each day's continuance of such violation or failure is a separate offense. Regulatory multiple day averages which exceed acceptable limits shall constitute separate violations.

#### **Section 6. Order to Cease Discharge Upon Violation of Board Order**

The Executive Director may order a person to cease the discharge of industrial waste upon a finding by the Executive Director that the final order of the Board, entered after a hearing to Show Cause, has been violated. The Executive Director shall serve the person with a copy of the order either by Certified Mail or personally by serving the owner, officer, registered agent or individual designated in said person's Discharge Authorization. The order of the Executive Director shall also schedule an expedited hearing before a hearing officer designated by the Board for the purpose of determining whether the company has violated the final order of the Board. The Board shall adopt rules of procedure governing expedited hearings. In no event shall the hearing be conducted less than seven days after receipt by the person of the Executive Director's order.

At the conclusion of the expedited hearing, the hearing officer shall prepare a report with his or her findings and recommendations and transmit it to the Board. If the Board, after reviewing the findings and recommendations, and the record produced at the hearings, determines that the person has violated the Board's final order, the Board may authorize the plugging of the sewer. The Executive Director shall give not less than 10 days written notice of the Board's order to the owner, officer, registered agent, or individual designated in said person's Discharge Authorization, as well as the owner of record of the real estate and other parties known to be affected, that the sewer will be plugged. The Administrative Review Law, and the rules adopted under that Law, shall govern all proceedings for the judicial review of final orders of the Board issued under this section.

The foregoing provision for plugging a sewer shall be in addition to and not in derogation of any other remedy, in law or in equity, that the District may have to prevent violation of this Ordinance and orders of the Board.

### **ARTICLE VII**

#### **Court Proceedings**

##### **Section 1. Violation of Order to be Considered a Nuisance**

A violation of an Order of the Board shall be considered a nuisance. If any person fails to comply with any Order of the Board, the District, acting through the Executive Director, may commence an action or proceeding in the Circuit Court in and for the county in which the District is located or operates facilities for the purpose of having the violation stopped either by mandamus or injunction, or to remedy the violation in any manner provided by law.

##### **Section 2. Penalties**

Whoever violates any provisions of this Ordinance or fails to comply with an order of the Board of Commissioners issued in accordance with the provisions of this Ordinance, shall be assessed a civil penalty of not less than \$1,000.00 nor more than \$10,000.00 for each day the violation continues. If, however, the violation occurs before the entry of an order by the Board, the civil penalty may be reduced to not less than \$1,000.00 nor more than \$2,000.00 per day of violation. Each day's continuance of such violation or failure is a separate offense. The penalties provided in this Section, plus interest at the rate set forth in the Interest Act on unpaid penalties imposed by the Board under Article VI, Section 3 of this Ordinance, the reasonable costs to the District of removal or other remedial action caused by discharges in violation of the Metropolitan Water Reclamation District Act or this Ordinance, reasonable attorney's fees, court costs and other

expenses of litigation, together with costs for inspection, sampling, analysis, and administration related to the enforcement action against the person, are recoverable by the District in a civil action.

### **Section 3. Injunctive Relief**

In addition to the penalties provided in the foregoing Section, whenever a person violates any provision of this Ordinance or fails to comply with any Order of the Board of Commissioners, the District, acting through the Executive Director, may apply to the Circuit Court of Cook County for the issuance of an injunction restraining the person violating the Ordinance or failing to comply with the Board Order from making any further discharges into the waterways or sewerage system of the District.

Notwithstanding any other remedies which the District may have by statute, common law or this Ordinance, when, in the determination of the Executive Director, any person's discharge presents an imminent danger to the public health, welfare or safety, presents or may present an endangerment to the environment, or which threatens to interfere with the operation of the sewerage system or a water reclamation facility under the jurisdiction of the District, the District, acting through the Executive Director, may apply to the Circuit Court of Cook County for injunctive relief to cease and desist such discharge, without first exhausting administrative procedures.

## **ARTICLE VIII**

### **Savings Clause**

#### **Section 1. Integrity of Ordinance**

If the provisions of any paragraph, section or article of this Ordinance are declared unconstitutional or invalid by the final decision of any court of competent jurisdiction, the provisions of the remaining paragraph, sections or articles shall continue in full force and effect.

#### **Section 2. Previous Violations**

Nothing in this Ordinance shall in any manner or form affect the validity of any enforcement proceedings instituted under the Sewage and Waste Control Ordinance, in effect prior to the date of this amendment. Enforcement proceedings shall be controlled by the Sewage and Waste Control Ordinance, as amended, in effect at the time of the commencement of such enforcement activity.

## **ARTICLE IX**

### **Effective Date**

~~This comprehensive Amendment shall take effect immediately upon passage by the Board of Commissioners.~~ This Ordinance as amended shall be in full force and effect May 20, 2021.

Approved:

~~Mariyana T. Spyropoulos  
President  
Board of Commissioners  
Metropolitan Water Reclamation  
District of Greater Chicago~~

~~Approved as to Form & Legality:~~

~~Ronald Hill  
General Counsel~~

**APPROVED:**

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Kari K. Steele  
President of the Board of Commissioners of the  
Metropolitan Water Reclamation District of  
Greater Chicago

Approved as to form and legality:

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Christopher M. Murray  
Head Assistant Attorney

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Susan T. Morakalis  
General Counsel

**APPENDIX A**  
**to the**  
**SEWAGE AND WASTE CONTROL**  
**ORDINANCE**  
**DISCHARGES TO AND POLLUTION OF**  
**WATERS**

**Section 1. General Provisions**

**a. Dilution**

Dilution of the effluent from a treatment works or from any wastewater source is not acceptable as a method of treatment of wastes in order to meet the standards set forth in this Appendix A. Rather, it shall be the obligation of any person discharging contaminants of any kind to the waters of the state to provide the best degree of treatment of wastewater consistent with technological feasibility, economic reasonableness, and sound engineering judgment. In making determinations as to what kind of treatment is the "best degree of treatment" within the meaning of this paragraph, any person shall consider the following:

- (1) What degree of waste reduction can be achieved by process change, improved housekeeping, and recovery of individual waste components for reuse; and
- (2) Whether individual process wastewater streams should be segregated or combined.

In any case, measurement of contaminant concentrations to determine compliance with the effluent standards shall be made at the point immediately following the final treatment process and before mixture with other waters, unless another point is designated by the District. If necessary, the concentrations so measured shall be recomputed to exclude the effect of any dilution that is improper under this Appendix A.

**b. Background Concentrations**

Because the effluent standards in this Appendix A are based upon concentrations achievable with conventional treatment technology that is largely unaffected by ordinary levels of contaminants in intake water, they are absolute standards that must be met without subtracting background concentrations. However, it is not the intent of these regulations to require users to clean up contamination caused essentially by upstream sources or to require treatment when only traces of contaminants are added to the background.

Compliance with the numerical effluent standards is therefore not required when effluent concentrations in excess of the standards result entirely from influent contamination, evaporation, and/or the incidental addition of traces of materials not utilized or produced in the activity that is the source of the waste.

**c. Sampling**

Except as otherwise specifically provided in this Appendix A, proof of violation of the numerical standards of this Appendix A shall be on the basis of one or more of the following standards:

- (1) No monthly average shall exceed the prescribed numerical standard.
- (2) No daily composite shall exceed two times the prescribed numerical standard.
- (3) No grab sample shall exceed five times the prescribed numerical standard.

**d. Terminology**

Terms used under Section 1c shall have the following meanings:

- (1) The monthly average shall be the numerical average of all daily composites taken during a calendar month. A monthly average must be based on at least three daily composites.
- (2) A daily composite shall be the numerical average of all grab samples, or the result of analysis of a single sample formed by combining all aliquots taken during a calendar day. A daily composite must be based on at least three grab samples or three aliquots taken at different times.
- (3) A grab sample is a sample taken at a single time. Aliquots of a daily composite are grab samples only if they are analyzed separately.

**Section 2. Violation of Water Quality Standards**

In addition to the other requirements of this Appendix A, no effluent shall, alone or in combination with other sources, cause a violation of any state water quality standard. When the District finds that a discharge that would comply with effluent standards contained in this Appendix A would cause or is causing a violation of state water quality standards, the District shall take appropriate action to require the discharge to meet whatever effluent limits are necessary to ensure compliance with the state water quality standards. When such a violation is caused by the cumulative effect of more than one source, several sources may be joined in an enforcement

proceeding, and measures for necessary effluent reductions will be determined on the basis of technological feasibility, economic reasonableness, and fairness to all dischargers.

### Section 3. Offensive and Threatening Discharges

In addition to the other requirements of this Appendix A, no effluent shall contain untreated sewage constituents, settleable solids, floating debris, visible oil, grease, scum, or sludge solids, or liquids, solids or gases which by reason of their nature or quantity are sufficient to cause fire or explosion or be injurious in any other way to the sewerage system, to human life or to the environment. No effluent shall have a closed cup flashpoint less than 140 degrees Fahrenheit (60 degrees Centigrade) using the test methods specified in 40 CFR 261.21. Color, odor, and turbidity must be reduced to below obvious levels.

### Section 4. Deoxygenating Wastes

All effluents containing deoxygenating wastes shall meet the following standards:

- a. No effluent from any source discharging into the Chicago River System or into the Calumet River System shall exceed 20 mg/L of BOD or 25 mg/L of suspended solids.
- b. No effluent from any source discharging into the Des Plaines River System shall exceed 30 mg/L of BOD or 30 mg/L of suspended solids.
- c. No effluent whose dilution ratio is less than five to one shall exceed 10 mg/L of BOD or 12 mg/L of suspended solids.
- d. No effluent whose dilution ratio is less than one to one shall exceed 4 mg/L of BOD or 5 mg/L of suspended solids.

### Section 5. Bacteria

No effluent governed by this Appendix A shall exceed 400 fecal coliforms per 100 ml.

### Section 6. Phosphorus

No effluent discharged to the Calumet River shall contain more than 1.0 mg/L of phosphorus as P.

### Section 7. Lake Michigan

There shall be no discharge of any sewage, industrial wastes or other wastes of any kind into the waters of Lake Michigan unless the discharges are subject to regulation under a current and valid National Pollutant Discharge Elimination System Permit

issued by the Illinois Environmental Protection Agency.

### Section 8. Additional Contaminants

The following levels of contaminants shall not be exceeded by any discharge of sewage, industrial wastes or other wastes to waters under the jurisdiction of the District.

Waste or Chemical	Concentration (mg/L)
Arsenic (total).....	0.25
Barium (total).....	2.0
Cadmium (total).....	0.15
Chromium (total hexavalent)*.....	0.1
Chromium (total).....	1.0
Copper (total).....	0.5
Cyanide.....	0.10
Fats, oils and greases**.....	15.0
Fluoride (total).....	15.0
Iron (total).....	2.0
Lead (total).....	0.2
Manganese (total).....	1.0
Mercury (total)***.....	0.0005
Nickel (total).....	1.0
Phenols.....	0.3
Silver.....	0.1
Zinc (total).....	1.0
pH range (must be met at all times).....	6.0 - 9.0

\* Discharge of hexavalent chromium shall be subject to the averaging rule of Section 1c of this Appendix, modified as follows: monthly averages shall not exceed 0.1 mg/L; daily composites shall not exceed 0.3 mg/L; and grab samples shall not exceed 1.0 mg/L.

\*\* Oil may be analytically separated into polar and nonpolar components. If such separation is done, neither of the components may exceed 15 mg/L (i.e., 15 mg/L polar materials and 15 mg/L nonpolar materials).

\*\*\* Except if all of the following conditions are met:

1. The discharger does not use mercury; or the discharger uses mercury and this use cannot be eliminated; or the discharger uses mercury only in chemical analysis or in laboratory or other equipment and takes reasonable care to avoid contamination of wastewater; and
2. The effluent mercury concentration is less than 0.003 mg/L, as determined by application of the averaging rules of Section 1c of this Appendix; and

3. The discharger is providing the best degree of treatment consistent with technological feasibility, economic reasonableness, and sound engineering judgment. This may include no treatment for mercury; and
4. The discharger has an inspection and maintenance program likely to reduce or prevent an increase in the level of mercury discharges.

### **Section 9. Discharges Made Under Current and Valid National Pollutant Discharge Elimination System Permit**

The provisions of this Appendix shall not be applicable to discharges subject to regulation under a current and valid National Pollutant Discharge Elimination System Permit issued by the Illinois Environmental Protection Agency.

## **APPENDIX B**

to the

### **SEWAGE AND WASTE CONTROL ORDINANCE**

### **DISCHARGES TO AND POLLUTION OF SEWERAGE SYSTEMS**

#### **Section 1. Pollutant Concentration Limits**

The following are the maximum concentrations acceptable for discharge of sewage, industrial wastes, or other wastes into sewerage systems under the jurisdiction of the District at any time:

Waste or Chemical	Concentration (mg/L)
Cadmium.....	2.0
Chromium (total).....	25.0
Chromium (hexavalent).....	10.0
Copper.....	3.0
Cyanide (total).....	5.0
Fats, oils and greases (FOG) (total)†.....	250.0
Iron*.....	250.0
Lead.....	0.5
Mercury**.....	0.0005
Nickel††.....	10.0
Zinc.....	15.0
pH range***	Not lower than 5.0 or greater than 10.0

Temperatures of liquids or vapors at point of entrance to a public sewer shall not exceed 150°F.

\* Discharges from domestic water treatment

plants which supply potable water to the general public shall be exempt from this limitation for iron.

\*\* Except as provided under Appendix B, Section 2i.

\*\*\* Discharges which are monitored continuously for pH may exceed the upper pH range of 10.0 by not more than 0.5 pH units, for not more than four hours in any single calendar day.

† Effluent leachate discharges from landfill facilities that are closed for the acceptance of wastes shall be exempt from this limitation for Fats, oils and greases (FOG) (total), provided that approved Best Management Practices (BMPs) are implemented and maintained. Failure to adhere to BMPs may result in enforcement action.

†† Effluent discharges from any person located within the service area of the John E. Egan Water Reclamation Plant that exceed a mass loading value of 1.0 pounds per day of nickel shall be subject to an alternative maximum pollutant concentration limit of 2.47 mg/L for nickel at all times. Failure to comply with this alternative maximum pollutant concentration limit will be considered a violation of this Ordinance.

#### **Section 2. Discharge Prohibitions**

Any discharge of waste or waters into a sewer which terminates in or is a part of the sewerage system of the District, must not introduce pollutant(s) which causes Pass Through or Interference, and must not contain the following:

- a. Liquids, solids or gases which by reason of their nature or quantity are sufficient to cause fire or explosion or be injurious in any other way to the sewerage system or to the operation of the water reclamation facilities, including, but not limited to, any wastewater having a closed cup flashpoint less than 140 degrees Fahrenheit (60 degrees Centigrade) using the test methods specified in 40 CFR 261.21.
- b. Noxious or malodorous liquids, gases or substances which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life, to cause injury or acute worker health or safety problems, or to prevent entry into the sewers for their maintenance or repair.
- c. Water or wastes containing toxic substances in quantities which are sufficient to interfere

with the biological processes of the water reclamation facilities.

- d. Garbage that has not been ground or comminuted to such a degree that all particles will be carried freely in suspension under conditions normally prevailing in public sewers, with no particle greater than one-half inch in any dimension.
- e. Radioactive wastes unless they comply with 10 CFR 20 and 32 Illinois Administrative Code 340.
- f. Solid or viscous wastes which cause obstruction to the flow in sewers or other interference with the proper operation of the sewerage system or water reclamation facilities, such as grease, uncomminuted garbage, animal guts or tissues, paunch manure, bone, hair, hides, fleshings, entrails, feathers, sand, cinders, ashes, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grain, waste paper, wood, plastic, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, gasoline, naphtha, and similar substances. Potentially Infectious Medical Wastes unless they comply with 35 Illinois Administrative Code, Subtitle C.
- g. Waters or waste containing substances which are not amenable to treatment or reduction by the sewage treatment process employed, or are amenable to treatment only to such degree that the water reclamation facilities' effluent cannot meet the requirements of other agencies having jurisdiction over discharge to the receiving waters.
- h. Excessive discoloration (such as, but not limited to, dye waste and vegetable tanning solutions) which threatens the District's operations.
- i. Mercury in excess of 0.0005 mg/L on a monthly average, 0.001 mg/L in a daily composite, and 0.0025 mg/L in any grab sample; except when all of the following conditions are met:
  - (1) The discharger does not use mercury; or the discharger uses mercury and this use cannot be eliminated; or the discharger uses mercury only in chemical analyses or in laboratory or other equipment and takes reasonable care to avoid contamination of wastewater; and
  - (2) The discharge mercury concentration is less than 0.003 mg/L on a monthly av-

erage, 0.006 mg/L in a daily composite, and 0.015 mg/L in any grab sample; and

- (3) The discharger is providing the best degree of treatment consistent with technological feasibility, economic reasonableness, and sound engineering judgment. This may include no treatment for mercury; and
- (4) The discharger has an inspection and maintenance program likely to reduce or to prevent an increase in the level of mercury discharges.

Any person seeking application of the alternative discharge limitations for mercury into the sanitary sewerage system shall submit a written request, together with a complete report indicating why the alternative discharge limitations for mercury should be applicable to such person's discharge, to the Director of the District's Monitoring and Research Department, in accordance with procedures established by the Director of the District's Monitoring and Research Department. The District will advise the person, in writing, of approval or denial of the person's request, within 90 days of the District's receipt of the person's request.

- j. The discharge of wastes from medicinal or therapeutic uses of mercury, exclusive of laboratory use, shall be exempt from the 0.0005 mg/L limitation of this section if all the following conditions are met:
  - (1) The total plant discharge is less than 227g (one half pound) as Hg in any year; and
  - (2) The discharge does not, alone or in conjunction with other sources, cause the effluent from the sewer system or treatment facility to exceed 0.0005 mg/L of mercury.
- k. Pollutants which will cause corrosive structural damage.
- l. Pollutants including, but not limited to, petroleum oil, non-biodegradable cutting oil, and products of mineral origin, which cause interference or pass-through.
- m. Hauled or trucked wastes, except at discharge points designated by and under valid written authorization of the District.
- n. Any pollutant, including oxygen-demanding pollutants (BOD, etc.) released in a Discharge at a flow rate and/or pollutant con-



centration, which will cause Interference with the water reclamation facilities.

- o. Heat in amounts, which will inhibit biological activity in the water reclamation facilities resulting in Interference, but in no case heat in such quantities that the temperature at the water reclamation plant exceeds 40°C (104 °F).

### **Section 3. Dischargers in the Poplar Creek Service Area**

Persons located in the Poplar Creek Service Area of the District discharging sewage, industrial waste, and other wastes to the sewerage system under the jurisdiction of the District which is tributary to the water reclamation facility owned and operated by the Fox River Water Reclamation District may be subject to more stringent limitations than the limitations found in Appendix B to this Ordinance.

### **Section 4. Compliance Determination**

Compliance with the discharge limitations in this Appendix shall be maintained at all times, without exception. Any grab sample, or a composite sample of any duration, may be used for purposes of determining compliance with the discharge limitations in this Appendix. District monitoring of industrial users for determining compliance with the discharge limitations in this Appendix shall conform to the provisions of 40 CFR 403.8(f)(2)(vii) and shall be performed with sufficient care to produce evidence admissible in enforcement proceedings.

## **APPENDIX C**

to the

## **SEWAGE AND WASTE CONTROL ORDINANCE**

## **REGULATIONS APPLICABLE TO SIGNIFICANT INDUSTRIAL USERS**

### **ARTICLE I**

#### **Reporting Requirements Applicable to Significant Industrial Users**

In addition to the reporting requirements contained in Article V of this Ordinance, the following reporting requirements are applicable to any person identified by the District as a significant industrial user.

#### **Section 1. Baseline Monitoring Report**

Within 90 days after the date of promulgation for the applicable categorical standards found in Appendix C, existing industrial users subject to categorical pretreatment standards and currently discharging an effluent into a sewerage system under the jurisdiction of the District, shall complete and

submit to the District, on forms supplied by the District, a BMR. Within 90 days after being notified by the District of designation as a significant industrial user, significant industrial users not subject to categorical standards shall submit a BMR to the District. Sampling requirements for the completion of the BMR shall be supplied by the District and shall conform to the requirements of 40 CFR 403.12(g).

Upon adoption of Appendix D to this Ordinance, the BMR form supplied by the District for purposes of reporting under this section is replaced by the Discharge Authorization Request (DAR) form supplied by the District. All provisions of this Ordinance relating to the preparation and submittal of the BMR form shall be applicable to the preparation and submittal of the DAR form.

The BMR shall contain all information required by 40 CFR 403.12 (b), (c) and (g) of the general pretreatment regulations together with additional information as required by the District.

The BMR shall comply with the certification provisions of 40 CFR 403.12(b) and the signatory requirements of 40 CFR 403.12(l), and shall be executed by an authorized representative of the significant industrial user and certified as accurate and complete by a Registered Professional Engineer licensed by the state of Illinois.

New significant industrial users shall complete and submit to the District, on forms supplied by the District, an acceptable BMR at least 90 days prior to commencing discharge.

#### **Section 2. Compliance Schedule**

It shall be unlawful for a significant industrial user to continue to discharge process wastewater to a sewerage system under the jurisdiction of the District if the Executive Director has found the person in violation pursuant to Article VI, Section 1 of this Ordinance, or if the person certifies in their BMR or DAR that applicable pretreatment standards or other requirements are not being met on a consistent basis and that additional operation and maintenance or pretreatment facilities are required to meet those standards or requirements, unless the significant industrial user has submitted to the District a compliance schedule which conforms to the requirements of 40 CFR 403.12(c) and which is acceptable to and approved by the Executive Director. The schedule shall comply with the certification provisions of 40 CFR 403.12(b) and the signatory requirements of 40 CFR 403.12(l) and shall be certified by an authorized representative of the industrial user and certified by a Registered Professional Engineer licensed by the state of Illinois. In the event the compliance schedule is not acceptable, the Executive Director may require re-submittal of a compliance schedule

acceptable to the District, or may proceed as set forth under Article VI of this Ordinance.

A compliance schedule for attaining compliance with an applicable categorical pretreatment standard cannot extend beyond the final compliance date for the applicable categorical pretreatment standard contained in the Code of Federal Regulations.

A compliance schedule submitted by a significant industrial user as required herein shall be considered an enforceable requirement of a DA issued to the significant industrial user, and failure to comply with the compliance schedule shall be considered a violation of this Ordinance.

### **Section 3. Final Compliance Report**

Each person subject to categorical pretreatment standards shall, within 90 days following the date for final compliance as set forth in Appendix C, Article III, submit to the Director of the District's Monitoring and Research Department, a report of final compliance with the categorical pretreatment standards on forms supplied by the District. The statement shall conform to the requirements of 40 CFR 403.12(d) and (g), shall comply with the certification provisions of 40 CFR 403.12(b) and the signatory requirements of 40 CFR 403.12(l), shall be executed by an authorized representative of such person, and certified by a Registered Professional Engineer licensed by the state of Illinois.

New significant industrial users shall complete and submit to the Director of the District's Monitoring and Research Department a report of final compliance immediately upon commencement of discharge.

Each significant industrial user shall take representative samples for a minimum of three days within a two-week period for the monitoring of a wastewater with a flow less than or equal to 200,000 gallons per day. Where the flow of a wastewater exceeds 200,000 gallons per day, the user shall take samples for six days within a two-week period. Sample collection shall conform to the requirements of 40 CFR 403.12(g). Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the District. Where time-proportional composite sampling or grab sampling is authorized by the District, the samples must be representative of the wastewater discharge. Sample analysis shall include all parameters listed in Appendix B, Sections 1 and 2(i) of this Ordinance and any parameters listed in the categorical pretreatment standards applicable to the significant industrial user.

### **Section 4. Reporting Continued Compliance**

Each significant industrial user shall submit to the District, on forms supplied by the District and at intervals specified by the District, in the Discharge Authorization issued to the significant industrial user, which shall be not more than once per month nor less than twice per year, a report on continued compliance with applicable pretreatment standards and other requirements of this Ordinance. The reports shall cover all pertinent activities of the industrial user from the close of the previous reporting period through a date 30 calendar days prior to the report due date specified in the Discharge Authorization issued to the industrial user, and must be received by the District not later than the report due date. The reports shall conform to the requirements of 40 CFR 403.12(e) and (g), shall comply with the signatory requirements of 40 CFR 403.12(l), and shall be certified by an authorized representative of the industrial user.

Sampling requirements for the completion of reports on continued compliance shall be the same as described in Section 3 above.

Notwithstanding any other non-monetary remedies which the District may have by statute, common law or this Ordinance, any person failing to submit a report or submitting a deficient report to the District, as required hereunder, within the filing period established by the District for such report, shall be assessed a late filing fee, as set forth under Article V, Section 10 of this Ordinance.

Any significant industrial user whose total industrial waste discharge does not exceed 5,000 gallons in any calendar month, may request a waiver of the self-monitoring requirements of this section. The request must be submitted to the Director of Monitoring and Research and will not become effective until such determination is issued by the District, in writing. The significant industrial user must continue to submit all reports required under this section as established in the Discharge Authorization issued to said significant industrial user. The reports must be complete and accurate in all aspects, except for self-monitoring data. The District will perform the required sampling on behalf of the significant industrial user and shall insert its data to complete the report. The Director of Monitoring and Research may withdraw a waiver of the self-monitoring requirements granted under this paragraph upon a determination that the significant industrial user discharges greater than 5,000 gallons of industrial waste in any calendar month, or if the significant industrial user is found in significant noncompliance with any provisions of this Ordinance.

Any significant industrial user may request a waiver from the self-monitoring requirements of this

section for one continued compliance report, as required hereunder, annually. The significant industrial user must have an acceptable outside control manhole/sampling chamber, as required under the provisions of Article IV of this Ordinance, to enable the District to perform the required monitoring on behalf of the significant industrial user. The request must clearly indicate which annual continued compliance report is the subject of the waiver request, must be submitted to the Director of Monitoring and Research and will not become effective until such determination is issued by the District, in writing. The significant industrial user must continue to submit all reports required under this section as established in the Discharge Authorization issued to said significant industrial user. The District will perform the required sampling on behalf of the significant industrial user and shall provide its data to the significant industrial user to complete the continued compliance report. The reports must be complete and accurate in all aspects. The Director of Monitoring and Research may withdraw a waiver of the self-monitoring requirements granted under this paragraph upon a determination that the significant industrial user is in significant noncompliance with any provisions of this Ordinance.

#### **Section 5. Late Filing of Reports**

Notwithstanding any other non-monetary remedies which the District may have by statute, common law or this Ordinance, any person failing to submit a report or submitting a deficient report to the District, as required under any provision of this Appendix, within the filing period established by the District for such report, shall be assessed a late filing fee, as set forth under Article V, Section 10 of this Ordinance.

### **ARTICLE II**

#### **Additional Requirements Relating to Compliance with Appendix C**

##### **Section 1. Dilution Prohibition**

No person shall augment the use of process water or, in any way, dilute or attempt to dilute a discharge as a partial or complete substitute for adequate pretreatment to achieve compliance with the limitations contained in this Ordinance.

##### **Section 2. Intake Water Adjustment**

Persons seeking adjustment of categorical pretreatment standards to reflect the presence of pollutants in their intake water must comply with the requirements of 40 CFR 403.15.

##### **Section 3. Fundamentally Different Factors Variance**

Persons seeking variances for reasons of fundamentally different factors must comply with the requirements of 40 CFR 403.13. The Executive Director may, upon notification of approval by the USEPA of the variance request, apply limitations to the industrial user.

##### **Section 4. Adjustment for Combined Waste Streams**

Persons seeking adjustments in the categorical pretreatment standards may petition the District for approval of adjustments to account for the combining or mixing of industrial process waste discharges with other flows or industrial process waste discharges prior to pretreatment or to discharge to the sewerage system under the jurisdiction of the District. The petition to the District must follow requirements and formulae established in 40 CFR 403.6(e) and be certified by an authorized representative and certified by a Registered Professional Engineer licensed by the state of Illinois.

##### **Section 5. End-of-Process Monitoring**

Where required to comply with the categorical pretreatment standards of Appendix C, additional control manholes or sampling chambers shall be provided at the end of each industrial process within an industrial user's facility.

**ARTICLE III**  
**Categorical Pretreatment Standards**

**Section 1. Categorical Standards**

Industrial categories for which pretreatment standards have been promulgated and as amended by the USEPA are listed herein. Industrial users in one or more of the regulated categories will be supplied with the appropriate pretreatment standards by the District. Those categorical standards as promulgated and as amended by the USEPA and set forth below are adopted by the Board of Commissioners as its performance criteria for discharge to sewers under the jurisdiction of the District.

<b>Industrial Point Source Category</b>	<b>Final Rule Date</b>	<b>Industrial Point Source Category</b>	<b>Final Rule Date</b>
401 General provisions	2/1/1974	415 Inorganic chemicals manufacturing	6/29/1982
403 General pretreatment regulations for existing and new sources of pollution	1/28/1981	420 Iron and steel manufacturing	5/27/1982
<u>449 Airport deicing</u>	<u>5/16/2012</u>	445 Landfills	1/19/2000
467 Aluminum forming	10/24/1983	425 Leather tanning and finishing	11/23/1982
427 Asbestos manufacturing	2/26/1974	432 Meat <u>and poultry</u> products	<del>2/28/1974</del> <u>9/8/2004</u>
461 Battery manufacturing	3/9/1984	433 Metal finishing	7/15/1983
407 Canned and preserved fruits and vegetables processing	3/21/1974	464 Metal molding and casting	10/30/1985
408 Canned and preserved seafood processing	6/26/1974	438 Metal products and machinery	5/13/2003
458 Carbon black manufacturing	1/9/1978	436 Mineral mining and processing	10/16/1975
411 Cement manufacturing	2/20/1974	471 Nonferrous metals forming and metal powders	8/23/1985
437 Centralized waste treatment	12/22/2000	421 Nonferrous metals manufacturing	3/8/1984
434 Coal mining	10/9/1985	435 Oil and gas extraction	4/13/1979
465 Coil coating	12/1/1982	440 Ore mining and dressing	12/3/1982
<u>451 Concentrated aquatic animal production</u>	<u>8/23/2004</u>	414 Organic chemicals, plastics and synthetic fibers	11/5/1987
412 Concentrated animal feeding Operations (CAFO)	2/12/2003	446 Paint formulating	7/28/1975
<u>450 Construction and development</u>	<u>12/1/2009</u>	443 Paving and roofing materials (tars and asphalt)	7/24/1975
468 Copper forming	8/15/1983	455 Pesticide chemicals	4/25/1978
405 Dairy products processing	3/28/1974	419 Petroleum refining	10/18/1982
<u>441 Dental office</u>	<u>6/14/2017</u>	439 Pharmaceutical manufacturing	10/27/1983
469 Electrical and electronic components	4/8/1983	422 Phosphate manufacturing	2/20/1974
413 Electroplating	1/28/1981	459 Photographic	7/14/1976
457 Explosives manufacturing	3/9/1976	463 Plastics molding and forming	12/17/1984
424 Ferroalloy manufacturing	2/22/1974	466 Porcelain enameling	11/24/1982
418 Fertilizer manufacturing	4/8/1974	430 Pulp, paper and paperboard	4/15/1998
426 Glass manufacturing	1/22/1974	428 Rubber manufacturing	2/21/1974
406 Grain mills	3/20/1974	417 Soap and detergent manufacturing	4/12/1974
454 Gum and wood chemicals manufacturing	5/18/1976	423 Steam electric power generating	11/19/1982
460 Hospitals	5/6/1976	409 Sugar processing	1/31/1974
447 Ink formulating	7/28/1975	410 Textile mills	9/2/1982
		429 Timber products processing	1/26/1981
		442 Transportation equipment cleaning	8/14/2000
		444 Waste combustors	1/27/2000

## **Section 2. Compliance Determination**

Industrial user self-monitoring for determining compliance with categorical pretreatment standards shall conform to the provisions contained in Appendix C, Article I of this Ordinance.

District monitoring of industrial users for determining compliance with categorical pretreatment standards shall conform to the provisions of 40 CFR 403.8(f)(2)(vii), and shall be performed with sufficient care to produce evidence admissible in enforcement proceedings.

## **APPENDIX D**

**to the**

## **SEWAGE AND WASTE CONTROL ORDINANCE**

### **Discharge Authorizations**

#### **Section 1. Applicability**

As provided under Article III, Section 1 of this Ordinance, and except as provided elsewhere in this Appendix, it shall be unlawful for any significant industrial user, as defined herein, to cause or allow the discharge of process wastewater into the sewerage system under the jurisdiction of the District unless such significant industrial user is in conformance with all terms and conditions of a current valid Discharge Authorization issued to said significant industrial user by the District.

#### **Section 2. Discharge Authorization Document**

The Discharge Authorization document issued by the District shall contain, at a minimum, the following conditions:

- a. Statement of limited duration not to exceed five years, as provided for in Appendix D, Section 6 of this Ordinance;
- b. Transferability provision, as provided for in Appendix D, Section 7 of this Ordinance;
- c. Effluent discharge limitations applicable to all effluent discharge monitoring points of the industrial user, as provided for in Appendix B and Appendix C of this Ordinance;
- d. Self-monitoring, sampling, reporting, notification and record-keeping requirements, including identification of the pollutants to be monitored, sampling points, sampling frequency, and sample type, as provided for in Article V, Article VI, Appendix C and Appendix D of this Ordinance;
- e. Statement of applicable penalties for violation of standards and requirements, as provided for in Article VI and Article VII of this Ordinance;

- f. Compliance milestone requirements and dates of any compliance schedule entered into by the significant industrial user to remedy a condition of noncompliance with the terms and conditions of this Ordinance or a DA issued to the significant industrial user pursuant hereto; and
- g. Requirements concerning spill containment and potential for slug discharge described in Article V, Section 4 of this Ordinance.

#### **Section 3. Discharge Authorization Request**

Within 90 days of the date of notification from the District that a person has been determined to be a significant industrial user, such person shall complete and submit to the District, on forms supplied by the District, a Discharge Authorization Request (DAR). Sampling requirements for the completion of the DAR shall be specified on the DAR form supplied by the District. Sample collection and analysis shall conform to the requirements of 40 CFR 403.12(g).

Any person who submits a completed and certified DAR to the District, in a timely manner as provided herein, may continue to cause or allow the discharge of process wastewater into the sewerage system under the jurisdiction of the District, in the absence of a DA, only in conformance with all other terms and conditions of this Ordinance.

For the purposes of this provision, any person who has on file with the District, a current and approved BMR shall be deemed to have been issued an interim DA, and shall not be required to submit a DAR, until 90 days after being notified of such requirement by the District.

The DAR shall disclose the name and address of the person, as defined herein, seeking the Discharge Authorization and identify the name(s) of all officers or principal owners of said person. The DAR shall be executed by an authorized representative of the person and certified as accurate and complete by a Registered Professional Engineer licensed by the state of Illinois.

Any person who plans to commence new activities or who plans to modify existing activities such that said person becomes a significant industrial user shall notify the District of such activities and shall submit to the District, on forms supplied by the District, a DAR at least 90 days prior to commencement of such activities and discharge to the sewerage system.

#### **Section 4. Issuance of Discharge Authorization By District**

Within 90 days of receipt of a completed DAR, the District shall notify the person submitting said

DAR of approval or denial of the DAR and the reason(s) for denial.

For the purposes of this provision, any person who has on file with the District, a current and approved BMR shall be deemed to have been issued an interim DA.

#### **Section 5. Review of Denial of Discharge Authorization or Special Condition in Discharge Authorization**

Any person whose DAR has been denied by the District, or who wishes to have reviewed any special condition of a Discharge Authorization issued to such person, may request a review of the District's determination. Such request must be made in writing, to the Director of Monitoring and Research, and must be received by the District within 30 days of the date of notification that the DAR has been denied or of notification of the special condition. The request for review must clearly state the reason(s) why such person believes that the District's denial of the DAR or the special condition should be reviewed.

- a. Any person whose DAR for a new discharge has been denied by the District is prohibited from commencing the discharge of process wastewater into the sewerage system of the District until such time as a Discharge Authorization is issued to said person.
- b. Any person whose DAR for an existing discharge has been denied may continue to discharge process wastewater into the sewerage system of the District, only in accordance with all conditions reported in the DAR and not otherwise in violation of this Ordinance, during the review and until a final administrative decision by the District.
- c. Any person who requests a review of a special condition contained in a Discharge Authorization issued to said person, for an existing discharge of process wastewater, may continue to discharge process wastewater into the sewerage system of the District, only in accordance with all conditions of the Discharge Authorization issued to said person, except the special condition under review, and not otherwise in violation of this Ordinance, during the review and until a final administrative decision by the District.

The Director of Monitoring and Research will inform the Executive Director of all requests for review. The Executive Director shall order that a hearing be held for each request for review. The review hearing shall comply with the hearing procedures of Article VI, Section 3 of this Ordinance. The final administrative decision on each review will be made by the Board of Commissioners after it receives a

report with recommendations from the Review Hearing Officer.

#### **Section 6. Request for Renewal of Discharge Authorization**

Discharge Authorizations issued pursuant to this Ordinance shall be valid for a period not exceeding five years. Not less than 90 days prior to the expiration date of a discharge authorization issued by the District, the person to whom said discharge authorization was issued shall submit to the District, on a DAR form supplied by the District, a request for renewal of the discharge authorization. Any person who submits a completed and certified request for renewal, in a timely manner as provided herein, shall be granted an extension of the termination date of their DA, until such time as the District issues a determination with regard to such person's request for renewal of the DA. Any person whose request for renewal of a DA has been denied may seek review of such denial, as provided in Appendix D, Section 5 of this Ordinance.

In addition to the provisions for administrative and legal proceedings contained in Article VI and Article VII of this Ordinance, whenever the Executive Director determines that a person to whom a Discharge Authorization has been issued has failed to comply with an Order of the Board issued pursuant to this Ordinance; has failed to comply with a substantive Order of the Court issued in litigation initiated by the District, the Office of the State's Attorney or the United States Attorney, against such person for noncompliance with this Ordinance; has failed to promptly pay all civil penalties, late filing fees or other costs assessed against such person in any action taken by the District; or has failed to pay all User Charges owed to the District by such person, the Director of Monitoring and Research may deny renewal of such person's Discharge Authorization, except that actions subject to a pending and properly filed appeal taken pursuant to the provisions set forth in this Ordinance, the Rules Governing the Proceedings, Assessment of Civil Penalties, and Issuance of Orders Under the Sewage and Waste Control Ordinance of the Metropolitan Water Reclamation District of Greater Chicago, or the User Charge Ordinance, shall not be considered sufficient cause for the District to deny renewal of such person's Discharge Authorization until said appeal has been finally resolved by the District.

During the period of review of any denial of a request for renewal of an existing DA, the person may continue to cause or allow the discharge of process wastewater into the sewerage system under the jurisdiction of the District only in conformance with all terms and conditions of this Ordinance and the DA previously issued to said person.

## **Section 7. Reissuance of Discharge Authorization to Another Person**

Discharge Authorizations issued pursuant to this Ordinance shall be issued to the specific person, as defined in Article II of this Ordinance, and for the specific location identified in the Discharge Authorization Request submitted to the District. Such Discharge Authorization shall remain in full force and effect until expiration thereof, or until non-renewal or revocation by the District.

No Discharge Authorization may be reissued to another person if the person to whom the Discharge Authorization was issued is the subject of an unresolved enforcement action taken by the District, or if the person has failed to pay, within 30 days of the payment due date, all monies owed to the District under this Ordinance and the District's User Charge Ordinance, unless the following occurs prior to the effective date of the transfer:

1. The person seeking to transfer the Discharge Authorization has resolved the outstanding enforcement action to the satisfaction of the District and has paid all monies owed to the District, or,
2. In the event of an unresolved enforcement action, the transferee has submitted a plan and schedule for resolving the outstanding enforcement action within a period acceptable to the District. Such plan and schedule must be certified by a Registered Professional Engineer licensed by the state of Illinois and an authorized representative of the transferee and shall be incorporated as an enforceable Special Condition in the Discharge Authorization reissued to the transferee, and,
3. In the event of monies owed to the District, the transferee has submitted an affidavit to the District assuming full responsibility for payment of all monies owed to the District. The affidavit shall also be signed by the transferor and acknowledge that assumption of liability by the transferee shall not release the transferor from any outstanding monies owed to the District at the time of the transfer until said amounts are paid-in-full. This provision neither abrogates any existing rights nor conveys any additional rights which the transferor or transferee may otherwise have to appeal the District's assessment of charges or fees.

No Discharge Authorization for the commencement of a discharge at a new location shall be issued to any person if said person has failed to comply with an Order of the Board issued pursuant to this Ordinance; has failed to comply with a substan-

tive Order of the Court issued in litigation initiated by the District, the Office of the State's Attorney or the United States Attorney, against such person for noncompliance with this Ordinance; has failed to promptly pay all civil penalties, late filing fees or other costs assessed against such person in any action taken by the District; or has failed to pay any User Charges owed to the District by said person.

Any change in the person to whom a Discharge Authorization has been issued must be reported to the Director of Monitoring and Research not less than 30 days prior to such change, together with the effective date of the change and the identity of the person to whom the Discharge Authorization should be reissued. Not less than 20 days prior to the effective date of the change, the District will advise all parties of any unresolved enforcement actions and monies owed to the District. The parties shall have ten days to resolve these matters in accordance with the terms of this section. Not less than five days prior to the effective date of the change, the District will advise all parties whether the Discharge Authorization may be reissued. If the District does not object to reissuance of the Discharge Authorization, the person to whom the Discharge Authorization was originally issued must submit to the District, before the effective change date, an affidavit verifying delivery of a copy of the existing Discharge Authorization to the person to whom the Discharge Authorization is to be reissued. The District will reissue the Discharge Authorization to the person, as identified in the above notification, within 30 days of receipt of said notification, if there has been compliance with the terms of this section of the Ordinance.

Continued discharge of process wastewater into a sewerage system under the jurisdiction of the District, in the absence of a current and valid Discharge Authorization, will be considered a knowing and willful violation of this Ordinance, the applicable statutes of the state of Illinois and applicable federal pretreatment regulations.

The Executive Director may refer such violation to the Office of State's Attorney or the Office of the United States Attorney, for such action as they may deem appropriate.

## **Section 8. Revocation of Discharge Authorization**

In addition to the provisions for administrative and legal proceedings contained in Article VI and Article VII of this Ordinance, whenever the Executive Director determines that a person to whom a Discharge Authorization has been issued has failed to comply with a Cease and Desist Order issued pursuant to Article VI of this Ordinance, or whenever a person has failed to comply with an Order of the Board

issued pursuant to this Ordinance; has failed to comply with a substantive Order of the Court issued in litigation initiated by the District, the Office of the State's Attorney or the United States Attorney, against such person for noncompliance with this Ordinance; has failed to promptly pay all civil penalties, late filing fees or other costs assessed against such person in any action taken by the District; or has failed to pay all User Charges owed to the District by such person, the Executive Director may order such person to show cause before the Board why the Discharge Authorization should not be revoked, except that actions subject to a pending and properly filed appeal taken pursuant to the provisions set forth in this Ordinance, the Rules Governing the Proceedings, Assessment of Civil Penalties, and Issuance of Orders Under the Sewage and Waste Control Ordinance of the Metropolitan Water Reclamation District of Greater Chicago, or the User Charge Ordinance, shall not be considered sufficient cause for the District to revoke such person's Discharge Authorization until said appeal has been finally resolved by the District. The show cause proceeding so ordered shall comply with the provisions of Article VI, Section 3 and Appendix D, Section 5 of this Ordinance.

#### **Section 9. Continued Discharge in Absence of Current and Valid Discharge Authorization to be Considered a Violation**

Whenever a person to whom a notification of applicability of this Appendix has been transmitted fails to submit a DAR as required under this Appendix, or whenever a person whose DA has been revoked pursuant to an order of the Board of Commissioners, or whose DA has expired, continues to cause or allow the discharge of process wastewater into a sewerage system under the jurisdiction of the District, the Executive Director shall, by Registered or Certified Mail or by personal service by any employee of the District, notify such person that continued discharge in the absence of a valid DA may be considered a knowing and willful violation of this Ordinance, the applicable statutes of the state of Illinois and applicable federal pretreatment regulations.

The Executive Director may refer such violation to the Office of State's Attorney in and for the county in which the District is located, or the Office of the United States Attorney, for such action as they may deem appropriate.

## **APPENDIX E to the SEWAGE AND WASTE CONTROL ORDINANCE**

### **RULES GOVERNING CONFIDENTIALITY AND PUBLIC ACCESS TO INFORMATION**

#### **Section 1. Confidentiality and Information Available to the Public**

All information submitted to the District pursuant to the reporting provisions of this Ordinance, with the exception of data as described below, may be claimed as confidential by the submitter and may not be released to the public without prior written approval of the person submitting such information. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions, or, in the case of other submissions, by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, the District may make the information available to the public without further notice.

Information and data provided to the District relative to Article V, Sections 3 and 4, Appendix C, and Appendix D of this Ordinance, which describe the concentration and/or mass loading of pollutants discharged, physical characteristics of discharge, general description of the location and nature of the source of pollutants, and analyses of samples of discharge, shall be available to the public in accordance with 40 CFR 403.14. Cease and Desist Orders, Notices of Show Cause, and other notices of enforcement action taken by the District pursuant to this Ordinance shall be available to the public upon written request to the Director of Monitoring and Research. Information regarding enforcement actions taken against persons in violation of this Ordinance is routinely provided to officials of municipalities in which the persons in violation are located or have indicated they plan to relocate.

All information regarding industrial users shall be made available to the USEPA, the IEPA and any other unit of government subject to the confidentiality provisions found at 40 CFR 2.302 and 40 CFR 403.14.

#### **Section 2. Annual Publication of Persons in Significant Noncompliance**

In accordance with the public participation requirements of 40 CFR 403.8(f)(2)(viii), the District, at least annually, will publish the identity of each person in significant noncompliance with this Ordinance, along with the nature of such significant noncompliance, in a newspaper of general circulation that provides meaningful public notice within the



jurisdiction of the District. Prior to publication, each such person will be advised in writing of the District's intent to publish the identity of the person and will be granted an opportunity to provide comment to the District regarding the appropriateness of such publication.

For purposes of publication, a person will be deemed in significant noncompliance of this Ordinance if such person exhibits any of the following:

- a. ~~Chronic violations of wastewater Discharge limits, defined here as those in which 66 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period exceed (by any magnitude) a numeric Pre-treatment Standard or Requirement, including in instantaneous limits, as defined by 40 CFR 403.3(1);~~
- b. ~~Technical Review Criteria (TRC) violations (Acute violations), defined here as those in which 33 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR 403.3(1) multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oils, and greases, and 1.2 for all other pollutants except pH);~~
- c. ~~Any violation of an effluent discharge standard or prohibition which causes or contributes to pass-through or interference, the imminent threat of fire, explosion or other damage to the sewerage system, imminent endangerment to human health or the environment or which results in the District exercising its emergency authority to halt such violation;~~
- d. ~~Failure to submit a completed and certified report within 45 calendar days of a report due date;~~
- e. ~~Failure to meet, within 90 calendar days after the schedule date, a compliance milestone date or final compliance date contained in a compliance schedule or Discharge Authorization;~~
- f. ~~Failure to provide access to the industrial user's premises to representatives of the District for the purposes of inspection and sampling;~~
- g. ~~Failure to comply with the spill containment and notification requirements regarding spills, malfunctions, bypasses, and slug loadings contained in Article V, Sections 4 and 15 of this Ordinance;~~

- h. ~~Failure to report any instance of noncompliance of which the person becomes aware by self-monitoring, as required under Article V, Section 8 of this Ordinance;~~  
~~ori. Noncompliance with any of the terms or conditions of the Ordinance, upon the determination of the Executive Director.~~

## **APPENDIX F to the SEWAGE AND WASTE CONTROL ORDINANCE**

### **ENFORCEMENT RESPONSE PROCEDURE**

This appendix represents the Enforcement Response Procedure (ERP) of the Metropolitan Water Reclamation District of Greater Chicago (District) for the enforcement of the terms and conditions of the District's Sewage and Waste Control Ordinance (Ordinance).

As recommended by the United States Environmental Protection Agency in "Pretreatment Compliance Monitoring And Enforcement Guidance", published July 25, 1986, the ERP has been developed to include a range of enforcement responses available to the District to effectively enforce the terms and conditions of its Ordinance. The ERP establishes a framework, the Response Option Matrix (ROM), in which the District will assess the degree of noncompliance by an Industrial User (IU) and in which the District may consider both mitigating and aggravating circumstances in determining the appropriate enforcement response. The ERP also establishes minimum response levels for incidents of noncompliance which are deemed critical in nature, including interference and pass-through.

### **TYPES OF ENFORCEMENT RESPONSES**

Industrial Users (IU) found in noncompliance with any of the terms or conditions of the Ordinance are subject to enforcement action under the ERP. Enforcement actions such as Notices of Noncompliance and Cease and Desist Orders are determined by the District's Executive Director and are administered through the office of the Director of Monitoring and Research (Director). Show Cause proceedings and legal actions are administered by the District's General Counsel upon recommendation from the Director.

Incidents of noncompliance with the Ordinance will be evaluated in accordance with the ROM as to

the type of enforcement response necessary to attain prompt compliance with the Ordinance.

The following types of enforcement responses are available to the District in response to incidents of noncompliance with its Ordinance.

**A. Notice of Noncompliance – Appendix B (NONB)**

A NONB is a written notification, sent via Certified Mail, Return Receipt Requested, which is directed to an authorized representative of an IU found to be in minor noncompliance (not in Significant Noncompliance as herein defined) with an applicable effluent discharge standard of Appendix B (local limits) of the Ordinance. The NONB advises the IU of the nature of the noncompliance, requires the IU to investigate the incident and take measures to remediate the condition of noncompliance, and to execute, within ten days of receipt of the NONB, a Declaration of Corrective Action, indicating that compliance has been achieved.

The Declaration of Corrective Action and statement of compliance will be subject to verification by District inspection and sampling within 90 days. Failure to achieve compliance will result in the issuance of a Cease and Desist Order.

**B. Notice of Noncompliance – Appendix C (NONC)**

A NONC is a written notification, sent via Certified Mail, Return Receipt Requested, which is directed to an authorized representative of an IU found to be in minor noncompliance (not in Significant Noncompliance as herein defined) with an applicable effluent discharge standard of Appendix C (categorical pretreatment standards) of the Ordinance. The NONC advises the IU of the nature of the noncompliance, requires the IU to investigate the incident and take measures to remediate the condition of noncompliance, and to execute, within 45 days of receipt of the NONC, a Declaration of Corrective Action, indicating that compliance has been achieved. The IU is also required to conduct a minimum of three days of sampling to verify that compliance has been achieved and to submit all supporting analytical data with the Declaration of Corrective Action.

The Declaration of Corrective Action and statement of compliance will be subject to verification by District inspection and sampling within 90 days. Failure to achieve compliance will result in the issuance of a Cease and Desist Order.

**C. Notice of Noncompliance – Baseline Monitoring Report Verification (NONBMR)**

A NONBMR is a written notification, sent via Certified Mail, Return Receipt Requested, which is directed to an authorized representative of an IU

found to be in noncompliance with an applicable effluent discharge standard of Appendix C (categorical pretreatment standards) of the Ordinance, during the initial Baseline Monitoring Report verification inspection and sampling. The NONBMR advises the IU of the nature of the noncompliance and requires the IU to achieve compliance within 90 days of the date of the NONBMR. The IU is also advised that the District will inspect and sample the IU within 90 days of the date of the NONBMR and that the IU will be recommended for Show Cause action if the IU is again found in noncompliance. These NONBMRs are not issued to those companies who exceed a return-to-compliance period of 90 days. Companies who exceed the 90 day period are recommended for Show Cause action.

**D. Cease and Desist Order – Reporting Requirements (C&DR)**

A C&DR is written notification, sent via Certified Mail, Return Receipt Requested, directed to an authorized representative of an IU which failed to submit a report within 45 days of the report due date. The C&DR advises the IU of the nature of the noncompliance and requires the IU to comply with the applicable reporting requirement within 30 days of the date of the C&DR.

In the event of failure to comply with pretreatment system malfunction, bypass or accidental spill notification requirements, the IU will be required to submit, within 30 days of the date of the C&DR, a fully implemented Spill Prevention, Control and Countermeasure Plan, including specific provisions for proper notification to the District of any pretreatment system malfunction, bypass or accidental spill incident.

Failure of an IU to supply any report or other information required by the District, as required under a C&DR, will result in Show Cause action being recommended.

**E. Cease and Desist Order (C&D)**

A C&D is written notification, sent via Certified Mail, Return Receipt Requested, directed to an authorized representative of an IU found to be in noncompliance with an applicable effluent discharge standard of the Ordinance or with any terms or conditions of the Ordinance, with the exception of reporting requirements. The C&D advises the IU of the nature of the noncompliance and requires the IU to attain compliance with the Ordinance within 90 days of the date of the Order and to submit to the District a report regarding its investigation into the incident of noncompliance and a Compliance Schedule. The Compliance Schedule must be certified by an authorized representative of the IU, notarized, and must contain major milestone dates for implementation of remediation measures as well as a compliance date. The compliance date indicated in the

Compliance Schedule cannot extend greater than 90 days beyond the date of the C&D.

The IU will be required to submit to the District, not more than 15 days after the compliance date specified in the Compliance Schedule, a Final Compliance Report, certified by an authorized representative of the IU, and notarized, indicating that compliance has been achieved.

The IU's Final Compliance Report will be subject to verification by District inspection and sampling within 90 days of the District's receipt of the Final Compliance Report.

Failure to achieve compliance within 90 days from the date of the C&D or failure to submit a properly executed Final Compliance Report, indicating that compliance has been achieved, will result in Show Cause action being recommended.

#### **F. Show Cause Proceedings (SC)**

When it has been determined that any person has failed to comply with a Cease and Desist Order, the Executive Director of the District may order an IU who engages in activity or conduct prohibited by the Ordinance to Show Cause before the District's Board of Commissioners (Board), or its hearing officer designee, why such prohibited activity or conduct should not be discontinued.

A Notice of Show Cause, directed to an authorized representative of the IU, is served personally or by Registered or Certified Mail, specifying the time and place of a hearing to be held by the Board, and directing the IU to Show Cause before the Board why an order should not be entered directing discontinuance of such prohibited activity or conduct.

The Board may, itself, conduct the hearing and take evidence, or may designate any of its members or any officer or employee of the District or any other person to issue, in the name of the Board, notices of hearings requesting attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearing, to take evidence, and to transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Board for action thereon. At any public hearing, testimony taken before the Board or any person designated by it must be under oath and recorded stenographically. The transcript so recorded will be made available to any member of the public or any party to the hearing upon payment of the usual charges therefor.

After the Board has reviewed the evidence, it may issue a Board Order (BO) to the IU directing that within a specified time period, the prohibited activity or conduct be discontinued unless adequate pretreatment facilities are properly installed and operated to ensure compliance, recommending penal-

ties in the amount of not less than \$1,000.00 nor more than \$10,000.00 for each violation of the Ordinance. If a person violates the terms of a Board Order, the District will seek to recover, in a civil action, the fines recommended by the Board of Commissioners for violations which are recited in the Board Order.

#### **G. Court Proceedings (CT)**

Any activity or conduct of an IU which is in violation of or prohibited by the Ordinance, or failure of an IU to comply with an Order of the Board, shall be considered a nuisance. The District may commence an action or proceeding in the Circuit Court for the purpose of having such activity or conduct stopped either by mandamus or injunction.

The District shall seek penalties in the amount of not less than \$1,000.00 nor more than \$10,000.00 for each violation of the Ordinance, together with reasonable attorney's fees, court costs, and other expenses of litigation. The District shall also seek recovery of all inspection, monitoring, and administrative costs incurred after the issuance of a Cease and Desist Order relative to an IU found in violation of the Ordinance.

#### **H. Civil or Criminal Referrals (CR)**

If an IU engages in any activity or conduct in apparent violation of a statute of the state of Illinois or a federal regulation, the District may refer such matters to the Office of the State's Attorney, the Illinois Environmental Protection Agency, the United States Environmental Protection Agency or any other appropriate agency for investigation and civil and criminal enforcement action. Any such referral will be made in addition to an appropriate enforcement action taken pursuant to this ERP and will not reduce the District's responsibility to aggressively pursue such enforcement action.

The District will seek, through the appropriate agency, the maximum civil and criminal penalty assessable under statute or regulation and will supply evidence and testimony as deemed necessary by the agency in the prosecution of any such matters.

#### **I. Noncompliance Enforcement (NCE) Activities**

The cost for administering the noncompliance enforcement (NCE) activities of this Ordinance shall be recovered from persons who are found in noncompliance with this Ordinance. NCE activities include, but are not limited to the following: preparation of Notices of Noncompliance, Cease and Desist Orders, Show Cause recommendations, legal action recommendations, noncompliance referrals to the District's Law Department, enforcement action amendments, compliance date revisions, compliance meeting notifications, delinquent report notifi-

cations, late filing fee invoicing and acceptable compliance report notifications; preparing for and participating in meetings and hearings; review and processing of Compliance Schedules (RD-112), non-compliance follow-up sampling; laboratory analysis and review; and frequent or continuous sampling and analysis for extended significant noncompliance. Where the cost for any NCE activity is recovered through assessment of late filing fees against the person pursuant to Article V, Section 10 of this Ordinance or through a civil action taken by the District against a person pursuant to Article VII, Section 3 of this Ordinance, such cost shall be segregated from the NCE cost to be recovered. The NCE cost shall be recovered through charges based on enforcement and monitoring activities, as set forth below.

**Noncompliance Enforcement (NCE) Charges**  
**Effective January 1, 2012**

Enforcement Level	Sampling Charge	Administrative Cost
Notice of Noncompliance	\$712	\$843
Cease & Desist Order (Single-sample SNC)	\$1,643	\$843
Cease & Desist Order (Chronic/Acute SNC)	\$4,158	\$843
Recurring Cease & Desist Order (Per each C&D Order)	\$4,158	\$843
Show Cause or Legal Action	To be addressed in resolution of the enforcement action	

The NCE charges, where applicable, will be assessed by invoice issued to the person found in noncompliance. If the person disputes the NCE charges, the person must notify the Director of Monitoring and Research, in writing, of such dispute within 30 days of receipt of the NCE invoice, together with the reasons why the person disputes the charges. All disputes regarding NCE charges will be handled in accordance with Article V, Section 10 of this Ordinance.

**COMPLIANCE SCREENING / REVIEW**

All IU self-reports and reports generated by District inspection and sampling of IUs will be reviewed by the Industrial Waste Division, Enforcement Section for incidents of noncompliance with applicable standards. Reports will be reviewed and enforcement actions will be taken in response to any inci-

dents of noncompliance in accordance with the following schedule.

**A. IU Self-reports**

All IU self-reports will be reviewed within 45 days of receipt of said self-report. Enforcement action will be initiated within 60 days of receipt of the report, if required.

**B. District Inspection and Sampling Reports**

In conformance with 40 CFR 403.8(f)(2), the District will inspect and sample each SIU at least annually. The District will inspect and sample each IU found in noncompliance to verify the IU's claims that compliance has been attained. For instances of significant noncompliance, verification inspection and sampling will be performed within 60 days of the IU's compliance date. For nonsignificant instances of noncompliance, certification inspection and sampling will be performed within 90 days of the IU's final compliance date. Sample collection and analysis shall be performed in accordance with 40 CFR 136.

All District inspection and sampling reports will be reviewed within 45 days of the receipt of said District inspection or sampling report and complete analytical data by the Industrial Waste Division, Enforcement Section. Enforcement action will be initiated within 60-days of receipt of the complete report, if required.

**C. Enforcement Actions by Director**

All enforcement response actions taken by the Director (NONB, NONC, NONBMR, C&DR, C&D) shall be initiated within the time periods indicated in Paragraphs A and B above.

**D. Enforcement Actions by General Counsel**

All enforcement responses which require action by the General Counsel (SC, CT, CR) will be recommended to the General Counsel by the Director within the time periods indicated in Paragraphs A and B above. The General Counsel will take action on all recommendations from the Director within 30 days of receipt of said recommendation.

**SIGNIFICANT NONCOMPLIANCE**

For purposes of determining an appropriate enforcement response, incidents of noncompliance will be deemed Significant Noncompliance in accordance with the criteria contained in Article II above.

~~For the purpose of determining an appropriate enforcement response, incidents of noncompliance will be deemed Significant Noncompliance in accordance with the following evaluations:~~

~~**A. Effluent Discharge Standards**~~

~~An IU exhibiting chronic (occurring repeatedly as evidenced by District and/or self-reported sampling analysis) incidents of noncompliance will be deemed in Significant Noncompliance if 50 percent or more of all effluent discharge analyses for samples taken during a six month period exceed the daily maximum limit or the average limit for the same parameter.~~

~~An IU exhibiting acute (occurring occasionally or intermittently as evidenced by District and/or self-reported sampling analysis) incidents of noncompliance will be deemed in Significant Noncompliance if 33 percent or more of all available effluent discharge analyses for samples taken during a six month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the following Technical Review Criteria (TRC).~~

- ~~1. For biochemical oxygen demand, total suspended solids, and fats, oils, and greases excursions of Appendix B (local limits) the TRC will be 1.4.~~
- ~~2. For all other pollutants (heavy metals, cyanide, phenols, toxic organic compounds or fats, oils, and greases utilized as a surrogate parameter), the TRC will be 1.2.~~
- ~~3. For pH, the TRC will be less than 3.5 pH units or greater than 11.5 pH units.~~

~~An IU may also be deemed in Significant Noncompliance if any single effluent discharge analysis exceeds the product of the maximum daily limit multiplied by 5.0 or if pH falls below 3.0 or above 12.0.~~

~~An IU discharging an effluent in noncompliance with any applicable effluent discharge limit will be deemed in Significant Noncompliance whenever the Director determines that the IU, either alone or in combination with any other IU, has caused or contributed to any incident of pass-through or interference. An IU contributing to the threat of fire, explosion or other damage to the sewerage system, or causing a hazard to life or the environment, or contributing to any other incident in response to which the District must exercise its emergency authority to halt such activity shall also be deemed in Significant Noncompliance.~~

#### **~~B. Reporting Requirements~~**

~~An IU in noncompliance with any applicable reporting requirement, more than 45 days after the report due date, will be deemed in Significant Noncompliance.~~

#### **~~C. Compliance Schedule~~**

~~An IU subject to a compliance schedule executed in response to any enforcement action taken by the District, or to a compliance schedule executed pursuant to any applicable categorical pretreatment standard, which fails to meet, within 90 days after the schedule date, a compliance milestone or final compliance date contained in its compliance schedule, will be deemed in Significant Noncompliance.~~

#### **~~D. Failure to Report Noncompliance~~**

~~An IU who, through self-monitoring or other means, becomes aware of an incident of noncompliance, and who fails to report such incident of noncompliance with the terms and conditions of the Ordinance, will be deemed in Significant Noncompliance.~~

#### **~~E. Other Conditions~~**

~~An IU who is in noncompliance with any of the terms and conditions of the Ordinance, upon the determination of the Executive Director, shall be deemed in Significant Noncompliance.~~

### **TEST OF GOOD FAITH EFFORT**

When determining an appropriate enforcement response to an incident of noncompliance, the District will consider the apparent attitude of the IU toward the effort required to achieve and maintain compliance with the Ordinance. If an IU appears to be acting in good faith to comply with the Ordinance, the District may choose an enforcement action on a more conciliatory level than if an IU does not appear to be acting in good faith to comply with the Ordinance. For the purpose of establishing a good faith effort on the part of an IU, the District will measure the IU's effort against the following standard, as stated in Legislative History of the Clean Water Act, No. 95-14, Vol. 3, p.463: "The Act requires industry to take extraordinary efforts if the vital and ambitious goals of the Congress are to be met. This means that business-as-usual is not enough. Prompt, vigorous, and in many cases, expensive pollution control measures must be initiated and completed as promptly as possible. In assessing the good faith of a discharger, the discharger is to be judged against these criteria. Moreover, it is an established principle, which applies to this act, that administrative and judicial reviews are sought on the discharger's own time."

## RESPONSE OPTION MATRIX

### A. IU Reporting and Self-monitoring

<u>Noncompliance</u>	<u>Circumstances</u>	<u>Response</u>
Failure to submit Facility Classification Questionnaire (FCQ)	Initial occurrence	C&DR
Failure to submit FCQ	Repeated occurrence; failure to comply with C&DR	C&DR or SC*
Failure to submit initial Baseline Monitoring Report (BMR) or Discharge Authorization Request (DAR), or to submit amended BMR or DAR upon significant change in operation	Initial occurrence	C&DR
Failure to submit initial BMR or DAR or to submit amended BMR or DAR upon significant change in operation	Repeated occurrence	SC or CT
Failure to conduct self-monitoring and to submit periodic reports	Isolated occurrence	C&DR
Failure to conduct self-monitoring and to submit periodic reports	Repeated occurrence; failure to comply with C&DR	SC or CT
Minor deficiencies in periodic reports	Isolated occurrence	C&DR
Minor deficiencies in periodic reports	Repeated occurrence; failure to comply with C&DR	C&DR or SC
Major deficiencies in periodic reports, late reports	Isolated occurrence	C&DR
Major deficiencies in periodic reports, late reports	Repeated occurrence; failure to comply with C&DR	SC or CT
Failure to report effluent limit violation, pretreatment system malfunction, bypass or slug discharge (spill)	Isolated occurrence; no interference of pass-through	C&DR
Failure to report effluent limit violation, pretreatment system malfunction, bypass or slug discharge (spill)	Repeated occurrence; failure to comply with C&DR; no interference or pass-through	C&DR or SC
Failure to report effluent limit violation, pretreatment system malfunction, bypass or slug discharge (spill)	Isolated occurrence; interference or pass-through	C&DR or CT or CR
Failure to report effluent limit violation, pretreatment system malfunction, bypass or slug discharge (spill)	Repeated occurrence; interference or pass-through	SC or CT or CR
Failure to report effluent limit violation, pretreatment system malfunction, bypass or slug discharge (spill)	Any incident with known POTW or environmental Damage	CT or CR
Failure to report new or increased pollutant loading or change in flow	Isolated occurrence	C&DR
Failure to report new or increased pollutant loading or change in flow	Repeated occurrence	C&DR or SC

<b><u>Noncompliance</u></b>	<b><u>Circumstances</u></b>	<b><u>Response</u></b>
Failure to submit schedule of batch or infrequent discharges	Isolated occurrence	C&DR
Failure to submit schedule of batch or infrequent discharges	Repeated occurrence; failure to comply with C&DR	C&DR or SC
Failure to report batch or infrequent discharge	Isolated occurrence	C&DR
Failure to report batch or infrequent discharge	Repeated occurrence	C&DR or SC or CT
Willful submission of false information	Any incident	CR

## **B. Compliance Schedules**

<b><u>Noncompliance</u></b>	<b><u>Circumstances</u></b>	<b><u>Response</u></b>
Willful submission of false information	Any incident	CR
Missed interim date	No impact on final date For C&D For SC For CT	C&D SC CT
Missed interim date	Delay of final date less than 90 days, good cause For C&D For SC For CT	C&D SC CT
Missed interim date	Delay of final date greater than 90 days, good cause For C&D For SC For CT	SC SC CT
Missed interim date	Delay of final date, Lacking good cause For C&D For SC For CT	SC or CT SC or CT CT
Missed final date	Good cause, non-SNC For C&D For SC For CT	C&D or SC SC or CT CT
Missed final date	Good cause, SNC For C&D For SC For CT	SC CT CT
Missed final date	No good cause For C&D For SC For CT	SC or CT CT CT

## C. Effluent Limits

<b><u>Noncompliance</u></b>	<b><u>Circumstances</u></b>	<b><u>Response</u></b>
Non-SNC, local limits	Isolated occurrence	NONB
Non-SNC, categorical pretreatment limits	Isolated occurrence except BMR verification sampling	NONC
Non-SNC	Repeated occurrence	C&D or SC
Categorical pretreatment standards	BMR verification sampling	NONBMR
Categorical pretreatment standards	NONBMR compliance Sampling	C&D
SNC	Isolated occurrence	C&D or SC
SNC	Repeated occurrence; failure to comply with C&D	C&D or SC or CT
Any limit	Isolated occurrence; interference or pass-through	C&D or CT
Any limit	Repeated occurrence; interference or pass-through	SC or CT
Any limit	Any incident with known POTW or environmental Damage	CT or CR
Slug load (spill)	Isolated occurrence; no interference or pass-through	C&D or SC or CT or CR
Slug load (spill)	Repeated occurrence; no interference or pass-through	C&D or SC or CT or CR
Slug load (spill)	Isolated occurrence; interference or pass-through	C&D or CT or CR
Slug load (spill)	Repeated occurrence; interference or pass-through	SC or CT or CR
Slug load (spill)	Any incident with known POTW or environmental Damage	CT or CR
Any discharge from regulated categorical IU without approved BMR	Any incident	C&D or CT
Any discharge from IU in violation of BO	Any incident	SC or CT



#### **D. Dilution**

<b><u>Noncompliance</u></b>	<b><u>Circumstances</u></b>	<b><u>Response</u></b>
Dilution of an effluent to achieve compliance with an effluent limitation	Isolated occurrence	C&D
Dilution of an effluent to achieve compliance with an effluent limitation	Repeated occurrence; failure to comply with C&D	C&D or SC

#### **E. Entry and Access to Sampling Facilities**

<b><u>Noncompliance</u></b>	<b><u>Circumstances</u></b>	<b><u>Response</u></b>
Failure to allow entry for inspection	Isolated occurrence	C&D
Failure to allow entry for inspection	Repeated occurrence; failure to comply with C&D	C&D or SC
Failure to allow access for effluent sampling	Isolated occurrence	C&D
Failure to allow access for effluent sampling	Repeated occurrence; failure to comply with C&D	SC

#### **F. Other Requirements**

<b><u>Noncompliance</u></b>	<b><u>Circumstances</u></b>	<b><u>Response</u></b>
Failure to comply with any requirement of Ordinance or Order of ED	Isolated occurrence, no impact on POTW	C&D
Failure to comply with any requirement of Ordinance or Order of ED	Repeated occurrence, no impact on POTW; failure to comply with C&D	C&D or SC
Failure to comply with any requirement of Ordinance or Order of ED	Any incident, interference or pass-through	C&D or CT or CR
Failure to comply with any requirement of Ordinance or Order of ED	Any incident with known POTW or environmental Damage	CT or CR
Failure to comply with any BO	Any incident of SNC	SC or CT

#### **G. Civil and Criminal Referral Considerations**

<b><u>Noncompliance</u></b>	<b><u>Circumstances</u></b>	<b><u>Response</u></b>
Failure to comply with an applicable statute of state of Illinois or federal regulation, any incident with evidence of willful intent	Any incident	CR

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\*Whenever optional responses are stated, the office of the Director of Monitoring and Research will select the option based on the nature and severity of the incidents(s) and surrounding circumstances.

**APPENDIX G**

**to the**

**SEWAGE AND WASTE CONTROL ORDINANCE**

**PROVISIONS APPLICABLE TO NATIONAL  
INDUSTRY SECTOR  
INITIATIVES AND XL PROJECT**

This Appendix deleted effective November 4,  
2004.

~~Dated: April 9, 2015, to become effective April 9,  
2015~~

~~Approved:~~

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~~HON. MARIYANA T. SPYROPOULOS, President  
Board of Commissioners, Metropolitan Water  
Reclamation District of Greater Chicago~~

~~Approved as to Form and Legality:~~

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~~General Counsel~~