

WCSA Sewer Use - Rules & Regulations



Date Adopted: _____

WCSA Sewer Use Rules and Regulations

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Chapter 63. SEWERS AND SEWAGE DISPOSAL

ARTICLE 1. GENERALLY

Sec. 63-1. Purpose and Policy.

These rules and regulations shall apply to users of the sewer collection and treatment systems owned and operated by the Washington County Service Authority. As established by agreement with the Town of Abingdon, users served by the Town of Abingdon, including those in the 201 service area, shall comply with the Town of Abingdon Utilities Ordinance, Chapter 74 of the Town of Abingdon Code.

Secs. 63-2 – 63-25. Reserved.

Sec. 63-26. Abbreviations.

The following abbreviations shall have the designated meanings:

BOD means biochemical oxygen demand.

BMR means baseline monitoring report.

C.F.R. means the Code of Federal Regulations.

CIU means categorical industrial user.

COD means chemical oxygen demand.

EPA means the Environmental Protection Agency.

FSE means food service establishment.

gpd means gallons per day.

IU means industrial user.

l means liter.

mg means milligrams.

mg/l means milligrams per liter.

NPDES means the National Pollutant Discharge Elimination System.

POTW means publicly owned treatment works.

RCRA means Resource Conservation and Recovery Act.

SIU means significant industrial user.

SIC means the Standard Industrial Classification.

SNC means significant non-compliance.

SWDA means the Solid Waste Disposal Act, 42 U.S.C. 6901, et seq.

TRC means Technical Review Criteria.

U.S.C. means the United States Code.

TSS means total suspended solids.

VPDES means Virginia Pollutant Discharge Elimination System.

WCSA means Washington County Service Authority

Sec. 63-27. Definitions.

The following words, terms and phrases, when used in this article, shall have the meanings ascribed to them in this section, 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 U.S.C. 1251, et seq.

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Approval authority means the Department of Environmental Quality of the Commonwealth of Virginia.

Authority means the Washington County Service Authority

Authorized representative of the user means:

- (1) If the user is a corporation:
 - a. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation;
 - b. The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000.00 (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the user is a partnership or sole proprietorship, a general partner or proprietor, respectively.
- (3) If the user is a federal, state or local governmental facility, a general manager or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his designee.

The individuals described in subsections (1) through (3) above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company and the written authorization is submitted to the Authority.

Best Management Practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Sec. 63-91 and Sec. 63-92 [40 CFR 403.5(a)(1) and (b)]. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

Biochemical oxygen demand means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20 degrees centigrade expressed in terms of weight and concentration (milligrams per liter (mg/l)).

Board or Board of Commissioners means the Washington County Service Authority Board of Commissioners.

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Building drain means that part of the lowest piping of a drainage system which receives the discharge from soil, waste and other drainage pipes inside the walls of the building and conveys it to the building sewer.

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 or *categorical pretreatment standards* mean the National Categorical Pretreatment Standards or pretreatment standard.

Color means the optical density at the visual wavelength of maximum absorption, relative to distilled water. One-hundred-percent transmittance is equivalent to zero optical density.

Combined sewer means a sewer which conveys both sewage and stormwater or other drainage.

Compatible pollutant means biochemical oxygen demand (BOD₅), suspended solids, pH and fecal coliform bacteria; plus any additional pollutants identified in the Authority's treatment facility VPDES permit, or Authority's collection system, where the treatment facility is designed to treat such pollutants and, in fact, does treat such pollutants to the degree required by the treatment facility's VPDES permit.

Composite sample means the sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

Control authority means the Washington County Service Authority.

Contact cooling water means water used for cooling which comes in direct contact with any raw material, intermediate product, waste product, or finished product.

Cooling water means the water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

County limits means the jurisdictional limits of Washington County.

DEQ means the Department of Environmental Quality of the Commonwealth of Virginia.

Direct discharge means the discharge of treated or untreated wastewater directly to the waters of the State of Virginia.

Easement means the right of a person, government agency, or public utility to use public or private land owned by another entity or individual for a specific purpose; in this case, to install and maintain WCSA sewerage collection system

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Engineer means the Manager of Engineering or the person designated by the Authority to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this chapter, or a duly authorized representative.

Environmental Protection Agency 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 such agency.

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

Food Service Establishments or FSE means any establishment or operation where food is prepared or served at wholesale or retail for pay, or any other commercial establishment or operation where food is prepared or served such as, but not limited to, restaurants, hotels kitchens, hospital kitchens, school kitchens, bars, factory cafeterias, and clubs.

Garbage means solid wastes from the domestic and commercial preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

General Manager means the administrative and executive head of the Authority or his/her authorized representative.

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 over a period of time not to exceed fifteen (15) minutes.

Grease means a material composed primarily of fats, oils and grease (FOG) from animal or vegetable sources.

Grease Trap or Interceptor means a passive grease control device identified as a large tank, usually 1000 gallons or more capacity with various chambers and plumbing components that is installed on the exterior of the FSE. The term can also mean a smaller device usually 35 gallons per minute (gpm) that is used for installation inside an FSE. Both tanks require periodic maintenance for effective operation.

Holding tank waste means any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, grease traps or interceptors, and vacuum-pump tank trucks.

Incompatible pollutant means all pollutants other than compatible pollutants as defined in this section.

Indirect discharge means the discharge or the introduction of nondomestic pollutants from any source regulated under section 307(b) or (c) of the Act (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the stream).

Industrial user means a source of indirect discharge, or a nondomestic discharge to a POTW.

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Industrial waste means the liquid waste from industrial or commercial processes, trade or business as distinct from sanitary sewage.

Instantaneous maximum allowable discharge limit means the maximum concentration (or loading) of a pollutant allowed to be discharged at any time, determined from the analysis of any discreet or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference means a discharge which, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and therefore, is a cause of a violation of the POTW's VPDES Permit or of the prevention of the biosolids use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent state or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

Manager of Wastewater Operations means the individual assigned by the Authority to oversee the operations of the Authority's wastewater treatment facilities, and who is charged with certain duties and responsibilities by this chapter, or a duly authorized representative.

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 *pretreatment standard* means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of industrial users and which appears in 40 C.F.R. Chapter I, Subchapter N, parts 405 through 471.

Natural outlet means any outlet into a watercourse, pond, ditch, lake or other body of surface water or groundwater.

New source means:

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

a. The building, structure, facility or installation is constructed at a site at which no other source is located;

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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 shall 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 subsections (1)b., or (1)c. of this definition but otherwise alters, replaces, or adds to existing process of production equipment.

(3) Construction of a new source as defined under this definition 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.

b. Entered into a binding contractual obligation for the purchase of facilities or equipment which is 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 subsection.

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

Normal domestic sewage means normal sewage in which the concentration of suspended materials and five-day 20 degrees Celsius BOD does not exceed 250 parts per million and 250 parts per million, respectively.

Pass through means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Authority's VPDES permit, including an increase in the magnitude or duration of a violation.

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Permit means a wastewater discharge permit.

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

pH means the logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in grams per liter of solution.

Pollutant means any dredged soil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical waste, chemical waste, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal and agricultural waste, and certain characteristics of wastewater such as pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, odor, etc.

Pollution means the manmade and man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

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

Pretreatment means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

Pretreatment equipment refers to grease, oil, and sand interceptors or traps for food service establishments, oil and water separators for automotive facilities, silver recovery systems for photo-processing and dental facilities and other equipment required for installation as determined by the Authority.

Pretreatment requirements means any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an industrial user.

Pretreatment standards or standards means prohibitive discharge standards, categorical pretreatment standards, and local limits.

Prohibitive discharge standard or standards means absolute prohibitions against the discharge of certain substances; these prohibitions appear in Sec. 63-92 of this chapter.

Properly shredded garbage means the wastes from the preparation, cooking and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than one-half inch (1.27 centimeters) in any dimension.

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Public sewer or sewer main means a common sewer directly controlled by the Authority.

Publicly owned treatment works (POTW) means a treatment works as defined by section 212 of the Act (33 U.S.C. 1292) which is owned by the Authority. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipe, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this chapter, "POTW" shall also include any sewers that convey wastewater to the POTW from persons who are, by contract or agreement with the Authority, users of the Authority's POTW.

Residential user (class I) means all premises used only for human residency and which are connected to the treatment works.

Sampling manhole means a special manhole that will allow sampling of a waste stream without interference or mixing of other waste streams.

Sanitary sewer means a sewer which carries sewage and excludes stormwater, surface water and groundwater.

Septic tank waste means any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

Service area means the area provided sewer service by the Authority.

Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

Sewage means human excrement and gray water (household showers, dishwashing operations, etc.).

Sewerage collection system means wastewater collection and conveyance facilities, including, but not limited to, intercepting sewers, outfall sewers, sewage collection systems and pumping stations. Unless otherwise specified as private, sewage collection system means those owned, operated, or maintained by the Authority.

Sewage treatment plant means any arrangement of devices and structures used for treating sewage.

Sewage works means all facilities for collecting, pumping, treating and disposing of sewage.

Sewer means a pipe or conduit for carrying sewage.

Sewer lateral means that section of the sanitary sewer extending from the public sewer or sewer main to the line of easement in which such sewer is located. The sewer lateral is owned and maintained by the Authority.

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Sewer service line means that section of line from the Authority's easement to the home or terminus. The sewer service line is owned and maintained by the property owner.

SIC Code means the standard industrial classification code, a numbering system used to identify various types of industries.

Significant industrial user means:

- (1) A user subject to categorical pretreatment standards;
- (2) A user that discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater);
- (3) A user that contributes a process waste stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW;
- (4) A user that has significant impact, either singularly or in combination with other significant discharges, on the treatment works or the quality of its effluent; or
- (5) A user that is designated as such by the Authority on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

Upon a finding that a user meeting the criteria in subsections (2) through (5) hereof has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Authority may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 C.F.R. 403.8(f)(6), determine that such user should not be considered a significant industrial user.

Significant noncompliance means an industrial user's violations which meet one or more of the following criteria:

- (1) Chronic violations of wastewater discharge limits, defined as those in which 66 percent or more of all of the measurements taken during a six (6)-month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;
- (2) Technical review criteria (TRC) violations, defined as those in which 33 percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the daily average maximum limit or the average limit times the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

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- (3) Any other discharge violation that the control authority 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 that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under paragraph (f)(1)(vi)(B) of this section [40 C.F.R. 403.8] to halt or prevent such a discharge;
- (5) Failure to meet, within ninety (90) days after the scheduled date, a compliance schedule milestone contained in a local control mechanism or enforcement order; for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide, within thirty (30) days after the due date, required reports such as baseline monitoring reports, ninety (90)-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance; or
- (8) Any other violation or group of violations which the control authority determines will adversely affect the operation or implementation of the local pretreatment programs.

Slug means any discharge of water, sewage or industrial waste which, in concentration of any given constituent or in quantity of flow, exceeds for any period of duration longer than fifteen (15) minutes more than five times the average 24-hour concentration of flow during normal operation.

Slug load means any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Sec. 74-92 of this chapter or any discharge of a nonroutine, episodic nature, including but not limited to, an accidental spill or a noncustomary batch discharge.

Storm drain or *storm sewer* means a sewer which conveys stormwater and surface water and drainage, but excludes sewage and industrial wastes, other than unpolluted cooling or process water.

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

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.

Technical Manager means the person responsible for overseeing the maintenance and operation of the Authority's collection system or a duly authorized representative.

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Toxic pollutant means any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the environmental protection agency under the provision of CWA 307(a) or other acts.

USEPA means the United States Environmental Protection Agency.

User means any person who contributes, causes, or permits the contribution of wastewater into the Authority's POTW.

VPDES means the Virginia Pollutant Discharge Elimination System permit program, as administered by the Commonwealth.

Waste Pharmaceuticals and Medications means expired, unwanted, or unusable over-the counter and prescription antibiotics, hormones, steroids, chemotherapy agents, pain killers, decongestants, and related pharmaceutical products for human or animal application.

Wastewater means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water, and stormwater that may be present, whether treated or untreated, which is contributed into or permitted to enter the POTW.

Wastewater Discharge License means a license obtained by a waste hauler for all hauled waste to be discharged to the Authority's POTW. A separate Wastewater Discharge License must be obtained for each point of origin of the waste.

Wastewater treatment plant means any arrangement of devices and structures used for treating wastewater.

Wastewater discharge permit means as set forth in Article 4 of this regulation.

Watercourse means a channel in which a flow of water occurs, either continuously or intermittently.

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

Sec. 63-28. Administration.

(a) Except as otherwise provided herein, the General Manager shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the General Manager may be delegated by the General Manager to other Authority personnel.

(b) To protect the POTW, the Authority may prepare and implement discharge policy documents that regulate the discharge of specific wastes deemed appropriate by the Authority.

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These policy documents must be approved by the Board and will become an enforceable component of this regulation.

(c) The Authority may enter into contracts or agreements with other jurisdictions to provide wastewater conveyance and treatment services. These contracts or agreements shall require the jurisdiction to comply with all provisions of this chapter, at a minimum, and shall specify the party responsible for the administration of the program within that jurisdiction.

Secs. 63-29 – 63-31. Reserved.

Sec. 63-32. Public Sewer Connection Requirement.

(a) For the purpose of this section, "obstruction" means any natural or man-made state/locally maintained hard-surface street, perennial stream, or similar feature as determined by the Authority.

(b) The owner of any house, building or property used for human occupancy, employment, recreation or similar use situated within the service area and abutting any street, alley, right-of-way or easement in which there is located, now or subsequent to the adoption of this section, a public sewer of the Authority, shall install suitable toilet facilities and sewer service line therein at his expense and connect such facilities directly to the sewer lateral in accordance with the provisions of this article within 60 days after the date of official notice to do so, except that:

(1) Facilities with functioning septic tanks will not be required to connect to the public sewer. Such persons shall be required to pay a sewer availability fee unless subsections (3) or (4) below apply.

a. At such time an existing septic system becomes inadequate or fails, the user will be required to connect to the Authority's sewer system if access to the Authority's sewer system is available as defined in this regulation.

(2) Sewer use fees or sewer availability fees shall not be charged for vacant lots until the earliest of the following dates:

a. The date [use] of the sewer begins.

b. The date that actual connection to the sewer is made.

c. The effective date of the certification of occupancy for a new house or other served facility.

(3) In any case where the ground, street, sewer and floor elevations are such as to cause the property owner to seek relief from mandatory connection to the sewer and/or connection fees by claim that the premises cannot be served by gravity flow to the appropriate sewer main, the following rule shall govern: If both a kitchen and bath cannot be served by gravity, the mandatory sewer connection will be waived.

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(4) Facilities that are more than 300 feet from the public sewer will not be required to connect to the public sewer.

(5) Any case that requires obtaining a private easement or crossing an Obstruction that makes connection to the public sewer financially or technically unfeasible. Feasibility determination will be at the Authority's sole discretion.

Sec. 63-33. Disturbing, interfering with sewage works.

Unless specifically authorized by the Authority, no person shall operate, disturb, connect, disconnect or otherwise interfere with any pipe, manhole or other part of the sewage works of the Authority, or remove or interfere with any light or barricade or other device maintained or operated in the construction, maintenance or repair of any part of such sewer system.

Sec. 63-34. Application for service.

Application for sewer service shall be made to the Authority on such form as the Authority may furnish. The connection application shall be supplemented by any plans, specifications or other information considered pertinent in the judgment of the Authority.

Sec. 63-35. Costs of installations.

The cost of installations shall be as established in the Authority's Water and Sewer Extension Policy which may be amended from time to time.

Sec. 63-36. Measurements, tests and analyses.

All measurements, tests and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with 40 C.F.R. Part 136, as amended, and shall be determined at the sampling manhole provided or upon suitable samples taken at such sampling manhole. In the event that no special manhole exists, the sampling manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. The Authority may require any user to install a sampling manhole at the user's expense in order to collect representative samples from the user's discharge. The location of the manhole will be determined on a case-by-case basis and must be approved by the Authority. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the sewage works and to determine the existence of hazards to life, limb and property.

Sec. 63-37. Special treatment agreements.

No statement contained in this article shall be construed as preventing any special agreement or arrangement between the Authority and any industrial concern whereby an industrial waste of unusual strength or character may be accepted by the Authority for treatment, subject to payment therefore, by the industrial concern.

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Secs. 63-38--63-45. Reserved.

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ARTICLE 2. RESERVED

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ARTICLE. 3. BUILDING SEWERS AND CONNECTIONS

Sec. 63-66. Private Service Connection Facilities.

Building sewers and sewer laterals may be used only when they are found on examination and testing by the Authority to meet all requirements of this article. Additional testing may be required by the County.

Sec. 63-67. Specifications and methods of installations.

The size, slope, alignment and materials of construction of a building sewer and the methods to be used in excavating, placing of the pipe, joining, testing and backfilling the trench shall conform to the requirements of the plumbing code and requirements of the Authority.

Sec. 63-68. Elevation.

Whenever feasible, the building sewer shall be brought to the building at an elevation below the lowest floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer.

Sec. 63-69. Surface runoff and groundwater.

No person shall make connection of roof drains, foundation drains, areaway drains or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a POTW.

Sec. 63-70. Notice of readiness for inspection; supervision of connection.

The applicant for the building sewer connection shall notify the Authority when the building sewer is ready for inspection and connection to the sewer lateral. The connection shall be made under the supervision of the Authority or its authorized representative. Additional notification and inspection may be required by the County.

Secs. 63-71--63-80. Reserved.

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ARTICLE 4. WASTEWATER DISCHARGE

Division I. In General

Sec. 63-81. Purpose and policy.

(a) This division sets forth uniform requirements for direct and indirect contributors into the wastewater collection and/or treatment systems owned or operated by or for the Authority, and enables the Authority to comply with all applicable state and federal laws required by the Clean Water Act of 1977 and the general pretreatment regulations (40 C.F.R. 403) and Va. Permit Regulation Part VII issued and amended from time to time by the Commonwealth.

(b) The objectives of this regulation are to:

- (1) Prevent the introduction of pollutants into the Authority's wastewater systems which will interfere with the operation of the system or contaminate the resulting sludge;
- (2) Prevent the introduction of pollutants into the Authority's wastewater systems which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;
- (3) Ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;
- (4) Promote reuse and recycling of industrial wastewater and sludge from the POTW;
- (5) Enable the Authority to comply with its VPDES permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the POTW is subject;
- (6) Protect both POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;
- (7) Provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the POTW.

(c) This division shall apply to Washington County and to persons outside the Authority's service area, including those who are, by contract or agreement with the Authority, users of the Authority's sewage collection systems and/or sewage treatment facilities.

Sec. 63-82. Administration.

Except as otherwise provided herein, the Engineer shall administer, implement, and enforce the provisions of this division. Any powers granted to or duties imposed upon the Engineer may be delegated by the Engineer to other Authority personnel.

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Secs. 63-83--63-90. Reserved.

Division II. Regulations

Sec. 63-91. General discharge prohibitions.

No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will cause pass through or interfere with the operation or performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to national categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements.

Sec. 63-92. Specific prohibitions.

(a) A user may not discharge the following substances to any POTW owned and/or operated by the Authority:

(1) Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees centigrade using the test methods specified in 40 C.F.R. 262.

(2) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities, such as, but not limited to, grease, garbage with particles greater than one-half inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, dough, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes.

(3) Any wastewater having a pH less than 5.0 or greater than 12.5 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

(4) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, cause the POTW's effluent to fail a toxicity test therefore create a toxic effect in the receiving waters of the POTW, or to exceed the limitation set forth in a categorical pretreatment standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to section 307(a) of the Act.

(5) Any noxious or malodorous liquids, gases, or solids 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 their maintenance and repair.

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- (6) 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 where the POTW is pursuing a reuse and reclamation program. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Water Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.
- (7) Sludges, screenings, or other residues from the pretreatment of industrial wastes.
- (8) Any substance which will cause the POTW to violate its VPDES and/or state disposal system permit or the receiving water quality standards.
- (9) Any waste producing excessive discoloration of wastewater or treatment plant effluent.
- (10) Any wastewater having a temperature which will inhibit biological activity in the POTW treatment resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds 40 degrees Celsius (104 degrees Fahrenheit).
- (11) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference to the POTW. In no case shall a slug load have a flow rate or contain concentration or qualities of pollutants that exceed for any time period longer than 15 minutes more than five (5) times the average 24-hour concentration, quantities, or flow during normal operation.
- (12) Medical wastes, except as specifically authorized by the Authority in a wastewater discharge permit.
- (13) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Authority in compliance with applicable state or federal regulations.
- (14) Any wastewater which causes a hazard to human life or creates a public nuisance.
- (15) Any slug discharge of such high volume or strength to cause interference.
- (16) Any water or wastewater discharges which contain substances that may:
 - a. Deposit grease or oil in the sewer lines in such a manner as to clog the sewers.
 - b. Overload skimming and grease handling equipment.

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- c. Pass to the receiving water without being effectively treated by the normal wastewater treatment process due to the non-amenability of the substance to bacterial action.
 - d. Deleteriously affect the wastewater treatment process due to excessive quantities.
- (17) Petroleum oil, non-biodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through, but in no instance shall exceed 100 mg/l for discharges to the POTW.
- (18) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 200 mg/l for discharges to the POTW.
- (19) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in quantity that may cause acute worker health and safety problems.
- (20) Any trucked or hauled pollutants except at discharge points designated by the POTW.
- (21) Detergents, surface active agents, or other substances which may cause excessive foaming in the POTW.
- (22) Any wastewater originating from truck and automobile washes where placarded trucks, tankers or trailers carrying chemicals are washed.
- (23) Any significant quantities of unpolluted water, such as rainwater, stormwater, groundwater, street drainage, yard drainage, water from yard fountains, ponds, or lawn sprays.
- (24) Any significant quantities of single pass cooling water.
- (25) Any excessive amounts of deionized water, distilled water, steam condensate, heating and/or air conditioning condensate or cooling water, and/or discharges from heat pumps.
- (26) Any excessive quantity of blow-down or bleed water from cooling towers or other evaporative coolers exceeding one-third of the makeup water.
- (27) Any significant quantities of inorganic material.
- (28) Any waste containing dissolved sulfides in amounts which would be hazardous, cause damage to the sewerage system, or create a public nuisance.
- (29) Any waste containing solids of such character and quantity that special and unusual attention is required for their handling.

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(30) Any significant quantity of total toxic organics (TTO) which exceeds 2.13 mg/l, or in which the BTEX (benzene, toluene, ethylbenzene and xylene) concentration exceeds one (1) mg/l.

(31) Any waste which would be a hazardous waste as defined under 40 C.F.R. 261 and 9 VAC 20-60-261.

(32) Any waste pharmaceuticals or medications, including expired or unused human or animal treatment prescription or over-the-counter medications.

(b) Pollutants, substances, or wastewater prohibited by this section shall not be processed in such a manner that they could be discharged to the POTW. Bulk storage areas shall be contained such that spillage or leakage cannot enter the sanitary sewer system.

(c) All floor drains located in process or materials storage areas must discharge to the user's pretreatment facility before connecting to the POTW, or shall be plugged or disconnected.

Sec. 63-93. Federal categorical pretreatment standards generally.

The categorical pretreatment standards found at 40 C.F.R. Chapter I, Subchapter N, Parts 405 through 471, are hereby incorporated.

(1) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Authority may impose equivalent concentration or mass limits in accordance with 40 C.F.R. 403.6(c).

(2) When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the Authority may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users in accordance with 40 CFR 403.6(c)(2).

(3) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Authority shall impose an alternative limit using the combined waste stream formula in 40 C.F.R. 403.6(e).

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

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

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Sec. 63-94. State requirements.

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

Sec. 63-95. Local limits.

(a) The Authority may establish local limits to protect against pass through and interference. These limits are specific to the wastewater treatment system that treats the wastewater. No person shall discharge wastewater containing an excess of the established limits.

(b) The Authority may apply local limits through issuance of industrial user permits or general permits, as provided in subdivision III of this division. The Authority may apply local limits based on EPA categorical pretreatment standards, state water quality standards or criteria, treatment plant process inhibitions, or sludge disposal standards, as necessary to comply with the general prohibitions against pass through, interference, and sludge contamination in 40 C.F.R. Part 403 and 9 VAC 25-31-10, Part VII. The local limits may be stricter than EPA categorical limits, if determined necessary by the POTW.

(c) The limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise. The Authority may impose mass limitations in addition to the concentration-based limitations above.

(d) The Authority may develop best management practices (BMPs), by regulation or in individual wastewater discharge permits or general permits, to implement local limits and the requirements of Sec. 63-91 and Sec. 63-92.

(e) The discharge of wastewater containing BOD₅, total suspended solids, ammonia, chloride, and other constituents in excess of those found in normal wastewater must be approved by the Authority or other authorized representative, and may be subject to surcharges.

Sec. 63-96. Authority's right of revision.

The Authority reserves the right to establish by regulation more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in this division.

Sec. 63-97. Excessive discharge/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 Federal Categorical Pretreatment Standards, or in any other pollutant-specific limitation developed by the Authority or state.

Secs. 63-98--63-107. Reserved.

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Sec. 63-108. Pretreatment facilities.

Users shall provide necessary wastewater treatment as required to comply with this article and shall achieve compliance with all federal categorical pretreatment standards, local limits, and the prohibitions set out in Sec. 63-92 above within the time limitations specified by the EPA, the state, or the Authority, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing the pretreatment facilities and operating procedures shall be submitted to the Authority for review, and shall be acceptable to the Authority before construction of the facilities. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facilities as necessary to produce a discharge acceptable to the Authority under the provisions of this article.

Sec. 63-109. Additional pretreatment measures.

- (a) Whenever deemed necessary, the Authority 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 waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the industrial user's compliance with the requirements of this article.
- (b) The Authority 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.
- (c) Grease, oil, and sand interceptors shall be provided when, in the opinion of the Authority, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users.
 - (1) All interception units shall be of type and capacity approved by the Authority and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at his expense.
 - (2) The Authority shall require any restaurant, cafe, fast food chain, cafeteria, or other business or individual discharging grease or other kitchen waste into the sewer system of the Authority which would substantially interfere with or be incompatible with the waste treatment works or to install a grease trap in its sewer lines, of a type and size to be prescribed by the Authority.
 - (3) On newly constructed and renovated buildings, the Authority shall require restaurants, cafes, fast food chains, cafeterias, businesses or individuals who will be discharging grease or other kitchen waste to install adequate grease traps of a type and size to be prescribed by the Authority.
 - (4) Any person who refuses to install such adequate grease trap after being notified by the Authority shall be guilty of a misdemeanor and each day's violation shall be punished as a Class I misdemeanor.

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(d) Any establishment (dental offices, medical offices, radiology offices, veterinary clinics, and photo-processing and printing businesses, etc.) that produce and discharge waste containing silver shall be required to install pretreatment equipment to remove silver to meet local limits. An alternative to pretreating silver bearing waste is to store on-site for subsequent off-site disposal.

(e) Any establishment (garages, shops, car and truck washes, etc.) that may discharge hydrocarbons and other petroleum products into the Authority's sewer systems shall be required to install oil/water separators as specified by the Authority.

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

(g) Other new and existing business establishments with the potential to discharge pollutants of a nature or concentration that may impact the POTW, as determined by the Authority, may be required to install the appropriate pretreatment facilities and abide by all pretreatment standards and requirements.

Sec. 63-110. Accidental discharges/slugs control plans.

(a) Each user shall provide protection from any accidental or slug discharge of prohibited materials or other substances regulated by this division. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be approved by the Authority before construction of the facility. No user who commences contribution to the POTW after the effective date of this division shall be permitted to introduce pollutants into the system until accidental discharge/slugs control procedures have been approved by the Authority. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this division. In the case of an accidental or slug discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

(b) The Authority may require any industrial user to develop and implement an accidental discharge/slugs control plan. At least once every two years the Authority shall evaluate whether each significant industrial user needs such a plan. Any industrial user required to develop and implement an accidental discharge/control slug plan shall submit a plan which addresses, at a minimum, the following:

- (1) Description of discharge practices, including non-routine batch discharges.
- (2) Description of stored chemicals.

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(3) Procedures for immediately notifying the POTW of any accidental or slug discharge. Such notification must also be given for any discharge which would violate any of the prohibited discharges in Section 63-92 of this article.

(4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

(c) Within ten (10) days following an accidental or slug discharge, the user shall submit to the Authority 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, fish kills, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this article or other applicable law.

(d) 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 dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

Sec. 63-111. Hauled wastewater.

(a) Septic tank waste may be introduced into the POTW only at locations designated by the Authority, and at such times as are established by the Authority. Such waste shall not violate any requirements established by the Authority. The Authority shall require septic tank waste haulers to obtain a wastewater discharge permit or license.

(b) Grease trap waste from commercial food establishments discharging wastewater to the Authority sewer system may be introduced into the POTW only at locations designated by the Authority, and at such times as are established by the Authority. Such waste shall not violate any requirements and regulations established by the POTW and the Authority. The engineer shall require grease trap waste haulers to obtain a wastewater discharge permit or license, as established by the Authority.

(c) The Authority shall require haulers of industrial waste to obtain a wastewater discharge license. The Authority may require generators of hauled industrial waste to obtain a permit pursuant to Sec. 63-124. The Authority may also prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this division and is at the sole discretion of the Authority.

(d) Industrial waste haulers may discharge loads only at locations designated by the Authority. No load may be discharged without a license obtained from the Authority. The Authority or its authorized agent may collect samples of each hauled load to ensure compliance with applicable

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standards. The Authority may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(e) Industrial waste haulers, septic waste haulers, and grease waste haulers must provide an approved hauling manifest for every load. The manifest form shall be provided by the Authority for each waste hauler to use.

(f) The Authority has the right to inspect, investigate, and monitor the waste haulers, the loads that are brought to the POTW, and the customers that the waste haulers service.

Sec. 63-112. Vandalism.

No person shall maliciously, willfully or negligently break, damage, destroy, uncover, deface, tamper with or prevent access to any structure, appurtenance or equipment, or other part of the POTW. Any person found in violation of this requirement shall be subject to the sanctions set out in Sec. 63-191 through 63-197 and 63-203 through 63-207 of this article.

Secs. 63-113--63-122. Reserved.

Division III. Administration*

Sec. 63-123. Wastewater analysis.

When required by the Authority, a user must submit information on the nature and characteristics of its wastewater by completing a wastewater survey within sixty (60) days of the request. The Authority is authorized to prepare a form for this purpose and may periodically require industrial users to update this information. Failure to complete this survey shall be reasonable grounds for terminating service to the user and shall be considered a violation of this article.

Sec. 63-124. Permit--Requirement.

(a) Wastewater Discharge Permit Requirement:

(1) No industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Authority, except that a user that has filed a timely application pursuant to Sec. 63-125 of this division may continue to discharge for the time period specified therein.

(2) The Authority may require other users, including commercial and residential users, to obtain wastewater discharge permits as necessary to carry out the purpose of this division.

(3) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this division and subjects the wastewater discharge permittee to the applicable enforcement provisions set out in this division. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state, and local law.

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(b) General Permits Requirement:

(1) At the discretion of the Authority, the Authority may use general permits to control discharges to the POTW if the following conditions are met. All facilities to be covered by a general permit must:

- (1) Involve the same or substantially similar types of operations;
- (2) Discharge the same types of wastes;
- (3) Require the same effluent limitations;
- (4) Require the same or similar monitoring; and
- (5) In the opinion of the Authority, are more appropriately controlled under a general permit than under individual wastewater discharge permits.

(2) To be covered by the general permit, the SIU or discharger must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general permit, any requests in accordance with Sec. 63-161 (b) for a monitoring waiver for a pollutant neither present nor expected to be present in the discharge, and any other information the POTW deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general permit until after the Authority has provided written notice to the SIU or discharger that such a waiver request has been granted in accordance with Sec. 63-161 (b).

(3) The Authority will retain a copy of the general permit, documentation to support the POTW's determination that a specific SIU or discharger meets the criteria in Sec. 63-124 (b.1) and applicable State regulations, and a copy of the user's written request for coverage for three (3) years after the expiration of the general permit.

(4) The Authority may not control an SIU or discharger through a general permit where the facility is subject to production-based categorical Pretreatment Standards or categorical Pretreatment Standards expressed as mass of pollutant discharged per day or for IUs whose limits are based on the combined waste stream formula (Sec. 63-93 (3)) or net/gross calculations (Sec. 63-93 (5)).

Sec. 63-125. Same--Permitting existing connections.

(a) Any user required to obtain a wastewater discharge permit or general permit who was discharging wastewater into the POTW prior to the effective date of this division and who wishes to continue such discharges in the future, shall, within sixty (60) days after official notification by the Authority, apply to the Authority for a wastewater discharge permit or general permit in accordance with Sec. 63-128 of this division, and shall not cause or allow discharges to the POTW to continue after 120 days of the notification date, except in accordance with a wastewater discharge permit issued by the Authority.

(b) The Authority shall officially notify existing connections of the need to apply for a permit as is reasonable and prudent.

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Sec. 63-126. Same--Permitting new connections.

Any user required to obtain a wastewater discharge permit or general permit who proposes to begin or recommence discharging industrial waste into the POTW must obtain a wastewater discharge permit prior or general permit to the beginning or recommencing of such discharge. An application for this wastewater discharge permit or general permit, in accordance with Sec. 63-128 of this article, must be filed at least 120 days prior to the date upon which any discharge will begin or recommence.

Sec. 63-127. Same--Permitting extra-jurisdictional industrial users.

(a) The Authority may enter into an agreement with the neighboring jurisdiction in which the significant industrial user is located to provide for the implementation and enforcement of pretreatment program requirements against such industrial user.

(b) Any existing significant industrial user located beyond the County corporate limits shall submit a wastewater discharge permit application, in accordance with Sec. 63-125 above and 63-128 below. New significant industrial users located beyond the County's corporate limits shall submit such applications to the Authority in accordance with Sec. 63-126 above.

Sec. 63-128. Same--Application contents.

(a) Users required to obtain a wastewater discharge permit or general permit shall complete and file with the Authority an application in the form prescribed by the Authority and accompanied by a fee as set by the Authority. Existing users shall apply for a wastewater discharge permit or general permit within sixty (60) days after the effective date of this division and proposed new users shall apply at least 120 days prior to connecting to or contributing to the POTW. The Authority may require all users to submit as part of an application the following information:

- (1) All information required by Sec. 63-158 (b) of this article;
- (2) Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
- (3) Number and type of employees, hours of operation, and proposed or actual hours of operation of the pretreatment plant;
- (4) Each product produced by type, amount, process or processes, and rate of production;
- (5) Type and amount of raw materials processed (average and maximum per day);
- (6) The site plans, floor plans, mechanical and plumbing plans and details to show all sewers, floor drains, sewer connections, and appurtenances by the size, location and elevation and all points of discharge;

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- (7) Time and duration of discharges;
- (8) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on Sec. 63-161 (b) [40 CFR 403.12(e)(2)].
- (9) Any request to be covered by a general permit based on Sec. 63-124 (b).
- (10) Any other information as may be deemed necessary by the Authority to evaluate the wastewater discharge permit application and;
- (11) All applicable permit fees as determined by the Authority.

(b) The Authority will evaluate the data furnished by the user and may require additional information. After evaluation and acceptance of the data furnished, the Authority may issue a wastewater discharge permit or general permit subject to the terms and conditions provided herein. These preceding provisions apply to any building additions and/or renovations.

(c) Incomplete or inaccurate applications will not be processed and will be returned to the user for revisions.

Sec. 63-129. Same--Application signatories and certification.

All wastewater discharge permit applications, general permit applications, and user reports must be signed by an authorized representative of the user and contain the following 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."

Sec. 63-130. Same--Decisions.

Subject to other provisions of Article 4, the Authority will evaluate the data furnished by the user and may require additional information. Within sixty (60) days of receipt of a complete wastewater discharge permit application, the Authority will determine whether or not to issue a wastewater discharge permit or a general permit. The Authority may deny, with just cause, any application for a wastewater discharge permit or general permit.

Sec. 63-131. Treatability study.

The Authority may require that a treatability study be performed to determine if the waste to be discharged is treatable by the POTW. Establishing a protocol for the study is the responsibility of

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the user and must be approved by the Authority before commencing. The cost of the study shall be borne by the user. Acceptance of waste as a result of the study does not relieve a permittee of its obligation to comply with other requirements of this division and all local, state, and federal pretreatment standards.

Secs. 63-132--63-139. Reserved.

Sec. 63-140. Permit issuance--Duration.

A wastewater discharge permit or general permit shall be issued for a specified period, not to exceed five years from the effective date of the permit. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of one hundred and eighty (180) days prior to the expiration of the user's existing permit, except, in such cases where the permit has been issued for a period of one year or less, the user shall apply for a permit reissuance a minimum of sixty (60) days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the Authority during the term of the permit as limitations or requirements as identified in this division are modified or other just cause exists. The user shall be informed of any proposed changes in his permit at least 30 days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

Sec. 63-141. Same--Contents of permit.

A wastewater discharge permit or general permit shall include such conditions as are deemed reasonably necessary by the Authority to prevent pass through or interference, protect the quality of the water body receiving the treatment plants effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(1) Wastewater discharge permits and general permits must contain the following conditions:

- a. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five years.
- b. A statement that the wastewater discharge permit is nontransferable without prior notification to and approval from the Authority, in accordance with Sec. 63-144 of this division, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.
- c. Effluent limits, including best management practices, applicable to the user based on applicable standards in federal, state, and local law.
- d. Self-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.

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- e. Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.
- f. The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the discharge or a waiver for decreased frequency of monitoring in accordance with Sec. 63-161 (b).
- g. Any grant of the monitoring waiver by the Authority (Sec. 63-161 (b)) must be included as a condition in the user's permit.
- h. A statement that indicates the application and reapplication requirements as described in Sec. 63-128 and Sec. 63-146 of this regulation.
- i. A statement that indicates that the Authority may modify a permit with good cause as described in Sec. 63-143.
- j. A statement that indicates that the Authority may revoke or terminate a permit with good cause including, but not limited to, the reason indicated in Sec. 63-145 and Sec. 63-197.
- k. A statement that indicates that the permittee must adhere to proper operation and maintenance standards as described in Sec. 63-108.
- l. A statement that indicates that the Authority may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment as described in Sec. 63-196.
- m. A statement that indicates that all sampling reports submitted to the POTW must include a chain-of-custody document.

(2) Wastewater discharge permits or general permits may contain the following:

- a. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- b. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- c. Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;

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- d. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
- e. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
- f. Requirements for installation and maintenance of inspection and sampling facilities and equipment;
- g. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit;
- h. Requirements for notification of slug discharges; and
- i. Other conditions as deemed appropriate by the Authority to ensure compliance with this division, and state and federal laws, rules, and regulations.

Sec. 63-142. Same--Appeals.

The Authority shall provide public notice of the issuance of a wastewater discharge permit or general permit. Any person, including the user, may petition the Authority to reconsider the terms of a wastewater discharge permit or general permit within thirty (30) days of its issuance.

- (1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- (2) In its petition, the appealing party must indicate the wastewater discharge permit or general permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- (3) The effectiveness of the wastewater discharge permit or a general permit shall not be stayed pending the appeal.
- (4) If the Authority fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit or a general permit, not to issue a wastewater discharge permit or a general permit, or not to modify a wastewater discharge permit or a general permit, shall be considered final administrative action for the purpose of judicial review.
- (5) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the circuit court of the county within thirty (30) days of final permit issuance.

Sec. 63-143. Same--Modification.

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(a) The Authority may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- (1) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
- (2) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
- (3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (4) Information indicating that the permitted discharge poses a threat to the Authority's POTW, Authority personnel, or the receiving waters;
- (5) Violation of any terms or conditions of the wastewater discharge permit;
- (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- (7) Revisions of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
- (8) To correct typographical or other errors;
- (9) To reflect a transfer of the facility ownership or operation to a new owner or operator.

(b) The Authority may modify a general permit for good cause, including, but not limited to, the following reasons:

- (1) To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
- (2) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (3) To correct typographical or other errors; or
- (4) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with Sec. 63-144.

(c) The filing of a request by a permittee for a wastewater discharge permit modification does not stay any wastewater discharge permit condition.

Sec. 63-144. Same--Transfer.

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(a) Wastewater discharge permits or coverage under general permits may be transferred to a new owner or operator only if the permittee gives at least sixty (60) days advance notice to the Authority and the Authority approves the transfer. The notice to the Authority must include a written certification by the new owner or operator which:

- (1) States that the new owner or operator has no immediate intent to change the facility's operations and processes;
- (2) Identifies the specific date on which the transfer is to occur; and
- (3) Acknowledges full responsibility for complying with the existing permit.

(b) Failure to provide advance notice of a transfer renders the permit void as of the date of facility transfer.

Sec. 63-145. Same--Revocation.

(a) The Authority may revoke a wastewater discharge permit or coverage under a general permit for good cause, including, but not limited to, the following reasons:

- (1) Failure to notify the Authority of significant changes to the wastewater prior to the changed discharge;
- (2) Failure to provide prior notification to the Authority of changed condition(s) pursuant to Sec. 63-162 of this article;
- (3) Misrepresentations or failure to fully disclose all relevant facts in the permit application;
- (4) Falsifying self-monitoring reports;
- (5) Tampering with monitoring equipment;
- (6) Refusing to allow the Authority timely access to the facility premises and records;
- (7) Failure to meet effluent limitations;
- (8) Failure to pay fines;
- (9) Failure to pay sewer charges;
- (10) Failure to meet compliance schedules;
- (11) Failure to complete a wastewater survey or the permit application;
- (12) Failure to provide advance notice of the transfer of a permitted facility; or

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(13) Violation of any pretreatment standard or requirement, or any terms of the permit or this division.

(b) Wastewater discharge permits or coverage under general permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user and location are void upon the issuance of a new wastewater discharge permit to that user and location.

Sec. 63-146. Same--Reissuance.

A user with an expiring permit shall apply for permit or general permit reissuance by submitting a complete permit application, in accordance with Sect. 63-128 of this article. The user shall apply for permit reissuance a minimum of one hundred and eighty (180) days prior to the expiration of the user's existing permit, except, in such cases where the permit has been issued for a period of one year or less, the user shall apply for a permit reissuance a minimum of sixty (60) days prior to the expiration of the user's existing permit.

Sec. 63-147. Regulation of waste received from other jurisdictions.

(a) If users located outside the County limits contribute wastewater to the Authority's sewerage collection and/or sewerage treatment plant, the Authority shall enter into an agreement with that jurisdiction.

(b) Prior to entering into an agreement required by subsection (a) above, the Authority shall request the following information from that jurisdiction:

(1) A description of the quality and volume of wastewater discharged to the POTW by that jurisdiction;

(2) An inventory of all users located within that jurisdiction that are discharging to the POTW; and

(3) Such information as the Authority may deem necessary.

(c) An agreement, as required by subsection (a) above, shall contain the following conditions:

(1) A requirement for that jurisdiction to adopt a sewer use ordinance which is at least as stringent as this article and local limits which are at least as stringent as applicable local limits adopted by the Authority. The requirements shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the Authority's regulation or local limits;

(2) A requirement for that jurisdiction to submit a revised user inventory on at least an annual basis;

(3) A provision specifying which pretreatment implementation activities, including wastewater discharge permit or general permit issuance, inspection and sampling, and

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enforcement, will be conducted by that jurisdiction; which of these activities will be conducted by the Authority; and which of these activities will be conducted jointly by the Authority and that jurisdiction;

(4) A requirement for that jurisdiction to provide the Authority with access to all information that that jurisdiction obtains as part of its pretreatment activities;

(5) Limits on the nature, quality, and volume of that jurisdiction's wastewater at the point where it discharges to the POTW;

(6) Requirements for monitoring that jurisdiction's discharge;

(7) A provision ensuring the Authority access to facilities of users located within that jurisdiction's jurisdictional boundaries for the purpose of inspection, sampling, and other duties deemed necessary by the Authority; and

(8) A provision specifying remedies available for breach of the terms of the agreement.

Secs. 63-148--63-157. Reserved.

Sec. 63-158. Baseline monitoring reports.

(a) Within either one hundred and eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a categorical 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 Authority a report which contains the information listed in paragraph (b) below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Authority a report which contains the information listed in paragraph (b) below. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable categorical standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants to be discharged.

(b) Users described above shall submit the information set forth below:

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

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

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

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(4) *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from the 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 Authority 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 analyzed in accordance with procedures set out in Sec. 63-167 of this article.

c. Sampling must be performed in accordance with procedures set out in Sec. 63-168 of this article.

(6) *Certification.* A statement reviewed by the 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 established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Sec. 63-159 of this article.

(8) *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with Sec. 63-108 of this article.

Sec. 63-159. Compliance schedule progress report.

The following conditions shall apply to the schedule required by Sec. 63-158(b)(7) of this article:

(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 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 above shall exceed nine months;

(3) The user shall submit a progress report to the Authority no later than fourteen (14) days following each date in the schedule and the final date of compliance, including, as a

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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 to the Authority.

Sec. 63-160. Report on compliance with categorical pretreatment standard deadline.

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Authority a report containing the information described in Sec. 63-158(b)(4) through (6) of this article. 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 Sec. 63-129 of this article

Sec. 63-161. Periodic compliance reports.

(a) All significant industrial users shall, at a frequency and schedule determined by the Authority but in no case less than twice per year, 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 Sec. 63-129 of this article.

(b) The Authority may authorize an industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard if the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user. This authorization is subject to the following conditions:

(1) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical standard and otherwise includes no process wastewater.

(2) The monitoring waiver is valid only for the duration of the effective period of the permit, but in no case longer than 5 years. The user must submit a new request for the waiver before the waiver can be granted for each subsequent permit. See Sec. 63- 128 (8).

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- (3) In making a demonstration that a pollutant is not present, the industrial user must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.
 - (4) The request for a monitoring waiver must be signed in accordance with Sec. 63-27, and include the certification statement in Sec. 63-129 (40 CFR 403.6(a)(2)(ii)).
 - (5) Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.
 - (6) Any grant of the monitoring waiver by the Authority must be included as a condition in the user's permit. The reasons supporting the waiver and any information submitted by the user in its request for the waiver must be maintained by the Authority for three (3) years after expiration of the waiver.
 - (7) Upon approval of the monitoring waiver and revision of the user's permit by the Authority, the industrial user must certify on each report with the statement in Sec. 63-171, that there has been no increase in the pollutant in its wastestream due to activities of the industrial user.
 - (8) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the user's operations, the user must immediately: Comply with the monitoring requirements of Sec. 63-161 (a), or other more frequent monitoring requirements imposed by the Authority, and notify the Authority.
 - (9) This provision does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.
- (c) The Authority may reduce the requirement for periodic compliance reports [see Sec. 63-161 (a) (40 CFR 403.12(e)(1))] to a requirement to report no less frequently than once a year, unless required more frequently in the pretreatment standard or by the State, where the industrial user's total categorical wastewater flow does not exceed any of the following:
- (1) Five hundred (500) gallons per day as measured by a continuous effluent flow monitoring device unless the Industrial User discharges in batches;
 - (2) Pollutant-specific daily loading values as established by the Authority.

Reduced reporting is not available to industrial users that have in the last two (2) years been in significant noncompliance, as defined in Sec. 63-185 of this regulation. In addition, reduced

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

(d) 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.

(e) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Authority, using the procedures prescribed in Section 63-167 of this article, the results of this monitoring shall be included in the report.

(f) The Authority may elect to sample and analyze in lieu of requiring the users to conduct sampling and analysis. If this option is exercised, the user may be billed for the service.

Sec. 63-162. Report of changed conditions.

Each user must notify the 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 one hundred and twenty (120) days before the change.

(1) The Authority may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a permit under Section 63-128 of this article.

(2) The Authority may issue a permit under Section 63-130 of this article or modify an existing permit under Section 63-143 of this article in response to changed conditions or anticipated conditions.

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

Sec. 63-163. Reporting new or increased discharges.

All industrial users shall promptly notify the POTW in advance of any new or increased discharge. The Authority may deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by industrial users where such contributions do not meet applicable pretreatment standards and regulations or where such contributions would cause the POTW to violate its VPDES permit.

Sec. 63-164. Reports of potential problems.

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

(b) Within five (5) days following such discharge, the user shall, unless waived by the Authority, submit a detailed written report describing the causes(s) 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 division.

(c) A notice shall be permanently posted to the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (a) above. Employers shall ensure that all employees who may cause such a discharge to occur are advised of the emergency notification procedure.

(d) Significant Industrial Users are required to notify the Authority immediately of any changes at its facility affecting the potential for a slug discharge.

(Amend. of 2-7-11)

Sec. 63-165. Reports from nonsignificant industrial users.

All industrial users not subject to categorical pretreatment standards and not required to obtain a permit shall provide appropriate reports to the Authority as the Authority may require.

Sec. 63-166. Notice of violation; repeat sampling and reporting.

If sampling performed by a user indicates a violation, the user must notify the Authority 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 Authority within thirty (30) days after becoming aware of the violation. The user is not required to resample if the POTW is monitoring at the user's facility at least once a month, or if the POTW samples between the user's initial sampling and when the user receives the results of this sampling.

Sec. 63-167. Analytical requirements.

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

Sec. 63-168. Sample collection.

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(a) Except as indicated in subsection (b) and (c) below, the user must collect wastewater samples using 24-hour flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the Authority may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Authority, as appropriate. In addition, grab samples may be required to show compliance with the instantaneous discharge limits.

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

(c) For sampling required in support of baseline monitoring and 90-day compliance reports required in Sec. 63-158 and 63-160 [40 CFR 403.12(b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Authority may authorize a lower minimum. For the reports required by paragraphs Sec. 63-161 (40 CFR 403.12(e) and 403.12(h)), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

(d) All monitoring reports submitted to the POTW that include sampling data are required to include a chain-of-custody document.

Sec. 63-169. 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 U.S. Postal Service, the date of receipt of the report shall govern.

Sec. 63-170. Recordkeeping.

Users subject to the reporting requirements of this division shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this division and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements and documentation associated with best management practices established under Sec. 63-95. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended

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for the duration of any litigation concerning the user or the Authority, or where the user has been specifically notified of a longer retention period by the Authority.

Sec. 63-171 Certification of Pollutants Not Present

Users that have an approved monitoring waiver based on Sec. 63-161 (b) must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the user.

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR _____ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under Sec. 74-161 A.

Secs. 63-172--63-180. Reserved.

Sec. 63-181. Compliance monitoring--Monitoring facilities.

(a) The Authority shall require to be provided and operated, at the user's own expense, monitoring facilities to allow inspections, 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 Authority 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 Authority's requirements and all applicable local constructions standards and specifications. Construction shall be completed within 90 days following written notification by the Authority.

Sec. 63-182. Same--Right of entry for inspection and sampling.

(a) The Authority or its agent shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this division and any permit or order issued hereunder. Users shall allow the Authority or its agent ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of additional duties.

(1) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with

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its security guards so that, upon presentation of suitable identification, personnel from the Authority, state, and EPA will be permitted to enter without delay for the purposes of performing specific responsibilities.

(2) The Authority or its agent, state, and EPA shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

(3) The Authority may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated semiannually to ensure their accuracy.

(4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Authority and shall not be replaced. The costs of clearing such access shall be borne by the user.

(5) Unreasonable delays in allowing the Authority or its agent access to the user's premises shall be a violation of this division.

(6) All applicable inspection, sampling analysis, enforcement, and related program fees as determined by the Authority shall be paid by the user.

(b) If sampling and monitoring facilities are required by the Authority, it shall be provided in accordance with the Authority's requirements and all applicable local constructions standards and specifications, and shall be completed within ninety (90) days following written notification by the Authority.

Sec. 63-183. Same--Search warrants.

If the Authority or its agent 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 division or that there is a need to inspect and/or sample to verify compliance with this division or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Authority or its agent may seek issuance of a search warrant from the general district court of the county.

Sec. 63-184. Confidential information.

Information and data on a user obtained from reports, surveys, permit applications, permits, and monitoring programs, and from the Authority's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the Authority, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the

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information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made immediately available upon request to governmental agencies for uses related to the VPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

Sec. 63-185. Publication of industrial users in significant noncompliance.

The Authority shall publish annually, in a newspaper of general circulation that provides meaningful public notice in the municipality where the POTW is located, a list of the users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements. The term "significant noncompliance" shall mean:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of wastewater measurements taken during a six-month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
- (2) Technical review criteria (TRC) violations, defined here as those in which 33 percent or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- (3) Any other discharge violation that the Authority believes 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 other discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Authority's exercise of its emergency authority to halt or prevent such a discharge;
- (5) Failure to provide, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide, within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standards and deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance; or
- (8) Any other violation(s) which the Authority determines will adversely affect the operation or implementation of the local pretreatment program.

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Secs. 63-186--63-190. Reserved.

Division IV. Enforcement

Sec. 63-191. Administrative remedies--Notification of violation.

When the Authority finds that a user has violated, or continues to violate, any provisions of this division, a permit or order issued hereunder, or any other pretreatment standard or requirement, the Authority may serve upon such user a written notice of violation. Within thirty (30) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Authority. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the Authority to take action, including emergency actions or any enforcement action, without first issuing a notice of violation.

Sec. 63-192. Same--Consent orders.

The Authority may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period also specified by the document. Such documents shall have the same force and effects as the administrative orders issued pursuant to Sections 63-194 and 63-195 of this article and shall be judicially enforceable.

Sec. 63-193. Same--Show cause hearing.

(a) The Authority may order any user who causes or allows an unauthorized discharge or violates any Authority regulations to show cause before the Board why the proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the Board regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the user to show cause before the Board why the 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.

(b) The Board may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the assigned department to:

- (1) Issue in the name of the Board notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
- (2) Take the evidence;

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(3) Transmit a report of the evidence and hearing, including transcripts and other evidence together with recommendations to the Board for action thereon.

(c) At any hearing held pursuant to this division, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.

(d) After the Board has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, and devices or other related appurtenances are properly operated. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

Sec. 63-194. Same--Compliance orders.

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

Sec. 63-195. Same--Cease and desist orders.

(a) When the Authority finds that a user has violated, or continues to violate, any provision of this division, a permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Authority may issue an order to the user directing it to cease and desist all such violations and directing the user to:

(1) Immediately comply with all requirements; and

(2) Take such appropriate remedial or preventative action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(b) Issuance of a cease and desist order shall not be a bar against, or be a prerequisite for, taking any other action against the user.

Sec. 63-196. Same--Emergency suspensions.

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

(1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Authority may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Authority may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Authority that the period of endangerment has passed, unless the termination proceedings in Section 63-197 of this article are initiated against the user.

(2) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Authority, prior to the date of any show cause or termination hearing under Sections 63-193 or 63-197 of this article.

(b) Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

Sec. 63-197. Same--Termination of discharge.

(a) In addition to the provisions in Section 63-145 of this article, any user that violates any one or more of the following conditions is subject to discharge termination:

(1) Violation of permit conditions;

(2) Failure to accurately report the wastewater constituents and characteristics of its discharge;

(3) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;

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

(5) Violation of the pretreatment standards in Sections 63-91 through 63-97 of this article.

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Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 63-193 of this article as to why the proposed termination of discharge should not be taken.

(b) Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

Sec. 63-198. Same--Administrative Penalties

(a) When the Authority finds that a user has violated, or continues to violate, any provision of these regulations, a permit, or order issued hereunder, or any other pretreatment standard or requirement, the Authority may fine such user in an amount not to exceed the maximum amounts established in subdivision 8a of Virginia Code Section 62.1-44.15. Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

(b) No order assessing a civil penalty for a violation shall be issued until after the user has been provided an opportunity for a hearing, except with the consent of the user. The notice of the hearing shall be served personally or by registered or certified mail, return receipt requested, on any authorized representative of the user at least 30 days prior to the hearing. The notice shall specify the time and place for the hearing, facts and legal requirements related to the alleged violation, and the amount of any proposed penalty. At the hearing the user may present evidence including witnesses regarding the occurrence of the alleged violation and the amount of the penalty, and the user may examine any witnesses for the Authority. A verbatim record of the hearing shall be made. Within 30 days after the conclusion of the hearing, the Authority shall make findings of fact and conclusions of law and issue the order.

(c) No order issued by the Authority shall assess civil penalties in excess of the maximum amounts established in subdivision 8a of Code of Virginia Section 62.1-44.15, except with the consent of the user. The actual amount of any penalty assessed shall be based upon the severity of the violations, the extent of any potential or actual environmental harm or facility damage, the compliance history of the user, any economic benefit realized from the noncompliance, and the ability of the user to pay the penalty, provided, however, that in accordance with subdivision 10 d, the Authority may establish a uniform schedule of civil penalties for specified types of violations. In addition to civil penalties, the order may include a monetary assessment for actual damages to sewers, treatment works and appurtenances and for costs, attorney fees and other expenses resulting from the violation. Civil penalties in excess of the maximum amounts established in subdivision 8a of Code of Virginia Section 62.1-44.15 may be imposed only by a court in amounts determined in its discretion but not to exceed the maximum amounts established in Code of Virginia Section 62.1-44.32.

(d) Unpaid charges, fines, and penalties shall, after twenty (20) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue thereafter at a rate of ten percent (10%) per month. A lien against the User's property may be sought for unpaid charges, fines, and penalties.

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- (e) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User.

Sec. 63-199. Reconsideration or Review of Administrative Penalties

Any order issued by the Authority, whether or not such order assesses a civil penalty, shall inform the user of his right to seek reconsideration or review within the Authority, if authorized, and of his right to judicial review of any final order by appeal to circuit court on the record of proceedings before the Authority. To commence reconsideration by the Authority, within twenty (20) days after being notified of the penalty, the user must file with the Authority in writing a request for reconsideration and make full payment of the penalty, and failure to do so shall constitute a waiver of the right to reconsideration. To commence an appeal to circuit court, the user shall file a petition in court within 30 days of the date of the order, and failure to do so shall constitute a waiver of the right to appeal. With respect to matters of law, the burden shall be on the party seeking review to designate and demonstrate an error of law subject to review by the court. With respect to issues of fact, the duty of the court shall be limited to ascertaining whether there was substantial evidence in the record to reasonably support such findings.

Sec. 63-200. Judicial Remedies.

Nothing herein shall be interpreted to preclude the Authority from proceeding directly in circuit court to compel compliance with sewer use regulations or as limiting any otherwise applicable legal remedies and sanctions.

Secs. 63-201--63-202. Reserved.

Sec. 63-203. Judicial remedies--Injunctive relief.

When the Authority finds that a user has violated, or continues to violate, any provision of this division, a permit, or order issued hereunder, or any other pretreatment standard or requirement, the Authority may petition the circuit court of the county through the county's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the permit, order, or other requirement imposed by this division on activities of the user. The Authority may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not bar against, or be a prerequisite for, taking any other action against a user.

Sec. 63-204. Same--Civil penalties.

- (a) The court may assess against a user who has violated, or continues to violate, any provision of this division, a permit, or order issued hereunder, or any other pretreatment standard or requirement civil penalty in the amounts established in Subdivision (8A) of the Virginia Code section 62.1-44.15. Each day during which a violation is found to have existed shall constitute a separate violation. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation. Civil penalties in excess of the maximum amounts established in Subdivision (8A) of Virginia Code section 62.1-44.15 may be

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imposed only by a court in amounts determined in its discretion but not to exceed the maximum amounts established in Virginia Code section 62.1-44.32. Such penalties shall be paid into the general account of the Authority, as the case may be and be applied to the purpose of abating, preventing or mitigating environmental pollution.

(b) The Authority may recover a monetary assessment for actual damages to sewers, treatment works and appurtenances as well as reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the Authority.

(c) In determining the amount of civil liability, the court shall take into account all relevant circumstances, including, but not limited to, the severity of the violation, the extent of potential or actual environmental harm or facility damage caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

(d) Filing a suit for civil penalties shall not be a bar against, or be a prerequisite for, taking any other action against a user.

Sec. 63-205. Same--Criminal prosecution.

The Authority may refer to the Commonwealth Attorney for Washington County, Virginia, any of the following facts for criminal prosecution as allowed or required by State and Federal Laws and Regulations:

(a) A user who willfully or negligently violates any provision of this division, a permit, or order issued hereunder, or any other pretreatment standard or requirement.

(b) A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall. Criminal prosecution shall be in addition to any other cause of action for personal injury or property damage available under state law.

(c) A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other documentation filed or required to be maintained, pursuant to this division, permit or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this division.

(d) Other such conduct as may, pursuant to State and Federal Law, be subject to criminal prosecution.

Sec. 63-206. Same--Recovery of costs incurred.

In addition to civil and criminal liability, a user violating any of the provisions of this division or causing damage to or otherwise inhibiting the POTW shall be liable to the Authority [for] any expense, loss, or damage caused by such violation or discharge. The Authority may bill the user for the costs incurred for sampling, analysis, and labor costs. Other billable costs include, but are

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not limited to, cleaning, repair or replacement work caused by the violation or discharge. Refusal to pay the assessed costs shall constitute a separate violation.

Sec. 63-207. Same--Remedies nonexclusive.

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

Secs. 63-208--63-211. Reserved.

Sec. 63-212. Affirmative defenses to discharge violations--Upset.

(a) For the purpose of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

(b) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (c) are met.

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

(1) An upset occurred and the user can identify the cause(s) of the upset;

(2) The facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures; and

(3) The user has submitted the following information to the Authority within 24 hours of becoming aware of the upset; if this information is provided orally, a written submission must be provided within ten days:

a. A description of the indirect discharge and cause of noncompliance;

b. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

c. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

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

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(e) 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.

(f) Users shall control production or 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.

Sec. 63-213. Same--Prohibited discharge standards.

(a) A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 63-91 of this article or the specific prohibitions in Section 63-92 of this article, if it can prove by a preponderance of the evidence that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and either:

(1) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

(2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the Authority was regularly in compliance with its VPDES permit, and, in case of interference, was in compliance with applicable sludge use or disposal requirements.

(b) Pursuant to 40 CFR Section 403.5(a)(2), the affirmative defense outlined in this section cannot apply to specific prohibitions in subsections 74-92(1), (3) and (20).

Sec. 63-214. Same--Bypass.

(a) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of paragraphs (c) and (d) of this section.

If a user knows in advance of the need for a bypass, it shall submit prior notice to the Authority, at least ten days before the date of the bypass, if possible.

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

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(c) Bypass is prohibited, and the Authority may take enforcement action against a user for a bypass, unless:

- (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- (2) As determined by the Authority there was no feasible alternative to 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 preventative maintenance; and
- (3) The user submitted notices as required under paragraph (c) of this section. The Authority may approve an anticipated bypass, after considering its adverse effects, if the Authority determines that it will meet the three conditions listed in the first paragraph of subsection (d) of this section.

Secs. 63-215--63-219. Reserved.

Division V. Miscellaneous Provisions

Sec. 63-220. Pretreatment charges and fees.

The Authority may adopt reasonable fees for reimbursement of costs of setting up and operating the Authority's pretreatment program, which may include:

- (1) Fees for permit applications including the cost of processing such applications;
- (2) Fees for filing appeals;
- (3) Fees for monitoring, inspection, and surveillance procedures, including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
- (4) Fees for reviewing and responding to accidental discharge procedures and construction;
- (5) Fees for consistent removal by the Authority of pollutants otherwise subject to federal pretreatment standards;
- (6) Other fees as the Authority may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this division and are separate from all other fees, fines and penalties chargeable by the Authority.

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Sec. 63-221. Severability.

If any provision of this division is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

Secs. 63-222--63-231. Reserved.

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ARTICLE 5. FEES AND CHARGES

Sec. 63-232. Establishment of rates, fees, and charges.

Rates, fees and charges shall be as authorized by the Authority from time to time as described in the Authority's current Approved Rates, Fees and Charges Summary.

Secs. 63-233 – 63-235. Reserved.

Sec. 63-236. Additional metering.

Additional metering shall be in accordance with the Authority's Rules and Regulations, latest revisions.

Sec. 63-237. Billing, when due and payable.

Billing shall be in accordance with the Authority's Rules and Regulations, latest revisions.

Secs. 63-238 – 63-240. Reserved.