

## CHAPTER 53. WASTEWATER TREATMENT

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## DIVISION 1. IN GENERAL

### Sec. 53.01. Definitions.

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this ordinance, shall have the meanings hereinafter designated.

*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.*

*Approval Authority*. The State of Indiana and/or US EPA, Region V.

*Authorized Representative of the Industrial User (IU)*.

- (1) If the IU is a corporation, authorized representative shall mean;
  - (a) the president, secretary, treasurer, or a 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; and/or
  - (b) the manager of one or more manufacturing, production, or operation facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including the explicit or implicit duty of: making major capital investment recommendations, implementing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations, ensuring that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit or general permit requirements, and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the IU is a partnership, or sole proprietorship,

an authorized representative shall mean a general partner or proprietor, respectively;

- (3) If the IU is a federal, state or local governmental facility, an authorized representative shall mean a Director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his/her designee;
- (4) The individuals described in paragraphs 1-3 above may designate another Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Director of the Bureau of Water Quality.

*Biochemical Oxygen Demand (BOD)*. The quantity of oxygen utilized in the biochemical oxidation of organic matter under Standard laboratory procedure, five (5) days at 20<sup>o</sup> centigrade expressed in terms of mass (lbs.) or concentration (mg/L).

*Best Management Practices or BMPs*. Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in section 53.04(A) and (B) of this ordinance and from 40 CFR 403.5(a)(1) and (b). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage, leaks, sludge or waste disposal, or drainage from raw materials storage. BMPs can also include alternative means (i.e., management plans) of complying with, or in place of, certain established Pretreatment Standards and effluent limits.

*Board of Sanitary Commissioners*. The Board of Sanitary Commissioners of the Muncie Sanitary District.

*Bureau or BWQ*. The Bureau of Water Quality of the Muncie Sanitary District.

*Bypass*. The intentional diversion of wastestreams from any portion of the IU's treatment facility.

*Categorical Pretreatment Standard or Categorical Standard*. Any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with

Sections 307 (b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of IUs and which appear in 40 CFR Chapter I., Subchapter N, Parts 405-471.

*Categorical Industrial User (CIU).* An IU subject to a Categorical Pretreatment Standard or Categorical Standard.

*Chemical Oxygen Demand (COD).* A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

*Color.* The optical density at the visual wavelength of maximum absorption, relative to distilled water. One hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.

*Composite Sample.* A sample which results from the combination of multiple aliquots taken manually or automatically, either discretely or continuously, at selected intervals, using either flow-proportional or time-proportional methods. If discrete sampling is employed a minimum of 12 aliquots should be composited. It is recommended that influent and effluent operational data be obtained through 24-hour flow proportional composite samples only. When flow-proportional methods are not practicable the Director must first grant permission to utilize the alternative time-proportional methods. Composite samples should be representative of the entire process flow.

*Daily Maximum.* The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

*Daily Maximum Allowable Discharge Limit.* The maximum concentration (or loading) of a pollutant allowed to be discharged during a calendar day, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over a course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average of the pollutant concentration derived from all measurements taken that day.

*Director.* The person hired by the Board of Sanitary Commissioners to supervise the operation of the Bureau of Water Quality, and who is charged with certain duties

and responsibilities by this ordinance or his duly authorized representative.

*Disposal Facility.* A facility at which liquid waste, including, but not limited to, grease interceptor/trap waste, grit interceptor waste, and sewage is received, processed, or treated in a manner compliant with all applicable federal, state, and local regulations.

*Environmental Protection Agency or EPA.* The U.S. Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the Regional Water Management Division Director or other duly authorized official of said agency.

*Existing Source.* Any source of discharge, the construction or operation of which commenced prior to the publication of proposed Categorical Pretreatment Standards, which will be applicable to such source if the Standard is thereafter promulgated in accordance with Section 307 of the Act.

*FOG (Fats, oils, and grease).* Any fats, oils, and grease generated from the food preparation process as identified by the most current EPA method as listed in 40 CFR Part 136.3.

*FOG Disposal Facility.* A publicly owned treatment works or privately owned treatment works that is certified, licensed, or permitted by the Indiana Department of Environmental Management (or comparable state agency if taken out of state) and/or the EPA, for the separation and disposal of FOG by incineration or other methods from the wastewater of a facility.

*FOG Enforcement Response Guide (ERG).* The policy that contains detailed procedures indicating how the Bureau will investigate and respond to instances of noncompliance with the FOG Pretreatment Ordinance.

*FOG Interceptor or Grease Interceptor.* A passive tank installed outside a building and designed to remove fats, oil, and grease from flowing wastewater while allowing wastewater to flow through it, and as further defined herein.

*FOG Recovery Unit.* All active indoor mechanical systems designed to remove fats, oil, and grease by physical separation from flowing wastewater, as further defined herein.

*FOG Pretreatment System.* Refers to properly installed and operated FOG interceptors, FOG Recovery Units, and other alternate systems as approved by the Director of the Bureau of Water Quality.

*Food Service Establishments.* Those Industrial Users primarily engaged in activities of preparing, serving, or otherwise making foodstuffs available for consumption, and that use one or more of the following preparation activities: cooking by frying (all methods), baking (all methods), grilling, sautéing, rotisserie cooking, broiling (all methods), boiling, blanching, roasting, toasting, or poaching. Also included are infrared heating, searing, barbecuing, and any other food preparation activity that produces a hot, non-drinkable food product in or on a receptacle that requires washing. Also included are Non-cooking Facilities and/or those establishments that engage in the preparation of precooked and frozen food materials and meat cutting preparation and applicable to all Food Service Establishments that discharge wastewater containing fats, oils, or grease to the Muncie Water Pollution Control Facility including but not limited to the following: restaurants, grocery stores, meat markets, hotels, factory and office building cafeterias, public and private schools, hospitals, nursing homes, commercial day care centers, churches, and catering services.

*Grab Sample.* An individual sample taken from a waste stream on a one time basis without regard to flow collected over a period of time not to exceeding 15 minutes

*Indirect Discharge or Discharge.* The introduction of (nondomestic) pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c) or (d) of the Act.

*Industrial User or User (IU).* A source of indirect discharge, including Food Service Establishments.

*Instantaneous Limit.* The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

*Interference.* A discharge which alone or in conjunction with a discharge or discharges from other sources inhibits or disrupts the POTW, its treatment processes, operations, sludge processes, or the use or

disposal of sludge; and ,therefore, is a cause of a violation of the Muncie Sanitary District's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act; the Solid Waste Disposal Act (SWDA), including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

*Local Limit.* Specific discharge limits developed and enforced by the Bureau upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

*May.* Precedes an action that is permissive or discretionary. The use of the singular form shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

*Medical Waste.* Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

*Monthly Average.* The sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.

*Monthly Average Limit.* The highest allowable average of daily discharges over a calendar month, calculated as the sum of all daily discharges measured during a calendar month divided by the number of daily discharges measured during that month.

*MSD.* The Muncie Sanitary District of Muncie, Indiana.

*MWPCF.* The Muncie Water Pollution Control Facility; Muncie’s publicly owned treatment works.

*New Source.*

- (1) Any building, structure, facility or installation from which there is or may be a discharge of

pollutants, the construction of which commenced after the publication of proposed 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 that:

- (a) The building, structure, facility or installation is constructed at a site at which no other source is located;
  - (b) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  - (c) The production or wastewater generating processes of the building, structure, facility or installation 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, should be considered.
- (2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of subsection (1)(b) or (c) above, but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
- (a) Begun, or caused to begin as part of a continuous onsite construction program
    - (i) Any placement, assembly, installation of facilities or equipment, or
    - (ii) 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

- (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

*Noncontact Cooling Water.* Water used for cooling that does not come into direct contact with any raw material intermediate product, waste product, or finished product.

*Non-cooking Facilities.* Facilities primarily engaged in the preparation of precooked foodstuffs that do not include any form of cooking. These include cold dairy and frozen foodstuffs preparation and serving facilities.

*Non-Renderable FOG.* Fats, oils, and greases generated from food preparation processes that have been contaminated during the food preparation process thereby prohibiting this material from being rendered.

*Pass-through.* A discharge which exits the POTW into waters of the U.S. 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 requirements of the Muncie Sanitary District's NPDES permit (including an increase in the magnitude or duration of a violation).

*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. This definition includes all federal, state or local governmental entities.

*pH.* A measure of the acidity or alkalinity of a substance expressed in Standard units.

*Polar Grease.* Animal or vegetable-based grease, commonly produced at food service establishments and commonly categorized as FOG.

*Pollutant.* Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, industrial wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 U.S.C. 2011 et seq.)), heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes discharged into the water [40 CFR 122.2].

*Pretreatment.* The reduction, elimination, or alteration of the amount or nature of pollutants in wastewater, prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical or biological processes, by process changes, or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable Pretreatment Standard.

*Pretreatment Requirements.* Any substantive or procedural requirement related to pretreatment imposed on an IU, other than a Pretreatment Standard.

*Pretreatment Standards or Standards.* Prohibitive discharge Standards, Categorical Pretreatment Standards, and local limits.

*Prohibited Discharge Standards or Prohibited Discharges.* Absolute prohibitions against the discharge of certain substances, these prohibitions appear in section 53.04 of this ordinance.

*Publicly Owned Treatment Works or POTW.* A "treatment works" as defined by section 53.01 of the Act (33 U.S.C. 1292), which is owned by the state, municipality, or Sanitary District. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes and any conveyances which convey wastewater to a treatment plant. The term also means the municipal entity having jurisdiction over the IUs and responsibility for the operation and maintenance of the treatment works.

*Reasonable hours.* Any time during which a facility is open for business to the public. It shall also include those times when a facility is closed to the public when a manager, employees, and/or contractors are present at the facility and involved in cleanup or food preparation, or any other business activity.

*Renderable FOG.* Uncontaminated fats, oils, and grease from the food preparation process that can be used as a source of material that is free of impurities and can be recycled into products such as animal feed and cosmetics.

*Renderable FOG Container.* A closed, leak-proof container for the collection and storage of food grade fats, oil and grease.

*Sanitary District.* The Muncie Sanitary District of Muncie, Indiana.

*Septic Tank Waste.* Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

*Severe property damage.* Substantial physical damage to property, damage to treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

*Sewage.* Human excrement and gray water (household showers, dishwashing operations, etc.)

*Significant Industrial User (SIU).* Except as provided in paragraphs (3) and (4) shall apply to:

- (1) Industrial Users subject to Categorical Pretreatment Standards; or
- (2) any other IU that
  - (a) discharges an average of 25,000 gpd or more of process wastewater,
  - (b) contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the treatment plant, or,
  - (c) is designated as significant by the Bureau on the basis that the IU has a reasonable potential for adversely affecting the POTW's operation or violating any Pretreatment Standard or requirement.
- (3) The Bureau may determine that an IU subject to Categorical Pretreatment Standards is a Non-Significant Categorical Industrial User rather

than a SIU on a finding that the IU never discharges more than 100 gallons per day (gpd) of total Categorical wastewater (excluding sanitary, non-contact cooling and boiler blow-down wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:

- (a) The IU, prior to the Bureau's finding, has consistently complied with all applicable Categorical Pretreatment Standards and Requirements;
  - (b) The IU annually submits the certification statement required in section 53.33(B), together with any additional information necessary to support the certificate statement; and
  - (c) The IU never discharges any untreated concentrated wastewater.
- (4) Upon a finding that an IU meeting the criteria in subsection (2) of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the Bureau may at any time, on its own initiative or in response to a petition received from the IU, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such User should not be considered a SIU.

*Shall.* Precedes an action that is mandatory. The use of the singular form shall be construed to include the plural and the plural shall include the singular as indicated by the context of its use.

*Slug Load or Slug Discharge.* Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge Standards in section 53.04 of this ordinance. A slug discharge is 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, pass-through, or in any other way violate the POTW's regulations, local limits or permit conditions.

*Standard Industrial Classification (SIC) Code.* A classification pursuant to the Standard Industrial Classification Manual issued by the U.S. Office of Management and Budget.

*Stormwater.* Any flow during, following, or resulting from any form of natural precipitation, including snowmelt.

*Superintendent.* The person hired by the Board of Sanitary Commissioners to supervise the operation of the POTW.

*Suspended Solids.* The total suspended matter that floats on the surface of or is suspended in water, wastewater, or other liquid, and which is removable by laboratory filtering.

*Total Petroleum Hydrocarbons (TPH) Oil and Grease.* Petroleum or mineral oil products.

*Toxic Pollutant.* One of 126 pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by the EPA under the provision of section 307 (33 U.S.C. 1317) of the Act.

*Treatment Plant Effluent.* Any discharge of pollutants from the Muncie POTW into waters of the state of Indiana.

*Wastewater.* Liquid and/or water-carried industrial wastes and sewage from residential dwellings, commercial buildings, institutions, and industrial and manufacturing facilities, whether treated or untreated, which are contributed to the POTW.

*Wastewater Treatment Plant or Treatment Plant.* That portion of the POTW designed to provide treatment of sewage and industrial waste.

## **Sec. 53.02. Abbreviations.**

The following abbreviations shall have the designated meanings:

BMP	Best Management Practice
BOD	Biochemical Oxygen Demand
CFR	Code of Federal Regulations
CIU	Categorical Industrial User
COD	Chemical Oxygen Demand
EPA	U.S. Environmental Protection Agency
ERG	Enforcement Response Guide
FOG	Fats, oils, and grease
FSE	Food Service Establishments
gpd	gallons per day
IU	Industrial User

L	Liter
mg	Milligrams
mg/L	Milligrams per liter
NPDES	National Pollutant Discharge Elimination System
NSCIU	Non-Significant Categorical Industrial User
O&M	Operation and Maintenance
POTW	Publicly Owned Treatment Works
RCRA	Resource Conservation and Recovery Act
SIC	Standard Industrial Classifications
SIU	Significant Industrial User
SNC	Significant Non-Compliance
SWDA	Solid Waste Disposal Act (42 U.S.C. 67901, <u>et seq.</u> )
TSS	Total Suspended Solids
USC	United States Code
ug or µg	Micrograms
ug/L or µg/L	Micrograms per liter

### Sec. 53.03. Administration.

Except as otherwise provided herein, the Director of the Bureau of Water Quality, Muncie Sanitary District shall administer, implement and enforce the provisions of this ordinance. Any powers granted to or duties imposed upon the Director may be delegated by the Director to other Bureau personnel.

### Sec. 53.04. Prohibited discharge standards.

No IU shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass-through or interference. These general prohibitions apply to all IUs of the POTW whether or not they are subject to Categorical Pretreatment Standards or any other federal, state or local Pretreatment Standards or requirement. Furthermore, no IU may contribute the following substances to the POTW:

- (A) Pollutants which create a fire or explosive hazard in the municipal wastewater collection and POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21.
- (B) Any wastewater having a pH less than 5.0 or more than 10.0, unless authorized by the Director, or otherwise causing corrosive structural damage to the POTW, equipment, or endangering Sanitary

District personnel. No wastewater having a pH of less than 5.0 shall be authorized, and no wastewater having a pH of more than 12.5 shall be authorized, since this would be considered a hazardous waste under section 40 CFR 261.22 of the Act.

- (C) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference.
- (D) Any wastewater containing pollutants, including oxygen demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with either the POTW or any wastewater treatment or sludge process, or which will constitute a hazard to humans or animals.
- (E) Any wastewater having a temperature greater than 150°F (65.5°C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature to exceed 104°F (40°C) at the introduction into the POTW.
- (F) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass-through.
- (G) Any pollutant which results in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- (H) Any trucked or hauled pollutant, except at discharge points designated by the Bureau in accordance with section 53.19.
- (I) Any noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance, a hazard to life, or prevent entry into the sewers for maintenance and repair.
- (J) Any wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently impart color to the POTW's effluent thereby violating the



Muncie Sanitary District's NPDES permit. Color (in combination with turbidity) shall not cause the treatment plant effluent to reduce the depth of the compensation point for photosynthetic activity by more than 10 percent from the seasonably established norm for aquatic life.

- (K) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the Director in compliance with applicable federal or state regulations.
- (L) Subsurface drainage, condensate, deionized water, noncontact cooling water, and unpolluted industrial wastewater, unless specifically authorized by the Director.
- (M) Any sludge or other residue from the pretreatment of industrial wastes.
- (N) Any wastewater causing the treatment plant's effluent to fail a toxicity test.
- (O) Any wastes containing detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW.
- (P) Obstruction of flow in a sewer system, injury of the system, or a nuisance or prevention of the effective maintenance or operation of the sewer system.
- (Q) Any discharge of polar fats, oils, or greases of animal or vegetable origin exceeding 200 mg/L.

Wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW. All floor drains located in process or materials storage areas must discharge to the IU's pretreatment facility before connecting with the POTW.

**Sec. 53.05. Federal categorical pretreatment standards.**

The national categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated.

**Sec. 53.06. State requirements.**

Indiana Industrial State Pretreatment Standards are

also hereby incorporated into this ordinance.

**Sec. 53.07. Specific pollutant limitations.**

The Director is authorized to establish Local Limits pursuant to 40 CFR 403.5(c). The following pollutant limits are established to protect against pass-through and interference. No person shall discharge wastewater containing in excess of the following maximum allowable discharge limits and maximum monthly average limits.

Pollutant	Maximum for Monthly Average	Maximum for any one day
Cadmium	0.20 mg/L	0.60 mg/L
Chromium	2.0 mg/L	6.0 mg/L
Copper	2.0 mg/L	6.0 mg/L
Cyanide	1.0 mg/L	1.9 mg/L
Lead	2.0 mg/L	6.0 mg/L
Nickel	2.0 mg/L	6.0 mg/L
TPH Oil and Grease (See section 53.07(C))	NA	100 mg/L
Polar Oil and Grease	NA	200 mg/L
PCBs	NA	0.009 mg/L
Silver	NA	2.5 mg/L
Zinc	4.0 mg/L	12.0 mg/L

(A) Total Toxic Organics (TTO's) - Limits for parameters on the TTO list will be considered on an individual case by case basis, by the Director, for those not regulated in the 40 CFR Regulations of the Act for Categorical and/or Non-Categorical Industries, considering such factors including, but not limited to concentration, flow, mass loading to the POTW, and other considerations necessary to prevent pass-through and protect the POTW as set forth by the Director.

(B) Any wastewater containing over 250 mg/L of BOD or Total Suspended Solids will be surcharged at the appropriate rate, by the methods listed in section 53.89 or pretreated to levels so as not to cause obstruction to the sanitary sewer system, upsets or overloading at the POTW. The

surcharge is not to be used as a substitute for fines issued for POTW upsets or overloading, or sanitary sewer obstruction.

- (C) All concentrations for metallic substances are for "total" metals unless indicated otherwise. At the Director's discretion, mass limitations in addition to, or in place of, the concentration-based limitations above may be applied.
- (D) The Director may develop Best Management Practices (BMPs); by ordinance, in individual wastewater discharge permits, or in general permits, to implement local limits and the requirements of sections 53.04 through 53.07 of this ordinance.

**Sec. 53.08. Sanitary District right of revision.**

The Muncie Sanitary District reserves the right to establish, by ordinance, individual industrial wastewater discharge permits, or general permits issued through the Bureau of Water Quality, more stringent Standards or requirements on discharges to the POTW if deemed necessary to comply with the objectives of this ordinance or the general and specific prohibitions in sections 53.04 through 53.07 of this ordinance and parameters not listed in section 53.07.

**Sec. 53.09. Special agreements.**

The District, through the Director of the Bureau, reserves the right to enter into special agreements with IUs setting out special terms under which they may discharge to the POTW. In no case will a special agreement waive compliance with a Pretreatment Standard or requirement. However, the IU may request a net gross adjustment to a Categorical Standard in accordance with 40 CFR 403.15. The IU may also request a variance from the Categorical Pretreatment Standard from EPA. Such a request will be approved only if the IU can prove that factors relating to its discharge are fundamentally different from the factors considered by EPA when establishing that Pretreatment Standard. An IU requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in 40 CFR 403.13.

**Sec. 53.10. Dilution.**

No IU shall ever increase the use of process water, or

in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable Pretreatment Standard or requirement. The Director may impose mass limitations on IUs which are using dilution to meet applicable Pretreatment Standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

**Secs. 53.11-53.15. Reserved.**

DIVISION 2. PRETREATMENT

**Sec. 53.16. Facilities required, when.**

Industrial Users shall provide necessary wastewater treatment as required to comply with this ordinance and shall achieve compliance with all Categorical Pretreatment Standards, local limits and the prohibitions set out in section 53.04 above within the time limitations specified by the EPA, the state, or the Director, whichever is more stringent. Any facilities required to pretreat wastewater to achieve compliance or levels acceptable to the Bureau shall be provided, operated, and maintained at the IU's expense. Detailed plans showing or describing the pretreatment facilities and operating procedures shall be submitted to the Director for review, and shall be acceptable to the Director before construction of the facility. The review of such plans and operating procedures shall in no way relieve the IU from the responsibility of modifying the facility as necessary to produce an acceptable discharge to the Bureau under the provisions of this ordinance. The Director shall be notified forty-eight (48) hours prior to start-up of new or modified wastewater pretreatment facilities. Any subsequent changes in the wastewater pretreatment facilities or method of operation shall be reported to and be accepted by the Director.

**Sec. 53.17. Accidental discharge/slug control plans.**

The Director may require any IU to develop and implement an accidental discharge/slug control plan. The Director shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control slug discharges. Any IU required to develop and implement an accidental discharge/control slug plan shall submit a plan which addresses, at a minimum, the following:

- (A) Description of discharge practices, including non-

routine batch discharges.

- (B) Description of stored chemicals.
- (C) Procedures for immediately notifying the POTW of any accidental or slug discharge, as required by section 53.48 of this ordinance. Such notification must also be given for any discharge which would violate any of the general or specific prohibited discharges in section 53.04 through 53.07 of this ordinance.
- (D) 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 for emergency response.

**Sec. 53.18. Tenant responsibility.**

Where an owner of property leases premises to any other person as a tenant under any rental or lease agreement, if either the owner or the tenant is an IU, either or both may be held responsible for compliance with the provisions of this ordinance.

**Sec. 53.19. Hauled wastewater.**

- (A) Septic tank waste may be accepted into the POTW at a designated receiving structure within the treatment plant area, and at such times as are established by the superintendent, provided such wastes do not violate section 53.04 through 53.10 of this ordinance or any other requirements established or adopted by the Muncie Sanitary District.
- (B) The discharge of hauled industrial wastes and/or wastewater as *industrial septage* requires prior approval and a wastewater discharge permit from the Bureau.
  - (1) The Director shall have authority to prohibit the disposal of such wastes, if such disposal would interfere with the treatment plant operation or cause pass-through of the POTW or adversely affect the quality of the

POTW sludge. Waste haulers are subject to all other sections of this ordinance.

**Sec. 53.20. Underground storage tank wastewater.**

Wastewater from contaminated underground storage tank sites within the legal boundaries of the Muncie Sanitary District and/or from extra-jurisdictional users may be discharged to the POTW only when and if a permit application, as prescribed by the Director, is applied for, and a special "Underground Storage Tank Wastewater Discharge Permit", as prescribed by the Director, is issued to the owner and or tenant of the property at which the contaminated wastewater is generated. Whenever deemed necessary by the Director, Users may be required to restrict their discharge during peak flows, designate that certain wastewaters be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastewaters from contaminated wastewaters, and/or implement other such conditions as may be necessary to protect the POTW and determine the User's compliance with the requirements of this ordinance. All other aspects of this ordinance will simultaneously be in force for these permits.

**Sec. 53.21. Vandalism of equipment, etc.**

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, tamper with, or prevent access to any structure, appurtenance or equipment, or other part of Bureau property, i.e., (automatic samplers and other field equipment). Any person found in violation of this requirement shall be subject to the sanctions set out in section 53.71 through 53.84 of this ordinance.

**Secs. 53.22-53.25. Reserved.**

DIVISION 3. PERMITS

**Sec. 53.26. Wastewater survey.**

When requested by the Director, all IUs must submit information on the nature and characteristics of their wastewater by completing a wastewater survey prior to commencing their discharge. The Director is authorized to prepare a form for this purpose and may periodically require IUs to update this information. Failure to complete this survey shall be reasonable grounds for terminating service to the IU and shall be considered a

violation of the ordinance.

**Sec. 53.27. Permit requirements.**

- (A) It shall be unlawful for any SIU to discharge wastewater into the Muncie Sanitary District's POTW without first obtaining an individual wastewater discharge permit or a general permit from the Director. Any violation of the terms and conditions of an individual wastewater discharge permit or general permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Division 6 of this ordinance. Obtaining an individual wastewater discharge permit or a general 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) The Director may require other IUs, including liquid waste haulers, to obtain individual wastewater discharge permits or general permits as necessary to carry out the purposes of this ordinance.

**Sec. 53.28. Existing connections.**

Any SIU which discharges industrial waste into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within ninety (90) days after said date, apply to the Bureau for an individual wastewater discharge permit or general permit, in accordance with section 53.32 of this ordinance, and shall not cause or allow discharges to the POTW to continue after one hundred eighty (180) days of the effective date of this ordinance except in accordance with an individual wastewater discharge permit or general permit issued by the Director, or in the case a valid permit exists and does not violate any part of this ordinance, shall not have to re-apply until the permit expiration date.

**Sec. 53.29. New connections.**

Any SIU proposing to begin or recommence discharging industrial wastes into the POTW must obtain an individual wastewater discharge permit or general permit prior to the beginning or recommencing of such discharge. An application for this individual wastewater

discharge permit or general permit must be filed, in accordance with section 53.32 of this ordinance at least sixty (60) days prior to the date upon which any discharge will begin or recommence.

**Sec. 53.30. General permits.**

- (A) At the discretion of the Director, general permits may be used to control a group of IU discharges to the POTW if any of the following conditions are met. Facilities grouped by a general permit must:
  - (1) Involve the same or substantially similar types of operations;
  - (2) Discharge the same type of wastes;
  - (3) Require the same effluent limitations;
  - (4) Require the same or similar monitoring; or
  - (5) In the opinion of the Director, are more appropriately controlled under a general permit than under an individual wastewater discharge permits.
- (B) To be covered by the general permit, the SIU must file a written request for coverage that identifies its contact information, production processes, types of wastes generated, the location for monitoring all wastes covered by the general permit, any requests in accordance with section 53.46(E) for a monitoring waiver for a pollutant neither present nor expected to be present in the discharge, and any other information the Director deems appropriated. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general permit until after the Director has provided written notice to the SIU that such a waiver request has been granted in accordance with section 53.46(E).
- (C) The Bureau of Water Quality will retain a copy of the general permit, documentation to support the Bureau's determination that a specific SIU meets the criteria in section 53.30(A)(1) through (5) and applicable state regulations, and a copy of the IU's written request for coverage for no less than three (3) years after expiration of the general permit.

(D) The Director may not control an SIU through a general permit where the facility is subject to production-based Categorical Pretreatment Standards or Categorical Pretreatment Standards expressed as mass pollutant discharge per day or for IUs whose limits are based on the combined wastestream formula in accordance with 40 CFR 403.6(e) or Net/Gross calculations in accordance with 40 CFR 403.15.

(E) Each Industrial User controlled by a general permit will be subject to inspection by Bureau personnel biennially (once every two years) at a minimum.

**Sec. 53.31. Extra-jurisdictional Industrial Users.**

(A) Any existing SIU located beyond the Muncie Sanitary District limits and discharging into the Muncie Sanitary sewer system shall submit an individual wastewater discharge permit or general application, in accordance with section 53.32 below, within ninety (90) days of the effective date of this ordinance or in the case a valid permit exists and does not violate any part of this ordinance, shall not have to re-apply until the permit expiration date. New SIUs located beyond the Muncie Sanitary District limits shall submit such applications to the Director at least sixty (60) days prior to any proposed discharge into the POTW.

(B) Alternately, the Director may enter into an agreement with the neighboring jurisdiction in which the SIU is located to provide for the implementation and enforcement of Pretreatment Program requirements against said IU.

**Sec. 53.32. Content of applications.**

In order to be considered for an individual wastewater discharge permit or general permit, all IUs required to have an individual wastewater discharge permit or general permit must submit the information required by section 53.43(B) of this ordinance. Users that are eligible may request a general permit under section 53.32. The Director shall approve a form to be used as a permit application. In addition, the following information may be requested:

(A) Identifying information to including the name and

address of the facility, the name of the operator and owner, and contact information.

(B) Description of activities, facilities, and plant production processes on the premises, Standard industrial classifications of operation(s) carried out by such User.

(C) Number and type of employees, hours of operation, and proposed or actual hours of operation of the industry.

(D) Each product produced by type, amount, process and processes, and rate of production.

(E) A list of types and amounts of all raw materials, chemicals used or stored, and wastes generated or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW.

(F) Type and amount of raw materials processed (average and maximum per day).

(G) Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams.

(H) A brief description of the User's facility shall include a schematic process diagram, which indicates points of discharge site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge to the POTW from the regulated processes.

(I) Time and duration of the discharge.

(J) The amount, storage of, and disposal of any hazardous waste on site, or generated by the Industry.

(K) Any request to be covered by a general permit based on section 53.30.

(L) Any request for a monitoring waiver (or renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on section 53.46(D).

- (M) Samples shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section 53.52(A analytical Requirements) of this ordinance.
- (N) Sampling must be preformed in accordance with procedures set out in section 53.53(Sample Collection) of this ordinance.
- (O) Any other information as may be deemed necessary by the Director to evaluate the wastewater discharge permit application. Incomplete or inaccurate applications will not be processed and will be returned to the IU for revision.
- (P) Any other information as may be deemed necessary by the Director to evaluate the wastewater discharge permit application. Incomplete or inaccurate applications will not be processed and will be returned to the IU for revision.
- (Q) At the discretion of the Director, general permits may be used to control groups of SIU discharges to the POTW if any of the following conditions are met. All facilities to be grouped by a general permit must:
  - (1) Involve the same or substantially similar types of operations;
  - (2) Discharge the same type of wastes;
  - (3) Require the same effluent limitations;
  - (4) Require the same or similar monitoring; or
  - (5) In the opinion of the Director, are more appropriately controlled under a general permit than under an individual wastewater discharge permits.
- (R) To be covered by the general permit, the SIU must file a written request for coverage that identifies its contact information, production processes, types of wastes generated, the location for monitoring all wastes covered by the general permit, any requests in accordance with section 53.46(E) for a monitoring waiver for a pollutant neither present nor expected to be present in the discharge, and any other information the POTW

deems appropriated. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general permit until after the Director has provided written notice to the SIU that such a waiver request has been granted in accordance with section 53.46(E).

- (S) The Bureau of Water Quality will retain a copy of the general permit, documentation to support the Bureau's determination that a specific SIU meets the criteria in section 53.30(A)(1) through (5) and applicable state regulations, and a copy of the IU's written request for coverage for no less than three (3) years after expiration of the general permit.
- (T) The Director may not control an SIU through a general permit where the facility is subject to production-based Categorical Pretreatment Standards or Categorical Pretreatment Standards expressed as mass pollutant discharge per day or for IUs whose limits are based on the combined wastestream formula in accordance with 40 CFR 403.6(e) or Net/Gross calculations in accordance with 40 CFR 403.15.

**Sec. 53.33. Application signatories and certification.**

All wastewater discharge permit applications and IU reports, including the Quarterly Report and all certification statements to the Bureau, must contain one of the three certification statements below and be signed by an authorized representative, as defined in section 53.01, of the IU. If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operations 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.

- (A) Certification of Permit Applications, User Reports, and Initial Monitoring Waivers: the following certification statement is required to be signed by the authorized representative, in accordance with section 53.01, and submitted by IUs when submitting discharge applications, industry User reports, quarterly reports, initial monitoring waivers, and any other reports, forms,

or applications deemed necessary by the Director in accordance with section 53.32.

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

(B) Certification of Pollutants Not Present: Industrial Users that have an approved monitoring waiver based on section 53.46(D) must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the IU:

"Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR [list part here] 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 under section 53.46(A)."

(C) Annual Certification for Non-Significant Categorical Industrial Users: A facility determined to be a Non-Significant Categorical Industrial User by the Director pursuant to section 53.01 and 53.33(D) must annually submit the following certification statement signed in accordance with the signatory requirements in section 53.01 by an authorized representative. This certification must accompany an alternative report as required by the Director:

"Based on my inquiry of the person or persons directly responsible for managing compliance with Categorical Pretreatment Standards under 40 CFR [list Part Number here], I certify that, to the best of my knowledge and belief

that during the period from [month/day/year] to [month/day/year]:"

- (1) "The facility described as [Facility Name] met the definition of a Non-Significant Categorical Industrial User as described in section 53.01";
- (2) "The facility described as [Facility Name] complied with all applicable Pretreatment Standards and requirements during this reporting period"; or
- (3) "The facility described as [Facility Name] never discharged more than 100 gallons of total Categorical wastewater on any given day during this reporting period."

"This compliance is based on the following information:  
\_\_\_\_\_  
\_\_\_\_\_"

**Sec. 53.34. Permit decisions.**

The Director will evaluate the data furnished by the IU and may require additional information. Within sixty (60) days of receipt of a completed wastewater discharge permit application, the Director will determine whether or not to issue an individual wastewater discharge permit or general permit. The Director may deny any application for an individual wastewater discharge permit or general permit.

**Sec. 53.35. Permit duration.**

An individual wastewater discharge permit or a general permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An individual wastewater discharge permit or a general permit may be issued for a period less than five (5) years, at the discretion of the Director. Each individual wastewater discharge permit or a general permit will indicate a specific date upon which it will expire.

**Sec. 53.36. Permit contents.**

Individual wastewater discharge permits or general permits shall include such conditions as are reasonably

deemed necessary by the Director to prevent pass-through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, protect ambient air quality, and protect against damage to the POTW.

(A) Individual wastewater discharge permits and general permits must contain the following conditions:

- (1) A statement that indicates wastewater discharge permit issuance date, expiration date, and effective date;
- (2) A statement that the wastewater discharge permit is nontransferable without prior notification and approval from the Director, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- (3) Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards in federal, state, and local law;
- (4) Self-monitoring, sampling, reporting, notification, and record keeping requirements, which shall include an identification of pollutants (or best management practices) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law;
- (5) The process for seeking a waiver from monitoring for a pollutant that is neither present nor expected to be present in the discharge in accordance with section 53.46(D);
- (6) Statement of applicable civil and administrative penalties for violation of Pretreatment Standards and requirements, and any applicable compliance schedule, which shall not extend the time for compliance beyond that required by applicable federal, state, or local law;
- (7) Requirements to control slug discharge, if determined by the Director to be necessary;

(8) Any grant of a monitoring waiver by the Director; and

(9) A copy of the Bureau of Water Quality's, Industrial Enforcement Response Guide or the FOG Enforcement Response Guide.

(B) Individual wastewater discharge permits and general permits may contain, but need not be limited to, the following:

- (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- (2) Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties;
- (3) 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;
- (4) Development and implementation of spill control plans, total toxic organics control plans, or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
- (5) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
- (6) The unit charge or schedule of IU charges and fees for the management of the wastewater discharged to the POTW;
- (7) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- (8) A statement that compliance with the individual wastewater discharge permit or the general permit does not relieve the permittee of responsibility for compliance with all applicable federal and state Pretreatment



Standards, including those which become effective during the term of the individual wastewater discharge permit and general permit; and

- (9) Other conditions as deemed appropriate by the Director to ensure compliance with this ordinance, federal and state laws, rules, and regulations.

**Sec. 53.37. Permit appeals.**

Any person, including the IU, may petition the Director to reconsider the terms of an individual wastewater discharge permit or a general permit within thirty (30) days of its issuance.

- (A) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- (B) In its petition, the appealing party must indicate the individual wastewater discharge permit or general permit provisions objected to, the reasons for the objection, and the alternative condition, if any, it seeks to place in the individual wastewater discharge permit or general permit.
- (C) The effectiveness of the individual wastewater discharge permit or a general permit shall not be stayed pending the appeal.
- (D) Decisions not to reconsider an individual wastewater discharge permit or general permit, not to issue an individual wastewater discharge permit or general permit, or not to modify an individual wastewater discharge permit or general permit, shall be considered final administrative action for purposes of judicial review.
- (E) Aggrieved parties may seek an appeal under section 53.80(B). Parties dissatisfied with the decision of the Board may seek judicial review, which shall be limited as provided in the Indiana Code 4-21.5-5-14(d)(1) through (5).

**Sec. 53.38. Permit modification.**

- (A) The Director may modify the individual wastewater discharge permit for good cause including, but not limited to, the following:

- (1) To incorporate any new or revised federal, state, or local Pretreatment Standards or requirements.
- (2) To address significant alterations or additions to the IU's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance.
- (3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- (4) Information indicating that the permitted discharge poses a threat to the Muncie Sanitary District's POTW, District personnel, or the receiving waters.
- (5) Violation of any terms or conditions of the individual wastewater discharge permit.
- (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting.
- (7) Revision of or a grant of variance from Categorical Pretreatment Standards pursuant to 40 CFR 403.13.
- (8) To correct typographical or other errors in the individual wastewater discharge permit.
- (9) To reflect a transfer of the facility ownership and/or operation to a new owner/operator.
- (B) The Director may modify a general wastewater discharge permit for good cause including, but not limited to, the following:
  - (1) To incorporate any new or revised federal, state, or local Pretreatment Standards or requirements.
  - (2) To address a change in the POTW's operation that requires either a temporary or permanent reduction or elimination of the authorized discharge.
  - (3) To correct typographical or other errors in the individual wastewater discharge permit.

(4) To reflect a transfer of the facility ownership and/or operation to a new owner/operator.

(C) The filing of a request by the permittee for an individual wastewater discharge permit or general permit modification does not stay any individual wastewater discharge permit or general permit conditions.

#### **Sec. 53.39. Transfer of permit.**

Individual wastewater discharge permits or coverage under general permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least thirty (30) days advance notice to the Director and the Director approves the individual wastewater discharge permit or the general permit coverage transfer. The notice to the Director must include a written certification by the new owner and/or operator which:

- (A) States that the new owner and/or operator have no immediate intent to change the facility's operations and processes.
- (B) Identifies the specific date on which the transfer is to occur.
- (C) Acknowledges full responsibility for complying with the existing individual wastewater discharge permit or general permit.

Failure to provide advance notice of a transfer renders the individual wastewater discharge permit or coverage under the general permit voidable on the date of facility transfer.

#### **Sec. 53.40. Revocation of permit.**

Individual wastewater discharge permits or coverage under general permits may be revoked for, but not limited to, the following reasons:

- (A) Failure to notify the Bureau of significant changes to the IU's wastewater prior to the discharge of the changed wastewater.
- (B) Failure to provide prior notification to the Bureau of changed condition pursuant to section 53.47.
- (C) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit

application.

- (D) Falsifying self-monitoring reports and certification statements.
- (E) Tampering with Bureau of Water Quality monitoring equipment.
- (F) Refusing to allow the Bureau timely access to the facility premises and records.
- (G) Failure to meet effluent limitations.
- (H) Failure to pay fines.
- (I) Failure to pay sewer charges.
- (J) Failure to meet compliance schedules.
- (K) Failure to complete a wastewater survey or the wastewater discharge permit application.
- (L) Failure to provide advance notice of the transfer of ownership of a permitted facility.
- (M) Violation of any Pretreatment Standard or requirement, any terms of the individual wastewater discharge permit, any terms of the general permit, or the ordinance.

Individual wastewater discharge permits or coverage of general permits shall be voidable upon nonuse, cessation of operations, or transfer of business ownership. All individual wastewater discharge permits or general permits are void upon the issuance of a new individual wastewater discharge permit or general permit.

#### **Sec. 53.41. Permit reissuance.**

A SIU shall apply for an individual wastewater discharge permit or general permit reissuance by submitting a complete wastewater discharge permit application in accordance with section 53.32 a minimum of sixty (60) days prior to the expiration of the IU's existing individual wastewater discharge permit or general permit.

#### **Sec. 53.42. Regulation of waste received from other jurisdictions.**

- (A) If another municipality, or User located within

another municipality, contributes wastewater to the POTW, the Muncie Sanitary District shall enter into an inter-municipal agreement with the contributing municipality.

(B) Prior to entering into an agreement required by paragraph A, above, the Muncie Sanitary District Administrator shall request the following information from the contributing municipality:

- (1) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
- (2) An inventory of all IUs located within the contributing municipality that are discharging to the POTW; and
- (3) Such other information as the Muncie Sanitary District Administrator may deem necessary.

(C) An inter-municipal agreement, as required by paragraph A, above, shall contain the following conditions:

- (1) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this ordinance and local limits, including required Baseline Monitoring Reports (BMRs) which are at least as stringent as those set out in sections 53.04 through 53.07 of this ordinance. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the Muncie Sanitary District's ordinance and local limits;
- (2) A requirement for the contributing municipality to submit a revised User inventory on at least an annual basis;
- (3) A provision specifying which pretreatment implementation activities, including individual wastewater discharge permit or general permit issuance, inspection, sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Bureau of Water Quality; and which of these activities will be conducted jointly by the contributing municipality and the Bureau

of Water Quality;

- (4) A requirement for the contributing municipality to provide the Bureau of Water Quality with access to all information that the contributing municipality obtains as part of its pretreatment activities;
- (5) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges in the POTW and/or its collection system;
- (6) Requirements for monitoring the contributing municipality's discharge;
- (7) A provision ensuring the Bureau of Water Quality access to the facilities of Users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Director; and
- (8) A provision specifying remedies available for breach of the terms of the inter-municipal agreement.

#### DIVISION 4. COMPLIANCE MONITORING AND REPORTING

##### **Sec. 53.43. Baseline monitoring reports.**

- (A) Within either 180 days after the effective date of a Categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing SIUs subject to such Categorical Pretreatment Standards, and currently discharging to or scheduled to discharge to the POTW, shall be required to submit to the Bureau a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become IUs subsequent to the promulgation of an applicable Categorical Standard, shall be required to submit to the Bureau a report which contains the information listed in paragraph B, below. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable Pretreatment Standards. A new source shall also give estimates of its anticipated flow and quantity

of pollutants discharged.

(B) The IU shall submit the following information to the Bureau:

(1) Identifying Information. The name and address of the facility including the name of the operator and owners.

(2) Wastewater discharge permits. A list of any environmental control wastewater discharge permits held by or for the facility.

(3) Description of Operations. A brief description of the nature, average rate of production, and Standard industrial classifications of the operation(s) carried out by such IU. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

(4) Flow Measurement. Information showing the measured average, or estimated, if approved by the Director, daily and maximum flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

(5) Measurement of Pollutants.

(a) Identify the Categorical Pretreatment Standards applicable to each regulated process.

(b) Submit the results of sampling and analysis identifying the nature and concentration (and/or mass), where required by the Standard or by the Bureau, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum and long term average concentrations (or mass, where required) shall be reported. Samples shall be representative of daily operations, taken immediately downstream from the pretreatment facilities; or if no pretreatment facilities exist, immediately

downstream from the regulated process. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the IU shall measure the flows and concentrations necessary to allow use of the combined wastestream formula 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternative concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Bureau.

(c) Analysis shall be performed in accordance with section 53.52.

(d) Sampling shall be performed in accordance with section 53.53.

(e) The Director may allow the submission of a baseline report which utilizes only historical data as long as the data provide sufficient information to determine the need for the industrial pretreatment measures.

(f) The baseline report shall indicate the time, date and place of sampling, methods of analysis, and shall certify that such sampling and analysis is representative of the normal working cycles and expected pollutant discharges to the POTW.

(6) Certification. A statement reviewed by the IU's authorized representative and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and requirements.

(7) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standard; the shortest schedule by which the IU will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be

later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this section must also meet the requirements set out in section 53.44 of this ordinance.

- (8) All baseline monitoring reports must be signed by an authorized representative as defined by section 53.33.

**Sec. 53.44. Compliance schedule progress report.**

The following conditions shall apply to the schedule required by section 53.43(B)(7). The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the IU to meet the applicable Pretreatment Standards (such events include, but are not limited to: hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation). No increment referred to above shall exceed nine (9) months.

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

**Sec. 53.45. Compliance, Monitoring and Reporting.**

Within ninety (90) days following the date for final compliance with applicable Categorical Pretreatment Standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any IU subject to such Pretreatment Standards and requirements shall submit to the Director a report containing the information described in section 53.43(B)(4) through (6). For IUs subject to equivalent mass or concentration limits established in accordance with the procedure in 40 CFR 403.6(c), this report shall contain a reasonable measure of the IU's long term production rate. For all other IUs subject to Categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the IU's actual production during the appropriate sampling period.

All compliance reports must be signed and certified in accordance with section 53.33. All sampling will be done in conformance with section 53.53.

**Sec. 53.46. Periodic compliance reports.**

- (A) Any SIU subject to a Pretreatment Standard, even if they have been designated a Non-Significant Categorical Industrial User, shall, at a frequency determined by the Director, but in no case less than four (4) times per year (April, July, October, and January), each covering the previous three (3) month period, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by such Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the IU must submit documentation required by the Director or the Pretreatment Standard necessary to determine compliance status of the IU. All periodic compliance reports must be signed and certified in accordance with section 53.33.
- (B) All wastewater samples must be representative of the IU's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. Failure of an IU to keep the monitoring facility in good working order shall not be grounds for the IU to claim that sample results are not representative of its discharge.
- (C) If an IU subject to the reporting requirements in and of this section monitors any pollutant more frequently than required by the POTW, using the procedures prescribed in section 53.53 and analytical methods prescribed in section 53.52 of this ordinance, the results of this monitoring shall be included in the report.
- (D) The Director may authorize an IU subject to a Categorical Pretreatment Standard to forego sampling of a pollutant regulated by a Categorical Pretreatment Standard in accordance with 40 CFR 403.12(e)(2) provided that the IU has demonstrated thorough sampling and other technical factors that the pollutant is neither

present nor expected to be present in the discharge, or is present only in background levels from intake water and without any increase in the pollutant due to activities of the IU. The Bureau of Water Quality shall sample the waived pollutant or pollutants at least once during the term of the Categorical Industrial User's control mechanism. In the event that the Director subsequently determines that a waived pollutant is present or is expected to be present in the IU's wastewater based on changes that occur in the IU's operations, the Bureau of Water Quality shall immediately begin at least annual inspection and effluent monitoring of the IU's discharge. This authorization is subject to the following conditions:

- (1) The request for a monitoring waiver must be submitted to the Director with the individual wastewater discharge permit application and signed by the IU's authorized representative, as defined by section 53.01.
- (2) All IU reports, including the Quarterly Report to the Bureau, must be signed by the authorized representative of the IU and include the certification statement in section 53.33(E).
- (3) The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than five (5) years.
- (4) The IU must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit.
- (5) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the IU's operations; the IU must immediately comply with the monitoring requirements of section 53.46(A), or other more frequent monitoring requirements imposed by the Director, and immediately notify the Director of the presence or expected presence of the pollutant.
- (6) This provision does not supersede certification processes and requirements

established in Categorical Pretreatment Standards, except as otherwise specified in the Categorical Pretreatment Standard.

- (7) Such other information as the Director may deem necessary.
- (E) Periodic Compliance Reports may be waived by the Director if the Bureau is at least monitoring the discharge quarterly, and no process wastewater is discharged to the POTW.

#### **Sec. 53.47. Report of changed conditions.**

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

- (A) The Director may require the IU to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 53.32 of this ordinance.
- (B) The Director may issue an individual wastewater discharge permit or general permit under section 53.41 or modify an existing individual wastewater discharge permit or general permit under section 53.38 of this ordinance in response to changed conditions or anticipated changed conditions.
- (C) No IU shall implement the planned changes until and unless the Director has responded to the IU's notice.
- (D) For purposes of this requirement, flow increases of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants, shall be deemed significant.

#### **Sec. 53.48. Reports of potential problems.**

- (A) In the case of any discharge including, but not limited to accidental discharges; discharges of a non-routine, episodic nature; non-customary batch discharges; slug discharges; or other discharge which may cause potential interference or pass-through for the POTW (including a violation of the prohibited discharge Standards in section 53.04 of this ordinance), it is the responsibility of the IU to immediately telephone and notify the

Bureau of the incident. This notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the IU.

- (B) Within five (5) days following such discharge, the IU shall, unless waived by the Director, submit a detailed written report describing the causes of the discharge and the measures to be taken by the IU to prevent similar future occurrences. Such notification shall not relieve the IU of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the IU of any fines, civil penalties, or other liability which may be imposed by this ordinance.
- (C) Failure to notify the Bureau of potential problem discharges shall be deemed a separate violation of this ordinance.
- (D) A notice shall be permanently posted on the IU's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees who may cause or suffer such a discharge are advised of the emergency notification procedure.
- (E) Significant Industrial Users are required to notify the Director immediately of any changes at their facility which may affect the potential for a slug discharge.

**Sec. 53.49. Reports from non-permitted Industrial Users.**

Industrial Users that are not subject to Categorical Pretreatment Standards and that are not required to obtain an individual wastewater discharge permit or general permit shall provide appropriate reports to the Bureau as the Director requires.

**Sec. 53.50. Notice of violation/repeat sampling and reporting.**

If sampling performed by an IU indicates a violation, the IU must notify the Director within twenty-four (24) hours of becoming aware of the violation. The IU shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Director within thirty

(30) days after becoming aware of the violation. The Director may not require the IU to resample if:

- (A) The Bureau performs monitoring at the IU's facility at least once a month,
- (B) The Bureau performs sampling between the IU's initial sampling and when the IU receives the results of this sampling,
- (C) The Bureau has specifically performed the sampling and analysis in lieu of the IU, or
- (D) The IU's regular monitoring activity will result in samples being taken within thirty (30) days of the industry becoming aware of the violation.

**Sec. 53.51. Notification of the discharge of hazardous waste.**

- (A) Any IU who commences the discharge of hazardous waste shall notify the Bureau, the EPA Regional Waste Management Division Director, and the state hazardous waste authorities in writing of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR 261, the EPA hazardous waste number, and the type of discharge (continuous, batch or other). If the IU discharges more than 100 kilograms (220 lbs.) of such waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and readily available to the IU: 1) an identification of the hazardous constituents contained in the wastes, 2) an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and 3) 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 eighty (180) days after the discharge commences. Any such notification need only be submitted once for each hazardous waste discharged. However, notifications of changed conditions or discharges must be submitted under section 53.47. The notification requirement in this section does not apply to pollutants already reported under the self-

monitoring requirements of sections 53.43, 53.45, and 53.46.

- (B) Dischargers are exempt from the requirements of paragraph (A) of this section during a calendar month in which they discharge no more than fifteen (15) kilograms (33 lbs) of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). A discharge of more than fifteen (15) kilograms (33 lbs.) of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the IU discharges more than such quantities of any hazardous waste do not require additional notification.
- (C) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the IU must notify the Bureau, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
- (D) In the case of any notification made under this section, the IU 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.
- (E) All industries permitted by the Bureau, shall make a one time notification to the Director on the Bureau's "Hazardous Waste Notification Form" stating if the company is subject to the reporting conditions in section 53.51(A) and (B).
- (F) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued hereunder, or any applicable federal or state law.

#### **Sec. 53.52. Analytical requirements.**

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or reports shall be performed in accordance with the techniques prescribed in 40 CFR 136 and

amendments thereto, unless otherwise specified in an applicable Categorical Pretreatment Standard. If 40 CFR 136 does not describe sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by the EPA.

#### **Sec. 53.53. Sample collection.**

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, and based on data that is representative of conditions occurring during the reporting period.

- (A) Except as indicated in section (B) and (D) below, the IU must collect wastewater samples using 24-hour flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the Director may authorize the use of time proportional sampling or grab samples where the User demonstrates that this will provide a representative sample of the effluent being discharged. Using protocols (including appropriate preservation) specified in 40 CFR 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to analysis as follows: for cyanide, total phenols, and sulfides, the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Director as appropriate. In addition, grab samples may be required to show compliance with daily maximum discharge limits and instantaneous limits.
- (B) Samples for oil and grease, temperature, pH, cyanide, total phenols, toxicity, sulfides, and volatile organic chemicals must be obtained using grab collection techniques.
- (C) A Categorical Industrial User subject to the limits described in Federal 40 CFR of the Act shall take samples immediately downstream from their pretreatment facility if pretreatment exists, or immediately downstream from the regulated process if no pretreatment exists. If other



wastewaters are mixed with the regulated wastewater prior to pretreatment, the IU should measure the flows and concentrations necessary to allow use of the combined wastestream formula in order to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated, this adjusted limit along with the supporting data shall be submitted to the Bureau.

- (D) For sampling required in support of baseline monitoring and 90-day compliance reports described in section 53.43 and 53.45, for facilities which do not have historical sampling data available, a minimum of four (4) grab samples must be used for determination of pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds; for which historical sampling data is available, the Director may authorize a lower minimum. For reports required by section 53.46, the IU is required to collect the number of grab samples necessary to access and ensure compliance with applicable Pretreatment Standards and requirements.

**Sec. 53.54. Determination of noncompliance.**

The Director may use a grab sample(s) to determine noncompliance with Pretreatment Standards.

**Sec. 53.55. Timing.**

Written reports will be deemed to have been submitted on the date post-marked. For reports which are not mailed, the date of receipt of the report shall be the date it is deemed submitted.

**Sec. 53.56. Record keeping.**

Industrial Users shall retain, and make available for inspection and copying, all records, documents, and information, including documentation associated with Best Management Practices established under section 53.07(D), required to be retained under this ordinance. Records shall include the date, exact place, method, time of sampling, and the name of the person(s) taking samples, the dates analyses were performed, who performed the analyses, the techniques or methods used, and results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of

any litigation concerning compliance with this ordinance, or where the IU has been specifically notified of a longer retention period by the Director.

**Sec. 53.57. Inspection and sampling.**

The Director shall have the right to enter the facilities of any IU to ascertain whether the purpose of this ordinance, and any permit or order issued hereunder, is being met, and whether the IU is complying with all requirements of this ordinance and any and all individual wastewater discharge permits, general permits, or order issued thereof. Industrial Users shall allow the Director or his representatives ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and performance of any additional duties.

- (A) Where an IU has security measures in force which require proper identification and clearance before entry into its premises, the IU shall make necessary arrangements with its security personnel so that, upon presentation of suitable identification, personnel from the Bureau shall be permitted to enter without delay, for the purposes of performing their specific responsibilities.
- (B) The Bureau shall have the right to set up on the IU's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the User's operations.
- (C) The Director may require the IU to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the IU at the User's expense. All devices used to measure wastewater flow and quality shall be calibrated periodically to ensure their accuracy.
- (D) Any temporary or permanent obstruction to safe and easy access to the industrial facility to be inspected and/or sampled shall be promptly removed by the IU at the written or verbal request of the Director and shall not be replaced. The costs of clearing such access shall be borne by the IU.
- (E) Unreasonable delays, defined as longer than fifteen (15) minutes, in allowing Bureau personnel access to the IU's premises shall be a violation of

this ordinance.

#### **Sec. 53.58. Search warrants.**

If the Director and/or the Director's representative have been refused access to a building, structure, or property, or any part thereof, and if the Director and/or the Director's representative have demonstrated probable cause to believe that there may be a violation of this ordinance or that there is a need to inspect or sample as part of a routine inspection and sampling program of the Bureau designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then upon application by the Sanitary District Attorney to the municipal court, superior court or circuit court, the District may seek a search and/or seizure warrant describing therein the specific location subject to the warrant. The request by the District shall specify what, if anything may be searched and/or seized on the property described. Such warrant shall be served at reasonable hours by the Director in the company of a uniformed police officer. In the event of an extreme emergency affecting public health and safety, inspections shall be made without the issuance of a warrant.

#### **Sec. 53.59. Confidential Information.**

Information and data on an IU obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits or general permits, monitoring programs, and from Bureau inspection and sampling activities, shall be available to the public without restriction, unless the IU specifically requests, and is able to demonstrate to the satisfaction of the Director, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. When requested and demonstrated by the IU furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or Pretreatment Program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

#### **Sec. 53.60. Publication of Users in significant noncompliance.**

The Bureau shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the IUs which, during the previous twelve (12) months, were in significant noncompliance with applicable Pretreatment Standards and requirements. The term Significant Noncompliance (SNC) shall be applicable to all SIUs (or other IUs that violate paragraphs (C), (D), or (H) of this section) and shall mean:

- (A) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken for the same pollutant parameter by any amount during a six (6)-month period exceed (by any magnitude) the daily maximum limit, monthly average limit, or an instantaneous limit as defined in section 53.01;
- (B) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6)-month period equals or exceeds the product of the daily maximum limit, or the monthly average limit, or an instantaneous limit, as defined by section 53.01 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- (C) Any other discharge violation; daily maximum, monthly average limit, instantaneous limit or narrative Standard; that the Director believes or determines has caused, along or in combination with other discharges, interference or pass-through (including endangering the health of POTW personnel, Bureau personnel or the general public);
- (D) Any discharge of a pollutant that has caused imminent endangerment to the public, the environment, or has resulted in the Bureau's exercise of its emergency authority to halt or prevent such a discharge;
- (E) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge

permit, general permit or enforcement order for starting construction, completing construction, or attaining final compliance;

- (F) Failure to provide any required reports within thirty (30) days after the due date, , including baseline monitoring reports, ninety (90) day compliance reports with Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (G) Failure to accurately report noncompliance; and
- (H) Any other violation(s), which may include a violation of Best Management Practices, which the Bureau determines will adversely affect the operation or implementation of the local Pretreatment Program.

**DIVISION 5. FOG PRETREATMENT PROGRAM  
REQUIREMENTS FOR FOOD SERVICE  
ESTABLISHMENTS**

**Sec. 53.61. FOG pretreatment**

All Food Service Establishments (FSEs) shall submit an application for a general permit (section 53.30) to discharge to the MWPCF. General permits for FSEs shall require each FSE to develop and implement a FOG Minimization Plan, which will include the following:

- (A) Procedures and Best Management Practices to be implemented by FSE employees to minimize FOG entering the wastewater collection system, and
- (B) A description of the FOG Pretreatment Training Program for the FSE to educate employees in FOG minimization procedures.

**Sec. 53.62. FOG pretreatment system requirements**

- (A) Except as provided by section 53.63, the wastewater generated from FSEs shall be treated to remove FOG using a FOG Interceptor.
- (B) An application for the design and installation of a FOG Pretreatment System shall be subject to review and approval by the Director and shall be subject to the sizing guidelines of the Indiana State Board of Health's Bulletin S.E. 13 Sec. 501

and all other applicable codes, ordinances, and laws.

- (C) Every structure at the FSE shall be constructed, operated and maintained in a manner to ensure that the discharge of food preparation wastewater is directed solely to the FOG Interceptor, or Alternate FOG Pretreatment System. No valve or piping bypass equipment that could prevent the discharge of food preparation wastewater from entering appropriate treatment equipment shall be present.
- (D) The Contact Person at each FSE shall notify the Bureau of Water Quality when the FOG Pretreatment System is ready for inspection and connection to the public sewer. Newly installed FOG interceptors must be left uncovered to allow for inspection by MSD personnel. Inspections will be carried out within 72 hours of receipt of notification that the interceptor is ready for inspection.
- (E) All other applicable state and local plumbing/building codes shall be followed during the installation of the FOG Pretreatment System.
- (F) FOG interceptor requirements:
  - (1) The FOG interceptor shall be installed on a separate building sewer line servicing kitchen flows and shall be connected only to those fixtures or drains which would allow fats, oils, and grease to be discharged. This shall include:
    - (a) Pot sinks;
    - (b) Pre-rinse sinks;
    - (c) Any sink into which fats, oils and grease are likely to be introduced;
    - (d) Soup kettles or similar devices;
    - (e) Wok stations;
    - (f) Floor drains or sinks into which kettles may be drained;
    - (g) Automatic hood wash units;

- (h) Dishwashers without pre-rinse sinks; and
  - (i) Any other fixtures or drains likely to allow fats, oils and grease to be discharged.
- (2) All food grinders or food garbage disposals shall discharge to the FOG Interceptor, unless specifically stated otherwise in the permit.
- (3) No fixture or drain other than those listed in section 53.62(F)(1) shall be directly connected to the FOG interceptor unless approved by the Director. The following shall not be discharged into FOG interceptor:
- (a) Waste that does not contain FOG and that otherwise does not require treatment;
  - (b) Wastewater from dish washing machines or wastewater with a temperature exceeding 140°F;
  - (c) Sanitary waste;
  - (d) Any substance that may cause excessive foaming in the MWPCF;
  - (e) Emulsifiers, chemicals, and enzymes.
- (4) The outlet discharge line from the FOG interceptor shall be directly connected to the municipal sanitary sewer.
- (5) Separate cleanout covers shall be provided over the inlet and outlet of the FOG interceptor to provide easy access for inspection and cleaning.
- (G) All costs and related expenses associated with the installation and connection of the FOG interceptor(s) or Alternate FOG Pretreatment System(s) shall be borne by the FSE. The FSE shall indemnify the Muncie Sanitary District and its Agents for any loss or damage that may directly or indirectly occur due to the installation of the FOG Pretreatment System.

**Sec. 53.63. Alternate FOG pretreatment programs**

- (A) When it is not practical for the FSE to install an outdoor in-ground FOG interceptor per section 53.62, an Alternate FOG Pretreatment System may be utilized upon approval by the Director. The Director will approve these systems on a case-by-case basis. The Contact Person may be required to furnish analytical data demonstrating that FOG discharge concentrations do not exceed the limits established in this ordinance. Alternate FOG Pretreatment Programs will be considered when:

- (1) FOG interceptor size requirement is impractical due to space limitations;
- (2) An existing facility is able to demonstrate that more frequent cleaning of a smaller interceptor or trap, in combination with best management practices, can effectively remove grease as required by this ordinance.

- (B) Alternate FOG Pretreatment Programs shall meet the requirements of section 53.62(B) through (G).

**Sec. 53.64. Pretreatment equipment maintenance**

- (A) The FOG Pretreatment System shall be maintained continuously in satisfactory and effective operation at the FSE's expense.
- (B) The Contact Person or Authorized Agent shall be responsible for the proper removal and disposal, by appropriate means, of the collected material removed from the FOG Pretreatment System.
- (C) The Contact Person or Authorized Agent shall ensure that the FOG interceptor is inspected when pumped to ensure that all fittings and fixtures inside the interceptor are in good condition and functioning properly. The depth of grease inside the tank shall be measured and recorded in the maintenance log during every inspection along with any deficiencies, the date, and the identity of the inspector (see section 53.64(D)(3)).
- (D) The Contact Person or Authorized Agent shall determine the frequency at which its FOG interceptor(s) shall be pumped according to the following criteria:

- (1) The FOG interceptor shall be cleaned by a subsurface sewage disposal cleaner whenever

twenty-five (25) percent of the operating depth of the FOG interceptor is occupied by fats, oils, grease, and settled solids, or a minimum of once every three (3) months; whichever is more frequent. Cleaning of FOG interceptors shall include the complete removal of all contents, including floating materials, wastewater and settled sludge. Decanting back into the FOG interceptor shall not be permitted unless specific variance is granted in the FSE's permit. FOG interceptor cleaning shall include scraping excessive solids from the wall, floors, baffles and all piping.

- (2) If the Contact Person can provide data demonstrating that less frequent cleaning of the FOG interceptor will not result in a grease level in excess of twenty-five (25) percent of the operating depth of the FOG interceptor, the Director may allow less frequent cleaning. The Contact Person shall provide data including pumping receipts for four (4) consecutive cleanings of the FOG interceptor, complete with a report from the grease trap/interceptor Cleaner indicating the grease level at each cleaning, and the FOG interceptor maintenance log.
- (3) A maintenance log of activities related to the FOG interceptor shall be maintained on the premises, and shall include the following information: dates of all activities related to the FOG interceptor, volume pumped, grease depth, grease trap/interceptor cleaner's name, location of the waste disposal, means of disposal for all material removed from the FOG interceptor, and the name of the individual recording the information. The maintenance log and grease trap/interceptor Cleaner's receipts shall be made available to Bureau Personnel for inspection on demand. Interceptor cleaning and inspection records shall be maintained on file a minimum of five (5) years.
- (E) All material removed and hauled from FOG Pretreatment Systems shall be disposed of at a FOG Disposal Facility approved by the Indiana Department of Environmental Management, or, if taken out of state, approved by a similar state agency.

- (F) The Contact Person shall be responsible for the cost and scheduling of all actions needed to comply with this Ordinance. The Contact Person shall be notified in writing of violations of this Ordinance by the Director.

#### **Sec. 53.65. Discharge limits**

No facility shall discharge or cause to be discharged any wastewater with a FOG concentration in excess of two hundred (200) milligrams per liter, as determined by the currently approved test for total recoverable fats and grease listed in federal regulations 40 CFR Part 136.3, or in concentrations or in quantities which will harm either the Muncie Sanitary District sewers or the MWPCF as determined by the Director.

#### **Sec. 53.66. Applications**

- (A) All Food Service Establishments shall submit to the Director a written application for a general permit detailing the following:
  - (1) The User's proposed FOG Minimization Plan (section 53.61) including a detailed list of BMPs to be implemented; and
  - (2) The User's proposed FOG Pretreatment System (section 53.62), or justification of and description of an alternative Pretreatment Program (section 53.63).
- (B) Existing Facilities shall submit to the Director an application for a general permit within six (6) months after the adoption date of this ordinance and shall install and implement the approved FOG Pretreatment Program within six (6) months of the User's receipt of a general permit.
- (C) New Facilities shall submit to the Director a FOG Pretreatment Program application and, following receipt of a general permit from the Director, shall install and implement the approved FOG Pretreatment Program prior to discharging to the MSD collection system.
- (D) Any requests for extensions to installation dates must be made in writing to the Director at least 30 days in advance of the compliance date. The written request shall include the reasons for the User's failure or inability to comply with the

compliance date set forth, the additional time needed to complete the remaining work, and the steps to be taken to avoid future delays. The Director shall determine the date for compliance.

**Sec. 53.67. Significant changes in facility operation**

A Food Service Establishment shall notify the Bureau prior to any significant changes in the operation of their facility including the following:

- (A) Grease control equipment upgrades;
- (B) Increases in seating capacity of 20 percent or greater; and/or
- (C) Changes in menu selections and/or food service production processes.

**Sec. 53.68. Facility closure**

A FSE with a grease interceptor shall notify the Bureau of Water Quality forty-five (45) days in advance whenever the FSE closes for business and is subsequently:

- (A) Razed or demolished;
- (B) Remodeled such that the grease interceptor will not be used; or
- (C) Replaced with a type of business that will not utilize the grease interceptor.

**Sec. 53.69.-53.70. Reserved.**

DIVISION 6. ENFORCEMENT

**Sec. 53.71 Enforcement response guide (ERG).**

The Director shall prepare, for passage by the Board of Sanitary Commissioners of the Muncie Sanitary District, an Enforcement Response Guide (ERG) to ensure that the requirements of 40 CFR 403 of the Clean Water Act will be met. The ERG shall outline various Administrative Actions the Director may take for various pretreatment violations. The maximum fine shall be one-thousand dollars (\$1,000.00) per day per violation. The Director shall review and update, on an annual basis, for the Board of Sanitary Commissioners any changes needed to ensure compliance with the federal, state and

local Pretreatment Regulations as listed in the Act and this ordinance.

**Sec. 53.72. Notification of violation.**

Whenever the Director finds that any IU has violated or is violating any provision of this ordinance, an individual wastewater discharge permit, general permit, order issued hereunder, or any other Pretreatment Standard or requirement, the Director or Director's agent may serve upon said User a Notice of Violation. Within ten (10) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the User to the Director. Submission of this plan in no way relieves the User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Bureau to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation. Degrees of Violation are listed in the Muncie Sanitary District "Enforcement Response Guide." The Bureau Notice of Violation is in the form of a Verbal Notice or Verbal Telephone Notice (VN/VTN), Site Visit (SV), and/or a Letter of Violation (LOV) as listed in the (ERG).

**Sec. 53.73. Consent orders.**

The Director is hereby empowered to enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any IU responsible for noncompliance. Such orders will include specific action to be taken by the IU to correct the noncompliance within a time period also specified by the order. Consent Orders shall have the same force and effect as the administrative orders issued pursuant to sections 53.75 and 53.76 below and shall be judicially enforceable. The Bureau Consent Orders are in the form of Administrative Orders as listed in the Muncie Sanitary District Enforcement Response Guide.

**Sec. 53.74. Show cause hearing.**

The Director may order any IU which causes or contributes to violation(s), of any provision of this ordinance, individual wastewater discharge permits, general permits, orders issued hereunder, or any other Pretreatment Standard or requirements, to appear before the Director and show cause why a proposed

enforcement action should not be taken. Notice shall be served on the IU specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the IU show cause why this proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the IU as defined in section 53.01 and required by section 53.33(A). Whether or not the IU appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the IU.

**Sec. 53.75. Compliance orders.**

When the Director finds that an IU has violated or continues to violate, any provision of this ordinance, individual wastewater discharge permit, general permit, orders issued hereunder, or any other Pretreatment Standard or requirement, the Director may issue an order to the IU responsible for the discharge directing that the IU come into compliance within a specified time. If the IU does not come into compliance within the time stated, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a federal Pretreatment Standard or requirement, nor does a compliance order release the IU of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or prerequisite to, taking any other action against the IU. The Compliance Orders are in the form of Enforcement Compliance Schedules, issued by the Bureau, through the Muncie Sanitary District Enforcement Response Guide.

**Sec. 53.76. Cease and desist orders.**

When the Director finds that an IU is violating any provision of this ordinance, the IU's individual wastewater discharge permit, general permit, any order issued hereunder, any other Pretreatment Standard or requirement, or that the IU's past violations are likely to recur, the Director may issue an order to the IU directing

it to cease and desist all such violations and directing the IU to:

- (A) Immediately comply with all requirements; and
- (B) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a bar against, or prerequisite, to taking any other action against the IU.

**Sec. 53.77. Administrative fines.**

- (A) Notwithstanding any other section of this ordinance, any IU that is found to have violated, or continues to violate, any provision of this ordinance, its individual wastewater discharge permit, general permit, orders issued hereunder, or any other Pretreatment Standard or requirements may be fined in an amount not to exceed one thousand (\$1,000.00) dollars as set forth in the Enforcement Response Guide. Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines may be assessed for each day during the period of violation.
- (B) Assessments may be added to the IU's next scheduled sewer service charge, and the Director shall have such other collection remedies as may be available for other service charges and fees.
- (C) Unpaid charges, fines, and penalties shall, after sixty (60) calendar days, be assessed an additional penalty of ten (10) percent of the unpaid balance, and interest shall accrue thereafter at a rate of five (5) percent per month. A lien against the individual IU's property will be sought for unpaid charges, fines, and penalties.
- (D) Industrial Users desiring to dispute such fines must file a written request for the Director to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit the Director shall convene a hearing on the matter within fifteen (15) days of receiving the request from the IU. In the event the IU's appeal is

successful, the payment together with any interest accruing hereto, shall be returned to the IU. The Director may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

- (E) Issuance of an administrative fine shall not be a bar against, or prerequisite for, taking any other action against the IU.

#### **Sec. 53.78. Emergency suspensions.**

The Director may immediately suspend an IU's discharge (after informal notice to the IU) whenever such suspension is necessary in order to stop an actual or threatened discharge, which reasonably appears to present, or causes an imminent or substantial endangerment to the health or welfare of persons. The Director may also immediately suspend an IU's discharge (after notice and opportunity to respond), that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

- (A) Any IU notified of a suspension of its discharge shall immediately stop or eliminate its discharge. In the event of an IU's failure to immediately comply voluntarily with the suspension order, the Director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Director shall allow the IU to recommence its discharge when the IU has demonstrated to the satisfaction of the Director that the period of endangerment has passed, unless the termination proceedings set forth in section 53.79 are initiated against the IU.
- (B) An IU that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution of waste and the measures taken to prevent any future occurrence, to the Director, prior to the date of any show cause or termination hearing under sections 53.74 and 53.79.

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

#### **Sec. 53.79. Termination of discharge.**

In addition to those provisions in section 53.40 of this ordinance, any IU that violates the following conditions of this ordinance, individual wastewater discharge permit, general permit, or orders issued hereunder, is subject to discharge termination.

- (A) Violation of individual wastewater discharge permit or general permit conditions.
- (B) Failure to accurately report the wastewater constituents and characteristics of its discharge.
- (C) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge.
- (D) Refusal of reasonable access to the IU's premises for the purpose of inspection, monitoring or sampling.
- (E) Violation of the Pretreatment Standards in sections 53.04 through 53.10 of this ordinance.

Such IUs will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under section 53.74 of this ordinance why the proposed action should not be taken. Issuance of a termination of discharge shall not be a bar to, or prerequisite to, taking any other action against the IU.

#### **Sec. 53.80. Appeals.**

- (A) Any IU affected by any decision, action or determination, including cease and desist orders, made by the Director, interpreting or implementing the provisions of this ordinance, may file with the Director a written request for reconsideration within ten (10) days of such decision, action, or determination, setting forth in detail the facts supporting the IU's request for reconsideration.
- (B) If the ruling made by the Director is unsatisfactory to the person requesting reconsideration, he/she may, within ten (10) days after notification of Bureau action, file a written appeal to the Board of Sanitary Commissioners. The written appeal shall be heard by the board within thirty (30) days from the date of filing. The Board of Sanitary Commissioners shall make



a final ruling on the appeal within thirty (30) days of the close of the meeting. The Director's decision, action, or determination shall remain in effect during such period of reconsideration.

**Sec. 53.81. Injunctive relief.**

Whenever an IU has violated a Pretreatment Standard or requirement or continues to violate the provisions of this ordinance, individual wastewater discharge permits, general permit, orders issued hereunder, or any other pretreatment requirement, the Director may petition the Circuit or Superior Court for Delaware County through the Muncie Sanitary District's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit or general permit, order, or other requirement imposed by this ordinance on activities of the IU. Such other action as appropriate for legal and/or equitable relief may also be sought by the Muncie Sanitary District. A petition for injunctive relief shall not be a bar against, or need not be filed as a prerequisite to, taking any other action against an IU.

**Sec. 53.82. Civil penalties.**

- (A) Any IU which has violated or continues to violate this ordinance, any order issued, individual wastewater discharge permit, general permit hereunder, or any other Pretreatment Standard or requirement shall be liable to the Director for a maximum civil penalty of one thousand dollars (\$1,000.00) dollars per violation per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
- (B) The Director may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the Muncie Sanitary District.
- (C) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the IU's violation, corrective actions by the IU, the

compliance history of the IU, and any other factor as justice requires.

- (D) Filing a suit for civil penalties shall not be a bar against, or prerequisite for, taking any other action against an IU.

**Sec. 53.83. Remedies nonexclusive.**

The provisions in Division 6 of this ordinance are not exclusive remedies. The Bureau reserves the right to take any, all, or any combination of these actions against a noncompliant IU. Enforcement of pretreatment violations will generally be in accordance with the Muncie Sanitary District's Enforcement Response Guide (ERG). However, the Bureau reserves the right to take other action against any IU when the circumstances warrant. Further, the Bureau is empowered to take more than one enforcement action against any noncompliant IU. These actions may be taken concurrently.

**Sec. 53.84. Liability insurance.**

The Director may decline to reissue an individual wastewater discharge permit or general permit to any IU which has failed to comply with the provisions of this ordinance, any orders issued, a previous individual wastewater discharge permit, general permit issued hereunder, or any other Pretreatment Standard or requirement, unless the IU first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

**DIVISION 7. AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS**

**Sec. 53.85. Upset.**

- (A) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with Categorical Pretreatment Standards because of factors beyond the reasonable control of the IU. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (B) An upset shall constitute an affirmative defense to an action brought for noncompliance with

Categorical Pretreatment Standards if the requirements of paragraph (C) below are met.

(C) An IU who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (1) An upset occurred and the IU can identify the cause(s) of the upset;
- (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures;
- (3) The IU has submitted the following information to the Bureau of Water Quality and/or POTW within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):
  - (a) A description of the indirect discharge and cause of noncompliance
  - (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue
  - (c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(D) In any enforcement proceeding, the IU seeking to establish the occurrence of an upset shall have the burden of proof.

(E) Industrial IUs will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with Categorical Pretreatment Standards.

(F) The IU shall control production or all discharges to the extent necessary to maintain compliance with Categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This

requirement applies in the situation where, among other things, the primary source of power to the treatment facility is reduced, lost, or fails.

#### **Sec. 53.86. General/specific prohibitions.**

An IU shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general and specific prohibitions in section 53.04 of this ordinance if it can prove that it did not know, or have reason to know, that its discharge, along or in conjunction with discharges from other sources, would cause pass-through or interference, and that either: 1) a local limit exists for each pollutant discharged and the IU was in compliance with each limit directly prior to, and during, the pass-through or interference, or 2) no local limit exists, but the discharge did not change substantially in nature or constituents from the IU's prior discharge when the Muncie Sanitary District POTW was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

#### **Sec. 53.87. Bypass.**

An IU may allow a bypass only when the bypass does not cause Pretreatment Standards or requirements to be violated, and when the bypass is for essential maintenance to assure efficient operation. All other instances of bypass are prohibited.

If a prohibited bypass is anticipated, the IU shall submit prior notice to the Bureau at least ten (10) days before the date of the bypass if possible.

In the event of an unanticipated, prohibited bypass, the IU shall submit oral notice to the Bureau within twenty-four (24) hours from the time the IU becomes aware of the bypass. A written submission shall also be submitted to the Bureau within five (5) days of the time the IU becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Director may waive the written report on a case-by-case basis if the oral report has been received with twenty-four (24) hours.

The Director may take enforcement action against an IU for a prohibited bypass, unless;

- (A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- (B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
- (C) The IU submitted notices as required under this section.

The Director may approve an anticipated bypass, after considering its adverse effects, if the Director determines that it will meet the three conditions listed in paragraphs (A) through (C) of this section.

#### DIVISION 8. RATES AND CHARGES

##### **Sec. 53.88. Metered water Supply.**

User charges and fees shall be based upon the total amount of water used from all sources unless, in the opinion of the Director, significant portions of water received are not discharged to a sanitary sewer. The total amount of water used from public and private sources will be determined by means of public meters or private meters, installed and maintained at the expense of the IU and approved by the Director.

##### **Sec. 53.89. Metering of volume and diversions.**

For IUs where, in the opinion of the Director, a significant portion of the water received from any metered source does not flow into the sanitary sewer because of the principal activity of the IU or removal by other means, the IU charges and fees will be applied against the volume of water discharged from such premises into the community sewer. Written notification and proof of the diversion of water must be provided by the IU if the IU is to avoid the application of the IU charges and fees against the total amount of water used from all sources. The IU may install a meter of a type and at a location approved by the Director and at the IU's expense. Such meters may measure either the amount of

sewage discharge or the amount of water diverted. Such meters shall be tested for accuracy at the expense of the IU when deemed necessary by the Director.

##### **Sec. 53.90. Estimated volumes.**

- (A) Users without source meters: For IUs where in the opinion of the Director, it is unnecessary or impractical to install meters, the quantity of wastewater may be based upon an estimate prepared by the Director. This estimate shall be based upon a rational determination of the wastewater discharged and may consider such factors as the number of fixtures, seating capacity, population equivalent, annual production of goods and services or such other determinants of water use necessary to estimate the wastewater volume discharged.
- (B) Users with source meters: For IUs that who, in the opinion of the Director, divert a significant portion of their flow from a sanitary sewer, the IU charges may be based upon an estimate of the volume of flow prepared by the IU provided the User obtains wastewater discharge authorization and pays the applicable User charges and fees. The estimate must include the method and calculations used to determine the wastewater volume and may consider such factors as the number of fixtures, seating capacity, population equivalents, annual production of goods and services, or such other determinations of water use necessary to estimate the wastewater volume discharged.

##### **Sec. 53.91. Surcharge costs.**

- (A) Each person discharging wastewater into the sanitary district sewers shall be subject to a surcharge, in addition to the regular sewage service charge, based on the total biochemical oxygen demand (TBOD) and the total suspended solids (TSS) content of the wastes, if the wastes have a concentration greater than 250 mg/L of TBOD and/or 250 mg/L of TSS.
- (B) Sampling and testing for surcharges or User charges will be conducted as follows. The discharged wastewater will be sampled during each sewage billing period for a minimum of a one-day period (24 continuous hours) by means of a composite sample. A reduced or extended

sampling period may be requested to enable the gathering of a sample representative of an IU's wastewater. The extension or reduction of the sampling period beyond the initial one-day sampling period may be requested by either the IU involved or the Bureau. If an extended sampling period is requested, the parameter values used to calculate the surcharge will be the arithmetic average of the individual values. In the event a company or industry has multiple discharges of wastewater, each discharge shall be sampled according to quality. The volume of each discharge shall be determined by actual measurement or by means of process usage. If significant process changes are made to affect the quality of any discharge, re-sampling may be requested by either the sewer User involved or the Bureau.

- (C) The wastewater sample shall be measured for the following parameters: total biochemical oxygen demand (TBOD), and total suspended matter or solids (TSS). These tests shall be made in accordance with the latest approved editions of Standard Methods for the Examination of Water and Wastewater or by an approved EPA method.
- (D) The computation of surcharge of each constituent will be determined by multiplying the excess mass of each constituent by the appropriate rate of surcharge.

**Sec. 53.92. Damage to facilities.**

When a discharge of wastes causes an obstruction, damage, or any other impairment to the POTW, the Muncie Sanitary District may assess a charge against the IU for the work required to clean and/or repair the sanitary sewer system and/or the POTW, and add such charge or charges to the User's charges and fees.

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