

SECTION 6

PRETREATMENT PROGRAM

6.1. GENERAL

The Pretreatment Program of Metro Water Recovery is designed to enable Metro to comply with all applicable state and federal laws, including the Clean Water Act (33 United States Code [U.S.C.] Section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the Code of Federal Regulations [CFR] Part 403), conditions of its National Pollutant Discharge Elimination System (NPDES) Permits or Colorado Discharge Pollutant System (CDPS) Permits, as applicable, Operating Permit (Air), and any other permit and applicable sludge disposal regulations, and to meet the following objectives:

1. To prevent the introduction of Pollutants into the Metro System which will interfere with the operation of The Metro System or contaminate the sludge.
2. To prevent the introduction of Pollutants into the Metro System which will Pass Through the Metro System, inadequately treated, into the receiving waters or the atmosphere, or otherwise be incompatible with the Publicly Owned Treatment Works.
3. To prevent the introduction of Pollutants into the Metro System which might constitute a hazard to humans or to animals.
4. To ensure Metro's ability to recycle and reclaim Wastewater and sludge.
5. To enable Metro to comply with its NPDES or CDPS permit conditions, sludge use and disposal requirements, and any other applicable federal or state laws.

6.2. APPLICABILITY

Any Industrial User, the Sewage or Wastewater from which directly or indirectly enters or has the potential to enter the Metro System from areas within or without the boundaries of Metro, shall be bound by these *Rules and Regulations*, Section 5, and this Section 6 as they now exist or may hereafter be amended. These *Rules and Regulations* may be enforced against any Industrial User.

6.3. ~~COMPLIANCE WITH PROGRAM IMPLEMENTATION REQUIREMENTS~~RESERVED

~~Where Pretreatment Program responsibilities are not delegated to Metro Water Recovery, the Connector or Contracting Municipality must design and administer a Pretreatment Program which is in accordance with Section 6 and will enable Metro to comply with all pretreatment and effluent limitation conditions of its NPDES or CDPS Permit, Federal Pretreatment Regulations, State Pretreatment Regulations, and applicable sludge disposal and air regulations. Where Pretreatment responsibilities have been delegated to Metro, Metro is required to design and administer its Pretreatment Program in accordance with this Section. Any Connector or Contracting Municipality which has delegated Pretreatment Program responsibilities to Metro must demonstrate, to Metro's satisfaction, compliance with this Section 6 prior to resuming any responsibilities of Metro's Pretreatment Program.~~

~~Each Connector or Contracting Municipality, or Metro Water Recovery, where Pretreatment Program authority has been delegated by the Connector or Contracting Municipality, will cause all Sewage at any time discharged directly or indirectly into the Metro System by it or on its behalf, to comply with any requirements of Metro. In all cases where the application or the enforcement of said requirements involve technical or scientific analyses or determinations, Metro shall have final authority as to methods, standards, criteria, significance, evaluation, and interpretation of such analyses and determinations. Each Connector or Contracting Municipality will permit no new connections and will discontinue existing public connections and will require the discontinuance of existing private connections to its Municipal Sewer System or to the Metro System which allow entrance therein of such Sewage as will cause the discharge at any time into its Municipal Sewer System or the Metro System that does not comply with said requirements of Metro.~~

~~Metro Water Recovery may from time to time make a determination of the respects in which Sewage discharged or to be discharged into the Municipal Sewer System, or into the Metro System by any Connector or Contracting Municipality, is not in compliance with said requirements and with the amendments thereof, if any, then in effect. If the Connector or Contracting Municipality currently has not delegated Pretreatment Program Responsibilities, a copy of said determination shall be mailed to the Connector or Contracting Municipality at its usual place of business and for all purposes of these *Rules and Regulations* shall be conclusively deemed to have been made in accordance with this Section and to be correct at the expiration of thirty (30) days after such mailing unless within said period of thirty (30) days the Connector or Contracting Municipality shall have filed with Metro an objection thereto stating that such determination is incorrect and stating the changes therein which should be made in order to correct such determination.~~

6.3.1. Penalties

~~Any Connector or Contracting Municipality found to have violated any provision of this Section 6, the Service Contract, Special Connectors Agreement, or Metro Water Recovery's Procedures for Implementing the Pretreatment Program or any other written requirement of Metro shall be subject to a penalty not to exceed, except as noted below, five thousand dollars (\$5,000) for such violation. Penalty amounts are determined in accordance with Metro's Pretreatment Enforcement Management System, as may be amended from time to time, up to the maximum amount allowed by this regulation. Each day on which a violation occurs or continues shall be deemed a separate and distinct violation. Such penalty shall be in addition to any actual damages Metro may incur because of such violation.~~

~~In addition to the penalties provided here, Metro Water Recovery may recover reasonable attorney's fees, court costs, court reporter's fees, and other expenses of litigation against the Connector or Contracting Municipality found to have violated these *Rules and Regulations*.~~

~~Where a violation is found to have caused Interference or Pass Through, the maximum penalty of \$5,000 per violation described above may be increased as necessary to allow Metro Water Recovery to recover any fines or penalties paid by Metro for NPDES/CDPS permit violations due to the Interference or Pass Through.~~

6.4. LEGAL AUTHORITY REQUIREMENTS RESERVED

6.4.1. Ordinance/Resolution

~~Except as provided in Subsection 6.4.3, each Connector or Contracting Municipality will enact and enforce an ordinance or resolution which conforms to 40 CFR §403.8(f)(1) Pretreatment Program Requirements, as from time to time amended, for legal authority and containing all other legal provisions mandated by these *Rules and Regulations*. Any proposed amendments to such ordinance or resolution, or any proposed actions which would serve to amend such ordinance or resolution with respect to any Pretreatment Program Requirements, must be submitted to Metro Water Recovery for review and must be approved in writing by the Chief Executive Officer prior to such enactment.~~

~~Each Connector or Contracting Municipality shall adopt and enforce in its ordinance or resolution provisions which are in conformance to the following provisions:~~

- ~~1. A provision requiring any Industrial User responsible for an accidental, unusual, or slug discharge to notify immediately both the Connector or Contracting Municipality and Metro Water Recovery, and a provision requiring any Significant Industrial User to notify Metro immediately of any changes at the facility affecting the potential for a slug discharge.~~
- ~~2. A provision precluding, except where authorized by Categorical Standards, the use of dilution to attain conformance to Pretreatment Standards and Requirements, and authorizing the Connector or Contracting Municipality to set mass limitations for any Industrial User using improper dilution.~~
- ~~3. A provision forbidding and where possible penalizing the knowing transmittal of false information by an Industrial User to the Connector or Contracting Municipality or Metro.~~
- ~~4. A provision requiring the installation of all necessary monitoring and pretreatment facilities by Industrial Users. This provision shall also authorize the Connector or Contracting Municipality to impose compliance schedules on Industrial Users for the installation of such facilities.~~
- ~~5. A provision applying civil or criminal penalties or, where permitted by 40 CFR §403.8(f)(1), assessing liquidated damages against Industrial Users which violate Pretreatment Standards or Requirements. Where possible, such penalties and liquidated damages shall be set at a level determined by Metro Water Recovery to provide a reasonable degree of deterrence to violations.~~
- ~~6. A provision adopting discharge limitations for Industrial Users at least as stringent as the corresponding limitations in this Section 6.~~
- ~~7. A provision requiring that Industrial Users agree to act and allow Metro Water Recovery to act as provided under the provisions of this Section 6.~~
- ~~8. A provision requiring that any Industrial User discharging any toxic Pollutants which cause an increase in the cost of managing the effluent or the sludge of Metro Water Recovery's treatment works shall pay for such increased costs.~~

6.4.2. Attorney's Statement

~~Except as provided in Subsection 6.4.3, each Connector or Contracting Municipality must submit to Metro Water Recovery an attorney's statement which conforms to the requirements of 40 CFR §403.9(b)(1) and which certifies the Connector or Contracting Municipality has adequate authority to carry out its Responsibilities under the Pretreatment Program. Where Pretreatment Program Responsibilities are delegated to Metro, Metro will maintain the attorney's statement which conforms to 40 CFR §403.9(b)(1).~~

6.4.3. Legal Authority Exemption

~~Any Connector or Contracting Municipality that does not serve any Industrial Users may submit a letter to Metro Water Recovery in lieu of enacting the ordinance or resolution and submitting the attorney's statement, as required by these *Rules and Regulations*. The letter must state the entity has no Industrial Users. Furthermore, any entity submitting such a letter shall (1) notify Metro at least fourteen (14) days in advance of the date that any Industrial User is granted a Sewer Connection and (2) fully comply with Metro's Pretreatment Program, including the requirements of these *Rules and Regulations*, and the National Pretreatment Standards and Requirements prior to allowing that Industrial User to connect to the Sewer System. Metro, at its own discretion, may require any Connector or Contracting Municipality to fully comply with these *Rules and Regulations* regardless of whether or not the aforementioned letter has been submitted and/or previously accepted by Metro.~~

~~Any Connector or Contracting Municipality that has delegated all Pretreatment Program Responsibilities to Metro Water Recovery is exempt from enacting (or updating) the pretreatment ordinance or resolution, submitting the attorney's statement, and the procedural requirements of these *Rules and Regulations*.~~

6.5. PROGRAM PROCEDURE REQUIREMENTS RESERVED

6.5.1. General

~~Each Connector or Contracting Municipality must formulate, fund, and implement procedures which will enable Metro Water Recovery compliance with the "Procedures" and "Funding" requirements contained in 40 CFR §403.8(f)(2) and (3) of the National Pretreatment Standards and Requirements which will enable compliance with the requirements of these *Rules and Regulations*. Any Connector or Contracting Municipality that has delegated all pretreatment responsibilities to Metro is exempt from enacting (or updating) the pretreatment ordinance or resolution, submitting the attorney's statement, and the procedural requirements of these *Rules and Regulations*.~~

6.5.2. Procedures Manual

~~The Chief Executive Officer shall issue to all Municipalities which are Connectors or Contracting Municipalities a manual on Procedures for Implementing the Pretreatment Program of Metro Water Recovery (Procedures Manual). The Procedures Manual shall set forth Metro requirements on formulating, funding, and implementing Pretreatment Program procedures and shall provide guidance to Municipalities and Metro Staff on implementing the procedural requirements.~~

~~Where necessary to maintain continued compliance with applicable federal and state regulations, or these *Rules and Regulations*, or to facilitate the operation of the Pretreatment Program, the Chief Executive Officer or the Chief Executive Officer's designee may from time to time amend~~

~~the Procedures Manual, and shall provide notice of such amendments to all Municipalities and Staff performing pretreatment duties under Metro Water Recovery's Pretreatment Program.~~

~~The following subsections highlight the procedural requirements as discussed more fully in the Procedures Manual.~~

6.5.3. Industrial Waste Survey

~~Each Connector or Contracting Municipality shall formulate and implement procedures for conducting ongoing, comprehensive industrial waste surveys to locate and identify all Industrial Users within the Municipal Sewer System which may be subject to Metro Water Recovery's Pretreatment Program.~~

6.5.4. Notification to Industrial Users

~~Each Connector or Contracting Municipality is responsible for notifying its Industrial Users of their obligations under the Pretreatment Program.~~

6.5.5. Permitting of Industrial Users

~~Each Connector or Contracting Municipality shall control, through permit, industrial waste discharges from each Significant Industrial User, and other Industrial Users as required by Metro Water Recovery, within its service area.~~

~~Metro Water Recovery shall make the final determination as to whether a particular Industrial User is a Significant Industrial User or otherwise requires permitting. To this end, Metro may require that a Connector or Contracting Municipality collect and forward to Metro all information necessary to make this determination.~~

~~In the event a Connector or Contracting Municipality fails to issue a suitable permit to an Industrial User upon notification to do so by Metro Water Recovery, Metro shall have full authority to issue such permit directly to the Industrial User. In this event, Metro may bill the Connector or Contracting Municipality for all costs incurred by Metro for issuance of the permit and for the administration of permit requirements.~~

6.5.6. Monitoring of Industrial Users

~~Each Connector or Contracting Municipality must sample, monitor, and inspect its Significant Industrial Users and other Industrial Users as required by Metro Water Recovery and, where appropriate, require industrial self-monitoring, at a frequency adequate to determine if such Industrial Users are in compliance with applicable Pretreatment Program Standards and Requirements.~~

6.5.7. Slug Discharge Determinations

~~Each Connector or Contracting Municipality must evaluate whether each Significant Industrial User needs a plan to control slug discharges. This evaluation must be conducted in accordance with 40 CFR 403.8(f)(2)(vi). If needed, the Slug Control Plan must contain the minimum elements listed at 40 CFR §403.8(f)(2)(vi).~~

6.5.8. Compliance Activities

~~Each Connector or Contracting Municipality is required to implement procedures for identifying violators of Pretreatment Program Standards and Requirements, and to diligently enforce such Standards and Requirements and provide suitable remedies for noncompliance.~~

6.5.9. Industrial User Reporting/Confidentiality

~~Each Connector or Contracting Municipality is required to receive and analyze self-monitoring reports and any other notices submitted by Industrial Users pursuant to the Requirements of the Pretreatment Program. Where an Industrial User claims confidentiality for any information transmitted, the Connector or Contracting Municipality must implement procedures to ensure that confidential information is treated in accordance with the procedures in 40 CFR Part 2.~~

6.5.10. Public Participation

- ~~1. Each Connector or Contracting Municipality and Metro Water Recovery must comply with the public participation requirements of 40 CFR Part 25 in the enforcement of National Pretreatment Standards and Requirements.~~
- ~~2. Each Connector or Contracting Municipality must make all information collected under the Pretreatment Program, except those documents legitimately classified as "confidential," available for public review and copying to the extent required by 40 CFR §403.14 and the Colorado Open Records Act (C.R.S. 1973, Title 24, Article 72).~~
- ~~3. Metro Water Recovery will publish an annual notice in a newspaper of general circulation that provides meaningful public notice within Metro's service area, a list of Industrial Users found to be in significant noncompliance during the previous year with Pretreatment Standards or Pretreatment Requirements. For the purposes of this provision, "significant noncompliance" is as defined in 40 CFR §403.8(f)(2)(viii).~~

6.5.11. Information Transmittal

~~Each Connector or Contracting Municipality shall transmit to Metro Water Recovery, in a timely manner, all documents as necessary to enable Metro to effectively administer the Pretreatment Program. Such documents shall include:~~

- ~~1. A certified copy of the Industrial Waste Discharge Ordinance or Resolution, and any amendments thereto, together with any *Rules and Regulations* issued pursuant to such ordinance or resolution.~~
- ~~2. Copies of all Discharge, General, and Zero Discharge permits issued pursuant to the Requirements of the Pretreatment Program.~~
- ~~3. Copies of all industrial survey, monitoring, and inspection reports.~~
- ~~4. Any information needed to enable Metro Water Recovery to determine whether a particular Industrial User is subject to a particular Categorical Standard.~~

- ~~5. Notices of all compliance and enforcement activities, and all related correspondence.~~
- ~~6. An annual staffing, costs, and funding report, if requested by the Chief Executive Officer (see Subsection 6.5.12).~~

6.5.12. Staffing, Costs, and Funding

~~Each Connector or Contracting Municipality must provide sufficient resources and qualified personnel to carry out its responsibilities under the Pretreatment Program. Upon request of the Chief Executive Officer, a Connector or Contracting Municipality must submit to Metro Water Recovery a report describing personnel responsibilities, an itemization of program capital and operating costs, and a demonstration that adequate funds are available to support program activities.~~

6.6. EXTRA-JURISDICTIONAL INDUSTRIAL USERS RESERVED

~~Except where delegated to Metro Water Recovery, each Connector or Contracting Municipality shall have the responsibility for those Industrial Users located outside its corporate limits which discharge industrial Wastewater directly into its Municipal Sewer System. Each extra-jurisdictional Industrial User shall be subject to an ordinance, resolution, or equivalent source of legal authority which contains 40 CFR §403.8(f)(1) minimum legal authorities and all legal provisions mandated by these *Rules and Regulations*. Each extra-jurisdictional Industrial User shall also be subject to all Requirements of Metro's Pretreatment Program.~~

6.7. EXEMPTIONS RESERVED

~~A Connector or Contracting Municipality administering a Pretreatment Program, separate from that of Metro Water Recovery, which has been approved by the Approval Authority in accordance with §403.11 of the Federal Pretreatment Regulations, may be exempted from compliance with certain provisions of this Section 6, as determined by Metro.~~

6.8. PROGRAM REVIEW RESERVED

~~Where a Connector or Contracting Municipality performs any responsibilities of Metro Water Recovery's Pretreatment Program, Metro shall review Municipal ordinances and amendments thereof for conformance to 40 CFR §403.8(f)(1) Pretreatment Requirements for minimum legal authorities and for the inclusion of all other legal provisions mandated by these *Rules and Regulations*. Metro shall participate in all enforcement efforts of Municipalities to ascertain whether Metro's approved Pretreatment Standards and Requirements are being diligently enforced.~~

~~Insofar as a Connector or Contracting Municipality participates in the administration of the Pretreatment Program, Metro Water Recovery shall periodically review the Connector or Contracting Municipality's procedures, including, but not limited to, procedures for updating the industrial waste survey, and for inspecting, sampling, and monitoring industrial waste discharges, to ensure each such Connector or Contracting Municipality is administering the Program in technical conformance to "Procedures" and "Funding" requirements under 40 CFR §403.8(f)(2) and (3) of the National Pretreatment Standards and Requirements and to the provisions of these *Rules and Regulations*. Any significant Program changes shall be subject to Metro approval prior to implementation.~~

6.9. REMEDIES RESERVED

6.9.1. Emergency Remedies

~~Where a discharge to the Metro System reasonably appears to present an imminent endangerment to the health or welfare of persons, or presents or may present an endangerment to the environment, or threatens to interfere with the operation of Metro Water Recovery, Metro shall immediately initiate investigative procedures to identify the source of the discharge and take any steps necessary to halt or prevent the discharge. If necessary, Metro shall seek injunctive relief against the violating Connector or Contracting Municipality and any Industrial User contributing significantly to the emergency condition.~~

6.9.2. Routine Remedies

~~If Metro Water Recovery determines that a Pretreatment Program as administered by a Connector or Contracting Municipality is not in compliance with Pretreatment Standards or Requirements, or that the discharge from a Connector or Contracting Municipality is not in compliance with Metro Standards, Metro shall issue a notice setting forth the Requirements and Standards not being complied with and directing the Connector or Contracting Municipality to attain conformance to these Requirements and Standards within a period of ten (10) days. Penalties may also be assessed in accordance with Section 6.3.1 of these *Rules and Regulations*.~~

~~If after ten (10) days, the Connector or Contracting Municipality has failed or refuses to comply with this notice, Metro Water Recovery may issue an additional notice setting forth remedial actions to be taken by the violating Connector or Contracting Municipality and a time schedule for attaining compliance with all Pretreatment Standards and Requirements. If after thirty (30) days' notice, the violating Connector or Contracting Municipality has not taken necessary steps to correct the violation, Metro may assume in whole or in part Pretreatment Program responsibilities in lieu of the violating Connector or Contracting Municipality. Metro may continue in this capacity until the violating Connector or Contracting Municipality agrees to the original terms of the notice and any additional terms which Metro feels are necessary to ensure ongoing compliance by the Connector or Contracting Municipality with all Pretreatment Standards and Requirements.~~

6.10. PROGRAM PREEMPTION RESERVED

~~Where Metro Water Recovery preempts a Connector or Contracting Municipality in the execution of Pretreatment Program responsibilities, Metro shall directly enforce National Pretreatment Standards and Requirements, including Categorical Standards, and the provisions of Section 6 of these *Rules and Regulations* against the Industrial Users located within the service area of the Connector or Contracting Municipality. All industrial self-monitoring reports, including those required under 40 CFR §403.12, must be conveyed directly to Metro. Moreover, Metro shall carry out all inspection and sampling activities necessary to monitor compliance with Pretreatment Standards and Requirements. Where Program preemption occurs, Metro shall have the right to seek injunctive relief against the Connector or Contracting Municipality and any Industrial User in order to obtain full compliance with Pretreatment Standards and Requirements. Metro may bill the Connector or Contracting Municipality for costs incurred by Metro in conjunction with the administration of the Program in lieu of the Connector or Contracting Municipality. Metro shall have the right to require the cessation of any industrial wastewater discharge in violation of Pretreatment Standards or Requirements.~~

6.11. PROGRAM DELEGATION ~~RESERVED~~

~~Any Connector or Contracting Municipality may enter into an agreement delegating some or all technical and administrative procedures necessary to implement Metro Water Recovery's approved Pretreatment Program to Metro. These procedures may include, among others, updating the industrial waste survey, providing technical services relating to the issuance and review of industrial waste discharge permits, inspecting and monitoring industrial waste discharges, waste discharge facilities and operations of permittees, and providing technical assistance for local enforcement actions. The procedures do not include surcharge programs, grease trap/sand trap programs, or other similarly established local programs that are not part of Metro's approved Pretreatment Program, unless specifically identified in a delegation agreement. Where Program delegation occurs, the delegation agreement may contain provisions for Metro to recover the costs incurred by Metro in conjunction with the administration of the Program on behalf of the Connector or Contracting Municipality.~~

6.12. METRO WATER RECOVERY MONITORING / RIGHT TO INSPECT

For the purpose of determining the quantity, quality, and other characteristics of any Sewage which shall be or may be delivered and discharged into the Metro System by a Connector or Contracting Municipality, or into the Municipal Sewer System by any Industrial User, Metro Water Recovery shall have the right at all reasonable times to enter and to inspect the Municipal Sewer System or any industrial or commercial installations connected thereto or any other connections which contribute or have a potential to contribute Sewage or wastes to the Municipal Sewer System and to inspect and copy records, to take samples and to make tests, measurements, and analyses of Sewage or other wastes in, entering, or with a potential to enter, or to be discharged into such Municipal Sewer System; and to require the installation of facilities and equipment necessary to monitor such discharges or to ensure no discharge occurs. Metro will make and will keep records of tests, measurements, and analyses of such Sewage or other wastes entering such Municipal Sewer Systems and, where appropriate or requested, forward to each Connector or Contracting Municipality the results of such tests, measurements, and analyses appertaining thereto.

6.13. GENERAL REQUIREMENTS REGARDING DELETERIOUS WASTES

The following Sewage, water, substances, materials, or waste are prohibited from being discharged into the Metro System or into the Municipal Sewer System by any Industrial User unless authorized through prior written permission by Metro Water Recovery. Written permission by Metro may include, but not be limited to, the imposition of site-specific limitations, Best Management Practices, and/or requirement to obtain a discharge permit pursuant to Section 6.22.1. These Requirements and prohibitions may be imposed directly on process Wastewaters prior to dilution by domestic or other Wastewaters discharged by Industrial Users.

Approval of such a discharge may be restricted to wastes generated within Metro Water Recovery's service area, is solely at the discretion of Metro Water Recovery and shall not constitute approval of any additional or similar discharges. The conditions, site-specific limitations or Best Management Practices imposed by Metro or terms of any permit or approval issued in relation to such discharges by Metro shall not be subject to the appeal and hearing procedure set forth in Section 10 of these *Rules and Regulations*.

1. Any night soil or septic tank pumpage.
2. Sludge or other material from sewage or industrial waste treatment plants or from water treatment plants.

3. Water which has been used for cooling or heat transfer purposes without recirculation discharged from any system of condensation, air conditioning, refrigeration, or similar use.
Discharge from cooling towers, boilers, closed-loop heat transfer systems, and any other cooling/heating system treated with molybdenum-containing water treatment chemicals.
4. Any wastes that contain concentrated dye wastes or other wastes are either highly colored or could become highly colored by reacting with any other wastes.
5. Stormwater, directly or indirectly, from surface drains, ditches, or streams, storm or combined sewers, roof, or from any other means, except as authorized in Section 301 of the Service Contract or by Metro's memorandum "Approval of Specific Categories of Outdoor Facilities with Incidental and Insignificant Amount of Stormwater where it is impracticable to Eliminate such Stormwater" dated January 7, 2015, and as it may be amended.
6. Any water or wastes potentially contaminated with (1) transmissible spongiform encephalopathy agents from diseases such as chronic wasting disease, bovine spongiform encephalopathy, scrapie, Creutzfeldt-Jakob disease; (2) foot-and-mouth disease agents; or (3) anthrax.
7. Any wastes which are unusual in composition (i.e., contain an extremely large amount of suspended solids or BOD); are high in dissolved solids such as sodium chloride, calcium chloride, or sodium sulfate; contain substances conducive to creating tastes or odors in drinking water supplies; otherwise make such waters unpalatable even after conventional water purification treatment; or are in any other way extremely unusual.
8. Solids, sludges, filter backwash, or other Pollutants removed in the course of treatment or control of Wastewater (including, but not limited to, materials which have been removed by catch basins, grease traps, sand traps, or pretreatment systems/devices), or acquired from another person or location.
9. Any blood and other bodily fluids from hospitals, clinics, offices of medical doctors, medical laboratories, or other medical facilities that have not been rendered noninfectious.
10. Any garbage other than that received directly into the Municipal Sewer System from domestic and commercial garbage grinders in dwellings, restaurants, hotels, stores, and institutions, by which such garbage has been shredded to such a degree that all particles will be carried freely under flow conditions normally prevailing in public sewers with no particle greater than one-half (1/2) inch in any dimension.
11. Any water or wastes containing grease or oil and other substances that will solidify or become discernibly viscous at temperatures between 32°F and 150°F.
12. Water accumulated in excavations or accumulated as the result of grading, water taken from the ground by well points, or any other drainage associated with construction.
13. Groundwater, directly or indirectly from areaway, sumps and sump pumps, or foundation drains, or from any other means, including subsurface drainage.
14. Any Wastewater discharges to the Metro System, except at locations approved by Metro.

15. Any waste stream not included in 6.13 or 6.14 that is regulated under one or more National Emissions Standards for Hazardous Air Pollutants (NESHAP) listed in the Code of Federal Regulations (C.F.R), Title 40 Parts 61 and 63 (40 CFR 61 and 40 CFR 63).
16. Brine or other concentrated waste streams from reverse osmosis, other membrane filtration, ion-exchange or similar processes from drinking water treatment plants.

6.14. PROHIBITED DISCHARGES

No Industrial User, whether or not subject to the National Categorical Pretreatment Standards or any other national, State, district, or local Pretreatment Standards and Requirements, shall contribute or cause to be contributed, directly or indirectly, any Pollutant or Wastewater which will Pass Through or Interfere with the operation or performance of Metro Water Recovery. None of the following described Sewage, water, substances, materials, or wastes shall be discharged into the Metro System or into the Municipal Sewer System by any Industrial User. These Requirements and prohibitions may be imposed directly on process Wastewater prior to dilution by domestic and other Wastewater discharged by Industrial Users. Site-specific limitations and/or Best Management Practices and/or requirements to obtain a discharge permit pursuant to Section 6.22.1 may be developed and imposed on Industrial Users to ensure compliance with the prohibitions of this Section.

1. Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the Metro System, any Municipal Sewer System, or to the operation of Metro Water Recovery. At no time shall any reading on an explosion hazard meter, at the point of discharge into the Metro System or any Municipal Sewer System (or at any point in the Systems), or at any monitoring location designated by Metro in a Wastewater Discharge Permit, be more than ten percent (10%) of the Lower Explosive Limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, and sulfides.
2. Any solid or viscous material which could cause an obstruction to Flow in the Metro System or in any way could interfere with the treatment process, including as examples of such materials but without limiting the generality of the foregoing, significant proportions of ashes, wax, paraffin, cinders, sand, mud, straw, shavings, metal, glass, rags, wipes, diapers, paper towels, napkins, toilet bowl scrub products, lint, feathers, tars, plastics, wood and sawdust, paunch manure, hair and fleshings, entrails, lime slurries, beer and distillery slops, grain processing wastes, grinding compounds, acetylene generation sludge, chemical residues, acid residues, food processing bulk solids, snow, ice, and all other solid objects, material, refuse, and debris not normally contained in sanitary Sewage.
3. Any Wastewater having a pH less than 5.0 for discharges from Industrial Users or Wastewater having any other corrosive property capable of causing damage or hazard to any part of the Metro System or any Municipal Sewer System.
4. Any Wastewater having a temperature which will inhibit biological activity at Metro Water Recovery's treatment plant, but in no case Wastewater containing heat in such amounts that the temperature at the introduction into Metro's treatment plant exceeds 40°C (104°F).
5. Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a Flow rate and/or Pollutant concentration which cause Pass Through or Interference. In no case shall a slug load have a Flow rate or contain concentrations or qualities of Pollutants that exceed

for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, quantities, or Flow during normal operation.

6. Any water or wastes containing a toxic substance in sufficient quantity, either singly or by interaction with other substances, to injure or interfere with any sewage treatment process, to constitute a hazard to humans or to animals, or to create any hazard or toxic effect in the waters which receive the treated or untreated Sewage.
7. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, each in amounts that will cause Interference or Pass Through.
8. Pollutants which result in the presence of toxic gases, vapors, or fumes within the Metro System or any Municipal Sewer System in a quantity that may cause acute worker health and safety problems.
9. Any trucked or hauled pollutants except at discharge points designated by Metro Water Recovery.
10. Any water or wastes containing Pollutant quantities or concentrations exceeding the limitations in Section 6.18 of these *Rules and Regulations* or the limitations in any applicable Categorical Standards.
11. Wastewater which alone or in conjunction with other sources causes Metro Water Recovery's effluent to fail toxicity testing.
12. Detergents, surface-active agents, or other substances which alone or in conjunction with other sources cause excessive foaming in the Metro System or at the treatment plants.
13. Any hazardous waste pharmaceuticals or solid wastes from hospitals, clinics, offices of medical doctors, medical laboratories, or other medical facilities, including, but not limited to, hypodermic needles, syringes, instruments, utensils, or other paper and plastic items.
14. Sewage of such a nature and delivered at such a rate as to impair the hydraulic capacity of the Metro System, normal and reasonable wear and usage excepted.
15. Sewage of such a quantity, quality, or other nature as to impair the strength or the durability of the Metro System including sewer structures, equipment or treatment works, either by chemical or by mechanical action.
16. Sewage having a flash point lower than 187°F, as determined by the test methods specified in 40 CFR §261.21.
17. Any radioactive substance, the discharge of which does not comply with Section RH 4.35 of the Colorado Rules and Regulations pertaining to Radiation Control (Volume 6 of the Code of Colorado Regulations, 6 CCR 1007-1, Part 4, et seq.).

18. Any wastes that contain a corrosive, noxious, or malodorous material or substance which, either singly or by reaction with other wastes, is capable of causing damage to the Metro System or to any part thereof, of creating a public nuisance, or a hazard, or of preventing entry into the Metro Interceptor System for maintenance and repair.
19. Any substance which may cause Metro Water Recovery's effluent or any other product of Metro such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the Metro System cause Metro to be in non-compliance with sludge use or disposal criteria, guidelines, or regulations developed under Section 405 of the Federal Water Pollution Control Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.
20. Any substance which may cause Metro Water Recovery to violate its NPDES or CDPS Permits or the receiving water quality standards.
21. Any waste or Wastewater associated with hydraulic fracturing (fracking) and drilling activities.
22. Any water or Wastewater from alkaline hydrolysis or other chemical decomposition processes of human or animal tissues, remains, or bodies.
23. Any discharge of dry-cleaning process wastes, including new and used tetrachloroethene (perchloroethylene), still bottom oil, and separator water.
24. Any waste or Wastewater containing TENORM Radionuclides - Radium-226, Radium-228, Lead-210, and Polonium-210 in excess of 5 Picocuries/gram (pCi/g). In all cases, discharges of TENORM Radionuclides shall be lower than the EXEMPT levels established by Colorado Code of Regulations (6 CCR 1007-1 Part 20 et seq.).

6.15. RESERVED

6.16. SECTOR CONTROL PROGRAMS

Metro Water Recovery may establish sector control programs based on Best Management Practices (BMP) to control specific pollutants as necessary to meet the requirements of this Section for industrial Users that engage in similar activities and discharge similar pollutants. Metro may establish policies for sector control programs as necessary to supplement the requirements included in this Section and Industrial Users subject to these sector control programs must comply with these policies. Industrial Users subject to these sector control programs may be required to install and operate wastewater treatment systems and/or implement BMPs and may be required to apply for a wastewater discharge permit.

6.16.1. Dental Amalgam Control Program

The requirements of Sections 6.16.1.1 through 6.16.1.5 apply to all Dental Facilities except for those Dental Facilities listed in Section 6.16.1.6. Dental Facilities listed in Section 6.16.1.6 must comply with the requirements listed in Sections 6.16.1.7 and 6.16.1.8.

1. By no later than July 14, 2020, Existing Source Dental Facilities shall implement BMPs according to the requirements contained below and shall install, and are required to maintain, and utilize an Amalgam Separator(s) that meet(s) the requirements specified in 40 CFR 441.30 or 441.40.
2. Operations and Maintenance (O&M) Plan. Except for Dental facilities that contract with a third-party service provider that performs all maintenance of the Amalgam Separators, each Dental Facility shall develop and implement an O&M Plan to ensure proper operation and maintenance of all Amalgam Separators and documentation of all maintenance activities. This Plan must be kept current and must address, at a minimum, the following:
 - A. Required maintenance according to manufacturer recommendations.
 - B. Visual inspection of separator(s) at least monthly and inspection log with dates and personnel signatures.
 - C. Collection device replacement per manufacturer recommendation or when solids reach the full line; whichever comes first.
 - D. Disposal of all amalgam wastes in accordance with regulatory requirements.
3. At a minimum, unless specifically waived in writing by Metro Water Recovery, the following BMPs shall be implemented and documented to verify compliance.
 - A. Amalgam selection. The Dental Facility shall use pre-capsulated, single-use Amalgam.
 - B. Equipment. All dental chairs at which dental amalgam may be present in the resulting wastewater shall be equipped with chair-side traps and all vacuum pumps shall be equipped with traps or filters. All equipment shall be cleaned and maintained in accordance with the manufacturer's instructions.
 - C. Dental Facility staff shall be trained in the proper handling and disposal of Amalgam material and keep a log documenting such training.
 - D. The Dental Facility shall use non-chlorine or non-oxidizing disinfectants and neutral cleaners. When cleaning filters or collecting scrap Amalgam, the Dental Facility shall not rinse screens, filters, traps, or Amalgam Separators, or any other Amalgam-containing equipment over sinks or drains. Spilled Amalgam must be cleaned up immediately. Each Dental Facility must provide protection from accidental discharges.
 - E. All contact and non-contact Amalgam scrap shall be salvaged and stored in structurally sound, tightly closed, and appropriately labeled containers.
 - F. The Dental Facility shall recycle all Amalgam waste by transferring the waste to an offsite recycling facility or shall manage and dispose of the waste in accordance with applicable federal, state, and local hazardous waste laws and regulations.

- G. At no time shall Amalgam waste be disposed or flushed down the drain or toilet.
4. Record Keeping. Excluding the One-Time Compliance Report, which must be maintained as long as a Dental Facility is in operation or until ownership is transferred, the following documentation shall be established and maintained in either physical or electronic format for no less than three (3) years and must be made available for Metro Water Recovery review upon request:
- A. Documentation of amalgam retaining container or equivalent container replacement (including the date, as applicable).
 - B. Documentation of all dates that collected dental amalgam is picked up or shipped for proper disposal in accordance with 40 CFR 261.5(g)(3) including copies of receipts, manifests, and other documents that include the date(s) of the amalgam waste collection and the name of the permitted or licensed treatment, storage, or disposal facility receiving the amalgam retaining containers.
 - C. Documentation of any repair or replacement of an amalgam separator or equivalent device, including the date, person(s) making the repair or replacement, and a description of the repair or replacement (including make and model).
5. Compliance Reporting.
- A. For Existing Source Dental Facilities that have not previously submitted a Compliance Certification to Metro Water Recovery, a One-Time Compliance Report must be submitted to Metro by no later than October 12, 2020. If a Dental Facility transfers ownership of the facility, the new owner must submit a new One-Time Compliance Report to Metro no later than 90 days after the transfer.
 - B. For New Source Dental Facilities, a One-Time Compliance Report must be submitted to Metro Water Recovery no later than 90 days following the commencement of discharge to Metro.
 - C. The One-Time Compliance Report must be signed and certified by a responsible corporate officer, a general partner or proprietor if the dental discharger is a partnership or sole proprietorship, or a duly authorized representative in accordance with the requirements of 40 CFR 403.12(l).
 - D. The One-Time Compliance Report must include the following information:
 - a. The facility name, physical address, mailing address, and contact information.
 - b. Name(s) of the operator(s) and owner(s).
 - c. A description of the operation at the Dental Facility including: the total number of chairs, the total number of chairs at which dental amalgam may be present in the resulting wastewater, and a description of any existing amalgam separator(s) or equivalent device(s) currently operated to include, at a minimum, the make, model, and year of installation.

- d. Certification that the amalgam separator(s) or equivalent device is designed and will be operated and maintained to meet the requirements specified in 40 CFR 441.30 or 441.40.
 - e. Certification that the Dental Facility is implementing BMPs specified in Section 6.16.1.4, 40 CFR 441.30(b) or 441.40(b) and will continue to do so.
 - f. The name of the third-party service provider that maintains the amalgam separator(s) or equivalent device(s) operated at the Dental Facility, if applicable. Otherwise, a copy of the O&M Plan required under Section 6.16.1.2, which must explain the practices employed by the facility to ensure proper operation and maintenance in accordance with 40 CFR 441.30 or 441.40.
 - g. Other information deemed necessary by Metro Water Recovery to confirm compliance with the requirements of this Section 6.16.1.
6. Exempt Dental Facilities include the following:
- A. Dental Facilities that exclusively practice one or more of the following: oral pathology, oral and maxillofacial radiology, oral and maxillofacial surgery, orthodontics, periodontics, and prosthodontics.
 - B. Mobile Dental Facilities.
 - C. Dental Facilities that do not place any amalgam.
 - D. Dental Facilities whose removal of teeth with amalgam comprises less than 5 percent of the Dental Facility's business.
7. Exempt Dental Facility Reporting Requirements. For Existing Dental Facility Sources, a One-Time Compliance Report must be submitted to Metro Water Recovery no later than October 12, 2020, or 90 days after a transfer of ownership. For New Dental Facility Sources, a One-Time Compliance Report must be submitted to Metro no later than 90 days following the commencement of discharge to Metro. The One-Time Compliance Report must:
- A. Be signed and certified by a responsible corporate officer, a general partner or proprietor if the dental discharger is a partnership or sole proprietorship, or a duly authorized representative in accordance with the requirements of 40 CFR 403.12(l).
 - B. Include the following information:
 - a. Facility name.
 - b. Physical address.
 - c. Mailing address.
 - d. Contact information.
 - e. Name of the operator(s) and owner(s).
 - f. Identification of the basis for Exemption under Section 6.16.1.6.

- g. A certification statement that the Dental Facility does not place dental amalgam; or for Dental Facilities exempted under Section 6.16.1.6. a certification statement that removal of teeth with amalgam comprises less than 5 percent of its business.

8. Exempt Dental Facility Recordkeeping Requirements. As long as an Exempt Dental Facility is in operation, or until ownership is transferred, the Exempt Dental Facility, or an agent or representative of the Exempt Dental Facility, must maintain the One-Time Compliance Report required in Section 6.16.1.7 and make it available for inspection in either physical or electronic form.

6.17. RESERVED

6.18. SPECIFIC DISCHARGE LIMITATIONS – LOCAL LIMITS

6.18.1. Metro Water Recovery Limitations

~~No Significant Industrial User shall Pursuant to Section 6.14.10. of these Rules and Regulations, discharges of water or wastes containing pollutant quantities or concentrations exceeding the daily maximum limitations listed in this section. is prohibited.~~

~~No Industrial User shall discharge into the Metro System or into any Municipal Sewer System at any time or over any period of time, Wastewater containing any of the following materials and substances in excess of the limitations provided herein. These limitations may also be imposed directly on process Wastewaters prior to dilution by domestic and other Wastewaters discharged by the Industrial User:~~

	<u>Limit mg/L</u>		<u>Limit mg/L</u>
1. Arsenic	0.33	7. Molybdenum	0.43*
2. Cadmium	3.4	8. Nickel	5.6
3. Chromium	3.6	9. Selenium	0.66
4. Copper	6.1	10. Silver	2.9
5. Lead	2.2	11. Tetrachloroethene	1.5**
6. Mercury	0.13	12. Zinc	15.6

~~*Notwithstanding this numeric limitation, discharge from cooling towers, boilers, closed-loop heat transfer systems, and any other cooling/heating system treated with molybdenum-containing water treatment chemicals is prohibited entirely. Where necessary, the Metro District may require that these wastes be physically prevented from discharging into the Municipal Sewer System.~~

~~**Notwithstanding this numeric limitation, the discharge of dry-cleaning process wastes, including new and used tetrachloroethene (perchloroethylene), still bottom oil, and separator water, is prohibited entirely. Where necessary, the Metro District may require that these wastes be physically prevented from discharging into the Municipal Sewer System.~~

		<u>Daily Maximum Limit*</u> <u>mg/L</u>				<u>Daily Maximum Limit*</u> <u>mg/L</u>
<u>1.</u>	<u>Arsenic (total)</u>	<u>0.33</u>		<u>7.</u>	<u>Molybdenum (total)</u>	<u>0.43</u>
<u>2.</u>	<u>Cadmium (total)</u>	<u>0.06</u>		<u>8.</u>	<u>Nickel (total)</u>	<u>5.12</u>
<u>3.</u>	<u>Chromium (total)</u>	<u>3.6</u>		<u>9.</u>	<u>Selenium (total)</u>	<u>0.35</u>
<u>4.</u>	<u>Copper (total)</u>	<u>6.1</u>		<u>10.</u>	<u>Silver (total)</u>	<u>2.9</u>
<u>5.</u>	<u>Lead (total)</u>	<u>2.2</u>		<u>11.</u>	<u>Cyanide (total)</u>	<u>0.30</u>
<u>6.</u>	<u>Mercury (total)</u>	<u>0.005</u>		<u>12.</u>	<u>Zinc (total)</u>	<u>15.6</u>

*For the purposes of these Rules and Regulations Daily Maximum Limit shall mean: The maximum allowable discharge limit of a pollutant during a calendar day or representative sampling period not to exceed 24 hours. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

6.18.2. Site-Specific Metro Water Recovery Limitations

Metro Water Recovery may develop site-specific limits on an as-needed basis. Industrial User compliance with site-specific limits is additional to all other applicable limits specified in this Section 6.18.

1. The following site-specific limits may be implemented through permit or other control mechanism to control discharges containing related pollutants of concern.

HEM (Oil and Grease)	200 mg/L
HEM-SGT (Total Petroleum Hydrocarbons)	100 mg/L
Benzene	50 ug/L
BTEX (benzene, Toluene, ethyl benzene, xylene)	750 ug/L

6.18.3. National Pretreatment Standards and Requirements

Once promulgated, Categorical Standards for a particular industrial subcategory, if more stringent, shall supersede all conflicting discharge limitations contained in this Section 6, as they apply to that industrial subcategory. All Industrial Users must comply with all applicable National Pretreatment Standards and Requirements.

6.18.4. State Requirements

State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those contained elsewhere in this Section 6.

6.18.5. Dilution Prohibited

Except where permitted by Categorical Standards, no Industrial User may increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to attain compliance with the limitations contained in National Categorical Pretreatment Standards or any other specific discharge limitations contained in this Section 6. Metro Water Recovery may set or require a Connector or Contracting Municipality to set mass limitations or alternate concentration-based limitations for those Industrial Users which are using improper dilution to meet these limitations.

6.19. RESERVED

6.20. NOTIFICATION/REPORTING OF POTENTIAL PROBLEM DISCHARGES

6.20.1. Accidental, Unusual, or Slug Discharges

An accidental or unusual discharge is a discharge which differs significantly in quantity or quality from discharges under normal conditions and may disrupt the Metro System treatment processes or operations, Pass Through the Metro System into the receiving waters or the atmosphere, damage the Metro System facilities, cause an NPDES/CDPS Permit violation at a Metro Water Recovery treatment plant, degrade sludge quality, or constitute a hazard to humans or to animals. A Slug Discharge is any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate Metro's *Rules and Regulations*, local limits, or permit conditions.

1. Accidental Discharge Protection. Each Industrial User shall provide protection from accidental or unusual discharges of prohibited materials or other substances regulated by these *Rules and Regulations*. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the Industrial User's own cost and expense.

2. Notification Requirements.

- A. Telephone Notification. In the case of any accidental, unusual, or Slug Discharge, it is the responsibility of the Industrial User to immediately telephone and notify Metro Water Recovery of the incident. The notification shall include the caller's name and contact information, date and time of the call, date and start and end times of the discharge, location of discharge, type of waste, concentration and volume, and corrective actions taken.
- B. Written Notice. Within five (5) days following an accidental, unusual, or Slug Discharge, the Industrial User shall, unless this requirement is waived by Metro Water Recovery, submit to Metro a detailed written report describing the cause of the discharge and the measures to be taken by the Industrial User to prevent similar future occurrences. Such notification shall not relieve the Industrial User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the Industrial User of any fines, civil penalties, or other liability which may be imposed by these Rules and Regulations or other applicable law.
- C. Notice To Employees. A notice shall be permanently posted on the Industrial User's bulletin board or other prominent place advising employees who to call in the event of an accidental, unusual, or Slug Discharge. Employers shall ensure all employees who may cause or suffer such an accidental, unusual or slug discharge to occur are advised of the emergency notification procedure.
- D. Slug Notification. Significant Industrial Users are required to notify Metro Water Recovery immediately of any changes at its facility affecting the potential for Slug Discharge.

6.20.2. Slug Discharge Plan Requirements

In accordance with 40 CFR §403.8(f)(2)(vi), Metro Water Recovery shall evaluate whether each Significant Industrial User needs a plan to control Slug Discharges. If a Slug Discharge plan is needed, it shall be submitted to Metro for review and approval as directed by Metro and shall contain, at a minimum, the following elements:

1. A description of discharge practices, including non-routine batch discharges.
2. A description of stored chemicals.
3. Procedures for immediately notifying Metro Water Recovery of Slug Discharges, including any discharge that would violate any prohibition or limitation under Sections 6.13, 6.14, or 6.18 of these *Rules and Regulations*, with procedures for follow-up written notification within five (5) days.
4. If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading

and unloading operations, control of plant-site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

6.20.3. Discharge Violation/Repeat Sampling and Reporting

If sampling performed by an Industrial User indicates a violation of these *Rules and Regulations* or any permit or any other pollutant limits established pursuant thereto, the Industrial User must notify Metro Water Recovery within twenty-four (24) hours of becoming aware of the violation. The Industrial User shall also repeat the sampling and analysis for any Pollutants in violation and submit the results of the repeat analysis to Metro within thirty (30) days after becoming aware of the violation. Resampling by the Industrial User may not be required if Metro performs sampling at the Industrial User's facility at least once a month, or if Metro performs sampling at the Industrial User's facility between the time the initial sampling was conducted and the time the Industrial User or Metro receives the results of this sampling.

Metro Water Recovery may also require additional sampling and analysis upon a finding of a discharge violation based on sampling performed by Metro, the Industrial User, or any other entity.

Unless waived by Metro Water Recovery, within five (5) working days of becoming aware of any violation from self-monitoring, Metro monitoring, or other agency monitoring events, the Industrial User shall submit to Metro a detailed written report describing the cause of the violation and the measures taken or to be taken by the Industrial User to prevent similar future occurrences. Such notification shall not relieve the Industrial User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the Industrial User of any fines, civil penalties, or other liability which may be imposed by these *Rules and Regulations* or other applicable laws or regulations.

6.20.4. Notification/Reporting Of Changed Conditions

Each Industrial User must notify Metro Water Recovery in advance of any significant changes to the Industrial User's operations or system which might alter the nature, quality, or volume of its Wastewater, or any substantial change in the volume of flow or in the volume or character of Pollutants in its discharge. Metro may require the Industrial User to submit such information as may be deemed necessary to evaluate the changed condition.

6.21. HAZARDOUS WASTE DISCHARGE NOTIFICATION

Industrial Users shall notify Metro Water Recovery, the EPA Regional Waste Management Division Director, and the state hazardous waste authorities in writing of any discharge into the POTW of any substance which, if otherwise disposed of, would be considered a hazardous waste under 40 CFR Part 261. Each Industrial User shall notify Metro in advance of any substantial change to such discharge. This notification requirement does not apply to Industrial Users subject to Categorical Pretreatment Standards already being reported under the reporting requirements contained in Section 6.23 of these *Rules and Regulations*. The specific information required to be reported and the time frames in which it is to be reported are found at 40 CFR §403.12(p). The Industrial User is responsible for ensuring compliance with the *Rules and Regulations Pertaining to Hazardous Waste* issued by the CDPHE (Volume 6 of the *Code of Colorado Regulations* 1007-3, Part 260, et seq.).

6.22. WASTEWATER DISCHARGE PERMITS/ GENERAL PERMITS/ZERO DISCHARGE PERMITS

6.22.1. Applicability

All Significant Industrial Users and other Industrial Users as required by Metro Water Recovery, discharging to, proposing to discharge to, or with a potential to discharge to Metro or engaging in certain industrial processes shall obtain a Wastewater Discharge Permit, General Permit, or Zero Discharge Permit. Such permit shall either be issued by Metro or co-issued by the Connector or Contracting Municipality providing sewage services and Metro.

Requirements pertaining to permits co-issued with Municipalities or issued solely by Metro Water Recovery are contained in Metro's *Rules and Regulations*. Permits co-issued with Municipalities may also contain requirements contained in the various municipal codes, ordinances, resolutions, and rules and regulations.

6.22.2. Permit Application

Industrial Users required to obtain a Wastewater Discharge Permit, General Permit, or Zero Discharge Permit shall complete and file with Metro Water Recovery an application on the form prescribed by Metro, and accompanied by a fee, as determined, pursuant to Section 6.29 of these *Rules and Regulations*.

Applications are due:

1. For new dischargers, at least one hundred eighty (180) days prior to beginning discharge to Metro Water Recovery.
2. For existing dischargers who become subject to a newly promulgated Categorical Standard, at least one hundred-eighty (180) days prior to the effective date of such Standard.
3. For existing dischargers who, because of process changes or additions, will become subject to an existing Categorical Standard, at least ninety (90) days prior to beginning discharge from the categorical process.
4. For existing dischargers subject to Categorical Standards as of the effective date of these *Rules and Regulations*, who have not previously obtained a Wastewater Discharge Permit or General Permit, in a time frame specified per notice from Metro Water Recovery not later than thirty (30) days of the effective date of these *Rules and Regulations*.
5. For renewal of Wastewater Discharge Permits, General Permits, and Zero Discharge Permits, at least one hundred-eighty (180) days prior to the expiration date of the current permit.
6. For all other Industrial Users, in a time frame as specified per notice from Metro Water Recovery.

In support of the application, the Industrial User shall submit, in units and terms appropriate for evaluation, the information identified below.

1. Name, mailing address, and facility location.
2. SIC number(s) according to the Standard Industrial Classification (SIC) Manual, Office of Management and Budget, 1987, as amended or the 1997 North American Industrial Classification System (NAICS), as amended.
3. Time and duration of Wastewater discharges.
4. Average daily and thirty (30) minute peak Wastewater flow rates, including daily, monthly, and seasonal variations, if any.
5. Site plan, floor plans, mechanical and plumbing plans, and details to show all sewers, Sewer Connections, and appurtenances by the size, location, and elevation.
6. Description of activities, facilities, and plant processes on the premises including all materials which are or could be discharged.
7. Wastewater constituents and characteristics including, but not limited to, those limited by Sections 6.13 and 6.14 of these *Rules and Regulations*, as determined by a reliable analytical laboratory. Sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended.
8. A statement regarding whether or not the discharge standards and Pollutant limitations contained in Sections 6.13, 6.14 and 6.18 of these *Rules and Regulations*, including any applicable State or National Pretreatment Standards, are being met on a consistent basis and, if not, whether additional Operational Changes and/or installation of new or additional treatment is required for the Industrial User to meet the applicable standards.
9. If additional Pretreatment and/or Operational Changes will be required to meet the discharge standards and pollutant limitations, the shortest schedule by which the Industrial User will provide such additional treatment. For state or National Pretreatment Standards and Requirements, the completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the Industrial User to meet the applicable discharge standards and Pollutant limitations (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction). In no case shall an increment of progress exceed nine (9) months.
10. Each product produced by type, amount, process or processes, and rate of production.
11. The type and amount of raw materials processed (average and maximum per day).
12. The number and type of employees, hours of operation of the plant, and proposed or actual hours of operation of the Pretreatment system.

13. Any other information deemed necessary by Metro Water Recovery to characterize and evaluate the potential and/or actual discharge from the facility and to support associated permitting decisions.
14. Information regarding each waste stream generated by the Industrial User that is regulated under one or more NESHAPs listed in the Code of Federal Regulations (C.F.R), Title 40 Parts 61 and 63 (40 CFR 61 and 40 CFR 63). For each identified waste stream, the waste stream composition, volume generated (per-day/month/year), specific method(s) of disposal and method(s) of compliance with the NESHAPs must be included. If the Industrial User does not generate any waste streams regulated under the above-referenced NESHAPs, the Industrial User must include the following statement:

Based upon my inquiry of the person or persons directly responsible for managing compliance for this facility, including the NESHAPs listed in 40 CFR 61 and 40 CFR 63, I certify that, as of (today's date), to the best of my knowledge and belief (facility name) does not generate any waste streams that are subject to one or more of the NESHAPs listed in 40 CFR 61 and 40 CFR 63.
15. Other conditions as deemed appropriate by Metro Water Recovery to ensure compliance with these *Rules and Regulations*.

6.22.3. Permit Issuance

Metro Water Recovery shall issue a Wastewater Discharge Permit or General Permit to the applicant if Metro finds all of the following conditions are met:

1. The proposed discharge of the applicant is in compliance with the prohibitions and limitations of Sections 6.13, 6.14, and 6.18 of these *Rules and Regulations*;
2. The proposed discharge of the applicant would permit the normal and efficient operation of the Metro System;
3. The proposed discharge of the applicant would not result in a violation by Metro Water Recovery of the terms and conditions of its NPDES/CDPS Permit; and
4. As a result of receiving the proposed discharge of the applicant, the POTW will not be used or considered as the means for the applicant to comply with the requirements of any NESHAPs listed 40 CFR 61 and 40 CFR 63 that are applicable to waste streams generated by the applicant. The proposed discharge of the applicant meets all compliance requirements of all applicable NESHAP(s) using treatment and controls at the applicant's facility, prior to discharge.
5. All SIUs that will be covered under a specific General Discharge Permit must also meet the following criteria pursuant to 40 CFR 403.8(f)(1)(iii)(A)(1):
 - A. Is not subject to production-based categorical Pretreatment Standards or categorical Pretreatment Standards expressed as mass of pollutant discharged per day.
 - B. Is not subject to limits that are based on the Combined Wastestream Formula or Net/Gross calculations.
 - C. Involve the same or substantially similar types of operations.

- D. Discharge the same types of wastes.
- E. Require the same effluent limitations.
- F. Require the same or similar monitoring.
- G. In the opinion of Metro Water Recovery, are more appropriately controlled under a general control mechanism than under individual control mechanisms.

If Metro Water Recovery finds the condition set out in Paragraph 1 of this subsection is not met, Metro may issue a Wastewater Discharge Permit or General Permit to the applicant if the conditions set out in Paragraphs 2-4 of this subsection are met and if the applicant submits, and Metro approves, a schedule setting out the measures to be taken by the applicant and the dates such measures will be implemented to ensure compliance with the provisions of these *Rules and Regulations*.

Metro Water Recovery may issue a Zero Discharge Permit that requires specific controls and/or process configurations to prevent the discharge from specified process operations, or of specified Pollutants, to the POTW.

6.22.4. Permit Denial: Appeal and Hearing

In the event an application for a Wastewater Discharge Permit, General Permit, or Zero Discharge Permit is denied, Metro Water Recovery shall notify the applicant in writing of such denial. Such notification shall state the grounds for denial with that degree of specificity which will inform the applicant of the measures or actions which must be taken by the applicant prior to issuance of a permit.

An applicant denied a Wastewater Discharge Permit, General Permit, or Zero Discharge Permit may request the Chief Executive Officer review the denial and issue a permit. If the Chief Executive Officer reaffirms the denial, the applicant may appeal this decision pursuant to the terms and conditions of Metro Water Recovery's appeal and hearing procedure as set forth in Section 10 of these *Rules and Regulations*.

6.22.5. Permit Conditions

Wastewater Discharge Permits, General Permits, or Zero Discharge Permits shall be expressly subject to all provisions of these *Rules and Regulations*. Wastewater Discharge Permits and General Permits must contain, but are not limited to, the following:

1. A statement of duration (in no case more than five [5] years).
2. A statement of non-transferability without, at a minimum, prior notification to Metro Water Recovery and provision of a copy of the existing permit to the new owner or operator.
3. Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards and Requirements, Categorical Pretreatment Standards, specific discharge limitations, as cited in these *Rules and Regulations*; site-specific discharge limitations; and other federal, state, and local law and regulations. Metro Water Recovery reserves the right to establish in permits more stringent Standards or Requirements on discharges consistent with the purpose of these *Rules and Regulations*.

4. Self-monitoring, sampling, reporting, notification, and record-keeping requirements, including an identification of the Pollutants to be monitored (including the process for seeking a waiver for a Pollutant neither present nor expected to be present in the discharge in accordance with 403.12[e][2], or a specific waived Pollutant in the case of an individual control mechanism), sampling locations, sampling frequencies, and sample types. These requirements shall be based on applicable general Pretreatment Standards and Requirements at 40 CFR §403; categorical Pretreatment Standards; specific discharge limitations; state and local law and regulations; and Metro Water Recovery determinations as to the type, quantity, quality, and frequency of information needed to adequately determine compliance with conditions of the permit.
5. A statement of applicable civil and criminal penalties for violation of Pretreatment Standards or Requirements, and any applicable compliance schedules. Such schedules may not extend compliance dates beyond federal deadlines.
6. Requirements to control Slug Discharges, if determined by Metro Water Recovery to be necessary.
7. Requirements for notification of Slug Discharges and any changes at the facility affecting the potential for Slug Discharges.
8. Duty to comply with terms of permit.

Wastewater Discharge Permits and General Permits may also contain the following:

1. A Schedule of Industrial User Charges and Fees pursuant to Section 6.29 of these *Rules and Regulations*.
2. Limits on average and maximum rate and time of discharge or requirements for flow regulation and equalization.
3. Requirements for installation and maintenance of pretreatment equipment; pollution controls or containment devices to reduce, eliminate or prevent the discharge of Pollutants to Metro Water Recovery; and/or inspection and sampling facilities.
4. Requirements for notification to Metro Water Recovery of any new introduction of Wastewater constituents or any substantial change in operations or in the volume or character of the Wastewater constituents being introduced into Metro.
5. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges.
6. Other conditions as deemed appropriate by Metro Water Recovery to ensure compliance with these *Rules and Regulations*.

Zero Discharge Permits may contain the following:

1. A statement of duration (not to exceed five [5] years).
2. Discharge prohibition requirements for specific controls and/or process configurations to prevent the discharge from specified process operations, or of specified Pollutants, to the POTW.

3. Reporting, notification, and record-keeping requirements.
4. A statement of applicable civil and criminal penalties for violation of Pretreatment Standards or Requirements.
5. Requirements for notification of discharges of prohibited Wastewater or any accidental, unusual, or Slug Discharges.
6. Other conditions as deemed appropriate by Metro Water Recovery to ensure compliance with these *Rules and Regulations*.

6.22.6. Permit Modifications

1. The terms and conditions of a Wastewater Discharge Permit, General Permit, or Zero Discharge Permit may be modified by Metro Water Recovery during the term of the permit as limitations or Requirements identified in these *Rules and Regulations* are modified or other just cause exists. The Industrial User shall be informed of any proposed changes in its 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.
2. Within nine (9) months of the promulgation of a National Categorical Pretreatment Standard, the Wastewater Discharge Permit, General Permit, or Zero Discharge Permit of Industrial Users subject to such standard shall be revised to require compliance with such standard within the time frame prescribed by such standard.

6.22.7. Permit Duration; Reapplication

Permits shall be issued for a specified time period, not to exceed five (5) years. The Industrial User shall apply for permit reissuance a minimum of one hundred-eighty (180) days prior to the expiration of the Industrial User's existing Permit.

6.23. REPORTING REQUIREMENTS FOR SIGNIFICANT INDUSTRIAL USERS

6.23.1. Baseline Monitoring Report for Industrial Users Subject to National Categorical Pretreatment Standards

Within 180 days after the effective date of a Categorical Pretreatment Standard, or 180 days after the final administrative decision made upon a category determination submission under 40 CFR §403.6(a)(4), whichever is later, existing Industrial Users subject to such Categorical Pretreatment Standards and currently discharging to or scheduled to discharge to Metro Water Recovery shall submit to Metro a report which contains the information required by 40 CFR §403.12(b)(1)–(7). At least 90 days prior to commencement of discharge, New Sources, and sources that become Industrial Users subsequent to the promulgation of an applicable Categorical Standard, shall be required to submit to Metro a report which contains the information required by 40 CFR §403.12(b)(1)–(7). New Sources shall also be required to include in this report information on the method of Pretreatment the source intends to use to meet applicable Pretreatment Standards and Requirements. New Sources shall give estimates of the anticipated flow and quantity of Pollutants to be discharged.

In cases where the Categorical Pretreatment Standard requires compliance with a Best Management Practice (or pollution prevention alternative), the CIU must submit documentation required by Metro Water Recovery to determine compliance status of the Industrial User. New Sources can provide estimates of the information since discharge cannot commence until a permit is issued.

6.23.2. Initial Compliance Report for Industrial Users Subject to National Categorical Pretreatment Standards

Within ninety (90) days following the date for final compliance with applicable Pretreatment Standards or, in the case of a New Source, following commencement of the introduction of Wastewater into the Municipal Sewer System, or as specified by Metro Water Recovery, any CIU shall submit to Metro a report which contains the information required in 40 CFR 403.12(d). In cases where the Categorical Pretreatment Standard requires compliance with a Best Management Practice (or pollution prevention alternative), the CIU shall submit documentation required by Metro to determine the compliance status of the CIU.

Where applicable Categorical Pretreatment Standards contain limitations on the mass of Pollutants discharged per unit of production, the report shall also contain the Pollutant mass and production information necessary to determine compliance with such Categorical Pretreatment Standards. The report shall state whether the applicable Pretreatment Standards and Requirements are being met on a consistent basis and, if not, what additional O&M and/or pretreatment is necessary to bring the CIU into compliance with the applicable Pretreatment Standards and Requirements. This statement shall be signed by an Authorized Representative of the CIU, and certified to by a qualified professional.

6.23.3. Periodic Compliance Reports

1. Except in the case of Nonsignificant Categorical Users, any CIU, after the compliance date of such Categorical Pretreatment Standard, or, in the case of a New Source, after commencement of the discharge into the Municipal Sewer System, shall submit to Metro Water Recovery during the months of July and January, unless required more frequently in the Categorical Pretreatment Standard or by Metro, a report covering the preceding six (6) months and indicating the nature and concentration of Pollutants in the effluent which are limited by such Categorical Pretreatment Standards. In addition, this report shall include a record of average and maximum daily flows for the reporting period for all regulated processes. In cases where the Categorical Pretreatment Standard requires compliance with a Best Management Practice (or pollution prevention alternative), the CIU shall submit documentation required by Metro to determine the compliance status of the CIU.

Where applicable Categorical Pretreatment Standards contain limitations on the mass of Pollutants discharged per unit of production, the report shall also contain the Pollutant mass and production information necessary to determine compliance with such Categorical Pretreatment Standards. At the discretion of Metro Water Recovery and in consideration of such factors as local high or low flow rates, holidays, and budget cycles, Metro may agree to alter the months during which the above reports are to be submitted.

2. SIUs not subject to National Categorical Pretreatment Standards shall submit to Metro Water Recovery at least once every six (6) months (on dates specified by Metro), unless required more frequently by Metro, a description of the nature, Pollutant concentrations, flows, and, where requested, Pollutant masses, of the discharges required to be reported by Metro. In cases where a Local Limit requires compliance with a BMP or pollution prevention alternative, the SIU must submit the documentation required by Metro to determine the compliance status of the SIU.

6.23.4. Annual Certification by Nonsignificant Categorical Industrial Users

A facility determined to be a Nonsignificant CIU pursuant to 40 CFR 403.3(v)(2) must annually submit the certification statement contained in 40 CFR 403.12.q, signed in accordance with the signatory requirements in 40 CFR 403.12(l). This certification must accompany any alternative report required by Metro Water Recovery.

6.23.5. Annual Certification by Zero Discharge Facilities.

A facility issued a Zero Discharge Permit must annually submit a statement certifying the facility has or has not discharged any prohibited process Wastewater or Pollutants to the Municipal Sewer System. The statement must be signed in accordance with the signatory requirements in 40 CFR 403.12(l).

6.23.6 Signatory Requirements for Submittal of Documents

All documents submitted to Metro Water Recovery required by this Section must signed by an Authorized Representative of Industrial User as defined in Section 2 of these *Rules and Regulations*.

6.24. MONITORING FACILITIES/REQUIREMENTS

1) Metro Water Recovery may require to be installed and operated at the Industrial User's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of any discharges as necessary to determine compliance with the provisions of these *Rules and Regulations*.

2) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling representative of the discharge and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the Industrial User. All devices shall be calibrated in accordance with manufacturers' specifications to ensure their accuracy, unless a waiver is obtained from, or an alternative method specified by, Metro Water Recovery.

3) The sampling and monitoring facilities shall be provided in accordance with Metro Water Recovery's requirements and all applicable local construction standards and specifications. Construction shall be completed within such a time frame as Metro shall specify by written notification.

4) Unless specifically stated otherwise, all samples must be preserved, handled, and analyzed according to 40 Part 136 of the *Code of Federal Regulations* (40 CFR 136), *Guidelines Establishing Test Procedures for the Analysis of Pollutants* under the Clean Water Act, and amendments thereto. Where 40 CFR 136 does not contain sampling or analytical techniques for the Pollutant(s) in question, or where the Administrator of the EPA determines the Part 136 sampling and analytical techniques are inappropriate for the Pollutant(s) in question, sampling

and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures specified by Metro Water Recovery.

5) The analytical method(s) selected by the Industrial User must be “sufficiently sensitive” for all monitoring conducted to meet requirements of these *Rules and Regulations* or other Metro Water Recovery requirements. A method is sufficiently sensitive when the method detects and accurately and precisely quantifies the amount of the analyte, i.e. there is a valid and positive result. Or, the analytical method is sufficiently sensitive when the method ML is less than or equal to Metro Water Recovery specific discharge limitations, permit limitations, or applicable pretreatment standard .

6.25. INFORMATION SUBMITTAL, INSPECTION AND SAMPLING, RECORD KEEPING REQUIREMENTS

Metro Water Recovery may require any Industrial User to submit information as necessary to determine compliance with the Requirements of these *Rules and Regulations*. All information required by these *Rules and Regulations*, or a permit or order issued hereunder, must be signed and certified for accuracy by an Authorized Representative of the Industrial User.

Metro Water Recovery shall have the right to enter and inspect the facilities of any Industrial User to ascertain compliance with the Requirements of these *Rules and Regulations* and any permit or order issued hereunder. Persons or occupants of premises where Wastewater is created or discharged shall allow Metro or its representatives ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and copying, or in the performance of any of their duties.

Metro Water Recovery, CDPHE, and EPA shall have the right to set up on the Industrial User's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where an Industrial User has security measures in force which would require proper identification and clearance before entry into the Industrial User's premises, the Industrial User shall make necessary arrangements with security guards so that upon presentation of suitable identification, Staff from Metro, the CDPHE, and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Unreasonable delays in allowing Metro access to the Industrial User's premises shall be a violation of these *Rules and Regulations*.

All records relating to compliance with Pretreatment Standards and Requirements shall be maintained for at least three (3) years and made available to officials of Metro Water Recovery, the CDPHE, and EPA upon request. The period of retention may be extended by Metro during the course of any unresolved enforcement proceedings or at the request of Metro.

6.26. WASTEWATER TREATMENT

Industrial Users shall provide Wastewater treatment as required to comply with the requirements of these *Rules and Regulations* and shall achieve compliance with all National Categorical Pretreatment Standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat Wastewater to a level acceptable to Metro Water Recovery shall be provided, operated, and maintained at the Industrial User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to Metro for review and shall be acceptable to Metro before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the Industrial User from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to Metro under the provisions of these *Rules and Regulations*.

6.27. CONFIDENTIAL INFORMATION

Information and data on an Industrial User obtained from reports, questionnaires, permit applications, permits, monitoring programs, and inspections shall be available to the public or other governmental agency without restriction unless the Industrial User specifically designates and is able to demonstrate to the satisfaction of Metro Water Recovery that the release of such information would divulge sales or marketing data, processes, or methods of production entitled to protection as “Confidential Business Information” of the Industrial User. Wastewater constituents and characteristics will not be recognized as confidential information. It shall be the Industrial User’s obligation to stamp each page, which has been demonstrated to Metro’s satisfaction to contain trade secrets, with the words “Confidential Business Information,” “Confidential Information,” or “Confidential.” A failure by the Industrial User to designate and identify any document in this manner may result in the document losing its protection from disclosure as confidential business information.

Except as required by law, Confidential Business Information shall not be made available for inspection by the public. Such information shall be made available upon request to governmental entities or agencies for uses related to these *Rules and Regulations*, Metro Water Recovery’s NPDES/CDPS Permit and/or the Pretreatment Program in accordance with 40 CFR Part 2. Confidential Business Information shall not be transmitted to any governmental agency or entity for other uses by Metro except upon written request and after a ten (10) day notification and right to object is given to the Industrial User. Such notification shall not be required in certain circumstances provided for in 40 CFR Part 2. If after a request for public inspection, a person or entity challenges the determination of any record to protection as Confidential Business Information, the Industrial User shall cooperate, to the fullest extent possible and at the Industrial User’s own expense, with Metro in the defense of the determination. At the request of Metro the Industrial User shall, at the Industrial User’s expense, provide a defense to such challenge.

6.28. REMEDIES FOR NONCOMPLIANCE; ENFORCEMENT

Remedies for noncompliance shall be implemented in accordance with the procedures defined in Metro Water Recovery’s Enforcement Response Plan / Pretreatment Enforcement Management System. [Note: The term Pretreatment Enforcement Management System is now retired, though it is still referenced in several other documents.]

6.28.1. Notice Of Violation

Whenever Metro Water Recovery determines any Industrial User has violated or is violating any provision of these *Rules and Regulations* or a permit or any directives or orders issued hereunder, Metro may serve upon such Industrial User a verbal or written notice stating the nature of the violation(s). Where directed to do so by the notice, a plan for the satisfactory correction of the violation(s) shall be submitted to Metro by the Industrial User, within a time frame as specified in the notice.

6.28.2. Administrative Orders

Whenever Metro Water Recovery determines any Industrial User has violated or is violating any provision of these *Rules and Regulations*, or any directives, orders, or permits issued hereunder, Metro may serve upon such Industrial User a written order stating the nature of the violations(s), and requiring that the Industrial User correct the violation(s) within a specified period of time; perform such tasks as Metro determines are necessary for the Industrial User to correct the violations; or perform such tasks and submit such information as is necessary for Metro to

evaluate the extent of noncompliance or to determine appropriate enforcement actions to be taken.

6.28.3. Compliance Orders: Compliance Schedules

Whenever Metro Water Recovery determines any Industrial User has violated or is violating any provision of these *Rules and Regulations*, or any directives, orders or permits issued hereunder, Metro may serve upon the Industrial User a written order requiring that the Industrial User submit, within a time frame as specified in the notification, a plan (compliance schedule) for the satisfactory correction of such violation(s).

The compliance schedule must represent the shortest schedule by which the Industrial User will provide additional treatment or perform such other tasks as will enable the Industrial User to consistently comply with applicable requirements. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to compliance (e.g., hiring an engineer, completing preliminary plans for pretreatment systems, completing final plans, executing contracts for major components, commencing construction, completing construction). In no case shall an increment of progress exceed nine (9) months.

Upon approval by Metro Water Recovery, the compliance schedule will be issued to the Industrial User as an administrative order which contains the approved schedule milestones and any applicable reporting requirements. Issuance of a compliance schedule by Metro does not release the Industrial User of liability for any violations.

Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the Industrial User shall submit a progress report to Metro Water Recovery including, at a minimum, information on whether or not the Industrial User complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason(s) for delay, and the steps being taken by the Industrial User to return to the schedule established. At no time shall this progress report relieve the Industrial User from additional violations or determinations of non-compliance or determination of significant noncompliance per 40 CFR 403.8(f)(2)(viii) for failing to meet the requirements of a compliance schedule.

6.28.4. Consent Orders

Metro Water Recovery may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any Industrial User responsible for non-compliance. Such documents will include specific action to be taken by the Industrial User to correct the non-compliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Section 6.28.2 of these *Rules and Regulations* and shall be judicially enforceable. Use of a Consent Order shall not be a bar against, or prerequisite for, taking any other action against the Industrial User.

6.28.5. Show Cause Hearings

Metro Water Recovery may order an Industrial User which has violated or is violating any provision of these *Rules and Regulations*, or any directives, orders, or permits issued hereunder, or any other pretreatment standard or requirement, to appear before Metro and show cause why the proposed enforcement action should not be taken. Notice shall be served on the Industrial User specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the Industrial User show cause why the proposed enforcement

action should not be taken. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the Industrial User.

6.28.6. Suspension of Service

Metro Water Recovery may suspend the Wastewater treatment service and/or a permit when such suspension is necessary, in the opinion of Metro, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes Pass Through or Interference or causes Metro to violate any condition of its NPDES/CDPS Permit. Service may also be suspended in accordance with Metro's Enforcement Response Plan. [Note: Previously Pretreatment Enforcement Management System.] If necessary, Metro may seek injunctive relief against the violating Connector or Contracting Municipality and any Industrial User contributing significantly to the emergency condition.

Any Industrial User notified of a suspension of the Wastewater treatment service and/or the Wastewater Discharge Permit shall immediately stop or eliminate the discharge. In the event of a failure of the Industrial User to comply voluntarily with the suspension order, Metro Water Recovery shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the Metro System or endangerment to any individuals or the environment. Metro shall reinstate the Wastewater Discharge Permit and/or the Wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the Industrial User describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to Metro within fifteen (15) days of the date of occurrence.

6.28.7. Permit Revocation

Any Industrial User who has violated or is violating any provision of these *Rules and Regulations*, or any orders or permits issued hereunder, is subject to having its permit revoked. Grounds for permit revocation include, but are not limited to:

1. Failure of an Industrial User to factually report the Wastewater constituents and characteristics of its discharge.
2. Failure of the Industrial User to report significant changes in operations, or Wastewater constituents and characteristics.
3. Refusal of reasonable access to the Industrial User's premises for the purpose of inspection or monitoring.
4. Violation of conditions of the permit.

6.28.8. Penalties

Any Industrial User found to have violated any provision of these *Rules and Regulations*, or any written requirements, orders, or permits issued hereunder, shall be subject to a penalty not to exceed, except as noted below, five thousand dollars (\$5,000) for such violation. Penalty amounts shall be determined in accordance with procedures and/or policies developed to support implementation of Metro Water Recovery's Enforcement Response Plan, as may be amended from time to time, up to the maximum amount allowed by this regulation. [Note: Previously in accordance with Pretreatment Enforcement Management System.] Each day on which a violation occurs or continues shall be deemed a separate and distinct violation. In the case of violations

of monthly or other long-term average discharge limitations, penalties may be assessed for each day in the period covered by the violations.

In addition to the penalties provided herein, Metro Water Recovery may recover reasonable attorney's fees, court costs, expert fees, court reporter's fees, and other expenses of litigation against the Industrial User found to have violated these *Rules and Regulations*, or any written requirements, orders, or permits issued hereunder. Such penalties shall be in addition to any actual damages Metro may incur because of such violations. In addition, any Industrial User discharging toxic Pollutants which cause an increase in the cost of managing the influent, effluent, biosolids, or solid wastes of Metro's treatment facility, shall pay for such increased costs.

Where a violation is found to have caused Interference or Pass Through, the maximum penalty of \$5,000 per violation as described above may be increased as necessary to allow Metro Water Recovery to recover any fines or penalties paid by Metro for NPDES/CDPS Permit violations due to the Interference or Pass Through.

6.28.9. Legal Action

If any person discharges Sewage, industrial wastes or other wastes into the Metro System contrary to the provisions of these *Rules and Regulations*, or any orders or permits issued hereunder, or any other Pretreatment Standard or Requirement, Metro Water Recovery's attorney may commence an action for appropriate legal and/or equitable relief in Metro Court. When Metro finds an Industrial User has violated, or continues to violate, any provision of these *Rules and Regulations*, or any written requirements, orders or permits issued hereunder, or any other Pretreatment Standard or Requirement, Metro may petition the Court for the issuance of a temporary restraining order or permanent injunction, as appropriate, which restrains or compels the specific performance of the permit, order, or other requirement imposed by these *Rules and Regulations* on the activities of the Industrial User. Metro may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the Industrial 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 an Industrial User.

6.28.10. Federal Penalties for Falsification of Reports

Sections 309(c)(4) and 309(c)(6) of the Clean Water Act, as amended, published at Title 33 of the *United States Code*, Section 1251, et seq. [33 U.S.C. §1251]), at 33 U.S.C. §1319, and 18 U.S.C. §1001, provide that any person who knowingly makes any false statement, representation, or certification in any record or other document submitted or required to be maintained under this Section 6, including monitoring reports or reports of compliance or noncompliance, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required to be maintained under this Section 6 shall, upon conviction, be punished by a monetary fine, or by imprisonment for not more than two years, or by both, for the first such conviction. Subsequent convictions under this Section shall be punished by monetary fines, or by imprisonment of not more than four (4) years, or by both. Maximum civil monetary fine amounts that may be assessed, upon conviction, for falsification of reports are prescribed in the most current Civil Monetary Penalty Adjustment Rule, 40 C.F.R., Part 19 as amended.

6.28.11. Appeal and Hearing Procedure

Any Industrial User who is aggrieved by any enforcement action taken by Metro Water Recovery pursuant to this Section 6.28 may within thirty (30) days of the receipt of notice of the determination, order, or finding being appealed request in writing via mail or electronic mail, receipt confirmed, that the Chief Executive Officer review the enforcement action. The request (Letter of Appeal) shall state all points of disagreement and objection to the determination, order, or finding. If the Chief Executive Officer reaffirms the action, the Industrial User may appeal this decision following the provisions of Section 10, of these *Rules and Regulations*. It shall not be a defense for a permittee in an enforcement action to claim it would have been necessary to halt or reduce the regulated activity to maintain compliance with the conditions of these *Rules and Regulations*, a permit or directive, order issued hereunder, or any other Pretreatment Standard or Requirement.

6.28.12. Annual Publication for Significant Noncompliance

Metro Water Recovery will publish an annual notice in a newspaper of general circulation that provides meaningful public notice within Metro's service area, a list of Industrial Users found to be in significant noncompliance during the previous year with Pretreatment Standards or Pretreatment Requirements. For the purposes of Section 6 of *Rules and Regulations*, "significant noncompliance" is as defined in 40 CFR §403.8(f)(2)(viii).

6.29. CHARGES AND FEES

Charges and fees to be assessed against Industrial Users will be determined by the Chief Executive Officer and, where instituted, will be set at a level to allow Metro Water Recovery to recover its costs for administering elements of the Pretreatment Program. Program elements for which charges and fees may be assessed include, but are not limited to, permit applications; monitoring, inspection, and surveillance activities; and general program administration.

6.30. AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

6.30.1. Upset

1. For the purposes of this Section, Upset means an exceptional incident in which there is unintentional and temporary noncompliance with Categorical Pretreatment Standards because of factors beyond the reasonable control of the Industrial User. An Upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
2. An Upset shall constitute an affirmative defense to an action brought for noncompliance with Categorical Pretreatment Standards if the requirements of paragraph (3) below are met.
3. An Industrial User who wishes to establish the affirmative defense of Upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - A. An Upset occurred and the Industrial User can identify the cause(s) of the Upset;
 - B. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

- C. The Industrial User has submitted the following information to Metro Water Recovery 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. A description of the discharge and cause of noncompliance;
 - b. The period of noncompliance, including exact dates and times or, if not corrected at the time of the submission, the anticipated time the noncompliance is expected to continue; and
 - c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- 4. In any enforcement proceeding, the Industrial User seeking to establish the occurrence of an Upset shall have the burden of proof.
- 5. Industrial Users shall have the opportunity for a judicial determination on any claim of Upset only in an enforcement action brought for noncompliance with Pretreatment Standards or Requirements.
- 6. An Industrial User shall control production of all discharges to the extent necessary to maintain compliance with National Pretreatment Standards and Requirements, including Categorical Pretreatment Standards, upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

6.30.2. Bypass

- 1. For the purposes of this Section,
 - A. Bypass means the intentional diversion of wastestreams from any portion of an Industrial User's treatment facility.
 - B. Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a Bypass. Severe property damage does not mean economic loss caused by delays in production.
- 2. An Industrial User may allow any Bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These Bypasses are not subject to the provision of paragraphs (3) and (4) of this Section.
- 3. Bypass Notifications
 - A. If an Industrial User knows in advance of the need for a Bypass, it shall submit prior notice to Metro Water Recovery at least ten (10) days before the date of the Bypass, if possible.
 - B. An Industrial User shall submit oral notice to Metro Water Recovery of an unanticipated Bypass that results in an exceedance of applicable Pretreatment Standards or

Requirements within twenty-four (24) hours from the time it becomes aware of the Bypass. A written submission shall also be provided within five (5) days of the time the Industrial User becomes aware of the Bypass. The written submission shall contain a description of the Bypass and its cause; the duration of the Bypass, including exact dates and times, or, if the Bypass has not been corrected at the time of the submission, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the Bypass. Metro may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

4. Prohibition of Bypass

- A. Bypass is prohibited, and Metro Water Recovery may take an 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 (3) of this Section.
- B. Metro Water Recovery may approve an anticipated bypass, after considering its adverse effects, if Metro determines it will meet the three conditions listed in paragraph (4)(A) of this Section.

Revisions	03/94	04/96	04/99	01/01	03/01	04/03	06/06
	01/08	09/09	09/10	10/13	06/14	07/18	xx/21