



Lincoln County, NC Code of Ordinances

CHAPTER 51: SEWER USE

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GENERAL PROVISIONS

§ 51.001 PURPOSE AND POLICY.

(A) This chapter sets forth uniform requirements for direct and indirect contributors into the wastewater collection and treatment system for the county, and enables the county to comply with all applicable state and federal laws, including the Clean Water Act (33 U.S.C. §§ 1251 *et seq.*) and the General Pretreatment Regulations (40 C.F.R. pt. 403).

(B) The objectives of this chapter are:

- (1) To prevent the introduction of pollutants into the county wastewater system

which will interfere with the operation of the system or contaminate the resulting sludge;

(2) To prevent the introduction of pollutants into the county wastewater system which will pass through the system, inadequately treated, into any waters of the state or otherwise be incompatible with the system;

(3) To promote reuse and recycling of industrial wastewater and sludges from the county system;

(4) To protect both county personnel who may be affected by sewage, sludge, and effluent in the course of their employment as well as protecting the general public;

(5) To provide for equitable distribution of the cost of operation, maintenance, and improvement of the county wastewater system; and

(6) To ensure that the county complies with its NPDES or non-discharge permit conditions, sludge use, and disposal requirements and any other federal or state laws to which the county wastewater system is subject.

(C) This chapter provides for the regulation of direct and indirect contributors to the county wastewater system, through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users, authorizes monitoring and enforcement activities, requires user reporting and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(D) This chapter shall apply to all users of the county wastewater system, as authorized by G.S. §§ 160A-312 and/or 153A-275. Except as otherwise provided herein, the POTW Director shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or imposed upon the POTW Director may be delegated by the POTW Director to other county personnel. By discharging wastewater into the county wastewater system, industrial users located outside the county limits agree to comply with the terms and conditions established in this chapter, as well as any permits, enforcement actions, or orders issued hereunder.

(Ord. passed 8-22-1994)

§ 51.002 DEFINITIONS AND ABBREVIATIONS.

(A) For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACT or THE ACT. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §§ 1251 *et seq.*

APPROVAL AUTHORITY. The Director of the Division of Environmental Management of the North Carolina Department of Environment, Health, and Natural Resources or his or her designee.

AUTHORIZED REPRESENTATIVE OF THE INDUSTRIAL USER.

(a) If the industrial user is a corporation, **AUTHORIZED REPRESENTATIVE** shall mean:

1. The president, secretary, 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

2. The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(b) If the industrial user is a partnership or sole proprietorship, an **AUTHORIZED REPRESENTATIVE** shall mean a general partner or the proprietor, respectively.

(c) If the industrial user is a federal, state, or local government facility, an **AUTHORIZED REPRESENTATIVE** shall mean 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 divisions (a) through (c) above may designate another **AUTHORIZED REPRESENTATIVE** if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the county.

BIOCHEMICAL OXYGEN DEMAND (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 200°C, usually expressed as a concentration (e.g., mg/l).

BUILDING SEWER. A sewer conveying wastewater from the premises of a user to the POTW.

BYPASS. The intentional diversion of wastestreams from any portion of a user's treatment facility.

CATEGORICAL STANDARDS. National Categorical Pretreatment Standards or Pretreatment Standard.

DIRECTOR. The person designated by the county to supervise the operation of the publicly owned treatment works and who is charged with certain duties and responsibilities by this chapter, or his or her duly authorized representative.

ENVIRONMENTAL PROTECTION AGENCY (EPA). The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of the agency.

GRAB SAMPLE. A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.

HOLDING TANK WASTE. Any waste from holding tanks, including, but not limited to, the holding tanks as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

INDIRECT DISCHARGE or **DISCHARGE.** The discharge or the introduction from any nondomestic source regulated under § 307(b), (c), or (d) of the Act (33 U.S.C. § 1317), into the POTW (including holding tank waste discharged into the system).

INDUSTRIAL USER or **USER.** Any person which is a source of indirect discharge.



INTERFERENCE. The inhibition or disruption of the POTW treatment processes, operations, or its sludge process, use, or disposal, which causes or contributes to a violation of any requirement of the POTW's NPDES or non-discharge permit or prevents sewage sludge use or disposal in compliance with specified applicable state and federal statutes, regulations, or permits. The term includes prevention of sewage sludge use or disposal by the POTW in accordance with § 405 of the Act (33 U.S.C. § 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA) (42 U.S.C. §§ 6901 *et seq.*), the Clean Air Act, the Toxic Substances Control Act, the Marine Protection Research and Sanctuary Act (MPRSA) or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.

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.

NATIONAL CATEGORICAL PRETREATMENT STANDARD or CATEGORICAL STANDARD. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with § 307(b) and (c) of the Act (33 U.S.C. § 1317) which applies to a specific category of industrial users, and which appears in 40 C.F.R. Chapter 1, Subchapter N, Parts 405-471.

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM PERMIT (NPDES PERMIT). A permit issued pursuant to § 402 of the Act (33 U.S.C. § 1342), or pursuant to G.S. § 143-215.1 by the state under delegation from EPA.

NATIONAL PROHIBITIVE DISCHARGE STANDARD or PROHIBITIVE DISCHARGE STANDARD. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in this chapter and are developed under the authority of § 307(b) of the Act and 40 C.F.R. § 403.5.

NEW SOURCE.

(a) Any building, structure, facility, or installation from which there may be a discharge of pollutants, the construction of which commenced after the publication of proposed categorical pretreatment standards under § 307(c) of the Act which will be applicable to the source if the standards are thereafter promulgated in accordance with § 307(c), provided that:

1. The building, structure, facility, or installation is constructed at a site at which no other source is located;
2. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
3. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing



source, should be considered.

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

(c) For purposes of this definition, construction of a **NEW SOURCE** has commenced if the owner or operator has:

1. Begun, or caused to begin, as part of a continuous on-site construction program:

a. Any placement, assembly, or installation of facilities or equipment; or
b. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment.

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

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

NON-DISCHARGE PERMIT. A disposal system permit issued by the state pursuant to G.S. § 143-215.1.

PASS THROUGH. A discharge which exits the POTW into waters of the state in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the POTW's NPDES or non-discharge permit, or a downstream water quality standard.

PERSON. Any individual, partnership, copartnership, 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 government entities.

pH. A measure of the acidity or alkalinity of a substance, expressed as standard units, and calculated as the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

POLLUTANT. Any "waste" as defined in G.S. § 143-213(18) and dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

POTW DIRECTOR. The County Director of Utilities.

POTW TREATMENT PLANT. The portion of the POTW designed to provide treatment to wastewater.

PRETREATMENT or TREATMENT. 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 discharging or otherwise introducing the pollution into a POTW. The reduction or alteration can be obtained by physical, chemical, or biological processes, or process changes or other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

PRETREATMENT PROGRAM. The program for the control of pollutants introduced into the POTW from non-domestic sources which was developed by the county in compliance with 40 C.F.R. § 403.8 and approved by the approval authority as authorized by G.S. § 143-215.3 (a)(14) in accordance with 40 C.F.R. § 403.11.

PRETREATMENT REQUIREMENTS. Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.

PRETREATMENT STANDARDS. Prohibited discharge standards, categorical standards, and local limits.

PUBLICLY OWNED TREATMENT WORKS (POTW) or MUNICIPAL WASTEWATER SYSTEM. A treatment works as defined by § 212 of the Act (33 U.S.C. § 1292), which is owned in this instance by the county. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to the POTW treatment plant. For the purposes of this chapter, **POTW** shall also include any sewers that convey wastewaters to the **POTW** from persons outside the county who are, by contract or agreement with the county, or in any other way, users of the county's **POTW**.

SEVERE PROPERTY DAMAGE. Substantial physical damage to property, damage to the user's treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. **SEVERE PROPERTY DAMAGE** does not mean economic loss caused by delays in production.

SIGNIFICANT INDUSTRIAL USER. Any industrial user of the wastewater disposal system who:

- (a) Has an average daily process wastewater flow of 50,000 gallons or more;
- (b) Contributes more than 5% of any design or treatment capacity (i.e., allowable pollutant load) of the wastewater treatment plant receiving the indirect discharge;
- (c) Is required to meet a national categorical pretreatment standard; or
- (d) Is found by the county, the Division of Environmental Management, or the U.S. Environmental Protection Agency (EPA) to have the potential for impact, either singly or in combination with other contributing industrial users, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or compliance with any pretreatment standards or requirements.

SIGNIFICANT NONCOMPLIANCE or REPORTABLE NONCOMPLIANCE. A



status of noncompliance defined as follows:

- (a) Violations of wastewater discharge limits:
 - 1. Chronic violations - 66% or more of the measurements exceed (by any magnitude) the same daily maximum limit or the same average limit in a six-month period;
 - 2. Technical review criteria (TRC) violations - 33% or more of the measurements are more than the TRC times the limit (maximum or average) in a six-month period. There are two groups of TRCs:
 - a. For conventional pollutants, BOD, TSS, fats, oil, and grease TRC = 1.4; and
 - b. For all other pollutants TRC = 1.2.
 - 3. Any other violation(s) of an effluent limit (average or daily maximum) that the control authority believes has caused, alone or in combination with other discharges, interference or pass-through; or endangered the health of the sewage treatment plant personnel or the public; and/or
 - 4. Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the environment and has resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.
- (b) Violations of compliance schedule milestones, contained in a pretreatment permit or enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date;
- (c) Failure to provide reports for compliance schedule, self-monitoring data, baseline monitoring reports, 90-day compliance reports, and periodic compliance reports within 30 days from the due date;
- (d) Failure to accurately report noncompliance; and/or
- (e) Any other violation or group of violations that the control authority considers to be significant.

SLUG LOAD. Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in § 51.015.

STANDARD INDUSTRIAL CLASSIFICATION (SIC). A classification pursuant to the *Standard Industrial Classification Manual* issued by the Executive Office of the President, Office of Management and Budget, 1987.

STORM WATER. Any flow occurring during or following any form of natural precipitation and resulting therefrom.

SUSPENDED SOLIDS. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering.

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

WASTEWATER. The liquid- and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which are contributed into or permitted to enter the POTW.

WASTEWATER PERMIT. As set forth in § 51.051.

WATERS OF THE STATE. All streams, lakes, ponds, marshes, watercourse, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.

(B) For the purpose of this chapter, the following abbreviations shall apply unless the context clearly indicates or requires a different meaning.

BOD. Biochemical Oxygen Demand.

C.F.R. Code of Federal Regulations.

COD. Chemical Oxygen Demand.

EPA. Environmental Protection Agency.

gpd. Gallons per day.

l. Liter.

mg. Milligrams.

mg/l. Milligrams per liter.

G.S. North Carolina General Statutes.

NPDES. National Pollution Discharge Elimination System.

O&M. Operation and Maintenance.

POTW. Publicly-Owned Treatment Works.

RCRA. Resource Conservation and Recovery Act.

SIC. Standard Industrial Classification.

SWDA. Solid Waste Disposal Act.

TSS. Total Suspended Solids.

TKN. Total Kjeldahl Nitrogen.

U.S.C. United States Code.

(Ord. passed 8-22-1994)

GENERAL SEWER USE REQUIREMENTS

§ 51.015 PROHIBITED DISCHARGE STANDARDS.

(A) No user shall contribute or cause to be contributed into the POTW, directly or indirectly, any pollutant or wastewater which causes interference or pass through. These general prohibitions apply to all users of a POTW whether or not the user is a significant industrial user or subject to any national, state, or local pretreatment standards or requirements.

(B) No user shall contribute or cause to be contributed into the POTW the following pollutants, substances, or wastewater:

(1) Pollutants which create a fire or explosive hazard in the POTW, including, but



not limited to, wastestreams with a closed cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 C.F.R. § 261.21;

(2) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference;

(3) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;

(4) Any wastewater having a pH less than five or more than nine or wastewater having any other corrosive property capable of causing damage to the POTW or equipment;

(5) Any wastewater containing pollutants, including oxygen demanding pollutants, (BOD, and the like) in sufficient quantity, (flow or concentration) either singly or by interaction with other pollutants, to cause interference with the POTW;

(6) Any wastewater having a temperature greater than 150°F (66°C), or which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C);

(7) Any 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;

(8) Any trucked or hauled pollutants, except at discharge points designated by the POTW Director in accordance with § 51.023;

(9) Any noxious or malodorous liquids, gases, or solids or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair;

(10) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal regulations or permits issued under § 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used;

(11) Any wastewater which imparts color which cannot be removed by the treatment process, including, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts sufficient color to the treatment plant's effluent to render the waters injurious to public health or secondary recreation or to aquatic life and wildlife or to adversely affect the palatability of fish or aesthetic quality or impair the receiving waters for any designated uses;

(12) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the POTW Director in compliance with applicable state or federal regulations;

(13) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water,

noncontact cooling water and unpolluted industrial wastewater, unless specifically authorized by the POTW Director;

(14) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/l;

(15) Any sludges, screenings, or other residues from the pretreatment of industrial wastes;

(16) Any medical wastes, except as specifically authorized by the POTW Director in a wastewater discharge permit;

(17) Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfere with the county wastewater system;

(18) Any material that would be identified as hazardous waste according to 40 C.F.R. pt. 261 if not disposed of in a sewer except as may be specifically authorized by the POTW Director;

(19) Any wastewater causing the treatment plant effluent to violate State Water Quality Standards for toxic substances as described in 15A NCAC 2B .0200;

(20) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;

(21) Recognizable portions of the human or animal anatomy;

(22) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the county wastewater system; and/or

(23) At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than 5% nor any single reading over 10% of the lower explosive limit (LEL) of the meter.

(C) Pollutants, substances, wastewater, or other wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the county wastewater system. All floor drains located in process or materials storage areas must discharge to the industrial user's pretreatment facility before connecting with the system.

(D) When the POTW Director determines that a user(s) is contributing to the POTW, any of the above enumerated substances in the amounts which may cause or contribute to interference of POTW operation or pass through, the POTW Director shall:

(1) Advise the user(s) of the potential impact of the contribution on the POTW in accordance with § 51.120; and

(2) Take appropriate actions in accordance with this chapter for the user to protect the POTW from interference or pass through.

(Ord. passed 8-22-1994) Penalty, see § 51.999

§ 51.016 NATIONAL CATEGORICAL PRETREATMENT STANDARDS.

(A) *Generally.* Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 C.F.R. Chapter 1, Subchapter N, Parts 405-471 and incorporated herein.

(B) *Specifically.*

(1) Where a categorical pretreatment standard is expressed only in terms of either

the mass or the concentration of a pollutant in wastewater, the POTW Director may impose equivalent concentration or mass limits in accordance with 40 C.F.R. § 403.6(C).

(2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the POTW Director shall impose an alternate limit using the combined wastestream formula in 40 C.F.R. § 403.6(e).

(3) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 C.F.R. § 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(4) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 C.F.R. § 403.15.

(Ord. passed 8-22-1994) Penalty, see § 51.999

§ 51.017 LOCAL LIMITS.

(A) To implement the general and specific discharge prohibitions listed in this chapter, industrial user-specific local limits will be developed ensuring that the POTW's maximum allowable headworks loading is not exceeded for particular pollutants of concern for each industrial user. Where specific local limits are not contained for a given parameter or pollutant in an industrial user permit, the following limits will apply to all users:

250 mg/l	BOD
250 mg/l	TSS
40 mg/l	TKN
0.003 mg/l	arsenic
0.003 mg/l	cadmium
0.090 mg/l	copper
0.035 mg/l	cyanide
0.049 mg/l	lead
5.00 mg/l	MBAS
0.0003 mg/l	mercury
0.170 mg/l	nickel
50.0 mg/l	O/G
0.005 mg/l	silver
0.05 mg/l	total chromium
0.340 mg/l	zinc
0.100 mg/l	phenol



(B) Industrial user-specific local limits for appropriate pollutants of concern shall be included in wastewater permits and are considered pretreatment standards. The POTW Director may impose mass limits in addition to, or in place of, the concentration-based limits above in accordance with categorical standards.

(Ord. passed 8-22-1994) Penalty, see § 51.999

§ 51.018 STATE REQUIREMENTS.

State requirements and limitations on discharges shall apply in any case where they are more stringent than federal requirements and limitations or those in this chapter.

(Ord. passed 8-22-1994)

§ 51.019 RIGHT OF REVISION.

The county reserves the right to establish limitations and requirements which are more stringent than those required by either state or federal regulations if deemed necessary to comply with the objectives presented in § 51.001 or the general and specific prohibitions in § 51.015, as is allowed by 40 C.F.R. § 403.4.

(Ord. passed 8-22-1994)

§ 51.020 DILUTION.

No user shall ever increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the national categorical pretreatment standards, unless expressly authorized by an applicable pretreatment standard, or in any other pollutant-specific limitation developed by the county or state.

(Ord. passed 8-22-1994) Penalty, see § 51.999

§ 51.021 PRETREATMENT OF WASTEWATER.

(A) *Pretreatment facilities.* Users shall provide wastewater treatment as necessary to comply with this chapter and wastewater permits issued under § 51.051 and shall achieve compliance with all national categorical pretreatment standards, local limits, and the prohibitions set out in § 51.015 within the time limitations as specified by EPA, the state, or the POTW Director, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the county for review, and shall be approved by the POTW Director before construction of the facility. The review of the plans and operating procedures shall in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the county under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the POTW Director prior to the user's initiation of the changes.

(B) *Additional pretreatment measures.*

(1) Whenever deemed necessary, the POTW Director may require users 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 wastestreams from industrial wastestreams, and any other conditions

as may be necessary to protect the POTW and determine the user's compliance with the requirements of this chapter.

(2) The POTW Director 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. A wastewater discharge permit may be issued solely for flow equalization.

(3) Grease, oil, and sand interceptors shall be provided when, in the opinion of the POTW Director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, and sand; except that the interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the POTW Director and shall be so located to be easily accessible for cleaning and inspection. The interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.

(4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(Ord. passed 8-22-1994) Penalty, see § 51.999

§ 51.022 ACCIDENTAL DISCHARGE/SLUG CONTROL PLANS.

(A) At least once every two years, the POTW Director shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The POTW Director may require any user to develop, submit for approval, and implement such a plan. Alternatively, the POTW Director may develop such a plan for any user.

(B) An accidental discharge/slug control plan shall address, at a minimum, the following:

- (1) Description of discharge practices, including nonroutine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the POTW Director of any accidental or slug discharge, as required by § 51.070; and
- (4) Procedures to prevent adverse impact from any accidental or slug discharge. The 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.

(Ord. passed 8-22-1994)

§ 51.023 HAULED WASTEWATER.

(A) Septic tank waste may be introduced into the POTW only at locations designated by the POTW Director, and at such times as are established by the POTW Director. The waste shall not violate this subchapter or any other requirements established by the county. The POTW Director may require septic tank waste haulers to obtain wastewater discharge permits.

(B) The POTW Director shall require haulers of industrial waste to obtain wastewater discharge permits. The POTW Director may require generators of hauled industrial

waste to obtain wastewater discharge permits. The POTW Director also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this chapter.

(C) Industrial waste haulers may discharge loads only at locations designated by the POTW Director. No load may be discharged without prior consent of the POTW Director. The POTW Director may collect samples of each hauled load to ensure compliance with applicable standards. The POTW Director 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.

(Ord. passed 8-22-1994) Penalty, see § 51.999

§ 51.024 PRIVATE SEWAGE SYSTEMS.

(A) (1) Except as otherwise provided in this section, from and after 3-18-1997, a direct connection to the public sewer system shall be made pursuant to this chapter for all new construction within the boundaries of the county where public sewer service is available, and each malfunction for which a repair permit becomes necessary to repair a private system within the area described above. No further permits shall be issued for private sewage systems in the area described above after 3-18-1997. Notwithstanding the foregoing provisions, however, repair permits may be issued and direct connections not required for malfunctions described above if the situations meet the criteria of the County Sanitarian for the issuance of repair permits. Direct connections shall not be required for a publicly owned or nonprofit outdoor recreation facility, which is used less than 180 days per year.

(2) For purposes of this section, public sewer is "available" where a public sewer line:

(a) Passes within 400 feet of the existing or proposed structure, as the case may be; and

(b) Either touches the lot on which the existing or proposed structure is located or lies within a right-of-way adjacent to the lot where the structure is located.

(3) Upon connection to a public sewer system, any septic tank, cesspool, or similar private disposal facility, not used for back-up, shall be abandoned and filled with suitable materials.

(4) This chapter shall be subject to enforcement by mandatory or prohibitory injunctions and orders of abatement, and violations of this chapter shall subject the offender to criminal and/or civil liability as provided in G.S. Chapter 153A.

(B) Where a public sanitary sewer is not available under the provisions of this section, the building sewer shall be connected to a private sewage disposal system complying with the provisions of this section.

(C) Before commencement of construction of a private sewage disposal system, the owner shall first obtain a written permit signed by the County Sanitarian. The application for the permit shall be made on a form furnished by the county, which the applicant shall supplement by any plans, specifications and other information as are deemed necessary by the County Sanitarian.

(D) A permit for private sewage disposal system shall not become effective until the installation is completed to the satisfaction of the Sanitarian. The Sanitarian shall be allowed to inspect the work at any stage of construction and, in any event, the applicant for the permit shall notify the Sanitarian when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 48 hours of the receipt of notice by the Sanitarian.

(E) The type, capacities, location and layout of a private sewage disposal system shall comply with all recommendations of the State Department of Natural Resources and Community Development, Division of Environmental Management. No permit shall be issued for any private sewage disposal system employing subsurface soil absorption facilities where the area of the lot is not large enough to accommodate both a septic tank, its drainage field, plus a reserve drainage field. No septic tank or cesspool shall be permitted to discharge to any public sewer or natural outlet.

(F) The owner shall operate and maintain the private sewage disposal facilities in a sanitary manner at all times, at no expense to the county.

(G) No statement contained in this section shall be construed to interfere with any additional requirements that may be imposed by the County Sanitarian.

(Ord. passed 8-22-1994; Ord. passed - -; Ord. passed - -) Penalty, see § 51.999

FEES

§ 51.035 PURPOSE.

It is the purpose of this subchapter to provide for the recovery of costs from users of the county's wastewater disposal system for the implementation of the program established herein. The applicable charges or fees shall be set forth in the county's schedule of charges and fees.

(Ord. passed 8-22-1994)

§ 51.036 USER CHARGES.

(A) A user charge shall be levied on all users, including, but not limited to, persons, firms, corporations or governmental entities that discharge, cause or permit the discharge of sewage into the POTW.

(B) The user charge shall reflect at least the cost of debt service, operation, and maintenance (including replacement) of the POTW.

(C) Each user shall pay its proportionate cost based on volume and/or mass of concentration of flow.

(D) The County Manager shall review annually the sewage contributions of users, the total costs of debt service, operation and maintenance of the POTW and will make recommendations to the Board of Commissioners for adjustments in the schedule of charges and fees as necessary.

(E) Charges for flow to the POTW not directly attributable to the users shall be distributed among all users of the POTW based upon the volume of flow of the users. (Ord. passed 8-22-1994)

§ 51.037 SURCHARGES.

(A) All users of the POTW are subject to waste surcharges on discharges which exceed the levels as set forth in § 51.017 and/or individual discharge permits or pretreatment permits.

(B) Allocations which are exceeded shall be assessed surcharges as follows:

% Above Limits	Surcharge
0 to 25%	\$200
26 to 50%	\$500
>51%	\$2,000

(C) The volume of flow used in determining the total discharge of wastewater for payment of user charges and surcharges shall be based on the following:

(1) Metered water consumption as shown in the records of meter readings maintained by the county;

(2) If required by the county or at the individual dischargers opinion, other flow monitoring devices which measure the actual volume of wastewater discharged to the sewer. The devices shall be accessible and safely located, and the measuring system shall be installed in accordance with plans approved by the county. The metering system shall be installed and maintained at the users expense according to arrangements that may be made with the county; and/or

(3) Where any user procures all or part of his or her water supply from sources other than the county, the user shall install and maintain at his or her own expense a flow measuring device of a type approved by the county.

(D) (1) The character and concentration of the constituents of the wastewater used in determining surcharges shall be determined by samples collected and analyzed by the county.

(2) Samples shall be collected in such a manner as to be representative of the actual discharge and shall be analyzed using procedures set forth in 40 C.F.R. pt. 136.

(E) The determination of the character and concentration of the constituents of the wastewater discharge by the POTW Director or his or her duly appointed representatives shall be binding as a basis for charges.

(Ord. passed 8-22-1994)

§ 51.038 PRETREATMENT PROGRAM ADMINISTRATION CHARGES.

The schedule of charges and fees adopted by the county may include charges and fees for:

(A) Reimbursement of costs of setting up and operating the pretreatment program;

- (B) Monitoring, inspections, and surveillance procedures;
 - (C) Reviewing slug control plans, including accidental and/or slug load discharge procedures and construction plans and specifications;
 - (D) Permitting; and/or
 - (E) Other fees as the county may deem necessary to carry out the requirements of the pretreatment program.
- (Ord. passed 8-22-1994)

WASTEWATER DISCHARGE PERMIT APPLICATION AND ISSUANCE

§ 51.050 WASTEWATER DISCHARGES.

It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the county. When requested by the POTW Director, a user must submit information on the nature and characteristics of its wastewater within seven days of the request. The POTW Director is authorized to prepare a form for this purpose and may periodically require users to update this information.

(Ord. passed 8-22-1994) Penalty, see § 51.999

§ 51.051 WASTEWATER PERMITS.

(A) *Generally.* All significant industrial users shall obtain a significant industrial user permit prior to the commencement of discharge to the POTW. Existing industrial users who are determined by the POTW Director to be significant industrial users shall obtain a significant industrial user permit within 180 days of receiving notification of the POTW Director's determination. Industrial users who do not fit the significant industrial user criteria may at the discretion of the POTW Director be required to obtain a wastewater discharge permit for non-significant industrial users.

(B) *Significant industrial user determination.* All persons proposing to discharge non-domestic wastewater, or proposing to change the volume or characteristics of an existing discharge of non-domestic wastewater shall request from the POTW Director a significant industrial user determination. If the POTW Director determines or suspects that the proposed discharge fits the significant industrial user criteria, he or she will require that a significant industrial user permit application be filed.

(C) *Significant industrial user permit application.* Users required to obtain a significant industrial user permit shall complete and file with the county, an application in the form prescribed by the POTW Director, and accompanied by an application fee in the amount prescribed in the schedule of charges and fees. Significant industrial users shall apply for a significant industrial user permit within 90 days after notification of the POTW Director's determination in division (B) above. In support of the application, the user shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name, address, and location, (if different from the address);
- (2) Standard Industrial Classification (SIC) codes for pretreatment, the industry as a whole, and any processes for which categorical pretreatment standards have been promulgated;
- (3) Analytical data on wastewater constituents and characteristics, including, but



not limited to, those mentioned in §§ 51.015 through 51.024, any of the priority pollutants (§ 307(a) of the Act) which the applicant knows or suspects are present in the discharge as determined by a reliable analytical laboratory, and any other pollutant of concern to the POTW; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to § 304 (g) of the Act and contained in 40 C.F.R. pt. 136, as amended;

- (4) Time and duration of the indirect discharge;
- (5) Average daily and 30-minute peak wastewater flow rates, including daily, monthly, and seasonal variations, if any;
- (6) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, sewer connections, direction of flow and appurtenances by the size, location, and elevation;
- (7) Description of activities, facilities, and plant processes on the premises, including all materials which are or could be accidentally or intentionally discharged;
- (8) Where known, the nature and concentration of any pollutants in the discharge which are limited by any county, state, or federal pretreatment standards, and a statement regarding whether or not the 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 for the user to meet applicable pretreatment standards;
- (9) If additional pretreatment and/or O&M will be required to meet the pretreatment standards; the shortest schedule by which the user will provide the additional pretreatment. The completion date in this schedule shall not be longer than the compliance date established for the applicable pretreatment standard. The following conditions apply to this schedule.
 - (a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards. No increment in the schedule shall exceed nine months.
 - (b) No later than 14 days following each date in the schedule and the final date for compliance, the user shall submit a progress report to the POTW Director including, at 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 user to return to the established schedule. In no event shall more than nine months elapse between the progress reports to the POTW Director.
- (10) Each product produced by type, amount, process, or processes and rate of production;
- (11) Type and amount of raw materials processed (average and maximum per day);
- (12) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;
- (13) If subject to a categorical standard, a baseline monitoring report in

accordance with 40 C.F.R. § 403.12(b) and 15A NCAC 2H .0908(a), as outlined in § 51.065; and

(14) Any other information as may be deemed by the POTW Director to be necessary to evaluate the permit application.

(D) *Application signatories and certification.* All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement: "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

(E) *Application review and evaluation.* The POTW Director will evaluate the data furnished by the user and may require additional information.

(1) The POTW Director is authorized to accept applications for the county and shall refer all applications to the POTW staff for review and evaluation.

(2) Within 30 days of receipt the POTW Director shall acknowledge and accept the complete application; or if not complete, shall return the application to the applicant with a statement of what additional information is required.

(F) *Tentative determination and draft permit.*

(1) The POTW staff shall conduct a review of the application and an on-site inspection of the significant industrial user, including any pretreatment facilities, and shall prepare a written evaluation and tentative determination to issue or deny the significant industrial user permit.

(2) If the staff's tentative determination in division (F)(1) above is to issue the permit, the following additional determinations shall be made in writing:

- (a) Proposed discharge limitations for those pollutants proposed to be limited;
- (b) A proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and
- (c) A brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.

(3) The staff shall organize the determinations made pursuant to divisions (F)(1) and (F)(2) above and the county's general permit conditions into a significant industrial user permit.

(G) *Permit synopsis.* A fact sheet providing a brief synopsis of the application shall be prepared by the POTW staff for submission to the applicant and the approval authority and shall be made available to the public upon request. The contents of the fact sheets shall include at least the following information:

- (1) A sketch and detailed description of the industrial facilities and pretreatment

facilities including the location of all points of discharge to the POTW and all established compliance monitoring points; and

(2) A quantitative description of the discharge described in the application which includes at least the following:

(a) The rate or frequency of the proposed discharge; if the discharge is continuous, the average daily flow;

(b) The actual average daily discharge in pounds per day of any limited pollutant and any pollutant identified in the application as known or suspected present; and

(c) The basis for the pretreatment limitations including the documentation of any calculations in applying categorical pretreatment standards.

(H) *Final action on significant industrial user permit applications.*

(1) The POTW Director shall take final action on all applications not later than 90 days following receipt of a complete application.

(2) The POTW Director is authorized to:

(a) Issue a significant industrial user permit containing the conditions as are necessary to effectuate the purposes of this chapter and G.S. § 143-215.1;

(b) Issue a significant industrial user permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;

(c) Modify any permit upon not less than 60 days notice and pursuant to division (J) below;

(d) Revoke any permit pursuant to § 51.120;

(e) Suspend a permit pursuant to § 51.120; and

(f) Deny a permit application when in the opinion of the POTW Director the discharge may cause or contribute to pass-through or interference of the wastewater treatment plant or where necessary to effectuate the purposes of G.S. § 143-215.1.

(I) *Hearings.*

(1) *Initial adjudicatory hearing.* An applicant whose permit is denied, or is granted subject to conditions he or she deems unacceptable, a permittee/user assessed a civil penalty under § 51.999 or one issued an administrative order under § 51.120 shall have the right to an adjudicatory hearing before a hearing officer designated by the POTW Director upon making written demand, identifying the specific issues to be contested, to the POTW Director within 30 days following receipt of the significant industrial user permit, civil penalty assessment, or administrative order. Unless the written demand is made within the time specified herein, the action shall be final and binding. The hearing officer shall make a final decision on the contested permit, penalty, or order within 45 days of the receipt of the written demand of a hearing. The POTW Director shall transmit a copy of the hearing officer's decision by registered or certified mail.

(a) *New permits.* Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the permit is not in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.

(b) *Renewed permits.* Upon appeal, including judicial review in the General



Courts of Justice, of the terms or conditions of a renewed permit, the terms and conditions of the existing permit remain in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.

(2) *Final appeal hearing.* Any decision of a hearing officer made as a result of an adjudicatory hearing held under division (I)(1) above may be appealed, to the Board of Commissioners upon filing a written demand within ten days of receipt of notice of the decision. Hearings held under this division (I)(2) shall be conducted in accordance with the county. Failure to make written demand within the time specified herein shall bar further appeal. The Board of Commissioners shall make a final decision on the appeal within 90 days of the date the appeal was filed and shall transmit a written copy of its decision by registered or certified mail.

(3) *Official record.* When a final decision is issued under division (I)(2) above, the Board of Commissioners shall prepare an official record of the case that includes:

- (a) All notices, motions, and other like pleadings;
- (b) A copy of all documentary evidence introduced;
- (c) A certified transcript of all testimony taken, if testimony is transcribed. If testimony is taken and not transcribed, then a narrative summary of any testimony taken; and
- (d) A copy of the final decision of the Board of Commissioners.

(4) *Judicial review.* Any person against whom a final order or decision of the Board of Commissioners is entered, pursuant to the hearing conducted under division (I)(2) above, may seek judicial review of the order or decision by filing a written petition within 30 days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, with the Superior Court of Lincoln County along with a copy to the county. Within 30 days after receipt of the copy of the petition of judicial review, the Board of Commissioners shall transmit to the reviewing court the original or a certified copy of the official record.

(J) *Permit modification.*

(1) (a) Modification of permits shall be subject to the same procedural requirements as the issuance of permits except as follows:

- 1. Changes in the ownership of the discharge when no other change in the permit is indicated;
- 2. A single modification of any compliance schedule not in excess of four months; and/or
- 3. Modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational.

(b) Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(2) Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to the standards shall be revised to require compliance with the standard within the time frame prescribed by the

standard. Where a user, subject to a national categorical pretreatment standard, has not previously submitted an application for a wastewater discharge permit as required by division (C) above, the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable national categorical pretreatment standard.

(3) A request for a modification by the permittee shall constitute a waiver of the 60-day notice required by G.S. § 143.215.1(b) for modifications.

(K) *Permit conditions.*

(1) The POTW Director shall have the authority to grant a permit with the conditions attached as he or she believes necessary to achieve the purpose of this chapter and G.S. § 143-215.1. Wastewater permits shall contain, but are not limited to, the following:

- (a) A statement of duration (in no case more than five years);
 - (b) A statement of non-transferability;
 - (c) Applicable effluent limits based on categorical standards or local limits or both;
 - (d) Applicable monitoring, sampling, reporting, notification, and record keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law;
 - (e) Notification requirements for slug loads; and
 - (f) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.
- (2) In addition, permits may contain, but are not limited to, the following:
- (a) Limits on the average and/or maximum rate of discharge, and/or requirements for flow regulation and equalization;
 - (b) Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties;
 - (c) Requirements for the installation of pretreatment technology or construction of appropriate containment devices, and the like, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
 - (d) Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
 - (e) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system;
 - (f) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the system;
 - (g) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
 - (h) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules;
 - (i) Requirements for immediate reporting of any instance of noncompliance and



for automatic resampling and reporting within 30 days where self-monitoring indicates a violation(s);

- (j) Compliance schedules for meeting pretreatment standards and requirements;
- (k) Requirements for submission of periodic self-monitoring or special notification reports;

- (l) Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in § 51.077 and affording the POTW Director, or his or her representatives, access thereto;

- (m) Requirements for prior notification and approval by the POTW Director of any new introduction of wastewater pollutants or of any significant change in the volume or character of the wastewater prior to introduction in the system;

- (n) Requirements for the prior notification and approval by the POTW Director any change in the manufacturing and/or pretreatment process used by the permittee;

- (o) Requirements for immediate notification of excessive, accidental, or slug discharges, or any discharge which could cause any problems to the system;

- (p) A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all federal and state pretreatment standards, including those which become effective during the terms of the permit; and

- (q) Other conditions as deemed appropriate by the POTW Director to ensure compliance with this chapter, and state and federal laws, rules, and regulations.

(L) *Permits duration.* Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date.

(M) *Permit transfer.* Wastewater permits are issued to a specific user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred or sold to a new owner, new user, different premises, or a new or changed operation.

(N) *Permit reissuance.* A significant industrial user shall apply for permit reissuance by submitting a complete application in accordance with this section a minimum of 180 days prior to the expiration of the existing permit.

(Ord. passed 8-22-1994)

REPORTING REQUIREMENTS

§ 51.065 BASELINE MONITORING REPORTS.

(A) Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 C.F.R. § 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the POTW Director a report which contains the information listed in division (B) below. At least 90 days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the POTW Director a report which contains the information listed in division (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) Users described above shall submit the information set forth below:

(1) *Identifying information.* The name and address of the facility, including the name of the operator and owner;

(2) *Environmental permits.* A list of any environmental control permits held by or for the facility;

(3) *Description of operations.* A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by the user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes;

(4) *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 wastestream formula set out in 40 C.F.R. § 403.6(e);

(5) *Measurement of pollutants.*

(a) The categorical pretreatment standards applicable to each regulated process;

(b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the POTW Director, or regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 51.074; and

(c) Sampling must be performed in accordance with procedures set out in § 51.075.

(6) *Certification.* A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements;

(7) *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide the additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 51.066; and

(8) *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with § 51.051.

(Ord. passed 8-22-1994) Penalty, see § 51.999

§ 51.066 COMPLIANCE SCHEDULE PROGRESS REPORTS.

(A) *Generally.* The following conditions shall apply to the compliance schedule required by § 51.065.

(B) *Specifically.*



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(1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (the 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).

(2) No increment referred to above shall exceed nine months.

(3) The user shall submit a progress report to the POTW Director no later than 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 user to return to the established schedule.

(4) In no event shall more than nine months elapse between the progress reports to the POTW Director.

(Ord. passed 8-22-1994) Penalty, see § 51.999

§ 51.067 REPORTS OF COMPLIANCE WITH CATEGORICAL PRETREATMENT STANDARD DEADLINE.

Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to the pretreatment standards and requirements shall submit to the POTW Director a report containing the information described in § 51.065. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 C.F.R. § 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with § 51.051.

(Ord. passed 8-22-1994)

§ 51.068 PERIODIC COMPLIANCE REPORTS.

(A) Municipalities may sample and analyze user discharges in lieu of requiring the users to conduct sampling and analysis.

(B) All significant industrial users shall, at a frequency determined by the POTW Director but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with § 51.051.

(C) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly



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operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

(D) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the POTW Director, using the procedures prescribed in § 51.074, the results of this monitoring shall be included in the report. (Ord. passed 8-22-1994)

§ 51.069 REPORTS OF CHANGED CONDITIONS.

(A) Each user must notify the POTW Director of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 60 days before the change.

(B) The POTW Director may require the user to submit the information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 51.051.

(C) The POTW Director may issue a wastewater discharge permit under § 51.051 or modify an existing wastewater discharge permit under § 51.051 in response to changed condition or anticipated changed conditions.

(D) For purposes of this requirement, significant changes include, but are not limited to, flow increases of 10% or greater, and the discharge of any previously unreported pollutants.

(Ord. passed 8-22-1994) Penalty, see § 51.999

§ 51.070 REPORTS OF POTENTIAL PROBLEMS.

(A) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the POTW Director of the incident. This notification shall include the location of this discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(B) (1) Within five working days following the discharge, the user shall, unless waived by the POTW Director, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences.

(2) The notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall the notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.

(C) (1) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in division (A) above.

(2) Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedures.



(Ord. passed 8-22-1994) Penalty, see § 51.999

§ 51.071 REPORTS FROM UNPERMITTED USERS.

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the POTW Director as the POTW Director may require.

(Ord. passed 8-22-1994) Penalty, see § 51.999

§ 51.072 NOTICE OF VIOLATION; REPEAT SAMPLING AND REPORTING.

If sampling performed by a user indicates a violation, the user must notify the POTW Director within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the POTW Director within 30 days after becoming aware of the violation. The user is not required to resample if the POTW Director monitors at the user's facility at least once a month, or if the POTW Director samples between the user's initial sampling and when the user received the results of this sampling.

(Ord. passed 8-22-1994) Penalty, see § 51.999

§ 51.073 NOTIFICATION OF THE DISCHARGE OF HAZARDOUS WASTE.

(A) The municipality may choose to prohibit the discharge of hazardous waste.

(B) Any user 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 C.F.R. pt. 261. The notification must include the name of the hazardous waste as set forth in 40 C.F.R. pt. 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than 100 kilograms of the waste per calendar month to the POTW, the notification also shall contain the following information to the extent the information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, as estimation of the mass and concentration of the constituents in the wastestream discharge during the calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this division (B) need to be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under § 51.069. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of §§ 51.065, 51.067, and 51.068.

(C) Discharges are exempt from the requirements of division (A) above, during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specific in 40 C.F.R. §§ 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous waste in a calendar month, or of any quantity of acute hazardous waste as specified in 40 C.F.R. §§ 261.30(d) and 261.33(e), requires a onetime notification. Subsequent months during which the user discharges more than the quantities of any hazardous

waste do not require additional notification.

(D) In the case of any new regulation under § 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the POTW Director, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of the substance within 90 days of the effective date of the regulations.

(E) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous waste generated to the degree it has determined to be economically practical.

(F) The provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued thereunder, or any applicable federal or state law.

(Ord. passed 8-22-1994) Penalty, see § 51.999

§ 51.074 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 C.F.R. pt. 136, unless otherwise specified in any applicable pretreatment standard. If 30 C.F.R. pt. 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.

(Ord. passed 8-22-1994)

§ 51.075 SAMPLE COLLECTION.

(A) Except as indicated in division (B) below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the POTW Director may authorize the use of time proportional sampling or a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

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

(Ord. passed 8-22-1994) Penalty, see § 51.999

§ 51.076 TIMING.

(A) Written reports will be deemed to have been submitted on the date postmarked.

(B) For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

(Ord. passed 8-22-1994)

§ 51.077 RECORD KEEPING.

Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of the



requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the date analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of the analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the county, or where the user has been specifically notified of a longer retention period by the POTW Director.

(Ord. passed 8-22-1994) Penalty, see § 51.999

COMPLIANCE MONITORING

§ 51.090 MONITORING FACILITIES.

(A) The county requires the user to provide and operate at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility should normally be situated on the user's premises, but the county may, when such a location would be impractical or cause undue hardship on the user, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

(B) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user.

(C) (1) Whether constructed on public or private property, the sampling and monitoring/facilities shall be provided in accordance with the county's requirements and all applicable local construction standards and specifications.

(2) Construction shall be completed within 90 days following written notification by the county.

(Ord. passed 8-22-1994)

§ 51.091 INSPECTION AND SAMPLING.

The county will inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the county, approval authority and EPA or their representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and copying or in the performance of any of their duties. The county, approval authority and EPA shall have the right to set up on the user's property the devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would require proper identification and clearance before entry into their premises, the user shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the county, approval authority and EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Denial of the POTW Director's, approval authority's, or EPA's access to



the user's premises shall be a violation of this chapter. Unreasonable delays may constitute denial of access.

(Ord. passed 8-22-1994)

§ 51.092 SEARCH WARRANTS.

If the POTW Director, approval authority, or EPA has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the county designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety, and welfare of the community, then the POTW Director, approval authority, or EPA may seek issuance of a search warrant from the County Superior Court.

(Ord. passed 8-22-1994)

CONFIDENTIAL INFORMATION

§ 51.105 GENERALLY.

(A) Information and data on a user obtained from reports, questionnaires, permit applications, permits, and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the user specifically request and is able to demonstrate to the satisfaction of the POTW Director that the release of the information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. Any such request must be asserted at the time of submission of the information or data.

(B) When requested by the person furnishing a report, 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 upon written request to governmental agencies for uses related to this chapter, the National Pollutant Discharge Elimination System (NPDES) permit, non-discharge permit, and/or the pretreatment programs; provided, however, that the portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

(C) All records relating to compliance with pretreatment standards shall be made available to officials of the approval authority and EPA upon request.

(Ord. passed 8-22-1994) Penalty, see § 51.999

ENFORCEMENT

§ 51.120 ADMINISTRATIVE REMEDIES.

(A) *Notification of violation.* Whenever the POTW Director finds that any industrial user has violated or is violating this chapter, wastewater permit, or any prohibition, limitation, or requirements contained therein or any other pretreatment requirement the POTW Director may serve upon such a person a written notice stating the nature of the violation. Within 30 days from the date of this notice, any explanation for the violation and a plan for the satisfactory correction thereof shall be submitted to the county by the



user. Submission of this plans does not relieve the discharger of liability for any violations occurring before or after receipt of the notice of violation.

(B) *Consent orders.* The POTW Director is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the person responsible for the noncompliance. The orders will include specific action to be taken by the discharger to correct the noncompliance within a time period also specified by the order. Consent orders shall have the same force and effect as an administrative order issued pursuant to division (D) below.

(C) *Show cause hearing.*

(1) The POTW Director may order any industrial user who causes or is responsible for an unauthorized discharge, has violated this chapter or is in noncompliance with a wastewater discharge permit to show cause why a proposed enforcement action should not be taken. In the event the POTW Director determines that a show cause order should be issued, a notice shall be served on the user specifying the time and place for the hearing, the proposed enforcement action, the reasons for the action, and a request that the user show cause why this proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten days before the hearing. Service may be made on any agent or officer of a corporation.

(2) The POTW Director shall review the evidence presented at the hearing and determine whether the proposed enforcement action is appropriate.

(3) A show cause hearing under this section is not a prerequisite to the assessment of a civil penalty under § 51.999 nor is any action or inaction take by the POTW Director under this section subject to an administrative appeal under § 51.051.

(D) *Administrative orders.* When the POTW Director finds that an industrial user has violated or continues to violate this chapter, permits or orders issued hereunder, or any other pretreatment requirement the POTW Director may issue an order to cease and desist all the violations and direct those persons in noncompliance to do any of the following:

- (1) Immediately comply with all requirements;
- (2) Comply in accordance with a compliance time schedule set forth in the order;
- (3) Take appropriate remedial or preventive action in the event of a continuing or threatened violation; and/or
- (4) Disconnect unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated within a specified time period.

(E) *Emergency suspensions.*

(1) The POTW Director may suspend the wastewater treatment service and/or wastewater permit when the suspension is necessary in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or the environment, interferes with the POTW or causes the POTW to violate any conditions of its NPDES or non-discharge permit.



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(2) Any user notified of a suspension of the wastewater treatment service and/or the wastewater permit shall immediately stop or eliminate the contribution. A hearing will be held within 15 days of the notice of suspension to determine whether the suspension may be lifted or the user's waste discharge permit terminated. In the event of a failure to comply voluntarily with the suspension order, the POTW Director shall take the steps as demand necessary including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The POTW Director shall reinstate the wastewater permit and the wastewater treatment service upon proof of the elimination of the noncompliant discharge. The industrial user shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the POTW Director prior to the date of the above-described hearing.

(F) *Termination of permit.* Any user who violates the following conditions of this chapter, or applicable state and federal regulations, is subject to have its permit terminated:

(1) Failure to accurately report the wastewater constituents and characteristics of his or her discharge;

(2) Failure to report significant changes in operations, or wastewater constituents and characteristics;

(3) Refusal of reasonable access to the user's premises for the purpose of inspection or monitoring; or

(4) Violation of condition of the permit.

(G) *Noncompliance.* Noncompliant industrial users will be notified of the proposed termination of their wastewater permit and will be offered an opportunity to show cause under this section why the proposed action should not be taken.

(Ord. passed 8-22-1994)

§ 51.121 OTHER AVAILABLE REMEDIES.

(A) Remedies, in addition to those previously mentioned in this chapter, are available to the POTW Director who may use any single one or combination against a noncompliant user.

(B) Additional available remedies include, but are not limited to:

(1) *Criminal violations.* The District Attorney for the Judicial District may, as the request of the county, prosecute noncompliant users who violate the provisions of G.S. § 143-215.6B;

(2) *Injunctive relief.* Whenever a user is in violation of the provisions of this chapter or any order or permit issued hereunder, the POTW Director, through the County Attorney, may petition the Superior Court of Justice for the issuance of a restraining order or a preliminary and permanent injunction which restrains or compels the activities in question;

(3) *Water supply severance.* Whenever an industrial user is in violation of the provisions of this chapter or an order or permit issued hereunder, water service to the industrial user may be severed and service will only recommence, at the user's

expense, after it has satisfactorily demonstrated ability to comply; and

(4) *Public nuisances.* Any violation of the prohibitions or effluent limitations of this chapter or of a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the POTW Director.

(Ord. passed 8-22-1994)

§ 51.122 REMEDIES NONEXCLUSIVE.

The remedies provided for in this chapter are not exclusive. The POTW Director may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the county's enforcement response plan. However, the POTW Director may take other action against any user when the circumstances warrant. Further, the POTW Director is empowered to take more than one enforcement action against any noncompliant user.

(Ord. passed 8-22-1994)

ANNUAL PUBLICATION OF SIGNIFICANT NONCOMPLIANCE

§ 51.135 GENERALLY.

At least annually, the POTW Director shall publish in the largest daily newspaper circulated in the service area, a list of those industrial users which were found to be in significant noncompliance, also referred to as reportable noncompliance in 15A NCAC 2H.0903(b)(10), with applicable pretreatment standards and requirements during the previous 12 months.

(Ord. passed 8-22-1994)

AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

§ 51.150 UPSET.

(A) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of division (B) below are met.

(B) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (1) An upset occurred and the user can identify the cause(s) of the upset;
- (2) 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
- (3) The user has submitted the following information to the POTW Director within 24 hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five days:
 - (a) A description of the indirect discharge and cause of noncompliance;
 - (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - (c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(C) In any enforcement proceeding, the user seeking to establish the occurrence of any upset shall have the burden of proof.



(D) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(E) Users 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. (Ord. passed 8-22-1994)

§ 51.151 PROHIBITED DISCHARGE STANDARDS DEFENSE.

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in § 51.015 or the specific prohibitions in § 51.015 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 user 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 user's prior discharge when the county was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(Ord. passed 8-22-1994)

§ 51.152 BYPASS.

(A) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of divisions (B) and (C) below.

(B) (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the POTW Director, at least ten days before the date of the bypass, if possible.

(2) A user shall submit oral notice to the POTW Director of an unanticipated bypass that exceed applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written submission shall also be provided within five days of this time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The POTW Director may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

(C) (1) Bypass is prohibited, and the POTW Director may take an enforcement action against a user for a bypass, unless:

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(c) The user submitted notices as required under division (B) above.

(2) The POTW Director may approve an anticipated bypass, after considering its adverse effects, if the POTW Director determines that it will meet the three conditions listed in division (C)(1) above.

(Ord. passed 8-22-1994) Penalty, see § 51.999

§ 51.999 PENALTY.

(A) Any user who is found to have failed to comply with any provision of this chapter, or the orders, rules, regulations, and permits issued hereunder, may be fined up to \$10,000 per day violation.

(B) In determining the amount of the civil penalty, the POTW Director shall consider the following:

- (1) The degree and extend of the harm to the natural resources, to the public health, or to public or private property resulting from the violation;
- (2) The duration and gravity of the violation;
- (3) The effect on ground or surface water quantity or quality or on air quality;
- (4) The cost of rectifying the damage;
- (5) The amount of money saved by noncompliance;
- (6) Whether the violation was committed willfully or intentionally;
- (7) The prior record of the violator in complying or failing to comply with the pretreatment program; and
- (8) The cost of enforcement to the county.

(C) Appeals of civil penalties assessed in accordance with this section shall be as provided in § 51.051.

(Ord. passed 8-22-1994)