

Morristown Utilities Commission

Industrial Pretreatment Policy



Adopted: May 25, 2017

**Morristown Utilities Commission (MUC)
Industrial Pretreatment Policy**

A. Definitions

For purposes of this policy, all definitions and abbreviations shall be as outlined in the City Water Pollution Control Ordinance and the MUC FOG Management Policy. MUC shall be synonymous with Morristown Utility Systems (MUS) and the two shall be used interchangeably. Additionally, the term MUC shall mean the General Manager of the Morristown Utilities Commission, or his designee(s).

B. Permits.

1. All users proposing to connect to or contribute pollutants into the POTW shall obtain a wastewater discharge permit before connecting to or contributing a discharge of pollutants to the POTW.
2. In order to avoid wastewater influent to the treatment plant which creates adverse effects, or interferes with any wastewater treatment or collection processes, or creates any hazard in receiving waters or results in MUC being in violation of applicable effluent standards including sludge disposal standards, MUC shall establish and amend wastewater effluent limits as deemed necessary. Limits for certain parameters are set as protection criteria for the POTW. Discharge limits for industrial users will be set in discharge permits as outlined in this policy. Such limits will be calculated based on the anticipated ability of the plant to absorb specific wastewater constituents without violation of its NPDES permit, safety of the public, and/or disruption of plant operations including sludge disposal; not to exceed, however, federal limits where applicable.
3. Residential permits shall be issued on a permanent basis, and may be transferred automatically with the property without notification to MUC when a change in ownership occurs.
4. Commercial, industrial and special permits shall be issued for a specific time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for a permit re-issuance a minimum of 180 days prior to the expiration of the user's existing permit. Further provisions are as outlined in Section G Permit Duration of this policy
5. The terms and conditions of the permit may be subject to modification by MUC during the term of the permit as required to assure continued compliance with all federal and state permit conditions. The user shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

6. Wastewater discharge permits are issued to a specified user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation without prior written authorization from MUC. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit.
7. MUC shall monitor the POTW influent in accordance with its current NPDES permit, its Headwork Loading Parameters, as well as the EPA listed priority pollutants. In the event that the POTW influent reaches or exceeds the levels established by any listed standards above for two consecutive monitoring events, MUC shall initiate technical studies to determine the cause of the excessive influent loading, and shall take such remedial measures as are necessary, including the establishment of new or revised pretreatment levels for these parameters. The MUC may change any of the criteria stated in this policy in the event the POTW effluent standards are changed, or in the event that there are changes in any applicable law or regulation affecting biosolids use or disposal options, or in the event changes are needed for more effective operation of the POTW.

The MUC shall conduct surveys of all commercial and industrial users as needed to obtain current information relative to the nature and characteristics of any discharge to the POTW, but in no case shall the surveys be conducted less frequently than the term of the current NPDES permit.

8. There are hereby established four (4) classes of permits for users proposing to connect to or contribute pollutants into the POTW. These permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, enforcement actions, user charges and fees established by MUC and the City of Morristown.

Class I -- Residential Permits. Each new residential user shall submit a written application to MUC for permission to discharge into the public sewers and shall present all necessary plans, documents or schedules at the time of application. The application shall be accompanied by the appropriate sewer connection fee and permit fees, and shall be signed by the licensed plumber responsible for the work to be performed. The work done under the permit shall be supervised by the city plumbing inspector.

Class II -- Commercial Permits. Each commercial user shall submit a written application to MUC for permission to discharge into the public sewers and shall present all necessary plans, documents or schedules at the time of application. The application shall be accompanied by the appropriate sewer connection fee and permit fees, and shall be signed by an authorized representative of the organization. The work done under the permit shall be supervised by the city plumbing inspector and MUC. The commercial permit shall be subject to annual renewal fees for the duration of the permit as defined below:

All commercial users that discharge only normal domestic wastewater or determined by MUC to have flows expected to have minimal potential impact on the wastewater system may be classified as Class 1 and shall not be required to maintain a permit. Commercial users so designated shall immediately notify MUC should the nature of their discharge change.

MUC reserves the right to increase the classification of any Class I commercial business should it deem necessary to protect its systems.

All other commercial users that discharge liquid wastes from manufacturing processes, trade or business, as distinct from sanitary or normal domestic wastewater, shall be classified as Class II, and shall be subjected to annual renewal fees for the duration of the permit. Existing Class II commercial users shall apply for a Class II commercial permit within sixty (60) days after the effective date of this policy, but in no case later than thirty (30) days after being requested in writing to do so by MUC.

Class III -- Industrial Permits. Each industrial user (IU) shall submit a written application to MUC for permission to discharge into the public sewers and POTW and shall present all necessary plans, documents or schedules at the time of application. The application shall be accompanied by the appropriate sewer connection fees and permit fees, and shall be signed by an authorized representative of the organization. The work done under the permit shall be subject to annual renewal fees for the duration of the permit. Existing industrial users shall apply for a Class III industrial permit within ninety (90) days after the effective date of this policy, but in no case later than thirty (30) days after being requested in writing to do so by MUC. Proposed new industrial users shall apply for a Class III industrial permit at least ninety (90) days prior to connecting to or contributing pollutants to the POTW.

Class IV -- Special permits.

a. Septic tank pumpers.

1. Each septic tank pumper shall submit a written application to MUC for permission to discharge into the POTW. The application shall be accompanied by the appropriate permit fee, and shall be subject to annual renewal fees for the duration of the permit. Existing septic tank pumpers shall apply for a Class IV permit within thirty (30) days after the effective date of this policy, but in no case later than thirty (30) days after being requested in writing to do so by MUC. Proposed new users shall apply for a Class IV permit at least thirty (30) days prior to contributing pollutants to the POTW.
2. All septic tank pumpers shall register each vehicle which will discharge loads into the POTW. This registration process shall be in addition to any other requirements of the Hamblen County

Health Department or any other regulatory agency, and shall be in a form and manner established by MUC. Each vehicle shall have the city registration number clearly displayed on both sides and rear of the vehicle.

b. Non-residential batch wastes.

Any user proposing to discharge non-residential batch wastes into the POTW shall submit a written application to MUC for permission to discharge into the POTW. The application shall be accompanied by the appropriate permit fee. Each individual container of non-residential batch waste shall be subject to the permit fee. All non-residential batch waste loads to be discharged to the POTW must comply with any applicable pretreatment standard or requirements which would normally be applied to the source of the waste if discharged indirectly. Any wastes delivered to the POTW by truck, rail, dedicated pipeline, or septage wastes derived from non-household sources are regulated under RCRA provisions and may meet the definition of hazardous wastes. Any waste classified as hazardous wastes shall not be accepted for discharge into the POTW.

c. Groundwater remediation projects.

Any user proposing to discharge wastewater from any groundwater remediation project into the POTW shall submit a written application to MUC for permission to discharge into the POTW. The application shall be accompanied by the appropriate permit fee and shall be subject to annual renewal fees for the duration of the permit. Existing groundwater remediation projects shall apply for a Class IV permit within thirty (30) days after the effective date of this Policy, but in no case later than thirty (30) days after being requested to do so by MUC. All wastewater from any groundwater remediation project must be metered at the discharge point to determine the flows into the POTW, and the user must pay the appropriate user and surcharge fees on a monthly basis. The discharge must be tested initially and on a monthly basis for BTEX, TPH, pH, TSS and FOG. MUC reserves the right to require testing for additional pollutants as deemed necessary to protect the POTW. The cost of all analyses conducted, either by the groundwater remediation project or MUC, shall be the responsibility of the groundwater remediation project.

C. Permitted discharges

In addition to all applicable provisions in this policy, all commercial and industrial users discharging fats, oils, or grease (FOG) shall be subject to the MUC FOG Management Policy.

D. Prohibited Discharges

1. No person or user shall discharge or cause to be discharged any storm water, surface water, groundwater, roof runoff, subsurface drainage, uncontaminated cooling water or unpolluted industrial process waters to any sanitary sewer without written authorization from MUC.
2. No person or user shall make connection of roof down-spouts, exterior foundation drains, area drains or other sources or surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.
3. No person or user shall introduce into a POTW any pollutant(s) which cause Interference, Pass Through, cause the plant effluent to fail toxicity test, or are otherwise incompatible with such works.
4. No person shall discharge or cause to be discharged into a public sewer, or POTW, any of the following:
 - (a) Fats, wax, grease or oils of animal or vegetable origin in concentrations of greater than specified in Section N of this policy, whether emulsified or not, or containing substances which may solidify or become viscous at temperatures between 32 degrees and 150 degrees F at the point of discharge into the system.
 - (b) Pollutants in the form of any liquids, solids or gases which by reason of nature or quantity or may be sufficient alone or by interactions with other substances to cause fire or explosion hazard or be injurious in any way to the POTW, including but not limited to, wastestreams with a closed cup flash-point of less than 140 Fahrenheit (60 C) using the test methods specified in 40 CFR 261.21. In addition, at no time shall two (2) successive readings on an explosive hazard meter, at any point of the discharge into the system (or any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.
 - (c) Pollutants which may cause corrosive structural damage to the public sewers or the POTW, or a hazard to equipment or personnel of the system, but in no case shall any discharge have a pH lower than 5.0 or higher than 10.0, nor can the pH fluctuate more than one unit per hour.
 - (d) Solid or viscous substances in amounts which may cause obstruction to the flow in a sewer or other interferences with the operation of a wastewater treatment facility. Prohibited materials include, but are not limited to, grease, uncomminuted garbage, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, feathers, ashes, cinders,

sand, spent lime, stone or marble dust, metal, glass, mud, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastic, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, and similar substances.

- (e) Any pollutants, including oxygen demanding pollutants BOD, COD, total nitrogen, total phosphorus, total suspended solids and/or FOG released at a flow rate and/or pollutant concentration that either singly or in interaction with substances, will cause, or have been found to cause, interference with the POTW or constitute an adverse environment impact.
- (f) Any discharge with pollutant concentrations in excess of those outlined in Section N of this policy.
- (g) Excessive discharge rate. Wastewaters at a flow rate which is excessive relative to the capacity of the treatment works or which could cause a treatment process upset and subsequent loss of treatment efficiency; or wastewaters containing such concentrations or quantities of pollutants that their introduction into the treatment works would cause interference.
- (h) Discharges with elevated temperatures which may accelerate the biodegradation of the wastes, creating noxious or corrosive gases to form in the public sewer or POTW, or which may inhibit biological activity in the system resulting in interference, but in no case shall the temperature at the user discharge point exceed 140 degrees Fahrenheit (60 deg. C), nor shall the temperature of the influent measured at the POTW exceed 104 degrees Fahrenheit (40 deg. C).
- (i) Petroleum products, oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause Interference or Pass Through.
- (j) Pollutants which contain noxious, malodorous gases or substances in quantities that would create a public nuisance or hazard to life, or that might result in the creation of toxic gases, vapors or fumes within the POTW in a quantity that may result in a nuisance or threaten worker health and safety.
- (k) Any trucked or hauled pollutants except at discharge points designated by the POTW.
- (l) Any wastewater containing any radioactive waste, or any radiological, chemical, or biological warfare agent(s) that exceeds limits established by MUC or applicable State or Federal Regulations, whichever is most protective.
- (m) Wastewater containing any element or compound which is not adequately removed by the POTW which is known to be an environmental hazard, including but not limited to those listed in any Federal Regulation (i.e., Priority Pollutants found in the CWA, SWDA, RCRA, CERCLA, SERA, CAA or other Federal or State Laws).

- (n) Wastewater containing a discoloration or any other condition affecting the quality of the POTW effluent such that receiving water quality requirements cannot be met or which interfere with plant processes or lab analyses.
- (o) Wastewater containing any element or compound known to act as a lacrimator, known to cause nausea, or known to cause odors constituting a public nuisance.
- (p) Dilution of a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a discharge standard is prohibited unless expressly authorized by MUC.
- (q) In addition, all other prohibitions and specific pollutants, as may be determined by MUC now or in the future (or may be identified in the City of Morristown Water Pollution Control Ordinance).

E. Permit Application

All users required to obtain an individual wastewater discharge permit must submit a permit application. MUC may require users to submit all or some of the following information as part of a permit application:

1. Identifying information.
 - (a) The name and address of the facility, including the name of the operator and owner.
 - (b) Contact information, description of activities, facilities, and plant production processes on the premises.
2. Environmental permits. A list of any environmental control permits held by or for the facility.
3. Description of operations.
 - (a) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes;
 - (b) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
 - (c) Number and type of employees, hours of operation, and proposed or actual hours of operation;

- (d) Type and amount of raw materials processed (average and maximum per day); and
 - (e) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.
4. Time and duration of discharges.
 5. The location for monitoring all wastes covered by the permit.
 6. Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in Tennessee Rule 1200-4-14-.06(5).
 7. Measurement of Pollutants.
 - (a) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.
 - (b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by MUC, of regulated pollutants in the discharge from each regulated process.
 - (c) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.
 - (d) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in this policy. Where the standard requires compliance with a pollution prevention alternative, such as the certification alternative in lieu of required monitoring for TTO, the user shall submit documentation as required by MUC or the applicable standards to determine compliance with the standard.
 - (e) Sampling must be performed in accordance with procedures set out in this policy.
 8. Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on Tennessee Rule 1200-4-14-.12(5)(b).
 9. Any other information as may be deemed necessary by MUC to evaluate the permit application.
 10. Application signatories and certifications.
 - (a) All wastewater discharge permit applications, user reports and certification statements must be signed by an authorized representative of the user and contain the certification statement in this policy.
 - (b) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall

operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to MUC prior to or together with any reports to be signed by an authorized representative.

11. A facility determined to be a non-significant categorical industrial user (NSCIU) by MUC as defined in Section 18-403.2 “significant industrial user” paragraph (2) of the Water Pollution Control Ordinance must annually submit the signed certification statement, per Section L5(b) of this policy.
12. Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

F. Permit conditions.

An individual wastewater discharge permit shall include such conditions as are deemed reasonably necessary by MUC to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

Wastewater discharge permits shall be expressly subject to all provisions of this policy and all other regulations, user charges and fees established by MUC. The conditions of wastewater discharge permits shall be uniformly enforced by MUC in accordance with this policy, as well as, applicable state and federal regulations. Permits shall contain all items required by federal regulation; and further, may include but not necessarily be limited to the following:

1. A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;
2. Requirements that the industrial user comply with any and all pretreatment standards and requirements either local, state or federal;
3. A statement of non-transferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing permit to the new owner or operator;
4. The average and maximum wastewater constituents and characteristics;
5. Effluent limits, including pollution prevention alternatives, based on applicable pretreatment standards;
6. Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or pollution prevention alternatives) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law;
7. The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the discharge in accordance with Section K9(b) of this policy.

8. A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law;
9. Requirements to control slug discharge, if determined by MUC to be necessary;
10. Any grant of the monitoring waiver by MUC must be included as a condition in the user's permit;
11. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
12. Requirements for installation of inspection and sampling facilities and schedules for said installation;
13. Requirements for installation and operation of pretreatment systems or process modifications and schedule for said installations;
14. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
15. Requirements for maintaining plant records relating to wastewater discharge as specified by MUC and affording MUC access thereto;
16. Requirements that MUC maintain the right to enter onto the premises for inspection of operations including process areas, pretreatment areas, and any such other portions of the premises which may be deemed appropriate by MUC.
17. A statement that compliance with the individual wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the individual wastewater discharge permit; and
18. Other conditions as deemed appropriate by MUC to insure compliance with this policy and state and federal pretreatment standards and requirements.

G. Permit Duration

Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The permittee must apply for a renewal permit not less than 180 days prior to the expiration of his or her valid permit. If the user is not notified by MUC of permit expiration, the permit shall be considered extended for thirty (30) days at a time up to a total of one (1) additional year. The terms and conditions of the permit may be subject to modification and change by MUC during the life of the permit as limitations or requirements as identified hereinbefore are modified and changed. The user shall be informed of any proposed changes in his or her permit at least thirty (30) days prior to the

effective, date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

H. Transfer of a permit.

Wastewater discharge permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premise, or a new or changed operation without written authorization by MUC.

I. Appeals

Any user may appeal the provisions of the wastewater discharge permit issued to that user within thirty (30) days of the effective date of issuance of the permit. The user must state in writing the specific provision or provisions of the permit that are being appealed, and the specific reason or reasons that the provision or provisions of the permit are inappropriate or inapplicable to the user. MUC will respond in writing to any appeal by a user within thirty (30) days, either modifying the permit or denying the appeal. The original provisions of the permit as issued shall remain in effect during the review period.

J. Revocation of discharge permit

MUC may revoke an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

1. Failure to notify MUC of significant changes to the wastewater prior to the changed discharge;
2. Failure to provide prior notification to MUC of changed conditions pursuant to this policy;
3. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
4. Falsifying self-monitoring reports and certification statements;
5. Tampering with monitoring equipment;
6. Refusing to allow MUC timely access to the facility premises and records;
7. Failure to meet effluent limitations;
8. Failure to pay fines;
9. Failure to pay sewer charges;
10. Failure to meet compliance schedules;
11. Failure to complete a wastewater survey or the wastewater discharge permit application;

12. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
13. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this policy.

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

K. Reporting requirements.

1. Baseline monitoring reports.

Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under Tennessee Rule 1200-4-14-.06(1)(d), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the POTW shall submit to MUC a report which contains the information listed below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical standard, shall submit to MUC a report which contains the information listed below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

2. Required Submittals.

Users described above shall submit the information set forth below.

- (a) All information required in the policy as if it were a new discharge.
- (b) The user shall have a minimum of one (1) representative sample taken to compile that data necessary to comply with the requirements of this paragraph.
- (c) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula in Tennessee Rule 1200-4-14-.06(5) to evaluate compliance with the pretreatment standards.
- (d) Where an alternate concentration or mass limit has been calculated in accordance with Tennessee Rule 1200-4-14-.06(5), this adjusted limit along with supporting data shall be submitted to MUC;

3. Sampling and analysis.

All required sampling and analysis shall be performed in accordance with this policy. MUC shall be responsible for conducting the required sampling and analysis and shall be reimbursed by the Industrial User for the cost of these efforts. Such costs will be included as an additional sewer use fee billed through the appropriate water utility.

- (a) MUC may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;
- (b) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.

4. Compliance certification.

A statement, reviewed by the user's authorized representative as defined in this policy and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

5. Compliance schedule.

If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in this policy.

6. Signature and report certification.

All baseline monitoring reports must be certified and signed by the authorized representative in accordance with Section L5 of this policy.

7. Compliance schedule progress reports.

The following conditions shall apply to the compliance schedule required by this policy:

- (a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- (b) No increment referred to above shall exceed nine (9) months;

- (c) The user shall submit a progress report to MUC no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
- (d) In no event shall more than nine (9) months elapse between such progress reports to MUC.

8. Reports on compliance with categorical pretreatment standard deadline.

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to MUC a report containing the information described in this policy. For users subject to equivalent mass or concentration limits established in accordance with this policy, this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section L5 of this policy.

9. Periodic compliance reports.

- (a) All permitted significant industrial users must, at a frequency determined by MUC, submit no less than semiannually per year (unless otherwise specified), reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a pollution prevention alternative, the user must submit documentation required by MUC or the pretreatment standard necessary to determine the compliance status of the user.
- (b) MUC may authorize an industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard if the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user [see Tennessee Rule 1200-4-14-.12(5)(b)]. This authorization is subject to the following conditions:
 - i. The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by

- an applicable categorical standard and otherwise includes no process wastewater.
- ii. The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than five (5) years. The user must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit.
 - iii. In making a demonstration that a pollutant is not present, the industrial user must provide data from at least one (1) sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.
 - iv. The request for a monitoring waiver must be signed in accordance with this policy, and include a certification statement (per Section L5(c) of this policy.)
 - v. Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR part 136 with the lowest minimum detection level for that pollutant was used in the analysis.
 - vi. Any grant of the monitoring waiver by MUC must be included as a condition in the user's permit. The reasons supporting the waiver and any information submitted by the user in its request for the waiver will be maintained by MUC for three (3) years after expiration of the waiver.
 - vii. Upon approval of the monitoring waiver and revision of the user's permit by MUC, the industrial user must certify on each report with the statement below, that there has been no increase in the pollutant in its wastestream due to activities of the industrial user.
 - viii. In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the user's operations, the user must immediately comply with the monitoring requirements of this policy or other more frequent monitoring requirements imposed by MUC.
 - ix. This provision does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.
- (c) All periodic compliance reports must be signed and certified in accordance with Section L5 of this policy.

- (d) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times . The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

10. Additional Sampling.

If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required, the results of this monitoring shall be included in the report.

11. Reports of changed conditions.

Each user must notify MUC of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least sixty (60) days before the change.

- (a) MUC may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application.
- (b) MUC may issue an individual wastewater discharge permit, or modify an existing wastewater discharge permit in response to changed conditions or anticipated changed conditions.

12. Reports of potential problems.

- (a) In the case of any discharge, including, but not limited to, bypass of treatment/treatment upset, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, a slug discharge or slug load, that might cause potential problems for the POTW, the user shall immediately telephone and notify MUC of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- (b) Within five (5) days following such discharge, the user shall, unless waived by MUC, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed

- (c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (a), above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

13. Notification Requirement.

Significant industrial users are required to notify MUC immediately of any changes at its facility affecting the potential for a slug discharge

L. Wastewater sampling and analysis.

1. Analytical requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested and/or used by MUC or other parties approved by EPA.
2. Sample collection. Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period:
 - (a) Except as indicated below, samples must be collected using twenty-four (24) hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by MUC. Where time-proportional composite sampling or grab sampling is authorized, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides, the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by MUC, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

- (b) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
 - (c) For sampling required in support of baseline monitoring and ninety (90) day compliance reports, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, MUC may authorize a lower minimum. For the required reports, MUC will collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.
- 3. Control manhole. Unless otherwise exempted in writing by MUC, the owner of any property serviced by a building sewer carrying industrial wastes shall install a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling and measurement of the wastes. Such manhole shall be accessible and safely located, and shall be constructed in accordance with plans approved by MUC. The manhole shall be installed by the user at its expense, and shall be maintained by the user so as to be safe and accessible at all times. MUC shall have access and use of the control manhole as may be required for their monitoring of the industrial discharge.
- 4. Recordkeeping. Users shall retain, and make available for inspection and copying by MUC, State and/or Federal authorities, all records of information obtained pursuant to any required monitoring activities, and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or MUC, or where the user has been specifically notified of a longer retention period by MUC, State and /or Federal authorities.
- 5. Certification statements.
 - (a) Certification of permit applications, user reports and initial monitoring waiver. The following certification statement is required to be signed and submitted by users submitting permit applications, baseline monitoring reports, compliance with the categorical pretreatment standard deadlines, periodic compliance reports, and an initial request to forego sampling of a pollutant. The following certification statement must be signed by an authorized representative as defined:

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

- (b) Annual certification for non-significant categorical industrial users (NSCIU) as defined in Section E(11) of this policy and the Water Pollution Control Ordinance. A facility determined to be a non-significant categorical industrial user must annually submit the following certification statement signed in accordance with the signatory requirements in this policy. This certification must accompany an alternative report required by MUC:

“Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR , I certify that, to the best of my knowledge and belief that during the period from _____, to _____ [month, day, year]:

- (1) The facility described as [facility name] met the definition of a Non-Significant Categorical Industrial User;*
- (2) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and*
- (3) The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.*

This compliance certification is based on the following information:

_____”

- (c) Certification of pollutants not present. Users that have an approved monitoring waiver must certify on each report with the following statement that there has been no increase in the pollutant in its waste stream due to activities of the user. The certification must be signed by the authorized representative as defined in this policy.

“Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report”

M. Compliance monitoring.

1. Monitoring programs.

- (a) The monitoring program shall require the discharger to engage MUC to conduct a sampling and analysis program of a frequency and type specified by MUC to demonstrate compliance with prescribed wastewater discharge limits. All costs incurred by MUC for collection, analysis and reporting shall be reimbursed through the utility bill for that customer.
- (b) In the event that MUC suspects that a violation of any part of this policy or of the user's wastewater discharge permit is occurring, it may take additional samples for the purpose of monitoring the discharge. Should this monitoring verify that a violation is occurring, the costs of the monitoring and associated laboratory fees will be borne by the discharger. Should no violation be found, the costs will be at the expense of MUC.
- (c) Notice of violation/repeat sampling and reporting. If sampling performed by MUC indicates a violation, the user will be notified by MUC within twenty-four (24) hours of MUC becoming aware of the violation.
- (d) The user may choose to split any sample(s) taken by MUC for the purposes of performing parallel analyses using a laboratory of their choice. All split sampling will be done at the sole cost of the user using the users chosen lab. Adequate notice shall be given to MUC of the users desire to split samples.

2. Right of entry: inspection and sampling. MUC, State and/or Federal authorities, shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any individual wastewater discharge permit or order issued hereunder. Users shall allow ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- (a) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, MUC, State, and/or Federal authorities shall be permitted to enter without delay for the purposes of performing specific responsibilities.
 - (b) MUC shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
 - (c) MUC may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated quarterly to ensure their accuracy. Additionally, all devices shall be calibrated by an independent third party annually.
 - (d) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of MUC and shall not be replaced. The costs of clearing such access shall be borne by the user.
 - (e) Unreasonable delays in allowing access to the user's premises shall be a violation of this policy and applicable State and/or Federal regulations.
3. Search warrants - If MUC has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this policy, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of MUC designed to verify compliance with this policy or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, MUC may seek issuance of a search warrant from the appropriate court having jurisdiction.
4. Confidential information - Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, and monitoring programs, and from MUC' inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of MUC, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings

involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

5. Publication of users in significant noncompliance - MUC shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall be applicable to all significant industrial users (or any other industrial user that violates paragraphs (c), (d) or (h) of this section) if its violation meets one or more of the following criteria:
- (a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits;
 - (b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
 - (c) Any other violation of a pretreatment standard or requirement as defined herein (daily maximum, long-term average, instantaneous limit, or narrative standard) that MUC determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
 - (d) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in MUC's exercise of its emergency authority to halt or prevent such a discharge;
 - (e) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
 - (f) Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

- (g) Failure to accurately report noncompliance; or
 - (h) Any other violation(s), which may include a violation of pollution prevention alternatives, which MUC determines will adversely affect the operation or implementation of the local pretreatment program.
6. Enforcement procedures.
- (a) Administrative enforcement remedies:
 - i. Notification of violation. Whenever MUC finds that any user has violated or is violating this policy, or a wastewater permit or order issued hereunder, MUC may serve upon said user written Notice Of the Violation (NOV). If required in the NOV, a written explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to MUC within the time frame specified, not to exceed thirty (30) days. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of MUC to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.
 - ii. Consent orders. MUC is empowered by the City Water Pollution Control Ordinance to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with a user responsible for the noncompliance. Such orders will include specific action to be taken by the user to correct the noncompliance within a time period also specified by the order. Provided the ordered time frames are met by the user, MUC may elect to not consider further violations of the original citation to be reason for escalated enforcement. Consent orders shall have the same force and effect as compliance orders issued pursuant to § 6(a)(iv) below.
 - iii. Show cause hearing. MUC may order any user who is in violation of or causes or contributes to violation of this policy or wastewater permit or order issued hereunder, to show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action and the reasons for such action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested). Ten (10) days prior notice shall be given, if practical. Such notice may be served on any principal executive, general partner, corporate officer, site manager, or other person listed in

pretreatment documents submitted by the user as a contact. Whether or not a duly notified user appears as noticed, immediate enforcement action may be pursued.

- iv. Compliance order. When MUC finds that a user has violated or continues to violate this policy or a permit or order issued thereunder, it may issue an order to the industrial user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued or penalties imposed unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated or other improvements as specified are carried out. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, disconnection of unauthorized sources of flow, and management practices. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.
- v. Cease and desist orders. When MUC finds that a user has violated or continues to violate this policy or any permit or order issued hereunder, MUC may issue an order to cease and desist all such violations and direct those persons in noncompliance to:
 - 1. Comply forthwith;
 - 2. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.
- vi. Administrative penalties.
 - (a) Any septic tank pumping vehicle and/or driver discharging into any manhole in the sanitary sewer collection system without prior approval of MUC shall be penalized a minimum of \$500.00 and the permit shall be revoked on that vehicle. The permit may then be renewed only upon approval of MUC after any and all penalties imposed have been paid in full. In the event of a second offense involving either the vehicle or the driver, both the driver and his firm shall be penalized a minimum of \$2,500.00

each, plus the payment of any environmental cleanup costs if applicable, and the vehicle permit shall be permanently terminated.

- (b) Any person or party who uncovers, makes any connections with or openings into, uses, alters or disturbs any public sewer or appurtenance thereof without first obtaining a written permit from MUC shall be penalized a minimum of \$500.00 and shall be liable to the city and MUC for any expense, loss or damage occasioned reason of such violation.
- (c) Notwithstanding any other section of this policy, any user who is found to have violated any provision of this policy, or any permit or order issued hereunder, may be assessed a penalty in an amount not to exceed ten thousand dollars (\$10,000.00) per violation. Each day on which noncompliance shall occur or continue shall be deemed a separate and distinct violation. Such assessments may be added to the user's next scheduled sewer service charge and MUC shall have such other collection remedies as it has to collect other service charges. Unpaid charges and penalties shall constitute a lien against the individual user's property. Industrial users desiring to dispute such penalties must file a request for MUC to reconsider the penalty within ten (10) days of being notified of the fine. Where MUC believes a request has merit, it shall convene a hearing on the matter within fifteen (15) days of receiving the request from the industrial user.

vii. Emergency suspensions.

- (a) MUC may suspend the wastewater treatment service and/or wastewater permit of an industrial user whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of persons, the POTW, or the environment.
- (b) Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, MUC may take such steps as deemed necessary, including immediate severance of the sewer connection, and/or suspension of water supply to prevent or minimize damage to the POTW, it's receiving stream, or

endangerment to any individuals. MUC may allow the user to recommence its discharge when the endangerment has passed, unless termination proceedings are initiated against the user.

- (c) An industrial user who is responsible, in whole or in part , for imminent endangerment shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to MUC prior to the date of the hearing described above in § 6(a)(iii).

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

- viii. Revocation of permit. MUC may revoke the permit of any user as set forth herein.
- ix. Appeal of administrative penalties. Upon issuance of any administrative order or penalty, the user shall be notified that he or she shall be entitled to a hearing upon such order or penalty. Request for such hearing must be made within seven (7) days of notification of the administrative action. The hearing will be held before the City Administrator and City Attorney. At the hearing, the MUC General Manager or the manager's representative shall represent MUC. MUC and the customer shall be entitled to present evidence relevant and material to the penalty and to examine and cross examine witnesses. He may be represented by an attorney, if the user so chooses. The City Administrator and City Attorney shall render a decision upholding or overturning the administrative order or penalty. Notwithstanding the following, emergency suspensions as described in § 6(a)(vii) are effective immediately upon issuance, and right to appeal is contingent on compliance by the user.

b. Judicial remedies.

If any person discharges sewage, industrial wastes, or other wastes into the wastewater disposal system contrary to the provisions of this policy or any order or permit issued hereunder, MUC, through legal counsel, may commence an action for appropriate legal and/or equitable relief in the applicable court.

- i. Injunctive relief. Whenever a user has violated or continues to violate the provisions of this policy or permit or order issued hereunder, MUC, through counsel, may petition the court for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part

of the user. MUC shall have such remedies to collect legal and other fees as it has to collect other sewer service charges. MUC may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

ii. Civil penalties.

1. Any user who has violated or continues to violate this policy or any order or permit issued hereunder, shall be liable to MUC for actual damages incurred by the POTW. In addition to damages, MUC may recover reasonable attorney's fee, court costs, and other expenses associated with the enforcement activities, including sampling and monitoring expenses.
2. MUC shall petition the court to impose, assess, and recover such sums. In determining the amount of liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
3. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

iii. Criminal actions.

1. Any industrial user who willfully or negligently violates any provision of this policy or any orders or permits issued hereunder shall, upon conviction, be guilty of a misdemeanor, punishable by penalty and imprisonment to the full extent allowed by law.
2. Any industrial user who knowingly makes any false statements, representations or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this policy or waste water permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this policy shall, upon conviction, be punishable by a penalty and imprisonment to the full extent allowed by law.

iv. Affirmative defenses.

1. Treatment upsets. Any industrial user who experiences an upset in operations that places it in a temporary state of noncompliance, which is not the result of operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation, shall inform MUC thereof immediately upon becoming aware of the upset. Where such information is given orally, a written report thereof shall be filed by the user within five (5) days. The report shall contain:
 - (a) A description of the upset, its cause(s) and impact on the discharger's compliance status.
 - (b) The duration of noncompliance, including exact dates and times of noncompliance, and if the noncompliance is continuing, the time by which compliance is reasonably expected to be restored.
 - (c) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - i. An upset occurred and the user can identify the cause(s) of the upset;
 - ii. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - iii. The user has submitted the following information to MUC within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:
 - A description of the indirect discharge and cause of noncompliance;
 - The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - Steps being taken and/or planned to

reduce, eliminate, and prevent recurrence of the noncompliance.

- (d) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- (e) Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- (f) Users shall control production of all discharges to the extent necessary to maintain compliance with pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

2. Treatment bypasses.

- (a) A bypass of the treatment system is prohibited unless all the following conditions are met:
 - i. The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - ii. There was no feasible alternative to the bypass, including the use of auxiliary treatment or retention of the wastewater; and
 - iii. The industrial user properly notified MUC as described below.
- (b) Industrial users must provide immediate notice to MUC upon discovery of an unanticipated bypass. If necessary, MUC may require the industrial user to submit a written report explaining the cause(s), nature, and duration of the bypass, and the steps being taken to prevent its recurrence.
- (c) An industrial user may allow a bypass to occur which does not cause pretreatment standards or requirements to be violated, only if it is for essential maintenance to ensure efficient operation of the treatment system. Industrial users anticipating a

bypass must submit notice to MUC at least ten (10) days in advance. MUC may only approve the anticipated bypass if the circumstances satisfy those set forth above.

- v. Remedies nonexclusive.
 - 1. The remedies provided for in this policy are not exclusive. MUC may take any, all or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the MUC' enforcement response plan. However, MUC may take other action against any user when the circumstances warrant. Further, MUC is empowered to take more than one (1) enforcement action against any noncompliant user.

N. Industrial waste surcharge.

- 1. Surcharges shall be based upon the strength of wastes. In the event the user discharges industrial wastes to the POTW having an average Biochemical Oxygen Demand (BOD) content in excess of two hundred fifty (250) mg/1, and/or an average Suspended Solids (SS) content in excess of two hundred fifty (250) mg/1, an average ammonia nitrogen content in excess of forty five (45) mg/1, and/or an average FOG concentration in excess of seventy-five (75) mg/1, the user shall pay a surcharge based upon the excess strength of their wastes.

- 2. To protect the MUC system, the surcharges identified above shall only apply up to a maximum concentration as stipulated below:

BOD	450 mg/1
Suspended Solids	450 mg/1
Ammonia Nitrogen	80 mg/1
FOG	100 mg/1

No discharges in excess of these concentrations shall be permitted unless express written authorization from MUC has been granted either in the dischargers permit or other direct correspondence.

- 3. The cost of treatment will be reviewed annually by MUC. The cost of treatment for each pound of BOD, SS, ammonia nitrogen and FOG removed by the POTW shall be reviewed at the end of each fiscal year and the appropriate surcharge rates applied to the sewer billing. These rates shall be in effect until the next annual rate

review.

O. Validity.

1. Conflict. In case of conflict or inconsistency, the provisions of this policy shall supersede and take precedence over any other policies or part thereof or any other rules and regulations of the Morristown Utilities Commission.
2. Severability. It is hereby declared it is the intention of the MUC Board of Commissioners that sections, paragraphs, sentences, clauses, and words of this policy are severable, and if any such section, paragraph, sentence, clause, or word be declared unconstitutional or invalid by valid judgment or decree of any court of competent jurisdiction, such unconstitutionality or invalidity shall not affect any remaining sections, paragraphs, sentences, clauses, or words since the same would have been enacted without the incorporation of the unconstitutional section, paragraph, sentence, clause or word.