



**Mail Address:**  
Titanium Metals Corporation  
P.O. Box 2128  
Henderson, NV 89009  
United States of America

**Shipping Address:**  
Titanium Metals Corporation  
181 N. Water St.  
Henderson, NV 89015  
United States of America

[www.timet.com](http://www.timet.com)

Date: November 13, 2017

By Email: [Matt.Thomas@cityofhenderson.com](mailto:Matt.Thomas@cityofhenderson.com)

Attention:  
Matt Thomas  
Pretreatment Supervisor  
City of Henderson – Dept of Utility Services  
240 Water Street  
PO Box 95050  
Henderson, NV 89009-5050

RE: Written Comments to City of Henderson (COH) – Notice of Proposed Modification of Its Pretreatment Program

Dear Mr. Thomas:

Thank you for considering the following comments and **request for a public hearing** on the City of Henderson's proposed modification of its pretreatment program.

TIMET discharges domestic (sanitary) wastewater to the City's treatment works through a common sewer system owned and operated by Basic Management Incorporated (BMI), which holds the authorization to discharge to the City's treatment works. Because TIMET does not discharge any non-domestic wastewater to the City, it is not an "industrial user" as defined by EPA's pretreatment regulations. 40 C.F.R. § 403.3(j). Many of the comments that follow are based on TIMET's concern that the proposed pretreatment regulations, while they may be appropriate for discharges of industrial process and other non-domestic wastewaters, are not appropriate for TIMET's discharges of domestic wastewater.

1. TIMET hereby requests that a public hearing be held on this matter and that the COH extend the comment period through the close of the public hearing.
2. Section 14.09.010.A. Definition of "Industrial User." EPA's pretreatment regulations define an "industrial user" as "a source of indirect discharge." 40 C.F.R. § 403.3(j). The proposed definition of "industrial user" expands this definition to also include "a user that has the potential to discharge non-domestic wastewater to the POTW, or a user that has a sewer connection for domestic wastewater discharge only." This expansion is too broad in that it would encompass users that have no discharge of non-domestic wastewater to the POTW.
3. Section 14.09.020.G. The authority provided to the Director by this section is excessively broad insofar as that authority is not limited to enforcing the requirements of the pretreatment program; applies to potential discharges or violations, rather than to actual discharges and violations; and is not constrained by reasonableness. More specifically: In the first full sentence of this section, the phrase "from non-domestic

wastewater” should be included immediately following the phrase “excess flow,” so that it is clear that the restrictions in this section are limited to discharges of non-domestic wastewater. In addition, paragraph (1) gives the Director unqualified authority to prohibit discharges of wastewater, regardless whether the discharge is inconsistent with the City’s pretreatment regulations. Paragraph (2) gives the Director the authority to require potentially expensive and unlimited demonstrations that a facility modification will not violate the pretreatment regulations, regardless of the potential risk of such violations. Paragraph (4) requires industrial users to pay any costs or expenses of the City related to a discharge, regardless of the reasonableness of those costs and expenses. (Section 14.09.160.A.6.b. similarly allows cost recovery without any limitation as to reasonableness and should be revised to include such a limitation.) Paragraph (5) requires a permit even for facilities that do not discharge to the POTW.

4. Section 14.09.030.B.9. This section would limit the Director’s authority to approve discharges of rainwater, stormwater, groundwater, street drainage, and similar drainage to instances in which “there is no other reasonable method of disposal available.” This limitation on the Director’s authority to approve such discharges should be removed. Although the absence of a reasonable alternative is certainly an appropriate basis for approving such discharges, that is not the only appropriate basis. For example, it may be appropriate to approve such discharges if the expense to the discharger outweighs the potential risk to the City’s treatment works, even though other reasonable methods of disposal may be available.

5. Section 14.09.030.B.17. This section would require secondary containment for any “chemicals, materials, or substances” “stored in proximity” to a floor drain or sewer opening. The section is vague and excessively broad in that it applies to all substances, regardless of the risk that they might pose to the POTW if they were to spill into the sewer system, and regardless of the risk that they might actually reach the sewer system if they did spill. The section should be limited to substances that have the potential to harm the sewer system and that are stored in quantities and in locations that pose a substantial risk of such harm.

6. Section 14.09.030.B.28. This section prohibits the discharge of “any wastewater containing perchloroethylene (PCE).” The prohibition should be limited to discharges of PCE in amounts or concentrations that would violate applicable pretreatment regulations.

7. Section 14.09.030.E. This section, which would give the Director unlimited authority to establish additional discharge limits or requirements as necessary to meet the requirements of the chapter, should be expressly limited to discharges of non-domestic wastewater.

8. Section 14.09.050.D. This section gives the Director unlimited discretion to require an industrial user to have treatment facility operators that are certified as industrial waste operators at any minimum grade specified by the Director. This could impose a significant burden on users. The pretreatment regulations should specify under what circumstances certified operators are required.

9. Section 14.09.050.F. This section, which gives the Director the authority to require the installation and maintenance of storage and flow-control facilities, should be expressly limited to discharges of non-domestic wastewater.

10. Section 14.09.050.G. This section provides, “When more than one industrial user is able to discharge into a common service line, the city may require installation of separate monitoring equipment or structures for each industrial user.” No criteria or circumstances are specified for requiring separation, which for existing facilities could be economically or legally infeasible. If the provision is retained, it should be limited to circumstances in which compliance with applicable pretreatment regulations cannot otherwise be achieved.

11. Section 14.09.060.A. This section provides, “A separate permit may be required for each industrial user, building or complex of buildings.” This authority is excessively broad and should be limited to circumstances in which compliance with applicable pretreatment regulations cannot otherwise be achieved. For example, where several users or buildings make use of a common treatment and conveyance system, separate permits, with their accompanying fees and monitoring costs, should generally be unnecessary to ensure compliance with applicable pretreatment regulations.

12. Section 14.09.150.E.2. This section requires reporting of “all spills . . . that occur within the boundaries of the User’s facility whether or not the spill results in a discharge to the POTW.” This provision is excessively

broad and burdensome because it would require reporting of spills that have no effect on the POTW or potential to affect it. The spill reporting requirement should be limited to spills that enter the sewer system or pose an ongoing risk of entering the sewer system.

13. Section 14.09.150.J.2. This section requires 30 days' advance notice of a facility "shutdown or closure which might alter the character, nature, quality, or volume of its wastewater." If a facility shuts down and ceases discharges of wastewater, that would alter the volume of its wastewater, but there would be no reason to require 30 days' advance notice of the shutdown. If this provision is retained, it should be limited to circumstances in which the shutdown or closure would cause a violation of applicable pretreatment regulations.

14. Section 14.09.160.A.1. This section gives the city the authority to establish "sector control programs for industrial users." To the extent that this would allow the city to impose additional requirements on categories of industrial users without amending and obtaining approval of its pretreatment program, this provision is inappropriate and should not be adopted.

15. Section 14.09.190. This section provides that the city's failure to enforce a violation or to collect applicable fees, charges, or penalties does not preclude the city from bringing an enforcement or recovery action "at any time thereafter." This provision should include a reasonable limit on the time for the city to act, such as the 3-year period for preserving records. Enforcement actions for alleged violations that occurred far in the past may hamper the ability of the user to defend the action because of lost or destroyed records, fading memories, and other factors caused by the passage of time.

Thank you again for considering these comments and the request for a public hearing.

Handwritten signature of Matt Torres in black ink, followed by the date 11/13/12.

Matt Torres  
General Manager  
TIMET Henderson Plant