

RULES AND REGULATIONS NO. 9

RULES AND REGULATIONS
GOVERNING THE DISCHARGE OF WASTEWATER
INTO EL PASO'S WASTEWATER SYSTEM

BY THE AUTHORITY GRANTED TO THE PUBLIC SERVICE BOARD BY VIRTUE OF ARTICLES 1111-1118, REVISED CIVIL STATUTES OF TEXAS, THE TEXAS WATER CODE, EL PASO MUNICIPAL CODE §15.12.010, AND ORDINANCE 752, PASSED AND APPROVED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS, ON MAY 22, 1952, AS AMENDED; NOW, THEREFORE, BE IT RESOLVED BY THE PUBLIC SERVICE BOARD OF THE CITY OF EL PASO THAT THE FOLLOWING RULES FOR GOVERNING THE DISCHARGE OF WASTEWATER INTO EL PASO'S WASTEWATER SYSTEM ARE HEREBY ESTABLISHED AND SHALL SUPERSEDE THE RULES AND REGULATIONS PREVIOUSLY ADOPTED FOR DISCHARGE OF WASTEWATER; KNOWN AS RULES AND REGULATIONS NO. 9.

THAT, PUBLIC SERVICE BOARD RULES AND REGULATIONS NO. 9, GOVERNING THE DISCHARGE OF WASTEWATER INTO EL PASO'S WASTEWATER SYSTEM, ARE HEREBY AMENDED BY ADOPTING NEW RULES AND REGULATIONS NO. 9, WHICH SUPERSEDE AND REPLACE THE EXISTING RULES AND REGULATIONS NO. 9, AND WHICH SHALL READ AS FOLLOWS:

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SECTION II GENERAL PROVISIONS

A. PURPOSE AND POLICY

These Rules and Regulations of the Public Service Board (PSB), together with applicable provisions of PSB Rules and Regulations No. 1, No. 5, and No. 6, set forth the uniform requirements for the discharge by any person of wastewater into El Paso's wastewater system. The purposes of this Rules and Regulations No. 9 are as follows:

1. To protect the health and safety of PSB employees and of the citizens of El Paso.
2. To prevent the introduction of pollutants into El Paso's wastewater system which will interfere with the operation of the system or contaminate the sludge it produces.
3. To prevent the introduction of pollutants into El Paso's wastewater system which will pass through the system, inadequately treated, into receiving waters or the atmosphere, or otherwise be incompatible with the system.
4. To improve the ability of the system to reclaim wastewater and sludge for beneficial use.
5. To achieve compliance with TPDES Permit conditions, sludge use and disposal requirements and other federal or state laws.
6. To provide equitable distribution of the cost of improvements to, operation and maintenance of El Paso's wastewater system.

B. DEFINITIONS AND ABBREVIATIONS

The following abbreviations, when used in this rule, shall have the designated meanings as follows:

BOD

Biochemical Oxygen Demand

BMP

Best Management Practices

C.F.R.

Code of Federal Regulations

EPA

United States Environmental Protection Agency

mg/L

Milligrams per liter

NPDES

National Pollution Discharge Elimination System

POTW

Publicly Owned Treatment Works

PSB

Public Service Board. The Board of Trustees created by Ordinance 752, which is the governing body of and has the complete management and control of the EPWU (Utility).

SIU

Significant Industrial User

T.A.C.

Texas Administrative Code

TCEQ

Texas Commission on Environmental Quality

TPDES

Texas Pollutant Discharge Elimination System

TSS

Total Suspended Solids

U.S.C.

United States Code

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this Rules and Regulations No. 9, shall be defined as and have the following meanings:

Act or "the Act"

The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, *et. seq.*

Aboveground Storage Tank

A non-vehicular device (including any associated piping) that is made of non-earthen materials; located on or above the surface of the ground, or on or above the surface of the floor of a structure below ground, such as mineworking, basement, or vault; and designed to contain an accumulation of regulated substances.

Approval Authority

The director in an NPDES State with an approved State pretreatment program and the appropriate Regional Administrator in a non-NPDES State or NPDES State without an approved State pretreatment program.

Authorized Representative

A responsible corporate officer, if the Industrial user submitting a report required under Section 40 C.F.R. § 403.12 (b), (d), and (e) is a corporation. A responsible corporate officer means:

- (1) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation, or
- (2) The manager of one or more manufacturing, production or operating facilities, provided the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (3) By a general partner or proprietor if the Industrial User submitting the reports required by 403.12(b), (d), and (e) is a partnership, or sole proprietorship respectively.
- (4) By a duly authorized representative of the individual designated in paragraph 403.12(l)(1) or (l)(2) if:
 - a. The authorization is made in writing by the individual described in paragraph 403.12(l)(1) or l(2);
 - b. The authorization specifies either an individual or position having responsibility for the overall operation of the facility from which the Industrial Discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position having overall responsibility for environmental matters for the company; and
 - c. The written authorization is submitted to the Control Authority.
- (5) If an authorization under paragraph 403.12(l)(3) of this section 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 authorization satisfying the requirements must be submitted to the Control Authority prior to or together with any reports to be signed by an authorized representative.

Best Management Practices

The schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce the pollution of the MS4 and waters of the United States. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials.

Biochemical Oxygen Demand (BOD)

The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20o Celsius expressed as a concentration.

Categorical Pretreatment Standard or Pretreatment Standard

Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Clean Water Act (33 U.S.C. 1347), which applies to Industrial Users, including the prohibitive discharge limits established pursuant to 40 C.F.R. § 403.5. Local limits shall also be considered Pretreatment Standards.

Categorical Standards

National Categorical Pretreatment Standard.

City or El Paso

The City of El Paso, Texas, or the City Council of El Paso, Texas.

Composite Sample

a collection of individual samples obtained at regular intervals, usually every one or two hours during a 24-hour time span. Each individual sample is combined with the others in proportion to the rate of flow when the sample was collected, or at consistent intervals of time regardless of rate of flow.

Control Authority

El Paso Water Utilities-Public Service Board as the publicly owned treatment works (POTW) with an approved pretreatment program.

Daily Discharge

Discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for purposes of sampling.

Daily Maximum Limit

The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. 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.

Discharge

The introduction of pollutants into a POTW from any non-domestic source regulated under section 307(b), (c) or (d) of the Act.

Environmental Protection Agency

The United States Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

Free Product

A regulated substance in its free-flowing, non-aqueous liquid phase at standard conditions of temperature and pressure (e.g, liquid not dissolved in water).

Grab Sample

This is a sample taken from a wastestream over a period of time not to exceed fifteen (15) minutes.

Hazardous Substance

Any substance defined or listed in the Federal Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (CERCLA), §101(14)(42 U.S.C. §9601, *et seq.*), and which is not regulated as a hazardous waste under the Federal Solid Waste Disposal Act, Subtitle C (42 U.S.C. §6921, *et. seq.*).

Hazardous Waste

Any waste regulated under the Federal Resource Conservation and Recovery Act (RCRA) as listed hazardous waste in 40 C.F.R. 261, Subpart D, or as a characteristic waste as per 40 C.F.R., Subpart C.

Industrial User

A source of indirect discharge.

Industrial Wastewater

Liquid and water-carried non-domestic solid, gas and liquid wastes from dwellings, commercial buildings, and industrial facilities, whether treated or untreated, together with any groundwater, surface water or stormwater that may be present.

Interference

A discharge, which alone or in conjunction with a discharge or discharges from other sources, both: inhibits or disrupts a POTW, its treatment processes or operations, or its sludge processes, use or disposal; and, therefore is a cause of a violation of any requirement of a POTW's TPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of wastewater sludge use or disposal in compliance with the following

statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

National Pollutant Discharge Elimination System Permit (NPDES)

A permit issued pursuant to Section 402 of the Clean Water Act (33 U.S.C. 1342). The National Pollutant Discharge Elimination System (NPDES) permit program controls water pollution by regulating point sources that discharge pollutants into waters of the United States.

New Source

- a. Any building, structure, facility or installation (facility) from which there is, or may be, a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section provided:
 - (i) the facility is constructed at a site at which no other source is located; or
 - (ii) the facility totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (iii) the production or wastewater generating processes of the facility are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, shall be considered.
- b. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new facility meeting the criteria of paragraphs (a)(ii) or (iii) above but otherwise alters, replaces or adds to existing process or production equipment.
- c. Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
 - (i) Begun, or caused to begin, as part of a continuous onsite construction program any placement, assembly or installation of facilities or equipment; or significant site preparation work including clearing, excavation or removal of existing buildings, structures or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment; or,
 - (ii) Entered into a binding contractual obligation for the purchase of facilities or equipment intended for use in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering and design studies do not constitute a contractual obligation under this paragraph.

Pass-through

A discharge which exits a POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's TPDES permit, or corresponding State permit (including an increase in the magnitude or duration of a violation); or which causes a violation of a State Water Quality Standard.

Person

Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

Petroleum Substance

Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

pH

The measure of relative acidity or alkalinity of a solution and is defined as the negative logarithm (base 10) of the

hydrogen ion concentration.

Pollutant

Any dredged spoil, solid waste, incinerator residue, sewage, garbage, wastewater sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

Pretreatment or Treatment

This is the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except as prohibited by 40 C.F.R. § 403.6(d).

Pretreatment Requirements

Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an Industrial User.

Producer

This is a person or entity that produces liquefied wastes which are transported for disposal by Waste Haulers and includes residential, commercial or industrial producers.

Public Service Board (PSB)

The Public Service Board of the City of El Paso, Texas acting on its own behalf or through the authorized acts of the El Paso Water Utilities (EPWU) which is charged with the day-to-day operation of El Paso's wastewater system, or by EPWU's designated representative.

Publicly Owned Treatment Works (POTW)

A treatment works as defined by Section 212 of the Act, (33 U.S.C. 1292), and operated by the PSB. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

Significant Industrial User (SIU)

Significant Industrial User means:

- (a) All industrial users subject to Categorical Pretreatment Standards under 40 C.F.R. § 403.6 and 40 C.F.R. Chapter I, Subchapter N; and
- (b) Any other industrial user that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
- (c) Contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
- (d) Is designated as such by the Control Authority as defined in 40 C.F.R. § 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 C.F.R. § 403.8(f)(6)).

Slug Load

Any discharge of a non-routine, 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 the POTW's regulations, local limits or Permit conditions.

Standard Industrial Classification (SIC) Code

A standard series of four-digit codes created by the U.S. government in 1937 for categorizing business activities.

State

State of Texas.

Storm Water

Any flow occurring during or following any form of natural precipitation and resulting from such precipitation including snowmelt.

Texas Pollutant Discharge Elimination System

Permit issued by the TCEQ under the provisions of Section 402 of the Clean Water Act and Chapter 26 of the Texas Water Code.

Total Suspended Solids

The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by filtering.

Underground Storage Tank

Any one or combination of underground tanks and any connecting underground pipes used to contain an accumulation of regulated substances, the volume of which, including the volume of the connecting underground pipes, is ten percent or more beneath the surface of the ground.

User

A source of indirect discharge.

Vehicle

A mobile receptacle or device in which or by which waste may be transported upon public streets, highways or roadways.

Wastewater

Liquid and water carried industrial or domestic solid, gas or liquid wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, together with any groundwater, surface water and storm water that may be present.

Wastewater System or System

El Paso's POTWs owned and operated through the Public Service Board.

C. ADMINISTRATION

El Paso Water Utilities, under the direction of its President/CEO and acting through its employees and agents, is hereby authorized to administer this Rules and Regulations No. 9, and to take all steps necessary to implement them. Unless explicitly stated otherwise, references to the Public Service Board in this Rules and Regulations No. 9 shall include El Paso Water Utilities.

SECTION III GENERAL SEWER USE REQUIREMENTS

A. PROHIBITED DISCHARGE STANDARDS

1. No User shall discharge or cause to be discharged into El Paso's wastewater system any pollutant or wastewater except in conformity with this Rules and Regulations No. 9, the requirements of the Act, the General Pretreatment Regulations in 40 C.F.R. Part 403, and applicable state laws. Significant Industrial Users (see Section IV) must obtain a discharge permit from the PSB prior to any discharge. All other Users must notify the PSB of the nature and characteristics of their wastewater prior to commencing their discharge to determine if a discharge permit is required. If a permit is not required, the User must enter into a wastewater service contract with the PSB prior to any discharge.
2. No User may discharge or cause to be discharged into the wastewater system any pollutant or wastewater that will cause Pass-through or Interference. In addition, a User may not introduce the following substances into the wastewater system:
 - a. 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 which have a closed-cup flashpoint of less than 60° Celsius.

- b. Solid or viscous substances in such quantities and/or qualities that may obstruct flow in the system resulting in interference, such as, but not limited to: grease, garbage with particles greater than 1 centimeter in any dimension, animal guts or tissues, paunch manure, bones, hair, hides, fleshings, entrails, blood, feathers, ashes, cinders, sand, mud, lime, stone dust, marble dust, metal, glass, straw, shavings, grass clippings, rags, grains, hops, paper, wood, plastics, grinding or polishing wastes or substances which may solidify or become viscous at temperatures between 0° Celsius and 60° Celsius.
- c. Petroleum substances, whether emulsified or not, in excess of 100 mg/L.
- d. Any wastewater having a pH less than 5.5 or greater than 10.5, or wastewater having any other corrosive property capable of causing significant damage or hazard to structures, equipment, and/or personnel of the system.
- e. Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters at the effluent end of the system, or to exceed a limitation set forth in a Categorical Pretreatment Standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to Section 307(a) of the Act.
- f. Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to physically prevent reasonably safe and/or tolerable human and/or mechanical entry into the sewers for inspection, maintenance and repair purposes.
- g. Any substance which may cause the system's effluent or any other product of the system such as residues, sludge, or scum, to be unsuitable for normal landfill disposal, land application reclamation or beneficial use, or to interfere with the reclamation process where the system is pursuing a reuse and reclamation program. In no case, shall a substance discharged to the system cause the system to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 or Section 503 of the 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, the Resource Conservation and Recovery Act, or State criteria applicable to sludge management and/or disposal methods being used including Chapter 312 of the Texas Administrative Code.
- h. Any substance that will cause the system to violate its TPDES and/or State Disposal System Permit or the receiving water quality standards or an applicable Total Maximum Daily Load (TMDL) as established by the EPA or the TCEQ.
- i. Any wastewater having a temperature that will inhibit biological activity in a treatment plant resulting in Interference, but in no case wastewater with a temperature at the introduction into a treatment plant that exceeds 40° Celsius.
- j. Any pollutants, including oxygen-demanding pollutants (BOD, etc.) released at a flow and/or pollutant concentration that will cause Interference to the system. In no case shall a slug load have a flow rate or contain concentration or quantities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average daily concentration, quantities, or flow during normal operation.
- k. Trucked, drummed, containerized or hauled wastes or pollutants except as specified in these Rules and Regulations No. 13.
- l. Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits as permitted by the most current Federal or State regulations.

- m. Any pollutants which result in the presence or formation of toxic gases, vapors or fumes within the system in a quantity that may cause acute workers' health and safety problems.
- n. Stormwater, surface water, groundwater, roof run-off, subsurface drainage and unpolluted wastewater unless specifically authorized by Wastewater Discharge Permit.
- o. Sludges, screenings or other residues from the pretreatment of industrial wastewater including but not limited to the solid or liquid contents of sand, grit or grease traps.
- p. Wastewater causing, either alone or in conjunction with other sources, the POTW effluent to fail a toxicity or biomonitoring test.
- q. Detergents, surfactants, surface-active agents or other substances that may cause foaming in the POTW.
- r. Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW or at any point in the POTW or more than 50 percent of the Lower Explosive Limit of the meter.
- s. Mercury in excess of the minimum analytical level as specified in Procedures to implement the Texas Surface Water Quality Standards January 2003.

Pollutants, substances or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged into the POTW except as allowed by the Wastewater Discharge Permit.

B. LOCAL LIMITS

1. The following pollutant limits are established to protect against pass-through and/or interference. No person shall discharge or cause discharge into the wastewater system of any pollutant or wastewater in violation of the local limits listed below. These limits are based on either flow-proportional or time-proportional composite samples or grab samples where composite samples are not possible or practical. The limits apply at the point where the wastewater is discharged to the POTW. All concentrations are for the "total" pollutant.

<u>Pollutant</u>	<u>Daily Average Limit (mg/L)</u>	<u>Instantaneous Limit (mg/L)</u>
Arsenic	0.11	0.22
Benzene	--	1.93
Cadmium	0.11	0.22
Chromium	1.22	2.44
Copper	1.75	3.50
Cyanide	1.08	2.16
Lead	0.66	1.32
Mercury	0.0002	0.0002
Molybdenum	0.15	0.30
Nickel	1.04	2.08
Selenium	0.24	0.48
Silver	0.83	1.66
Zinc	3.73	7.46
Total dissolved solids	5,448.0	10896.0

2. No user shall discharge or cause to be discharged into the wastewater system any pollutant or wastewater containing any of the following:
 - a. Fat, grease, oil or wax of vegetable origin in excess of 100 mg/l unless otherwise allowed by Wastewater Discharge Permit.
 - b. Wastewater containing dye, dye waste or any other coloring agent resulting in a wastewater color

concentration in excess of 300 ADMI units.

- c. The following limits are established for BTEX compounds and are based on grab samples:

<u>Pollutant</u>	<u>Units</u>	<u>Concentration</u>
Toluene	mg/L	17.0
Ethyl benzene	mg/L	16.0
Xylene	mg/L	17.0

- d. Biochemical Oxygen Demand (BOD) in excess of 300 mg/L.

3. The PSB may develop Best Management Practices (BMPs) by rule or in individual Wastewater Discharge Permits to help implement Local Limits and other Pretreatment Standards in addition to or in lieu of numerical local limits where numeric limits are infeasible or impractical, and to protect against interference and pass through as appropriate to meet the requirements of the Clean Water Act. Such BMPs shall be considered local limits and pretreatment standards. This includes categorical standards that have BMPs or pollution prevention alternatives and/or local limits and/or other pretreatment standards.
4. The PSB reserves the right to amend this Rules and Regulations No. 9 at any time to establish more stringent local limits as necessary to satisfy the purposes as set forth in Section II.A. Industrial, commercial, and residential streams shall be evaluated in establishing local limits.
5. The PSB shall comply with public participation requirements of 40 C.F.R. § 403.8(f)(vii) in enforcement of these pretreatment requirements.
6. Implemented numeric limits and BMPs for target pollutants will be evaluated to insure they will result in meeting calculated maximum allowable headworks loadings.
7. Estimates of reduction in loading resulting from BMPs, numeric limits, or Best Management Practices, or a combination, for affected sectors will be verified for target pollutants by sampling where BMPs have been implemented.

C. FEDERAL

1. The categorical pretreatment standards found at 40 C.F.R. Chapter I, Subchapter N, Parts 405 through 471 are hereby incorporated.
 - a. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the PSB may impose equivalent concentration or mass-based limits in accordance with 40 C.F.R. § 403.6(c).
 - b. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the PSB shall impose an alternate limit using the combined wastestream formula in 40 C.F.R. § 403.6(e).
 - c. An Industrial User may obtain a variance from a categorical pretreatment standard if the Industrial User can prove, pursuant to the procedural and substantive provisions in 40 C.F.R. § 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
 - d. An Industrial User may obtain a net gross adjustment to a categorical standard in accordance with 40 C.F.R. § 403.15.
2. No Industrial User subject to a Categorical Standard or to a state discharge limitation shall discharge into the wastewater system or cause any pollutant or wastewater to be discharged into the wastewater system in

violation of that standard or limitation.

3. After the promulgation of a Categorical Standard or state limitation, and upon expiration of any compliance grace period, the Categorical Standard or state limitation, if more stringent than limitations imposed on Industrial Users under this Rules and Regulations No. 9, automatically supersedes and replaces those limitations. Industrial Users which become subject to a Categorical Standard are subject to the reporting requirements at 40 C.F.R. § 403.12.

D. STATE

[This section is reserved.]

E. DILUTION

Except where expressly authorized to do so by an applicable Pretreatment Standard or Requirement, no Industrial User shall ever increase the use of process water, or in any other way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with the specific pollutant limitations contained in the Categorical Standards, or in any local limit or standard promulgated by the PSB or the State of Texas.

F. PRETREATMENT OF WASTEWATER

1. Industrial Users shall provide wastewater treatment as necessary to comply with this Rules and Regulations No. 9 and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set forth in this Rules and Regulations No. 9 within the time-frame specified by EPA, the State or the PSB, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated and maintained at the Industrial User's expense. At the request of the PSB, detailed plans describing such facilities and operating procedures shall be submitted to the PSB for review and shall be deemed acceptable before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the Industrial User of the responsibility to modify such facilities as necessary to produce a discharge acceptable to the PSB under the provisions of its Rules and Regulations.
2. Whenever deemed necessary, the PSB may require users to restrict their discharge during peak flow periods, designate certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sanitary wastestreams from industrial wastestreams and such other conditions as may be necessary to protect the POTW and determine the Industrial User's compliance with the requirements of this Rules and Regulations No. 9.
3. The PSB may require an Industrial User to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
4. Industrial Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection device.
5. No Industrial User shall discharge or cause to be discharged into the wastewater system any pollutant or wastewater containing grease, oil, sand or any flammable wastes (including, but not limited to, restaurants, food processing plants, garages, service stations, machine shops and factories), except through a suitable grease, oil, and sand interceptor. No such interceptor shall be required for private living quarters or dwelling units. The Industrial User shall be responsible for the installation, proper operation and maintenance of the interceptor and the lawful disposal of the accumulated waste.
6. Any User discharging wastewater generated in a photo processing process shall be subject to pretreatment requirements. The PSB shall follow the Code of Management Practice (CMP) for Silver Dischargers to determine requirements on a site-specific basis. The CMP, finalized in 1995 by the Silver Coalition and the Association of Metropolitan Sewer Association (AMSA) provides recommendations on technology, equipment and management practices for controlling silver discharges from facilities that process photographic materials. Copies of the document can be obtained through the National Association of

Photographic Manufacturers (NAPM) at: 550 Mamaroneck Avenue, Suite 307, Harrison, New York 10528-1612. The document is also available at <http://www.silvercouncil.org>.

7. No User shall bypass their pretreatment facility without prior written authorization of the PSB.

G. COMPLIANCE WITH DISCHARGE PROHIBITIONS

Any facility required to pretreat their wastewater to achieve compliance with this Rules and Regulations No. 9 shall be provided, operated, and maintained at the Industrial User's expense. Industrial Users planning to build or install such facilities after the effective date of this Rules and Regulations No. 9 must submit plans and operation procedures acceptable to the PSB prior to construction or installation of the facilities. The review of such plans and operating procedures will in no way relieve the Industrial User of the responsibility of modifying the facility as necessary to produce an effluent acceptable to the PSB under the provisions of this Rules and Regulations No. 9. Any significant changes in existing pretreatment facilities or methods of operation shall be reported to and be acceptable to the PSB prior to the Industrial User's initiation of the changes.

H. BLOCKAGE OR OVERFLOW OF SANITARY SEWER

Any user discharging solids, viscous substances or other prohibited material as described in Section III.A.2.b. of this Rules and Regulations No. 9 into the sanitary sewer system and found to be responsible for obstructing wastewater flow or resulting in blockage or sanitary sewer overflow will be responsible for the expense incurred by the PSB during the clearing of the affected line as well as any damage to public or private property.

I. ACCIDENTAL DISCHARGES AND SLUG CONTROL

Each Industrial User shall provide protection from accidental discharge of prohibited materials or other substances regulated by these Rules and Regulations No. 9. Each SIU shall be evaluated to determine whether an accidental discharge/slug discharge control plan, or other action to control slug discharges, is needed at the time status as a SIU is determined, or within a year of being designated significant. The PSB may require any Industrial User to develop, submit for approval and implement such a plan. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or Industrial User's own cost and expense. Review and approval of such plans and operating procedures shall not relieve the Industrial User from the responsibility to modify the Industrial User's facility as necessary to meet the requirements of this Rules and Regulations No. 9. Alternatively, the PSB may develop such a plan for any Industrial User. An accidental discharge/slug control plan shall address, at minimum, the following:

1. A description of discharge practices including non-routine batch discharges.
2. A complete inventory and description of stored chemicals.
3. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents and/or measures and equipment necessary for emergency response.

J. ACT OF GOD DEFENSE

Where an Industrial User can establish in municipal or state court that an event that would otherwise be a violation of this Rules and Regulations No.9 or its Wastewater Discharge Permit was caused solely by an act of God, war, strike, riot, or other catastrophe, the event shall not be considered a violation.

SECTION IV INDUSTRIAL WASTEWATER DISCHARGE PERMITS

A. GENERAL

All SIUs proposing to connect to or to discharge any pollutant or wastewater into the wastewater system shall first obtain a wastewater discharge permit from the PSB. SIUs with an existing permit on the effective date of this Rules and Regulations No. 9 may continue to discharge under the terms of such permit until it expires or is modified or terminated. The PSB may require other Industrial Users to obtain wastewater discharge permits as necessary to carry out the purposes of this Rules and Regulations No. 9. Any violations of the terms and conditions of a Wastewater

Discharge Permit shall be deemed a violation of this Rules and Regulations No. 9 and subjects the wastewater discharger to the sanctions enumerated in this Rules and Regulations No. 9. Obtaining a Wastewater Discharge Permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state and local law.

B. PERMIT APPLICATION

1. To obtain a permit, Industrial Users shall complete and file a permit application on a form prescribed by the PSB at least ninety (90) days prior to the time that they desire to connect to the system or to begin discharging into it. Industrial Users seeking to renew a permit must file a renewal application at least ninety (90) days prior to the expiration of the existing permit. The filing of a renewal application extends an existing permit until such time as the application for renewal is acted upon.
2. The application may require the following information:
 - a. Name, address, and location, (if different from the address);
 - b. SIC code number;
 - c. Wastewater constituents and characteristics as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA in 40 C.F.R. § 136;
 - d. Time and duration of contribution;
 - e. Average daily and 30 minute peak wastewater flow rates, including daily, monthly and seasonal variations if any;
 - f. Site plans, floor plans, mechanical and plumbing plans showing all sewers, sewer connections, and appurtenances by the size, location and elevation and points of discharge;
 - g. Description of activities, facilities and plant processes on the premises including all chemicals and materials that are or could be intentionally or accidentally discharged into the wastewater system;
 - h. Where known, the nature and concentration of any pollutants in the discharge which are limited by any local, state, or national Pretreatment Standards, and a statement regarding whether or not the pretreatment standards can be met on a consistent basis and if not, what additional operation and maintenance and/or additional pretreatment is required;
 - i. If additional pretreatment and/or operation and maintenance modifications will be required to meet a Pretreatment Standard; the shortest schedule by which the Industrial User could provide such additional pretreatment;
 - j. Each product produced by type, amount, process or processes and rate of production;
 - k. Type and amount of raw materials processed (average and maximum per day);
 - l. Number and type of employees, and hours of operation of plant and proposed or actual hours of operation;
 - m. Any other information as may be deemed necessary by the PSB to evaluate the permit application.
3. The application shall include the certification statement found in 40 C.F.R. § 403.6(a)(2)(ii).
4. After receiving a complete application, the PSB may issue a permit subject to the terms and conditions provided herein. Incomplete or inaccurate applications will not be processed.
5. The PSB will evaluate the data furnished by the User or prospective User and may require additional

information. Within thirty (30) days of receipt of a complete application, the PSB will determine whether or not to issue a wastewater discharge permit. The PSB may deny any application.

C. PERMIT CONDITIONS

A Wastewater Discharge Permit shall include such conditions as are deemed reasonably necessary by the PSB to accomplish the purpose of these regulations. Wastewater Discharge Permits shall be expressly subject to the PSB Rules and Regulations and all other applicable requirements of federal and state law. Permits shall contain, at minimum, the following information:

1. A statement that indicates the permit duration.
2. A statement that the permit is not transferable without prior notification to the PSB in accordance with the Rules and Regulations.
3. Limits on the wastewater constituents and characteristics.
4. Reporting and record-keeping requirements.
5. A statement of applicable civil and criminal penalties for violation of pretreatment standards or reporting requirements.
6. Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization.
7. Requirements for installation and maintenance of facilities for inspection and sample collection.
8. Specifications for monitoring programs that may include sampling locations, frequency of sample collection, number, types and standards for tests and testing procedures.
9. Compliance schedule(s) where necessary for installing technology that will allow users to meet applicable pretreatment standards and requirements.
10. Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the PSB and affording the PSB access thereto.
11. Requirements for notification of the PSB of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system.
12. Requirements for notification of slug discharges. The Industrial User must provide notification immediately of changes that occur at the facility affecting the potential for slug discharge, thereby allowing the need for a slug discharge control plan or other actions to prevent such discharges, to be reevaluated.
13. Requirements for the installation of pretreatment technology, pollution control or construction of appropriate containment devices designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
14. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated or non-routine discharges.
15. Requirements for the development and implementation of plans to minimize waste to reduce the amount of pollutants discharged to the POTW.
16. Other conditions as deemed appropriate by the PSB to insure compliance with all applicable laws and regulations, including best management practices based on applicable Pretreatment Standards, local limits, state, or local requirements; including to provide protection against interference and pass through, in lieu

of numeric limits where numeric limits are infeasible or impractical or in addition to numeric limits to meet the requirement of the Clean Water Act.

D. PERMIT DURATION

A Wastewater Discharge Permit shall be issued for a specified time period either in months or a year(s) but not to exceed a total five (5) years from the effective date of the permit, at the discretion of the PSB. Each Wastewater Discharge Permit will indicate a specific date upon which it will expire.

E. PERMIT MODIFICATION

A permit may be modified by the PSB, after notice to the permittee and opportunity for a hearing, for any of the following reasons:

1. Upon request of the permittee, provided that discharges under the modified permit would not create a violation of any existing applicable requirement, standard, law, rule or regulation or policy of the PSB.
2. To address material and substantial alterations or additions to the permitted facility or activity which occurred after permit issuance and were not contemplated by PSB at the time of permit issuance and which justify permit conditions that are different than those in the existing permit.
3. To incorporate any properly promulgated new or revised federal, state or local regulation where appropriate.
4. When the PSB receives new information, not available at the time of permit issuance, which justifies permit conditions different than those in the existing permit or which indicates that the discharge poses a threat to the POTW, POTW personnel or the receiving waters.
5. Upon a change in the POTW status that requires either a temporary or permanent reduction or elimination of the authorized discharge.
6. Violation of any term and/or condition of the permit.
7. Misrepresentation or failure to fully disclose all relevant facts in the permit application or in any required report.
8. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 C.F.R. §403.13.
9. To correct typographical or other errors in the permit.
10. For other just cause as necessary to achieve the purposes of these Rules and Regulations.
11. To incorporate, revise, or revoke new or existing best management practices.

F. PERMIT TRANSFER

A wastewater discharge permit is issued to a specific User at a specific facility. A Wastewater Discharge Permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed facility.

G. PERMIT COST

The fees for wastewater discharge permits will be as established by the PSB as set forth in Rules and Regulations No. 6. Fees for permit renewal shall be equivalent to the permit fee. Permit fees are non-refundable.

H. PERMIT APPEAL

The PSB shall provide notice of the issuance of a Wastewater Discharge Permit. The User may petition, in writing, the Pretreatment Manager to reconsider the terms and conditions of a permit within ten (10) days of notice of issuance. Failure to submit a timely petition for review shall be deemed to be a waiver of all administrative appeals. In its notice of appeal, the User must indicate the permit condition objected to, the reasons for the objection and the

alternative condition, if any, the User seeks to place in the permit. If the Pretreatment Manager denies the petition or if the Pretreatment Manager fails to act within ten (10) days, the request for reconsideration shall be deemed to be denied. The User may petition, in writing, the PSB to reconsider the terms and conditions of the permit and the Pretreatment Manager's denial within twenty-one (21) days of the notice of issuance of the permit. If the PSB fails to act within sixty-one (61) days from the notice of issuance, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a permit, not to issue a permit or not to modify a permit by the PSB shall be considered final administrative actions. The effectiveness of the Wastewater Discharge Permit shall not be stayed pending appeal.

I. PERMIT REVOCATION

The PSB may revoke a Wastewater Discharge Permit for good cause including, but not limited to, the following reasons:

1. Failure to notify the PSB of significant change to the characteristics of wastewater prior to the changed discharge.
2. Failure to provide prior notification to the PSB of changed conditions pursuant to this Rules and Regulations No. 9.
3. Misrepresentation or failure to fully disclose all relevant facts in the permit application.
4. Falsification of required reports.
5. Tampering with PSB monitoring equipment.
6. Refusing the PSB timely access to the facility premises and records.
7. Failure to meet effluent limitations.
8. Failure to pay recommended penalties.
9. Failure to meet compliance schedule milestones.
10. Failure to provide advanced notice of transfer of User ownership.
11. Violation of any pretreatment standard or requirement or any terms of the Wastewater Discharge Permit or the Rules and Regulations, including but not limited to failure to meet Best Management Practices based on applicable Pretreatment Standards, local limits, state, or local requirements or a violation of the BOD limits noted in the Permit and this Rules and Regulations No. 9.

SECTION V INTERJURISDICTIONAL AGREEMENTS

If another municipality or user contributes wastewater to the POTW, an interjurisdictional agreement shall be established to facilitate implementation of requirements under the Pretreatment Program and to insure compliance with Pretreatment Standards.

SECTION VI REPORTING AND MONITORING

A. REQUIRED REPORTS

Industrial users shall self-monitor and submit to the PSB the reports described below. Reports shall include the certification statement in 40 C.F.R. § 403.6(a)(2)(ii) and shall be signed:

- ◆ for a corporation, by a responsible corporate officer as defined in 40 C.F.R. § 403.12(1)(I);
- ◆ for a partnership or sole proprietorship, by a general partner or the proprietor; or
- ◆ by an authorized representative of the persons described in a) and b) above, as defined in 40 C.F.R.

§ 403.12(1)(3). Reports shall be deemed submitted on the date postmarked.

1. Baseline Monitoring Reports Within 180 days of the effective date of a Categorical Standard, industrial users subject to such Standard and currently discharging to or scheduled to discharge to the wastewater system shall submit to the PSB a report that contains the information listed under 40 C.F.R. § 403.12(b)(1)-(7). New sources and sources that become industrial users subsequent to the promulgation of an applicable Categorical Standard, shall be required to submit to the PSB, at least 90 days before commencing their discharge, a report containing the information listed at 40 C.F.R. § 403.12(b)(1)-(5).
2. Compliance Reports Industrial Users subject to any Categorical Standard shall also submit to the PSB the compliance reports required by 40 C.F.R. § 403.12(c)(3), (d),(e) and (h). Reports on continued compliance for categorical and noncategorical significant industrial users shall include information required by 40 C.F.R. § 403.12(g).
3. Notice of Potential Problem Industrial Users shall notify the PSB immediately of any discharge by them that could adversely affect one or more of El Paso's POTWs, including any slug loadings, as defined at 40 C.F.R. § 403.5(b).
4. Notice of Changed Discharge All Industrial Users shall promptly notify the PSB in advance of any substantial change in the volume or character of pollutants in their discharge. The Industrial User must provide notification immediately of changes that occur at the facility affecting the potential for slug discharge, thereby allowing the need for a slug discharge control plan or other actions to prevent such discharges, to be reevaluated.
5. Industrial Users not subject to Categorical Standards Industrial Users not subject to a Categorical Standard shall submit to the PSB at least once every six months (on dates specified by the PSB) a description of the nature, concentration, and flow of the pollutants in accordance with 40 C.F.R. § 403.12 (h). The samples and analysis required for these reports may be performed by the PSB in lieu of the Industrial User. The Industrial User will not be required to submit the reports where the PSB collects all of the information required.
6. Reporting of Violations If any samples collected and analysis performed by an Industrial User indicates a violation of the Industrial User's discharge permit, the Industrial User must notify the PSB within 24 hours of becoming aware of the violation. The Industrial User must also repeat the sample collection and analysis and submit the results of the repeat analysis within 30 days of becoming aware of the violation. The Industrial User is not required to resample if, (1) The PSB collects samples from the Industrial User at a frequency of at least once per month, or (2) The PSB collects samples from the Industrial User between the time when the User collected the first sample and the time when the User receives the results of analysis. This reporting requirement does not apply to violations of limits for BOD and TSS.
7. Self Monitoring Report Users shall collect samples of wastewater discharge for self-analysis and shall submit that information along with other information in a report as required in their Wastewater Discharge Permit by the PSB. The PSB may, upon agreement with the User, conduct self-monitoring in lieu of the User at a cost to be set on a case-by-case basis. If the PSB conducts monitoring in lieu of the SIU, the PSB shall perform required repeat sampling and analysis for the parameter violated within 30 days of becoming aware of a violation. If violations continue, the User may be required to also monitor.
8. Compliance Schedule Reports As required in the Compliance Schedule, users operating under a Compliance Schedule may be required to submit reports necessary to evaluate compliance with the schedule. If additional treatment, best management practice and/or O&M are required to meet Pretreatment Standards, the shortest schedule by which the user will provide such additional treatment and/or O&M must be provided. The Compliance Schedule Reports are due no later than fourteen (14) days following each milestone date in the schedule.
9. Other Reports Industrial Users shall perform such other monitoring and submit such other reports as required by the PSB by permit or otherwise, including documentation associated with Best Management Practices and results of monitoring obtained using procedures prescribed in 40 C.F.R. § 403.12(g)(5) for

regulated pollutants at the location designated for monitoring in addition to required monitoring.

B. RECORDKEEPING REQUIREMENTS

1. Any User required to monitor and/or report its discharges by this Rules and Regulations No. 9, or its Wastewater Discharge Permit shall maintain and make available for inspection and copying all records of all information obtained pursuant to any monitoring activities required by the rule and any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, including documentation associated with Best Management Practices that is necessary to determine the compliance status of the User. Such records shall include the following for all samples taken:
 - a. The date, exact place, method, and time of sample collection and the name(s) of the person or persons taking the samples;
 - b. The dates of analysis;
 - c. The person who performed the analyses;
 - d. The analytical techniques/methods used; and
 - e. The results of such analyses.
2. Any User subject to the reporting requirements established in this section shall retain for a minimum of three (3) years any records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the EPA, the State, or the PSB. This period of retention shall be extended during the course of any unresolved litigation involving the User or when requested by the EPA, the State, or the PSB.
3. Any person who knowingly makes any false statement on any report or other document required by this permit or falsifies, tampers with or knowingly renders any monitoring device or method inaccurate shall be subject to civil and criminal penalties and/or imprisonment.

C. COMPLIANCE MONITORING

Unless otherwise indicated by the PSB, all sampling and analysis required by this Rules and Regulations No. 9 or by permit shall be performed in accordance with the procedures under 40 C.F.R. § Part 136.

D. MINIMUM DETECTION LIMITS

Detection limits used during analysis shall be low enough to demonstrate compliance with applicable limits. The detection limits specified are those limits achieved on analysis and not the method detection limit nor the instrument detection limit. Failure to use detection limits low enough to demonstrate compliance may result in an automatic exceedance and may be subject to enforcement actions under Section V.II., herein.

E. MONITORING FACILITIES

1. The PSB may require the Industrial User to provide facilities to allow collection of samples and measurement of flow of any discharge point and/or internal drainage system located on private property. This facility should normally be situated on the User's premises, but the PSB may, when such a location would be impractical or cause undue hardship to the User, allow the facility to be constructed in a street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.
2. There shall be ample room in or near such sampling manhole or facility to allow accurate sampling 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 User.

3. Whether constructed on public or private property, the facilities used for sample collection and monitoring shall be provided in accordance with all applicable local construction standards and specifications. Construction of such facilities located within the User's property is subject to local Plumbing Code.
4. Facilities located on private property shall be operated and maintained at the Industrial User's expense.

F. INSPECTION AND SAMPLING BY THE PSB

EPA, the TCEQ, and the PSB may inspect the facilities of any Industrial User and take samples of its discharge at the designated discharge points without advance notice. The User may request and shall be provided a portion of any sample taken provided there is adequate sample available. Persons or occupants of the premises where wastewater is created or discharged shall allow EPA, the TCEQ, and/or the PSB or its representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sample collection, examination of records, or the performance of any of their duties. EPA, the TCEQ, and the PSB shall have the right to set up on the User's property such devices as are necessary to monitor compliance. Where a User has security measures in force that require proper identification and clearance before entry is granted, necessary arrangements shall be made so EPA, the TCEQ, and/or the PSB will be permitted to enter upon presentation of suitable identification, without delay, for the purpose of performing their specific responsibilities.

G. CONFIDENTIAL INFORMATION

User information and data obtained from reports, questionnaires, applications, permits, monitoring programs and inspections shall be made available by the PSB in accordance with the Texas Public Information Act. Information or data submitted to the PSB is without restriction unless the User specifically requests and is able to demonstrate to the satisfaction of the PSB that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time the information or data is submitted. Each page shall also be stamped "confidential" by the User at the time the information is submitted. When requested and demonstrated by the User that such information should be held confidential, the portions of a report that might disclose trade secrets shall not be made available for inspection by the public but shall be made immediately available upon request to governmental agencies for use related to the TPDES program or pretreatment program and in enforcement proceedings involving the Person or User submitting the report. Information regarding constituents and characteristics of wastewater shall not be recognized as confidential.

H. NOTIFICATION OF THE DISCHARGE OF HAZARDOUS WASTE

1. In accordance with 40 C.F.R §403.12(p), any Industrial User who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director and the Texas Commission on Environmental Quality, in writing, of any discharge into the POTW of a substance which, if otherwise disposed, would be a hazardous waste under 40 C.F.R. § 261. Such notification must include the name of the hazardous waste as set forth in 40 C.F.R. § 261, the EPA hazardous waste number, and the type of discharge (continuous, batch or other). If the user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the Industrial User: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section V.A.4. of this Rule. This requirement does not apply to pollutants already reported by users subject to categorical pretreatment standards.
2. Dischargers are exempt from the requirements of Section V.H.1. during a calendar month in which discharge is no more than fifteen (15) kilograms of hazardous wastes unless the wastes are acute hazardous wastes as specified in 40 C.F.R. § 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as

specified in 40 C.F.R. § 261.30(d) and 261.33(e) requires a one-time notification.

3. In the case of new regulations under Section 3001 or RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the Industrial User must notify the PSB, the EPA Regional Waste Management Division Director and the Texas Commission on Environmental Quality of the discharge of such substance within ninety (90) days of the effective date of such regulations.
4. In the case of any notification made under Section V.A.4., the Industrial User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
5. This provision does not create a right to discharge any substance not otherwise permissible for discharge by this ordinance, a permit issued thereunder, or any applicable federal or state law.

SECTION VII STORAGE TANKS

The regulations within this section are applicable to both Underground and Aboveground Storage Tank systems storing hazardous substances and petroleum substances as prescribed by Texas Water Code, Chapter 26, Subchapter I.

- A. Owners and operators and their agents, contractors and designees of underground and aboveground storage tanks shall comply with applicable regulations under TCEQ 30 T.A.C. Chapter 334 and 40 C.F.R. Part 261.
- B. Owners and operators of underground and aboveground storage tank systems shall report suspected releases to the PSB immediately upon discovery.
- C. Discharge of free product or any wastewater containing free product to the sanitary sewer system in excess of 100 mg/L is prohibited in accordance with Section III.A., herein.
- D. Discharge of purge water from monitoring wells is prohibited except with the prior written authorization of the PSB. Such authorization shall not be unreasonably withheld, and shall be based upon assessment, sample collection and analysis conducted by the owner/operator or his designee. A nonrefundable fee of \$250 shall be payable to the PSB to process the request.
- E. Discharge of wastewater generated during internal cleaning, repairing, relining, or hydrostatic testing of tanks shall be prohibited without prior written authorization of the PSB. Such authorization shall not be unreasonably withheld and shall be based upon assessment and sample collection and analysis conducted by the owner/operator or his designee. In addition, the PSB shall consider the effect of the discharge on the wastewater collection system and the feasibility of alternatives to discharge to the sanitary wastewater collection system. Assessment and sample collection and analysis are the responsibility of the owner or his designee. A non-refundable fee of \$250 shall be payable to the PSB to process the request.
- F. Wastewater generated during soil and/or groundwater remediation is prohibited from discharge into the wastewater system. Such waste shall be otherwise discharged in accordance with applicable state and federal regulations.

SECTION VIII ENFORCEMENT

A. NOTICE OF VIOLATION

1. Whenever the PSB believes that any person or permittee has violated or is violating this Rules and Regulations No. 9 and/or a wastewater permit or order issued hereunder, the PSB may serve (either personally or by registered or certified mail) upon such person or permittee a written notice stating the nature of the alleged violation. The recipient of an alleged violation notice must respond in writing to the PSB within fifteen (15) working days from the date of receipt of such notice.
2. Should the recipient of a notice alleging violation fail to respond to the PSB in writing within the initial fifteen (15) working day response period, the recipient or permittee shall be deemed to have admitted to responsibility for the violation.

3. The person or permittee responding to receipt of an alleged violation notice shall file written response in the most applicable of the following forms:
 - a. Should the person or permittee admit his or her responsibility for the alleged violation, the person or permittee shall submit a letter report to the PSB that:
 - (i) If the nature of the violation of either the permit or this Rule involves a discharge that is prohibited herein, submit a report containing information regarding the time, date, location, cause, source, quantity, quality and concentration of the discharge or disposal and the corrective measures actually taken by the person or permittee to recover or neutralize the discharge, self-reporting notices submitted to any state, federal or other agencies having jurisdiction, and actions to be taken by the person or permittee to prevent any similar recurrent discharges.
 - (ii) If the nature of the violation of either the permit or this Rule involves an administrative or procedural non-compliance, the letter report shall contain information regarding corrective measures and time schedules the person or permittee has adopted to assure expeditious and continued compliance.
 - b. Should the person or permittee deny his or her responsibility for the alleged violation, the person or permittee must submit a letter report to the PSB explaining why responsibility is being contested.

B. CONSENT ORDER

The PSB may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action(s) to be taken by the User to correct the noncompliance within a period of time specified by the document.

C. SHOW CAUSE HEARING

The PSB may order a User that has violated, or continues to violate, any provision of these Rules and Regulations No. 9, a Wastewater Discharge Permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the PSB and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by certified mail return receipt requested at least ten (10) days prior to the hearing. Such notice may be served on any representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

D. COMPLIANCE ORDER

Whenever the PSB finds that any User has violated or continues to violate any provision of this Rules and Regulations No. 9, or a permit or order issued thereunder, or any other pretreatment standard or requirement, the PSB may issue an order to the User directing that the User come into compliance within a specified period of time. If the User does not come into compliance within the time provided, sewer and/or water service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances be installed and properly operated. Compliance Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including additional self-monitoring, and the adoption of management practices designed to minimize the amount of pollutants discharged to the wastewater system. A Compliance Order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a Compliance Order relieve the User of liability for any violation, including any continuing violation. Issuance of a Compliance Order is not required before the PSB may take any other enforcement action authorized herein.

E. CEASE AND DESIST ORDER

When the PSB finds that a User had violated, or continues to violate, any provision of this Rules and Regulations No. 9, a Wastewater Discharge Permit or order issued hereunder, or any other pretreatment standard or requirement, or that the User's past violations are likely to recur, the PSB may issue an order to the User directing it to cease and desist all such activity and comply with all requirements immediately; and, take such appropriate remedial or preventive action as may be needed to properly address a continuing or imminent violation, including halting

operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.

F. EMERGENCY SUSPENSIONS

1. The PSB may suspend the wastewater treatment and/or water service and/or wastewater permit of a User without prior notice whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of persons, the wastewater system, or the environment. The PSB may also immediately suspend a User's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the wastewater system, or that presents or may present an endangerment to the environment.
2. Any User notified of a suspension of its wastewater treatment and/or water service and/or its wastewater permit shall immediately stop or eliminate its discharge. In the event a User fails to comply voluntarily with the suspension order, the PSB shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the wastewater system, and receiving streams, or endangerment to any individuals. The PSB may allow the User to recommence its discharge when the endangerment has passed, unless termination proceedings are initiated against the User.
3. Any User notified of a suspension for the reasons noted in Section VI.F.1. above shall submit a detailed written statement describing the causes of the harmful discharge and the measures taken to prevent any future occurrence to the PSB within fifteen (15) calendar days of receipt of the notice.
4. Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

G. TERMINATION OF SERVICE

In addition to the provisions of this rule, any User who violates the following conditions is subject to termination of either water service or wastewater service or both. Such User will be notified of the proposed termination and be offered an opportunity to show cause under Section VII.C. of this rule why the proposed action should not be taken. Exercise of this option by the PSB shall not be a bar to, or a prerequisite for, taking any other action against the User.

1. Violation of a Wastewater Discharge Permit condition.
2. Failure to accurately report the wastewater constituents and characteristics of its discharge.
3. Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.
4. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring or collection of samples.
5. Violation of pretreatment standards, including required applicable best management practices.

H. PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

The PSB shall publish at least annually in a newspaper(s) of general circulation that provides meaningful public notice in El Paso, Texas, a list of all Users who, during the previous twelve (12) months, were significantly noncompliant with applicable pretreatment standards. For purposes of this provision, a significant violation will be as defined in 40 C.F.R. 403.8 (f)(2)(viii).

I. SURCHARGE

Users shall be subject to a surcharge as provided in Rules and Regulations, No. 6, Section V.

J. TERMINATION OF PERMIT

A permit may be terminated by the PSB for the following causes. Users will be notified in advance of the proposed termination of their permit. Users may request a hearing as provided in Section VI.K.:

1. Violation of permit conditions.
2. Failure to accurately report the constituents and characteristics of the wastewater discharged.
3. Failure to report significant changes in operations or wastewater constituents and characteristics.
4. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling.
5. A determination that the User's discharge endangers human health or the environment and can only be regulated to acceptable levels by permit termination.
6. Failure to pay required fees, surcharges, or penalties.

K. HEARING BY THE PSB

1. Any User adversely affected by an action taken pursuant to this Rules and Regulations No. 9, or the terms of a discharge permit, is entitled to a hearing by the PSB upon filing with the PSB a written request within fifteen (15) days of the action, or of receipt of notice thereof, whichever is earlier. This section supersedes the provisions in PSB Rules and Regulations, No. 8, Section II, as they apply to Users of the wastewater system.
2. Filing of a request for a hearing will automatically stay the action, except for action taken pursuant to the emergency suspension authority.
3. The PSB may itself conduct the hearing and take the evidence or may designate any of its members or any officer or employee of the PSB as the hearing officer. The hearing officer may take any of the following actions:
 - a. Issue notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings.
 - b. Take the evidence.
 - c. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the PSB for action thereon.
4. At any hearing held pursuant to this Rules and Regulations No. 9, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.
5. After the PSB has reviewed the evidence, it may issue such orders or take such actions as are authorized herein.
6. The PSB or a designated hearing officer shall have the power to issue subpoenas to compel the attendance of witnesses or the production of evidence. A subpoena may be issued at the request of an El Paso Water Utilities employee or attorney, at the request of a representative of a User. The subpoena power shall extend to any pre-hearing conference or other preliminary proceeding.

L. JUDICIAL RELIEF

Despite any other provisions contained in this rule, the legal counsel for the PSB is hereby authorized to seek and proceed with legal action and/or equitable remedies against any person or permittee believed to be violating or have violated this Rule and Regulation No. 9 and/or federal or state laws governing water quality, industrial wastewater pretreatment, and hazardous or non-hazardous liquid waste transportation over which the PSB has enforcement authority. A legal proceeding prosecuted under this rule does not constitute a waiver by the PSB of any right the city may have to join in a legal action originating from an alternative source of law.

The PSB may commence such actions for appropriate legal and/or equitable relief in courts having proper

jurisdiction and may seek civil penalties and any other legal or equitable relief available under common law or any other applicable local, state, or federal code or statute.

M. CRIMINAL PENALTIES

A conviction for violation of this rule shall constitute a Class C Misdemeanor unless other controlling authority identifies it as a higher level misdemeanor or a felony. A person convicted of a violation of this division shall be fined a minimum amount of not less than \$50 per violation and a maximum of not more than the highest lawful amount allowed for such violation. Each violation of a particular section of this rule shall constitute a separate offense, and each day an offense continues shall be considered a new violation for purposes of enforcing this rule. A culpable mental state is not required to prove an offense under this rule. The PSB designated representative is hereby authorized to designate qualified EPWU personnel to serve notices of violations of this section and take all necessary action to file a complaint with the municipal prosecutor's office.

N. CIVIL PENALTIES

A civil penalty in an amount not to exceed two thousand (\$2,000.00) per violation of this rule may be imposed. Each violation of a particular section of this rule shall constitute a separate offense, and each day such an offense continues shall be considered a new violation for purposes of enforcing this Section. A culpable mental state is not required to prove an offense under this ordinance.

O. REMEDIES NONEXCLUSIVE

The remedies provided for in this rule are not exclusive. The PSB may take any, all, or a combination of these actions against a noncompliant user. Enforcement of pretreatment regulations will generally be in accordance with the PSB's Enforcement Response Plan. However, the PSB may take other action against any User when the circumstances warrant. Further, the PSB may take more than one enforcement action against any noncompliant User.

SECTION IX MISCELLANEOUS

A. SEVERABILITY

If any provision, paragraph, word, or section of this Rules and Regulations No. 9, is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, or sections shall not be affected and shall continue in full force and effect.

B. NOTICES

Unless otherwise provided, all notices, applications and reports required by this Rules and Regulations No. 9, shall be submitted to:

Pretreatment Manager
El Paso Water Utilities
1154 Hawkins Blvd.
El Paso, Texas 79925

PASSED, APPROVED, and ADOPTED the 13th of June, 1990 by Unanimous vote of the Public Service Board.

SECTION III-7 AND SECTION V-8 REVISED, APPROVED, and ADOPTED this 13th day of March, 1991.

PASSED, APPROVED, and ADOPTED this 27th day of October, 1993, with substantial changes, by the Public Service Board.

PASSED, APPROVED, and ADOPTED this 24th day of February, 1999, with substantial changes, by the Public Service Board.

RULES AND REGULATIONS NO. 9, SECTIONS II.B., III.B.1., III.H., III.J., V.A.5., V.D., V.F., VII.N., and miscellaneous grammatical changes ADDED or MODIFIED, APPROVED, and ADOPTED this 10th day of January, 2007.

RULES AND REGULATIONS NO. 9, SECTIONS II.B., III.A.2.s., III.B., VII.H., and miscellaneous grammatical changes ADDED or MODIFIED, APPROVED AND ADOPTED this 27th day of January, 2010.

RULES AND REGULATIONS NO. 9, SECTIONS II. B. and C., SECTION III. B.2 d. and F.1., SECTION IV. A. and D., SECTION IV.I. 11., SECTION V. G., SECTION VII. A.1., 2. ,3. a and b, and K., ADDED or MODIFIED, PASSED, APPROVED AND ADOPTED this 14th Day of August, 2019.

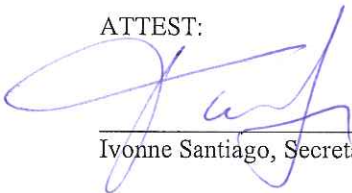
RULES AND REGULATIONS NO. 9, SECTION I, SECTIONS II. B., SECTION III. B. 3. 4. 5. 6. and 7., SECTION III. I., SECTION IV.C. 12. and 16., SECTION IV. E. 11., SECTION IV. I, 11., SECTION V., SECTION VI. A. 2., 4., 7., 8., 9., SECTION VI. B. 1. and 3., SECTION VIII.G. 5., ADDED or MODIFIED, PASSED, APPROVED AND ADOPTED this 12th Day of February 2020, by the El Paso Water Utilities Public Service Board of the City of El Paso, Texas.

PUBLIC SERVICE BOARD



Christopher Antcliff, Chair

ATTEST:


Ivonne Santiago, Secretary-Treasurer

APPROVED AS TO FORM:


Lee Ann B. Koehler, General Counsel