

ARTICLE III. - SEWER USE

DIVISION 1. - GENERALLY

Sec. 34-86. - Purpose and policy.

- (a) This article 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 USC 1251 et seq.) and the general pretreatment regulations (40 CFR 403). This article shall supersede all prior ordinances, but only to the extent that such prior ordinances are inconsistent herewith.
- (b) The objectives of this article are:
 - (1) To prevent the introduction of pollutants and wastewater discharges into the municipal wastewater system which will interfere with the operation of the system or contaminate the resulting sludge;
 - (2) To prevent the introduction of pollutants and wastewater discharges into the municipal 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 municipal system;
 - (4) To protect both municipal 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 municipal wastewater system; and
 - (6) To ensure that the municipality complies with its NPDES or non-discharge permit conditions, sludge use and disposal requirements and any other federal or state laws to which the municipal wastewater system is subject.
- (c) This article provides for the regulation of direct and indirect contributors to the municipal 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 article shall apply to all users of the municipal wastewater system. Except as otherwise provided herein, the public works administrator shall administer, implement, and enforce the provisions of this article. Any powers granted to or imposed upon the public works administrator may be delegated by the public works administrator to other county personnel. By discharging wastewater into the municipal wastewater system, industrial users located outside the county limits agree to comply with the terms and conditions established in this article, as well as any permits, enforcement actions, or orders issued hereunder.

(Ord. of 11-21-1994, § 1.1; [Ord. of 2-20-2017](#), § 1)

Sec. 34-87. - Definitions and abbreviations.

- (a) The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this subsection, except where the context clearly indicates a different meaning:

Act or *the Act* means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 et seq.

Action level means the concentration based numeric value that grease interceptor effluent, at the device's outlet tee and prior to mixing with any other waste water from the contributing establishment's property, are expected to achieve on a consistent or stipulated basis.

Approval authority means the director of the Division of Water Resources of the North Carolina Department of Environmental Quality, or his or her designee.

Authorized representative of the industrial user.

- (1) If the industrial user is a corporation, the term "authorized representative" shall mean:
 - a. 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
 - b. The manager of one or more manufacturing, production, or operation facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations and initiate and direct comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the industrial user is a partnership or sole proprietorship, the term "authorized representative" shall mean a general partner or the proprietor, respectively.
- (3) If the industrial user is a federal, state or local government facility, the term "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.
- (4) The individuals described in subsections (1) through (3) of this definition 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.
- (5) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to the control authority prior to or together with any reports to be signed by an authorized representative.

Biochemical oxygen demand (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).

Building sewer means a sewer conveying wastewater from the premises of a user to the POTW.

Bypass means the intentional diversion of waste streams from any portion of a user's treatment facility.

Categorical standards means national categorical pretreatment standards or pretreatment standard.

Common interceptor means the one or more grease interceptors receiving fats, oils, and/or greases-laden wastewater from more than one establishment (these may be located at shopping centers, malls, entertainment complexes, sporting arenas, hotels, multi-tenant "flex" spaces, mixed use spaces, and other sites where multiple establishments are connected to a single grease interceptor).

Control Authority means the POTW organization if the POTW organization's Pretreatment Program approval has not been withdrawn.

District means the Union County Water and Sewer District, which operates the county's wastewater collection and treatment system under interlocal agreement.

Environmental Protection Agency or *EPA* means 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 said agency.

Fats, oils, and greases or *grease(s)* or *FOG* means organic polar compounds derived from animal and/or plant sources that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established in 40 CFR 136.

FOG service provider means any third party not in the employment of a user subject to the requirements of section 34-116 that performs maintenance, repair, and other services on such a user's grease interceptor at such user's directive.

Food service establishment(s) or *FSE* means those establishments primarily engaged in activities of preparing, serving, or otherwise making available for consumption food and/or food products and that use one or more of the following preparation activities: cooking by frying (all methods), baking (all methods), grilling, sautéing, rotisserie cooking, broiling (all methods), boiling blanching, roasting, toasting, or poaching, and infrared heating, searing, barbecuing, and any other food preparation or serving activity that produces a consumable food product in or on a receptacle requiring washing to be reused.

Grab sample means 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.

Grease collection device means a device designed to separate greases, oils, and food solids from the sink wastewater effluent of a user, allowing for FOG and solids retention and removal (which term includes, without limitation, grease interceptor and grease trap devices).

Grease interceptor means a chambered device for separating grease, oils, and food solids from the sink wastewater of a user by reducing the incoming wastewater's velocity to allow heavy solids to settle to the bottom and buoyant grease to float on top prior to the wastewater entering the POTW.

Grease trap means a device designed to separate grease, oils, and food solids from the sink wastewater of a user through allowing FOG and other solids retention and removal.

Grit interceptor means a chamber or other device in a wastewater line where the velocity of the flow is reduced so that particulate and solids can settle to the bottom of the device or chamber for removal.

Holding tank waste means any waste from holding tanks, including but not limited to such holding tanks as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

Indirect discharge or *discharge* means the discharge or the introduction from any non-domestic source regulated under section 307(b), (c), or (d) of the Act, (33 USC 1317), into the POTW (including holding tank waste discharged into the system).

Industrial user or *user* means any person which is a source of indirect discharge.

Industrial waste means non-domestic wastewater, including, but not limited to, process water, groundwater remediation discharges, contaminated stormwater or surface water remediation discharges, and other non-domestic discharges from an industrial or commercial facility.

Interference means the inhibition, or disruption of the POTW collection system, treatment processes, operations, or its sludge process, use, or disposal, which causes or contributes to a violation of any requirement of the control authority's (and/or POTW's, if different from the control authority) NPDES collection system, 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 "interference" includes prevention of sewage sludge use or disposal by the POTW in accordance with section 405 of the Act, (33 USC 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA) (42 USC 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 means 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* means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with sections 307(b) and (c) of the Act (33 USC 1317) which applies to a specific category of industrial users, and which appears in 40 CFR 405—471.

National pollution discharge elimination system permit or *NPDES permit* means a permit issued pursuant to section 402 of the Act (33 USC 1342), or by the state under delegation from the EPA.

National prohibitive discharge standard or *prohibitive discharge standard* means absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 34-107 and are developed under the authority of 307(b) of the Act and 40 CFR 403.5.

New source.

- (1) The term "new source" means 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 section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with said section 307(c), provided that:
 - a. The building, structure, facility, or installation is constructed at a site at which no other source is located;
 - b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
 - c. The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing 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.
- (2) 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 subsection (1)b or c of this definition but otherwise alters, replaces, or adds to existing processes or equipment.
- (3) For purposes of this definition, construction of a new source has commenced if the owner or operator has:
 - a. Begun, or caused to begin, as part of a continuous on-site construction program:
 1. Any placement, assembly, or installation of facilities or equipment; or
 2. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
 - b. 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.

Non-discharge permit means a permit issued by the state pursuant to G.S. 143-215.1(d) for a waste which is not discharged directly to surface waters of the state or for a wastewater treatment works which does not discharge directly to surface waters of the state.

Noncontact cooling water means water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

Oil means any animal, mineral, or synthetic pollutant is combustible, viscous, liquid or liquefiable at room temperature, and soluble in various organic solvents, but not in water.

Oil/water separator means a device designed to separate and retain oil and other light density, volatile liquids from wastewater for proper disposal, rendering, or recycling. An oil/water separator must have two access ports to allow for proper inspection, sampling, and cleaning.

Pass through means 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 control authority's (and/or POTW's, if different from the control authority), NPDES, collection system, or non-discharge permit.

Person means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. This definition includes all federal, state, and local government entities.

pH means 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 means 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, metals, BOD, COD, toxicity, and odor).

POTW treatment plant means that portion of the POTW designed to provide treatment to wastewater.

Pretreatment or *treatment* means 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 such pollution into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes or other means, except for dilution as prohibited by 40 CFR 403.6(d).

Pretreatment program means 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 CFR 403.8 and approved by the approval authority as authorized by G.S. 143-215.3(a)(14) in accordance with 40 CFR 403.11.

Pretreatment requirements means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard.

Pretreatment standard means any prohibited discharge standard, categorical standard, or local limit which applies to an industrial user.

Publicly owned treatment works (POTW) or municipal wastewater system means a treatment works as defined by section 212 of the Act (33 USC 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 article, the term "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 the district, or in any other way, users of the county's POTW.

Public works administrator means Union County's Public Works Administrator who is designated with the responsibility for the pretreatment program and enforcement of this sewer use ordinance as set forth in section 34-86, unless otherwise provided herein.

Severe property damage means 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 (SIU) means an industrial user that discharges wastewater into a publicly owned treatment works and that:

- (1) Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewaters); or
- (2) Contributes process wastewater which makes up five percent or more of the NPDES or non-discharge permitted flow limit or organic capacity of the POTW treatment plant. In this context, organic capacity refers to BOD, TSS, and Ammonia; or
- (3) Is subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR 405-471; or
- (4) Is designated as such by the control authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation, or for violating any pretreatment standards or requirement, or for contributing to violations of the POTW's effluent limitations and conditions in its NPDES or non-discharge permit, or for contributing to violations of the POTW's receiving stream standard, or for limiting the POTW's sludge disposal options.

Subject to approval authority approval under 15A NCAC 02H .0907(b), the control authority may determine that an industrial user meeting the criteria in paragraphs (1) and (2) immediately above has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standards or requirement, or for contributing to violations of the POTW's effluent limitations and conditions in its NPDES or non-discharge permit, or for contributing to violations of the POTW's receiving stream standard, or for limiting the POTW's sludge disposal options, and thus is not a significant industrial user.

Subject to approval authority approval under 15A NCAC 02H .0907(b), the control authority may determine that an industrial user meeting the criteria in paragraph (3) immediately above meets the requirements of 40 CFR 403.3(v)(2) and thus is a non-significant categorical industrial user.

Subject to approval authority approval under 15A NCAC 02H .0907(b), the control authority may determine that an industrial user meeting the criteria in paragraph (3) immediately above meets the requirements of 40 CFR 403.12(e)(3) and thus is a middle tier significant industrial user. Sampling and inspection requirements may be cut in half as per 40 CFR 403.8(f)(2)(v)(C) and 403.12(e)(3).

Significant noncompliance (SNC) means the status of noncompliance of a significant industrial user when one or more of the following criteria are met. Additionally, any industrial user which meets the criteria in subsections 3, 4, or 8 below shall also be SNC status:

- (1) Chronic violations of wastewater discharge limits are defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter (not including flow) during a six month period exceed (by any magnitude) a numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR 403.3(l);
- (2) Technical review criteria (TRC) violations are defined here as those in which thirty-three percent (33%) or more of all the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC is 1.4 for BOD, TSS, and FOG, and 1.2 for all other pollutants (except flow and pH));

- (3) Any other violation of a pretreatment standard or requirement as defined by 40 CFR 403.3(l) (daily maximum, long-term average instantaneous limit, or narrative standard) that the control authority and/or POTW determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
- (4) Any discharge of a pollutant or wastewater that has caused imminent endangerment to human health/welfare or to the environment, or has resulted in either the control authority, or the POTW's if different from the control authority, exercise of its emergency authority under 40 CFR 403.8(f)(1)(vi)(B) and section 34-252 to halt or prevent such a discharge.
- (5) 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.
- (6) 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.
- (7) Failure to accurately report noncompliance.
- (8) Any other violation or group of violations that the control authority and/or POTW determines will adversely affect the operation or implementation of the local pretreatment program.

Slug load means any discharge at a flow rate or concentration which has a reasonable potential to cause interference or pass through, or in any other way violates the POTW's regulations, local limits, or industrial user permit conditions. This can include but is not limited to spills and other accidental discharges; discharges of a non-routine, episodic nature; a non-customary batch discharge; or any other discharges that can cause a violation of the prohibited discharge standards in section 34-107.

Standard Industrial Classification (SIC) means a classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1987.

Stormwater means any flow occurring during or following any form of natural precipitation and resulting therefrom.

Suspended solids means 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 means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the 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 means 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 stormwater that may be present, whether treated or untreated, which are contributed into or permitted to enter the POTW.

Wastewater permit has the meaning as set forth in section 34-179.

Waters of the state means all streams, rivers, brooks, swamps, sounds, tidal estuaries, bays, creeks, lakes, waterways, reservoirs, 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) The following abbreviations when used in this article, shall have the designated meanings:

BOD	Biochemical oxygen demand
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CFR	Code of Federal Regulations
COD	Chemical oxygen demand
EPA	Environmental Protection Agency
gpd	Gallons per day
G.S.	North Carolina General Statutes
l	Liter
mg	Milligrams
mg/l	Milligrams per liter
NCAC	North Carolina Administrative Code
NH ₃ -N	Ammonia
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
USC	United States Code
WWTP	Wastewater treatment plant

(Ord. of 11-21-1994, § 1.2; [Ord. of 2-20-2017](#), § 1)

Sec. 34-88. - Confidential information.

- (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 requests and is able to demonstrate to the satisfaction of the public works administrator that the release of such information would divulge information, processes or methods of production entitled to protection pursuant to state law 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, and when in accordance with applicable law, 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 article, the national pollutant discharge elimination system (NPDES) permit, non-discharge permit and/or the pretreatment programs; provided, however, that such 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. of 11-21-1994, § 7)

Sec. 34-89. - Annual publication of significant noncompliance.

At least annually, the public works administrator shall cause to be published in a newspaper of general circulation that provides meaningful public notice within the jurisdiction(s) served by the POTW, a list of those industrial users which were found to be in significant noncompliance, also referred to as reportable noncompliance in 15 NCAC 2H.0903 (b)(31) with applicable pretreatment standards and requirements, during the previous 12 months.

(Ord. of 11-21-1994, § 9)

Secs. 34-90—34-106. - Reserved.

DIVISION 2. - GENERAL SEWER USE REQUIREMENTS

Sec. 34-107. - Prohibited discharge standards.

- (a) *General prohibitions.* 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) *Specific prohibitions.* 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, waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR 261.21.

- (2) Screenings, rags, hand towels, commercially available "wipes," solid or viscous substances (including but not limited to FOG of animal or vegetable origin) in amounts that may obstruct flow into the POTW resulting in interference, but in no case solids greater than one half inch (1/2") in any dimension.
- (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 5.0 or more than 12.0 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, etc.), 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 degrees Fahrenheit (66 degrees Celsius), 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 degrees Fahrenheit (40 degrees Celsius).
- (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 county in accordance with section 34-115.
- (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 section 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) Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, and deionized water, unless specifically authorized by the public works administrator.
- (13) Any pollutant that will emulsify grease or oil or cause grease or oil to solidify or become more viscous, unless authorized by the public works administrator as may be allowed by section 34-116.
- (14) Any sludges, screenings or other residues from the pretreatment of industrial wastes.
- (15) Any medical wastes, except as specifically authorized by the public works administrator in a wastewater discharge permit.
- (16) Any material containing ammonia, ammonia salts, or other chelating agents which will produce metallic complexes that interfere with the municipal wastewater system.
- (17) Any material that would be identified as hazardous waste according to 40 CFR 261 if not disposed of in a sewer except as may be specifically authorized by the public works administrator.

- (18) Any wastewater causing the treatment plant effluent to violate state water quality standards for toxic substances as described in 15A NCAC 2B.0200.
 - (19) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
 - (20) Recognizable portions of the human or animal anatomy.
 - (21) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the municipal wastewater system.
 - (22) 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 five percent (5%) nor any single reading over ten percent (10%) of the lower explosive limit (LEL) of the meter.
 - (23) Any wastewater containing any radioactive wastes or isotopes except as specifically approved by the public works administrator in compliance with applicable state or federal regulations.
- (c) *Pollutants, substances, wastewater or other wastes.* 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 municipal wastewater system. All floor drains located in process or materials storage areas may be required to discharge to the industrial user's pretreatment facility before connecting with the system.
- (d) *Determining user is contributing to POTW.* When the public works administrator determines that a user is contributing to the POTW any of the substances enumerated in subsection (b) of this section, the public works administrator shall:
- (1) Advise the user of the potential impact of the contribution on the POTW in accordance with section 34-252; and
 - (2) Take appropriate actions in accordance with division 4 of this article for such user to protect the POTW from interference or pass through.

(Ord. of 11-21-1994, § 2.1)

Sec. 34-108. - National categorical pretreatment standards.

Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR 405-471 and incorporated herein.

- (1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the public works administrator may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- (2) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the public works administrator shall impose an alternate limit using the combined wastestream formula in 40 CFR 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 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by the EPA when developing the categorical pretreatment standard.
- (4) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.
- (5) A user may request a removal credit adjustment to a categorical standard in accordance with 40 CFR 403.7.

(Ord. of 11-21-1994, § 2.2)

Sec. 34-109. - Industrial waste survey and local limits.

An industrial waste survey is required prior to a user discharging wastewater containing in excess of the following daily average discharge limits:

250	mg/l	BOD
500	mg/l	COD
25	mg/l	NH3-N
250	mg/l	TSS
40	mg/l	TKN
0.003	mg/l	arsenic
0.003	mg/l	cadmium
0.061	mg/l	copper
0.015	mg/l	cyanide
0.049	mg/l	lead
0.0003	mg/l	mercury
0.021	mg/l	nickel
5	mg/l	phosphorus
0.005	mg/l	silver
0.05	mg/l	total chromium
100.0	mg/l	total petroleum hydrocarbons
0.175	mg/l	zinc

Industrial waste survey information will be used to develop user-specific local limits when necessary to ensure that the POTW's maximum allowable headworks loading is not exceeded for particular pollutants of concern. Industrial user-specific local limits for appropriate pollutants of concern shall be included in wastewater permits and are considered pretreatment standards. The public works administrator may impose mass limits in addition to, or in place of, concentration-based limits.

(Ord. of 11-21-1994, § 2.3)

Sec. 34-110. - 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 article.

(Ord. of 11-21-1994, § 2.4)

Sec. 34-111. - 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 regulation if determined necessary to comply with the objectives presented in section 34-86 or the general and specific prohibitions in section 34-107, as is allowed by 40 CFR 403.4.

(Ord. of 11-21-1994, § 2.5)

Sec. 34-112. - 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. of 11-21-1994, § 2.6)

Sec. 34-113. - Pretreatment of wastewater.

- (a) *Pretreatment facilities.* Users shall provide wastewater treatment as necessary to comply with this article and wastewater permits issued under section 34-179 and shall achieve compliance with all national categorical pretreatment standards, local limits, and the prohibitions set out in section 34-107 within the time limitations as specified by EPA, the state, or the public works administrator, 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 public works administrator before construction of the facility. The review of such 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 article. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to the control authority and be approved by the public works administrator prior to the user's initiation of the changes.
- (b) *Additional pretreatment measures.*
 - (1) Whenever determined necessary, the public works administrator 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 such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this article.

- (2) The public works administrator 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) Additional pretreatment measure for FOG as detailed in section 34-116.
- (4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(Ord. of 11-21-1994, § 2.7)

Sec. 34-114. - Accidental discharge/slug control plans.

The public works administrator shall evaluate whether each significant industrial user needs a plan or other action to control and prevent accidental discharge and slug loads. All SIUs must be evaluated within one year of being designated as an SIU. The public works administrator may require any user to develop, submit for approval, and implement such a plan or other specific action. Alternatively, the public works administrator may develop such a plan for any user. All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load. An accidental discharge/slug control plan shall address, at a minimum, the following:

- (1) Description of discharge practices, including non-routine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the control authority of any accidental discharge or slug load, as required by section 34-202; and
- (4) Procedures to prevent adverse impact from any accidental discharge or slug load. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

(Ord. of 11-21-1994, § 2.8)

Sec. 34-115. - Hauled wastewater.

- (a) Septic tank waste may be introduced into the POTW only at locations designated by the public works administrator and at such times as are established by the public works administrator. Such waste shall not violate this division or any other requirements established by the county. The public works administrator may require septic tank waste haulers to obtain wastewater discharge permits.
- (b) The public works administrator shall require haulers of industrial waste to obtain wastewater discharge permits. The public works administrator may require generators of hauled industrial waste to obtain wastewater discharge permits. The public works administrator also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this article.
- (c) Industrial waste haulers may discharge loads only at locations designated by the public works administrator. No load may be discharged without prior consent of the public works administrator.

The public works administrator may collect samples of each hauled load to ensure compliance with applicable standards. The public works administration 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. of 11-21-1994, § 2.9)

Sec. 34-116. – Fats, oils, and greases control.

- (a) The objective of this section is to prevent the introduction and accumulation of fats, oils, and greases into the POTW which will, or tend to, cause or contribute to sanitary sewer blockages and obstructions, as well as the prevention of wastewater treatment caused by interference at the POTW treatment plant.
- (b) This section applies to each user that causes or permits the contribution or discharge of wastewater into the POTW, including, but not limited to, property owners who provide common interceptors for one or more independent establishments (including tenants). Specifically, this section applies to:
 - (1) Any FSE, commercial establishment, or industrial establishment (including, without limitation, any establishment primarily engaged in the business or serving or preparing cooked or precooked food, cold dairy, or frozen food) that generates wastewater containing FOG, or similar products;
 - (2) Upon notification from the control authority, any other commercial establishment that the public works administrator determines that a grease collection device is necessary to prevent contribution or accumulation of FOG in the POTW (collectively referenced in this section, as “FOG users”).
- (c) FOG users shall install, operate, and maintain each grease collection device at the FOG user’s expense. All grease interceptors required by this section shall be of a type, design, and capacity approved by the public works administrator. Each installed grease collection device shall be easily accessible for maintenance and repair, including cleaning.
- (d) All FOG users shall adopt and apply a kitchen waste control plan for the proper disposal of FOG and food solids. Each FOG user must have a delegated lidded storage container for used fryer oil storage.
- (e) Each FOG user shall adopt and apply kitchen best management practices, as such kitchen best management practices may be detailed through procedures set forth by the public works administrator, for handling all sources of FOG that are used or generated by the FOG user so as to reduce and prevent the discharge of FOG into the POTW.
- (f) Control authority may inspect any FOG user to ensure compliance with all requirements of this section, as set forth in section 34-228.
- (g) All grease collection devices shall be serviced and emptied of accumulated waste content as required in order to maintain its design features and its ability, and the volume required, to effectively intercept and retain FOG and settled solids from FOG-laden wastewaters. Such servicing shall

occur as need, but such servicing shall in no case occur less often than every 90 days (unless permitted a modification by the public works administrator). The owner of the property on which a common grease interceptor is located shall be primarily responsible for the maintenance, upkeep, and repair of the common grease interceptor.

- (h) FOG users shall maintain a written record of grease collection device maintenance and service for three years, as required by this section and section 34-209. All such records must be available for inspection by the control authority at all times.
- (i) For each grease interceptor, access manholes shall be required and shall be installed over each chamber and each sanitary tee. The access manholes shall extend at least to finished grade and be designed and maintained to prevent water inflow or infiltration. The access manholes shall also have readily removable covers to facilitate inspection, grease removal, and wastewater sampling activities.
- (j) Upon notification from the control authority that a FOG user is subject to the terms of an enforcement action under this article related to the failure of a grease collection device to function properly by reducing FOG levels within the acceptable levels required by this article, said FOG user shall not allow wastewater discharge concentration from the subject grease collection device to exceed the acceptable levels set forth in this article.
- (k) Non-FOG sources shall not be allowed to be connected to sewer lines intended to be attached to the grease collection device for pretreatment.
- (l) Users with the potential to discharge one or more of the following pollutants into the POTW, shall be required to install an oil/water separator and grit interceptor: oil, kerosene, gasoline, naphtha, wax, any light-density and volatile liquid, or any material with a higher viscosity that causes impact or flow resistance. Substances that will emulsify oil or grease shall not be used in any oil/water separator required by this section.
- (m) Vehicle wash facilities shall install an oil/water separator and a grit interceptor. A grit interceptor required by this section or other applicable law shall be installed in a drainage line so that wastewater flows into the grit interceptor before entering an oil/water separator installed in accordance with this section.
- (n) Vehicle wash facilities shall be designed, constructed, operated and maintained to prevent direct or indirect stormwater from entering into the POTW.
- (o) The public works administrator, and the county building code enforcement division (if such division has jurisdiction) may make determinations of grease collection device, oil/water separator and grit interceptor need, adequacy, efficiency, size, design, application, location, modification(s), and conditional usage as provided herein and by all other applicable law. These determinations will be based upon review of all relevant information regarding device performance, the facility site, and the associated building. These reviews may be conducted as part of an establishment's application for a building permit.
- (p) The public works administrator may establish reasonable procedures regarding FOG that address the requirements of this section and are not inconsistent herewith. Under any such procedures, a FOG user may request a modification of any required grease collection device pumping frequency

and/or maintenance and service procedures. Such request for a modification shall conform to the stipulations and requirements set forth in any such procedures. Any modification must be approved by the public works administrator in written form before implementation by the FOG user or the FOG user's FOG service provider.

Secs. 34-117—34-143. - Reserved.

DIVISION 3. - FEES

Sec. 34-144. - Purpose.

- (a) It is the purpose of this division to provide for the recovery of costs from users of the county wastewater disposal system for the implementation of the program established herein. The applicable charges or fees shall be set forth by the district's schedule of charges and fees, as adopted by the board of commissioners as governing body of the district and amended from time to time. A copy of these charges and fees will be made publically available.
- (b) This division shall not be deemed to modify or supersede any existing or future agreement entered into by the county.

(Ord. of 11-21-1994, § 3.1; [Ord. of 2-20-2017](#), § 1)

Sec. 34-145. - User charges.

A user charge shall be levied by the district 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. The user charge shall reflect at least the cost of debt service, operation and maintenance (including replacement) of the POTW. User charges shall be established by the board of county commissioners as governing body of the district and reflected in the district's schedule of fees and charges. Each user shall pay its proportionate cost based on volume of flow. The executive director of the district 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 county commissioners as governing body of the district for adjustments in the schedule of charges and fees as necessary. 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. of 11-21-1994, § 3.2; [Ord. of 2-20-2017](#), § 1)

Sec. 34-146. - Surcharges.

- (a) A surcharge may be assessed by the district on all users of the POTW discharging industrial waste that exceed certain limits or contain certain pollutants. The surcharge amounts and parameters shall be established by the board of county commissioners as governing body of the district and reflected in the district's schedule of fees and charges. The executive director of the district shall review annually the surcharges and may make any recommendations to the board of county commissioners as governing body of the district for adjustments in the schedule of fees and charges as necessary.
- (b) The amount of the surcharges will be based upon the volume of flow and the character and concentration of the constituents of the wastewater.
 - (1) 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:
 - a. Metered water consumption as shown in the records of meter readings maintained by the county; or

- b. If required by the county or at the individual discharger's option, other flow monitoring devices which measure the actual volume of wastewater discharged to the sewer. Such devices shall be accessible and safely located, and the measuring system shall be installed in accordance with plans (including device specification) approved by the county. The meter type and model shall be approved by the county and the metering system shall be installed at the user's expense. Maintenance, calibration, and routine flow measurement will be conducted by the user at the user's expense; or
 - c. Where any user procures all or part of his water supply from sources other than the county, the user shall install a flow measuring device of a type approved by the county. Such devices shall be accessible and safely located, and the measuring system shall be installed in accordance with plans (including device specification) approved by the county. The meter shall be approved by the county and the metering system shall be installed at the user's expense. Maintenance, calibration, and routine flow measurement will be conducted by the user at the user's expense.
- (2) 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. 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 CFR 136.
- (3) The determination of the character and concentration of the constituents of the wastewater discharge by the public works administrator shall be binding as a basis for charges.

(Ord. of 11-21-1994, § 3.3; [Ord. of 2-20-2017](#), § 1)

Sec. 34-147. - Pretreatment program administration charges.

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

- (1) Reimbursement of costs of setting up and operating the pretreatment program;
- (2) Monitoring, inspections and surveillance procedures;
- (3) Reviewing slug control plans, including accidental and/or slug load discharge procedures and construction plans and specifications;
- (4) Permitting;
- (5) Other fees as the district may determine necessary to carry out the requirements of the pretreatment program.

(Ord. of 11-21-1994, § 3.4; [Ord. of 2-20-2017](#), § 1)

Secs. 34-148—34-177. - Reserved.

DIVISION 4. - WASTEWATER DISCHARGE PERMIT APPLICATION AND ISSUANCE

Sec. 34-178. - Wastewater dischargers.

It shall be unlawful for any person to connect or discharge to the POTW without first obtaining the permission of the county or the district. When requested by the public works administrator, a user must submit information on the nature and characteristics of its wastewater within 30 days of the request. The public works administrator is authorized to prepare a form for this purpose and may periodically require users to update this information.

(Ord. of 11-21-1994, § 4.1; [Ord. of 2-20-2017](#), § 1)

Sec. 34-179. – Wastewater permits.

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 public works administrator to be significant industrial users shall obtain a significant industrial user permit within 180 days of receiving notification of the public works administrator determination. Industrial users who do not fit the significant industrial user criteria may at the discretion of the public works administrator be required to obtain a wastewater permit.

- (1) *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 public works administrator a significant industrial user determination. If the public works administrator determines that the proposed discharge fits the significant industrial user criteria he or she will require that a significant industrial user permit application be filed.
- (2) *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 public works administrator, 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 public works administrator's determination in subsection (1) of this section. The application shall include at a minimum:
 - a. Name of industrial user;
 - b. Address of industrial user;
 - c. Standard industrial classification (SIC) code(s) or expected classification and industrial user category;
 - d. Wastewater flow, including time and duration of expected discharge(s) and variation of volume or constituents of the discharge(s);
 - e. Types and concentrations (or mass) of pollutants contained in the discharge;
 - f. Major products manufactured or services supplied;
 - g. Description of existing on-site pretreatment facilities and practices;
 - h. Locations of discharge points;
 - i. Raw materials used or stored at the site;
 - j. Flow diagram or sewer map for the industrial user;
 - k. Number of employees;
 - l. Operation and production schedules; and
 - m. Description of current and projected waste reduction activities in accordance with G.S. 143-215.1(g).
- (3) *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."

- (4) *Application review and evaluation.* The public works administrator will evaluate the data furnished by the user and may require additional information.
- a. The public works administrator is authorized to accept applications for the county and shall refer all applications to the appropriate POTW staff for review and evaluation.
 - b. Within 30 days of receipt the public works administrator 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.
- (5) *Tentative determination and draft permit.*
- a. 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.
 - b. If the staff's tentative determination in subsection (5)a of this section is to issue the permit, the following additional determinations shall be made in writing:
 1. Proposed discharge limitations for those pollutants proposed to be limited;
 2. A proposed schedule of compliance, including interim dates and requirements, for meeting the proposed limitations; and
 3. A brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.
 - c. The staff shall organize the determinations made pursuant to subsections (5)a and b of this section and the county's general permit conditions into a significant industrial user permit.
- (6) *Permit supporting documentation.* The control authority staff shall prepare the following documents for all significant industrial user permits:
- a. An allocation table (AT) listing permit information for all significant industrial users, including but not limited to permit limits, permit effective and expiration dates, and a comparison of total permitted flows and loads with approval authority approved maximum allowable loadings of the POTW, including flow, on forms or in a format approved by the approval authority. The AT shall be updated as permits are issued or renewed, and as permits are modified where the permitted limits or other AT information is revised.
 - b. The basis, or rationale, for the pretreatment limitations, including the following:
 1. Documentation of categorical determination, including documentation of any calculations used in applying categorical pretreatment standards; and
 2. Documentation of the rationale of any parameters for which monitoring has been waived under 40 CFR 403.12(e)(2).
- (7) *Final action on significant industrial user permit applications.*
- a. The public works administrator shall take final action on all applications not later than 90 days following receipt of a complete application.
 - b. The public works administrator is authorized to:
 1. Issue a significant industrial user permit containing such conditions as are necessary to effectuate the purposes of this article and G.S. 143-215.1;
 2. Issue a significant industrial user permit containing time schedules for achieving compliance with applicable pretreatment standards and requirements;
 3. Modify any permit upon not less than 60 days' notice and pursuant to subsection (8) of this section;
 4. Revoke any permit pursuant to section 34-252;

5. Suspend a permit pursuant to section 34-252;
6. Deny a permit application when in the opinion of the public works administrator such 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.

(8) *Permit modification.*

- a. Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as listed below. Any changes or new conditions in the permit shall include a reasonable time for compliance.
 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,
 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.

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

- b. Within nine months of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such 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 subsection (2) of this section, the user shall apply for a wastewater discharge permit within 180 days after the promulgation of the applicable national categorical pretreatment standard.
- c. 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.

(9) *Permit conditions.*

- a. The public works administrator shall have the authority to grant a permit with such conditions attached as he determines necessary to achieve the purpose of this article. Wastewater permits shall contain, but are not limited to, the following:
 1. A statement of duration (in no case more than five years);
 2. A statement of non-transferability;
 3. Applicable effluent limits based on categorical standards or local limits or both;
 4. Applicable monitoring, sampling, reporting, notification, and recordkeeping 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;
 5. Requirements for notifying the POTW in the event of an accidental discharge or slug load;
 6. Requirements to implement a plan or other controls for prevention of accidental discharges and/or slug loads, if determined by the public works administrator to be necessary for the user;
 7. Requirements for immediately notifying the POTW of any changes at its facility affecting the potential for spills and other accidental discharges or slug load.
 8. A statement of applicable civil and/or criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule.

- b. In addition, permits may contain, but are not limited to, the following:
1. Limits on the average and/or maximum rate of discharge, and/or requirements for flow regulation and equalization.
 2. Limits on the instantaneous, daily and/or monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties.
 3. Requirements for the installation of pretreatment technology or construction of appropriate containment devices, etc., designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
 4. Development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges.
 5. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the municipal wastewater system.
 6. Requirements for installation and maintenance of inspection and sampling facilities and equipment.
 7. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.
 8. Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within 30 days where self-monitoring indicates a violation.
 9. Compliance schedules for meeting pretreatment standards and requirements.
 10. Requirements for submission of periodic self-monitoring or special notification reports.
 11. Requirements for maintaining and retaining plans and records relating to wastewater discharges as specified in section 34-209 and affording the public works administrator, or his representatives, access thereto.
 12. Requirements for prior notification and approval by the public works administrator 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.
 13. Requirements for the prior notification and approval by the public works administrator of any change in the manufacturing and/or pretreatment process used by the permittee.
 14. Requirements for immediate notification of excessive, accidental, or slug load discharges, or any discharge which could cause any problems to the system.
 15. A statement that compliance with the permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the terms of the permit.
 16. Other conditions as determined appropriate by the public works administrator to ensure compliance with this article, and state and federal laws, rules, and regulations.
- (10) *Permit 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.
- (11) *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, unless such change is a modification approved in accordance with subsection 8 of this section.

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

(Ord. of 11-21-1994, § 4.2)

Secs. 34-180—34-196. - Reserved.

DIVISION 5. - REPORTING REQUIREMENTS

Sec. 34-197. - 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 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the control authority a report which contains the information listed in subsection (b) of this section. 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 control authority a report which contains the information listed in subsection (b) of this section. 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 in subsection (a) of this section shall submit the following information:
 - (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 carried out by such 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 CFR 403.6(e).
 - (5) *Measurement of pollutants.*
 - a. The categorical pretreatment standards applicable to each regulated process.
 - b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the public works administrator, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in section 34-206.
 - c. Sampling must be performed in accordance with procedures set out in section 34-207 and 40 CFR 403.12(b) and (g), including 40 CFR 403.12(g)(4).
 - (6) *Certification.* A statement, reviewed by the user's current 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 such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in section 34-198.
- (8) *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with section 34-179(3).

(Ord. of 11-21-1994, § 5.1)

Sec. 34-198. - Compliance schedule progress reports.

The following conditions shall apply to the compliance schedule required by section 34-197(b)(7):

- (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 (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- (2) No increment referred to in subsection (1) of this section shall exceed nine months;
- (3) The user shall submit a progress report to the control authority 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; and
- (4) In no event shall more than nine months elapse between such progress reports to the control authority.

(Ord. of 11-21-1994, § 5.2)

Sec. 34-199. - Reports on 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 such pretreatment standards and requirements shall submit to the control authority a report containing the information described in section 34-197(b)(4) through (6). For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. 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 section 34-179(3).

(Ord. of 11-21-1994, § 5.3)

Sec. 34-200. - Periodic compliance reports.

- (a) All significant industrial users shall, at a frequency determined by the public works administrator but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with section 34-179(3).

- (b) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- (c) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the public works administrator, using the procedures prescribed in section 34-206, the results of this monitoring shall be included in the report.

(Ord. of 11-21-1994, § 5.4)

Sec. 34-201. - Reports of changed conditions.

Each user must notify the control authority 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. The permittee shall not begin the changes until receiving written approval from the control authority and/or county.

- (1) The public works administrator may require the user to submit such information as may be determined necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under section 34-179.
- (2) The public works administrator may issue a wastewater discharge permit under section 34-179 or modify an existing wastewater discharge permit under section 34-179 in response to changed conditions or anticipated changed conditions.
- (3) For purposes of this requirement, significant changes include, but are not limited to, flow or pollutant increases of twenty percent or greater, and the discharge of any previously unreported pollutants.

(Ord. of 11-21-1994, § 5.5)

Sec. 34-202. - 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 public works administrator of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- (b) Within five days following such discharge, the user shall, unless waived by the public works administrator, submit a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this article.
- (c) 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 subsection (a) of this section. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
- (d) All SIUs are required to notify the POTW immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine episodic nature, a non-customary batch discharge, or a slug load.

(Ord. of 11-21-1994, § 5.6)

Sec. 34-203. - Reports from unpermitted users.

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the control authority as the public works administrator may require. All users classified as non-significant categorical industrial users shall provide appropriate reports to the control authority as the public works administrator may require. At a minimum, this shall include the annual certification of continuing to meet the non-significant categorical industrial user criteria as required under 40 CFR 403.12(q).

(Ord. of 11-21-1994, § 5.7)

Sec. 34-204. - Notice of violation; repeat sampling and reporting.

If sampling performed by a user indicates a violation, the user must notify the public works administrator 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 control authority within 30 days after becoming aware of the violation. If allowed by the public works administrator, the user is not required to resample:

- (a) If the control authority monitors at the user's facility at least once a month; or
- (b) If the control authority samples between the user's initial sampling and when the user receives the results of this sampling.

If the control authority has performed the sampling and analysis in lieu of the industrial user and the POTW sampling of the user indicates a violation, the control authority shall repeat the sampling and obtain the results of the repeat analysis within thirty days after becoming aware of the violations, unless one of the following occurs:

- (1) The control authority monitors at the user's facility at least once a month; or
- (2) The control authority samples the user between their initial sampling and when the POTW receives the results of this initial sampling; or
- (3) The public works administrator requires the user to perform sampling and submit the results to the POTW within the 30 day deadline of the control authority becoming aware of the violation.

(Ord. of 11-21-1994, § 5.8)

Sec. 34-205. - Notification of the discharge of hazardous waste.

- (a) Discharge of any hazardous waste, as set forth in subsection (b) immediately below, is strictly prohibited without written notification to and approval by the public works administrator.
- (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 CFR 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharge during the calendar month, and an estimation of the mass and concentration of such constituents in the wastestream expected to be discharged during the following 12 months. All notifications must take place no later than 180 days before the discharge commences. The user

shall not begin the discharge until receiving written approval from the POTW. Any notifications under this subsection need be submitted only once for each hazardous waste discharge. However, notifications of changed conditions must be submitted under section 34-201. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of sections 34-197, 34-199, and 34-200.

- (b) Dischargers are exempt from the requirements of subsection (a) of this section, during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
- (c) In the case of any new regulation under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the public works administrator, the EPA Regional Waste Management Waste Division director, and state hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.
- (d) In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- (e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this article, a permit issued thereunder, or any applicable federal or state law.

(Ord. of 11-21-1994, § 5.9)

Sec. 34-206. - Analytical requirements.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed by a laboratory certified by the state to perform the wastewater analyses in accordance with the techniques prescribed in 40 CFR 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR 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 the EPA and the county. Analysis must be performed by a state certified lab for each parameter analyzed if such certification exists for that parameter.

(Ord. of 11-21-1994, § 5.10)

Sec. 34-207. – Grab and composite sample collection.

- (a) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- (b) Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, volatile organic compounds, and any other pollutants as required by 40 CFR 136. The POTW shall determine the number of grabs necessary to be representative of the user's discharge. Additionally, the public works administrator may allow collection of multiple grabs during a 24 hour period which are composited prior to analysis as allowed under 40 CFR 136.
- (c) All wastewater composite samples shall be collected with a minimum of hourly aliquots or grabs for each hour there is a discharge. All wastewater composite samples shall be collected using flow

proportional composite collection techniques, unless time-proportional composite sampling or grab sampling is authorized by the public works administrator. When authorizing time-proportional composites or grabs, the samples must be representative and the decision to allow the alternative sampling must be documented.

(Ord. of 11-21-1994, § 5.11)

Sec. 34-208. - Timing.

Written reports will be deemed to have been submitted on the date postmarked. 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. of 11-21-1994, § 5.12)

Sec. 34-209. - Recordkeeping.

Users subject to the reporting requirements of this article shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this article and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or county, or where the user has been specifically notified of a longer retention period by the public works administrator.

(Ord. of 11-21-1994, § 5.13)

Sec. 34-210. – Electronic reporting.

The public works administrator may develop procedures for receipt of electronic reports for any reporting requirements of this article. Such procedures shall comply with 40 CFR 3 and shall be enforceable under division 7 of this article.

Sec. 34-211. – Special reporting requirements for IUs in satellite POTWs.

In the case of an industrial user in a satellite POTW organization's jurisdiction, all information required to be reported to the industrial user's pretreatment program control authority by this article shall also be reported to the POTW treatment plant organization.

Secs. 34-212—34-226. - Reserved.

DIVISION 6. - COMPLIANCE MONITORING

Sec. 34-227. - 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) 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. Construction shall be completed within 90 days following written notification by the county.

(Ord. of 11-21-1994, § 6.1)

Sec. 34-228. - Inspection and sampling.

The control authority will inspect the facilities of any user to ascertain whether the purpose of this article is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the POTW, approval authority and the 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 POTW, approval authority and the EPA shall have the right to set up on the user's property such 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 POTW, approval authority and the EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. Denial of the POTW's, approval authority's, or EPA's access to the user's premises shall be a violation of this article. Unreasonable delays may constitute denial of access. An unreasonable delay, includes, without limitation, a delay of access of more than 15 minutes during regular business or operational hours.

(Ord. of 11-21-1994, § 6.2)

Sec. 34-229. - Search warrants.

If the control authority, 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 article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the POTW designed to verify compliance with this article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the POTW, approval authority, or EPA may seek issuance of a search warrant.

(Ord. of 11-21-1994, § 6.3)

Secs. 34-230—34-251. - Reserved.

DIVISION 7. - ENFORCEMENT

Sec. 34-252. - Administrative remedies.

- (a) *Notification of violation.* Whenever the public works administrator finds that any industrial user has violated or is violating this article, wastewater permit, or any prohibition, limitation or requirements contained therein, or any other pretreatment requirement the public works administrator may send or provide to such a person a written notice stating the nature of the violation. Within 30 days from the date of this notice, an explanation for the violation and a plan for the satisfactory correction thereof

shall be submitted to the county by the user. Submission of this plan does not relieve the discharger of liability for any violations occurring before or after receipt of the notice of violation.

- (b) *Consent orders.* The public works administrator 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. Such 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 subsection (d) of this section.
- (c) *Show cause hearing.*
 - (1) The public works administrator may order any industrial user who causes or is responsible for an unauthorized discharge, has violated this article 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 public works administrator 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 such 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 public works administrator 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 section 34-253 nor is any action or inaction taken by the public works administrator under this subsection (c) subject to an administrative appeal under section 34-264.
- (d) *Administrative orders.* When the public works administrator finds that an industrial user has violated or continues to violate this article, permits or orders issued hereunder, or any other pretreatment requirement the public works administrator may issue an order to cease and desist all such 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;
 - (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 public works administrator may suspend the wastewater treatment service and/or wastewater permit when such 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 condition of its NPDES or non-discharge permit.
 - (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 public works administrator shall take such steps as determined necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The public works administrator 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 control authority prior to the date of the hearing described in this subsection.

- (f) *Termination of permit.* The public works administrator may revoke a wastewater discharge permit or permission to discharge for good cause, including, but not limited to, the following reasons:
- (1) Failure to accurately report the wastewater constituents and characteristics of his 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 conditions of the permit or permission to discharge, conditions of this article, or any applicable state and federal regulations.

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. of 11-21-1994, § 8.1)

Sec. 34-253. - Civil penalties.

- (a) Any user who is found to have failed to comply with any provision of this article, or the orders, rules, regulations and permits issued hereunder, may be assessed a civil penalty of up to \$25,000.00 per day per violation. Penalties between \$10,000 and \$25,000 per day per violation may be assessed against a violator only if:
- (1) For any class of violation, only if a civil penalty has been imposed against the violator within the five years preceding the violation; or
 - (2) In the case of failure to file, submit, or make available, as the case may be, any documents, data, or reports required by this article, or the orders, rules, regulations and permits issued hereunder, only if the public works administrator determines that the violation was intentional.
- (b) In determining the amount of the civil penalty, the public works administrator shall consider the following:
- (1) The degree and extent 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;
 - (8) The costs of enforcement to the county.
- (c) Civil penalties, which are not appealed pursuant to section 34-264, or which are appealed but are upheld by the hearing officer pursuant to section 34-264, may be added to a user's water and/or wastewater bill.
- (d) Appeals of civil penalties assessed in accordance with this section shall be as provided in section 34-264.

(Ord. of 11-21-1994, § 8.2)

Sec. 34-254. - Other available remedies.

Remedies, in addition to those previously mentioned in this article, are available to the public works administrator who may use any single one or combination against a noncompliant user. Additional available remedies include, but are not limited to:

- (1) *Criminal violations.* The district attorney may, at the request of the county, prosecute noncompliant users for violations of law addressed by the provisions of G.S. 143-215.6B, on the terms and provisions provided therein.
- (2) *Injunctive relief.* Whenever a user is in violation of the provisions of this article or an order or permit issued hereunder, the public works administrator, through the county's legal counsel, 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 article or an order or permit issued hereunder, water service to the industrial user may be severed, by direction of the public works administrator to the district, and service will only recommence, at the user's expense, after it has satisfactorily demonstrated ability to comply.
- (4) *Public nuisances.* Any violation of the prohibitions or effluent limitations of this article or of a permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by the public works administrator. Any person creating a public nuisance shall be subject to the provisions of applicable law governing such nuisances, including reimbursing the POTW for any costs incurred in removing, abating or remedying said nuisance.

(Ord. of 11-21-1994, § 8.3; [Ord. of 2-20-2017](#), § 1)

Sec. 34-255. - Remedies nonexclusive.

The remedies provided for in this article are not exclusive. The public works administrator 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 public works administrator may take other action against any user when the circumstances warrant. Further, the public works administrator is empowered to take more than one enforcement action against any noncompliant user.

(Ord. of 11-21-1994, § 8.4)

Secs. 34-256—34-263. - Reserved.

DIVISION 8. – Adjudicatory Hearings

Sec. 34-264. – Adjudicatory Hearings.

- (a) *Adjudicatory hearing.* An applicant whose permit is denied, or is granted subject to conditions he deems unacceptable, a permittee/user assessed a civil penalty under section 34-253, or one issued an administrative order under section 34-252 shall have the right to an adjudicatory hearing before a hearing officer designated by the public works administrator upon making written demand, identifying the specific issues to be contested, to the public works administrator within 30 days following receipt of the wastewater permit (as set forth in section 34-179), permit decision, civil penalty assessment, or administrative order. Unless such written demand is made within the time specified herein, the action shall be final and binding and further appeal is barred.

For modified permits, only those parts of the permit being modified may be adjudicated. 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 for a hearing. The public works administrator shall transmit a copy of the hearing officer's final decision by registered or certified mail as described in subsection (b) below. The decision is a final decision for the purposes of seeking judicial review. The terms and conditions of a permit under appeal shall be as follows:

- (1) *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.
 - (2) *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.
 - (3) *Terminated permits.* Upon appeal, including judicial review in the general courts of justice, of a terminated permit, no permit is in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
- (b) *Official record.* When a final decision is issued under subsection (a) of this section, the hearing officer shall prepare an official record of the case that includes:
- (1) All notices, motions, and other like pleadings;
 - (2) A copy of all documentary evidence introduced;
 - (3) 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.
 - (4) A copy of the final decision of the hearing officer.
- (c) *Judicial review.* Any person against whom a final order or decision of the hearing officer is entered, pursuant to the hearing conducted under subsection (8)(a) of this section, may seek judicial review of the order or decision by filing a written request for review by the superior court of the county within 30 days after receipt of notice by registered or certified mail of the order or decision, but not thereafter, along with a copy to the county. Within 30 days after receipt of the copy of the written request for review by the court, the hearing officer shall transmit to the reviewing court the original or a certified copy of the official record.

Secs. 34-265—34-273. - Reserved.

DIVISION 9. - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

Sec. 34-274. - Upset.

- (a) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection (b) of this section 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 of the upset;
 - (2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures; and
 - (3) The user has submitted the following information to the public works administrator within 24 hours of becoming aware of the upset:

- 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 an 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. of 11-21-1994, § 10.1)

Sec. 34-275. - Bypass.

- (a) *When allowed.* 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 provisions of subsections (b) and (c) of this section.
- (b) *Notice.*
- (1) If a user knows in advance of the need for a bypass, it shall submit prior notice to the public works administrator, at least ten days before the date of the bypass, if possible.
 - (2) A user shall submit oral notice to the control authority of an unanticipated bypass that exceeds applicable pretreatment standards within 24 hours from the time it becomes aware of the bypass. A written notice shall also be provided within five days of the time the user becomes aware of the bypass. The written notice 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 public works administrator may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.
- (c) *Enforcement action.*
- (1) Bypass is prohibited, and the public works administrator 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 subsection (b) of this section.
 - (2) The public works administrator may approve an anticipated bypass, after considering its adverse effects, if the public works administrator determines that it will meet the three conditions listed in subsection (c)(1) of this section.

(Ord. of 11-21-1994, § 10.3)

Secs. 34-276—34-299. - Reserved.

Sec. 34-300. – Effective Date.

This ordinance shall be in full force and effect from and after its passage, approval and publication, as provided by law.