GG
06/19/14
Item No. 37

AN ORDINANCE 2014-06-19-0472

AMENDING CHAPTER 34, ARTICLE III, DIVISION 4; ARTICLE V, DIVISIONS 3 AND 5; AND ARTICLE VI, DIVISIONS 2 AND 3 OF THE SAN ANTONIO CITY CODE FOR THE PURPOSE OF UPDATING PROGRAM REQUIREMENTS TO REDUCE OR ELIMINATE THE DISCHARGE OF HARMFUL POLLUTANTS INTO THE SAWS SANITARY SEWER SYSTEM AND THE CITY'S STORM WATER SYSTEM IN COMPLIANCE WITH CURRENT STATE AND FEDERAL REGULATIONS.

* * * * *

WHEREAS, the federal Clean Water Act (33 U.S.C §§1251, et. seq.) includes regulations applicable to publicly owned treatment works (POTWs) which are administered by the United States Environmental Protection Agency (EPA) (40 C.F.R. Pts. 403 and 122) implementing the National Pollutants Discharge Elimination System (NPDES); and

WHEREAS, POTWs collect domestic sources of wastewater from homes, commercial buildings, and industrial facilities and transport it via collection pipes to treatment plants in order to remove harmful organisms and other contaminants from the sewer sludge so it can be discharged safely into receiving streams and rivers; and

WHEREAS, POTWs also receive nondomestic wastewater from industrial users (IUs) which may pass through or interfere with the treatment process and contaminate sewer sludge; and

WHEREAS, the EPA has established the National Pretreatment Program as part of the NPDES regulations outlining responsibilities of federal, state, and local governments to implement Pretreatment Standards applicable to IUs to control nondomestic industrial pollutants that may contaminate sewer effluent discharged into streams and rivers; and

WHEREAS, the objectives of the National Pretreatment Program are achieved by applying and enforcing three types of discharge standards:

- Prohibited Discharge Standards – prohibit the discharge of any industrial pollutants to a POTW that cause pass through or interfere with the sewer treatment process.
- Categorical Pretreatment Standards – limit industrial pollutants discharged in wastewater to the POTW from specific industrial categories.
- Local Limits – prohibit the discharge of specific industrial pollutants based on the specific needs and capabilities of the POTW.

WHEREAS, the Texas Commission on Environmental Quality (TCEQ) is charged with administration of the Texas Pollutant Discharge Elimination System (TPDES) pursuant to Texas Water Code – Chapter 26 (TCEQ general regulatory authority), 30 T.A.C. Chapter 315 (implementation of EPA Pretreatment Program), and Texas Health & Safety Code – Chapter 361 and 30 T.A.C. Chapter 312 (Implementation of EPA Sewer Sludge Program).

WHEREAS the San Antonio Water System (SAWS) sanitary sewer system and the City of San Antonio (City) storm water system are separate qualifying POTWs subject to the National Pretreatment Program as implemented by the EPA and TCEQ; and

WHEREAS, the City's storm water system is managed by the Transportation and Capital Improvements Department (TCI) which is assisted by SAWS in meeting regulatory compliance requirements associated with its Municipal Separate Storm System (MS4) Program; and

WHEREAS, there is a need and desire to update local storm water and sewer environmental protection regulations found in Chapter 34 of the City Code in order to bring them into compliance with the National Pretreatment Program based on current state and federal standards; and

WHEREAS, SAWS and TCI staff recommend updates to Chapter 34 of the San Antonio City Code as follows:

1. Article III, Division 4 – Rates and Charges
    - Clarification to Industrial Waste Surcharge Formula
2. Article V, Division 3 – Industrial Waste
    - Incorporating TCEQ pretreatment regulations and updating the Industrial Waste permitting program to incorporate the changes
3. Article V, Division 5 – Fats, Oils and Grease
    - Correct reference to Chapter 10 of the Plumbing Code
    - Allows for correct disposal of Grease trap waste from self-cleaning for interceptors with a capacity of less than 100 gallons
4. Article VI, Division 5 Subdivision B – Storm Water Compliance for Construction Activity
    - Incorporates changes to the TCEQ Construction General Permit
        - Updates language to cover construction projects 1 acre and larger or part of a planned development and includes fill sites under the definition requiring incorporation of Best Management Practices to control erosion
        - Updates requirements for development of Storm Water Pollution Prevention Plans
        - Updates requirements for inspection of projects
        - Incorporates efficiencies to streamline inspections of sites that have both storm water requirements and are located over the EARZ and subject to Water Pollution Abatement Plans
5. Article VI, Division 5 subdivision C – Storm Water Compliance for Industrial & Commercial activities
    - Incorporates an addition Subdivision to regulate Industrial facilities under TCEQ Multi-sector Industrial Storm Water permit

6. Article VI, Division 2 –Wells
    - Corrects water well permit fees to reflect the current charges
    - Adds definitions to provide clarifications
    - Adds an expiration date for water well drilling permits

NOW THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:

SECTION 1. The amendments to Chapter 34, Article III, Division 4; Article V, Divisions 3 and 5; and Article IV, Divisions 2 and 5 of the San Antonio Municipal Code attached as Exhibit A, are hereby approved, adopted, and incorporated into this Ordinance for all purposes.

SECTION 2. The City Council directs the City Clerk to amend the City Code as authorized in this Ordinance by submitting the revised Chapter 34 provisions to the Municipal Code Corporation as attached in **Exhibit A.**

SECTION 3. The recitals set out above are fully incorporated into this Ordinance.

SECTION 4. This Ordinance shall become effective immediately upon the passage by eight (8) votes of the City Council and if passed upon fewer than eight (8) votes after the tenth (10th) day after passage. The revisions to Chapter 34 of the San Antonio Municipal Code, as found in Exhibit A, will become effective upon passage of this Ordinance.

PASSED AND APPROVED, this 19th day of June, 2014.

M A Y O R
Julián Castro

ATTEST:

Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

Robert F. Greenblum, City Attorney

Agenda Item:	**37 (in consent vote: 6, 7, 8, 9, 10, 11, 12, 13, 14, 16, 18, 19, 20, 21, 24, 27, 28, 29, 30, 31, 32, 35, 36, 37, 38A, 38B, 39A, 39B, 40A, 40B, 40C)**
Date:	06/19/2014
Time:	10:29:56 AM
Vote Type:	Motion to Approve
Description:	An Ordinance updating Chapter 34 of the City Code (Water & Sewer) so that management of the City's Sanitary Sewer and Storm Water System continues to be in compliance with the Federal Clean Water Act and the Texas Commission on Environmental Quality requirements. [Peter Zanoni, Deputy City Manager; Mike Frisbie, Director, Transportation and Capital Improvements]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor		x				
Diego Bernal	District 1		x				
Ivy R. Taylor	District 2		x				
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5		x				
Ray Lopez	District 6		x				x
Cris Medina	District 7		x				
Ron Nirenberg	District 8		x			x	
Joe Krier	District 9		x				
Michael Gallagher	District 10		x				

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Sec. 34-471 General Provisions.

(6) ***Definitions.*** Unless a provision explicitly states otherwise, the following terms and phrases, as used in this division, shall have the meanings hereinafter designated.

Best Management Practices (BMPs): A schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the requirements listed in Sec. 34-472(1) and (2). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage, or leaks, sludge or waste disposal, or drainage from raw materials storage.

Control authority: The term "control authority or CA" shall refer to SAWS or the POTW defined hereinafter, the resource compliance division, or the designated representative or agent, in accordance with the provisions of 40 CFR 403.12 insofar as the pretreatment program was originally approved and effective as of February 15, 1985.

Daily Discharge: The wastewater discharge from a facility during a normal 24 hour period to the sanitary sewer.

Daily Maximum Limit: *The* maximum allowable discharge limit of a pollutant during a calendar day. Where a daily maximum limit is expressed in units of mass, the daily discharge is the total mass discharged over the course of a day. Where a Daily Maximum Limits is expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

Industrial user or user (IU): Any user who contributes, causes, or allows an indirect discharge (as defined in subparagraph 34-471(6) of this section) of non-domestic pollutants or other wastewater which does not constitute a "direct discharge" to a receiving stream under regulations issued pursuant to Section 402, of the Act, (33 U.S.C. 1342).

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.

NAICS: North American Industrial Classification System, an industrial classification system that groups establishments into industries based on the similarity in the processes used to produce the principal goods or services and the economic activities in which they are primarily engaged.

Narrative Standard: Narrative criteria are statements that describe the desired water quality goal that is used when pollutants cannot be precisely measured to express the limit on a parameter in a quantitative form. This criteria is used for pollutants for which numeric criteria are difficult to specify, such as those that offend the senses (e.g., color and odor) or for requirements as might be specified in a compliance agreement (e.g., employee training or visual postings).

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 action, provided that:
   (a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
   (b) The building, structure, facility, or installation totally replaces the process or product 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 sources 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.

Pollution Prevention Plan: A plan designed for the reduction of generation of hazardous waste and toxic chemicals as outlined in the Waste Reduction Policy Act of 1991 (under

30 Texas Administrative Code (TAC) 335 Subchapter Q) by avoiding the disposal or release of harmful substances into the environment by means of source reduction, waste minimization, reuse, recycling~~,~~ and detoxifying treatments.

Process Wastewater: Any water which, during manufacturing of processing, comes into contact with or results from the production of use of any raw material, intermediate product, finished product, byproduct, or waste product.

Publicly owned treatment works (POTW): A "treatment works," as defined by Section 212 of the Act (33 U.S.C. 1292) which is owned by the control authority. This definition includes any devices or systems used in the recycling or reclamation, collection and treatment of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a water recycling center.

Sharps: *Sharps* means any object contaminated with a pathogen or that may become contaminated with a pathogen through handling or during transportation and also capable of cutting or penetrating skin or a packaging material. *Sharps* includes needles, syringes, scalpels, broken glass, culture slides, culture dishes, broken capillary tubes, broken rigid plastic, and exposed ends of dental wires.

Significant noncompliance: For the purpose of this provision, an industrial user is significantly noncompliant (SNC), if its violation meets one or more of the following criteria:

(a) Chronic violations of numeric wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all measurements taken during a six-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter, including Instantaneous maximum allowable discharge limits as defined in Sec. 34-471; or

(b) Technical review criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all of the numeric measurements for ~~each~~ the same pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, FOG, and 1.2 for all other pollutants except pH.); or

(c) Any other violation of a pretreatment effluent limit (daily maximum or longer term average, instantaneous maximum allowable discharge limit, or Narrative Standard) that the control authority determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public); or

(d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the control authority's exercise of its emergency authority under paragraph (f)(1)(vi)(B) of this section to halt or prevent such a discharge; or

(e) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance; or

(f) Failure to provide, within ~~thirty (30)~~ forty-five (45) days after the due date, required reports such as baseline monitoring reports, ninety-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules; or,

(g) Failure to accurately report noncompliance; or

(h) Any other violation or group or violations which the control authority determines will adversely affect the operation or implementation of the local pretreatment program.

Slug discharge/slug load: Any single discharge episode at a flow rate or strength which could cause a violation of the prohibited discharge standards in section 34-472(1) of this division, and any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge. The discharge episode is not required to cause or have the potential to cause pass-through or interference with the POTW processes to be considered a slug load. In addition a slug discharge shall not violate the POTW's regulations, local limits, or individual permit conditions.

Standard industrial classification (SIC): A four (4) digit code created by the U.S. Office of Management & Budget (1987) for statistical classification purposes that describes an industrial activity that takes place at a facility or site. It is possible for a facility or site to have multiple SIC codes depending on the varying activities that take place. ~~classification pursuant to the Standard Industrial Classification Manual issued by the executive office~~

~~of the president, office of management and budget, 1987 as amended or as may be amended.~~

Storm water: Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt runoff, rainfall runoff and surface runoff and drainage.

Waters of the United States: All navigable waters of the United States as defined at 33 USC 1362(7) and at 40 CFR §122.2.

Zero Discharger: An Industrial User subject to categorical pretreatment standards that does not discharge any categorical waste to the sanitary sewer collection system. This IU may not discharge waste that has categorical standards to the sanitary sewer collection system as outlined under their SIU permit requirements or local limits whichever is more stringent.

Sec. 34-472 Regulations.

(2) *Specific discharge prohibitions.* No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

(c) Solid or viscous substances in such quantities and/or qualities which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities such as, but not limited to: grease, solids or solids accumulation greater than one-half (1/2) inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, asbestos, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, paint or chemical residues, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes, fatty acids or esters of fatty acids, or food and vegetable wastes, sharps, regulated medical waste or used health care product (as defined in 49 CFR 173.134 class 6, Division 6.2 cleaning wipes, articles of clothing, or bedding), or any material which can be disposed of as trash;

(4) *Technically based local limits.*

(b) All samples shall be collected and analyzed in a manner consistent with the requirements of 40 CFR 136. No user as prescribed above shall

discharge or allow the discharge of wastewater to the regional system having a pH less than 5.5 or greater than 10.5 standard units, and all concentrations and/or quality criteria shall apply where the effluent is discharged to the POTW. Wastewater entering the regional collection system shall not exceed 65.5 degrees Centigrade (150 degrees Fahrenheit). The following pollutant limits are established to protect against Pass through and Interference at the POTW. No person shall discharge wastewater containing in excess of the following:

c) **Best Management Practices (BMPs) / Pollution Prevention (P2).** Users not regulated under local limits shall be regulated under the following guidelines relating to Best Management Practices and pollution prevention. Narrative BMPs may also be incorporated into individual permits.

The methodology involved in the application of Best Management Practices / Pollution Prevention may include but not be limited to the following:

(i) Source reduction
Operating practices
Inventory control
Employee training
Spill control
Input Material Substitutions
Product Changes
Technology Changes
Process changes
Equipment changes

(ii) Recycling
Reuse
Closed loop recycling
Other recycling
Reclaimation

There are existing non-permitted and/or unregistered industrial dischargers who typically have reasonable potential for violating a pretreatment

standard or requirement. Therefore, the implementation of Best Management Practices, as stipulated by the ~~city~~ San Antonio W~~w~~ater S~~s~~ystem, is required to control and reduce specific pollutants. The reduction of these specific pollutants at many facilities may have a significant impact on the total contribution based on the number of facilities involved. Upon determination by the control authority that it is necessary to regulate an individual user or group of industrial users based on potential for pollutants of concern, the following minimum requirements will be established to accomplish this goal:

- Industrial users within the identified grouping must either be regulated by the BMP guidelines and/or pretreatment standards (local limits).
- Users may be required to submit letters of authorization indicating the facility's intent to comply with the BMP guidelines.
- The control authority may require periodic reporting by these users demonstrating compliance with the BMP guidelines such as copies of equipment maintenance records or manifest records for waste disposal, or records demonstrating employee training.
- The control authority may conduct random inspections to determine compliance independent of the information supplied by an industrial user.

(8) Reserved

Sec. 34-473 Wastewater Pretreatment.

3) *Slug control plan.* ~~At least once every two (2) years~~, Within one (1) year of the effective date of the IU permit issuance date the control authority shall evaluate whether each significant industrial user needs a plan to control slug discharges. The control authority may require any user to develop, submit for review, and implement such a plan. In the event of a slug discharge by the IU, the facility will be required to revise, update the slug control plan and perform necessary upgrades to prevent reoccurrence. A plan shall address, at a minimum, the following:

(4) *Reporting of slug/accidental discharges.* In the case of a slug discharge, including any accidental spill or noncustomary batch discharges, the user shall notify the

department and the appropriate water recycling center immediately by telephone and provide the following information:

(a) Time of discharge.
(b) Location of the discharge.
(c) Type of waste.
(d) Concentration and volume discharged.
(e) Corrective actions taken.
(f) Water recycling center receiving the waste.

Within five (5) calendar days following an accidental or slug discharge, the user shall submit to the director, or to the designated representative, a written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. The results of the report will be documented and available to the CA upon request. Such notification shall not relieve the user of any responsibility for, expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, the environment or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed by this division or other applicable law. Failure to notify the director of a slug or accidental discharge may result in legal action or discontinuation of service; and may be deemed a separate violation of this division.

(5) *Toxic organic management plan.* All industrial users in the electroplating, metal finishing, copper forming, aluminum forming, coil coating and electrical and electronic components categories may submit a toxic organic management plan (TOMP) in lieu of monitoring for total toxic organics (TTO) as referenced in 40 CFR 413.03(b), 40 CFR 433.12(b) and 40 CFR 469.13(b) respectively. Specifically after initial monitoring the TTO monitoring in years two, three, four and five of the permit cycle may be waived by the CA upon approval and proper implementation of the TOMP. The plan must specify at a minimum the following:

Sec. 34-474 - Wastewater discharge permit application.

(2) *Wastewater discharge permit application.*

(a) Significant industrial users shall, pursuant to the control authority's approved pretreatment program, obtain an industrial wastewater discharge permit, and shall complete and file an application on a form prepared by

the control authority. (Refer to section 34-480 concerning confidential or proprietary information). The information requested shall at a minimum include the following items:
(19) NAICS number(s) according to the current edition of the North American Industrial Classification System Manual, 1997, Office of Management and Budget (OMB), as amended;

(4) *Certification*: data accuracy, truthfulness and completeness. All wastewater discharge permit applications, required documents, and other specified documents submitted to the control authority must contain the following certification statement, and must be signed by ~~an~~ the authorized representative of the industrial user:

Sec. 34-475 - Wastewater discharge permit issuance process.

Within sixty (60) calendar days from the date the permit application is approved (section 34-474(4)), the control authority shall issue the wastewater discharge permit to the user.

(2) *Permit contents.* A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the control authority 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, and protect against damage to the POTW. Permits shall, at a minimum, address the following:
(q) Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards,

Sec. 34-477 – Compliance monitoring.

(1) *Monitoring facilities.*

(d) There shall be adequate lighting of and ample room in or near such sampling manhole or facility to safely allow inspection personnel to position sampling, monitoring or surveillance equipment and prepare field samples for

analysis. Whether construction on public or private property, the sampling and monitoring facilities shall be provided in accordance with the regional system requirements and all applicable local construction standards and specifications, including applicable requirements contained in the plumbing code, chapter ~~24~~ 10 of the City Code, as amended or as may be amended.

(3) Inspection and sampling

(a) The Control Authority and EPA and/or TCEQ representatives shall have the right to inspect the facilities of any industrial user to ascertain whether the purposes of this division are being met and all applicable requirements are being fulfilled. Industrial users and their employees shall allow authorized regulatory representatives displaying proper identification ready access to the premises at all reasonable times for the purpose of: inspecting wastewater generating operations and processes; wastewater flow monitoring and sampling; examination and reproduction of business records pertinent to water and wastewater volume and quality; including hazardous and non-hazardous waste manifests; inspection of potential slug-related discharges; and where applicable, making photographic documentation and obtaining other information necessary to ascertain and ensure currentness of data and information submitted in the facility's permit application, and assure and assess compliance by users with pretreatment standards and requirements. Inspection frequency is at a minimum conducted once per year, and the frequency will depend on the nature and type of industrial processes as is specified in the control authority's pretreatment program. Failure to allow access, to permit photographic documentation, or to allow copying of pertinent records will be considered a direct violation of this division.

Sec. 34-478 – Reporting requirements.

(1) *Baseline monitoring reports.*

c) Users described above shall submit the information set forth below:

(5) *Measurement of pollutants.* Information regarding pretreatment standards sampling include the following:

(iv) 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.

(5) *Periodic compliance reports.*

(a) All significant industrial users shall, at a frequency determined by the control authority, but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with section 34-474(3) of this division. In cases where the Pretreatment Standard requires compliance with a BMP or P2 alternative, the User must submit documentation required by the Control Authority or the Pretreatment Standard necessary to determine the compliance status of the User.

8) *Notice of violation/repeat sampling and reporting.* If sampling performed by a user indicates a violation, the user must notify the Control Authority 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 Control Authority within ~~thirty (30)~~ forty-five (45) days after becoming aware of the violation. The user is not required to resample if the Control Authority monitors at the user's facility at least once a month, or if the Control Authority samples between the user's initial sampling and when the user receives the results of this sampling. All sampling and notification performed by the user under this section shall comply with the requirements of 40 CFR 403.12 (g).

(13) *Record keeping.* Users subject to the reporting requirements of this division shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this division and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with Best Management Practices established under 34-472(4)(c). Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. Documentation shall include all necessary data and reports necessary to show compliance with the narrative BMP as described in the IU Permit. These records shall remain available for a period of at least three (3) years by both the IU and CA. This period shall be automatically extended for the

duration of any litigation concerning the user or the control authority, or where the user has been specifically notified of a longer retention period by the control authority.

Sec. 34-480. - Publication of users in significant noncompliance.

The control authority shall publish annually, in any paper of general circulation within the jurisdiction served by the POTW that provides meaningful public notice ~~the largest daily newspaper published in the municipality where the POTW is located~~, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements as defined in section 34-471.

Sec. 34-481. - Enforcement.

Users who violate any term or condition of this division or of their permit shall be subject to enforcement action by the control authority. Such enforcement action will be applied in accordance with the enforcement response plan and may include legal action or other appropriate enforcement remedies as provided for below:

(3) *Notice of violation (NOV).* When the control authority determines that a user has violated, or continues to violate, any provision of this division, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the control authority may serve (either personally or by registered or certified mail, return receipt requested) upon that user a written notice of violation. Within fifteen (15) working days of the mailing date or personal delivery date of such notice, an explanation for the violation and measures taken and/or to be taken for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the control authority. Submission of this response 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 control authority to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation. ~~The first notice issued shall be called an advisory notice.~~

PART II - CODE

Chapter 34 - WATER AND SEWERS

ARTICLE V. - SEWAGE TRANSPORTATION, TREATMENT AND DISPOSAL

DIVISION 3. INDUSTRIAL WASTE

PART II - CODE
Chapter 34 - WATER AND SEWERS
ARTICLE V. - SEWAGE TRANSPORTATION, TREATMENT AND DISPOSAL

DIVISION 5. FATS, OILS AND GREASE

DIVISION 5. Fats, Oils and Grease.

Sec. 34-525. General provisions.

(c) *Definitions*. As used anywhere in this division, the following terms are defined to mean:

City Code: The City of San Antonio, Texas Code of Ordinances.

Sec. 34-526. Interceptors.

(b) *Interceptor required*. Each FSE and FPE shall discharge all waste from sinks, dishwashers, drains, and any other fixtures or sources through which fats, oils, or grease may be discharged into the POTW into a properly maintained and functioning interceptor that complies with the requirements of Chapter ~~24~~10~~,~~ of the City Code ~~of Ordinances~~ and the International Plumbing Code and appendices as amended that are adopted by the City in that chapter.

(c) *Existing facilities*. Existing FSEs and FPEs that are not equipped with an interceptor that complies with the requirements of Chapter ~~24~~10~~,~~ of the City Code ~~of Ordinances~~ and the International Plumbing Code and appendices as amended that are adopted by the City in that chapter shall install such an interceptor not later than one hundred and eighty (180) days after the effective date of the ordinance from which this division derives.

(d) *New facilities*. New FSEs and FPEs shall be equipped with an interceptor that complies with the requirements of Chapter ~~24~~10~~,~~ of the City Code ~~of Ordinances~~ and the International Plumbing Code and appendices as amended that are adopted by the City in that chapter prior to commencement of any discharge into the POTW.

Sec. 34-529. Prohibitions.

(b) *Removed interceptor waste*. Liquids removed from an interceptor that has a capacity equal to or less than 100 gallons may be returned to an interceptor that complies with the requirements of this Division. Grease, solids, or any matter other than liquids removed from an interceptor that has a capacity equal to or less than 100 gallons shall not be returned to an interceptor and shall not be disposed of in any private sanitary sewer line or any portion of the POTW and must be disposed of in a facility that is authorized by law to receive such wastes. Liquids removed from an interceptor that has a capacity equal to or less

than 100 gallons that are not returned to an interceptor shall not be disposed of in any private sanitary sewer line or any portion of the POTW and must be disposed of in a facility that is authorized by law to receive such wastes. Grease, solids, liquids, or any other matter removed from an interceptor that has a capacity greater than 100 gallons shall not be returned to any interceptor, or disposed of in any private sanitary sewer line, any portion of the POTW, or any location other than a facility that is authorized by law to receive such wastes.

DIVISION 2. - WELLS [135]

Sec. 34-566. - Powers and duties of the SAWS board.
Sec. 34-566.5.- Definitions
Sec. 34-567. - Permit for drilling new well required.
Sec. 34-568. - Permit for repair or closure of existing well required.
Sec. 34-569. - Application for permit—Information required.
Sec. 34-570. - Inspection before issuance of permit.
Sec. 34-571. - Execution of permit.
Sec. 34-572. - Permit fees.
Sec. 34-573. - Nuisance of defective or contaminating wells, abatement.
Sec. 34-574. - Abandoned wells.
Sec. 34-575. - Failure to abate nuisance, remedies.
Sec. 34-576. - Variance and appeal.
Sec. 34-577. - Criminal penalty.
Sec. 34-578. - Civil penalty.
Sec. 34-579. - Additional enforcement remedies.
Sec. 34-580. - Conflict.
Sec. 34-581. - Severability.
Secs. 34-582—34-590. - Reserved.

Sec. 34-566. Powers and duties of the SAWS board.

(a) The San Antonio Water System (SAWS) Board shall have the following powers:

(1) To make or have made examinations of all wells, privately owned or otherwise, within the limits of the City of San Antonio or within SAWS service area~~;~~ , or as a requirement to obtain a Utility Service Agreement;

(2) To sample or have sampled water from any well and make or have made analyses or tests of such water from any well located within the City of San Antonio, the City of San Antonio extra-territorial jurisdiction (ETJ), SAWS service area, or as a condition to obtaining a Utility Service Agreement and to require a well owner to obtain a well log if no such log is available;~~To make or have made at any time the necessary analyses or tests of water therefrom;~~

(3) To go upon the land and property of the owner of a well for any purpose allowed in this division;

(4) To require the owner to furnish all available information when requested concerning a well, including, in the case of new wells, complete logs of the well showing depth to and depth through all geologic formations encountered. This requirement includes at least one borehole per geothermal system;

(5) To supervise the construction, repair, and plugging of wells and the operation of such wells. The SAWS Board or its duly authorized agent shall keep a register of all wells within the limits of the City of San Antonio, City of San Antonio ETJ or within SAWS service area. This register shall, at a minimum, show for each well the name of the owner, exact location, date of construction, depth and diameter, the purpose for which the well was constructed, and, if applicable, date of plugging.

(b) It shall be a violation of this division for any person to refuse or otherwise fail to comply with any requirement of this division, or with any order of the SAWS Board made in conformity with and under the authority of this division.

(Ord. No. 80574, § 15, 8-4-94; Ord. No. 86747, § 1, 10-2-97)

Sec. 34-566.5. - *Definitions*

a. Abandoned well means any water supply well that is no longer in use, is not properly maintained and operated, or is in such a state of disrepair that using it to obtain water is impractical or a health or environmental hazard.
b. City means the City of San Antonio a Texas home rule city
c. Contaminating well means a well that allows the detrimental alteration of the naturally occurring physical, thermal, chemical, or biological quality of groundwater
d. Defective well means a well that is structurally compromised, either at the ground surface or in the subsurface that would potentially allow the entrance of surface water into the well or the mixing of waters within the wellbore that is not permitted by applicable regulations.
e. Geothermal borehole means a borehole drilled or bored into the earth into which piping is inserted for use in a geothermal system
f. Geothermal system means a geothermal system uses the Earth's thermal properties in conjunction with electricity to provide greater efficiency in the heating and cooling of buildings.
g. TCEQ means the Texas Commission on Environmental Quality

PART II - CODE

Chapter 34 - WATER AND SEWERS

ARTICLE VI. - WATER QUALITY CONTROL AND POLLUTION PREVENTION

DIVISION 2. WELLS

Sec. 34-567. - Permit for drilling new well required.

(a)

It shall be unlawful for anyone to drill, maintain, or otherwise construct or have constructed, any new water well, or any other artificial excavation to explore for or produce groundwater, or geothermal borehole ~~or injection wells~~ for the purpose of a earth-coupled heat exchange system, within the City of San Antonio or SAWS service area, without first applying for and securing a well drilling permit from the SAWS Resource Protection & Compliance (RPC) Department.~~Water Quality Division.~~ This section shall not apply to: (i) monitoring wells and test wells with a depth of less than fifty (50) feet; (2) blast holes in quarries and mines; and (3) wells or excavations for the exploration or production of oil, gas, or minerals, unless, without regard to the original purpose, the well is used as a source of water.

(b)

All drilling or construction of water wells, and injection wells for the purpose of an earth-coupled heat exchange system, shall be done in strict compliance with the terms of the well drilling permit, the SAWS Water Well Permitting Procedures, International Ground Source Heat Pump Association (IGSHPA) and 30 Texas Administrative Code (TAC), Chapter 331.~~, and 30 TAC, Chapter 238~~

(c)

In addition to the requirements of paragraphs (a) and (b) of this section, any water well which will penetrate the Edwards Aquifer shall be drilled and maintained in strict compliance with 30 TAC, ~~Sections~~ Chapter 213 et seq., as amended. This paragraph does not apply to borehole loops for the purpose of an earth-coupled heat exchange system.

(d) To preserve the water quality of the Edwards Aquifer~~the aquifer~~, the construction of any bore hole, injection well for the purpose of an earth-coupled heat exchange system, or water well for the purpose of an earth-coupled heat exchange system located over the Edwards Aquifer Recharge Zone and Transition Zone shall be prohibited.

(e)

An open system, geothermal well that draws water from an aquifer that~~and~~ is circulated through a ~~the~~ heat exchange system or geothermal wells which inject water into an aquifer, or to a surface water body, will not be permitted within the limits of the

City of San Antonio, City of San Antonio ETJ, or ~~and~~ within SAWS service area.
(Ord. No. 80574, § 15, 8-4-94; Ord. No. 86747, § 1, 10-2-97)

Sec. 34-568. - Permit for repair or plugging of existing well required.

It shall be unlawful for any person to reconstruct, repair, correct, or plug a well or injection well for the purpose of an earth-coupled heat exchange system, or to engage upon such work, within the City of San Antonio, San Antonio ETJ, or the SAWS service area, or to employ anyone else to engage in such work, without first applying for and securing a permit from the SAWS RPC Department ~~Water Quality Division~~.

(Ord. No. 80574, § 15, 8-4-94; Ord. No. 86747, § 1, 10-2-97)

Sec. 34-569. - Application for permit—Information required.

Every application for a permit for the drilling, construction, repair, or plugging of a well or the construction of an injection well for the purpose of an earth-coupled heat exchange system, shall be considered incomplete unless all information requested by the SAWS application form has been provided. The SAWS RPC Department ~~Water Quality Division~~ shall maintain and update permit application terms to request all information necessary to carry out the intent of this division and to assure protection of the ground water aquifers by detecting and preventing the drilling or use of wells in a manner that may cause damage to or waste of water in an aquifer.

(Ord. No. 80574, § 15, 8-4-94; Ord. No. 86747, § 1, 10-2-97)

Sec. 34-570. - Inspection before issuance of permit.

It shall be the duty of the SAWS RPC Department ~~Water Quality Division~~ to consider every permit application submitted under this division, to inspect the property where any well will be drilled, sunk, dug, or bored, and to refuse issuance of a permit when

(a) The location or manner of construction of the proposed well does not meet with the SAWS RPC Department's ~~water quality division's~~ approval of drainage and other sanitary conditions , or does not meet applicable State well construction requirements; or~~or~~

(b)

The proposed well would be located on property to which water service is currently available from SAWS or any other ~~recognized~~ water purveyor; or

(c)

Water service from existing SAWS water mains or service lines, or from any other water purveyor, could be established to the property on which the proposed well is located at a cost equal to or less than the cost of drilling the well as required by the RPC Department; or~~well; or~~

(d)

The intended use of the water to be produced by the proposed well could be accomplished using reuse water, and reuse water service is available to the property or could be made available at a cost equal to or less than the cost of drilling the proposed well.

(e)

Subsection (b), (c) and (d) of this section do not apply to injection wells for the purpose of an earth-coupled heat exchange system.

(Ord. No. 80574, § 15, 8-4-94; Ord. No. 86747, § 1, 10-2-97)

Sec. 34-571. - Execution of permit.

All permits shall be executed in triplicate, one (1) copy to be delivered to the applicant and two (2) copies to be retained in the SAWS Resource Protection & Compliance Department. A permit is valid for 6 months from the date of issuance of the permit.~~Water Quality Division.~~

(Ord. No. 80574, § 15, 8-4-94; Ord. No. 86747, § 1, 10-2-97)

Sec. 34-572. - Permit fees.

The fees to be paid to SAWS for the permits required by this article shall be as follows:

Permit for closure or repair of existing well .....~~$320.00~~ $385.00

Permit for drilling new well .....~~384.00~~$455.00

Permit for the construction of a geothermal heat exchange system 200.00

The San Antonio Water System Board of Trustees is hereby authorized to amend the fee schedule, as needed, by official resolution, when a change in the amount of fees is required to adequately recover the costs reasonably related to the performance of these functions for which the fee is charged.

(Ord. No. 80574, § 15, 8-4-94; Ord. No. 86747, § 1, 10-2-97; Ord. No. 2007-12-13-1345, § 2(Att. B), 12-13-07)

Sec. 34-573. - Nuisance of defective or contaminating wells, abatement.

(a)

Any defective or contaminating well, as described herein, is hereby found to be a threat to the water supply of the City of San Antonio, a potential source of disease, injurious to the public health, and is hereby declared a nuisance.

(b)

For the purpose of this division a contaminating well is considered to be any well or other opening which penetrates the underground water supply and which in any way pollutes or contaminates any other well or the city's water supply.

(c)

For the purpose of this division a defective well is considered to be: any well, whether dug or drilled, which for any reason does not completely prevent, or which has the potential to allow, the mixing of water or other liquid from above and below the source of the city's water supply (the ground water aquifers) with the water in the source of the city's water supply; or any water well that was constructed without a permit and associated inspections.

(d)

The City of San Antonio, acting through the SAWS Board, pursuant to said § 217.042 or § 401.002 of the Texas Local Government Code Ann. (Vernon's 1994), and § 342.001 of the Texas Health & Safety Code Ann. (Vernon's 1994), may require the abatement of such nuisance. The SAWS RPC Department ~~Water Quality Division~~ may, on its own initiative or upon information or complaint from any source, make an examination of any well suspected of being defective. If such examination indicates in the opinion of the SAWS RPC Department Water Quality Division that the well is a contaminating or defective well or that the water from such well is unsafe for human consumption, then the director, or his authorized representative of the SAWS RPC Department ~~Water Quality Division~~ shall issue an order or written instructions to the owner or his agent in charge of such well or the property upon which it is situated to plug this well in such a manner as prescribed by the SAWS Board and in compliance

with TNRCC regulations and SAWS Water Well Permitting Procedures. In the event that a surface or subsurface release of contaminants occurs within the immediate area of a well, the owner of that well shall allow SAWS to conduct an inspection, or to conduct monitoring activity of that well. If that well is later found to be contaminated, SAWS may direct the owner to plug and abandon that well.

(Ord. No. 80574, § 15, 8-4-94; Ord. No. 86747, § 1, 10-2-97)

Sec. 34-574. - Abandoned wells.

(a)

For the purpose of this division a well is considered to be an abandoned well if it has not been used for a period of six (6) consecutive months or longer. A well is considered to be in use in the following cases:

(i)

A non-deteriorated, non-defective or non-contaminating well which contains the casing, pump and pump column in good condition, and which is connected to an active electrical or other power source; or

(ii)

A non-deteriorated, non-defective or non-contaminating well which has been properly capped, and for which a variance has been granted by the SAWS RPC Department ~~Water Quality Division~~.

(b)

It is hereby declared that an abandoned well, as defined in subsection (a) above, has the potential to pollute the water supply or be otherwise injurious to the public health, and, pursuant to Tex. Loc. Govt. Code Ann. §§ 217.042 and 401.002 (Vernon's 1994), is hereby declared a nuisance, for which the City of San Antonio, acting through the SAWS Board, pursuant to the Code, may require the abatement of such nuisance.

(c)

The owner, operator, or agent in charge of an abandoned well shall notify the SAWS ~~Water Quality Division~~RPC Department of that condition. Every abandoned well shall be ~~filled and~~ plugged in accordance with all applicable TCEQ~~TNRCC~~ regulations and SAWS Water Well Permitting Procedures and with such materials and in such manner as in the judgment of the Director of the SAWS RPC Department ~~Water Quality Division~~ will prevent the pollution and contamination of the City of San Antonio's water supply or of any other well within the limits of the city of the SAWS service area.

(d)

Whenever SAWS shall receive notice from any source of the existence of an

abandoned well which has not been plugged and filled in accordance with the provisions of this division, the SAWS RPC Department ~~Water quality Division~~ shall notify the owner, operator, or agent in charge of such well or of the property upon which it is situated that such well is abandoned and shall order such person to fill and plug the well in accordance with this division of the Code.

(e)

The SAWS RPC Department ~~Water Quality Division~~ may require any owner of a capped well to take any action necessary or to provide any information or materials necessary to establish that such a capped well is not defective, contaminating, or deteriorated.

(Ord. No. 80574, § 15, 8-4-94; Ord. No. 86747, § 1, 10-2-97)

Sec. 34-575. - Failure to abate nuisance, remedies.

Should the owner, operator, or agent in charge responsible for the contaminating, defective, or abandoned well which has been declared a nuisance, or for the property on which it is situated, fail to abate such nuisance within the prescribed time from the date of issuance of notice of nuisance or order issued pursuant to sections 34-573 or 34-574 hereof, or if, after exercising reasonable diligence, the SAWS Board is unable to locate the owner, operator, or agent in charge, the City of San Antonio, acting through the SAWS Board, pursuant to the Health & Safety Code §§ 342.001 et seq., shall have the right to go on the property upon which the well is situated and abate such nuisance in the manner provided, and the owner thereof shall be liable to the City of San Antonio for the cost of such work and shall pay such cost upon demand, and the City of San Antonio, acting through the SAWS Board, shall have the right to file a lien on the property to secure payment of the costs of such work

(Ord. No. 80574, § 15, 8-4-94; Ord. No. 86747, § 1, 10-2-97)

Sec. 34-576. - Variance and appeal.

(a)

A person who has properly applied for and has been denied a permit by the SAWS RPC Department ~~Water Quality Division~~ under sections 34-567 through 34-570 hereof may request a variance from the application of this division. All requests for variances shall be made in writing to the SAWS RPC Department ~~Water Quality Division~~ and shall include:

(i)

The subject of the requested variance, and

(ii)

The justification for granting a variance.

(b)

The party requesting a variance has the burden of demonstrating that sufficient evidence exists for the granting of a variance to these rules, and the SAWS RPC Department ~~Water Quality Division~~ shall consider and provide a written response to all such variances.

(c)

If a variance is granted for the construction of a water well, the water well shall be constructed by a state-licensed driller and according to the methods outlined in the SAWS Water Wells Permitting Procedures. This construction shall occur under the authority of the permit to drill issued by the SAWS Board and under the inspections associated with the permit.

(d)

Any variance granted under this section shall have a term of three (3) years from the date of issuance, and any activity which would otherwise be prohibited by this division except for the existence of a variance may not continue after the expiration of the applicable variance.

(e)

Any person who properly requests a variance pursuant to this section which is denied by decision of the SAWS RPC Department ~~Water Quality Division~~, may appeal such denial to the president and CEO of SAWS by filing a request for appeal within ten (10) days from the date notice of denial is received. The president and CEO may require additional information from or request a meeting with the person making the appeal, and the decision of the president and CEO on the issuance of a variance or permit under this division shall be considered final.

(Ord. No. 80574, § 15, 8-4-94; Ord. No. 86747, § 1, 10-2-97)

Sec. 34-577. - Criminal penalty.

(a)

The president/CEO of the San Antonio Water System is hereby authorized to designate qualified San Antonio Water System personnel to serve notices of violations of this section and take all necessary action to file a complaint with the municipal prosecutor's office.

(b)

A conviction for violation of this division shall constitute a class C misdemeanor. A person convicted of a violation of this division shall be fined a minimum amount of not less than two hundred dollars ($200.00) per violation and a maximum amount of not more than two thousand dollars ($2,000.00) per violation. Each violation of a particular section of this division shall constitute a separate offense, and each day an offense continues shall be considered a new violation for purposes of enforcing this division. A culpable mental state is not required to prove an offense under this ordinance.

(Ord. No. 80574, § 15, 8-4-94; Ord. No. 86747, § 1, 10-2-97)

Sec. 34-578. - Civil penalty.

A civil penalty in an amount not to exceed one thousand dollars ($1,000.00) per violation of this division may be imposed. Each violation of a particular section of this division shall constitute a separate offense, and each day such an offense continues shall be considered a new violation for purposes of enforcing this division. A culpable mental state is not required to prove an offense under this division.

(Ord. No. 80574, § 15, 8-4-94; Ord. No. 86747, § 1, 10-2-97)

Sec. 34-579. - Additional enforcement remedies.

In addition to any other remedies provided by this division, the City of San Antonio and SAWS may, at any time, seek legal and/or equitable remedies or file criminal charges against any person, corporation or other entity believed to be in violation of this division. In furtherance thereof, ~~the SAWS Environmental Counsel for~~ SAWS is authorized and instructed to commence any action, in law or in equity, including the filing of criminal charges for the purpose of enforcing this division.

(Ord. No. 80574, § 15, 8-4-94; Ord. No. 86747, § 1, 10-2-97)

Sec. 34-580. - Conflict.

No provision of this division is intended nor shall any part or portion hereof be construed so as to conflict with the Texas Water Code, any regulations adopted by the TCEQ, or any other Charter Code provision or ordinance pertaining to reuse or conservation.

(Ord. No. 80574, § 15, 8-4-94; Ord. No. 86747, § 1, 10-2-97)

Sec. 34-581. - Severability.

If any provision of this division or the application thereof to any person or circumstance shall be held to be void or invalid for any reason, the remainder of this division and the application of such provision to other persons and circumstances shall nevertheless be valid, and the city council hereby declares that this division would have been enacted without such invalid provision.

(Ord. No. 80574, § 15, 8-4-94; Ord. No. 86747, § 1, 10-2-97)

Secs. 34-582—34-590. - Reserved.

Subdivision B. - Stormwater Compliance for Construction Activity

Sec. 34-801. - Statement of purpose.
Sec. 34-802. - Definitions.
Sec. 34-803. - Applicability of Subdivision B entitled "Storm Water Compliance for Construction Activity," and declaration of nuisance for violation; no culpable mental state required.
Sec. 34-804. - General prohibition against construction pollution of the municipal separate storm sewer; measurable volumes for violation.
Sec. 34-805. - Additional federal and state requirements generally applicable to responsible parties associated with One~~five~~ (1~~5~~) acre or larger projects: proper custody of federal or state storm water pollution prevention plans (SWPPP); applicable to parties required to provide notice of intent (NOI) to EPA or TCEQ~~NRCC~~; requirement to post NOI at site; requirement to make SWPPP and WPAP (as applicable) available to city inspector; copy of notice of termination required by EPA or TCEQ~~NRCC~~.
Sec. 34-806. - Best management practices (BMP) guidelines; compliance with this subdivision should not be relied upon by the regulated community to automatically effect compliance with what may be more stringent federal or state regulations pertaining to EPA/ TCEQ~~NRCC~~ permitted construction sites; explanation of federal jurisdiction.
Sec. 34-807. - Enforcement procedures.
Sec. 34-808. - Criminal and civil enforcement.
Sec. 34-809. - Declaration of nuisance within applicable limits of the city's ETJ; city's authority to enforce within five thousand (5,000) feet outside the city limits.
Secs. 34-810—34-900. - Reserved.

Sec. 34-801. - Statement of purpose.

The intent of the ordinance from which this subdivision derives, creating subdivision B, is to satisfy conditions imposed by the City's ~~National~~ Texas Pollutant Discharge Elimination System (~~N~~TPDES) Permit issued by the Texas Commission on Environmental Quality (TCEQ). ~~At the making modification of the ordinance from which this subdivision derives, the NTPDES Permit is administered by the United States Environmental Protection Agency Texas Commission on Environmental Quality (USEPA TCEQ) and EPA is retaining jurisdiction until the city's permit is renewed. Delegation of federal authority to the State of Texas, to administer NPDES Permit requirements, has been made by EPA and entire administration of the NPDES Program by the State is expected in the future.~~

All construction addressed by the ordinance from which this subdivision derives is intended to conform to Best Management Practices. Applicable Best Management Practices (BMP) are presently outlined in the ~~Texas Natural Resource Conservation Commission~~Texas Commission on Environmental Quality (~~TNRCC~~ TCEQ) Technical Guidance On Best Management Practices, June 1999, Document No. RG-348 (Revised July 2005). The ~~TNRCC~~ TCEQ guidance may be updated by the agency or revised by the City of San Antonio for integration into ~~the city's future~~ the City's technical guidance manual for local construction activity. All these sources are merely recommended guidance and examples for responsible parties. Choice of techniques is at the option of the responsible party.

(Ord. No. 94002, § 1, 5-24-01)

Sec. 34-802. - Definitions.

When used in this Subdivision B, the following terms shall have the following meanings:

Best Management Practices (BMP): A technique or series of structural and non-structural techniques and practices which, when used in an erosion control plan or considered as part of a construction site's housekeeping efforts, are proven to be effective in controlling construction-related runoff, erosion, sedimentation, and associated pollutants. Applicable BMP's can be found in TCEQ approved BMP Guidance manuals.

Construction activity: Clearing, ~~or~~ grading or filling of land, dozing or mechanical removal of trees which dozing or mechanical removal disturbs the soil, excavation for installation of utility lines, streets, drainage facilities, and site preparation for housing and commercial development, as well as on-going construction activities which produce waste products. Land being modified by either excavation or fill of material upon an existing mantle of soils is considered a construction activity and subject to the terms of this Ordinance unless otherwise permitted under a Multisector Industrial Storm Water Permit. Prior to any modification to an existing mantle soil grade the owner of the property must meet City requirements for grading and drainage applicable to property modifications.

Director of public works: The Director of Public Works of the City of San Antonio, including his/her designees.

EPA: The United States Environmental Protection Agency.

Erosion: the wearing away of the ground surface as a result of the movement of wind, water and/or ice.

Extraterritorial jurisdiction (ETJ): The un-incorporated area contiguous to corporate boundaries of the city that is located within five (5) miles of those boundaries, defined by the Texas Local Government Code and as such Code may be amended. Applicable limits of the ETJ, for enforcement purposes of this subdivision, are only those areas within the first five thousand (5,000) feet of San Antonio's corporate boundaries within the ETJ.

Final inspection: Occurs after responsible party meets definition of final stabilization and files a Notice of Termination (NOT) form, if required by state or federal law, at which time SAWS will conduct a final inspection to verify both compliance with final stabilization and removal of the temporary BMP's from the site has occurred. Final inspections will be required at both Small Construction Sites and Large Construction Sites. Secondary Operators are required to complete Site Notices and complete a NOT form as required under the TPDES permit.

Final stabilization: Reference to standards in the TCEQ ~~NPDES~~TPDES General Permit for Storm Water Discharges for Construction Activities ~~in EPA's Region 6~~ concerning development acreage that: (1) where state or federally regulated development acreage is concerned, all soil disturbing activities at the site have been completed, and a uniform perennial vegetative cover, with a density of seventy (70) percent of the native background vegetative cover for the area has been established on all unpaved areas and areas not covered by permanent structures or equivalent permanent stabilization measures have been employed and (2) where local, individual lots associated with residential or commercial construction are concerned, by

either (a) the responsible party complying with cover requirements guided by federal or state standards recited above, or (b) the responsible party establishing temporary stabilization including perimeter controls and informing the home buyer or commercial purchaser in writing of the need for and benefits of final stabilization.

Grade: The vertical location of the ground surface.

Grading: Any land disturbance or land fill, or combination thereof including land development, fill material sites or demolition sites.

Improved: Altered by man-made conditions.

Land disturbance/land-disturbing activities: Any moving, ~~or~~ removing or filling by manual or mechanical means of the soil mantle or top six (6) inches of soil, whichever is shallower, including but not limited to excavations. Any planned disturbance of an existing land grade (fill or excavation) is considered a land disturbing activity. Prior to any modifications to existing mantle soil grade, the owner of the property must meet City requirements for grading and drainage on property modifications.

Land fill: Any human activity involving the disposition of soil, earth, or other earthen or aggregate materials.

Municipal separate storm sewer system (MS4): All natural and man-made collection and conduit facilities within the corporate limits of the City of San Antonio and within applicable limits of its extraterritorial jurisdiction, and for which MS4 protection the City of San Antonio has been issued a ~~National~~ Texas Pollutant Discharge Elimination System (~~N~~TPDES) Permit by ~~EPA~~TCEQ, which collection and conduit facilities constitute a system of conveyances, including but not limited to, roads with drainage systems, municipal streets, catch basins, curbs, gutters, ditches, creeks, streams, tributaries, man-made channels, or storm drains, which provide collection or conveyance of storm_water, rain water, flood water, or other surface water, and may be located on public property, drainage easements, or other property, and are not designated and intended to be part of the collection system of a sanitary sewer system utilized by a publicly owned treatment works (POTW) as defined by federal regulation at 40 CFR 122.2.

NOI: Notice of intent filed by a responsible party with EPA or ~~EPA or TNRCC~~TCEQ. This NOI is required under ~~federal~~ state regulation, ~~or future state regulation,~~ for certain construction activity. The NOI is part of the ~~federal~~ state general permit process for construction activity concerning projects or runoff deemed to potentially impact waters of the State of Texas and of the United States of America.

NOT: Notice of termination. The notice required by the EPA or ~~y EPA or TNRCC~~ TCEQ for ~~sizeable~~ permitted projects within the jurisdiction of either agency, which notice verifies "final stabilization" of the site has been achieved, as described above; EPA form 3510-7 terminating coverage under the ~~N~~TPDES general permit or corresponding ~~TNRCC~~ TCEQ form for the TPDES Texas Pollutant Discharge Elimination System general permit.

NPDES: National pollutant discharge elimination system.

Ordinance: This ordinance in its entirety, pertaining to new Subdivision B, under Article VI, Division 5,

Chapter 34, Code of Ordinances of the City of San Antonio.

Person: Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or the legal representatives, agents, or assigns thereof.

Pollutant: Any substance introduced into the environment that adversely affects a resource. Pollutant includes, but is not limited to, soil, soil material, sediment, human waste, other wastes and debris generated at construction sites.

Qualified Inspector: Person with credible certification or training or skills (such as Certified Erosion, Sedimentation and Storm Water Inspector (CESSWI) or Certified Inspector of Sediment and Erosion Control (CISEC) or equal certification program or as may be required by the State of Texas that demonstrates proficiency in evaluating, interpreting and implementing Best Management Practices and elements of a Storm Water Pollution Prevention Plan (SWPPP). Additionally, a Qualified Inspector must receive a certificate of completion to the SAWS TPDES Inspector Training Workshop.

Responsible party: Any person or legal entity, individual or corporate, including an owner, operator, contractor, or subcontractor, any or all of whom may be engaged in, consent to, or actually perform a construction project or construction activity.

SAWS: The San Antonio Water System, a municipally owned utility, a co-permittee to the City's MS4 Permit and one of the city's enforcement and compliance arms for water quality, pollution control and prevention.

Sediment: Earth material deposited by water or wind.

Site: The location of construction activity, subject of this Subdivision B, being within the corporate limits of the city and within the first five thousand (5,000) feet, outside such limits, within the ETJ.

Soil and/or soil material: Naturally occurring superficial deposits of earth mantle overlaying bedrock or clay; any naturally occurring surface deposit of sand, gravel, silt, clay, or any mixture thereof.

Storm water: Storm water runoff, snow melt runoff, and surface runoff and drainage, as per T~~N~~PDES ~~Permit~~ Construction General Permit~~No. TXS001901~~and the TPDES Permit No. TXR1500000.

SWPPP: Storm Water Pollution Prevention Plan: The state or federally required plan for identifying and implementing appropriate measures to reduce pollutants in storm water discharges into the city's municipal separate storm water sewer systems (MS4), which pollutants include eroded sediments. Protective measures include, but are not limited to, natural and man-made collection components, good house-keeping for site maintenance, and other common sense actions, all frequently referred to as best management practices (BMP).

~~*TNRCC*~~*TCEQ* : ~~Texas natural resource conservation commission~~Texas Commission on Environmental Quality.

Unimproved: Natural conditions, unaltered.

Water Pollution Abatement Plan (WPAP):The State required plan that is described in 30 Texas Administrative Code, Chapter 213 for identifying and implementing appropriate measures to reduce pollutants in Storm Water Discharges into identified sensitive areas of the Edwards Aquifer. The TCEQ TPDES Construction General Permit TXR150000, page 12, Item 5 "Discharge to the Edwards Aquifer Recharge Zone identifies the requirement of protective measures of the Edwards Aquifer.

(Ord. No. 94002, § 1, 5-24-01)

Sec. 34-803. - Applicability of Subdivision B entitled "Storm Water Compliance for Construction Activity," and declaration of nuisance for violation~~; no culpable mental state required (remove).~~

Within the corporate limits of the city and within applicable limits of the city's extraterritorial jurisdiction (ETJ), no person shall perform construction activity that violates provisions of this subdivision. Construction activity in violation of this subdivision is hereby declared unlawful.

Violations committed within the corporate limits and within five thousand (5,000) feet outside the city's corporate limits shall also constitute public nuisance, as further provided below at Sec. 34-809, Violations of any provision of this subdivision within the City's corporate limits shall be deemed a criminal Class C misdemeanor. Violations of any provision of this subdivision within the city's corporate limits or any part of the applicable ETJ shall be further subject to a civil enforcement option, more particularly described in Sec. 34-808 (b) below.

~~No culpable mental state is required of any responsible party in order to constitute a violation of this subdivision.~~ Some of the requirements of this subdivision may be generally characterized as good house-keeping protocols, those expected to be employed by a reasonably prudent contractor, operator, owner, or other person having responsibilities for various activities on a construction site. Where state or federal permits require the site operator, owner, or other responsible party, to make a storm water pollution prevention plan (SWPPP), such plans must be readily available on the site for city inspection.

(Ord. No. 94002, § 1, 5-24-01)

Sec. 34-804. - General prohibition against construction pollution of the municipal separate storm sewer; measurable volumes for violation; required TCEQ TPDES Permit; SWPPP and WPAP (as applicable).

(a) It is unlawful for any person to engage in construction activity which activity results in a measurable volume of sediment, soils, soils material, or pollutants entering the city's municipal separate storm sewer system (MS4).

(b) "Measurable volume" of sediment, soil, soil material, or pollutant, for purposes of determining a violation, shall be such volume as is capable of being truly and correctly depicted in a photograph, motion picture, or video recording of the sediment, soil, soil material, or pollutant in question.

(c) Nothing in this section shall diminish or change the general prohibitions against MS4 pollution found in section 34-702, Subdivision A, Division 5, of this Chapter 34, Prohibited discharges into the municipal separate storm sewer system. SAWS shall continue to exercise all enforcement powers set out in this Chapter 34, and to gather such evidence as may include, but not be limited to, samples and analysis

appropriate to enforcement of Chapter 34 provisions.

(d) The responsible party shall use best management practices (BMP) to prevent sediment, soils, soils materials, and pollutants from entering the city's MS4.

(e) It is unlawful for any person to engage in construction activity without employing BMP necessary to protect the city's MS4 from run-off or other media capable of transporting sediment, soil, soil material, and pollutants into the city's MS4.

(f) The Responsible Party shall post at the main entrance of the site all operator notices including without limitation, such as Notice of Construction, Construction Site Notice, Contact Information and WPAP Notice of Construction (as examples) .

(g) Portions of the Edwards Aquifer Recharge Zone and Edwards Aquifer Contributing Zone within the City of San Antonio extraterritorial jurisdiction shall be considered inclusive in this Section.

(h) The operator shall have available and maintain on the construction site a copy of the SWPPP and where applicable, the WPAP.

(i) It is unlawful for any person to engage in construction activity without a complete SWPPP (as defined in TCEQ TXR 150000 or WPAP (as applicable) available on the construction site

(Ord. No. 94002, § 1, 5-24-01)

Sec. 34-805. - Additional federal and state requirements generally applicable to responsible parties associated with TPDES Regulated Projects ~~five (5) acre or larger projects~~: proper custody of federal or state storm water pollution prevention plans (SWPPP); applicable to parties required to provide TPDES notice of intent (NOI) or Small Construction Site Notice to EPA or TCEQ ~~TNRCC~~ and San Antonio Water System (SAWS); requirement to post ~~NOI~~ TPDES Notices at site; requirement to make SWPPP available to city inspector; copy of N~~n~~otice of T~~t~~ermination (NOT) or Small Construction Site or Large Construction Site Secondary Operator completed site notices required by ~~EPA or TNRCC~~TCEQ or SAWS.

(a) Concerning projects for which the EPA or ~~TNRCC~~TCEQ or the City have permitting authority, the responsible party shall post at the site, as required by federal or state regulations, a true and correct copy of the NOI, Permit Number, Large Construction Site Notice or Small Construction Site Notice. A copy of the NOI, Permit Number, Large Construction Site Notice or Small Construction Site Notice and the WPAP Notice of Construction shall also be sent to SAWS ~~source water and watershed protection department~~ Resource Protection and Compliance Department at the same time it is sent to EPA or ~~TNRCC~~ TCEQ when applicable.

(b) The responsible party shall have available for city inspection, on site, the storm water pollution prevention plan (SWPPP) imposed by EPA or ~~TNRCC~~ TCEQ, when the site in question is subject to such plans imposed by federal or state law.

(c) The responsible party shall make the SWPPP available to the city inspector, on reasonable request made during normal working hours.

(d) Failure, refusal, or inability to provide such plan for inspection, when the plan is required under state or federal law, constitutes a violation of this subdivision.

(e) It shall be unlawful for any person to engage in construction activity in violation of the elements of an applicable SWPPP and applicable WPAP.

(f) The responsible party shall provide SAWS a true and correct copy of any notice of termination (NOT), Small Construction Site completed site notice or Large Construction Site Secondary Operator completed site notice necessary to close out a project regulated by EPA or ~~TNRCC~~ TCEQ. This copy shall be sent to SAWS, to the attention of SAWS ~~source water and watershed protection department~~ Resource Protection and Compliance Department, at the time it is sent to EPA or ~~TNRCC~~ TCEQ.

(g) Where permanent improvements have been constructed, the final inspection shall verify whether or not the "final stabilization" criteria have been met.

(h) Where no permanent improvements are planned, temporary BMPs shall continue to be maintained until site has reached final stabilization.

(i) A site shall continue to be regulated and maintain an open, active permit until final stabilization is achieved; and, where applicable to state and federally regulated sites, until a "notice of termination" (NOT) or Small Construction Site completed site notice or Large Construction Site Secondary Operator completed site notice has been filed. A copy of the NOT, if applicable, will also be filed with the SAWS as described above at subsection (f).

(j) Where the site has met final stabilization requirements, but the controls or measures implemented thereafter fail, each discharge of construction related contamination by the responsible party shall constitute a violation of this subdivision B.

(k) Removal of temporary BMPs shall be required after the site achieves final stabilization.

(l) The responsible party shall have available for City inspection on the construction site, a true copy of an approved master plan of development.

(m) The Responsible Party shall have available on the construction site the Water Pollution Abatement Plan (WPAP) and WPAP Approval Notice imposed by TCEQ when the site in question is subject to such plans required by TCEQ in 30 Texas Administrative Code, Chapter 213.

(n) The Responsible Party shall have available for City inspection all records and documents required by the EPA or TCEQ SWPPP and TCEQ WPAP (as applicable).

(o) All SWPPP documents shall be designed and signed by a Licensed Professional Engineer (Texas) with competence in this area as required by Texas Engineering Practice Act, Section 137, or a Certified Professional in Erosion and Sedimentation Control (CPESC), or other registered/certified professional with competence in this area (such as a landscape architect) or as required by the State of Texas TCEQ.

(p) To assure continued effective compliance with best management practice methodology on the construction/development site, the owner and/or engineer or certified inspector such as CPESC, Certified Erosion, Sediment and Storm Water Inspector (CESSWI) or Certified Inspector of Sediment and Erosion Control (CISEC) or other equal certification as may be required by the State of Texas, (hereafter referred to as owner's representative) shall conduct ongoing inspections of all erosion/sedimentation controls and direct the person or firm responsible for maintenance to make any repairs or modifications necessary within 48 hours of the initial notification.

(Ord. No. 94002, § 1, 5-24-01)

Sec. 34-806. - Best management practices (BMP) guidelines; compliance with this subdivision should not be relied upon by the regulated community to automatically effect compliance with what may be more stringent federal or state regulations pertaining to EPA/~~TNRCC~~ TCEQ permitted construction sites; explanation of federal jurisdiction.

(a) BMP applications recommended to responsible parties are those techniques described in ~~TNRCC's~~TCEQ's "Technical Guidance on Best Management Practices," document no. RG-348, Revised~~June~~July ~~1999~~ 2005, as such document may be updated and revised, or when available, the city's Technical Guidance Manual for Construction Activity.

(b) Responsible parties are advised that the city's recognition of BMP and other good house-keeping protocols are not necessarily synonymous with federal standards directly associated with EPA's Construction G~~g~~eneral P~~p~~ermit for other construction sites regulated under federal law or the TCEQ's Construction General Permit. Some sites will be ~~of these~~ federally regulated construction sites while~~will eventually~~ most construction sites will be permitted by the State of Texas under guidelines similar to those of EPA. Responsible parties whose projects of scale fall within state or federal parameters are responsible to EPA or ~~TNRCC~~ TCEQ to fulfill requirements that may differ from or may be more stringent than the provisions of this ordinance applying to local, individual construction sites of a scale not regulated by state or federal authorities.

(c) In contrast, the purpose of this subdivision and its requirements for BMP are to satisfy the ~~c~~City's own ~~federal~~State permit which specifically requires the City to adopt a construction site regulation. Consequently, the intent of this subdivision is to protect MS4 from pollutants generated from local construction sites. Federal and State jurisdiction to support this directive is found in the conduit of urban runoff traversing the San Antonio area into rivers, streams, and especially bays regulated as "waters of the United States of America~~.~~" and "waters of the State of Texas". Hence, storm water generated in the area of San Antonio ~~presumes to~~ may enter into and impact state and federal waters.

(Ord. No. 94002, § 1, 5-24-01)

Sec. 34-807. - Enforcement procedures.

(a) The director of public works may designate additional field enforcement staff to supplement SAWS ~~source water and watershed protection~~Resource Protection and Compliance Department staff, here designated and referred to above and hereafter as city inspectors (inspectors).

(b) Upon observation of an alleged violation or condition an inspector believes constitutes a violation of this subdivision, the Inspector shall issue a F~~f~~ield C~~c~~orrection N~~n~~otice (FCN) to a responsible party. The F~~f~~ield C~~c~~orrection N~~n~~otice shall be personally delivered to a responsible party, if such person is available on site; or, in the absence of such person, shall be posted at the construction site and mailed by U.S. Mail or by electronic e-mail. Field C~~c~~orrection N~~n~~otices shall afford two (2) 24-hour periods to correct the violation alleged. The first 24-hour period should be used to remediate and remove the offending material, if any, from the city's MS4, or obtain and post permit documents and/or provide a copy of a complete SWPPP and WPAP (as applicable). A second 24-hour grace period shall follow immediately to allow the responsible party to appropriately install or repair corrective BMP which was lacking or failed to protect city property.

(c) If the violation is cured within forty-eight (48) hours, as described above, no further city action is required.

(d) If correction is not made timely, the inspector may issue a stop work order.

(e) If a stop work order is not honored at the site and/or corrective action is not timely accomplished to protect the city's MS4, citations may be issued or civil injunctive remedies with appropriate penalties may be pursued.

(f) Additional or cumulative enforcement action may be taken as the seriousness of the alleged pollutant encroachment in the MS4 may warrant.

(g) Additional compliance time may be afforded, if within the judgment and discretion of the inspector, municipal obligations to environmental health and safety and municipal storm_water compliance obligations to enforcement agencies are not compromised.

(h) Upon observation of an alleged violation or condition an inspector believes constitutes a violation of a Water Pollution Abatement plan within the Edwards Aquifer Recharge Zone, the Inspector shall have the authority to issue a Field Correction Notice (FCN) to a responsible party. Delivery of the FCN shall be in accordance with the process as identified in paragraph (b) of this Section. The Field Correction Notice shall require immediate correction of the violation alleged or within 24 hours of observation of alleged violation as specified and documented by the Inspector on the FCN. If correction is not made timely, the Inspector may issue a Stop Work Order.

(Ord. No. 94002, § 1, 5-24-01)

Sec. 34-808. - Criminal and civil enforcement.

(a) A penalty is hereby established whereby any person who shall violate any provision of this subdivision shall be deemed to be guilty of a misdemeanor and shall upon conviction be fined a minimum amount of not less than two hundred dollars ($200.00) per violation and a maximum amount of not more than two thousand dollars ($2,000.00) per violation. Each day of violation shall constitute a separate offense for purposes of the enforcement of this subdivision. ~~A culpable mental state is not required to prove an offense under this subdivision.~~

(b) The city attorney has authority to pursue all legal, equitable, and criminal remedies appropriate to

enforce all provisions of this subdivision, including, but not limited to, authority under the Texas Local Government Code, Chapter 54, providing for injunctive relief and court imposed civil penalties up to five thousand dollars ($5,000.00) a day for violation of ordinances relating to discharge of a pollutant into a storm sewer system controlled by a municipality.

(c) Upon the written direction of the director of public works, advising of an alleged violation of any section of this subdivision, the city attorney, pursuant to subsection (d) above, is authorized to petition any court of competent jurisdiction for an injunction to enjoin the continuance of such violation and to secure any and all civil penalties within the jurisdiction of the appropriate court. This remedy shall be cumulative of and to all other enforcement remedies available to the city.

(d) The authority set out above shall in no way diminish the authority and responsibility of the city attorney to diligently prosecute violations of this subdivision through the municipal prosecutor's office.

(e) The SAWS is a co-permittee, under the federal permit, and a contractual enforcement arm of the City of San Antonio. In consultation with the city attorney, SAWS legal officers may exercise all or specific enforcement options enumerated in this subdivision B on behalf of the city.

(Ord. No. 94002, § 1, 5-24-01)

Sec. 34-809. - Declaration of nuisance within applicable limits of the city's ETJ; city's authority to enforce within five thousand (5,000) feet outside the city limits.

Under authority of the Texas Local Government Code, Sec. 217.042 (a)(b), noncompliance with provisions of this subdivision B, or violation of its provisions, is here declared a nuisance and by authority of the enabling statute such declaration of nuisance extends to and shall be applicable within both the corporate limits of the city and within five thousand (5,000) feet outside the limits. Accordingly, summary abatement authority rests in the city's enforcement officials when imminent threat to the public health, safety, or welfare may arise.

(Ord. No. 94002, § 1, 5-24-01)

Secs. 34-810—34-900. - Reserved.

ADD: This is a new subdivision (Sub Division C) under Article VI, Division 5.

ARTICLE VI. WATER QUALITY CONTROL & POLLUTION PREVENTION

DIVISION 5. PROHIBITED DISCHARGES INTO THE MUNICIPAL SEPARATE STORM SEWER SYSTEM

Subdivision C. Storm Water Compliance for Industrial & Commercial Activities

Section 34 – 750. General Provisions.

1. *Purpose:* This subdivision sets forth requirements for all facilities discharging to the San Antonio Municipal Separate Storm Sewer System (MS4) and those facilities required maintain a Texas Pollutant Discharge Elimination System (TPDES) Multi-Sector General Permit (MSGP) for Industrial Storm Water Discharges.

2. *Administration:* Pursuant to the TPDES permit no. WQ0004284000 issued to the City of San Antonio, San Antonio Water System (SAWS) and the Texas Department of Transportation requiring the establishment of an Industrial and High Risk Runoff Program SAWS shall have responsibility for administering, implementing, and enforcing the Industrial Inspection Program as outlined in the San Antonio Storm Water Management Plan and established by this subdivision.

3. *Objectives:* The objective of this subdivision is to prevent the introduction of pollutants to the maximum extent practicable into the MS4 from industrial and/or commercial facilities, including but not limited to those regulated categories that must maintain a TPDES discharge permit. All facilities that discharge storm water defined as being "associated with industrial activity" under provisions of Section 402 of the Clean Water Act and Chapter 26 of the Texas Water Code that discharge directly to waters of the State, the United States, or through a municipal separate storm sewer system are required to obtain either a MSGP or obtain a conditional No Exposure Exclusion (NEC) from permit requirements from the TCEQ.

Section 34-751. MSGP Permit Required

The following facilities are required to obtain MSGP permit coverage and provide a copy to SAWS:

a. Those facilities operating under the Industrial Sectors of the MSGP, and

b. SAWS may require that an industrial or commercial facility not specifically referenced by the North American Industry Classification System to comply with SWP3 requirements of the MSGP in order to control to the maximum extent practicable the discharge of pollutants of concern into the MS4.

Section 34 – 752. Conditional No Exposure Certification

Facilities regulated under the industrial activities described by one or more sectors of the MSGP may be excluded from permit requirements if there is no exposure of industrial materials or activities to precipitation or runoff. To qualify for this conditional exclusion from permit requirements, the operator must apply to the TCEQ for the NEC permit exclusion and provide certification that those regulated industrial activities and materials mobilized by storm water are isolated from storm water and storm water runoff by storm resistant shelters (as defined in the MSGP). Facilities that qualify for this exclusion shall provide a copy of the NEC to SAWS upon request. Facilities that operate under a conditional NEC exclusion are subject to inspection to verify compliance. Facilities that previously qualified for a NEC and have made changes in their industrial process resulting in exposure must obtain a MSGP to discharge storm water associated with industrial activities.

Section 34 - 753. Storm Water Pollution Prevention Plan Requirements

1. SWP3 Components – Each facility requiring a MSGP Permit shall develop and implement a Storm Water Pollution Prevention Plan (SWP3) prior to submitting a Notice of Intent to the TCEQ for MSGP permit coverage. The SWP3 must be maintained onsite or made readily available for review by SAWS upon request. The SWP3 shall include all elements identified in the MSGP language and continuously meet the criteria including any SWP3 updates and Best Management Practices (BMPs) maintenance as necessary to control discharge of pollutants. The SWP3 shall be developed to identify actual and potential sources of pollution that may reasonably be expected to affect the quality of storm water discharges from the facility. The SWP3 shall establish BMPs and any necessary structural control necessary to reduce or eliminate pollutants from the facility's storm water discharge. The SWP3 shall describe how such practices are appropriate for the facility and how each will effectively prevent or lessen pollution.

2. Sampling criteria – Each regulated facility shall take the appropriate samples at the frequency prescribed in the current MSGP. These storm water samples include but are not limited to: effluent limitations for hazardous metals, benchmark sampling and any sector specific sampling required under the MSGP.

3. Industrial and/or commercial facilities determined to potentially contribute pollutant loading to the MS4 may be required to perform additional monitoring as outlined by the TCEQ Municipal TPDES Permit to validate improvements to the BMPs and changes in the SWP3. This additional sampling can include, but is not limited to:

    - Any pollutant limited in an existing TPDES permit for the facility
    - Oil and Grease (O/G)
    - Chemical Oxygen Demand (COD)
    - pH
    - Biochemical Oxygen Demand (BOD5)
    - Total Suspended Solids (TSS)
    - Phosphorus (P)
    - Total Kjeldahl Nitrogen (TKN)
    - Nitrate plus Nitrite Nitrogen
    - Ammonia-nitrogen
    - Temperature
    - Total Organic Carbon (TOC)
    - E. Coli and Fecal Coliform

4. The SWP3 and monitoring data must be submitted to SAWS upon request.

Section 34 – 754. Inspection and Entry

SAWS shall have the right to inspect the facilities of any industrial user to ascertain whether the purposes of this subdivision are being met and all applicable requirements are being fulfilled. Industrial users and their employees shall allow SAWS representatives displaying proper identification ready access to the premises at all reasonable times for the purpose of: inspecting industrial operations and processes, examination and reproduction of business records pertinent to storm water quality, including hazardous and non-hazardous waste manifests and where applicable, making photographic documentation and obtaining other information necessary to ascertain whether the information submitted is current, and to assess compliance by permittees with storm water permit requirements. Failure to allow access or impeding an investigation will be considered a violation of this subdivision. In the event SAWS reasonably believes discharges from a property into the MS4 may cause an imminent and substantial threat to human health or the environment, an inspection may take place at any time without notice to the owner of the property or a representative on-site.

Section 34-755. Falsifying Information

1. It is a violation of this subdivision to knowingly make any false statement, representation or certification in any application, record, report, plan, or other document filed or required to be maintained pursuant to this subdivision or pursuant to any condition or provision of an industrial storm water discharge permit.

2. It is a violation of this subdivision to tamper with, interfere with the operation of, or knowingly render inoperable any monitoring, sampling or surveillance devices or to improperly impede an inspection procedure required or authorized under this subdivision and/or any industrial discharge permit. In addition to any civil or criminal liability that may be imposed for a violation of this subdivision, a person who damages equipment used or necessary for monitoring compliance with an industrial discharge permit and/or this subdivision, shall also be liable for the cost associated with replacing or repairing such equipment.

Section 34-756. Enforcement and Penalties

1. *Violations*. The commission of any act that is prohibited by this subdivision or the failure to perform any act that is required by this subdivision is a violation of this subdivision. SAWS may require that a compliance meeting be held prior to implementing legal action to enforce the provisions of this subdivision; however, such a meeting shall not be a bar against or a prerequisite for taking any enforcement action.

2. *Penalties for violations.*

(a) *Criminal.* A conviction for a violation of this subdivision shall constitute a class C misdemeanor. A person convicted of a violation of this subdivision shall be fined a

minimum amount of not less than two hundred dollars ($200.00) per violation and a maximum amount of not more than two thousand dollars ($2,000.00) per violation. Each violation of this subdivision shall constitute a separate offense, and each day an offense continues shall be considered a new violation for purposes of enforcing this subdivision.

(b) *Civil.* A civil penalty in an amount not to exceed five thousand dollars ($5,000.00) per violation of this subdivision may be imposed. Each violation of this subdivision shall constitute a separate violation, and each day such violation continues shall be considered a new violation for purposes of enforcing this subdivision, and calculating the amount of civil penalties.

3. *Additional remedies*

In addition to the penalties for violations that may be imposed pursuant to this subdivision, SAWS may commence actions for any other legal and/or equitable relief or for the imposition of civil penalties authorized by any applicable law, statute, ordinance, or regulation.

Sec. 34-226.3. Industrial waste surcharges.

(a) Persons or owners discharging industrial wastes which exhibit none of the characteristics of wastes prohibited by Ordinance Number 77784, or as may be amended, other than excessive BOD or TSS, but having a concentration in excess of normal domestic sewage, that is, concentrations of BOD in excess of 250 mg/l and TSS in excess of 250 mg/l, shall pretreat the industrial waste to meet the concentrations of normal domestic sewage; however, such excessive BOD and TSS waste may be accepted for treatment if all the following requirements are met:

~~(1) Neither BOD nor TSS waste concentrations shall exceed 10,000 mg/l concentration.~~

~~(2)~~1) The wastes will not cause damage to the collection system.

~~(3)~~(2) The wastes will not impair the system's treatment process.

~~(4)~~(3) The wastes will not cause contamination of POTW sludges thus limiting sludge disposal options or practices.

~~(5)~~(4) The person(s) or owners responsible for the wastes pays an industrial surcharge, in addition to the regular water and sewer charges, in accordance with the following cost factors and formula:

V	=	Volume of water use reported in millions of gallons (MG) per month
BOD	=	Biochemical oxygen demand analyzed in accordance with the procedures approved under 40 CFR Part 136, or the latest Environmental Protection Agency (EPA) approved method, and reported in units of milligrams per liter (mg/l).
TSS	=	Total suspended solids analyzed in accordance with the procedures approved under 40 CFR Part 136, or the latest Environmental Protection Agency (EPA) approved method, and reported in units of milligrams per liter (mg/l).

Cost factor BOD = $1.62

Cost factor TSS = $1.50

IWS = Industrial waste surcharge computed in dollars as follows: IWS = Volume of discharge (in MG per Month) [$1.62 × (BOD mg/l - 250 mg/l) + $1.50 × (TSS mg/l) - 250 mg/l].

~~= V [$1.62 × (BOD mg/l - 250 mg/l) + $1.50 × (TSS mg/l) - 250 mg/l].~~(b) *Surcharge review.* ~~(1)~~

(1) The San Antonio Water System as the Control Authority (CA) shall review the basis for determining surcharges at least once every two (2) years, or more frequently as needed. ~~Quality control shall review the basis for determining surcharges at least once every two (2) years, or more frequently as needed.~~

(2) The discharger may employ an independent registered professional engineer, at the discharger's cost, to perform additional sampling and analysis provided this activity is coordinated with the CA ~~quality control.~~ Upon consideration of all available information, the CA ~~system~~ shall determine the final values and/or charges to be assessed.

(c) *Sample point.*

(1) Each sampling point shall be installed and maintained by the discharger so that any authorized representative of the CA ~~system~~ may readily and safely obtain samples of the flow at all times.

(2) Each sampling point shall be near the outlet of each sewer, drain, pipe, or channel which connects with the sanitary sewer or wastewater facility.

(3) Each sampling point shall be designed and constructed to prevent infiltration by ground and surface water and maintained so that any authorized representative of the CA ~~the system~~ may readily and safely obtain samples of the flow at all times.

(4) Before beginning construction of a sampling point, a person shall submit plans to the CA ~~quality control~~ for review and approval to insure compliance with these provisions. Plans must include the sewage metering device if one is to be installed.

(d) *Measurement of waste volumes.*

(1) The volume of wastes may be determined by the same methods used to calculate the general sewer service rate.

(2) On premises where all or part of the water is obtained from a source other than the public water supply and no sewage metering device is installed, the owner shall provide and maintain a metering device of a type approved by the CA ~~the San Antonio Water System~~ to measure sources of private water.

(e) *Sampling of wastes.*

(1) The CA ~~Quality control~~ shall take samples of waste discharges from establishments as often as determined necessary to adequately monitor and control the discharges. If an owner desires additional samples, the owner shall pay the cost of the additional service.

(2) Samples collected by the CA ~~quality control~~ may be either flow-proportional or time proportional composite samples as appropriate to achieve the most representative samples, or via the best available sampling method given the constraints and limitations present at the discharge point source.

(f) *Sampling and analysis fees.* A person discharging concentrations of BOD and/or TSS in excess of normal domestic sewage concentrations shall compensate the CA ~~the system~~ for the cost of sample collection and analysis when an industrial surcharge is established.

(g) *Industrial surcharges for class groups.*

(1) The CA ~~Quality control~~ shall assess an industrial surcharge rate for each class group based on waste strength determinations established by averaging grab or composite samples or both, taken from a representative number of establishments in each group, and shall apply this rate to the water consumption or metered wastewater of the establishment. If the establishment is within a larger facility for which water usage is determined from a master meter, ~~customer service~~the San Antonio Water System Customer Service Department (CSD) shall determine an estimated volume for the establishment on which the surcharge rate is applied. ~~Customer service~~CSD shall then add the appropriate industrial surcharge to billings for regular water and sewer service for each establishment classified into a class group.

DIVISION 4. RATES AND CHARGES

(2) If an establishment contains operations from more than one of the class groups, ~~and Ccustomer service~~ CSD determines that the surcharge rate for a particular class group would not adequately compensate the system for its cost of treatment, ~~Ccustomer service~~CSD shall add an appropriate industrial waste surcharge to adequately compensate the system for its cost of treatment.

(3) The CA ~~Quality control~~ may, from time to time, revise surcharge class groups based on analysis of current samples.

(Ord. No. 80330, § 1, 6-16-94; Ord. No. 97395, 3-27-03)