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Arizona Corporation Commission

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BEFORE THE ARIZONA CORPORATION COMMISSION

14 IN THE MATTER OF THE APPLICATION  
15 OF LIBERTY UTILITIES (BLACK  
16 MOUNTAIN SEWER) CORP., AN  
17 ARIZONA CORPORATION, FOR  
18 AUTHORITY TO ISSUE EVIDENCE OF  
19 INDEBTEDNESS IN AN AMOUNT NOT  
20 TO EXCEED \$3,400,000.

DOCKET NO: SW-02361A-15-0206

21 IN THE MATTER OF THE APPLICATION  
22 OF LIBERTY UTILITIES (BLACK  
23 MOUNTAIN SEWER) CORP., AN  
24 ARIZONA CORPORATION, FOR A  
25 DETERMINATION OF THE FAIR VALUE  
26 OF ITS UTILITY PLANTS AND  
PROPERTY AND FOR INCREASES IN ITS  
WASTEWATER RATES AND CHARGES  
FOR UTILITY SERVICE BASED  
THEREON.

DOCKET NO: SW-02361A-15-0207

NOTICE OF ERRATA

Liberty Utilities (Black Mountain Sewer) Corp. ("Company") hereby files this Notice of Errata regarding the Company's Notice of Compliance docketed April 29, 2016. Specifically, the Company files the attached Liberty Utilities (Black Mountain Sewer) Corp. Pretreatment Program Standard Operating Procedures to correct three typographical errors identified by Commission Staff. First, the contaminant level for Benzene on

1 page 12 has been corrected to 0.035 mg/l (rather than 35 noted in the April 29, 2016  
2 filing). Second, the contaminant level for Chloroform on page 12 has been corrected to  
3 2.0 mg/l (rather than 2,000 noted on the April 29, 2016 filing). Finally, the name of the  
4 chart on pages 12-13 of the attached Liberty Utilities (Black Mountain Sewer) Corp.  
5 Pretreatment Program Standard Operating Procedures has been corrected to  
6 "Contaminants" as requested by Commission Staff (rather than Organic Contaminants as  
7 noted on the April 29, 2016 filing).

8 RESPECTFULLY SUBMITTED this 18th day of July, 2016.

9 SHAPIRO LAW FIRM, P.C.

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1 **ORIGINAL and thirteen (13) copies**  
2 **of the foregoing were delivered**  
3 this 18th day of July, 2016, to:

3 Docket Control  
4 Arizona Corporation Commission  
5 1200 W. Washington Street  
6 Phoenix, AZ 85007

5 **COPY of the foregoing hand-delivered**  
6 this 18th day of July, 2016, to:

7 Sasha Paternoster, ALJ  
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9 Arizona Corporation Commission  
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10 **COPY of the foregoing emailed**  
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16 **COPY of the foregoing emailed & mailed**  
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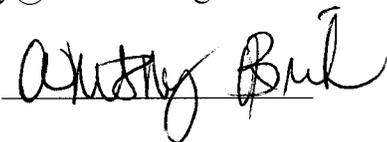
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**LIBERTY UTILITIES (BLACK MOUNTAIN SEWER) CORP.  
PRETREATMENT PROGRAM STANDARD  
OPERATING PROCEDURES**

**1.0 INTRODUCTION**

To control the discharge of pollutants to the Nation's waters, the Clean Water Act (CWA) requires the Environmental Protection Agency (EPA) to promulgate regulations related to discharges. Discharges from non-domestic dischargers can impact the operations of the Publicly Owned Treatment Works (POTWs) as the pollutants can pass through or interfere with the operations of the plants, threaten worker's health and safety, or contaminate sludges. POTWs are designed to treat domestic sewage. The non-domestic discharges are regulated by the National Pretreatment Program. Industrial and commercial dischargers known as IUs) are required to obtain permits or other control mechanisms to discharge wastewater to the POTW under the National Pretreatment Program. EPA promulgated the General Pretreatment Regulations (Title 40 Code of Federal Regulations [CFR] Section 403 [40 CFR 403]), which defines the National Pretreatment Program. The Arizona Administrative Code (AAC) R18-9-A905(A)(8)(b) incorporates the General Pretreatment Regulations.

The Liberty Utilities (Black Mountain Sewer) Corp. (Liberty Utilities BMSC) operates a wastewater collection and conveyance system and discharges collected wastewater to the City of Scottsdale's wastewater treatment plant. Liberty Utilities BMSC can regulate discharges from IUs for potential contaminants of concern to minimize impact on the City of Scottsdale POTW under the Liberty Utilities BMSC's CODE OF PRACTICE (Liberty Utilities BMSC-CP).

The discharge of toxic and other harmful pollutants from IUs can be effectively controlled through a local pretreatment program that is based on these regulations, structured to address specific local concerns, and enforced through the Liberty Utilities BMSC Code Liberty Utilities BMSC-CP.

The objectives of the pretreatment SOP are:

- To prevent the introduction of pollutants into the POTWs that will interfere with its operation;
- To prevent the introduction of pollutants into the POTWs that will pass through the POTWs, inadequately treated, into receiving waters, or otherwise be incompatible with the POTWs;
- To protect both POTWs personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- To promote reuse and recycling of industrial wastewater and sludge from the POTWs;
- To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the POTWs; and
- To enable Liberty Utilities BMSC to comply with its Arizona Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the POTWs is subject.

These Standard Operating Procedures (SOPs) shall apply to all IUs of the Liberty Utilities BMSC wastewater collection and conveyance system. The SOPs include the issuance of individual wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires IUs reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

## **1.1 ADMINISTRATION**

Except as otherwise provided herein, the Liberty Utilities BMSC Operations Manager shall administer, implement, and enforce the provisions of these SOPs. Any powers granted to or duties imposed upon the Liberty Utilities BMSC Operations Manager may be delegated by the Liberty Utilities BMSC Operations Manager to a duly authorized Liberty Utilities BMSC employee.

## **1.2 ABBREVIATIONS**

The following abbreviations, when used in this SOP, shall have the designated meanings:

AZPDES - Arizona Pollutant Discharge Elimination System  
BOD - Biochemical Oxygen Demand  
BMP - Best Management Practice  
BMR - Baseline Monitoring Report  
CFR - Code of Federal Regulations  
CIU - Categorical Industrial User  
COD - Chemical Oxygen Demand  
EPA - U.S. Environmental Protection Agency  
GPD - gallons per day  
IU - Industrial User  
MG/l - milligrams per liter  
NPDES - National Pollutant Discharge Elimination System  
NSCIU - Non-Significant Categorical Industrial User  
POTW - Publicly Owned Treatment Works  
RCRA - Resource Conservation and Recovery Act  
SIU - Significant Industrial User  
SNC - Significant Noncompliance  
TSS - Total Suspended Solids  
U.S.C. - United States Code

### 1.3 DEFINITIONS

- A. Act or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. section 1251 et seq.
- B. Approval Authority. Arizona Department of Environmental Quality, the Arizona Administrative Code (AAC) R18-9-A905(A)(8)(b)
- C. Authorized or Duly Authorized Representative of the IU
  - a. If the IU is a corporation:
    - i. The president, secretary, treasurer, or a vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation; or
    - ii. The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
  - b. If the IU is a partnership or sole proprietorship: a general partner or proprietor, respectively.
  - c. If the IU is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
  - d. The individuals described in paragraphs 1 through 3, above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to Liberty Utilities BMSC
- D. Biochemical Oxygen Demand or BOD. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20

degrees centigrade, usually expressed as a concentration (e.g., mg/l).

- E. Best Management Practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 2.1 A and B [40 CFR 403.5(a)(1) and (b)] and/or the Arizona Administrative Code (AAC) R18-9-A905(A)(8)(b). BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
- F. **Brewery Discharge. A brewery discharge qualifies as a non-categorical IU and requires a permit for compliance.**
- G. Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of IUs and that appear in 40 CFR Chapter I, Subchapter N, Parts 405 471.
- H. Categorical Industrial User. An IU subject to a categorical Pretreatment Standard or categorical Standard.
- I. Liberty Utilities BMSC Organizational Structure. The Liberty Utilities BMSC Operations Manager or their designee shall be responsible official who will administer this pretreatment program and the permitting process.
- J. Chemical Oxygen Demand or COD. A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.
- K. Control Authority. Liberty Utilities BMSC
- L. Daily Maximum. The arithmetic average of all effluent samples for a pollutant collected during a calendar day.
- M. Daily Maximum Limit. The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.
- N. Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.
- O. Existing Source. Any source of discharge that is not a "New Source."
- P. Grab Sample. A sample that 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.

- Q. Indirect Discharge or Discharge. The introduction of pollutants into the POTW from any nondomestic source.
- R. Instantaneous Limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected independent of the industrial flow rate and the duration of the sampling event.
- S. Interference. A discharge that, 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 Liberty Utilities BMSC's or the City of Scottsdale's AZPDES 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); any State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.
- T. Local Limit. Specific discharge limits developed and enforced by the Liberty Utilities BMSC upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).
- U. Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- V. Monthly Average. The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.
- W. Monthly Average Limit. The highest allowable of "daily maximum discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.
- X. New Source.
  - 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 that will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:
    - i. The building, structure, facility, or installation is constructed at a site at

- which no other source is located; or
  - ii. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or
  - iii. The production or wastewater generating processes of the 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 (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.
- c. Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:
- i. Begun, or caused to begin, as part of a continuous onsite construction program
    1. any placement, assembly, or installation of facilities or equipment; or
    2. significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
  - ii. Entered into a binding contractual obligation for the purchase of facilities or equipment 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.
- Y. Noncontact Cooling Water. Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- Z. Pass Through. 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 Liberty Utilities BMSC's or City of Scottsdale's AZPDES permit, including an increase in the magnitude or duration of a violation.
- AA. Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal

representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.

- BB. pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.
- CC. Pollutant. 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, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).
- DD. Pretreatment. 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 the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable Pretreatment Standard.
- EE. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on an IU, other than a Pretreatment Standard.
- FF. Pretreatment Standards or Standards. Pretreatment Standards shall mean prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.
- GG. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 2.1 of this SOPs.
- HH. Publicly Owned Treatment Works or POTW. A treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292), which is owned by Liberty Utilities BMSC or the City of Scottsdale POTWs to which Liberty Utilities BMSC's conveyance system discharges. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.
- II. Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- JJ. Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).
- KK. Significant Industrial User (SIU). Except as provided in paragraphs (3) and (4) of this Section, a Significant Industrial User is:
  - a. An IU subject to categorical Pretreatment Standards; or

- b. An IU that:
    - i. Discharges an average of twenty five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blow down wastewater);
    - ii. Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic (BOD, ammonia, and/or total nitrogen) capacity of the POTW treatment plant; or
    - iii. Is designated as such by Liberty Utilities BMSC on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.
  - c. Liberty Utilities BMSC may determine that an IU subject to categorical Pretreatment Standards is a Non-Significant Categorical IU rather than a Significant IU on a finding that the IU never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:
    - i. The IU, prior to Liberty Utilities BMSC's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
    - ii. The IU annually submits the certification statement required in Section 6.14 B [see 40 CFR 403.12(q)], together with any additional information necessary to support the certification statement; and
    - iii. The IU never discharges any untreated concentrated wastewater.
  - d. Upon a finding that a IU meeting the criteria in Subsection (2) of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, Liberty Utilities BMSC may at any time, on its own initiative or in response to a petition received from an IU, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such IU should not be considered a Significant IU.
- LL. Slug Load or Slug Discharge. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 2.1 of this SOP. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.
- MM. Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

- NN. Liberty Utilities BMSC Operations Manager. The person designated by Liberty Utilities BMSC to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this SOP. The term also means a Duly Authorized Representative of the Liberty Utilities BMSC Operations Manager.
- OO. Total Suspended Solids or Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.
- PP. User or Industrial User. A source of indirect discharge.
- QQ. Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.
- RR. Wastewater Treatment Plant or Treatment Plant. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

## **2. GENERAL SEWER USE REQUIREMENTS**

### **2.1 Prohibited Discharge Standards**

- A. General Prohibitions. No IU shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes Pass Through or Interference. These general prohibitions apply to all IUs of the POTW whether or not they are subject to categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Requirement.
- B. Specific Prohibitions. No IU shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
  - a. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21;
  - b. Wastewater having a pH less than 5.5 or more than 10.5, or otherwise causing corrosive structural damage to the POTW or equipment;
  - c. Solid or viscous pollutants, fats, oils, or grease in amounts or sizes which will cause obstruction of the flow in the wastewater collection system and/or POTW or result in interference or otherwise disrupt the operation of the POTW or any private sewer;
  - d. 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 POTW;

- e. Wastewater having a temperature greater than 104 degrees F (40 degrees C), or any wastewater at temperature greater than 150 degrees F (65 degrees C), or which will inhibit biological activity in the treatment plant resulting in Interference;
- f. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or pass through;
- g. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
- h. Trucked or hauled pollutants, except at discharge points designated by Liberty Utilities BMSC Operations Manager in accordance with Section 3.4 of this SOP;
- i. Hazardous waste that violates any local limit contained in this article;
- j. Noxious or malodorous liquids, gases, solids, or other wastewater which either alone or by interaction with other wastes are sufficient to create a nuisance or a hazard to life, generate odor complaints, or to prevent entry into the sewers for maintenance or repair;
- k. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;
- l. Hazardous waste that violates any local limit contained in this article;
- m. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, condensate, noncontact cooling water and unpolluted wastewater unless specifically authorized by the Liberty Utilities BMSC
- n. Sludges, screenings, and other residues from the pretreatment of industrial wastes or from the cleaning of interceptors or sewer collection systems;
- o. Medical wastes except as specifically authorized by the division in a wastewater discharge permit;
- p. Wastewater causing, alone or in conjunction with other sources, the POTW's effluent to fail a toxicity test;
- q. Detergents, surface active agents, or other substances which might cause excessive foaming in the POTW;
- r. Wastewater causing a reading on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than ten percent.

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 POTW.

## **2.2 National Categorical Pretreatment Standards**

IUs must comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471.

- A. Where a categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, Liberty Utilities BMSC Operations Manager may impose equivalent concentration or mass limits in accordance with Section 2.2E & 2.2F.
- B. When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Liberty Utilities BMSC Operations Manager may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual IUs.
- C. When wastewater subject to a categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, Liberty Utilities BMSC Operations Manager shall impose an alternate limit in accordance with 40 CFR 403.6(e).
- D. A user may obtain a net/gross adjustment to a categorical pretreatment standard in accordance with 40 CFR §403.15.

## **2.3 State Pretreatment Standards**

IUs must comply with The Arizona Administrative Code (AAC) R18-9-A905(A)(8)(b) incorporates the General Pretreatment Regulations.

## **2.4 Local Limits**

- A. The Liberty Utilities BMSC Operations Manager is authorized to establish Local Limits pursuant to 40CFR 403.5(c).
- B. The following pollutant limits are established to protect against Pass Through and Interference. No person shall discharge wastewater containing in excess of the Daily Maximum Limits shown on the table atop the following page.

CONTAMINANTS (mg/L)	
Benzene	0.035
Chloroform	2.0
4,4' - DOE	Not allowed
4,4' - DDT	Not allowed
Aldrin	Not allowed
BHC-Alpha	Not allowed
BHC-Gamma (Lindane)	Not allowed
Heptachlor	Not allowed
Heptachlor Epoxide	Not allowed
Polychlorinated byphenyl compounds (PCBs)	Not allowed

CONTAMINANTS (mg/L) CONTD.	
PARAMETER	Daily Average Effluent Limitation (mg/L)
Arsenic (As)	0.13
Cadmium (Cd)	0.047
Copper (Cu)	1.5
Cyanide (CN)	2.0
Lead (Pb)	0.41
Mercury (Hg)	0.0023
Selenium (Se)	0.10
Silver (Ag)	1.2
Zinc	3.5

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise. Liberty Utilities BMSC Operations Manager may impose mass limitations in addition to the concentration based limitations above.

- C. The division may develop Best Management Practices (BMPs) for any significant industrial user or other user, as needed, to implement this article. BMPs may be implemented through a permit, order, or regulation. For purposes of this article, BMPs are pretreatment requirements.
- D. All users subject to a categorical pretreatment standard shall comply with all requirements of such standard, and shall also comply with any limitations and prohibitions contained in this article. Where the same pollutant is limited by more than one pretreatment standard, the limitations which are more stringent shall prevail. Compliance with categorical pretreatment standards for existing sources shall be within the timeframe specified in the applicable categorical pretreatment standard. Compliance with categorical pretreatment standards for new sources shall be upon commencement of discharge.
- E. Liberty Utilities BMSC may establish more stringent pretreatment standards or additional

site specific effluent limits, when, in the judgment of the division, such limitations are necessary to implement the objectives of this article.

## **2.5 Liberty Utilities BMSC Right of Revision**

Liberty Utilities BMSC reserves the right to establish, by SOP or in individual wastewater discharge permits, more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of this SOP.

## **2.6 Dilution**

No IU shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable Pretreatment Standard or Requirement. Liberty Utilities BMSC Operations Manager may impose mass limitations on IU who are using dilution to meet applicable Pretreatment Standards or Requirements or in other cases when the imposition of mass limitations is appropriate.

## **3. PRETREATMENT OF WASTEWATER**

### **3.1 Pretreatment Facilities**

IUs shall provide wastewater treatment as necessary to comply with this SOPs and shall achieve compliance with all categorical Pretreatment Standards, Local Limits, and the prohibitions set out in Section 2.1 of this SOPs within the time limitations specified by EPA, the State, or Liberty Utilities BMSC Operations Manager, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the IU's expense. Detailed plans describing such facilities and operating procedures shall be submitted to Liberty Utilities BMSC Operations Manager for review, and shall be acceptable to Liberty Utilities BMSC Operations Manager before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the IU from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to Liberty Utilities BMSC under the provisions of this SOP.

### **3.2 Additional Pretreatment Measures**

- A. Whenever deemed necessary, Liberty Utilities BMSC Operations Manager may require IUs to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the IU's compliance with the requirements of this SOP.
- B. Liberty Utilities BMSC Operations Manager may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage

and flow control facility to ensure equalization of flow. An individual wastewater discharge permit may be issued solely for flow equalization.

- C. Grease, oil, and sand interceptors shall be provided when, in the opinion of Liberty Utilities BMSC Operations Manager, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by Liberty Utilities BMSC Operations Manager, shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired by the IU at their expense.
- D. IUs with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

### **3.3 Accidental Discharge/Slug Discharge Control Plans**

Liberty Utilities BMSC Operations Manager shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges. Liberty Utilities BMSC Operations Manager may require any IU to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges. Alternatively, Liberty Utilities BMSC Operations Manager may develop such a plan for any IU. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

- A. Description of discharge practices, including non routine batch discharge;
- B. Description of stored chemicals;
- C. Procedures for immediately notifying Liberty Utilities BMSC Operations Manager of any accidental or Slug Discharge, as required by Section 6.6 of this SOP; and
- D. Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site 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.

### **3.4 Hauled Wastewater**

- A. Septic tank waste may be introduced into the POTW only at locations designated by Liberty Utilities BMSC Operations Manager, and at such times as are established by Liberty Utilities BMSC Operations Manager. Such waste shall not violate Section 2 of this SOP or any other requirements established by Liberty Utilities BMSC. Liberty Utilities BMSC Operations Manager may require septic tank waste haulers to obtain individual wastewater discharge permits.

- B. Liberty Utilities BMSC Operations Manager may require haulers of industrial waste to obtain individual wastewater discharge permits. Liberty Utilities BMSC Operations Manager may require generators of hauled industrial waste to obtain individual wastewater discharge permits. Liberty Utilities BMSC Operations Manager also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this SOP.
- C. Industrial waste haulers may discharge loads only at locations designated by Liberty Utilities BMSC Operations Manager. No load may be discharged without prior consent of Liberty Utilities BMSC Operations Manager. Liberty Utilities BMSC Operations Manager may collect samples of each hauled load to ensure compliance with applicable Standards. Liberty Utilities BMSC Operations Manager may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- D. Industrial waste haulers must provide a waste tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

### **3.5 Brewery Waste**

- A. A brewery discharge qualifies as a non-categorical IU, and therefore, requires a permit for compliance. Assuming that there are no toxics in the brewery discharge, IU should comply with the Liberty Utilities BMSC Pretreatment Program Local Limits.

## **4. INDIVIDUAL WASTEWATER DISCHARGE PERMITS**

### **4.1 Wastewater Analysis**

When requested by Liberty Utilities BMSC Operations Manager, an IU must submit information on the nature and characteristics of its wastewater within 30 days of the request. Liberty Utilities BMSC Operations Manager is authorized to prepare a form for this purpose and may periodically require IUs to update this information.

### **4.2 Individual Wastewater Discharge Permit Requirement**

- A. No Significant IU shall discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit from Liberty Utilities BMSC Operations Manager, except that a Significant IU that has filed a timely application pursuant to Section 4.3 of this SOP may continue to discharge for the time period specified therein.
- B. Liberty Utilities BMSC Operations Manager may require other IUs to obtain individual wastewater discharge permits as necessary to carry out the purposes of this SOP.

- C. Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of this SOP and subjects the wastewater discharge permittee to the sanctions set out in Sections 10 through 12 of this SOP. Obtaining an individual wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or Requirements or with any other requirements of Federal, State, and local law.

#### **4.3 Individual Wastewater Discharge Permitting: Existing Connections**

Any IU required to obtain an individual wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this SOP and who wishes to continue such discharges in the future, shall, within 90 days after said date, apply to Liberty Utilities BMSC Operations Manager for an individual wastewater discharge permit in accordance with Section 4.5 of this SOP, and shall not cause or allow discharges to the POTW to continue after 30 days of the effective date of this SOP except in accordance with an individual wastewater discharge permit issued by Liberty Utilities BMSC Operations Manager.

#### **4.4 Individual Wastewater Discharge Permitting: New Connections**

Any IU required to obtain an individual wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this individual wastewater discharge permit, in accordance with Section 4.5 of this SOP, must be filed at least 90 days prior to the date upon which any discharge will begin or recommence.

#### **4.5 Individual Wastewater Discharge Permit Application Contents**

- A. All IUs required to obtain an individual wastewater discharge permit must submit a permit application. Liberty Utilities BMSC Operations Manager may require IUs to submit all or some of the following information as part of a permit application:
  - a. Identifying Information
    - i. The name and address of the facility, including the name of the operator and owner.
    - ii. Contact information, description of activities, facilities, and plant production processes on the premises;
  - b. Environmental Permits. A list of any environmental control permits held by or for the facility.
  - c. Description of Operations
    - i. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such IU. This description should include a schematic process diagram, which indicates

- points of discharge to the POTW from the regulated processes.
  - ii. Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
  - iii. Number and type of employees, hours of operation, and proposed or actual hours of operation;
  - iv. Type and amount of raw materials processed (average and maximum per day);
  - v. 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;
- d. Time and duration of discharges;
- e. The location for monitoring all wastes covered by the permit;
- f. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in Section 2.2C (40 CFR 403.6(e)).
- g. Measurement of Pollutants.
- i. The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
  - ii. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by Liberty Utilities BMSC Operations Manager, of regulated pollutants in the discharge from each regulated process.
  - iii. Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.
  - iv. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 6.10 of this SOP. Where the Standard requires compliance with a BMP or pollution prevention alternative, the IU shall submit documentation as required by the Liberty Utilities BMSC Operations Manager or the applicable Standards to determine compliance with the Standard.
  - v. Sampling must be performed in accordance with procedures set out in Section 6.11 of this SOP.
- h. Any other information as may be deemed necessary by Liberty Utilities BMSC Operations Manager to evaluate the permit application.
- B. Incomplete or inaccurate applications will not be processed and will be returned to the IU for revision.

#### **4.6 Application Signatories and Certification**

- A. All wastewater discharge permit applications, IU reports and certification statements must be signed by an Authorized Representative of the IU and contain the certification statement in Section 6.14 A. [see Section 1.4 C for definition].
- B. If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to Liberty Utilities BMSC Operations Manager prior to or together with any reports to be signed by an Authorized Representative.

#### **4.7 Individual Wastewater Discharge Permit Decisions**

Liberty Utilities BMSC Operations Manager will evaluate the data furnished by the IU and may require additional information. Within 30 days of receipt of a complete permit application, Liberty Utilities BMSC Operations Manager will determine whether to issue an individual wastewater discharge permit. Liberty Utilities BMSC Operations Manager may deny any application for an individual wastewater discharge permit.

### **5. INDIVIDUAL WASTEWATER DISCHARGE PERMIT ISSUANCE**

#### **5.1 Individual Wastewater Discharge Permit Duration**

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

#### **5.2 Individual Wastewater Discharge Permit Contents**

An individual wastewater discharge permit shall include such conditions as are deemed reasonably necessary by Liberty Utilities BMSC Operations Manager to prevent Pass Through or Interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

- A. Individual wastewater discharge permits must contain:
  - a. A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;
  - b. A statement that the wastewater discharge permit is nontransferable without prior

notification to Liberty Utilities BMSC in accordance with Section 5.5 of these SOPs, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

- c. Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards;
  - d. Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.
  - e. 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.
  - f. Requirements to control Slug Discharge, if determined by the Liberty Utilities BMSC Operations Manager to be necessary.
- B. Individual wastewater discharge permits may contain, but need not be limited to, the following conditions:
- a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
  - b. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
  - c. 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;
  - d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
  - e. The unit charge or schedule of IU charges and fees for the management of the wastewater discharged to the POTW;
  - f. Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
  - g. A statement that compliance with the individual 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 individual wastewater discharge permit; and

- h. Other conditions as deemed appropriate by Liberty Utilities BMSC Operations Manager to ensure compliance with this SOP, and State and Federal laws, rules, and regulations.

### **5.3 Permit Modification**

- A. Liberty Utilities BMSC Operations Manager may modify an individual 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;
  - b. To address significant alterations or additions to the IU's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance;
  - c. A change in 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 Liberty Utilities BMSC POTW, Liberty Utilities BMSC personnel, or the receiving waters;
  - e. Violation of any terms or conditions of the individual wastewater discharge permit;
  - f. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
  - 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 individual wastewater discharge permit; or
  - i. To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with Section 5.5.

### **5.4 Individual Wastewater Discharge Permit Transfer**

Individual wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least 60 days advance notice to Liberty Utilities BMSC Operations Manager and Liberty Utilities BMSC Operations Manager approves the individual wastewater discharge

permit transfer. The notice to Liberty Utilities BMSC Operations Manager must include a written certification by the new owner or operator which:

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

Failure to provide advance notice of a transfer renders the individual wastewater discharge permit void as of the date of facility transfer.

### **5.5 Individual Wastewater Discharge Permit Revocation**

Liberty Utilities BMSC Operations Manager may revoke an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- A. Failure to notify Liberty Utilities BMSC Operations Manager of significant changes to the wastewater prior to the changed discharge;
- B. Failure to provide prior notification to Liberty Utilities BMSC Operations Manager of changed conditions pursuant to Section 6.5 of this SOP;
- C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- D. Falsifying self monitoring reports and certification statements;
- E. Tampering with monitoring equipment;
- F. Refusing to allow Liberty Utilities BMSC Operations Manager timely access to the facility premises and records;
- G. Failure to meet effluent limitations;
- H. Failure to pay fines;
- I. Failure to pay sewer charges;
- J. Failure to meet compliance schedules;
- K. Failure to complete a wastewater survey or the wastewater discharge permit application;

- L. Failure to provide advance notice of the transfer of business ownership of a permitted facility;  
or
- M. Violation of any Pretreatment Standard or Requirement, or any terms of the wastewater discharge permit or this SOP.

Individual wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All individual wastewater discharge permits issued to a IU are void upon the issuance of a new individual wastewater discharge permit to that IU.

### **5.6 Individual Wastewater Discharge Permit Reissuance**

An IU with an expiring individual wastewater discharge permit shall apply for individual wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 4.5 of this SOP, a minimum of 90 days prior to the expiration of the IU's existing individual wastewater discharge permit.

## **6. REPORTING REQUIREMENTS**

### **6.1 Baseline Monitoring Reports**

- A. 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 Categorical IUs currently discharging to or scheduled to discharge to the POTW shall submit to Liberty Utilities BMSC Operations Manager a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, New Sources, and sources that become Categorical IUs subsequent to the promulgation of an applicable categorical Standard, shall submit to Liberty Utilities BMSC Operations Manager a report which contains the information listed in paragraph B, below. A New Source shall report the method of pretreatment it 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. IUs described above shall submit the information set forth below.
  - a. All information required in Section 4.5A (1) (a), Section 4.5A (2), Section 4.5A (3) (a), and Section 4.5A (6).
  - b. Measurement of pollutants.
    - i. The IU shall provide the information required in Section 4.5 A (7) (a) through (d)
    - ii. The IU shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
    - iii. Samples should be taken immediately downstream from pretreatment

facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the IU should measure the flows and concentrations necessary to allow use of the combined waste stream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards.

- iv. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority;
  - v. Sampling and analysis shall be performed in accordance with Section 6.10;
  - vi. The Liberty Utilities BMSC Operations Manager may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;
  - vii. The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW
- c. Compliance Certification. A statement, reviewed by the IU's Authorized Representative as defined in Section 1.4 C 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.
- d. Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the IU will provide such additional pretreatment and/or O&M must be provided. 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 of this SOP.
- e. Signature and Report Certification. All baseline monitoring reports must be certified in accordance with Section 6.14 A of this SOP and signed by an Authorized Representative as defined in Section 1.4C.

## **6.2 Compliance Schedule Progress Reports**

The following conditions shall apply to the compliance schedule required by Section 6.1(B)(4) of this SOP:

- 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 IU to meet the applicable Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

- B. No increment referred to above shall exceed nine (9) months;
- C. The IU shall submit a progress report to Liberty Utilities BMSC Operations Manager no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the IU to return to the established schedule; and
- D. In no event shall more than nine (9) months elapse between such progress reports to Liberty Utilities BMSC Operations Manager.

### **6.3 Reports on Compliance with Categorical Pretreatment Standard Deadline**

Within ninety (90) days following the date for final compliance with applicable categorical Pretreatment Standards, or in the case of a New Source following commencement of the introduction of wastewater into the POTW, any IU subject to such Pretreatment Standards and Requirements shall submit to Liberty Utilities BMSC Operations Manager a report containing the information described in Section 4.5A(6) and (7) and 6.1(B)(2) of this SOP. For IUs subject to equivalent mass or concentration limits established in accordance with the procedures in Section 2.2, this report shall contain a reasonable measure of the IU's long term production rate. For all other IUs subject to categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the IU's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 6.14 A of this SOP. All sampling will be done in conformance with Section 6.11.

### **6.4 Periodic Compliance Reports**

- A. Except as specified in Section 6.4.C, all IUs must, at a frequency determined by Liberty Utilities BMSC Operations Manager submit no less than once per year (January 15) report indicating the nature, concentration of pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the IU must submit documentation required by Liberty Utilities BMSC Operations Manager or the Pretreatment Standard necessary to determine the compliance status of the IU.
- B. The Liberty Utilities BMSC may authorize an IU subject to a categorical Pretreatment Standard to forego sampling of a pollutant regulated by a categorical Pretreatment Standard if the IU has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the IU. [see 40 CFR 403.12(e)(2)] This authorization is subject to the following conditions:

- a. The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical Standard and otherwise includes no process wastewater.
  - b. The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than 5 years. The IU must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit. See Section 4.5A(8).
  - c. In making a demonstration that a pollutant is not present, the IU must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.
  - d. The request for a monitoring waiver must be signed in accordance with Section 1.4C, and include the certification statement in 6.14 A (40 CFR 403.6(a)(2)(ii)).
  - e. Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.
  - f. Any grant of the monitoring waiver by the Liberty Utilities BMSC Operations Manager must be included as a condition in the IU's permit. The reasons supporting the waiver and any information submitted by the IU in its request for the waiver must be maintained by the Liberty Utilities BMSC Operations Manager for 3 years after expiration of the waiver.
  - g. Upon approval of the monitoring waiver and revision of the IU's permit by the Liberty Utilities BMSC Operations Manager, the IU must certify on each report with the statement in Section 6.14 C below, that there has been no increase in the pollutant in its waste stream due to activities of the IU.
  - h. In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the IU's operations, the IU must immediately: Comply with the monitoring requirements of Section 6.4 A, or other more frequent monitoring requirements imposed by the Liberty Utilities BMSC Operations Manager, and notify the Liberty Utilities BMSC Operations Manager.
  - i. This provision does not supersede certification processes and requirements established in categorical Pretreatment Standards, except as otherwise specified in the categorical Pretreatment Standard.
- C. Reduced reporting is not available to IUs that have in the last two (2) years been in Significant Noncompliance, as defined in Section 9 of this SOP. In addition, reduced reporting

is not available to an IU with daily flow rates, production levels, or pollutant levels that vary so significantly that, in the opinion of the Liberty Utilities BMSC Operations Manager, decreasing the reporting requirement for this IU would result in data that are not representative of conditions occurring during the reporting period.

- D. All periodic compliance reports must be signed and certified in accordance with Section 6.14 A of this SOP.
- E. All wastewater samples must be representative of the IU's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of an IU to keep its monitoring facility in good working order shall not be grounds for the IU to claim that sample results are unrepresentative of its discharge.
- F. If an IU subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by Liberty Utilities BMSC Operations Manager, using the procedures prescribed in Section 6.11 of this SOP, the results of this monitoring shall be included in the report. [Note: See 40CFR 403.12(g)(6)].

#### **6.5 Reports of Changed Conditions**

Each IU must notify Liberty Utilities BMSC Operations Manager of any significant changes to the IU's operations or system which might alter the nature, quality, or volume of its wastewater at least 90 days before the change.

- A. Liberty Utilities BMSC Operations Manager may require the IU to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 4.5 of this SOP.
- B. Liberty Utilities BMSC Operations Manager may issue an individual wastewater discharge permit under Section 5.7 of this SOP or modify an existing wastewater discharge permit under Section 5.4 of this SOP in response to changed conditions or anticipated changed conditions.

#### **6.6 Reports of Potential Problems**

- A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the IU shall immediately telephone and notify Liberty Utilities BMSC Operations Manager of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the IU.
- B. Within five (5) days following such discharge, the IU shall, unless waived by Liberty

Utilities BMSC Operations Manager, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the IU to prevent similar future occurrences. Such notification shall not relieve the IU of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the IU of any fines, penalties, or other liability which may be imposed pursuant to this SOP.

- C. A notice shall be permanently posted on the IU's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.
- D. Significant Industrial IUs are required to notify the Liberty Utilities BMSC Operations Manager immediately of any changes at its facility affecting the potential for a Slug Discharge.

#### **6.7 Reports from Unpermitted IUs**

All IUs not required to obtain an individual wastewater discharge permit shall provide appropriate reports to Liberty Utilities BMSC Operations Manager as Liberty Utilities BMSC Operations Manager may require.

#### **6.8 Notice of Violation/Repeat Sampling and Reporting**

If sampling performed by an IU indicates a violation, the IU must notify Liberty Utilities BMSC Operations Manager within twenty four (24) hours of becoming aware of the violation. The IU shall also repeat the sampling and analysis and submit the results of the repeat analysis to Liberty Utilities BMSC Operations Manager within thirty (30) days after becoming aware of the violation. Resampling by the IU is not required if Liberty Utilities BMSC performs sampling at the IU's facility at least once a month, or if Liberty Utilities BMSC performs sampling at the IU between the time when the initial sampling was conducted and the time when the IU or Liberty Utilities BMSC receives the results of this sampling, or if Liberty Utilities BMSC has performed the sampling and analysis in lieu of the IU.

#### **6.9 Notification of the Discharge of Hazardous Waste**

- A. Any IU who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional 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. Such notification must 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). If the IU discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the IU: 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. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 6.5 of this SOP. The notification requirement in this Section does not apply to pollutants already reported by IUs subject to categorical Pretreatment Standards under the self monitoring requirements of Sections 6.1, 6.3, and 6.4 of this SOP.

- B. Dischargers are exempt from the requirements of paragraph A, above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one time notification. Subsequent months during which the IU discharges more than such quantities of any hazardous waste do not require additional notification.
- C. In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the IU must notify Liberty Utilities BMSC Operations Manager, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
- D. In the case of any notification made under this Section, the IU shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- E. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this SOP, a permit issued there under, or any applicable Federal or State law.

#### **6.10 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 and amendments thereto, 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, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Liberty Utilities BMSC Operations Manager or other parties approved by EPA.

### **6.11 Sample Collection**

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

- A. Except as indicated in Section B and C below, the IU must collect wastewater samples using 24 hour flow proportional composite sampling techniques, unless time proportional composite sampling or grab sampling is authorized by Liberty Utilities BMSC Operations Manager. Where time proportional composite sampling or grab sampling is authorized by Liberty Utilities BMSC, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24 hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by Liberty Utilities BMSC, as appropriate. In addition, grab samples may be required to show compliance with Local Limits.
- B. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
- C. For sampling required in support of baseline monitoring and 90 day compliance reports required in Section 6.1 and 6.3 [40 CFR 403.12(b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, Liberty Utilities BMSC Operations Manager may authorize a lower minimum. For the reports required by paragraphs Section 6.4 (40 CFR 403.12(e) and 403.12(h)), the IU is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

### **6.12 Date of Receipt of Reports**

Written reports will be deemed to have been submitted on the date postmarked or if hand delivered, date received by Liberty Utilities BMSC.

### **6.13 Recordkeeping**

IUs subject to the reporting requirements of this SOP shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this SOP, any additional records of information obtained pursuant to monitoring activities undertaken by the IU independent of such requirements, and documentation associated with Best Management Practices established under Section 2.4 C. Records shall include the date, exact place,

method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the IU or Liberty Utilities BMSC, or where the IU has been specifically notified of a longer retention period by Liberty Utilities BMSC Operations Manager.

#### 6.14 Certification Statements

- A. Certification of Permit Applications, IU Reports and Initial Monitoring Waiver-The following certification statement is required to be signed and submitted by IUs submitting permit applications in accordance with Section 4.7; IUs submitting baseline monitoring reports under Section 6.1 B (5); IUs submitting reports on compliance with the categorical Pretreatment Standard deadlines under Section 6.3; IUs submitting periodic compliance reports required by Section 6.4 A-D, and IUs submitting an initial request to forego sampling of a pollutant on the basis of Section 6.4B(4). The following certification statement must be signed by an Authorized Representative as defined in Section 1.3 C:

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

- B. Annual Certification for Non-Significant Categorical Industrial IUs-A facility determined to be a Non Significant Categorical IU by Liberty Utilities BMSC Operations Manager pursuant to 1.3 GG(3) and 4.7 C [Note: See 40 CFR 403.3(v)(2)] must annually submit the following certification statement signed in accordance with the signatory requirements in 1.3 C [Note:

See 40 CFR 403.120(l)]. This certification must accompany an alternative report required by Liberty Utilities BMSC Operations Manager:

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR \_\_\_\_\_, I certify that, to the best of my knowledge and belief that during the period from \_\_\_\_\_, \_\_\_\_\_ to \_\_\_\_\_, [months, days, year]:

- (a) The facility described as \_\_\_\_\_  
[facility name] met the definition of a Non Significant Categorical IU as described in 1.4 GG (3); [Note: See 40 CFR 403.3(v)(2)]

- (b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and © the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based on the following information.

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## **7. COMPLIANCE MONITORING**

### **7.1 Right of Entry: Inspection and Sampling**

Liberty Utilities BMSC Operations Manager shall have the right to enter the premises of any IU to determine whether the IU is complying with all requirements of this SOP and any individual wastewater discharge permit or order issued hereunder. IUs shall allow Liberty Utilities BMSC Operations Manager ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- A. Where an IU has security measures in force which require proper identification and clearance before entry into its premises, the IU shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, Liberty Utilities BMSC Operations Manager shall be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. Liberty Utilities BMSC Operations Manager shall have the right to set up on the IU's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the IU's operations.
- C. Liberty Utilities BMSC Operations Manager may require the IU to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the IU at its own expense. All devices used to measure wastewater flow and quality shall be calibrated [insert desired frequency] to ensure their accuracy.
- D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the IU at the written or verbal request of Liberty Utilities BMSC Operations Manager and shall not be replaced. The costs of clearing such access shall be born by the IU.
- E. Unreasonable delays in allowing Liberty Utilities BMSC Operations Manager access to the IU's premises shall be a violation of this SOP.

### **7.2 Search Warrants**

If Liberty Utilities BMSC Operations Manager 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 SOP, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of Liberty Utilities BMSC designed to verify compliance with this SOP or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, Liberty Utilities BMSC Operations Manager may seek issuance of a search warrant from the Maricopa County Court or other authorities as applicable.

## **8. CONFIDENTIAL INFORMATION**

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

## **9. PUBLICATION OF IUS IN SIGNIFICANT NONCOMPLIANCE**

Liberty Utilities BMSC Operations Manager shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by Liberty Utilities BMSC, a list of the IUs which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance shall be applicable to all Significant IUs (or any other IU that violates paragraphs (C), (D) or (H) of this Section) and shall mean:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Section 2;

- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Section 2 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 violation of a Pretreatment Standard or Requirement as defined by Section 2 (Daily Maximum, long term average, Instantaneous Limit, or narrative standard) that Liberty Utilities BMSC Operations Manager determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;
- D. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in Liberty Utilities BMSC Operations Manager's exercise of its emergency authority to halt or prevent such a discharge;
- E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide within forty five (45) days after the due date, any required reports, including 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 may include a violation of Best Management Practices, which Liberty Utilities BMSC Operations Manager determines will adversely affect the operation or implementation of the local pretreatment program.

## **10. ADMINISTRATIVE ENFORCEMENT REMEDIES**

### **10.1 Notification of Violation**

When Liberty Utilities BMSC Operations Manager finds that an IU has violated, or continues to violate, any provision of this SOP, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, Liberty Utilities BMSC Operations Manager may serve upon that IU a written Notice of Violation. Within 14 days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the IU to Liberty Utilities BMSC Operations Manager. Submission of such a plan in no way relieves the IU of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this Section shall limit the authority of Liberty Utilities BMSC Operations Manager to take any action,

including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

### **10.2 Consent Orders**

Liberty Utilities BMSC Operations Manager may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any IU responsible for noncompliance. Such documents shall include specific action to be taken by the IU to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 10.4 and 10.5 of this SOP and shall be judicially enforceable.

### **10.3 Show Cause Hearing**

Liberty Utilities BMSC Operations Manager may order an IU which has violated, or continues to violate, any provision of this SOP, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before Liberty Utilities BMSC Operations Manager and show cause why the proposed enforcement action should not be taken. Notice shall be served on the IU specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the IU show cause why 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 30 days prior to the hearing. Such notice may be served on any Authorized Representative of the IU as defined in Section 1.4 C and required by Section 4.7 A. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the IU.

### **10.4 Compliance Orders**

When Liberty Utilities BMSC Operations Manager finds that a IU has violated, or continues to violate, any provision of this SOP, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, Liberty Utilities BMSC Operations Manager may issue an order to the IU responsible for the discharge directing that the IU come into compliance within a specified time. If the IU does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the IU of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the IU.

### **10.5 Cease and Desist Orders**

When Liberty Utilities BMSC Operations Manager finds that a IU has violated, or continues to violate, any provision of this SOP, an individual wastewater discharge permit, or order issued

hereunder, or any other Pretreatment Standard or Requirement, or that the IU's past violations are likely to recur, Liberty Utilities BMSC Operations Manager may issue an order to the IU directing it to cease and desist all such violations and directing the IU to:

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

#### **10.6 Administrative Fines**

- A. When Liberty Utilities BMSC Operations Manager finds that a IU has violated, or continues to violate, any provision of this SOP, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, Liberty Utilities BMSC Operations Manager may fine such IU in an amount not to exceed \$250 per day. Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.
- B. Unpaid charges, fines, and penalties shall, after 90 calendar days, be assessed an additional penalty of 10 percent (10%) of the unpaid balance, and interest shall accrue thereafter at a rate of one percent (1 %) per month. A lien against the IU's property shall be sought for unpaid charges, fines, and penalties.
- C. IUs desiring to dispute such fines must file a written request for Liberty Utilities BMSC Operations Manager to reconsider the fine along with full payment of the fine amount within 30 days of being notified of the fine. Where a request has merit, Liberty Utilities BMSC Operations Manager may convene a hearing on the matter. In the event the IU's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the IU. Liberty Utilities BMSC Operations Manager may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
- D. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the IU.

#### **10.7 Emergency Suspensions**

Liberty Utilities BMSC Operations Manager may immediately suspend a IU's discharge, after informal notice to the IU, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons. Liberty Utilities BMSC Operations Manager may also immediately suspend an IU's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

- A. Any IU notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of an IU's failure to immediately comply voluntarily with the suspension order, Liberty Utilities BMSC Operations Manager may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. Liberty Utilities BMSC Operations Manager may allow the IU to recommence its discharge when the IU has demonstrated to the satisfaction of Liberty Utilities BMSC Operations Manager that the period of endangerment has passed, unless the termination proceedings in Section 10.8 of this SOP are initiated against the IU.
- B. A IU that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to Liberty Utilities BMSC Operations Manager prior to the date of any show cause or termination hearing under Sections 10.3 or 10.8 of this SOP.

Nothing in this Section shall be interpreted as requiring a hearing prior to any Emergency Suspension under this Section.

#### **10.8 Termination of Discharge**

In addition to the provisions in Section 5.6 of this SOP, any IU who violates the following conditions is subject to discharge termination:

- A. Violation of individual wastewater discharge permit conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- C. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- D. Refusal of reasonable access to the IU's premises for the purpose of inspection, monitoring, or sampling; or
- E. Violation of the Pretreatment Standards in Section 2 of this SOP.

Such IU will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 10.3 of this SOP why the proposed action should not be taken. Exercise of this option by Liberty Utilities BMSC Operations Manager shall not be a bar to, or a prerequisite for, taking any other action against the IU.

## **11. JUDICIAL ENFORCEMENT REMEDIES**

### **11.1 Injunctive Relief**

When Liberty Utilities BMSC Operations Manager finds that a IU has violated, or continues to violate, any provision of this SOP, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, Liberty Utilities BMSC Operations Manager may petition the Maricopa County through Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, order, or other requirement imposed by this SOP on activities of the IU. Liberty Utilities BMSC Operations Manager may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the IU to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against an IU.

### **11.2 Civil Penalties**

- A. An IU who has violated, or continues to violate, any provision of this SOP, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to Liberty Utilities BMSC for a maximum civil penalty of \$250 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. Liberty Utilities BMSC Operations Manager may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by Liberty Utilities BMSC.
- C. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the IU's violation, corrective actions by the IU, the compliance history of the IU, and any other factor as justice requires.
- D. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against an IU.

### **11.3 Criminal Prosecution**

- A. An IU who willfully or negligently violates any provision of this SOP, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall be punishable by a fine of not more than \$250 per violation, per day and subject to misdemeanor violations, as applicable by law.
- B. An IU who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, \$250 per violation, per day and subject to

misdemeanor violations, as applicable by law. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

- C. A IU who knowingly 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 SOP, individual wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this SOP shall, upon conviction, be punished by a fine of not more than \$250 fine per day.
- D. In the event of a second conviction, a IU shall be punished by a fine of not more than \$500 fine per day.

#### **11.4 Remedies Nonexclusive**

The remedies provided for in this SOP are not exclusive. Liberty Utilities BMSC Operations Manager may take any, all, or any combination of these actions against a noncompliant IU. Enforcement of pretreatment violations will generally be in accordance with [the Liberty Utilities BMSC's] enforcement response plan. However, Liberty Utilities BMSC Operations Manager may take other action against any IU when the circumstances warrant. Further, Liberty Utilities BMSC Operations Manager is empowered to take more than one enforcement action against any noncompliant IU.

### **12. SUPPLEMENTAL ENFORCEMENT ACTION**

#### **12.1 Penalties for Late Reports**

A penalty of \$100 shall be assessed to any IU for each day that a report required by this SOP, a permit or order issued hereunder is late, beginning five days after the date the report is due [higher penalties may also be assessed where reports are more than 30-45 days late]. Actions taken by Liberty Utilities BMSC Operations Manager to collect late reporting penalties shall not limit Liberty Utilities BMSC Operations Manager authority to initiate other enforcement actions that may include penalties for late reporting violations.

#### **12.2 Performance Bonds {Optional}**

Liberty Utilities BMSC Operations Manager may decline to issue or reissue an individual wastewater discharge permit to any IU who has failed to comply with any provision of this SOP, a previous individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, unless such IU first files a satisfactory bond, payable to Liberty Utilities BMSC, in a sum not to exceed a value determined by Liberty Utilities BMSC Operations Manager to be necessary to achieve consistent compliance.

**12.3 Liability Insurance {Optional}**

Liberty Utilities BMSC Operations Manager may decline to issue or reissue an individual wastewater discharge to any IU who has failed to comply with any provision of this SOP, a previous individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, unless the IU first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

**12.4 Payment of Outstanding Fees and Penalties {Optional}**

Liberty Utilities BMSC Operations Manager may decline to issue or reissue an individual wastewater discharge permit to any IU who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this SOP, a previous individual wastewater discharge permit, or order issued hereunder.

**12.5 Contractor Listing {Optional}**

IUs which have not achieved compliance with applicable Pretreatment Standards and Requirements are not eligible to receive a contractual award for the sale of goods or services to Liberty Utilities BMSC. Existing contracts for the sale of goods or services to Liberty Utilities BMSC held by an IU found to be in Significant Noncompliance with Pretreatment Standards or Requirements may be terminated at the discretion of Liberty Utilities BMSC Operations Manager.

**13. AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS**

**13.1 Upset**

- A. For the purposes of this Section, upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the IU. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- B. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards if the requirements of paragraph C, below, are met.
- C. A IU who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - a. An upset occurred and the IU can identify the cause(s) of the upset;
  - b. The facility was at the time being operated in a prudent and workman like manner and in compliance with applicable operation and maintenance procedures; and
  - c. The IU has submitted the following information to Liberty Utilities BMSC Operations

Manager within twenty four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]

- i. A description of the indirect discharge and cause of noncompliance;
    - ii. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
    - iii. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- D. In any enforcement proceeding, the IU seeking to establish the occurrence of an upset shall have the burden of proof.
- E. IUs shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical Pretreatment Standards.
- F. IUs shall control production of all discharges to the extent necessary to maintain compliance with categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

### **13.2 Prohibited Discharge Standards**

A IU shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 2.1(A) of this SOP or the specific prohibitions applicable of this SOP if it 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 IU was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or
- B. No Local Limit exists, but the discharge did not change substantially in nature or constituents from the IU's prior discharge when Liberty Utilities BMSC or the City of Scottsdale was regularly in compliance with its AZPDES permit, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements.

### **13.3 Bypass**

- A. For the purposes of this Section,
  - a. Bypass means the intentional diversion of waste streams from any portion of an IU's treatment facility.



- b. Liberty Utilities BMSC Operations Manager may approve an anticipated bypass, after considering its adverse effects, if Liberty Utilities BMSC Operations Manager determines that it will meet the three conditions listed in paragraph (D)(1) of this Section.