

3-24-20

ORDINANCE NO. 31480

An ordinance amending Chapter 49, of the Dallas City Code by amending Sections 49-1, 49-41, 49-43, 49-46, 49-48, 49-51, 49-52, and 49-55.3; defining terms; providing and revising regulations to ensure consistency with federal law; providing a penalty not to exceed \$2,000; providing a saving clause; providing a severability clause; and providing an effective date.

BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF DALLAS:

SECTION 1. That Paragraph (8) of Section 49-1, "Definitions," of Article I, "General," of Chapter 49, "Water and Wastewater," of the Dallas City Code, is amended to read as follows:

"(8) BEST MANAGEMENT PRACTICES (BMPs) means a schedule of activities, maintenance procedures, and other management practices that prevent the unlawful discharge of pollutants, listed in Section ~~49-43~~[49-36] (a) and (b) [~~and (c)~~], into the wastewater system. BMPs include treatment requirements, operating procedures, and practices that control plant site runoff, spillage or leaks of chemicals, sludge or waste disposal, and drainage from raw material storage."

SECTION 2. That Paragraph (40) of Section 49-1, "Definitions," of Article I, "General," of Chapter 49, "Water and Wastewater," of the Dallas City Code is amended to read as follows:

"(40) FOUR DAY AVERAGE LIMIT means the average value from four consecutive sampling days [~~FLOATABLE GREASE means grease, oil, or fat in a physical state such that it will separate or stratify by gravity in wastewater.~~]"

SECTION 3. That Paragraph (54) of Section 49-1, "Definitions," of Article I, "General," of Chapter 49, "Water and Wastewater," of the Dallas City Code is amended to read as follows:

"(54) INTERFERENCE means a discharge that, alone or in conjunction with a discharge or discharges from other sources, both:

(A) inhibits or disrupts the publicly-owned treatment works (POTW) [~~wastewater system~~], its treatment processes or operations, or its sludge processes, use, or disposal; and

(B) causes of a violation of any requirement of the POTW's National Pollutant Discharge Elimination System (NPDES) permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations):

- (i) Section 405 of the Clean Water Act, as amended;
- (ii) the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act [RCRA], and including state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the SWDA, as amended), as amended;
- (iii) the Clean Air Act, as amended;
- (iv) the Toxic Substances Control Act, as amended; and
- (v) the Marine Protection, Research and Sanctuaries Act, as amended."

SECTION 4. That Paragraph (72) of Section 49-1, "Definitions," of Article I, "General," of Chapter 49, "Water and Wastewater," of the Dallas City Code is amended to read as follows:

"(72) PASS THROUGH means a [the] discharge which exits the POTW into waters of the United States in quantities or concentrations which, [of pollutants through the city's wastewater system, treatment processes, or operations, or through a publicly owned treatment works of a governmental entity treating wastewater under a contract with the city, into navigable waters in quantities or concentrations that,] alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's National Pollutant Discharge Elimination System (NPDES) permit [federal or state effluent discharge permit of the city or of a publicly owned treatment works of a governmental entity treating wastewater under a contract with the city,] (including an increase in the magnitude or duration of a violation)."

SECTION 5. That Paragraph (85) of Section 49-1, "Definitions," of Article I, "General," of Chapter 49, "Water and Wastewater," of the Dallas City Code is amended to read as follows:

"(85) PUBLICLY-OWNED TREATMENT WORKS (POTW) means that term as defined in Title 40, Code of Federal Regulations, Part 403.3(q[ø]), as amended."

SECTION 6. That Paragraph (90) of Section 49-1, "Definitions," of Article I, "General," of Chapter 49, "Water and Wastewater," of the Dallas City Code is amended to read as follows:

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“(90) SIGNIFICANT INDUSTRIAL USER means:

(A) an industrial user that is subject to categorical pretreatment standards under Title 40, Code of Federal Regulations, Part 403.6, as amended, and Title 40, Code of Federal Regulations, Chapter I, Subchapter N, as amended; and

(B) any other industrial user that:

(i[A]) discharges an average of 25,000 gallons per day or more of process wastewater to the POTW [~~wastewater system~~], excluding sanitary, noncontact cooling and boiler blowdown wastewater;

(ii[B]) contributes a process wastestream that makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant [~~of the wastewater system~~]; or

(iii[C]) is designated as a significant industrial user by the control authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW’s [~~wastewater system’s~~] operation or for violating any pretreatment standard or requirement, in accordance with Title 40, Code of Federal Regulations, Part 403.8(f)(6), amended.

(C) An industrial user is not a significant industrial user if the control authority determines, either on its own initiative or in response to a petition received from an industrial user of POTW, that the industrial user is not a significant industrial user in accordance with Title 40, Code of Federal Regulations, Part 403.8(f)(6) as amended, upon a finding that an industrial user meeting the criteria in Subparagraphs (A) or (B) has no reasonable potential for adversely affecting the POTW’s operation or for violating any pretreatment standards or requirements.”

SECTION 7. That Subsection (a), “In General,” of Section 49-41, “Purpose and Policy,” of Article IV, “Water Quality,” of Chapter 49, “Water and Wastewater,” of the Dallas City Code, is amended to read as follows:

“(a) In general. This article sets forth uniform requirements for users of the wastewater system, to enable the city of Dallas to comply with all applicable state and federal laws, including the Federal Water Pollution Control Act, as amended by the Clean Water Act, as amended (33 USC §§1251 et seq.), and the general pretreatment regulations (Title 40, Code of Federal Regulations, Part 403). The objectives of this article are:

(1) to prevent the introduction of pollutants into the wastewater system that will interfere with its operation, including interference with its use or disposal of municipal sludge;

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(2) to prevent the introduction of pollutants into the wastewater system that will pass, inadequately treated, through the wastewater system and into receiving waters, or that will otherwise be incompatible with the wastewater system;

(3) to protect the health and safety of both the wastewater system's personnel and the general public;

(4) to promote the reuse and recycling of industrial wastewater and sludge within the wastewater system;

(5) to provide for wastewater contracts between the city and other municipalities or extra-jurisdictional users who discharge to the wastewater system; and

(6) to enable the city to comply with its Texas Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the wastewater system is subject.”

SECTION 8. That Subsection (a), “General Prohibitions,” of Section 49-43, “Certain Wastes Prohibited in the Wastewater System,” of Article IV “Water Quality,” of Chapter 49 “Water and Wastewater,” of the Dallas City Code is amended to read as follows:

“(a) General prohibitions. A person shall not discharge into the wastewater system, or cause or permit to be discharged into the wastewater system, any pollutant that causes a pass through or interference. These general prohibitions apply to all users of the POTW, whether or not they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.”

SECTION 9. That Subsection (b), “Specific Prohibitions,” of Section 49-43, “Certain Wastes Prohibited in the Wastewater System,” of Article IV “Water Quality,” of Chapter 49 “Water and Wastewater,” of the Dallas City Code is amended to read as follows:

“(b) Specific prohibitions. A person shall not discharge, or cause or permit to be discharged, any of the following pollutants into the wastewater system:

(1) Inflows or infiltration, as illustrated by, but not limited to, storm water, ground water, roof run-off, subsurface drainage, a downspout, a yard drain, a yard fountain or pond, or lawn spray.

(2) Wastewater or industrial waste generated or produced outside the city, unless approval in writing from the director has been given to the person discharging the waste.

(3) A liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees Centigrade).

(4) Gasoline, kerosene, naphtha, fuel oil, vapors, or any other pollutant that creates a fire or explosion hazard in the wastewater system, including but not limited to industrial waste with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Centigrade).

(5) A pollutant that will cause corrosive structural damage to the wastewater system, unless the portion of the wastewater system directly or indirectly receiving the discharge is specifically designed to accommodate the corrosive discharge.

(6) Petroleum [Used motor] oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

(7) A solid or viscous pollutant in amounts that will cause obstruction to the flow in the wastewater system, resulting in interference.

(8) Heat in quantities that will cause the temperature to exceed 104 degrees Fahrenheit (40 degrees Celsius) at any point in the wastewater system or will otherwise inhibit biological activity in the wastewater system, unless the director expressly approves alternate temperature limits in the discharger's industrial waste discharge permit.

(9) Solid or liquid substances in quantities capable of causing obstruction to the flow in wastewater mains or other interference with the proper operation of the wastewater system as illustrated by, but not limited to, ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, whole blood, paunch manure, hair and fleshings, entrails, lime slurry, lime residues, slops, chemical residues, and paint residues or bulk solids, except when such items as lime slurry or lime residues are used in the treatment of combined storm and wastewater during storm runoff.

(10) A pollutant capable of forming a toxic gas, vapor, or fume in a quantity that may cause, either by itself or by interaction with other waste, hazard to life or acute employee health or safety problems.

(11) Garbage that is not properly shredded as defined in Section 49-1(81).

(12) Except where the director has determined that different limits under an industrial waste discharge permit are appropriate, wastewater exceeding 200 mg/L of oils, fats, and grease (measured as total oil and grease).

(13) A substance having a pH value lower than 5.5 or higher than 10.5.

(14) ~~[Radioactive materials in a manner that will permit a transient concentration higher than 100 microcuries per liter.~~

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(15) Unusual taste or odor producing substances, unless pretreated to a concentration acceptable to the director so that the material does not:

- (A) cause damage to collection facilities;
- (B) impair the city's treatment processes;
- (C) incur treatment costs exceeding those of normal wastewater;
- (D) render the water unfit for stream disposal or industrial use; or
- (E) create a public nuisance.

(15[16]) Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate or pollutant concentration which will cause interference with the POTW [A discharge of water, normal domestic wastewater, or industrial waste that in quantity of flow exceeds, for a duration of longer than 15 minutes, more than four times the average 24-hour flow during normal operation].

(16[17]) Without the approval of the director, a substance or pollutant other than industrial waste, normal domestic wastewater, septic tank waste, or chemical toilet waste that is of a toxic or hazardous nature, regardless of whether or not it is amenable to treatment, including but not limited to bulk or packaged chemical products.

(17[18]) Except at discharge points authorized by this chapter, or by regulations promulgated by the director that are not in conflict with this chapter or other laws, wastewater or a pollutant that is trucked or hauled.

(18[19]) Any other pollutant, substance, or material not amenable to treatment, or of a concentration or quantity sufficient to harm the wastewater system, as determined by the director.”

SECTION 10. That Subsection (c), “Local Limits,” of Section 49-43, “Certain Wastes Prohibited in the Wastewater System,” of Article IV, “Water Quality,” of Chapter 49, “Water and Wastewater,” of the Dallas City Code is amended to read as follows:

“(c) Local limits. The following effluent [local pollutant] limits, including best management practices, general pretreatment standards in Title 40, Code of Federal Regulations, Part 403, categorical pretreatment standards, and state and local law, are established to protect against pass through and interference. The limits apply at the point where the wastewater is discharged to the wastewater system. The director may impose mass limitations in addition to, or in place of, the concentration-based limitations. All concentrations for metallic substances are for total metal unless indicated otherwise. No person may discharge wastewater containing pollutants

in the form of compounds or elements with total concentrations exceeding the following uniform concentration and contributory flow limits:

(1) Uniform concentration limits for all wastewater except for wastewater discharged to the Trinity River Authority Central Regional Wastewater Treatment Plant.

<u>Pollutant</u>	<u>Central Wastewater Treatment Plant</u>	<u>Southside Wastewater Treatment Plant</u>
	<u>Maximum Allowable Discharge Limit, mg/L</u>	<u>Maximum Allowable Discharge Limit, mg/L</u>
Arsenic	0.07	0.50
Cadmium	0.34	1.00
Chromium	3.62	5.00
Copper	4.00	4.00
Cyanide	0.71	1.60
Lead	1.60	1.60
Mercury	0.0006	0.01
Nickel	See Paragraph (2) of this subsection [N/A]	5.58
Selenium	0.20	0.20
Silver	0.36	3.04
Sulfide	10.00	10.00
Zinc	3.06	5.00

(2) Contributory flow limits at the Central Wastewater Treatment Plant.

(A) For contributing industrial users, the contributory flow pollutant limitation for nickel is 3.14 mg/L.

(B) For non-contributing industrial users, the contributory flow pollutant limitation for nickel is 0.0028 mg/L.

(C) For purposes of this paragraph, a contributing industrial user is an industrial user found by the city to discharge nickel above the industrial contributory screening limits at the Central Wastewater Treatment Plant.

(3) Uniform concentration limits for wastewater discharged to the Trinity River Authority Central Regional Wastewater Treatment Plant.

<u>Pollutant</u>	<u>TRA Central Wastewater Treatment Plant</u>
	<u>Maximum Allowable Discharge Limit, mg/L</u>

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Arsenic	0.20
Cadmium	0.10
Chromium	2.90
Copper	2.30
Cyanide	0.50
Lead	0.90
Mercury	0.0004
Molybdenum	0.80
Nickel	4.60
Selenium	0.10
Silver	0.80
TTO	2.13
Sulfide	NA
Zinc	8.00
Oil and grease	200.00
pH	5.5 to 11.0 Standard Units

In this paragraph, TOTAL TOXIC ORGANICS (TTO) means the sum of the masses or concentration of the toxic organic compounds listed in 40 CFR Part 122, Appendix D, Table II, excluding pesticides, found in the discharges of industrial users at a concentration greater than 0.01 mg/L.

~~[(3) Contributory flow limits at the Central Wastewater Treatment Plant.~~

~~(A) For contributing industrial users, the contributory flow pollutant limitation for nickel is 3.14 mg/L.~~

~~(B) For non-contributing industrial users, the contributory flow pollutant limitation for nickel is 0.0028 mg/L.~~

~~(C) For purposes of this paragraph, a contributing industrial user is an industrial user found by the city to discharge nickel above the industrial contributory screening limits at the Central Wastewater Treatment Plant.]”~~

SECTION 11. That Section 49-46, “Permits Required for Discharge of Industrial Waste; Applications; Exemptions,” of Article IV, “Water Quality,” of Chapter 49, “Water and Wastewater,” of the Dallas City Code is amended to read as follows:

**“SEC. 49-46. PERMITS REQUIRED FOR DISCHARGE OF INDUSTRIAL WASTE; APPLICATIONS; EXEMPTIONS.**



(a) Permit required. A significant industrial user commits an offense if he discharges, or allows the discharge of, industrial waste into the wastewater system without obtaining and maintaining a valid significant industrial user permit from the director, except that a significant industrial user that has filed a timely application pursuant to Subsection (e) may continue to discharge for the time period specified in that application.

(b) Application procedures.

(1) Application for a permit required under Subsection (a) must be made to the director upon a form provided for the purpose.

(2) The application must contain:

(A) a description of the activities, structures, equipment, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility that are, or could be, discharged into the wastewater system;

(B) the site plans, floor plans, and mechanical and plumbing plans of the facility with sufficient detail to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

(C) the number and type of employees and proposed or actual hours of operation of the facility;

(D) a list of each product produced by type, the amount of the product produced, the process or processes used to produce the product, and the rate of production;

(E) the type and amount of raw materials processed (average and maximum per day);

(F) the time and duration of discharges;

(G) a certification statement complying with the requirements of Section 49-51(m) and signed by a designated authorized representative of the applicant;

(H) self-monitoring, sampling, reporting, notification, and record-keeping requirements, including an identification of the pollutants to be monitored, sampling location and frequency, and sample type, based on the applicable general pretreatment standards in Title 40, Code of Federal Regulations, Chapter 403, as amended, categorical pretreatment standards, local limits, and the regulations of state law and this chapter;

(I) best management practices if required by the pretreatment standards; and

(J) any other information deemed necessary by the director to evaluate the wastewater discharge permit application.

(3) The director may establish further regulations and procedures not in conflict with this chapter or other laws regarding the granting and enforcement of permits, including but not limited to administrative orders issued for the purpose of bringing a violator back into compliance with a permit.

(c) Terms and conditions of permit, in general. The director shall prescribe such terms and conditions of the permit as are required and authorized by the EPA and TCEQ, as necessary to ensure full compliance with this article and all national pretreatment standards and regulations. In addition, the permit must incorporate all applicable national pretreatment standards and all other pretreatment regulations promulgated by the EPA and TCEQ applicable to significant industrial users. These terms and conditions include but are not limited to:

(1) effluent limits, including best management practices, based on applicable general pretreatment standards in Section 49-48(b), categorical pretreatment standards, local limits, and state and local law;

(2) self-monitoring, sampling, reporting, notification, and recordkeeping 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 Title 40, Code of Federal Regulations, Section 403.12(e)(2), as amended, or a specific waived pollutant in the case of an individual control mechanism), sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards in Title 40, Code of Federal Regulations, Chapter 403, as amended, categorical pretreatment standards, local limits, and state and local law; and

(3) a statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines; and requirements to control slug discharges, if determined by the POTW to be necessary.

A person commits an offense if the person violates or allows a violation of any term or condition of a permit issued under this section. The director may enforce the terms and conditions of the permit as authorized under this chapter in accordance with Section 49-42(b).

(d) Limitation on permit term. The term of a permit may never be longer than five years.

(e) Permit renewal. An industrial user wishing to renew a permit must file a complete application with the director at least 30 [~~60~~] days prior to the expiration of the industrial user's existing permit. Failure to submit a complete application with the director at least 30 [~~60~~] days prior to expiration of the existing permit may subject the industrial user to enforcement actions.

(f) Issuance of permits. Any user required to obtain an individual wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain the permit prior to the beginning or recommencing of any discharge. An application for this individual wastewater discharge permit, in accordance with Subsection (b), must be filed at least

90 days prior to the date upon which any discharge will begin or recommence. The director shall issue a permit under Subsection (a) if:

(1) the director determines that pretreatment facilities are adequate for efficient treatment of discharged waste and comply with the waste concentration level requirement of Section 49-43 or with national pretreatment standards, whichever is applicable;

(2) the applicant has submitted:

(A) an expected compliance date;

(B) an installation schedule of approved pretreatment devices; and

(C) a self-monitoring, sampling, reporting, notification, and recordkeeping plan, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards in Title 40, Code of Federal Regulations, Chapter 403, as amended, categorical pretreatment standards, local limits, and state and local law [~~program prepared in accordance with all applicable federal pretreatment regulations promulgated by the EPA~~]; or

(3) the applicant is not discharging wastewater in violation of Section 49-43.

(g) Nontransferability. A permit granted under this section is not transferable or assignable.

(h) Changes in authorized representative designation. If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to the director prior to, or together with, any reports to be signed by an authorized representative.

(i) Defense to enforcement actions. It is a defense to prosecution or to civil court action brought under this article for a violation of pretreatment standards that the person held a valid permit issued under this section and the person discharged industrial waste in violation of national categorical pretreatment standards as the result of any of the following:

(1) Any act of God, war, strike, riot, or other catastrophe.

(A) The act of God defense constitutes a statutory affirmative defense contained in Section 7.251 of the Texas Water Code in an action brought in municipal or state court. If a person can establish that an event that would otherwise be a violation of this article, or a permit issued pursuant to this article, was caused solely by an act of God, war, strike, riot, or other catastrophe, the event is not a violation of this article or the permit.

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(B) An industrial user who wishes to establish the act of God affirmative defense must:

(i) demonstrate through relevant evidence that the sole cause of the violation was an act of God, war, strike, riot, or other catastrophe; and

(ii) submit the following information to the city within 24 hours of becoming aware of the violation (if this information is provided orally, a written submission must be provided to the director within five days):

(aa) A description of the event, and the nature and cause of the event.

(bb) The time period of the violation, including exact dates and times or, if still continuing, the anticipated time the violation is expected to continue.

(cc) The steps being taken or planned to reduce, eliminate and prevent recurrence of the violation.

(C) The industrial user seeking to establish the act of God affirmative defense has the burden of proving by a preponderance of the evidence that the violation of this article, or a permit issued pursuant to this article, was caused solely by an act of God, war, strike, riot or other catastrophe.

(2) A bypass authorized by the director in accordance with Title 40, Code of Federal Regulations, Section 403.17(c), as amended.

(3) An upset authorized by the director in accordance with Title 40, Code of Federal Regulations, Section 403.16(c), as amended.”

SECTION 12. That Section 49-48, “Pretreatment and Disposal,” of Article IV, “Water Quality,” of Chapter 49, “Water and Wastewater,” of the Dallas City Code is amended to read as follows:

**“SEC. 49-48.            **PRETREATMENT AND DISPOSAL.****

(a) Operation and maintenance of pretreatment facilities. When pretreatment of industrial waste is required by the director as a condition for acceptance of the waste into the wastewater system, the owner of the premises from which the waste is discharged must operate and maintain treatment facilities in a manner capable of complying with applicable discharge standards.

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(b) Best management practices. The director may develop BMPs and require a person discharging to the wastewater system to adopt and implement such BMPs [best management], source reduction, and pollution prevention practices if necessary to protect the wastewater system.

(c) Septage and chemical toilet waste.

(1) No transported septage or chemical toilet waste may be discharged into the wastewater system except at such locations and at such times as are established by the director.

(2) The director may collect samples of each transported load to ensure compliance with applicable standards. The director may also require the transporter to provide a waste analysis of any load prior to discharge.

(3) Article X of Chapter 19 of this code provides additional regulations for the production, transportation, and disposal of liquid waste.

(d) Disposal of trucked industrial solid waste.

(1) In order to ensure that trucked industrial solid waste is not being discharged into the wastewater system, the director may require an industrial user who generates such waste to report the type and amount of the waste, and the location and manner of its disposal as specified in Section 49-51(i).

(2) An industrial user commits an offense if the user fails to provide the reports requested by the director pursuant to Subsection (d)(1) of this section.

(e) Dilution. No owner, operator, or permittee of premises shall ever increase the use of process water, or in any way attempt to dilute a discharge, unless expressly authorized by an applicable pretreatment standard or requirement. The director may impose mass limitations on industrial users who are using dilution to meet applicable pretreatment standards or requirements.

~~(f) Upset. For the purposes of this section, upset occurs when there is an unintentional and temporary noncompliance with categorical pretreatment standards due to factors beyond the reasonable control of the industrial user. An example of this is the inability to use the treatment equipment due to power failure. When upset occurs, an industrial user must first control production of all discharges to the extent necessary to limit noncompliance, and regain compliance, with categorical pretreatment standards. Secondly, the industrial user must file a report of the upset pursuant to the requirements of this section.~~

~~(g)~~ Bypass.

(1) Bypasses that do not violate pretreatment standards. An industrial user may allow any bypass to occur that does not cause pretreatment standards or requirements to be violated, but only if it is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provisions of Subsection ~~(f)~~(g)(2) of this section.

(2) Bypasses that violate pretreatment standards.

(A) If the need for a bypass is known in advance, the industrial user shall provide notice to the director 10 days prior to the bypass. In the event of an unanticipated bypass, oral notice must be provided to the director within 24 hours after the industrial user becomes aware of the bypass. In addition to the oral notice, written notice must be provided to the director within five days of the time the industrial user becomes aware of [~~after~~] the bypass, unless waived by the director. The written notice must contain the following:

- (i) A description of the bypass and its cause.
- (ii) The duration of the bypass, including exact dates and times.
- (iii) If the bypass has not been corrected, the anticipated time it is expected to continue.
- (iv) Steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass.

(B) The director may take an enforcement action against an industrial user for a bypass that violates pretreatment standards, unless all of the following apply:

- (i) The bypass was necessary in order to prevent loss of life, personal injury, or severe property damage.
- (ii) There was no feasible alternative to the bypass. The director shall find that a feasible alternative existed if, in the exercise of reasonable engineering judgment, adequate back-up equipment should have been installed to prevent the bypass.
- (iii) The industrial user submitted notices as required under Paragraph (2)(A) of this subsection.

(C) The director may approve an anticipated bypass, after considering its adverse effects, if the director finds that all three conditions listed in Paragraph (2)(B) of this subsection have been satisfied.”

SECTION 13. That Subsection (c), “Reports On Compliance with Categorical Pretreatment Standard Deadline,” of Section 49-51, “Reporting Requirements,” of Article IV, “Water Quality,” of Chapter 49 “Water and Wastewater,” of the Dallas City Code is amended to read as follows:

“(c) Reports on compliance with categorical pretreatment standard deadline.

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(1) All industrial users subject to categorical pretreatment standards [~~with pollutant data results~~] shall submit to the director a report containing the information described in Subsections (a)(2)(E) through (H).

(2) If an industrial user is subject to equivalent mass or concentration limits established in accordance with the procedures in Title 40, Code of Federal Regulations, Section 403.6(c), as amended, the report must also contain a reasonable measure of the industrial user's long-term production rate.

(3) For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit, the report must include the industrial user's actual production during the appropriate sampling period.

(4) All compliance reports must be signed and certified in accordance with Subsection (m) and submitted within 90 days following the date of final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW [~~after being permitted by the city~~].”

SECTION 14. That Subsection (e), “Notification of Changed Conditions,” of Section 49-51, “Reporting Requirements,” of Article IV, “Water Quality,” of Chapter 49, “Water and Wastewater,” of the Dallas City Code is amended by adding a new Paragraph (5) to read as follows:

“(5) Significant industrial users are required to notify the director immediately of any changes at its facility affecting the potential for a slug discharge.”

SECTION 15. That Subsection (f), “Reports Of Accidental (Slug) Discharges,” of Section 49-51, “Reporting Requirements,” of Article IV, “Water Quality,” of Chapter 49, “Water and Wastewater,” of the Dallas City Code is amended by adding a new Paragraph (6) to read as follows:

“(6) The results of the activities described in Paragraphs (1) through (5) of this subsection shall be made available to the approval authority upon request.”

SECTION 16. That Subsection (h), “Submission of Self-Monitoring Reports and Violations Based on Self-Monitoring,” of Section 49-51, “Reporting Requirements,” of Article IV, “Water Quality,” of Chapter 49, “Water and Wastewater,” of the Dallas City Code is amended to read as follows:

(h) Submission of self-monitoring reports and violations based on self-monitoring. ~~If sampling performed by an industrial user indicates a violation, the user shall notify the control authority within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the control authority within 30 days after becoming aware of the violation. Where the control authority has performed the sampling and analysis in lieu of the industrial user, the control authority must perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat analysis. Resampling is not required if~~ [The industrial user shall submit all notices and self-monitoring reports necessary to assess and assure compliance with pretreatment standards and requirements, including but not limited to, the reports required in Title 40, Code of Federal Regulations, Section 403.12, as amended. If an industrial user's monitoring and wastewater analysis indicates that a violation has occurred, the industrial user shall do all of the following]:

(1) the control authority performs sampling at the industrial user at a frequency of at least once per month; or [Notify the director within 24 hours after becoming aware of the violation.]

(2) the control authority performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the control authority receives the results of this sampling [Repeat the sampling and submit to the director a written report of the results of the second analysis within 30 days after becoming aware of the violation. If the city has performed the sampling and analysis in lieu of the industrial user, the city must perform the repeat sampling and analysis unless it notifies the industrial user of the violation and requires the industrial user to perform the repeat analysis].”

SECTION 17. That Subsection (k), “Sample Collection,” of Section 49-51, “Reporting Requirements,” of Article IV, “Water Quality,” of Chapter 49, “Water and Wastewater,” of the Dallas City Code is amended by adding a new Paragraph (3) to read as follows:

“(3) The industrial user shall comply with self-monitoring, sampling, reporting, notification, and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards in Title 40, Code of Federal Regulations, Chapter 403, as amended, categorical pretreatment standards, local limits, and state and local law.”

SECTION 18. That Subsection (n), “Best Management Practice Documentation,” of Section 49-51, “Reporting Requirements,” of Article IV, “Water Quality,” of Chapter 49, “Water and Wastewater,” of the Dallas City Code is amended to read as follows:

“(n) Best management practice documentation. If the pretreatment standards require compliance with best management practices or a pollution prevention alternative, the industrial user shall submit documentation to the director demonstrating compliance with these



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requirements. The industrial user is required to submit the compliance documentation in the reports required by Subsections (a), (b), (c), and (d).

SECTION 19. That Subsection (a) of Section 49-52, “Recordkeeping,” of Article IV, “Water Quality,” of Chapter 49, “Water and Wastewater,” of the Dallas City Code is amended to read as follows:

“(a) An industrial user subject to the reporting requirements of this article shall retain (and make available for inspection and copying) all information obtained pursuant to Section 49-51(k)(3) [~~monitoring activities required by this article and any additional information obtained through monitoring activities undertaken by the industrial user~~], independent of such requirements. Records documenting best management practices are specifically included in this recordkeeping requirement and must be maintained in accordance with this section.”

SECTION 20. That Subsection (b), “Sample Collection and Analysis,” of Section 49-55.3, “Inspection and Sampling,” of Article IV, “Water Quality,” of the Dallas City Code is amended to read as follows:

“(b) Sample collection and analysis. Samples must be collected and analyzed in accordance with Sections 49-51(j) and (k). Self-monitoring, sampling, reporting, notification and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type, must be based on the applicable general pretreatment standards in Title 40, Code of Federal Regulations, Chapter 403, as amended, categorical pretreatment standards, local limits, and state and local law. A sample may be taken manually or by use of mechanical equipment.”

SECTION 21. That Subsection (c), “Submission of Monitoring Data,” of Section 49-55.3, “Inspection and Sampling,” of Article IV, “Water Quality,” of the Dallas City Code is amended to read as follows:

“(c) Submission of monitoring data. All significant industrial users shall submit all monitoring data of regulated pollutants that has been collected at the appropriate sampling location, in accordance with Section 49-51. Self-monitoring, sampling, reporting, notification, and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type, must be based on the applicable general pretreatment standards in Title 40, Code of Federal Regulations, Chapter 403, as amended, categorical pretreatment standards, local limits, and state and local law.”

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SECTION 22. That Subsection (d), “Accidental Discharge/Slug Control Plans,” of Section 49-55.3, “Inspection and Sampling,” of Article IV, “Water Quality,” of the Dallas City Code is amended to read as follows:

“(d) Accidental discharge/slug control plans. Within one year after an industrial user is designated as a significant industrial user, the director shall evaluate and determine whether the significant industrial user needs to develop, submit, and implement an accidental discharge/slug control plan. The director may also require any industrial user to develop, submit, and implement such a plan. Alternatively, the director may develop the plan for any industrial user. An accidental discharge/slug control plan must address, at a minimum, the following:

(1) A description of discharge practices, including non-routine batch discharges.

(2) A description of stored chemicals.

(3) Procedures for immediately notifying the director of any accidental or slug discharge, as required by Section 49-51(i).

(4) Procedures to prevent adverse impact from any accidental or slug discharge. The procedures may include, but are not limited to, the inspection and maintenance of storage areas, the handling and transfer of materials, the loading and unloading operations, the control of plant site runoff, worker training, the building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and measures and equipment needed in the event of emergency response.

The results of the activities described in Paragraphs (1) through (4) of this subsection must be available to the approval authority upon request.”

SECTION 23. That Paragraph (2) of Subsection (f), “Waiver of Pollutant Sampling,” of Section 49-55.3, “Inspection and Sampling,” of Article IV, “Water Quality,” of the Dallas City Code is amended to read as follows:

“(2) The authorization is subject to the following conditions:

(A) The pollutant is determined to be present solely due to sanitary wastewater discharged from the facility, provided that the sanitary wastewater:

(i) is not regulated by an applicable categorical standard; and

(ii) includes no process wastewater.

(B) The waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than five years. The industrial user must submit a new request for a waiver when a subsequent individual wastewater discharge permit is granted.

(C) The industrial user must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility. The process wastewater sample must be representative of wastewater from all processes.

(D) The request for a waiver must be signed in accordance with Section 49-1(5) and include the following certification statement: [~~in Section 49-51(m)~~]

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

(E) Non-detectable sample results may be used as a demonstration that a pollutant is not present if the EPA-approved method from Title 40, Code of Federal Regulations, Part 136, as amended, with the lowest minimum detection level for that pollutant was used in the analysis.

(F) Any waiver by the director must be included as a condition in the industrial user's permit, including the requirement of Section 49-51(k)(3). The reasons supporting the waiver and any information submitted by the industrial user in its request for the waiver must be maintained by the director for a period of three years after the expiration of the waiver.

(G) The industrial user must certify that there has been no increase of the pollutant in its wastestream due to its activities. The certification must appear on all future reports, along with the statement in Section 49-51(m).

(H) In the event that [~~H~~] a waived pollutant is found to be present or is expected to be present based on [~~because of~~] changes occurring in the industrial user's operations, the industrial user must immediately:

(i) comply with the sampling requirements of Section 49-51(d) [~~49-55.3(a)~~] or other more frequent sampling requirements imposed by the director; and

(ii) notify the director."

SECTION 24. That a person violating a provision of this ordinance, upon conviction, is punishable by a fine not to exceed \$2,000.

SECTION 25. That Chapter 49 of the Dallas City Code shall remain in full force and effect, save and except as amended by this ordinance.

SECTION 26. That any act done or right vested or accrued, or any proceeding, suit, or prosecution had or commenced in any action before the amendment or repeal of any ordinance, or part thereof, shall not be affected or impaired by amendment or repeal of any ordinance, or part thereof, and shall be treated as still remaining in full force and effect for all intents and purposes as if the amended or repealed ordinance, or part thereof, had remained in force.

SECTION 27. That the terms and provisions of this ordinance are severable and are governed by Section 1-4 of Chapter 1 of the Dallas City Code, as amended.

SECTION 28. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the provisions of the Charter of the City of Dallas, and it is accordingly so ordained.

APPROVED AS TO FORM:

CHRISTOPHER J. CASO, Interim City Attorney

By Casey Byness  
Assistant City Attorney

Passed MAR 25 2020