Summary of WLSSD Industrial Pretreatment Ordinance Revisions

Changes in Article I

In Section 4. Objectives subsection (a), (1.) and (2.) have been modified to read:

(1.) To prevent the introduction of pollutants into the District system that will cause or contribute to an interference with the normal operation of the system or contaminate the resulting sludge;

(2.) To prevent the introduction of pollutants into the District system that do not receive adequate treatment, and that will cause or contribute to a pass-through of the treatment system into receiving waters or the atmosphere or otherwise be incompatible with the treatment system; and

In Section 5. Definitions, modifications and additions have been made as follows:

Added definition to include Authorized or Duly Authorized Representative (2.) to read:

The president, manager, or any other person who performs similar policy or decision making functions for a corporation, manufacturing, production, or operating facility, government facility, or proprietorship.

Added definition for Indirect Discharge or Discharge:

(18.) Indirect Discharge or Discharge – Means the introduction of pollutants into the District Sewerage System, whether by sewer or other means.

Modified definitions for Interference and Pass-through to align with State definitions:

(20.) Interference – A discharge which, alone or in conjunction with a discharge or discharges from other sources (1) inhibits or disrupts the District Sewerage System, its treatment processes or operations, or its sludge processes, use or disposal and/or (2) is a cause of or contributes to a violation, including an increase in the magnitude or duration of a violation, of any permit or rule controlling, prohibiting, or limiting the release of pollutants from the District Sewerage System into the environment.

(25.) Pass-Through - A discharge that exits the District's wastewater treatment facilities in quantities or concentrations that, alone or in conjunction with a discharge or discharges from other sources, is a cause of violating a requirement of any permit, rule,

regulation, or ordinance controlling, prohibiting, or limiting the release of pollutants from the District Sewerage System into the environment, including an increase in the magnitude or duration of a violation.

Added definition to include Shall – Mandatory Section 5. (26.)

Modified definition of Slug or Slug Discharge as follows:

(31.) Slug or Slug Discharge – Any waste discharge, either purposeful or accidental, which has the potential to exceed prohibitions in 40 CFR 403.5, or in any other way could violate the District's regulations or permit conditions either alone or conjunction with other sources, or violates the permit conditions of the User.

Changes in Article II

Section 1. modified to include:

No User shall discharge or cause to be discharged any pollutant or wastewater that could pass through or interfere with the operation or performance of the District Sewerage System, or violates any provision of this ordinance, or a specific condition of a User's Permit.

Section 2. (a)(2.) modified to include:

Solids or viscous substances in quantity or of such size which will or may cause obstruction to the flow in a sewer or interfere with or otherwise inhibit the operation of the District Sewerage System. These include grease, foam or foam causing materials, garbage with particles greater than one-half (1/2) inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshes, entrails, feathers, ashes, sand, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, waste paper, wood, plastic, gas tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, glass grinding or polishing waste.

Section 2. (a)(3.) modified to include: Any wastewater having a pH less than 5.5 or greater than 12 units.

Section 2. (a)(7.) modified to include:

Any substance that may cause the District Sewerage System's treatment residues, sludge or scums to be unsuitable for reclamation and reuse or to interfere with or otherwise inhibit the reclamation process.

Section 2. (a)(8.) modified to include: Any substance that has the reasonable potential to cause or contribute to a violation of the District's NPDES Discharge Permit.

Section 2. (a)(11.) modified to include:

Any Slug or Slug Discharge, including oxygen demanding pollutant (BOD, etc.), released at a flowrate or concentration that could interfere with and/or diminish the efficient operation or performance of the District Sewerage System, that violates the terms of conditions of a user Permit issued by the District, or otherwise has the reasonable potential to cause or contribute to a violation of the District's NPDES Discharge Permit.

Section 2. (a)(17.) modified to include:

Any trucked or hauled wastes, except in quantities and concentrations authorized by the District at discharge points designated and approved by the District.

Section 3. Federal Categorical Pretreatment Standards modified to include subsection (e) which states:

The District may determine that an Industrial User subject to Categorical Pretreatment Standards under § 403.6 and 40 CFR chapter I, subchapter N is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:)

(1.) The Industrial User, prior to the Control Authority's finding, has consistently complied with all applicable Categorical Pretreatment Standards and Requirements;

(2.) The Industrial User submits the certification statement required in § 403.12(q) together with any additional information necessary to support the certification statement; and

(3.) The Industrial User never discharges any untreated concentrated wastewater.

Section 4. Specific Discharge Limitations removes Low flow limits and adds:

*The District may include effluent limits in District issued user permits that are more restrictive than the above limits or for other pollutant parameters, including flow, that are not listed here.

Section 6. Accidental and Slug Discharges subsection (a) modified to include:

(a) All Industrial Users shall provide adequate protective procedures to prevent accidental or Slug Discharges of any waste prohibited in Article II, Section 2; any waste in excess of the limitations provided in Article II, Section 4 or any waste in violation of an applicable pretreatment standard or other provision of this ordinance.

Section 7. Bypass subsection (d) modified to include:

This Section 7 is intended to apply the rules contained in 40 CFR 403.17 and shall be interpreted consistent therewith. Severe property damage shall not be interpreted to mean economic loss caused by delays in production.

Changes in Article III

Section 1. changed Initial Compliance Status Report to Industrial Wastewater Discharge Permit Application

Section 1. Industrial Wastewater Discharge Permit Application modified to include:

Upon request by the Director, a User shall complete an Industrial Wastewater Discharge Permit Application to enable the District to determine the User's compliance with this Ordinance and the limitations and requirements established herein.

Section 1. subsection (a) added to include application requirements of:

Environmental Permits. A list of any environmental control permits held by or for the facility.

Section 1. subsection (a) changed to reference Standard Industrial Classification Number from Standard Industrial Classification Manual, DOC Office of Federal Statistical Policy and Standards, 1987 from Bureau of the Budget, 1972.

Section 1. subsection (a) (8.) modified to include language on sampling requirements:

The nature and concentration of any pollutants or materials prohibited by this Ordinance in the discharge, together with a statement regarding whether or not compliance with this Ordinance is being achieved on a consistent basis, and if not, whether additional operation and maintenance activities and/or additional treatment is required for the User to comply with this Ordinance; The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined waste stream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate 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 District. Sampling and analysis shall be performed in accordance with Article III Sections (8) and (9). The District may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures; The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the District Sewerage System.

Section 1. subsection (a) (9.) modified to include language on sampling requirements

Where additional pretreatment and/or operation and maintenance activities will be required to comply with this Ordinance, the User shall provide a declaration of the shortest schedule by which such additional pretreatment and/or operation and maintenance activities will be provided; Users shall provide wastewater treatment as necessary to comply with this Ordinance and shall achieve compliance with all Categorical Pretreatment Standards, Local Limits, and the prohibitions set out in Section 2.1 of this Ordinance within the time limitations specified by EPA, the State, or the District, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the District for review, and shall be acceptable to the District before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce a discharge acceptable under the provisions of this ordinance.

Section 1. subsection (a) (14.) added to include:

(14.) Any other information deemed necessary by the District to evaluate the permit application and ensure compliance with all applicable federal, state, and local laws and regulations and protect human health and the environment.

Section 2. subsection (a) modified to include:

All Users regulated by Federal Categorical Pretreatment Standards (Appendix A) are required to obtain a wastewater discharge permit prior to any discharge into public sewers. No Industrial User shall discharge into public sewers until the Industrial User has been issued a permit.

Section 3. subsection (b) (4.) modified to include:

Specifications for monitoring programs (which may authorize self-monitoring at the District's discretion), which include sampling locations, frequency and method of sampling, number and types of tests as well as reporting schedules;

Section 3. subsection (b) (12.) modified to include:

Requirements related to enforcement of this Ordinance including, but not limited to, the imposition of fines, penalties, surcharges, corrective actions or other conditions deemed appropriate by the District to ensure compliance with this Ordinance.

Section 3. subsection (b) (13.) added to include:

Individual wastewater discharge permits may contain, but need not be limited to, the following conditions: 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.

Section 7. subsections (c), (d), and (e) added to include:

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

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

(e) If a User is subject to the reporting requirements in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the District using the procedures prescribed in this ordinance, the results of this monitoring shall be included in the report.

Section 8. Monitoring Facilities subsection (a) and (d) modified to include:

(a) At the request of the District, a User may be required to provide and operate at the User's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of each sewer discharge to the WLSSD system. The District may adopt charges and fees for sampling or analysis to be reimbursed to the District at the cost of the User.

(d) If sampling performed by a User indicates a violation of this Ordinance or any local limit in the User's Permit, the User must notify the District within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the District within thirty (30) days after becoming aware of the violation. Resampling by the Industrial User may not be required if District performs sampling at the User's facility at least once a month, or if the District has performed the sampling and analysis in lieu of the Industrial User.

Section 10. Pretreatment Facilities subsection (a) modified to include:

(a) Users shall provide necessary wastewater treatment as required to comply with this Ordinance, the limits and conditions in user Permits, and all Categorical Pretreatment Standards within the time limitations as specified in Article II, Section 3.

Changes in Article IV

References to Major and Minor violations removed, all violations are referenced to as violations.

Section 4. Violations the following has been added:

A violation may include noncompliance with any prohibition or limit described in this Ordinance, any limit, term, or condition contained in a permit issued by the District, or any limit, term, or condition of the District's NPDES permit. Notwithstanding any provision of law, regulation, permit, or ordinance to the contrary, the Director may find and enforce a violation, issue applicable penalties, and require corrective actions, regardless of whether said violation caused the District to violate a term or condition of its NPDES permit. The following rules apply to counting violations:

Section 4. Response to Violations subsection (c) Notice of Violation (NOV) includes additional language as follows:

Whenever the Executive Director finds that any person has violated or is violating this Ordinance, industrial discharge permit, or any prohibition, limitation or requirement contained herein, the Director shall serve or cause to be served upon such User a written notice either personally or by certified mail, return receipt requested, stating the nature of the alleged violation. Within thirty (30) days of the date of receipt of the notice, the User shall respond personally or in writing to the Director, advising of its position in respect to the allegations. The Director and the User may meet to ascertain the accuracy of the allegations and, where necessary, establish a plan for satisfactory correction thereof. If sampling performed by a User indicates a violation, the User must notify the District within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the District within thirty (30) days after becoming aware of the violation. Resampling by the Industrial User may not be required if the District has performed the sampling and analysis in lieu of the Industrial User.

Section 4. Response to Violations subsection (d) Administrative Order (AO) added to include:

The District has the authority to issue Administrative Orders to any or all dischargers to the sanitary sewer system. Such Orders may contain numerical discharge values limiting the volume, concentration, or mass loadings from dischargers. Whenever the Director finds that a User has violated, or continues to violate, any provision of this Ordinance, an individual wastewater discharge permit, or order issued here under, or

any other Pretreatment Standard or Requirement, the District has the authority to issue an Administrative Order to any User responsible for non-compliance. Such Orders shall include specific action to be taken by the User to correct the noncompliance within a period specified by the Order and can include (1) Cease and Desist Orders, (2) Consent Orders, (3) Show Cause Orders, and (4) Compliance Orders.

Compliance Orders also may contain other requirements to address the non-compliance, 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 Pretreatment Standard or Requirement, nor does a compliance order relieve the User of liability for any violation, including any continuing violation. Issuance of a Compliance Order shall not be a bar against, or a prerequisite for, taking any other action against the User.

Section 4. sections (e) Civil Administrative Fines and (f) Criminal Penalties added from Article V, no changes made to the language of these sections.

Section 5. section Falsifying Information added from Article V, no changes made to the language of these sections.

Section 6. Significant Non-compliance subsection added to include:

For the purpose of this provision, an Industrial User is in significant non-compliance if its violations meet one or more of the following criteria:

(a) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits;
(b) Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of all the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of a numeric pretreatment standard or requirement, including instantaneous limits times the applicable TRC (TRC = 1.4 for CBOD, SS, fats, oil and grease and TRC = 1.2 for all other pollutants except pH);
(c) Any other violation of a pretreatment (daily maximum or longer-term average, instantaneous limit or narrative standard) that the Executive Directors determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of District employees or the general public);

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment and has resulted in the necessity for the District to exercise its emergency authority under 40 CFR 403.8(F)(1)(vii)(b) to halt or prevent such a discharge;
(e) Violation, by ninety (90) days or more after the schedule date, of a compliance schedule milestone contained in a local control mechanism or enforcement order, for starting construction, completing construction, or attaining final compliance;
(f) Failure to provide required reports such as baseline monitoring reports, self-monitoring reports, and reports on compliance with compliance schedules, within 45 days of the due date;
(g) Failure to accurately report noncompliance; or
(h) Any other violation or group of violations, which may include Best Management Practices specific to the discharger and set forth in the discharger's permit the Executive Director determines will adversely affect the operation or implementation of the local pretreatment program

All penalties referenced in Section 2. Penalties changed amount of financial penalty from not more than $1,000 per day per violation, to at least $1,000 per day per violation.

Section 7. Revocation of Permit and Section 9. Injunctions added from Article V, no changes made to the language of these sections.

Section 8. Emergency Suspension of Service modified as follows:

The Director may immediately suspend a User's discharge and/or discharge permit, after informal notice to the User, whenever such suspension is necessary to stop an actual or threatened discharge, which presents or may present an imminent or substantial danger to human health, to the environment, or to the District Sewerage System or would cause or contribute to a violation of any conditions of the District's NPDES permit. Nothing in this Section shall be interpreted as requiring a hearing prior to any Emergency Suspension under this Section.

Movement and modification of Section 10. Remedies, Penalties and Cost Recovery

Any person discharging waste in violation of these rules or any provision or condition of any Permit issued by the District thereunder shall be subject to civil liability to the District for any or all of the following:

(a) In addition to the penalties provided herein, the District may recover court costs, court reporter's fees and other expenses of litigation by an appropriate action against the person found to have violated this Ordinance or the orders, rules, regulations, and permits issued hereunder.

(b) If a User's discharge obstructs, damages, or impairs the sewerage system or the POTW, then the User shall be liable to the District for the cost of cleaning, repairing, or replacing the affected components.

(c) Any costs or penalties imposed upon the District by regulatory authorities by reason of the violating discharge.

Changes in Article V

All language from Article V has been merged into Article IV, Article V now references fees.

Changes in Article VI

Merging language from Article IV and V changes Article VI to describe Effective Date and Severability. No modifications made except for the Adoption and Effective Date in Section 3.