

Sanitary Discharge and Pretreatment Program Administrative Rules

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working for clean rivers

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These are administrative rules for the Bureau of Environmental Services (BES) Sanitary Discharge and Pretreatment Program. See Appendix A for background information relating to these rules.

1. PROGRAM GOALS

The goal of these rules is to describe the administrative and enforcement activities specific to dischargers to the City's combined and sanitary sewers. The Sanitary Discharges and Pretreatment Program's goal is to preserve City infrastructure and protect water quality. These rules establish a progressive schedule of compliance activities that range from providing education and technical assistance when possible to escalating enforcement action as necessary to achieve compliance. The program strives to meet federally mandated Pretreatment Program and other discharge requirements.

2. PROGRAM DEFINITIONS

These rules use the definitions of PCC Chapter 17.04 and 17.34 and the following:

- A. "Alternative Discharge Control Mechanisms (ACDMs)" means mechanisms issued by the Director in lieu of an industrial wastewater discharge permit to control the discharge of industrial wastewater to the City sewer system. Alternative discharge control mechanisms include, but are not limited to, discharge authorizations and best management practices.
- B. "Applicable pretreatment standards" means the more stringent of any National Pretreatment standards (when effective); State of Oregon pretreatment standards (when effective) or discharge prohibitions and local limits established in the City Code or rules.
- C. "Authorized representative" means:
 - 1. A principal executive officer of at least the level of vice president if the industrial user is a corporation;
 - 2. A general partner or proprietor if the industrial user is a partnership or sole proprietorship, respectively; or
 - 3. A duly authorized representative of the individual designated above if such representative is responsible for the overall operation or has overall responsibility for environmental matters of the facility from which the discharge originates.
- D. "Batch Discharge" means the controlled discharge of a discrete, contained volume of wastewater.
- E. "Best Management Practices (BMPs)" means procedures and other controls that are used to reduce pollutant discharges including: structural controls, modification of facility processes, and operating and housekeeping pollution control practices.
- F. "Biochemical Oxygen Demand (BOD)" means the quantity of oxygen utilized in the biochemical oxidation of organic matter over a period of 5 days at a temperature of 20 degrees Celsius (as described in the American Public Health Association publication, *Standard Methods for the Examination of Water and Wastewaters*, current edition, or other applicable references, contained in 40 CFR 136 and amendments thereto).

- G.** “Bypass” means the intentional diversion of wastestreams from any portion of an industrial user's treatment facility.
- 1.** An industrial user may allow any bypass to occur which does not cause applicable pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs 2 and 3 of this definition.
 - 2. Notice.** If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the Director at least 10 days before the date of the bypass, if possible; an industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards or requirements to the Director within 24 hours from the time of becoming aware of the bypass. A written report shall also be provided within 5 days from the time the industrial user becomes aware of the bypass. The written report shall contain a description of the bypass and its cause, the duration of the bypass (including exact dates and times) and, if the bypass has not been corrected, the anticipated time it is expected to continue, and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass.
 - 3.** Bypass is prohibited, and the Director may take enforcement action against an industrial user for a bypass, unless:
 - a.** Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - b.** There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - c.** The industrial user submitted notices as required under paragraph G.2 of this definition.
- H.** “Categorical User” means an industrial user subject to a categorical pretreatment standard.
- I.** “Compatible Pollutant” means biochemical oxygen demand, suspended solids, pH, fecal coliform bacteria, plus additional pollutants which the Publicly Owned Treatment Works is designed to treat.
- J.** “Composite Sample” means a series of individual discrete samples taken at selected intervals based on either an increment of flow or time. The samples are mixed together to approximate the average composition of discharge to the City sewer system. A composite sample for one day shall consist of a pool of samples, collected over the operational period of the production day. Where special conditions warrant, the Director may designate an alternative procedure that is acceptable.
- K.** “Contributory User” means an industrial user that discharges, or has the potential to discharge, a pollutant above the sanitary sewer background concentration and who is allocated the pollutant using the IU Contributory Flow method detailed in EPA’s 2004 Local Limits Development Guidance Manual, on page 11 of Chapter 6.
- L.** “Dilution” means the prohibited practice of adding water or, in any other way, attempting

to alter the level or concentration of pollution in a discharge as a partial or complete substitution for adequate treatment to achieve compliance with discharge standards or requirements.

- M.** “Discharge Authorization” means a written approval by the Director which prescribes certain requirements or restrictions for a discharge to the City sewer and drainage system.
- N.** “Facial Challenge” means a challenge to a requirement that is based on an argument that the requirement cannot be applied fairly or reasonably in any situation. By contrast, an as-applied challenge is one based on an argument that a requirement should not be applied to the challenger’s particular situation because of factors that, in the challenger’s view, distinguish it from similar situations.
- O.** “Fats, Oils and Grease (Total)” means those substances which are measured by EPA Hexane Extraction Method (HEM) 1664.
 - 1.** Non-polar fats, oils and grease (those from petroleum sources) are the fats, oils and grease that remain after passing the sample extract through silica gel.
 - 2.** Polar fats, oils and grease (those of animal or vegetable origin) are determined by subtracting non-polar fats, oils and grease from total fats, oils and grease.
- P.** “Grab Sample” means an individual sample collected over a period of time not exceeding 15 minutes.
- Q.** “Hazardous Substance” means any substance referenced in section 101(14) of the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (42 U.S. Code §9601 et seq.), section 502(13) of the Clean Water Act or other substance at concentrations specified in those lists or, if no concentration is specified, at concentrations designated by the Director.
- R.** “Industrial Waste” means any liquid, solid, or gaseous substance, or combination thereof, resulting from or used in connection with any process of industry, manufacturing, commercial food processing, business, agriculture, trade or research, including but not limited to the development, recovering or processing of natural resources and leachate from landfills or other disposal sites.
- S.** “Lower Explosive Limit” (LEL) means the lowest concentration of a gas-in-air mixture at which the gas can ignite.
- T.** “New Source” means any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under section 307(c) of the Clean Water Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - 1.** The building, structure, facility or installation is constructed at a site at which no other source is located; or
 - 2.** The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - 3.** The production of wastewater generating processes of the building, structure, facility or installation is substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source

should be considered.

4. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of paragraphs 2 or 3 above but otherwise alters, replaces, or adds to existing process or production equipment.
 5. Construction of a new source as defined herein has commenced if the owner or operator has begun or caused to begin as part of a continuous on-site construction program any placement, assembly or installation of facilities or equipment, or significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 6. Construction of a new source as defined herein has commenced if the owner or operator has entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.
- U. “New Source Discharger” means any New Source or person who discharges industrial wastewater subject to categorical pretreatment standards that were promulgated by EPA prior to commencement of the discharge to the City sewer system.
- V. “Non-contact Cooling Water” means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product or finished product.
- W. “Non-domestic User” means an industrial user.
- X. “Non-domestic Wastewater” means an industrial wastewater or other wastes as determined by the Director.
- Y. “Pass Through” means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's National Pollution Discharge Elimination System permit (including an increase in the magnitude or duration of a violation).
- Z. “Permit” means an industrial wastewater discharge permit as provided for in the City Code.
- AA. “pH” means the negative logarithm of the hydrogen ion concentration or the logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions in moles per liter of solution. (Neutral water, for example, has a pH of 7 and a hydrogen ion concentration of 10^{-7} .)
- BB. “Point of Compliance” means the location where representative industrial wastewater samples are collected from industrial users to determine compliance with discharge standards. For categorical pretreatment standards, the point of compliance shall be at a location where the effluent of the process regulated by the standard is collected, or as otherwise specified by the standard. For other limits identified in Section 3, Discharge Limitations, of these rules, the point of compliance shall be at end-of-pipe where the wastewater from the industrial user enters the City sewer system. The Director may

designate an alternative location to accommodate collecting representative compliance monitoring samples.

- CC.** “Settleable Solids” means that portion of suspended solids that will settle to the bottom of an Imhoff cone in a 60-minute period (as described in Standard Methods for the Examination of Water and Wastewaters, current edition, or Guidelines establishing test procedures for the Analysis of Pollutants, contained in 40 CFR 136, as published in the Federal Register).
- DD.** “Single Operational Upset” means an exceptional incident that causes simultaneous, unintentional, temporary noncompliance with more than one effluent discharge pollutant parameter. This term does not apply to violations involving discharge without an industrial wastewater discharge permit or noncompliance to the extent caused by improperly designed or inadequate treatment facilities. A single operational upset which leads to simultaneous violations of more than one pollutant parameter may be treated as a single violation. The discharger bears the burden of proving, by a preponderance of the evidence, the occurrence of the single operational upset event and its relationship to the effluent limitation exceedances in question.
- EE.** “Slugload” means any discharge that is non-routine or episodic and that has a reasonable potential to cause interference, pass-through, or violation of applicable local, state or federal regulations, including City local limits or conditions of the City’s NPDES permit. Slugloads include but are not limited to accidental spills and non-customary batch discharges.
- FF.** “Standard Industrial Classification (SIC) Code” means a classification pursuant to the *Standard Industrial Classification Manual* issued by the United States Office of Management and Budget.
- GG.** “Total Solids” means all matter that remains as residue upon evaporation at 103 degrees Centigrade to 105 degrees Centigrade. Total solids, or residue upon evaporation, can be classified as either nonfilterable (suspended) solids or filterable (dissolved) solids by passing a known volume of liquid through a filter (as described in Standard Methods for the Examination of Water and Wastewaters, current edition, or Guidelines Establishing Test Procedures for the Analysis of Pollutants, contained in 40 CFR 136, as published in the Federal Register).
- HH.** “Total Suspended Solids” means total suspended matter that either floats on the surface or is in suspension in water or wastewater and that is removable by laboratory filtering (as described in Standard Methods for the Examination of Water and Wastewaters, current edition, or other applicable references cited at 40 CFR 136, as published in the Federal Register and referred to as nonfilterable residue.)
- II.** “Upset” means an exceptional incident in which a discharger unintentionally and temporarily is in a state of noncompliance with the applicable pretreatment standards or requirements set forth in Chapter 17.34 or rules adopted thereunder due to factors beyond the reasonable control of the discharger, and excluding noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation thereof. To establish the affirmative defense of upset, an industrial user must demonstrate that:
1. An upset occurred, and the industrial user can identify its cause;

2. The permitted facility was at the time being properly operated; and
3. The industrial user submitted notice of the upset immediately upon learning of the upset, or as required by its industrial waste discharge permit. In no case shall notice be submitted later than 24 hours after the upset occurred. A written report shall be submitted to the Director within 5 days of the upset which shall include the following information:
 - a. A description of the occurrence and cause of noncompliance;
 - b. The period of noncompliance including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;
 - c. Steps being taken to reduce, eliminate and prevent recurrence of the noncompliance.
4. The industrial user took all reasonable steps to minimize or prevent any discharge resulting from an upset.

3. DISCHARGE LIMITATIONS

The following discharge limitations are established or implemented by the Director to meet the objectives of Section 17.34.040 of the City Code and are pretreatment standards per 40 CFR 403.5(d).

- A. **Permitted Industrial Users.** Industrial Users required to obtain an Industrial Wastewater Permit must comply with the following limits:
 1. **Categorical Pretreatment Standards.** Specific industrial users must comply with applicable categorical pretreatment standards and requirements found at 40 CFR Chapter I, Subchapter N, Parts 405-471. All requirements and limitations will be applied in accordance with 40 CFR 403.6(c)-(e) and 40 CFR 403.15. These standards and requirements, and any amendments, are hereby incorporated by reference.
 2. **State Pretreatment Standards.** All industrial users must comply with applicable State pretreatment standards and requirements as set out in OAR Chapter 340. These standards and requirements, and any amendments, are hereby incorporated by reference.
 3. **Local Limits (40 CFR 403.5 (d)).** Local limits apply to industrial users at the point of compliance. Compliance with local limits will be determined through the use of composite or grab samples that are representative of the industrial user's wastewater that enters the City sewer system. Each industrial user required by the Director to obtain an industrial wastewater discharge permit must not discharge industrial wastewater into the City sewer system in excess of the following local limits:

Pollutant	Maximum Limit ¹	Pollutant	Maximum Limit
INORGANICS:			
Arsenic, (T)	0.20 mg/L	pH	5.0 ≤ pH ≤ 11.5 SU ²
Cadmium, (T)	0.70 mg/L	Mercury, (T)	0.010 mg/L
Chromium, (T)	3.53 mg/L	Molybdenum, (T)	1.40 mg/L
Copper, (T)	2.80 mg/L	Nickel, (T)	2.80 mg/L
Cyanide, (T)	1.20 mg/L ³	Selenium, (T)	0.60 mg/L
Oils and Grease (NP)	100 mg/L	Silver, (T)	0.40 mg/L ³
Lead, (T)	0.70 mg/L	Zinc, (T)	3.70 mg/L
ORGANICS:			
Acrylonitrile	1.00 mg/L	2, 4 Dinitrotoluene	0.13 mg/L
Chlordane	0.03 mg/L	Nitrobenzene	2.00 mg/L
Chlorobenzene	0.20 mg/L	Pentachlorophenol	0.04 mg/L
Chloroform	0.20 mg/L	Trichloroethylene	0.20 mg/L
1, 2 Dichloroethane	0.50 mg/L		
T – total NP – non-polar SU – standard units	¹ Stated limits in all columns of this table are daily maximum limits unless otherwise noted.	² The pH local limit is an instantaneous maximum limit.	³ This local limit is for contributory users only. An Industrial User will be notified by BES regarding its status as a contributory user.

4. Industrial User Permit-Specific Limits. The Director may establish discharge limitations for an industrial user on a case-by-case basis. Industrial user permit-specific limits will be based on a technical evaluation for pollutants that: 1) are not amenable to treatment by the processes employed at the POTW, 2) may cause pass through or interference, or 3) may create worker health and safety problems within the POTW. At a minimum, the following will be considered in the technical evaluation:

- a. Existing permit limits for comparable industrial facilities;
- b. Demonstrated performance of the user's currently installed treatment technologies

(performance-based limits);

- c. Performance of treatment technologies as documented in engineering literature for similar facilities or with similar wastestreams;
- d. Adopting federal standards that regulate similar wastestreams (transfer of regulations);
- e. City of Portland chemical-specific matrix evaluation process;
- f. Restrictions on headworks loading (not greater than 1% of the 1994 headworks loading) to the POTW;
- g. Other EPA accepted best professional judgment limitation development processes

The Director will maintain an inventory of industrial user's issued permit-specific limits including the pollutant limits and date of issuance. Such limits are pretreatment standards as per 40 CFR 403.5(d). The Director may apply an industrial user's permit-specific limits, where applicable, to other industrial users. The Director will provide the inventory to persons or groups as per 40 CFR 403.5(c)(3).

- 5. **Pollutant Prohibitions.** The Director will maintain an inventory of pollutant prohibitions that are determined from technical evaluations using methods similar to Section 3.A.4 of these rules. The inventory will contain the pollutant prohibitions and the detection level used to establish a violation. Pollutant prohibitions will be applicable for all dischargers. The Director will provide the inventory to persons or groups as per 40 CFR 403.5(c)(3).
- 6. **Final Compliance Date with Applicable Pretreatment Standards.** New source dischargers must comply with applicable limits upon commencement of discharge to the City sewer system. Existing industrial users must comply with the following compliance dates for any new discharge limit, or for any existing limit that becomes more restrictive. Industrial users may be required to comply earlier, if the Director determines that a pollutant causes pass through, interference or imminent endangerment to the POTW.
 - a. Compliance with categorical pretreatment standards will be required within the time specified in the appropriate subpart of Subchapter N and in conformance with 40 CFR 403.6(b).
 - b. New or more restrictive local limits will become effective and legally enforceable at the time they are incorporated into the City's NPDES permit.
 - c. Compliance with permit-specific limits will be required upon issuance of the limit in the industrial user's permit.

B. Non-Permitted Dischargers.

- 1. **City Limits.** Dischargers not required to obtain an industrial wastewater discharge permit from the Director must comply with City limits. At a minimum, City limits include the numeric equivalent limits identified in Section 3.A.3, A.4 and A.5 of these Administrative Rules.
 - a. In lieu of complying with the numeric City limits, a discharger may implement an alternative discharge control mechanism (ADCM) that is approved by the Director. Compliance with an ADCM will constitute compliance with City limits.
 - b. An ADCM may be submitted to the Director for approval by an individual user or

industry sector of similar businesses that perform similar operations and discharge industrial wastewater of similar character if the ADCM would be an effective wastewater discharge control mechanism for those operations and discharges. An ADCM may also be developed jointly with the City for approval by the Director. The Director will maintain a list of ADCMs approved for use by industrial users that control specific industrial wastewater discharges or pollutants.

- c. The duration of an ADCM will be the time frame during which the industrial wastewater discharge that is controlled by the ADCM does not significantly change in character or volume. The ADCM is not transferable.
 - d. An ADCM may be modified by the Director during its duration if a discharged wastewater's volume or pollutant concentrations or levels significantly change. An ADCM may also be modified where new methods or technologies are developed and determined by the Director to be more appropriate for complying with City limits.
 - e. An individual user, industry or an industry sector of similar businesses may submit an ADCM for conditional approval by the Director as an interim ADCM until such time as a final ADCM is approved by the Director. Compliance with an approved interim ADCM will constitute compliance with City limits.
- C. Acceptance of Batch or Special Wastewater.** The Director may authorize an industrial user to temporarily discharge wastewater with unusual characteristics. The authorization may include discharge limitations, charges and fees, and other requirements of the Director. No authorization may violate discharge prohibitions and limitations set forth in the City Code, these administrative rules, or any other state or categorical pretreatment regulations or standards.
- D. Acceptance of Emergency Discharges.** During the period of an emergency operation such as fire fighting or water line break, discharges are not required to comply with the regulations of this section. Any repairs made after the period of emergency has ceased must comply with all regulations and administrative requirements of these rules.

4. MONITORING AND REPORTING REQUIREMENTS

- A. Notification of Hazardous Waste Discharge.** An industrial user must notify the Director in writing of any discharge into the sewer system of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261.
- 1. Notification must occur no later than 180 days after commencement of the discharge and must include:
 - a. The name of the hazardous waste as set forth in 40 CFR Part 261;
 - b. The EPA hazardous waste number; and
 - c. The type of discharge (continuous, batch, or other).
 - d. If an industrial user discharges more than 100 kilograms of such waste per calendar month to the sewer system, the notification must also contain the following information to the extent it is known and readily available to the industrial user: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass

of constituents in the wastestream expected to be discharged during the following twelve months.

- e. These notification requirements do not apply to pollutants already reported under the self-monitoring requirements of Chapter 17.34.060 and 17.34.070 of the City Code.
 2. Dischargers are exempt from the requirements of paragraph A.1 above during a calendar month in which they discharge no more than fifteen kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30 (d) and 261.33 (e). Discharge of more than fifteen kilograms of non-acute hazardous wastes in a calendar month or of any quantity of acute hazardous wastes requires a one-time notification. In subsequent months, the industrial user must notify the City in advance of a discharge that is substantially different from the initial month in terms of volume or character of hazardous waste.
 3. Whenever U.S. EPA publishes final rules identifying additional hazardous wastes or new characteristics of hazardous waste, an industrial user must notify the Director of the discharge of such a substance within 90 days of the effective date of such regulations.
 4. In the case of any notification made under this rule, an industrial user must certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated.
- B. Continuous pH Monitoring for Compliance.** The Director may establish compliance monitoring requirements for continuous metering devices to determine compliance with pH discharge limits established pursuant to the City Code. The Director may specify the period and conditions of a pH excursion, including, but not limited to, equipment maintenance and calibration. No excursion will be allowed which conflicts with federal or state discharge limitations or may endanger the POTW, worker health and safety or the public.
- C. Technical Information Reports.** The Director may require industrial users to submit completed technical information reports to obtain information for environmental surveys, applications and other reports as required in Sections 17.34.060 and 17.34.070 of the City Code. Technical information reports may include, but are not limited to, the following information:
1. Name, address and location of the Industrial User;
 2. Description of activities, facilities and plant processes on the premises and number of employees, hours of operation and seasonal operation information;
 3. Standard industrial classification (SIC) code of both the industry as a whole and any process for which federal categorical standards have been promulgated;
 4. Each product produced by type, amount, process or processes and rate of production;
 5. Type and amount, average and maximum per day, of raw materials utilized;
 6. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location and elevation;
 7. Time and duration of discharges;

8. Measurements or verifiable estimates of average, daily, and instantaneous peak wastewater flow rates, in gallons per day, including any daily, monthly and seasonal variations;
 9. Nature and concentration of pollutants or toxic substances in the discharge limited by Chapter 17.34 of the City Code. All sampling and analysis must be performed in accordance with 40 CFR Part 136;
 10. Description of any pretreatment systems and operational information;
 11. Description of materials that are reused, recycled or disposed of off site;
 12. A list of all environmental control permits issued to the industrial user;
 13. Statement regarding whether compliance with the City Code is being achieved on a consistent basis; and, if not, whether additional operation and maintenance activities and/or additional pretreatment is required;
 14. Any other information or data concerning the industrial user's operations and/or wastewater required by 40 CFR 403.12(b) or that the Director deems necessary to evaluate compliance with requirements of the City's approved pretreatment program.
- D. Total Toxic Organics (TTO) or Total Cyanide Reporting.** Categorical users which are required by EPA to eliminate or reduce the levels of total cyanide or TTOs discharged into the POTW must follow the categorical pretreatment standards for the industrial user. Industrial users must also meet the following requirements:
1. The industrial user must sample, as part of the initial application requirements, for total cyanide or all the organic compounds listed under the TTO limit.
 2. If no cyanide or TTOs are used at the facility or the industrial user elects to develop a best management practices plan in lieu of self-monitoring, as provided for in the categorical pretreatment standard, then the industrial user must routinely submit a certification statement as part of its self-monitoring report. The report must certify that there has been no discharge of cyanide or concentrated TTOs into the wastewater and that the industrial user is implementing a management plan as approved by the Director.

Industrial users who have sampled initially and can verify that there are no cyanide or TTO compounds utilized are not required to develop a management plan but must make the certification statement of no use of cyanide or TTO compounds during the reporting period.

- E. No Discharge Certification Report.** Non-discharging categorical industrial users must submit periodic certification reports that certify there has been no discharge of regulated industrial wastewater during the reporting period.

5. BEST MANAGEMENT PLAN

- A.** The Director may require a discharger to develop and submit to the City a Best Management Plan (plan) for dischargers who handle, store or use on their sites hazardous or toxic substances or substances limited under Sections 17.34.030 and 17.34.040 of the City Code. The plan must be submitted within 60 days after notification by the Director or as otherwise required by an industrial wastewater discharge permit or authorization. The plan must be directed at preventing the entrance of pollutants, directly or indirectly,

into the City sewer system. A plan may incorporate the common elements of the following plans: Accidental Spill Prevention Plan, Solvent Management Plan, Spill Prevention Countermeasure Control Plan, Toxic Organic Management Plan, Slugload Plan or Stormwater Pollution Control Plan. Additionally, the Director may accept other plans where the plan adequately protects the City sewer system. The plan must be available for inspection at the facility during normal business hours and must include, but not be limited to, the following elements:

1. General information on the facility;
 2. Detailed facility layout and site diagram showing points of entry into the City sewer system;
 3. An inventory and description of the types and quantities of hazardous and toxic substances handled and their potential points of entry into the City sewer system;
 4. A description of the emergency measures to be taken to prevent entry at the described points before a spill occurs;
 5. A description of preventive maintenance practices and procedures for assuring that hazardous and toxic organic substances do not routinely spill or leak into the City sewer system;
 6. A list of available equipment and measures to be taken to contain a spill if one occurs;
 7. Description of discharge practices including non-routine batch discharges and the disposal method used in lieu of discharging to the City sewer system;
 8. A description of employee training in the prevention and control of spills, leaks, slugloads, or non-customary episodic discharges;
 9. Procedures for immediately notifying the Director of spills, leaks, slugloads, or non-customary episodic discharges, with written notification within five days;
 10. Certification by a qualified professional, officer of the company or operations manager that the plan is adequate to prevent spills, leaks, slugloads, or non-customary discharges of regulated substances.
- B.** The Director may require revisions to a discharger's plan if the plan contains elements that are inadequate, as determined by the Director, or the discharger has a spill, leak or uncontrolled discharge of a hazardous or toxic substance or a substance prohibited under Sections 17.34.030 and 17.34.040 into the City sewer system. Review of such plans and operating procedures by the Director shall not relieve the discharger from the responsibility to modify its facility as necessary to comply with local, state and federal laws and regulations.

6. VIOLATIONS

Persons violating these rules may be subject to the enforcement actions specified in the BES Enforcement Administrative Rules (ENB-4.15). Each day a violation occurs will be considered a separate violation.

- A. Violations.** The person against whom BES takes enforcement action is ultimately required to resolve the violations at issue. Such violations include, but are not limited to, the following:

1. Discharge of materials that are prohibited per PCC 17.34.030 B;

2. Failure to obtain a discharge permit or authorization prior to discharge of pollutants of concern;
 3. Exceedance of any pollution limit, standard or required action in a pretreatment program discharge permit or other City discharge authorization approving discharges to the City sanitary or combined sewer system;
 4. Failure to comply with accidental spill notification, control and prevention requirements;
 5. Failure to comply with sampling or sampling access requirements; or
 6. Failure to provide reports or other records within specified timeframes.
- B. Violation Severity.** Violations are categorized by severity, as follows:
1. **Class I.** Violations include, but are not limited to:
 - a. Gross exceedances of the general discharge prohibitions of PCC 17.34.030 not otherwise allowed under a City or state discharge permit or authorization;
 - b. Exceedances of permit discharge standards by more than twice as much;
 - c. Gross exceedances of permit discharge standards that cause or contribute to a City discharge permit violation; or
 - d. Refusal to prepare or submit required reports, plans and other documents.
 2. **Class II.** Violations include, but are not limited to:
 - a. Discharges of pollutants of concern not otherwise allowed under a City or state discharge permit or authorization;
 - b. Exceedances of the general discharge prohibitions of PCC 17.34.030 not otherwise allowed under a City or state discharge permit or authorization;
 - c. Exceedances of permit discharge standards by up to twice as much; or
 - d. Failure to provide required notice for spills or materials releases.
 3. **Class III.** Violations include, but are not limited to:
 - a. Discharges that cause a sheen or discoloration at the point of entry to the City system;
 - b. Minor exceedances of permit discharge standards; or
 - c. Failure to meet submittal timelines for plans and other records
- C. Penalties.** Penalties will be assessed as described in the BES Enforcement Rules (ENB-4.15) and all applicable guidance.

7. ADMINISTRATIVE REVIEW AND APPEAL

A person may request reconsideration of a BES decision through administrative review as described in this Section. Administrative review and appeal of an enforcement action is also governed by BES Enforcement Program Administrative Rules, ENB-4.15. After the requestor has exhausted all BES administrative review, this requestor may file for an appeal of a decision with the Code Hearings Officer (CHO) per Portland City Code Title 22. A person may only appeal a decision that is subject to administrative review by BES.

- A. Administrative Review Requests.** A person to whom a notice was addressed will have 20 business days from the date the notice was issued to submit a written request for

administrative review of a decision described in the notice. The requestor must provide all information known to the requestor that supports an assertion made in the written request for administrative review. The requestor must provide such information via graphic, written, or recorded communications, or in person at the administrative review meeting. BES will hold an administrative review meeting within 15 business days of receipt of the written request for administrative review unless BES determines in its reasonable discretion that a delay is justified. The requestor may provide detailed information in writing in lieu of attending the administrative review meeting.

B. Non-Reviewable Items. A BES decision made under these rules is subject to administrative review except that BES will not grant administrative review for the following:

1. A Facial Challenge – as that term is defined in these rules – to a requirement in these rules or associated City Code, or to any technical standard;
2. BES’s authority to enter facilities for inspection or sampling;
3. BES’s authority to recover costs for City abatement of a violation of these rules or of associated City Code; and
4. BES’s determination of the cost to the bureau of staff time, materials, supplies, services, equipment, other assets, administrative costs, overhead, etc., unless the person seeking administrative review alleges a mathematical error in how BES calculated a cost.

C. BES Evaluation. BES will use authorizing City Code, the provisions of these rules and ENB-4.15, City records, and the testimony and documentation provided by the requestor to make a final determination on the issue that is the subject of the administrative review.

D. Final Determination. BES will issue to the requestor a written final determination within 15 business days of the administrative review meeting unless BES determines that extenuating circumstances justify a reasonably longer period of evaluation. The written final determination will provide information about the process for filing an appeal to the CHO.

8. GENERAL ADMINISTRATION

A. Classification System. The Director may establish procedures to classify dischargers to fairly and objectively apply the requirements of the General Pretreatment Regulations (40 CFR 403) to all industrial users.

B. Contents of Industrial Wastewater Discharge Permits. In addition to Section 17.34.070 of the City Code, any industrial wastewater discharge permit issued by the Director will contain conditions of Section 8.B.1-4 and may also contain conditions of Section 8.B.5-15, as determined by the Director. Other authorizations for discharge may also require any of the following:

1. A statement of non-transferability without prior notification to and approval from the Director and provisions for furnishing the new owner or operator with a copy of the existing industrial wastewater discharge permit;
2. Discharge limits and/or restrictions based on applicable pretreatment standards;

3. Sampling, testing, reporting, notification, and record-keeping requirements. These requirements will include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, or City laws or Codes;
4. A statement of applicable civil and criminal penalties for violations of pretreatment standards and requirements;
5. Limits and/or restrictions on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
6. Requirements for the installation of pretreatment technology, pollution control or construction of appropriate containment devices designed to reduce, eliminate, or prevent the introduction of pollutants into the City sewer system;
7. Requirements for the development and implementation of best management plans to prevent accidental, unanticipated or non-routine discharges, or to reduce the amount of pollutants discharged to the City sewer system;
8. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the City sewer system;
9. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
10. Requirements for maintaining and retaining records relating to wastewater discharges and solids disposal;
11. Requirements for notification of any new introduction of wastewater constituents, hazardous wastes, or of any substantial change in the volume or character of the wastewater being introduced into the City sewer system;
12. Requirements for the notification of any change in the manufacturing and/or pretreatment process used;
13. Requirements for notification of excessive, accidental or slug discharges;
14. A statement that compliance with the industrial wastewater discharge permit does not relieve the industrial user of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the permit; and
15. Other conditions as deemed appropriate by the Director to ensure compliance with the City Code and applicable state and federal laws, rules and regulations.

Appendix A – Background Information

Explanation of Most Recent Amendments

The Spring 2016 revisions to this rule made the local limits for Chromium, Copper, and Oil and Grease imposed on industrial dischargers under section 3.A.3 of the rule more stringent. BES made these changes to ensure that industrial discharges of those pollutants would not affect water quality, endanger public health, damage the public sewer system, or prevent biosolids recycling.

The Spring 2016 revisions not only amended the numerical local limits for Chromium, Copper, and Oil and Grease but also reorganized the table presenting those limits in section 3.A.3. Prior to the Spring 2016 amendments, that table organized pollutants into categories of metals, non-metals, and organics, but the Spring 2016 revisions put listed pollutants into the new categories of inorganics and organics. The local limits table included in the rule immediately prior to the adoption of the Spring 2016 revisions is below, to facilitate comparison.

POLLUTANT NAME	DAILY MAXIMUM LIMIT	POLLUTANT NAME	DAILY MAXIMUM LIMIT
METALS			
Arsenic, (T)	0.2 mg/L	Molybdenum, (T)	1.4 mg/L
Cadmium, (T)	0.7 mg/L	Nickel, (T)	2.8 mg/L
Chromium, (T)	5.0 mg/L	Selenium, (T)	0.6 mg/L
Copper, (T)	3.7 mg/L	Silver, (T)	0.4 mg/L
Lead, (T)	0.7 mg/L	Zinc, (T)	3.7 mg/L
Mercury, (T)	0.010 mg/L		
NON-METALS		ORGANICS	
Cyanide, (T)	1.2 mg/L	Acrylonitrile	1.00 mg/L
Fats, Oils and Grease (NP)	110 mg/L	Chlordane	0.03 mg/L
pH	5.0 ≤ pH ≤ 11.5 SU	Chlorobenzene	0.20 mg/L
		Chloroform	0.20 mg/L
		1, 2 Dichloroethane	0.50 mg/L
		2, 4 Dinitrotoluene	0.13 mg/L
		Nitrobenzene	2.00 mg/L
		Pentachlorophenol	0.04 mg/L
		Trichloroethylene	0.20 mg/L
T = Total			
NP = Non-polar			
SU = Standard Units			

Finally, the Spring 2016 revisions expanded Appendix A to provide additional background information regarding the history of ENB-4.03.

At the time that the Spring 2016 revisions were adopted by the Director of BES, the bureau anticipated a more thorough revision of the rule in the next 12 months.

Prior Rule History

BES adopted the original rule ENB-4.03 governing industrial sanitary discharges and pretreatment in September 2004. Amendments adopted in March 2007 revised certain definitions, added a definition of “industrial waste,” added provisions governing emergency discharges and a non-domestic user’s acceptance of batch or special wastewater, revised enforcement provisions, and added provisions regarding BES recovery of costs associated with its enforcement of general discharge regulations.

Amendments adopted in September 2013 primarily revised definitions and enforcement provisions. Those amendments were intended to provide program consistency with other BES enforcement programs and to make ENB-4.03 consistent with then-current Portland City Code definitions.