

Chapter 6

Wastewater Pretreatment and Discharge Rules and Regulations

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Section 1 ~~ARTICLE I.~~
GENERAL PROVISIONS.

Section 1-1. SEC. 6-1. PURPOSE AND POLICY.

- (A) These Rules and Regulations set forth uniform requirements for users of the Airport Wastewater System and the Publicly Owned Treatment Works ("POTW") serving the Dallas-Fort Worth International Airport and enable the Board and the POTW to comply with applicable federal and state laws, including the Federal Water Pollution Control Act, as amended by the Clean Water Act, as amended (33 United States Code § 1251 et seq.), and the General Pretreatment Regulations of 40 Code of Federal Regulations Part 403.

- (B) The objectives of these Rules and Regulations are:
 - (1) To prevent the introduction of pollutants into the POTW that will interfere with its operation;
 - (2) To prevent the introduction of pollutants into the POTW that will pass through the POTW, inadequately treated, into receiving waters, or otherwise be incompatible with the POTW;
 - (3) To protect POTW and Board personnel in the course of their employment and to protect the general public;
 - (4) To provide for fees for the equitable distribution of the costs of implementing and administering these Rules and Regulations and any related pretreatment program; and
 - (5) To enable the Board to meet its contractual obligations under the Wastewater Service Contract with the Trinity River Authority ("TRA") by assisting TRA in complying with TRA's National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements and any other federal or state laws to which the POTW is subject.
 - (6) To promote reuse and recycling for industrial wastewater and sludge from the POTW.

- (C) These Rules and Regulations shall apply within the boundaries of the Airport.

Section 1-2. SEC. 6-2. AUTHORITY FOR IMPLEMENTATION AND ENFORCEMENT.

- (A) ~~The Chief Executive Officer~~ Executive Director and the ~~Chief Executive Officer's~~ Executive Director's authorized representatives shall have the authority to administer, implement, and enforce the provisions of these Rules and Regulations. The Vice President of the Board's Department of Environmental Affairs, or the Vice President or head of any other or successor Board department charged with primary responsibility for environmental management and enforcement at the Airport or any Vice President or department head so appointed by the ~~Chief Executive Officer~~ Executive Director, or the authorized

representative(s) of said department head(s), shall also have the authority to administer, implement, and enforce the provisions of this Chapter. The ~~Chief Executive Officer~~ Executive Director and the Vice President of the Board's Department of Environmental Affairs are authorized to make inspections pursuant to this Chapter and to take enforcement action against non-compliant persons or Users, including the issuance of citations for violations of this Chapter, and may do so personally or through any duly authorized representative(s).

- (B) Any powers granted to or duties imposed upon the ~~Chief Executive Officer~~ Executive Director or the Vice President of the Board's Department of Environmental Affairs may be delegated by the ~~Chief Executive Officer~~ Executive Director or the Vice President of the Board's Department of Environmental Affairs to other Board personnel.
- (C) The ~~Chief Executive Officer~~ Executive Director and the Vice President of the Board's Department of Environmental Affairs shall have the authority to promulgate written orders and administrative procedures which are consistent with this Chapter and determined to be necessary for the proper administration and enforcement of these Rules and Regulations, including but not limited to administrative orders issued for the purpose of bringing a violator back into compliance. For the purpose of promoting consistency of enforcement throughout the Airport, the ~~Chief Executive Officer~~ Executive Director or the Vice President of the Board's Department of Environmental Affairs shall promulgate an Enforcement Response Plan.
- (D) Upon specific request of the ~~Chief Executive Officer~~ Executive Director or his authorized representative(s) under this Chapter, officers of the Board's Department of Public Safety may assist the ~~Chief Executive Officer~~ Executive Director in the enforcement of this Chapter. A Department of Public Safety officer who observes a violation of this Chapter or of a wastewater discharge permit or order issued by the ~~Chief Executive Officer~~ Executive Director or his authorized representative(s) may take any necessary or appropriate enforcement action.
- (E) When the ~~Chief Executive Officer~~ Executive Director determines that a violation of this Chapter or of any permit or order issued hereunder or of any pretreatment standard or requirement has occurred or is occurring, the following remedies are available. The remedies provided for in this Section or elsewhere in this Chapter are not exclusive. Enforcement of violations will generally be in accordance with the Board's Enforcement Response Plan. However, the ~~Chief Executive Officer~~ Executive Director may take other action against any person or User when the circumstances warrant. The ~~Chief Executive Officer~~ Executive Director may take any, all, or any combination of these actions against a non-compliant person or User, consecutively or concurrently:
 - (1) Issuance of one or more verbal and/or written warnings;
 - (2) Issuance of one or more citations;
 - (3) Issuance of a notice of violation;

- (4) Execution of a consent order;
- (5) Issuance of a compliance order;
- (6) A show cause hearing;
- (7) A cease and desist order;
- (8) A stop work order;
- (9) Permit suspension or revocation proceedings, if applicable;
- (10) Suspension and/or termination of water utility service and/or access to the Airport Wastewater System, as provided in ~~Section 40~~ ARTICLE X;
- (11) Issuance of administrative fines;
- (12) Request the Board's legal counsel to institute suit for civil remedies as provided by this Chapter or state or federal law; or
- (13) Any other remedy provided in this Chapter.

~~Section 1-3.~~ **SEC. 6-3.** **ABBREVIATIONS.**

The following abbreviations, when used in these Rules and Regulations, shall have the designated meanings:

- BOD - Biochemical Oxygen Demand
- CFR - Code of Federal Regulations
- COD - Chemical Oxygen Demand
- CRWS - Central Regional Wastewater System
- ERP - Enforcement Response Plan
- EPA - U.S. Environmental Protection Agency
- gpd - gallons per day
- mg/l - milligrams per liter
- IU - Industrial User
- NOV - Notice of Violation
- NPDES - National Pollutant Discharge Elimination System
- POTW - Publicly Owned Treatment Works
- RCRA - Resource Conservation and Recovery Act
- SIC - Standard Industrial Classification
- SIU - Significant Industrial User
- TCEQ - Texas Commission on Environmental Quality
- TPDES - Texas Pollutant Discharge Elimination System
- TRA - Trinity River Authority
- TSS - Total Suspended Solids
- TTO - Total Toxic Organics
- USC - United States Code

~~Section 1-4. SEC. 6-4.~~ DEFINITIONS.

Unless a provision explicitly states otherwise, the following terms and phrases, whether capitalized or not and in each grammatical variation, as used in this Chapter and in the Enforcement Response Plan and any permit or order issued pursuant to this Chapter, shall have the meanings designated in this ~~Section 1-4 SEC. 6-4.~~

ACT or THE ACT ~~means~~ shall mean the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC § 1251 at seq.

AIRPORT ~~means~~ shall mean all the land, improvements, facilities and developments within the boundaries of the Dallas/Fort Worth International Airport.

AIRPORT BOARD or BOARD ~~means~~ shall mean the Dallas/Fort Worth International Airport Board, the duly constituted governing body of the Airport.

AIRPORT WASTEWATER SYSTEM ~~means~~ shall mean the system for conveyance, separation and disposal of waste material at the Airport, defined by the System Agreement to include the Waste Treatment Plant (i.e., that structure and appurtenances which receive, treat and dispose of wastewater delivered from the Waste Conveyance Facilities), the Sanitary Sewer Facilities (i.e., the network of service pipelines for the conveyance and delivery of sanitary sewerage), the Waste Conveyance Facilities (i.e., the network of service pipelines for the conveyance of wastewater and delivery thereof to the Waste Treatment Plant, and related appurtenances located at the Airport. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any sewers, pipes, and other conveyances and related appurtenances located at the Airport, as further described in the System Agreement defined in this ~~Section 1-4, SEC. 6-4~~ but excludes any such devices or systems not within the boundaries of the Airport or located at or beyond the Airport's point(s) of entry into the CRWS.

APPROVAL AUTHORITY ~~means~~ shall mean the Director of the Texas Commission on Environmental Quality in his capacity as director of a state agency delegated to act on EPA's behalf in a state with an approved pretreatment program; alternatively, the Regional Administrator of EPA Region VI, or other authority as may be provided in 40 CFR Part 403, as amended.

AUTHORIZED REPRESENTATIVE OF THE USER ~~means~~ shall mean:

- (A) For a corporation: (i) the president, secretary, treasurer, or a vice-president of the corporation in charge of a principle business function, or any other person who performs similar policy or decision-making functions for the corporation; or (ii) the manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five (25) million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (B) For a partnership or sole proprietorship: a general partner or proprietor, respectively.
- (C) For a federal, state or local government: a director or highest official appointed or

designated to oversee the operation and performance of the activities of the government facility or operation, or his designee.

- (D) The individuals described in paragraphs (A) through (C), above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility, premises, or site from which the discharge originates or having overall responsibility for environmental matters for the entity, and the written authorization is submitted to the ~~Chief Executive Officer~~ Executive Director.

BOD or BIOCHEMICAL OXYGEN DEMAND ~~means~~ shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g., mg/l).

BYPASS ~~means~~ shall mean the intentional diversion of waste streams or wastewater from any portion of a User's wastewater treatment equipment or pretreatment equipment.

CATEGORICAL STANDARD(S) [See National Categorical Pretreatment Standards]

CENTRAL REGIONAL WASTEWATER SYSTEM ("CRWS") or CENTRAL WASTEWATER TREATMENT SYSTEM or AUTHORITY'S SYSTEM ~~means~~ shall mean the treatment plant and related wastewater system operated by the Trinity River Authority as Control Authority and which receives wastewater discharges from the Airport pursuant to the Wastewater Service Contract; as defined in the Wastewater Service Contract, the term means all of TRA's facilities for receiving, transporting, treating and disposing of wastewater generally in the area of the Upper Trinity River Basin, together with any improvements or additions to such facilities, but specifically excludes (1) TRA's facilities within the boundaries of the Airport and defined, as the "System" in the System Agreement, (2) local wastewater facilities of TRA contracting parties for the transportation of wastewater to Points of Entry and any facilities used exclusively or primarily for the pre-treatment of Industrial Wastes, and (3) any other TRA facilities.

~~**CHIEF EXECUTIVE OFFICER EXECUTIVE DIRECTOR**~~ ~~means~~ shall mean the ~~Chief Executive Officer~~ Executive Director of the Dallas-Fort Worth International Airport Board, or, where applicable, his designated representative(s), as provided in ~~Section 1-2~~ SEC.6-2.

COMPOSITE SAMPLE ~~means~~ shall mean a sample that is collected over time, formed either by continuous sampling or by mixing discrete samples. The sample may be composited either as a time composite sample, composed of discrete sample aliquots collected at consistent time intervals providing a sample irrespective of stream flow; or as a flow proportional composite sample collected either as a constant sample volume at time intervals proportional to flow, or collected by increasing the volume of each aliquot as the flow increases while maintaining a consistent time interval between the aliquots.

CONTROL AUTHORITY or AUTHORITY ~~means~~ shall mean the Trinity River Authority of Texas, as holder of the TPDES permit of the POTW.

DISCHARGE when used without qualification includes discharge of a pollutant(s).

DISCHARGE OF A POLLUTANT ~~means~~ shall mean any addition of any pollutant to navigable waters from any point source, i.e., any discernible, confined and discrete conveyance, including

but not limited to any pipe, ditch, channel, tunnel, conduit, well, or container, from which pollutants are or may be discharged but excluding agricultural storm water discharges and return flows from irrigated agriculture.

DISCHARGER ~~means~~ shall mean any person who causes, allows, permits, or is otherwise responsible for, a discharge, including without limitation any operator of a construction site or industrial facility. TO DISCHARGE means to deposit, conduct, drain, emit, throw, run, allow to seep, or otherwise release or dispose of, or to allow, permit, or suffer any of these acts or omissions.

EFFECTIVE DATE ~~means~~ shall mean the date on which these Rules and Regulations become effective, as provided in ~~Section 15-2~~ SEC.6-72 of this Chapter.

ENFORCEMENT RESPONSE PLAN or ERP ~~means~~ shall mean the plan authorized by the ~~Chief Executive Officer~~ Executive Director which contains detailed procedures indicating how the Board will investigate and respond to instances of User noncompliance at the Airport.

ENVIRONMENTAL PROTECTION AGENCY or EPA ~~means~~ shall mean the United States Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.

EXISTING SOURCE ~~means~~ shall mean any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

GRAB SAMPLE ~~means~~ shall mean a sample which is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.

GREASE TRAP ~~means~~ shall mean an interceptor placed in a drainage system to separate and retain grease prior to it entering the sanitary sewer, and includes such interceptors in hotels, restaurants and other food establishments, commercial kitchens, and similar facilities.

GRIT TRAP (SAND TRAP) ~~means~~ shall mean an interceptor placed in a drainage system at maintenance and repair shops, automobile service stations, car washes, laundries, and other similar facilities, to separate and retain undesirable matter and deleterious materials prior to their entering the sanitary sewer or wastewater system.

INDIRECT DISCHARGE or DISCHARGE ~~means~~ shall mean the introduction of pollutants into a POTW from any non-domestic source regulated under Section 307(b), (c), or (d) of the Act.

INDUSTRIAL SURCHARGE ~~means~~ shall mean the additional charge made to a person or User who discharges into the Airport Wastewater System and/or POTW industrial waste that is amenable to treatment by the system or POTW but exceeds the strength or character of normal wastewater.

INDUSTRIAL USER ~~means~~ shall mean any person or industry who discharges or desires to discharge Industrial Waste(s) into the Airport Wastewater System or to the Central Regional Wastewater System.

INDUSTRIAL WASTE(S) ~~means~~ shall mean liquid wastes from industrial processes as distinct from wastes in domestic wastewater (sewage); wastewater or other water-borne solids, liquids, or gaseous substances resulting from an industrial, manufacturing, or food processing operation, or from the development of a natural resource, or any mixture of these with water or normal domestic wastewater.

INDUSTRY ~~means~~ shall mean a person or establishment that is recognized and identified in the Standard Industrial Classification Manual, 1987, Executive Office of the President: Office of Management and Budget, as amended and supplemented.

INTERFERENCE ~~means~~ shall mean a discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal, and therefore is a cause of a violation of the Control Authority" TPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued there under, or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); 40 CFR 503 sludge regulations; any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act and 30 TAC 312; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

INSTANTANEOUS MAXIMUM ALLOWABLE DISCHARGE LIMIT ~~means~~ shall mean the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of industrial flow rate and the duration of the sampling event.

LIQUID WASTE ~~means~~ shall mean water-borne solids, liquids, and gaseous substances located in or removed from grease traps or grit traps, or septage waste located in or removed from septic tanks, cesspools, portable toilets, or similar facilities; the term does not include hazardous waste identified or listed as such by the EPA pursuant to the federal Solid Waste Disposal Act, as amended by RCRA, 42 USC 6901 et seq., as amended, or Class 1 non-hazardous industrial solid waste.

MEDICAL WASTE ~~means~~ shall mean isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

NATIONAL CATEGORICAL PRETREATMENT STANDARD(S) or CATEGORICAL PRETREATMENT STANDARD(S) or CATEGORICAL STANDARD(S) ~~means~~ shall mean limitations on the discharge of pollutants, promulgated by EPA in accordance with Section 307 of the Act, that apply to specified process wastewaters of particular industrial categories (40 CFR 403.6 and Parts 405-471).

NATIONAL PRETREATMENT STANDARD(S) ~~means~~ shall mean any pretreatment regulation(s) containing pollutant discharge limits that have been established or will be established for Industrial Users by the EPA.

NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM or NPDES ~~means~~ shall mean the NPDES permit program of the EPA and/or the permit program of the state agency delegated

to act on EPA's behalf in a state with an approved pretreatment program (see TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM or TPDES).

NEW SOURCE ~~means~~ shall mean:

- (A) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - (1) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - (2) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - (3) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

- (B) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (A)(2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment.

- (C) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
 - (1) Begun, or caused to begin, as part of a continuous onsite construction program,
 - (a) any placement, assembly, or installation of facilities or equipment; or
 - (b) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or

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

NONCONTACT COOLING WATER ~~means~~ shall mean water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

NORMAL WASTEWATER ~~means~~ shall mean wastewater for which the average concentration of suspended solids and five-day BOD does not exceed 250 mg/l each.

NPDES PERMIT ~~means~~ shall mean a permit issued by EPA and/or the state agency delegated to act on EPA's behalf in a state with an approved State pretreatment program under authority delegated pursuant to 33 USC 1342(b) that authorizes the discharge of pollutants to waters of the United States (see TPDES PERMIT).

ORDER ~~means~~ shall mean a verbal or written directive issued by the ~~Chief Executive Officer~~ Executive Director or his duly authorized representative in the performance of the ~~Chief Executive Officer's~~ Executive Director's duties in the administration or enforcement of these Rules and Regulations.

PASS THROUGH ~~means~~ shall mean a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Control Authority's TPDES permit, including an increase in the magnitude or duration of a violation.

PERSON ~~means~~ shall mean any individual, partnership (including two or more persons having a joint or common economic interest), co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, political subdivision, or any other legal entity; or the legal representative(s), agent(s), or assign(s) of any such entity. This definition includes all federal, state and local governmental entities, unless the context requires otherwise.

pH ~~means~~ shall mean a measure of the acidity or alkalinity of a solution, expressed in standard units; the logarithm (base 10) of the reciprocal of the hydrogen ion concentration of solution.

POINT(S) OF ENTRY ~~means~~ shall mean the point(s) at which wastewater enters the Central Regional Wastewater System.

POLLUTANT(S) ~~means~~ shall mean dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes discharged into water.

PRETREATMENT ~~means~~ shall mean the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

PRETREATMENT REQUIREMENT(S) ~~means~~ shall mean any substantive or procedural requirement(s) related to pretreatment imposed on a User, other than a pretreatment standard.

PRETREATMENT STANDARD(S) or STANDARD(S) ~~means~~ shall mean any regulation(s) containing pollutant discharge limits, including prohibited discharge standards, categorical

pretreatment standards, and local limits,, as set forth in 40 CFR 403 and these Rules and Regulations.

PROHIBITED DISCHARGE(S) ~~means~~ shall mean prohibitions against the discharge of certain substances, as set forth in ~~Section 2-4~~ SEC. 6-6 of the Chapter.

PUBLICLY OWNED TREATMENT WORKS or POTW ~~means~~ shall mean a "treatment works," as defined in Section 212 of the Act (33 USC §1292) and in 40 CFR 403.3, which is owned by a state or municipality or any agency of such entities. For purposes of these Rules and Regulations, POTW means the Central Regional Wastewater System ("CRWS") owned by the Control Authority. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any sewers, pipes, and other conveyances that convey wastewater to the CRWS but expressly excludes the Airport Wastewater System.

RULES AND REGULATIONS ~~means~~ shall mean the wastewater pretreatment and discharge rules and regulations established under this Chapter 6, "Wastewater Pretreatment and Discharge Rules and Regulations," of the Code of Rules and Regulations of the Dallas-Fort Worth International Airport Board, as amended.

SCHEDULE OF CHARGES ~~means~~ shall mean the Dallas-Fort Worth International Airport Board Schedule of Charges, as amended.

SEPTAGE WASTE or SEPTIC TANK WASTE ~~means~~ shall mean any liquid or solid material removed from a holding tank such as a chemical toilet, trailer, cesspool, septic tank, or similar sewage treatment system.

SEVERE PROPERTY DAMAGE, as the term is used in ~~Section 13-4~~ SEC. 6-68 ~~means~~ shall mean substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

SEWAGE ~~means~~ shall mean human excrement and gray water (wastewater from clothes-washing machines, showers, bathtubs, dishwashing operations, sinks, etc.).

SHALL is mandatory; **MAY** is permissive or discretionary.

SIGNIFICANT INDUSTRIAL USER ~~means~~ shall mean any Industrial User, except as provided in subsection (C) of this definition, that is connected or desires to connect to the Airport Wastewater System and meets at least one of the following criteria:

- (A) Any Industrial User subject to Categorical Pretreatment Standards as defined in this ~~Section 1-4~~ SEC. 6-4 or as may be provided in 40 CFR 403.6, as amended; or
- (B) Any other Industrial User that:
 - (1) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW and/or Airport Wastewater System

(excluding sanitary, noncontact cooling, and boiler blowdown wastewater);

- (2) Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - (3) Is designated as such by the ~~Chief Executive Officer~~ Executive Director on the basis that it has a reasonable potential for adversely affecting the operation of the POTW and/or the Airport Wastewater System or for violating any pretreatment standard or requirement.
- (C) Upon a finding that an Industrial User meeting the criteria in Subsection (B) has no reasonable potential for adversely affecting the operation of the POTW and/or the Airport Wastewater System or for violating any pretreatment standard or requirement, the ~~Chief Executive Officer~~ Executive Director may at any time, on its own initiative or in response to a petition received from a User or the POTW, determine that such User should not be considered a Significant Industrial User.

SIGNIFICANT NONCOMPLIANCE ~~means~~ shall mean noncompliance deemed significant as defined in ~~Section 9~~ ARTICLE IX of these Rules and Regulations.

SLUG LOAD or SLUG ~~means~~ shall mean any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or non-customary batch discharge; or any discharge at a flow rate or concentration that could cause a violation of the prohibited discharge standards in ~~Section 2-4~~ SEC. 6-6 of these Rules and Regulations.

STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODE ~~means~~ shall mean a classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

STORMWATER or STORM WATER ~~means~~ shall mean any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

SYSTEM AGREEMENT ~~means~~ shall mean the contractual agreement between the Board and the Trinity River Authority, dated 16 July 1971, and as subsequently amended, providing for construction, financing, and operation at the Airport of a system for conveyance, separation and disposal of waste material, such System defined by that Supplemental Agreement dated 11 February 1972 as the Waste Treatment Plan (also known as the Airport Pretreatment Plan), the Sanitary Sewer Facilities, the Waste Conveyance Facilities, and related appurtenances located at the Airport (see AIRPORT WASTEWATER SYSTEM).

TEXAS POLLUTANT DISCHARGE ELIMINATION SYSTEM or TPDES ~~means~~ shall mean the permit program of the TCEQ, as the state agency delegated to act on EPA's behalf with respect to the EPA's NPDES permit program in a state with an approved pretreatment program.

THIS CHAPTER ~~means~~ shall mean this Chapter 6, entitled "Wastewater Pretreatment and Discharge Rules and Regulations," of the Code of Rules and Regulations of the Dallas-Fort Worth International Airport Board, as amended, which establishes wastewater pretreatment and discharge rules and regulations for the Airport.

TOTAL SUSPENDED SOLIDS or TSS ~~means~~ shall mean the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

TOTAL TOXIC ORGANICS or TTO ~~means~~ shall mean the sum of the masses or concentration of specific toxic organic compounds found in an Industrial User's discharge at a concentration greater than 0.01 mg/L. For noncategorical and categorical SIUs the TTO list is 40 CFR 122 Appendix D, Table II, excluding pesticides, unless specifically designated in a particular categorical classification. Only those parameters reasonably suspected to be present, if any, to be determined by the Board, shall be analyzed for noncategorical industries.

TPDES PERMIT ~~means~~ shall mean a permit issued by the TCEQ, as the state agency delegated to act on EPA's behalf with respect to the EPA's NPDES permit program in a state with an approved State pretreatment (see NPDES PERMIT).

TRINITY RIVER AUTHORITY or TRA ~~means~~ shall mean the Trinity River Authority of Texas, a governmental agency of the State of Texas, in its various capacities, including as required by context: the Control Authority; operator of a POTW, including the Central Regional Wastewater System (CRWS); or a party to the Wastewater Service Agreement and/or the System Agreement as defined in this ~~Section 1-4~~ SEC. 6-4.

UPSET ~~means~~ shall mean an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the User. An Upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

USER ~~means~~ shall mean a source of Indirect Discharge; a person who discharges or causes or permits the contribution of wastewater to the POTW and/or the Airport Wastewater System; the term includes, but is not limited to, Industrial User(s).

WASTEWATER ~~means~~ shall mean liquid and water-carried industrial waste(s) and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW and/or the Airport Wastewater System.

WASTEWATER SERVICE CONTRACT ~~means~~ shall mean the contractual agreement, also known as the customer contract, between the Board and the Trinity River Authority, dated 9 August 1973, and providing for the Board's discharge of wastewater into the Central Regional Wastewater System of TRA; includes the Amendatory Wastewater Service Contract dated 16 January 1984 and any and all subsequent amendments.

WASTEWATER TREATMENT PLANT or TREATMENT PLANT ~~means~~ shall mean that portion of the POTW that is designed to provide treatment of domestic sewage and industrial waste.

~~Section 1-5.~~ SEC. 6-5. **INCORPORATION OF FEDERAL AND STATE STATUTES, RULES, AND REGULATIONS.**

A reference within this Chapter of the Dallas-Fort Worth International Airport Code of Rules and Regulations to a federal or state statute, rule, or regulation includes all amendments to such statute, rule, or regulation made after the effective date of this Chapter. All categorical pretreatment standards, pretreatment requirements, lists of toxic pollutants, industrial categories, and other applicable regulations promulgated by the EPA or the TCEQ, including all future amendments of same, are hereby incorporated into this Chapter.

Section 2-ARTICLE II.
DISCHARGE PROHIBITIONS AND LIMITS.

Section 2-1. SEC. 6-6. PROHIBITED DISCHARGES.

- (A) General Prohibitions No User shall introduce or cause to be introduced into the Airport Wastewater System or the POTW any pollutant or wastewater capable of causing Pass Through or Interference. These general prohibitions and the specific prohibitions in paragraph (B) of this Section apply to each User of the Airport Wastewater System or the POTW whether or not the User is subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.

- (B) Specific Prohibitions No person shall introduce or cause to be introduced into the Airport Wastewater System or the POTW:
 - (1) Any Pollutant(s) which create a fire or explosive hazard in the Airport Wastewater System and/or the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21

 - (2) Any substance or wastewater having a pH less than 5.5 or more than 11.0, or otherwise capable of causing corrosive or structural damage to the Airport Wastewater System and/or the POTW;

 - (3) Solid or viscous substances in amounts capable of causing obstruction to the flow in the Airport Wastewater System and/or the POTW, resulting in Interference;

 - (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the Airport Wastewater System and/or the POTW;

 - (5) Wastewater having a temperature greater than 150°F (65°C), or which will inhibit biological activity in the POTW treatment plant resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the POTW treatment plant to exceed 104°F (40°C);

 - (6) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through;

- (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the Airport Wastewater System and/or the POTW in a quantity that may cause acute worker health and safety problems.
 - (8) Any trucked or hauled septage waste, wastewater or pollutant(s), except at discharge points designated by ~~Chief Executive Officer~~ Executive Director in accordance with these Rules and Regulations;
 - (9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the POTW's and/or Airport Wastewater System's waste or sanitary sewer conveyance facilities for inspection maintenance or repair;
 - (10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the POTW treatment plant's effluent, thereby violating the applicable TPDES permit;
 - (11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
 - (12) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, de-ionized water, non-contact cooling water, and unpolluted wastewater, unless specifically authorized by ~~Chief Executive Officer~~ Executive Director and the Control Authority;
 - (13) Medical wastes, except as specifically authorized by ~~Chief Executive Officer~~ Executive Director in a wastewater discharge permit;
 - (14) Fats, oils, or greases of animal or vegetable origin in concentrations exceeding 200 mg/l;
 - (15) Garbage that is not properly shredded to such an extent that all particles will be carried freely under the flow conditions normally prevailing in wastewater mains, with no particle having greater than one-half (1/2") inch cross-sectional dimension;
 - (16) Wastewater or industrial waste generated or produced outside the Airport, unless approval in writing from the ~~Chief Executive Officer~~ Executive Director has been given to the person discharging the waste.
- (C) Pollutants, substances or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the D/FW Airport System and/or the POTW.

~~Section 2-2.~~ **SEC. 6-7.** **NATIONAL CATEGORICAL PRETREATMENT STANDARDS.**

- (A) The national categorical pretreatment standards which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471, shall apply in addition to all applicable pretreatment

standards and requirements set forth in 40 CFR 403 and these Rules and Regulations. A User shall not discharge in violation of any applicable categorical pretreatment standards.

- (B) Existing Sources and new or existing Industrial Users who are or may be included in an industrial subcategory to which categorical standards apply shall comply with the procedures and requirements set forth in 40 CFR 403.6 and any applicable limits or requirements imposed by the ~~Chief Executive Officer~~ Executive Director.

~~Section 2-3.~~ SEC. 6-8. LOCAL LIMITS.

- (A) The following specific limits are established, in accordance with local limits in the Control Authority's TPDES permit for the CRWS, to protect against Pass Through and Interference. No person or User shall discharge or cause or permit to be discharged wastewater containing in excess of the following instantaneous maximum allowable discharge limits:

POLLUTANT	LIMIT (mg/L)
Arsenic	0.2
Cadmium	0.1
Chromium	2.9
Copper	2.3
Cyanide	0.5
Lead	0.9
Mercury	0.0004
Molybdenum	0.8
Nickel	4.6
Selenium	0.2
Silver	0.8
Zinc	8.0
Oil and grease	200
TTO	2.13

The above limits apply at the Individual User's point of discharge, i.e., the point(s) where the wastewater is discharged to the Airport's system. All concentrations for metallic substances are for "total" metal unless indicated otherwise.

- (B) The ~~Chief Executive Officer~~ Executive Director may impose mass limitations in addition to, or in place of, the concentration-based limitations above.

~~Section 2-4.~~ SEC. 6-9. RIGHT TO ESTABLISH REGULATIONS OR MORE STRINGENT REQUIREMENTS.

The Board reserves the right to establish, by rules and regulations, lawful order, or wastewater discharge permits, more stringent standards or requirements than those set forth in the preceding section on discharges to the Airport Wastewater System and/or the POTW. Additionally, the Board may establish further rules and regulations and the ~~Chief Executive Officer~~ Executive Director may establish further procedures not in conflict with these Rules and Regulations.

Section 2-5. ~~SEC. 6-10.~~ APPLICABILITY OF MORE STRINGENT REGULATIONS OR DISCHARGE LIMITS.

- (A) If national pretreatment standards, categorical or otherwise, more stringent than the discharge limits prescribed in this Chapter are promulgated by the United States Environmental Protection Agency for certain industries or Users, the more stringent national pretreatment standards will apply to the affected persons/Users. A violation of the more stringent national pretreatment standards will also be considered a violation of these Rules and Regulations.
- (B) User at the Airport. who discharges industrial waste ultimately received and treated by another governmental entity pursuant to a wholesale wastewater contract or a reciprocal agreement with the Board is subject to the following additional rules:
 - (1) If the governmental entity has more stringent discharge limits than those prescribed by this Chapter, or by a discharge permit issued under this Chapter, because the United States Environmental Protection Agency requires the more stringent discharge limits as part of the governmental entity's wastewater pretreatment program, the more stringent discharge limits shall prevail.
 - (2) The ~~Chief Executive Officer~~ Executive Director is authorized to issue a discharge permit to a User affected by Subsection (1), to assure notice of and compliance with the more stringent discharge limits. If the User already has a discharge permit, the ~~Chief Executive Officer~~ Executive Director may amend or reissue the permit to apply and enforce the more stringent discharge limits. An affected User shall submit to the ~~Chief Executive Officer~~ Executive Director an expected compliance date and an installation schedule if the more stringent discharge limits necessitate technological or mechanical adjustments to the User's facilities or business operations at the Airport. An affected User(s) shall be given reasonable opportunity to comply with the more stringent discharge limit(s).
 - (3) The more stringent discharge limits cease to apply upon termination of the Board's wholesale wastewater contract or reciprocal agreement with the governmental entity, or upon modification or elimination of the limits by the government entity or the United States Environmental Protection Agency. The ~~Chief Executive Officer~~ Executive Director will take appropriate action to notify affected User(s) of an occurrence under this Subsection (3).

Section 2-6. ~~SEC. 6-11.~~ VARIANCES IN COMPLIANCE DATES.

The ~~Chief Executive Officer~~ Executive Director may grant a variance compliance dates to an affected User when, in the ~~Chief Executive Officer's~~ Executive Director's opinion, such action is necessary to achieve pretreatment or corrective measures. In no case shall the ~~Chief Executive Officer~~ Executive Director grant a variance in compliance dates to an industry/User affected by national categorical pretreatment standards beyond the compliance dates established by the United States Environmental Protection Agency.

~~Section 2-7.~~ SEC. 6-12. DILUTION PROHIBITED.

- (A) No User shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation or pretreatment standard unless expressly authorized to do so by an applicable pretreatment standard or requirement.
- (B) The ~~Chief Executive Officer~~ Executive Director may impose mass limitations on Users who are using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate.

~~Section 2-8.~~ SEC. 6-13. BOD or TSS LOADING.

- (A) No person shall discharge wastewater containing a BOD or TSS loading that is capable of causing the Board's prorata share of the total BOD or TSS loading to the Central Regional Wastewater System (CRWS) to exceed the Board's prorata share of the total flow to the CRWS. (Example: If the Board contributes 25% of the total wastewater flow to the CRWS, the Board's cumulative BOD or TSS loading to the CRWS, as measured at the Board's points of entry to the CRWS, shall not exceed 25% of the total BOD or TSS loading to the CRWS.)
- (B) Any User with wastewater strength capable of causing the Board's cumulative wastewater loading, at the Board's point(s) of entry to the CRWS, to exceed the Board's prorata share of the total wastewater loading based upon flow may be required to provide pretreatment measures to reduce the User's wastewater strength to an acceptable level.

**SECTION 3-ARTICLE III.
PRETREATMENT OF WASTEWATER.**

~~Section 3-4.~~ SEC. 6-14. PRETREATMENT FACILITIES.

- (A) Users shall provide wastewater treatment or pretreatment as necessary to comply with these Rules and Regulations and shall achieve compliance with any applicable categorical pretreatment standards, local limits, and prohibitions set out in ~~Section 2-4~~ SEC. 6-6 of these Rules and Regulations within the time limitations specified by EPA, the State, the Control Authority, or the ~~Chief Executive Officer~~ Executive Director, whichever are more stringent.
- (B) The User shall provide, operate, and maintain any facilities or equipment necessary for compliance at the User's expense. The ~~Chief Executive Officer~~ Executive Director may require a User to submit detailed plans describing such facilities and operating procedures to the ~~Chief Executive Officer~~ Executive Director for review. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the Board under the provisions of these Rules and Regulations.

Section 3-2. SEC. 6-15. ADDITIONAL PRETREATMENT MEASURES.

Whenever deemed necessary, the ~~Chief Executive Officer~~ Executive Director may require:

- (A) Any User to restrict its discharge during peak flow periods, to discharge certain wastewater only into designated conveyances or sewers, to relocate and/or consolidate points of discharge, to separate sewage waste streams from industrial waste streams, and to comply with such other conditions as the ~~Chief Executive Officer~~ Executive Director determines may be necessary to protect the Airport Wastewater System and/or the POTW or to determine the User's compliance with these Rules and Regulations;
- (B) Any person discharging into the Airport Wastewater System and/or the POTW or any occupant or lessee of any property or premises on the Airport to install and maintain on that person's premises or site, at the person's expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
- (C) Any person, User, or occupant or lessee of any property or premises on the Airport to install and maintain on that person's premises or site grease, oil, and/or sand interceptors when, in the opinion of the ~~Chief Executive Officer~~ Executive Director, such traps or interceptors are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand. All interception units shall be of type and capacity approved by the ~~Chief Executive Officer~~ Executive Director and shall be so located to be easily accessible for cleaning and inspection. Unless provided otherwise by the Board or ~~Chief Executive Officer~~ Executive Director, such interceptors shall be installed, maintained, inspected, cleaned, and repaired regularly, as needed, by the User at its expense;
- (D) Any User with the potential to discharge flammable substances to install and maintain an approved combustible gas detection meter, or other control device as deemed necessary by the ~~Chief Executive Officer~~ Executive Director.

Section 3-3. SEC. 6-16. ACCIDENTAL DISCHARGE/SLUG CONTROL PLANS.

- (A) At least once every two (2) years, the ~~Chief Executive Officer~~ Executive Director and/or Control Authority shall evaluate whether each permitted Significant industrial User needs a plan to control slug discharges. The ~~Chief Executive Officer~~ Executive Director may require any User to develop, submit for approval, and implement such a plan. Alternatively, the ~~Chief Executive Officer~~ Executive Director may develop such a plan for any User. Any accidental discharge or slug control plan required pursuant to these Rules and Regulations shall address, at a minimum, the following:
 - (1) Description of discharge practices, including non-routine batch discharges;
 - (2) Description of stored chemicals;

- (3) Procedures for immediately notifying the ~~Chief Executive Officer~~ Executive Director and/or Control Authority of any slug discharge, as required by ~~Section 6-6~~ SEC. 6-36 of this Chapter; and
- (4) Procedures to prevent adverse impact from any slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

~~Section 3-4.~~ SEC. 6-17. HAULED SEPTAGE OR INDUSTRIAL WASTE.

(A) Septage waste.

- (1) A person commits an offense if he discharges hauled septage waste into the Airport Wastewater System and/or the POTW except at such locations as are designated by the ~~Chief Executive Officer~~ Executive Director, and at such times as are established by the ~~Chief Executive Officer~~ Executive Director. Such waste shall not violate any provision of ~~Section 2~~ ARTICLE II of this Chapter or any other requirements established by the ~~Chief Executive Officer~~ Executive Director. The ~~Chief Executive Officer~~ Executive Director may require septage waste haulers to obtain wastewater discharge permits.
- (2) The ~~Chief Executive Officer~~ Executive Director may collect samples of each hauled load to ensure compliance with applicable standards. The ~~Chief Executive Officer~~ Executive Director may require a septage waste hauler to provide a waste analysis of any load prior to discharge.

(B) Industrial Waste.

- (1) In order to ensure that trucked industrial waste is not being discharged into the Airport Wastewater System and/or the POTW, the ~~Chief Executive Officer~~ Executive Director may require any User who generates such waste to report the type and amount of the waste, and the location and manner of its disposal.
- (2) The ~~Chief Executive Officer~~ Executive Director may collect samples of each hauled load to ensure compliance with applicable standards. The ~~Chief Executive Officer~~ Executive Director may require an industrial waste hauler to provide a waste analysis of any load prior to discharge.
- (3) A person commits an offense if the person generates industrial waste and fails to make reports or provide waste analysis as required by the ~~Chief Executive Officer~~ Executive Director pursuant to subsection (B).

Section 4 ~~ARTICLE IV.~~
PERMIT REQUIRED FOR WASTEWATER DISCHARGE; PERMIT APPLICATIONS.

~~Section 4-1.~~ SEC. 6-18. **WASTEWATER ANALYSIS.**

When so requested by the ~~Chief Executive Officer~~ Executive Director, a User must submit information on the nature and characteristics of its wastewater to the ~~Chief Executive Officer~~ Executive Director within ten (10) working days following receipt of the request. The ~~Chief Executive Officer~~ Executive Director is authorized to prepare a form or checklist for this purpose and may periodically require the User to update this information.

~~Section 4-2.~~SEC. 6-19. **WASTEWATER DISCHARGE PERMIT REQUIRED.**

- (A) A Significant Industrial User ("SIU") commits an offense if the SIU discharges, or allows the discharge of, industrial waste or wastewater into the Airport Wastewater System and/or the POTW without first obtaining and maintaining a valid wastewater discharge permit from the ~~Chief Executive Officer~~ Executive Director, except that a SIU that has filed a timely application pursuant to ~~Section 4-5~~ SEC. 6-22 of these Rules and Regulations may continue to discharge for the time period specified in that section.
- (B) The ~~Chief Executive Officer~~ Executive Director may require other Users to obtain wastewater discharge permits as the ~~Chief Executive Officer~~ Executive Director may deem necessary to carry out the purposes and objectives of these Rules and Regulations.
- (C) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of these Rules and Regulations and subjects the wastewater discharge permittee to the sanctions and enforcement actions set out in this Chapter.
- (D) Obtaining a wastewater discharge permit does not relieve a person of the obligation to comply with all applicable federal and state pretreatment standards or requirements or with any other applicable requirements of federal, state, or local law.

~~Section 4-3.~~ SEC. 6-20. **PERMITS FOR EXISTING SOURCES.**

- (A) Any User required to obtain a wastewater discharge permit who was discharging wastewater into the Airport Wastewater System and/or the POTW prior to the Effective Date of these Rules and Regulations and who wishes or reasonably expects to continue such discharges in the future shall apply to the ~~Chief Executive Officer~~ Executive Director for a wastewater discharge permit in accordance with ~~Section 4-5~~ SEC. 6-22 of these Rules and Regulations.
- (B) An existing User commits an offense if the User causes or allows discharges to the Airport Wastewater System and/or the POTW to continue after ninety (90) days of the Effective Date of this Chapter except in accordance with a wastewater discharge permit issued under these Rules and Regulations.

Section 4-4. ~~SEC. 6-21.~~ PERMITS FOR NEW SOURCES.

Any User or New Source required obtaining a wastewater discharge permit who proposes to begin or recommence discharging into the Airport Wastewater System and/or the POTW shall obtain a valid permit prior to beginning or recommencing any discharge. An application for a wastewater discharge permit shall be filed in accordance with ~~Section 4-5~~ SEC. 6-22 of this Chapter prior to the date upon which any discharge will or is reasonably expected to begin or recommence.

Section 4-5. ~~SEC. 6-22.~~ PERMIT APPLICATION PROCESS.

- (A) Notwithstanding the provisions of ~~Section 4~~ARTICLE IV, any User notified by the ~~Chief Executive Officer~~ Executive Director that a wastewater discharge permit is required shall submit a completed application in accordance with this Section and within the time limits set forth in the notice. Unless otherwise provided in this ~~Section 4,~~ ARTICLE IV, a person notified by the ~~Chief Executive Officer~~ Executive Director that a wastewater discharge permit is required shall not discharge to the Airport Wastewater System and/or the POTW without a wastewater discharge permit after sixty (60) days from the date the person received notice of the permit requirement.
- (B) Any person required to obtain a wastewater discharge permit shall submit a permit application by completing any application form(s) provided or required by the ~~Chief Executive Officer~~ Executive Director. Incomplete or inaccurate applications will not be processed and will be returned to the applicant for revision.
- (C) The ~~Chief Executive Officer~~ Executive Director may require any or all Users to submit as part of an application the following information:
 - (1) All information required by ~~Section 6-1~~ SEC. 6-31 (Baseline Monitoring Reports) of these Rules and Regulations;
 - (2) Description of activities, facilities, and plant processes on the applicant's/User's premises or site, including a list of all raw materials and chemicals used or stored at the premises or location which are, or could accidentally or intentionally be, discharged to the Airport Wastewater System and/or the POTW;
 - (3) Number and type of employees, hours of operation, and proposed or actual hours of operation;
 - (4) Each product produced by type, amount, process or processes, and rate of production;
 - (5) Type and amount of raw materials processed (average and maximum per day);
 - (6) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

- (7) Time and duration of anticipated discharges; and
- (8) Any other information as may be deemed necessary by the ~~Chief Executive Officer~~ Executive Director to evaluate the wastewater discharge permit application.

~~Section 4-6.~~ **SEC. 6-23. SIGNATORIES AND CERTIFICATION REQUIREMENTS.**

All wastewater discharge permit applications and User reports required to be submitted or maintained under these Rules and Regulations or a permit or order issued under this Chapter shall be signed by an Authorized Representative of the User as stated in 40 CFR 403.12(l), shall be subject to the provisions of 40 CFR 403.12(n) governing fraud and false statements, and shall contain the following certification statement: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations." Signature of this statement in no way diminishes the enforceability of these Rules and Regulations.

~~SECTION 5~~ **ARTICLE V.**
WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS.

~~Section 5-4.~~ **SEC. 6-24. WASTEWATER DISCHARGE PERMIT DECISIONS.**

- (A) The ~~Chief Executive Officer~~ Executive Director will evaluate the information and data furnished by the User's application and may require the applicant to submit additional information.
- (B) Within a reasonable period, generally not to exceed seventy-five (75) days, following receipt of a complete wastewater discharge permit application, the ~~Chief Executive Officer~~ Executive Director will determine whether or not to issue a wastewater discharge permit.
- (C) The ~~Chief Executive Officer~~ Executive Director may deny any application for a wastewater discharge permit.

~~Section 5-2.~~ **SEC. 6-25. WASTEWATER DISCHARGE PERMIT DURATION.**

- (A) A wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years at the discretion of the ~~Chief Executive Officer~~ Executive Director.
- (B) Each wastewater discharge permit will indicate a specific date upon which it will expire.

- (C) A wastewater discharge permit shall be void upon cessation of operations or transfer of User ownership and void if the transfer requirements of ~~Section 5-5~~ SEC. 6-28 are not satisfied.
- (D) All wastewater discharge permits issued to a particular User are void upon the issuance of a new wastewater discharge permit to that User.

~~Section 5-3.~~ SEC. 6-26. **WASTEWATER DISCHARGE PERMIT CONTENTS.**

- (A) A wastewater discharge permit shall include such conditions as are required by applicable law, including these Rules and Regulations, or by the Wastewater Service Contract, or as are deemed reasonably necessary by the ~~Chief Executive Officer~~ Executive Director to prevent Pass Through or Interference, protect the quality of the water body receiving the POTW treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the Airport Wastewater System and/or the POTW.
- (B) A wastewater discharge permit shall contain:
 - (1) A statement that indicates the permit's duration;
 - (2) A statement that the permit is nontransferable without prior notification to the Board in accordance with ~~Section 5-5~~ SEC. 6-28 of these Rules and Regulations, and provisions for furnishing the new owner or operator of the User with a copy of the existing wastewater discharge permit.
 - (3) Effluent limits based on applicable pretreatment standards;
 - (4) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type, based on applicable federal, state, and local law; and
 - (5) A statement of applicable civil and criminal penalties for violation of pretreatment standards, and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.
- (C) Wastewater discharge permits may also contain, without limitation, the following conditions:
 - (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.
 - (2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the Airport Wastewater System and/or the POTW;

- (3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
- (4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the Airport Wastewater System and/or the POTW;
- (5) The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the Airport Wastewater System and/or the POTW;
- (6) Requirements for installation and maintenance of inspection, flow, and sampling facilities and/or equipment;
- (7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
- (8) Other conditions as deemed appropriate by the ~~Chief Executive Officer~~ Executive Director to ensure compliance with these Rules and Regulations or with any applicable federal or state laws, rules, and regulations.

Section 5-4. SEC. 6-27. WASTEWATER DISCHARGE PERMIT MODIFICATION.

The ~~Chief Executive Officer~~ Executive Director may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- (A) To incorporate any new or revised federal, state, or local pretreatment standards or requirements, or any new or revised requirements of the Wastewater Service Contract;
- (B) To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
- (C) A change in the Airport Wastewater System and/or the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (D) Information indicating that the permitted discharge poses a threat to the Airport Wastewater System, any portion of the POTW, POTW or Board personnel, the general public, or the receiving waters;
- (E) Violation of any terms or conditions of the wastewater discharge permit or these Rules and Regulations;

- (F) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required documents or reports;
- (G) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
- (H) To correct typographical or other errors in the wastewater discharge permit; or
- (I) To reflect a transfer of the User's ownership or operation to a new owner or operator.

~~Section 5-5.~~ SEC. 6-28. WASTEWATER DISCHARGE PERMIT TRANSFER.

- (A) A wastewater discharge permit issued may be transferred to a new owner or operator only if the permittee gives advance notice of transfer to the ~~Chief Executive Officer~~ Executive Director and the ~~Chief Executive Officer~~ Executive Director approves the permit transfer. Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of transfer to the new owner(s) or operator(s).
- (B) The notice of intent to transfer must include a written certification, in accordance with ~~Section 4-6~~ SEC. 6-23 of this Chapter, by the new owner or operator that:
 - (1) States that the new owner and/or operator has no immediate intent to change the operations and processes of the permitted facility, premises, or site;
 - (2) Identifies the specific date on which the transfer is to occur; and
 - (3) Acknowledges and agrees to assume full responsibility for complying with the terms and conditions of the existing wastewater discharge permit(s) and the requirements of these Rules and Regulations.

~~Section 5-6.~~ SEC. 6-29. GROUNDS FOR PERMIT SUSPENSION OR REVOCATION.

The ~~Chief Executive Officer~~ Executive Director may suspend or revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- (A) Failure to notify the ~~Chief Executive Officer~~ Executive Director of significant changes to the wastewater prior to the changed discharge;
- (B) Failure to provide prior notification to the ~~Chief Executive Officer~~ Executive Director of changed conditions pursuant to ~~Section 6-5~~ SEC. 6-35 of these Rules and Regulations;
- (C) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- (D) Falsifying self-monitoring or other required documentation or reports;
- (E) Tampering with monitoring equipment;

- (F) Refusing to allow the ~~Chief Executive Officer~~ Executive Director timely access to the permittee's facility, premises, site, and/or records;
- (G) Failure to meet effluent limitations;
- (H) Failure to pay fines or comply with any other terms or conditions imposed by lawful order under these Rules and Regulations;
- (I) Failure to pay charges imposed on the permittee under this Chapter or pursuant to the Board's Schedule of Charges, as amended;
- (J) Failure to meet compliance schedules;
- (K) Failure to complete or to timely submit a wastewater survey/analysis or wastewater discharge permit application;
- (L) Failure to provide advance notice of the transfer of ownership or operation of a permitted facility, premises, or site; or
- (M) Violation of any pretreatment standard or requirement or of any terms of the wastewater discharge permit or these Rules and Regulations or of any lawful order issued pursuant to this Chapter.

~~Section 5-7.~~ **SEC. 6-30.** **WASTEWATER DISCHARGE PERMIT REISSUANCE.**

- (A) A User with an expiring wastewater discharge permit shall apply for wastewater discharge permit re-issuance by submitting a complete permit application, in accordance with ~~Section 4~~ ARTICLE IV of these Rules and Regulations, prior to the expiration of the User's existing permit.
- (B) If the User submits an application in compliance with this Chapter and the failure of the ~~Chief Executive Officer~~ Executive Director to reissue a permit prior to the expiration of the previous permit is not due to any act or omission of the User, then the expired permit shall continue to be effective and enforceable until reissued or revoked.

~~SECTION 6~~ **ARTICLE VI.**
REPORTING REQUIREMENTS.

~~Section 6-4.~~ **SEC. 6-31.** **BASELINE MONITORING REPORTS.**

- (A) Deadlines for submission of reports
 - (1) Existing Categorical Users Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing Users subject to such categorical pretreatment standards and currently discharging to or scheduled to discharge to the POTW shall submit to the ~~Chief Executive Officer~~

Executive Director a report which contains the information listed in subsection (B), below.

- (2) New Sources and New Categorical Users At least ninety (90) days prior to commencement of discharge, New Sources and sources that become categorical Users subsequent to the promulgation of an applicable categorical standard, shall submit to the ~~Chief Executive Officer~~ Executive Director a report which contains the information listed in subsection (B), below. A New Source shall report the method of pretreatment the source intends to use to meet applicable categorical standards. A New Source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(B) Users described above shall submit the following information:

- (1) Identifying Information The name and address of the User, including the location of its Airport site or premises and the name of the operator and owner.
- (2) Environmental Permits A list of any environmental control permits held by or for the User for or including its Airport location, facility, site, or premises.
- (3) Description of Operations A brief description of the nature, average rate of production, and Standard Industrial Classifications of the operation(s) carried out by such User. This description should include a schematic process diagram that indicates points of discharge to the Airport Wastewater System and/or the POTW from the regulated processes.
- (4) Flow Measurement Information showing the measured or estimated average daily and maximum daily flow, in gallons per day, to the Airport Wastewater System and/or the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).
- (5) Measurement of Pollutants
 - (a) The categorical pretreatment standards applicable to each regulated process.
 - (b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the ~~Chief Executive Officer~~ Executive Director, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in ~~Section 6-10~~ SEC. 6-40 of these Rules and Regulations.

- (c) Sampling shall be performed in accordance with procedures set out in ~~Section 6-11~~ SEC. 6-41 of these Rules and Regulations.
- (6) Certification A statement, reviewed by an Authorized Representative of the User and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- (7) Compliance Schedule If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in ~~Section 6-2~~ SEC. 6-32 of these Rules and Regulations.
- (8) Signature and Certification All baseline monitoring reports must be signed and certified in accordance with ~~Section 4-6~~ SEC. 6-23 of these Rules and Regulations.

~~Section 6-2.~~ **SEC. 6-32. COMPLIANCE SCHEDULE AND PROGRESS REPORTS.**

The following conditions shall apply to any compliance schedule required by ~~Section 6-1(B)(7)~~ SEC. 6-31(B)(7) of this Chapter:

- (A) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- (B) No increment referred to in subsection (A) above shall exceed nine (9) months;
- (C) The User shall submit a progress report to the ~~Chief Executive Officer~~ Executive Director no later than fourteen (14) days following each date in the schedule and the final date of compliance including, at a minimum, whether or not the User complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and
- (D) In no event shall more than nine (9) months elapse between such progress reports to the ~~Chief Executive Officer~~ Executive Director.

~~Section 6-3.~~ **SEC. 6-33. REPORTS ON COMPLIANCE WITH CATEGORICAL PRETREATMENT STANDARD DEADLINE.**

- (A) Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a New Source following

commencement of the introduction of wastewater into the POTW, any User subject to such pretreatment standards and requirements shall submit to the ~~Chief Executive Officer~~ Executive Director a report containing the information described in ~~Section 6-1(B)(4)-(B)(6)~~ SEC. 6-31(B)(4)-(B)(6) of these Rules and Regulations.

- (B) For Users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the User's long-term production rate.
- (C) For all other Users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period.
- (D) All compliance reports must be signed and certified in accordance with ~~Section 4-6~~ SEC. 6-23 of these Rules and Regulations.

~~Section 6-4.~~ **SEC. 6-34. PERIODIC COMPLIANCE REPORTS.**

- (A) All Significant Industrial Users shall, at a frequency determined by the ~~Chief Executive Officer~~ Executive Director but in no case less than twice per year submit a report containing at a minimum:
 - (1) The nature and concentration of pollutants in the discharge which are limited by pretreatment standards; and
 - (2) The measured or estimated average and maximum daily flows for the reporting period.
- (B) All periodic compliance reports shall be signed and certified in accordance with ~~Section 4-6~~ SEC. 6-23 of these Rules and Regulations.
- (C) All wastewater samples shall be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facilities or equipment in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.
- (D) If a User subject to the reporting requirement in this section monitors any pollutant more frequently than required by the ~~Chief Executive Officer~~ Executive Director, the results of this monitoring shall be included in the report.
- (E) At the ~~Chief Executive Officer~~ Executive Director's discretion, sampling and analysis may be performed by the Board and/or Control Authority rather than by the User(s).
- (F) The Board or ~~Chief Executive Officer~~ Executive Director may require appropriate reporting from those industrial users or persons with discharges that are not subject to categorical pretreatment standards. Significant noncategorical

industrial users shall submit to the ~~Chief Executive Officer~~ Executive Director at least once every six months (on dates specified by the ~~Chief Executive Officer~~ Executive Director) a description of the nature, concentration, and flow of the pollutants required to be reported by the ~~Chief Executive Officer~~ Executive Director. These reports shall be based on sampling and analysis performed in the period covered by the report, and performed in accordance with the techniques described in 40 CFR Part 136 and amendments thereto. Where 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the TCEQ and/or EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW or other persons, approved by the TCEQ and/or EPA. This sampling and analysis may be performed by the ~~Chief Executive Officer~~ Executive Director in lieu of the significant noncategorical industrial user. Where the POTW itself collects all the information required for the report, the noncategorical significant industrial user will not be required to submit the report.

~~Section 6-5.~~ SEC. 6-35. REPORTS OF CHANGED CONDITIONS.

- (A) Each User must notify the ~~Chief Executive Officer~~ Executive Director of any planned significant changes to the User's operations or system(s) which might alter the nature, quality, or volume of User's wastewater, such notice to be provided in writing before the change is made.
- (B) The ~~Chief Executive Officer~~ Executive Director may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under ~~Section 4-5~~ SEC. 6-22 of these Rules and Regulations.
- (C) The ~~Chief Executive Officer~~ Executive Director may issue a wastewater discharge permit under ~~Section 5-2~~ SEC. 6-25 or modify an existing wastewater discharge permit under ~~Section 5-4~~ SEC. 6-27 in response to changed conditions or anticipated changed conditions.

(B) For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent (20%) or greater and the discharge of any previously unreported pollutants.

~~Section 6-6.~~ SEC. 6-36. REPORTS OF ACCIDENTAL DISCHARGES OR POTENTIAL PROBLEMS.

- (A) In the case of any discharge capable of causing problems for the POTW, including without limitation upset, accidental discharges, discharges of a nonroutine, episodic nature, a nonroutine batch discharge, or a slug load, the User shall immediately telephone and notify the ~~Chief Executive Officer~~ Executive Director and/or the Vice President of the Board's Environmental Affairs Department (or other authorized representative(s) designated by the ~~Chief Executive Officer~~ Executive Director) of the incident. This notification shall include the location of the discharge, type of waste or substance, concentration and volume, if known, and corrective actions taken by the User.

- (B) Within five (5) days following such discharge, unless waived by the ~~Chief Executive Officer~~ Executive Director or the Vice President of the Board's Environmental Affairs Department (or other authorized representative designated by the ~~Chief Executive Officer~~ Executive Director), the User shall submit a detailed written report which specifies:
 - (1) A description and cause of the discharge, including location of the discharge, type, concentration and volume of water; and
 - (2) All measures taken or to be taken by the User to reduce, eliminate, and prevent continuation or recurrence of such an upset, slug load, or accidental discharge, spill, or similar occurrences.
- (C) Such notification shall not relieve the User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the Airport Wastewater System, POTW, 6-28 natural resources, 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 pursuant to these Rules and Regulations.
- (D) A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a discharge described in subsection (A) above. Employers shall ensure that all employees who may cause or witness such a discharge are advised of the emergency notification procedure.

~~Section 6-7.~~ SEC. 6-37. **REPORTS FROM NON-PERMITTED USERS.**

All persons/Users conducting operations or business at the Airport, whether or not the person/User has or is required to obtain a wastewater discharge permit, shall provide appropriate reports to the ~~Chief Executive Officer~~ Executive Director as the ~~Chief Executive Officer~~ Executive Director may require.

~~Section 6-8.~~ SEC. 6-38. **NOTIFICATION OF VIOLATION BASED ON SELF-MONITORING.**

If monitoring, sampling, or wastewater analysis performed by or for a User indicates that a violation of this Chapter or a permit issued to User under this Chapter has occurred, the User shall:

- (A) Inform the ~~Chief Executive Officer~~ Executive Director and/or the Vice President of the Board's Environmental Affairs Department (or other authorized representative designated by the ~~Chief Executive Officer~~ Executive Director) of the violation within twenty-four (24) hours of the User's becoming aware of the violation;
- (B) Within thirty (30) days after becoming aware of the violation, unless waived by the ~~Chief Executive Officer~~ Executive Director or the Vice President of the Board's Environmental Affairs Department (or other authorized representative designated by the ~~Chief Executive Officer~~ Executive Director), submit to the ~~Chief~~

~~Executive Officer~~ Executive Director or to the authorized representative designated by the ~~Chief Executive Officer~~ Executive Director a report that addresses:

- (1) the time, date, location, processes, and operations associated with the violation, and the personnel assigned responsibility and/or present during the violation;
 - (2) the cause or probable cause of the noncompliance; and
 - (3) the actions taken and implemented to meet permit conditions;
- (C) Repeat the sampling and pollutant analysis and submit to the ~~Chief Executive Officer~~ Executive Director, or to the authorized representative designated by the ~~Chief Executive Officer~~ Executive Director, the results of this repeat analysis within thirty (30) days after becoming aware of the violation. The User is not required to resample if the ~~Chief Executive Officer~~ Executive Director monitors or performs sampling at the User's facility, premises, or site(s) at least once a month, or if the ~~Chief Executive Officer~~ Executive Director samples between the User's initial sampling and the time when the User receives the results of this sampling.

~~Section 6-9.~~ **SEC. 6-39.** **NOTIFICATION OF THE DISCHARGE OF HAZARDOUS WASTE.**

- (A) Pursuant to 40 CFR 403.12(p), any User who commences the discharge of hazardous waste shall notify the ~~Chief Executive Officer~~ Executive Director, the Control Authority, the EPA Region VI Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261.
- (1) Such notification shall include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other).
 - (2) If the User discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the User: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months.
 - (3) All notifications shall take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this Subsection (A) need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under ~~Section 6-5~~ SEC. 6-35 of these Rules and Regulations. The notification requirement in this section does not apply to pollutants

already reported by Users subject to categorical pretreatment standards under the self monitoring requirements of ~~Sections 6-1, 6-2, and 6-3~~ SEC. 6-31, 6-32, and 6-33 of these Rules and Regulations.

- (B) A discharger is exempt from the requirements of subsection (A) during a calendar month in which it discharges no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the User discharges more than such quantities of any hazardous waste do not require additional notification.
- (C) In the case of any new regulations under Section 3001 of the Solid Waste Disposal Act, 42 USC§§ 6901 et seq., as amended (also known as "RCRA"), identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the User shall notify the ~~Chief Executive Officer~~ Executive Director, the Control Authority, the EPA Region VI Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
- (D) In the case of any notification made under this Section, the User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- (E) This Section does not create a right to discharge any substance not otherwise permitted to be discharged by these Rules and Regulations, a permit issued there under, or any applicable federal or state law.

~~Section 6-10.~~ SEC. 6-40. ANALYTICAL REQUIREMENTS.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

~~Section 6-11.~~ SEC. 6-41. SAMPLE COLLECTION.

- (A) Except as indicated in subsection (B), the User must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is not feasible, the ~~Chief Executive Officer~~ Executive Director may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the User demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

- (B) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds shall be obtained using grab collection techniques.

~~Section 6-12.~~ SEC. 6-42. DATE REPORTS DEEMED RECEIVED.

Written reports and other documents submitted to the ~~Chief Executive Officer~~ Executive Director pursuant to these Rules and Regulations or a permit or lawful order issued hereunder will be deemed to have been submitted on the date postmarked. For reports or documents that are not mailed, postage prepaid, into a mail receptacle serviced by the United States Postal Service, the date of actual receipt of the document shall govern.

~~Section 6-13.~~ SEC. 6-43 RECORD-KEEPING REQUIREMENTS.

- (A) Any and all Users subject to the reporting requirements of these Rules and Regulations shall maintain, retain, and make available for inspection and copying upon request by the ~~Chief Executive Officer~~ Executive Director, the Control Authority and/or the Approval Authority and at a single location, all records of information obtained pursuant to or resulting from any monitoring activities required by these Rules and Regulations and any additional records of information obtained pursuant to monitoring activities undertaken by or for the User independent of such requirements.
- (B) 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.
- (C) These records shall remain available to the Board and/or ~~Chief Executive Officer~~ Executive Director for a period of at least three (3) years. This retention period shall be automatically extended for the duration of any relevant litigation concerning the User or the Board, its owner cities, and/or the Control Authority, or where the User has been specifically notified of a longer retention period by the ~~Chief Executive Officer~~ Executive Director.

**~~SECTION 7~~ ARTICLE VII.
COMPLIANCE MONITORING.**

~~Section 7-1.~~ SEC. 6-44. RIGHT OF ENTRY: INSPECTION AND SAMPLING.

The ~~Chief Executive Officer~~ Executive Director and/or the Control Authority, TCEQ, or EPA or their designated representative(s) shall have the right to enter any User's facility, premises, or site on the Airport to determine whether the User is complying with all requirements of these Rules and Regulations and any wastewater discharge permit or order issued hereunder. Users shall allow all such representatives ready access to all parts of the premises for the purposes of inspection, observation, measurement, monitoring, testing, sampling, records examination and copying, and the performance of any additional duties or activities the representative deems necessary.

- (A) Where a User has security measures in force which require proper identification and clearance before entry into its premises or site, the User shall make

necessary arrangements with its security guards so that, upon presentation of suitable identification, the representatives of the Board, Control Authority, TCEQ or EPA will be permitted to enter without delay for the purposes of performing specific responsibilities.

- (B) The ~~Chief Executive Officer~~ Executive Director and/or Control Authority shall have the right to set up or install, or require installation of, on a User's/person's facility, premises, or site at the Airport such devices as the ~~Chief Executive Officer~~ Executive Director and/or Control Authority deem(s) necessary to conduct sampling and/or metering of the User's/person's operations. All such sampling and analysis performed by the Board and/or Control Authority to monitor compliance shall be at the expense of the User, unless the ~~Chief Executive Officer~~ Executive Director determines otherwise.
- (C) The ~~Chief Executive Officer~~ Executive Director and/or Control Authority may require a User or any person who occupies or leases any facility, premises, or property at the Airport to install monitoring equipment as the ~~Chief Executive Officer~~ Executive Director and/or Control Authority deem(s) necessary. The User's/person's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the User/person at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least annually to ensure their accuracy.
- (D) Any temporary or permanent obstruction to safe and easy access to the facility, premises, or site to be inspected and/or sampled shall be promptly removed by the User or person who occupies or leases the subject property at the written or verbal request of the ~~Chief Executive Officer~~ Executive Director and/or Control Authority and shall not be replaced. The costs of clearing such access shall be borne by the User or person who occupies or leases the subject property.
- (E) Unreasonable delays in allowing the ~~Chief Executive Officer~~ Executive Director, Control Authority, TCEQ or EPA access to a User's/person's facility, premises, or site at the Airport shall be a violation of these Rules and Regulations.

~~Section 7-2.~~ SEC. 6-45. SEARCH WARRANTS.

If the ~~Chief Executive Officer~~ Executive Director and/or Control Authority has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this Chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Board designed to verify compliance with these Rules and Regulations or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the ~~Chief Executive Officer~~ Executive Director and/or Control Authority may seek issuance of a search warrant from an appropriate court.

**~~SECTION 8~~ ARTICLE VIII.
CONFIDENTIALITY OF RECORDS OR OTHER INFORMATION.**

~~Section 8-1.~~ **SEC. 6-46. INFORMATION AVAILABLE TO PUBLIC.**

Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from related inspection and sampling activities, shall be available to the public without restriction, unless the User or person furnishing or claiming ownership or control of such information or data specifically requests, and is able to demonstrate to the satisfaction of the Board and/or the Attorney General of the State of Texas, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under the Texas Public Information Act or other applicable law.

~~Section 8-2.~~ **SEC. 6-47. CLAIM OF CONFIDENTIALITY.**

A person making an assertion of confidentiality must do so at the time the information or data is submitted, as follows:

- (A) A cover sheet, stamped or typed legend, or other form of written notice shall be placed on or attached to the information, denoting it as "trade secret," "proprietary," or "confidential."
- (B) If only portions of a document are alleged to be confidential, such portions shall be clearly identified, and may be submitted separately to facilitate handling and identification by the ~~Chief Executive Officer~~ Executive Director or his designated representatives.
- (C) If the submitter wants the information to remain confidential only to a certain date or until the occurrence of a certain event, this shall also be clearly stated.

~~Section 8-3.~~ **SEC. 6-48. AVAILABILITY FOR GOVERNMENTAL AND JUDICIAL USE.**

All submitted information will be made available promptly upon request to governmental agencies or appropriate judicial or court officers for uses related to the Control Authority's or Board's TPDES permits, programs or pretreatment program, and in enforcement proceedings involving the User or person furnishing the information.

~~Section 8-4.~~ **SEC. 6-49. EFFLUENT DATA NOT CONFIDENTIAL.**

Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

SECTION 9 - ARTICLE IX.
PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE.

SEC. 6-50. PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE.

The ~~Chief Executive Officer~~ Executive Director or Control Authority shall have published annually, in the largest daily newspaper published in the municipality where the POTW is located and/or in the official newspaper(s) of the Board, a list of the Users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. For purposes of this Section, the term significant noncompliance shall mean:

- (A) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
- (B) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- (C) Any other discharge violation that the ~~Chief Executive Officer~~ Executive Director and/or Control Authority believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW or Board personnel or the general public;
- (D) Any discharge of pollutant(s) that has caused imminent endangerment to the public or to the environment or has resulted in the ~~Chief Executive Officer's~~ Executive Director or Control Authority's exercise of its emergency authority to halt or prevent such a discharge;
- (E) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (F) Failure to provide within thirty (30) days after the due date, any required reports, such as baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules.
- (G) Failure to accurately report noncompliance; or
- (H) Any other violation(s) which the ~~Chief Executive Officer~~ Executive Director and/or Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.

**SECTION 10 ARTICLE X.
ADMINISTRATIVE ENFORCEMENT REMEDIES.**

~~Section 10-1.~~ SEC. 6-51. NOTICE OF VIOLATION.

- (A) When the ~~Chief Executive Officer~~ Executive Director finds that any person has violated, or continues to violate, any provision of this Chapter or any wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the ~~Chief Executive Officer~~ Executive Director may issue or cause to be issued to such person a written Notice of Violation (NOV).
- (B) Within the time frame specified in the NOV¹ which is usually, but not always, not later than the tenth day after receipt of the notice, the person issued the notice of violation ("violator") shall submit to the ~~Chief Executive Officer~~ Executive Director or his designated representative, as indicated by the notice of violation, an explanation of the violation and a plan for the satisfactory correction and prevention of a reoccurrence of the violation. Such plan shall include specific actions to be taken by the violator.
- (C) If the violator denies that any violation occurred, or contends that no corrective action is necessary, he shall submit to the ~~Chief Executive Officer~~ Executive Director or his designated representative, as indicated by the notice of violation, no later than the date specified in the NOV, a written explanation of the basis of any such denial or contention.
- (D) Submission of an explanation and/or plan in no way relieves a person of liability for any violations occurring before or after receipt of the notice of violation.
- (E) Issuance of a notice of violation shall not be a bar against, nor a prerequisite for, taking any other action against a violator.

~~Section 10-2.~~ SEC. 6-52. CONSENT ORDER.

- (A) The ~~Chief Executive Officer~~ Executive Director may enter into a consent order, assurance of voluntary compliance, or similar agreement with any person responsible for a noncompliance with any provision of this Chapter or any permit or lawful order issued hereunder.
- (B) Such agreement may include specific action to be taken by the violator to correct the noncompliance within a time period specified by the agreement.
- (C) Such agreements have the same force and effect as compliance orders and shall be judicially enforceable.

~~Section 10-3.~~ SEC. 6-53. SHOW CAUSE HEARING.

- (A) The ~~Chief Executive Officer~~ Executive Director may order any person or User who has violated or who continues to violate any provision of this Chapter or any wastewater discharge permit or order issued hereunder, or any other applicable pretreatment standard or requirement, to appear before the ~~Chief Executive~~

~~Officer~~ Executive Director and show cause why a proposed enforcement action should not be taken.

- (B) Notice of the show cause hearing shall be served on the person or User specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. If the hearing is rescheduled for any reason, a revised notice shall be served at least three (3) days prior to the rescheduled hearing date. Such notice may be served on any authorized representative of the person or User.
- (C) A show cause hearing shall not be a bar against, or a prerequisite for, taking any other action against a person or User.

~~Section 10-4.~~ **SEC. 6-54. COMPLIANCE ORDER.**

- (A) When the ~~Chief Executive Officer~~ Executive Director finds that any person has violated, or continues to violate, any provision of this Chapter, any permit or lawful order issued hereunder, or any other applicable pretreatment standard or requirement, the ~~Chief Executive Officer~~ Executive Director may issue a compliance order to such person or User, directing it to come into compliance within a specified time limit. If the person or User does not come into compliance within the time provided, the person's/User's sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated.
- (B) Compliance orders may contain other requirements to address noncompliance, including additional management practices and self-monitoring to minimize the amount of pollutants discharged.
- (C) A Compliance order may not extend the deadline for compliance established by a state or federal standard or requirement.
- (D) A Compliance order shall not relieve a person or User of liability for any violation, including any continuing violation.
- (E) A person or User receiving a compliance order may file a written notice of appeal with the ~~Chief Executive Officer~~ Executive Director or his designated representative, as indicated by the compliance order, no later than the tenth day after receipt of the order. Such notice of appeal shall include an explanation as to why the person believes the enforcement action should not be taken.
- (F) Issuance of a compliance order shall not be a bar against, nor a prerequisite for, taking any other action against a person or User.

~~Section 10-5.~~ **SEC. 6-55. CEASE AND DESIST ORDER.**

- (A) Whenever the ~~Chief Executive Officer~~ Executive Director finds that any person or User has violated, or continues to violate, any provision of this Chapter, or any

wastewater discharge permit or order issued hereunder, or any other applicable pretreatment standard or requirement, or finds that the User's/person's past violations are likely to recur, the ~~Chief Executive Officer~~ Executive Director may issue an order to such person/User directing it to cease and desist all such violations and directing the User to:

- (1) immediately comply with all requirements; and
 - (2) take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.
- (B) Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against a person or User.

~~Section 10-6.~~ SEC. 6-56. STOP WORK ORDER.

- (A) Whenever the ~~Chief Executive Officer~~ Executive Director finds that any person or User who has been issued a construction permit by the Airport Board or who operates or has day-to-day control of a construction site at the Airport has violated, or continues to violate, any provision of this Chapter, or any wastewater discharge permit or order issued there under, the ~~Chief Executive Officer~~ Executive Director may cause a stop work order to be issued to the person or User, to be posted at the construction site or other location specified in the order, and to be distributed to all Board departments and divisions whose decisions affect any construction permit or activity at the affected site(s).
- (B) Unless express written exception is made by the ~~Chief Executive Officer~~ Executive Director, the stop work order shall prohibit any further construction or related activity at the site and shall bar any further inspection or approval by the Board associated with any Board permit or any other Board approval necessary to commence or continue construction or to assume occupancy at the permitted location or site.
- (C) A person or User receiving a stop work order under this Section may file a written notice of appeal with the ~~Chief Executive Officer~~ Executive Director or the person who authorized issuance of the order, as indicated by the order, no later than the tenth day after receipt of the stop work order. Such notice shall include an explanation as to why the person or User believes the enforcement action should not be taken.
- (D) Issuance of a stop work order shall not be a bar against, or a prerequisite for, taking any other action against a person or User.

~~Section 10-7.~~ SEC. 6-57. EMERGENCY SUSPENSION OF WATER UTILITY SERVICE AND/OR ACCESS TO WASTEWATER SYSTEM.

- (A) The ~~Chief Executive Officer~~ Executive Director may immediately and without hearing suspend a User's Board provided water utility service and/or access to the Airport Wastewater System whenever such suspension is necessary in the

opinion of the ~~Chief Executive Officer~~ Executive Director to stop an actual or threatened discharge that reasonably appears to:

- (1) Present or cause imminent or substantial danger to the environment or to the health or welfare of persons;
 - (2) Present or cause imminent or substantial danger to the POTW; or
 - (3) Cause or threaten to cause pass through or interference with the operation of the POTW.
- (B) If time permits, the ~~Chief Executive Officer~~ Executive Director should notify the User prior to the suspension.
- (C) As soon is as practicable after the suspension of the water utility service and/or access to the Airport Wastewater System, the ~~Chief Executive Officer~~ Executive Director shall notify the User of the suspension in person or by certified mail, return receipt requested. Such notice may be provided, but shall not be required, if the User was notified prior to the suspension as provided in Subsection (B) above.
- (D) ~~(D)~~ Any User notified of a suspension of its water utility service and/or access to the Airport Wastewater System shall immediately stop or eliminate its contribution. In the event of a User's failure to comply immediately and voluntarily with the suspension order, the ~~Chief Executive Officer~~ Executive Director may take such steps as deemed necessary to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. Such steps may include immediate severance of the User's water service and sewer connection.
- (E) The User shall not recommence its water utility service and/or discharge to the Airport Wastewater System until the ~~Chief Executive Officer~~ Executive Director so authorizes and:
- (1) The User presents proof satisfactory to the ~~Chief Executive Officer~~ Executive Director that the noncompliant discharge has ceased;
 - (2) The User presents proof satisfactory to the ~~Chief Executive Officer~~ Executive Director that the conditions creating the threat of imminent or substantial danger have been eliminated and the period of endangerment has passed;
 - (3) The User pays the Board for all costs incurred by the Board in responding to the discharge or threatened discharge, unless all or part of such payment is waived by the ~~Chief Executive Officer~~ Executive Director; and
 - (4) The User pays the Board for all costs the Board will incur in reinstating services, unless all or part of such payment is waived by the ~~Chief Executive Officer~~ Executive Director.
- (F) A User may appeal a suspension under this Section in accordance with the appeal procedures as provided in this Chapter. The remedies provided by this

Section are in addition to any other remedies set out in this Chapter. Exercise of this remedy shall not be a bar against nor a prerequisite for, taking other action against a violator.

~~Section 10-8.~~ SEC. 6-58. NON-EMERGENCY TERMINATION OF WATER UTILITY SERVICE AND/OR ACCESS TO WASTEWATER SYSTEM.

- (A) A User who violates any of the following conditions is subject to the termination of its Board provided water utility service and/or access to the Airport Wastewater System:
- (1) Violation of wastewater discharge permit conditions or any lawful order of the ~~Chief Executive Officer~~ Executive Director, including without limitation any order under ~~Section 10~~ ARTICLE X;
 - (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
 - (3) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
 - (4) Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or
 - (5) Violation of the pretreatment standards of this Chapter.
- (B) The User will be notified of the proposed termination of its water utility service and/or access to the Airport Wastewater System and be offered an opportunity to show cause under ~~Section 10-3~~ SEC. 6-53 of this Chapter why the proposed action should not be taken.
- (C) The User shall not recommence its water utility service and/or discharge to the Airport Wastewater System until the ~~Chief Executive Officer~~ Executive Director so authorizes and:
- (1) The User presents proof satisfactory to the ~~Chief Executive Officer~~ Executive Director that the noncompliant discharge has ceased;
 - (2) The User presents proof satisfactory to the ~~Chief Executive Officer~~ Executive Director that the conditions creating the threat of imminent or substantial danger have been eliminated and any period of endangerment has passed;
 - (3) The User pays the Board for all costs the Board will incur in reinstating services, unless all or part of such payment is waived by the ~~Chief Executive Officer~~ Executive Director.
- (D) Exercise of this option by the ~~Chief Executive Officer~~ Executive Director shall not be a bar to, or a prerequisite for, taking any other action against the User.

~~Section 10-9.~~ SEC. 6-59. ADMINISTRATIVE FINES.

- (A) The ~~Chief Executive Officer~~ Executive Director shall have the authority to levy one or more administrative fines against a person, User, or permittee who violates any provision of these Rules and Regulations or any wastewater discharge permit or order issued pursuant to this Chapter.
- (B) Administrative fines under this Chapter shall be established in accordance with, and provided in, the Schedule of Charges as amended.
- (C) Delinquent or past due fines shall constitute cause for the ~~Chief Executive Officer~~ Executive Director to immediately suspend any wastewater discharge permit or other written authorization of any person/User issued under this Chapter until such fines are paid in full and/or to take any other legal action deemed necessary to recover delinquent or past due fines.

**~~SECTION 11~~ ARTICLE XI.
JUDICIAL ENFORCEMENT REMEDIES.**

~~Section 11-1.~~ SEC. 6-60. INJUNCTIVE RELIEF.

Whenever the ~~Chief Executive Officer~~ Executive Director finds that a person or User has violated, or continues to violate, any provision of this Chapter, a wastewater discharge permit, or an order issued hereunder, or any other pretreatment standard or requirement, the ~~Chief Executive Officer~~ Executive Director may petition an appropriate Court through the Board's legal counsel for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by these Rules and Regulations on activities of the person or User. The ~~Chief Executive Officer~~ Executive Director may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the person or User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a person or User.

~~Section 11-2.~~ SEC. 6-61. CIVIL PENALTIES.

- (A) A person or User who has violated, or continues to violate, any provision of this Chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the Board for a maximum civil penalty of One Thousand Dollars (\$1,000.00) per violation, per day. In the case of a monthly or other long term average discharge limit, penalties shall accrue for each day during the period of the violation.
- (B) The Board may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement of this Chapter, including sampling and monitoring expenses, and the cost of any actual damages incurred by the Board, including without limitation costs of response, remediation, abatement, or restoration incurred by the Board, as allowed under state or federal laws, or at common law.

- (C) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the person's/User's violation, corrective actions by the person or User, the compliance history of the person or User, and any other factor as justice requires.
- (D) Filing a suit for civil penalties or other remedies shall not be a bar against, or a prerequisite for, taking any other action against a person or User.

Section 11-3. SEC. 6-62. CRIMINAL PROSECUTION.

(A) Criminal Offenses

- (1) A person commits an offense if the person violates, or causes or permits another person to violate, or assists in the commission of a violation of, any applicable provision of this Chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement.
- (2) A person commits an offense if the person leases, operates, manages, occupies, is in control of, or has a permit to use any facility, premises, or site at the Airport and there occurs a discharge from such location to the POTW and/or Airport Wastewater System in violation of this Chapter, a permit or order issued pursuant to this Chapter, or any pretreatment standards or requirements.
- (3) A person commits an offense if the person leases, operates, manages, occupies, is in control of, or has a permit to use any facility, premises, or site at the Airport and fails to make any report to the ~~Chief Executive Officer~~ Executive Director as required by this Chapter or a permit or order issued pursuant to this Chapter.
- (4) A person commits an offense if the person introduces or causes to be introduced any substance into the Airport Wastewater System and/or the POTW that causes personal injury or property damage. Prosecution of a person under this subsection (D) shall not be a bar against, or a prerequisite for, any other cause of action for personal injury or property damage available under federal or state law.
- (5) A person commits an offense if the person makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this Chapter or any permit or order issued hereunder, or if the person falsifies; tampers with, or renders inaccurate any monitoring device or method required under this Chapter.

(B) Criminal Penalties

- (1) A person, who violates any provision of this Chapter, or any term or condition of any permit or order issued hereunder, is guilty of a separate

offense for each day or portion of a day during which the violation is continued. Each offense is punishable by a fine not to exceed Two Thousand Dollars (\$2,000.00) or the maximum allowable by law; provided, however, that where the offense is one for which a penalty is otherwise fixed by state or federal law, such law shall govern, if either is exclusive.

- (2) A culpable mental state is not required for commission of an offense under this Chapter unless the provision defining the conduct expressly requires a culpable mental state.
- (3) Prosecution for an offense under this ~~Section 11-3~~ SEC. 6-62 does not preclude the use of other enforcement remedies or procedures applicable to the person charged with, or the conduct involved in, the offense.

~~SECTION 12~~ **ARTICLE XII.**
SUPPLEMENTAL ENFORCEMENT ACTION.

~~Section 12-1.~~ **SEC. 6-63. PERFORMANCE BONDS.**

The ~~Chief Executive Officer~~ Executive Director may decline to issue or reissue a wastewater discharge permit to any User who has failed to comply with any provision of this Chapter, a previous wastewater discharge permit, or order issued pursuant to this Chapter, or any other pretreatment standard or requirement, unless such User first files a satisfactory bond, payable to the Board, in a sum not to exceed a value determined by the ~~Chief Executive Officer~~ Executive Director to be necessary to achieve consistent compliance.

~~Section 12-2.~~ **SEC. 6-64. LIABILITY INSURANCE.**

The ~~Chief Executive Officer~~ Executive Director may decline to issue or reissue a wastewater discharge permit to any User who has failed to comply with any provision of this Chapter, a previous wastewater discharge permit, or order issued pursuant to this Chapter, or any other pretreatment standard or requirement, unless the User first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW and/or Airport Wastewater System caused by its discharge.

~~SECTION 13~~ **ARTICLE XIII.**
AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS.

~~Section 13-1.~~ **SEC. 6-65. UPSET.**

In an action brought in federal court only:

- (A) For the purposes of this Section, "Upset" shall have the meaning set forth in ~~Section 1-4~~ SEC. 6-4 of this Chapter.
- (B) An Upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of Subsection (C) below are met.

- (C) A person or User who wishes to establish the affirmative defense of Upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (1) An Upset occurred and the person or User can identify the cause(s) of the Upset;
 - (2) The person's or User's facility, premises, or site was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
 - (3) The person or User has submitted the following information to the ~~Chief Executive Officer~~ Executive Director within twenty-four (24) hours of becoming aware of the Upset (for information provided orally, a written submission containing the following must be provided to the ~~Chief Executive Officer~~ Executive Director within five (5) days after the oral information was first provided:
 - (a) A description of the indirect discharge and cause of noncompliance;
 - (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - (c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- (D) In any enforcement proceeding, the person or User seeking to establish the occurrence of an Upset shall have the burden of proof.
- (E) Users will have the opportunity for a judicial determination on any claim of Upset only in the event an enforcement action is brought for noncompliance with categorical pretreatment standards.
- (F) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of a User's treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

~~Section 13-2.~~ **SEC. 6-66.** ACT OF GOD.

In an action brought in municipal or state court only:

- (A) An event that would otherwise be a violation of this Chapter that is caused solely by an act of God, war, strike, riot, or other catastrophe is not a violation.

- (B) In any enforcement proceeding, the person or User seeking to establish the occurrence of an Act of God, war, strike, riot, or other catastrophe shall have the burden of proof.
- (C) If a person or User against whom enforcement action is sought establishes that the requirements of this ~~Section 13-2~~ SEC. 6-66 are satisfied, the person/User shall control production of all discharges to the extent necessary to maintain compliance with pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided.

~~Section 13-3.~~ SEC. 6-67. PROHIBITED DISCHARGE STANDARDS.

A person or User shall have an affirmative defense to an enforcement action brought against it for alleged noncompliance with the general prohibitions in ~~Section 2-4~~ SEC. 6-6(A) of this Chapter or any specific prohibition(s) in ~~Section 2-4~~ SEC. 6-6(B)(3), (4), (5), (6), or (7), if the User/person can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference, and that either:

- (A) A local limit exists for each pollutant discharged and the User/person was in compliance with each limit directly prior to, and during, the pass through or interference; or
- (B) No local limit exists for the pollutant(s) discharged, but the User's/person's discharge activity directly prior to and during the Pass Through or Interference did not change substantially in nature or constituents from the User's/person's prior discharge when the POTW was regularly in compliance with the POTW's TPDES permit requirements and, in the case of interference, was in compliance with applicable sludge use or disposal requirements.

~~Section 13-4.~~ SEC. 6-68. BYPASS.

- (A) For the purposes of this Section, "Bypass" shall have the meaning set forth in ~~Section 1-4~~ SEC. 6-4 of this Chapter.
- (B) A person or User may allow any Bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) through (F) of this Section.
- (C) If a User knows in advance of the need for a Bypass, it shall submit prior notice to the ~~Chief Executive Officer~~ Executive Director, at least ten (10) days before the date of the Bypass, if possible.
- (D) A User shall submit oral notice to the ~~Chief Executive Officer~~ Executive Director of an unanticipated Bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time the User becomes aware of the Bypass. A written submission shall also be provided within five (5) days of the time the User becomes aware of the Bypass. The written submission shall contain a description of the Bypass and its cause; the duration of the Bypass,

including exact dates and times, and, if the Bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the Bypass. The ~~Chief Executive Officer~~ Executive Director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours, as required above.

- (E) Bypass is prohibited, and the ~~Chief Executive Officer~~ Executive Director may take enforcement action(s) against a person or User for a Bypass, unless:
 - (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (2) There were no feasible alternatives to the Bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a Bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (3) The person or User submitted notices as required under subsection (B) of this Section.
- (F) The ~~Chief Executive Officer~~ Executive Director may approve an anticipated Bypass, after considering its adverse effects, if the ~~Chief Executive Officer~~ Executive Director determines that the Bypass will meet the three conditions listed in paragraph (E)(1) of this Section.

SECTION 14 ARTICLE XIV.
FEEES AND CHARGES.

Section 14-4. SEC. 6-69. FEEES AND CHARGES.

- (A) The Board may adopt reasonable fees for reimbursement of costs, of implementing and operating the Board's and/or the Control Authority's pretreatment program and/or may adopt reasonable charges in connection with the administration and enforcement of these Rules and Regulations. Such fees or charges may be imposed as deemed appropriate or necessary by the Board and may include:
 - (1) Fees for wastewater discharge permit applications, including the cost of processing such applications;
 - (2) Fees for monitoring, inspection, and surveillance procedures, including the cost of collection, sampling, testing, and/or analysis of a User's/person's discharge, and reviewing reports submitted by Users;
 - (3) Fees for reviewing and responding to accidental discharge/slug control plans and procedures, construction applications, tenant alteration applications, or similar applications or activities;

- (4) Fees for filing appeals;
 - (5) Fees or surcharges for treating abnormal strength wastes or wastewater, including without limitation an industrial surcharge in addition to regular water and sewer rates that may be imposed upon any User(s) responsible for industrial waste(s) whose admission into the POTW has been approved by the ~~Chief Executive Officer~~ Executive Director;
 - (6) Fees incurred by the Board and/or Control Authority in connection with an upset, bypass, or unauthorized discharge;
 - (7) Additional costs incurred by the Board and/or Control Authority in transporting or treating wastes or wastewater;
 - (8) Costs associated with disconnection/reconnection of a User's/person's water utility service and/or access to the Airport Wastewater System resulting from that User's/person's noncompliance with these Rules and Regulations;
 - (9) Fees and costs incurred by the Board and/or ~~Chief Executive Officer~~ Executive Director in pursuing any enforcement action resulting from a User's/person's noncompliance with these Rules and Regulations or any order or permit issued hereunder;
 - (10) Other fees as the Board and/or ~~Chief Executive Officer~~ Executive Director may deem necessary to carry out the requirements contained in these Rules and Regulations.
- (B) Fees or charges under this Chapter shall be set out in the Board's Schedule of Charges and shall be paid in a manner prescribed by the ~~Chief Executive Officer~~ Executive Director. The fees provided for in this Chapter relate solely to the matters covered by these Rules and Regulations and are separate from all other fees, fines, and penalties chargeable by the Board. No refund of fees collected pursuant to this Chapter shall be made.

~~Section 14-2.~~ SEC. 6-70. INDUSTRIAL SURCHARGE.

- (A) The Board may charge Users an industrial surcharge for the treating of abnormal strength wastes. Water or wastes having
- (1) a five-day biochemical oxygen demand greater than two hundred fifty (250) parts per million (ppm) by weight or
 - (2) containing more than two hundred fifty (250) parts per million by weight of total suspended solids shall be subject to the review and approval of the ~~Chief Executive Officer~~ Executive Director. Where the ~~Chief Executive Officer~~ Executive Director has approved the admission of items (1) or (2) above into the Airport Wastewater System and/or the POTW, that discharge may be subject to a surcharge as determined by the ~~Chief~~

~~Executive Officer~~ Executive Director. In no case shall a discharge be accepted that will prevent the POTW from meeting its permitted limits.

- (B) Any surcharge under this Chapter may be assessed for any month(s) according to a formula set out in the Schedule of Charges. Imposition of a surcharge shall not constitute a variance to the requirements of these Rules and Regulations nor serve as a bar to, or a prerequisite for, taking any other action against the User.

**~~SECTION 15~~ ARTICLE XV.
MISCELLANEOUS PROVISIONS.**

~~Section 15-1.~~ SEC. 6-71. APPEALS.

- (A) If the ~~Chief Executive Officer~~ Executive Director denies issuance or renewal of a wastewater discharge permit or suspends or revokes a wastewater discharge permit as provided in ~~Section 5~~ ARTICLE V of this Chapter, or issues a compliance order or other order as provided in ~~Section 10~~ ARTICLE X of this Chapter, the action is final unless, within ten days from the date of receiving the written notice of the action, the affected applicant or User files an appeal, in writing, with the ~~Chief Executive Officer~~ Executive Director specifying the reasons for the appeal.
- (B) The ~~Chief Executive Officer~~ Executive Director shall establish an appeal and hearing procedure that will give the appealing party an opportunity to present evidence and make argument. The formal rules of evidence do not apply to an appeal hearing under this Section, and the ruling shall be based on a preponderance of evidence presented at the hearing.
- (C) The decision rendered through the Board's appeal and hearing procedure is final.
- (D) The effect of a compliance order, stop work order, or cease and desist order shall be stayed pending the ~~Chief Executive Officer's~~ Executive Director's any appeal and decision thereon, unless the ~~Chief Executive Officer~~ Executive Director expressly makes a written determination to the contrary. The effect of an emergency suspension of water utility service and/or wastewater system access under ~~Section 10-7~~ SEC. 6-57 shall not be stayed pending the ~~Chief Executive Officer's~~ Executive Director decision following any appeal hearing, unless the ~~Chief Executive Officer~~ Executive Director expressly and in writing stays the emergency order.

~~Section 15-2.~~ SEC. 6-72. EFFECTIVE DATE.

These Rules and Regulations shall be in full force and effect immediately following their passage, approval, and publication, as provided by law.

Chapter 7 Contract Funding Rules and Regulations

- Sec. 7-1. Purpose.
- Sec. 7-2. Effective Date and Duration.
- Sec. 7-3. Scope.
- Sec. 7-4. Administration of Rules and Regulations.
- Sec. 7-5. Contracts Funded Entirely from Operating Revenues.
- Sec. 7-6. Contracts Funded Entirely from the Proceeds of Joint Revenue Bonds.
- Sec. 7-7. Contracts Funded Partly with Joint Revenue Bonds or Operating Funds and Partly with Funds of a Tenant.
- Sec. 7-8. Board Contract Funded Entirely by Tenant.
- Sec. 7-9. Tenant Contractors.

Section 1. SEC. 7-1. **PURPOSE.**

- (a) Under the provisions of section 103(n)(7) of the Internal Revenue Code of 1954, as amended (the "Code"), and section 1.103(n)-2T of the Temporary Regulations (the "Temporary Regulations"), it is possible that the Joint Revenue Bonds of the Board may be required to be included with the State Private Activity Bond Volume Limitations provided by the Code, as interpreted by the Temporary Regulations. Such determination is or may be influenced by the source and use of funding of construction contracts at the Airport, some of which funding is provided by the Board through the issuance of Joint Revenue Bonds or Special Facility Revenue Bonds.
- (b) While the Board can and intends to continue to control the purposes for which it issues Joint Revenue Bonds and Special Facility Bonds and to control the expenditures of funds from those sources, it has no control over the funding of a tenant's share of any contract payments obtained from other sources.
- (c) It is the purpose of these Rules and Regulations to establish rules upon the basis of which the Board will let contracts and will permit construction at the Airport by contractors not under contract directly with the Board, and to provide procedures by which contracts, funded by sources outside the Board's control, will be permitted, all for the purpose of making certain the Board's Joint Revenue Bonds remain outside the State Private Activity Bond Volume Limitations provided by the Code and the Temporary Regulations.

~~Section 2.~~ SEC. 7-2. EFFECTIVE DATE AND DURATION.

The effective date of these rules and regulations is December 3, 1985, the date of their adoption, and they shall remain in effect until modified or rescinded by the Board. The Board expresses its intent to modify or rescind these rules and regulations at such time as it has determined that relevant provisions of section 103(n)(7) of the Code, as interpreted by the Temporary Regulations, has been changed, altered, interpreted or applied in a manner that will permit the use of funds obtained by tenants from tax exempt sources in the payment of contracts for Airport improvements without causing the Joint Revenue Bonds of the Board to be included within the State Private Activity Bond Volume Limitations provided by section 103(n)(7) of the Code.

~~Section 3.~~ SEC. 7-3. SCOPE.

These Rules and Regulations are in addition to and not in lieu of any other rule, regulation, policy, law or contract provision relating to procurement activities of the Board.

~~Section 4.~~ SEC. 7-4. ADMINISTRATION OF RULES AND REGULATIONS.

These Rules and Regulations shall be administered, under the direction of the Executive Director, by all employees of the Board. The Executive Director, with the advice of the Board's Legal Counsel and the Board's Bond Counsel for Joint Revenue Bond financing, is authorized to develop policies, procedures and practices consistent herewith. Such policies, procedures and practices shall be binding upon all employees, tenants and contractors doing business at or on the Airport.

~~Section 5.~~ SEC. 7-5. CONTRACTS FUNDED ENTIRELY FROM OPERATING REVENUES.

Any Board contract for improvements or additions to the Airport may be let by the Board in accordance with established procurement requirements without further inquiry as to the source of funding, and may relate to the improvement or extension of any properties comprising a part of the Airport.

~~Section 6~~ SEC. 7-6. CONTRACTS FUNDED ENTIRELY FROM THE PROCEEDS OF JOINT REVENUE BONDS.

- †. (a) Subject to the limitation contained in subsection ~~(H)~~ (b) of this section, any Board contract for improvements or additions to the Airport which is to be funded from the proceeds of Joint Revenue Bonds may be let in accordance with established procurement requirements without further inquiry as to the source of funding.
- ‡. (b) A Board contract to be funded entirely from the proceeds of Joint Revenue Bonds may not be let for the purpose of improving or adding to any part of any Airport facility which was provided with the proceeds of obligations, the interest on which was exempt from federal income taxes, other than Joint Revenue Bonds, issued before October 5, 1984, unless:

- A(1) the facility being improved, expanded or extended, in the opinion of General Counsel, can be disregarded under one of the three exceptions to the Airport bond "contamination rules" contained in Section 1.103(n)-2T-Q9-A9 of the Temporary Regulations; or

B(2) the user of the facilities being improved, expanded or extended, has made or makes a timely and effective election not to take an investment tax credit or depreciation with respect to the prior facilities and the facilities being financed with the proceeds of the Joint Revenue Bonds, in a form and substance approved by the Board's Legal Counsel.

Section 7. SEC. 7-7. CONTRACTS FUNDED PARTLY WITH JOINT REVENUE BONDS OR OPERATING FUNDS AND PARTLY WITH FUNDS OF A TENANT.

†(a) Board contracts otherwise acceptable under established Board procurement procedures and to be funded in part by the proceeds of the Joint Revenue Bonds or Airport operating funds and in part with funds provided by a tenant may be let upon the conditions contained in this section.

‡(b) Prior to the letting of a contract or executing a change order with respect to such contract, the tenant must file an affidavit describing the source of funding of its share of contract costs. Such affidavit, to be in form and substance satisfactory to the Board's Legal Counsel, shall specifically contain, disclose, verify and warrant the accuracy of the following information:

A.(1) the precise source from which the tenant obtained or expects to obtain its share of funds, such as, tenant's operating revenues, bank loans, stock offerings, sale of debt securities or other sources; and

-B.(2) a listing of all issues of tax-exempt private activity bonds to which it is a party and the proceeds of which are subject to its direction or influence, and the location where the proceeds, if any, are on deposit, along with the name and principal officer of the custodian or trustee holding such funds. Based upon the information contained in such affidavit, the Board's Legal Counsel may, but shall not be required to, request and obtain additional information.

(3) A contract shall not be presented for approval by the Executive Director or the Board, as appropriate until such additional information has been supplied. Additionally, the Board's Legal Counsel may, but is not obligated to, require the tenant to provide the following:

4(a) the third-party verification, such as by a trustee or custodian holding funds derived from tax-exempt financing, or a bank or banker or other party or source providing the tenant's funding, which confirms that, as appropriate, the funds designated for use in paying the tenant's share of contract payments are derived from the source state, or that the third party will not permit the withdrawal of funds held in its custody for the purpose of making improvements at the Airport or will make such payments directly to the Board and will not permit a reimbursement of the tenant from the funds held by it for a purpose not permitted by these Rules and Regulations as specified to it by the Board's Legal Counsel; and

2(b) in the appropriate case, an election of the type described in ~~section 6(II)(B)~~ SEC. 7-6(b)(2) has been made.

6.(4) prior to the issuance of any order to proceed on any contract funded by the combined sources described in this Rule, the tenant and the Executive Director shall have executed and delivered a Special Depository Agreement, substantially in the form attached hereto (with such modifications as may be approved by the Board's Legal Counsel), and the tenant shall have complied with the requirements thereof.

~~Section 8.~~ SEC. 7-8. BOARD CONTRACT FUNDED ENTIRELY BY TENANT.

I(a) Contracts otherwise acceptable under established Board procurement procedures and to be funded entirely by or on behalf of a tenant may be let by the Board if the procedures prescribed in ~~section 7(II)~~ hereof SEC. 7-7(b) are also followed.

II(b) Prior to issuing an order to proceed under the contract, the Board and the tenant shall execute a Special Depository Contract substantially in the form attached hereto and the tenant shall have complied therewith.

~~Section 9.~~ SEC. 7-9. TENANT CONTRACTORS.

I(a) No Airport tenant may authorize or direct another, on its behalf, to commence work on the Airport for any improvement or addition to the Airport without first giving the Board's Legal Counsel the information and, if reasonably deemed necessary by the Board's Legal Counsel to protect the tax-free status of Airport Bonds, the verification and/or the election required in ~~section 6(II)(B)~~ SEC. 7-6(b)(2) hereof.

II(b) No Airport tenant and no agent or contractor of an Airport tenant may commence work on the Airport on any improvement or addition to the Airport without first obtaining a permit from the Executive Director.

III(c) The permit required in subsection II (b) shall be issued only if the tenant performing, contracting for or authorizing the on-Airport work has given the Board's Legal Counsel the information and, if reasonably deemed necessary by the Board's Legal Counsel to protect the tax-free status of Airport Bonds, the verification and/or election required in ~~section 7(11)~~ SEC. 7-7(b) hereof.

Chapter 7 Contract Funding Rules and Regulations

<u>Sec. 7-1.</u>	<u>Purpose.</u>
<u>Sec. 7-2.</u>	<u>Effective Date and Duration.</u>
<u>Sec. 7-3.</u>	<u>Scope.</u>
<u>Sec. 7-4.</u>	<u>Administration of Rules and Regulations.</u>
<u>Sec. 7-5.</u>	<u>Contracts Funded Entirely from Operating Revenues.</u>
<u>Sec. 7-6.</u>	<u>Contracts Funded Entirely from the Proceeds of Joint Revenue Bonds.</u>
<u>Sec. 7-7.</u>	<u>Contracts Funded Partly with Joint Revenue Bonds or Operating Funds and Partly with Funds of a Tenant.</u>
<u>Sec. 7-8.</u>	<u>Board Contract Funded Entirely by Tenant.</u>
<u>Sec. 7-9.</u>	<u>Tenant Contractors.</u>

Section 1. SEC. 7-1. **PURPOSE.**

- (a) Under the provisions of section 103(n)(7) of the Internal Revenue Code of 1954, as amended (the "Code"), and section 1.103(n)-2T of the Temporary Regulations (the "Temporary Regulations"), it is possible that the Joint Revenue Bonds of the Board may be required to be included with the State Private Activity Bond Volume Limitations provided by the Code, as interpreted by the Temporary Regulations. Such determination is or may be influenced by the source and use of funding of construction contracts at the Airport, some of which funding is provided by the Board through the issuance of Joint Revenue Bonds or Special Facility Revenue Bonds.
- (b) While the Board can and intends to continue to control the purposes for which it issues Joint Revenue Bonds and Special Facility Bonds and to control the expenditures of funds from those sources, it has no control over the funding of a tenant's share of any contract payments obtained from other sources.
- (c) It is the purpose of these Rules and Regulations to establish rules upon the basis of which the Board will let contracts and will permit construction at the Airport by contractors not under contract directly with the Board, and to provide procedures by which contracts, funded by sources outside the Board's control, will be permitted, all for the purpose of making certain the Board's Joint Revenue Bonds remain outside the State Private Activity Bond Volume Limitations provided by the Code and the Temporary Regulations.

~~Section 2.~~ SEC. 7-2. EFFECTIVE DATE AND DURATION.

The effective date of these rules and regulations is December 3, 1985, the date of their adoption, and they shall remain in effect until modified or rescinded by the Board. The Board expresses its intent to modify or rescind these rules and regulations at such time as it has determined that relevant provisions of section 103(n)(7) of the Code, as interpreted by the Temporary Regulations, has been changed, altered, interpreted or applied in a manner that will permit the use of funds obtained by tenants from tax exempt sources in the payment of contracts for Airport improvements without causing the Joint Revenue Bonds of the Board to be included within the State Private Activity Bond Volume Limitations provided by section 103(n)(7) of the Code.

~~Section 3.~~ SEC. 7-3. SCOPE.

These Rules and Regulations are in addition to and not in lieu of any other rule, regulation, policy, law or contract provision relating to procurement activities of the Board.

~~Section 4.~~ SEC. 7-4. ADMINISTRATION OF RULES AND REGULATIONS.

These Rules and Regulations shall be administered, under the direction of the Executive Director, by all employees of the Board. The Executive Director, with the advice of the Board's Legal Counsel and the Board's Bond Counsel for Joint Revenue Bond financing, is authorized to develop policies, procedures and practices consistent herewith. Such policies, procedures and practices shall be binding upon all employees, tenants and contractors doing business at or on the Airport.

~~Section 5.~~ SEC. 7-5. CONTRACTS FUNDED ENTIRELY FROM OPERATING REVENUES.

Any Board contract for improvements or additions to the Airport may be let by the Board in accordance with established procurement requirements without further inquiry as to the source of funding, and may relate to the improvement or extension of any properties comprising a part of the Airport.

~~Section 6~~ SEC. 7-6. CONTRACTS FUNDED ENTIRELY FROM THE PROCEEDS OF JOINT REVENUE BONDS.

- f. (a) Subject to the limitation contained in subsection ~~(H)~~ (b) of this section, any Board contract for improvements or additions to the Airport which is to be funded from the proceeds of Joint Revenue Bonds may be let in accordance with established procurement requirements without further inquiry as to the source of funding.
- H. (b) A Board contract to be funded entirely from the proceeds of Joint Revenue Bonds may not be let for the purpose of improving or adding to any part of any Airport facility which was provided with the proceeds of obligations, the interest on which was exempt from federal income taxes, other than Joint Revenue Bonds, issued before October 5, 1984, unless:
 - A(1) the facility being improved, expanded or extended, in the opinion of General Counsel, can be disregarded under one of the three exceptions to the Airport bond "contamination rules" contained in Section 1.103(n)-2T-Q9-A9 of the Temporary Regulations; or

B(2) the user of the facilities being improved, expanded or extended, has made or makes a timely and effective election not to take an investment tax credit or depreciation with respect to the prior facilities and the facilities being financed with the proceeds of the Joint Revenue Bonds, in a form and substance approved by the Board's Legal Counsel.

~~Section 7.~~ SEC. 7-7. CONTRACTS FUNDED PARTLY WITH JOINT REVENUE BONDS OR OPERATING FUNDS AND PARTLY WITH FUNDS OF A TENANT.

H(a) Board contracts otherwise acceptable under established Board procurement procedures and to be funded in part by the proceeds of the Joint Revenue Bonds or Airport operating funds and in part with funds provided by a tenant may be let upon the conditions contained in this section.

H(b) Prior to the letting of a contract or executing a change order with respect to such contract, the tenant must file an affidavit describing the source of funding of its share of contract costs. Such affidavit, to be in form and substance satisfactory to the Board's Legal Counsel, shall specifically contain, disclose, verify and warrant the accuracy of the following information:

A.(1) the precise source from which the tenant obtained or expects to obtain its share of funds, such as, tenant's operating revenues, bank loans, stock offerings, sale of debt securities or other sources; and

B.(2) a listing of all issues of tax-exempt private activity bonds to which it is a party and the proceeds of which are subject to its direction or influence, and the location where the proceeds, if any, are on deposit, along with the name and principal officer of the custodian or trustee holding such funds. Based upon the information contained in such affidavit, the Board's Legal Counsel may, but shall not be required to, request and obtain additional information.

(3) A contract shall not be presented for approval by the Executive Director or the Board, as appropriate until such additional information has been supplied. Additionally, the Board's Legal Counsel may, but is not obligated to, require the tenant to provide the following:

4(a) the third-party verification, such as by a trustee or custodian holding funds derived from tax-exempt financing, or a bank or banker or other party or source providing the tenant's funding, which confirms that, as appropriate, the funds designated for use in paying the tenant's share of contract payments are derived from the source state, or that the third party will not permit the withdrawal of funds held in its custody for the purpose of making improvements at the Airport or will make such payments directly to the Board and will not permit a reimbursement of the tenant from the funds held by it for a purpose not permitted by these Rules and Regulations as specified to it by the Board's Legal Counsel; and

~~2(b)~~ in the appropriate case, an election of the type described in ~~section 6(II)(B)~~ SEC. 7-6(b)(2) has been made.

~~G.(4)~~ prior to the issuance of any order to proceed on any contract funded by the combined sources described in this Rule, the tenant and the Executive Director shall have executed and delivered a Special Depository Agreement, substantially in the form attached hereto (with such modifications as may be approved by the Board's Legal Counsel), and the tenant shall have complied with the requirements thereof.

~~Section 8.~~ SEC. 7-8. BOARD CONTRACT FUNDED ENTIRELY BY TENANT.

~~I(a)~~ Contracts otherwise acceptable under established Board procurement procedures and to be funded entirely by or on behalf of a tenant may be let by the Board if the procedures prescribed in ~~section 7(II) hereof~~ SEC. 7-7(b) are also followed.

~~II(b)~~ Prior to issuing an order to proceed under the contract, the Board and the tenant shall execute a Special Depository Contract substantially in the form attached hereto and the tenant shall have complied therewith.

~~Section 9.~~ SEC. 7-9. TENANT CONTRACTORS.

~~I(a)~~ No Airport tenant may authorize or direct another, on its behalf, to commence work on the Airport for any improvement or addition to the Airport without first giving the Board's Legal Counsel the information and, if reasonably deemed necessary by the Board's Legal Counsel to protect the tax-free status of Airport Bonds, the verification and/or the election required in ~~section 6(II)(B)~~ SEC. 7-6(b)(2) hereof.

~~II(b)~~ No Airport tenant and no agent or contractor of an Airport tenant may commence work on the Airport on any improvement or addition to the Airport without first obtaining a permit from the Executive Director.

~~III(c)~~ The permit required in subsection ~~II~~ (b) shall be issued only if the tenant performing, contracting for or authorizing the on-Airport work has given the Board's Legal Counsel the information and, if reasonably deemed necessary by the Board's Legal Counsel to protect the tax-free status of Airport Bonds, the verification and/or election required in ~~section 7(11)~~ SEC. 7-7(b) hereof.