

REGIONAL WATER RESOURCE AGENCY PRETREATMENT REGULATION

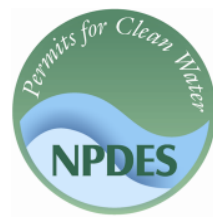


TABLE OF CONTENTS

	Page
SECTION 1—GENERAL PROVISIONS	1
1.1 Purpose and Policy	1
1.2 Administration	2
1.3 Abbreviations	2
1.4 Definitions	2
SECTION 2—GENERAL SEWER USE REQUIREMENTS	8
2.1 Prohibited Discharge Standards	8
2.2 National Categorical Pretreatment Standards	10
2.3 State Pretreatment Standards	11
2.4 Local Limits	11
2.5 RWRA’s Right of Revision	13
2.6 Dilution	13
SECTION 3—PRETREATMENT OF WASTEWATER	13
3.1 Pretreatment Facilities	13
3.2 Additional Pretreatment Measures	13
3.3 Accidental Discharge/Slug Discharge Control Plans	14
3.4 Hauled Wastewater	14
SECTION 4—INDIVIDUAL WASTEWATER DISCHARGE PERMITS	15
4.1 Wastewater Analysis	15
4.2 Individual Wastewater Discharge Permit Requirement	15
4.3 Individual Wastewater Discharge Permitting: New Connections	16
4.4 Individual Wastewater Discharge Permit Application Contents	16
4.5 Application Signatories and Certifications	17
SECTION 5—INDIVIDUAL WASTEWATER DISCHARGE PERMIT ISSUANCE	18
5.1 Individual Wastewater Discharge Permit Duration	18
5.2 Individual Wastewater Discharge Permit Contents	18
5.3 Permit Modification	19
5.4 Individual Wastewater Discharge Permit Revocation	20
5.5 Individual Wastewater Discharge Permit Reissuance	21
SECTION 6—REPORTING REQUIREMENTS	21
6.1 Baseline Monitoring Reports	21
6.2 Compliance Schedule Progress Reports	22
6.3 Reports on Compliance with Categorical Pretreatment Standard Deadline	23
6.4 Periodic Compliance Reports [403.12(g)(3),(4),(6)]	23
6.5 Reports of Changed Conditions	24
6.6 Reports of Potential Problems [40 CFR 403.8(f)(2)(vi)]	24
6.7 Reports from Unpermitted Users	24

6.8	Notice of Violation/Repeat Sampling and Reporting	25
6.9	Notification of the Discharge of Hazardous Waste	25
6.10	Analytical Requirements	26
6.11	Sample Collection	26
6.12	Date of Receipt of Reports	27
6.13	Recordkeeping	27
6.14	Certification Statements	27
SECTION 7—COMPLIANCE MONITORING		29
7.1	Right of Entry: Inspection and Sampling	29
7.2	Search Warrants	29
SECTION 8—CONFIDENTIAL INFORMATION		29
SECTION 9—PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE – pursuant to 40 CFR 403.8(f)(2)(viii)(A)-(C)		30
SECTION 10—ADMINISTRATIVE ENFORCEMENT REMEDIES		31
10.1	Notification of Violation	31
10.2	Informal Meeting	31
10.3	Administrative Hearing	31
10.4	Administrative/Consent Orders	31
10.5	Show Cause Hearing	32
10.6	Cease and Desist Orders	32
10.7	Administrative Fines/Fees	32
10.8	Emergency Suspensions	33
10.9	Termination of Discharge	33
SECTION 11—JUDICIAL ENFORCEMENT REMEDIES		34
11.1	Injunctive Relief	34
11.2	Civil Penalties	34
11.3	Criminal Prosecution	35
11.4	Remedies Nonexclusive	35
SECTION 12—SUPPLEMENTAL ENFORCEMENT ACTION		36
12.1	Performance Bonds	36
12.2	Liability Insurance	36
12.3	Payment of Outstanding Fees and Penalties	36
12.4	Water Supply Severance	36
12.5	Public Nuisances	36
SECTION 13—AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS		36
13.1	Upset	36
13.2	Prohibited Discharge Standards	38
13.3	Bypass	38

SECTION 14—WASTEWATER TREATMENT RATES	39
SECTION 15—MISCELLANEOUS PROVISIONS	39
15.1 Pretreatment Charges and Fees	39
15.2 Severability	40
SECTION 16—EFFECTIVE DATE	40

REGIONAL WATER RESOURCE AGENCY (RWRA)
PRETREATMENT REGULATION

REGULATION NO. [RWRA WASTEWATER USER REGULATION; ARTICLE V-VII]

SECTION 1—GENERAL PROVISIONS

1.1 Purpose and Policy

This regulation sets forth uniform requirements for Users of the Publicly Owned Treatment Works (POTW) for the Owensboro-Daviess County Regional Water Resource Agency and enables the Agency to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code [U.S.C.] section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the *Code of Federal Regulations* [CFR] Part 403). The objectives of this regulation are:

- A. To prevent the introduction of pollutants into the POTW that will interfere with its operation;
- B. To prevent the introduction of pollutants into the POTW that will pass through the POTW, inadequately treated, into receiving waters, or otherwise be incompatible with the POTW;
- C. To protect both POTW personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- D. To promote green initiatives, and the reuse and recycling of industrial wastewater and sludge from the POTW;
- E. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the POTW; and
- F. To enable RWRA to comply with its Kentucky Pollutant Discharge Elimination System (KPDES) permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the POTW.

This regulation shall apply to all Users of the POTW. This regulation authorizes the issuance of individual wastewater discharge permits to industries or other waste dischargers that have the potential for introducing detrimental discharges to the RWRA system/POTW that provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires User reporting; etc. RWRA reserves the right to set fees for the equitable distribution of costs resulting from the program established herein.

1.2 Administration

Except as otherwise provided herein, the Agency Directors shall administer, implement, and enforce the provisions of this regulation. Any powers granted to or duties imposed upon the Agency Directors may be delegated by the Executive Director to a duly authorized RWRA employee.

1.3 Abbreviations

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

BOD – Biochemical Oxygen Demand
BMP – Best Management Practice
BMR – Baseline Monitoring Report
CFR – *Code of Federal Regulations*
CIU – Categorical Industrial User
COD – Chemical Oxygen Demand
EPA – U.S. Environmental Protection Agency
gpd – gallons per day
IU – Industrial User
KRS – Kentucky Revised Statutes
mg/l – milligrams per liter
NPDES – National Pollutant Discharge Elimination System
NSCIU – Non-Significant Categorical Industrial User
POTW – Publicly Owned Treatment Works
RCRA – Resource Conservation and Recovery Act
RWRA – Owensboro-Daviess County Regional Water Resource Agency
SIU – Significant Industrial User
SNC – Significant Noncompliance
TSS – Total Suspended Solids
U.S.C. – United States Code

1.4 Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this regulation, shall have the meanings hereinafter designated.

Act or “the Act” - The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. section 1251 et seq.

Agency – Owensboro-Daviess County Regional Water Resource Agency (RWRA), a joint sewer agency established under KRS 76.231.

Approval Authority – Kentucky Energy and Environmental Cabinet

Authorized or Duly Authorized Representative of the User

(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; or

(b) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(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 director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(4) The individuals described in paragraphs 1 through 3, above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company and the written authorization is submitted to RWRA.

Biochemical Oxygen Demand (BOD) - The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).

Best Management Practices (BMPs) - Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 2.1 A and B [40 CFR 403.5(a)(1) and (b)]. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, drainage from raw materials storage, or other alternative means of management practices that ensure compliance with pretreatment standards and effluent limits.

Categorical Pretreatment Standard or Categorical Standard - Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

Categorical Industrial User - An Industrial User subject to a categorical Pretreatment Standard or categorical Standard.

Chemical Oxygen Demand (COD) - A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

Control Authority - RWRA

Daily Maximum - The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

Daily Maximum Limit - The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

Environmental Protection Agency (EPA) - The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.

Existing Source - Any source of discharge that is not a "New Source."

Grab Sample - A sample that is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.

Indirect Discharge or Discharge - The introduction of pollutants into the POTW from any nondomestic source.

Instantaneous Limit - The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event. RWRA reserves the right to measure compliance with a grab sample or other methodology that RWRA deems representative of the discharge day.

Interference - A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of RWRA's KPDES permit or of the prevention of sewage sludge 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.

Local Limit - Specific discharge limits developed and enforced by RWRA upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

Medical Waste - Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

Monthly Average - The sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.

Monthly Average Limit - The highest allowable average of “daily discharges” over a calendar month, calculated as the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.

New Source -

(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 that 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; or
- (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or
- (c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, should be considered.

(2) Construction on a site at which an Existing Source is located results in a modification rather than a New Source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1)(b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a New Source as defined under this paragraph has commenced if the owner or operator has:

(a) Begun, or caused to begin, as part of a continuous onsite construction program

- (i) any placement, assembly, or installation of facilities or equipment; or
 - (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment;
- or

(b) Entered into a binding contractual obligation for the purchase of facilities or equipment which 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 paragraph.

Noncontact Cooling Water - Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

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

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

pH - The measure of the acidity or alkalinity of a solution, expressed in standard units.

Pollutant - Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, Medical Wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

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

Pretreatment Requirements - Any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.

Pretreatment Standards or Standards - Pretreatment Standards shall mean prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.

Prohibited Discharge Standards or Prohibited Discharges - Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 2.1 of this regulation.

Publicly Owned Treatment Works (POTW) - A treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292), which is owned by RWRA. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant.

Regional Water Resource Agency (RWRA) – May in context of this regulation refer to the Agency as a whole or specific representative of the Agency performing duties associated with this regulation. Generally, this reference will be the Executive Director or his or her designee.

Septic Tank Waste - Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

Sewage – The used household water and water-carried solids that flow in sewers to a wastewater treatment plant. The preferred term is Wastewater.

Significant Industrial User (SIU) - Except as provided in paragraphs (3) and (4) of this Section, a Significant Industrial User is:

- (1) An Industrial User subject to categorical Pretreatment Standards; or
- (2) An Industrial User that:
 - (a) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
 - (b) Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - (c) Is designated as such by RWRA on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.
- (3) RWRA may determine that an Industrial User subject to categorical Pretreatment Standards is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:

- (a) The Industrial User, prior to RWRA's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
- (b) The Industrial User shall submit the certification statement required in Section 6.14 B [see 40 CFR 403.12(q)], together with any additional information necessary to support the certification statement per permit requirements; and
- (c) The Industrial User never discharges any untreated concentrated wastewater.

(4) Upon a finding that a User meeting the criteria in Subsection (2) of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, RWRA may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such User should not be considered a Significant Industrial User.

Slug Load or Slug Discharge - Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 2.1 of this regulation. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.

Storm Water - Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

Total Suspended Solids or Suspended Solids - The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

User or Industrial User - A source of indirect discharge.

Wastewater - Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

Wastewater Treatment Plant or Treatment Plant - That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

SECTION 2—GENERAL SEWER USE REQUIREMENTS

2.1 Prohibited Discharge Standards

A. **General Prohibitions** - No User shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes Pass Through or Interference. These general prohibitions apply to all Users of the POTW whether or not they are subject to categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Requirements.

B. Specific Prohibitions - No User shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

- (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21;
- (2) Wastewater having a pH less than 5.0 or more than 10.5, or otherwise causing corrosive structural damage to the POTW or equipment;
- (3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in Interference.
- (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause Interference with the POTW;
- (5) Wastewater having a temperature which will inhibit biological activity in the treatment plant resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees F (40 degrees C);
- (6) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through;
- (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
- (8) Trucked or hauled pollutants, except at discharge points designated by RWRA in accordance with Section 3.4 of this regulation;
- (9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
- (10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating RWRA's KPDES permit;
- (11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;

- (12) Storm Water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, Noncontact Cooling Water, and unpolluted wastewater, unless specifically authorized by RWRA;
- (13) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- (14) Medical Wastes, except as specifically authorized by RWRA in an individual wastewater discharge permit;
- (15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test;
- (16) Detergents, surface-active agents, or other substances which that might cause excessive foaming in the POTW;
- (17) Fats, oils, or greases of animal or vegetable origin in concentrations that could create Interference or Pass Through;
- (18) Any wastewater which may cause an explosion hazard.

Pollutants, substances, or wastewater prohibited by this Section shall not be processed or stored in such a manner that they could be discharged to the POTW.

2.2 National Categorical Pretreatment Standards

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

- A. Where a categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, RWRA may impose equivalent concentration or mass limits in accordance with **40 CFR 403.6(c)**.
- B. When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the RWRA 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)**.
- C. When wastewater subject to a categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, RWRA shall impose an alternate limit in accordance with **40 CFR 403.6(e)**.
- D. RWRA may convert the mass limits of the categorical Pretreatment Standards of 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating

limitations applicable to individual Industrial Users. The conversion is at the discretion of RWRA.

E. Once included in its permit, the Industrial User must comply with the equivalent limitations developed in this Section (2.2) in lieu of the promulgated categorical Standards from which the equivalent limitations were derived per **40 CFR 403.6(c)(7)**.

F. Many categorical Pretreatment Standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum Monthly Average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation per **40 CFR 403.6(c)(8)**.

G. Any Industrial User operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based Standard shall notify RWRA within two (2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying RWRA of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate per **40 CFR 403.6(c)(9)**.

2.3 State Pretreatment Standards

Users must comply with Kentucky State Pretreatment Standards codified at **401 KAR 5:057**.

2.4 Local Limits

A. RWRA is authorized to establish Local Limits pursuant to **40 CFR 403.5(c)**.

B. Although it may be necessary to define new or more stringent pretreatment standards through the administration of Wastewater Discharge Permits, no person shall discharge wastewater containing in excess of the following:

West Plant - 15 MGD	
<i>Adopted March 21, 2016</i>	
<u>Parameters</u>	<u>Maximum Conc. Mg/L</u>
Arsenic (T)	0.35
Cadmium (T)	0.05
Chromium (Hexavalent)	0.20
Chromium (T)	1.71
Copper (T)	0.76
Cyanide (Amenable)	0.28
Lead (T)	0.37
Mercury (T)	0.001
Nickel (T)	1.61
Selenium (T)	0.14
Silver (T)	0.24
Zinc (T)	1.48

East Plant - 6.8 MGD	
<i>Adopted May 21, 2018</i>	
<u>Parameters</u>	<u>Maximum Conc. Mg/L</u>
Arsenic (T)	0.28
Cadmium (T)	0.10
Chromium (Hexavalent)	0.45
Chromium (T)	1.71
Copper (T)	0.53
Cyanide (Amenable)	0.20
Lead (T)	0.43
Mercury (T)	0.004
Nickel (T)	2.38
Selenium (T)	0.11
Silver (T)	0.12
Zinc (T)	1.48

Both Plants

pH (maximum - pH units)	10.5
pH (minimum - pH units)	6.0
Temperature (Degrees C)	40.0

- (1) Having a temperature higher than 40 degrees C (104 degree F);
- (2) Containing oil and grease of mineral or petroleum origin (hydrocarbons) greater than 100 mg/l.

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise.

- C. RWRA reserves the right to establish duration limits associated with discharges that approach the limits as established in the local limits in order to protect against Pass Through and Interference of the POTW or pollutants that would create toxic levels within the biosolids of either POTW. Each situation that may involve parameters that could cause such Pass Through or Interference will be reviewed on a case by case basis.

- D. RWRA may develop Best Management Practices (BMPs), by regulation or in individual wastewater discharge permits, to implement Local Limits and the requirements of Section 2.1 in accordance with **40 CFR 403.8(f)(1)(iii)(B)(3)**.

2.5 RWRA's Right of Revision

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

2.6 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 a discharge limitation unless expressly authorized by an applicable Pretreatment Standard or Requirement. RWRA may impose mass limitations and/or impose penalties on Users who are found to be using dilution to meet applicable Pretreatment Standards or Requirements or in other cases when the imposition of mass limitations is appropriate.

SECTION 3—PRETREATMENT OF WASTEWATER

3.1 Pretreatment Facilities

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

3.2 Additional Pretreatment Measures

- A. Whenever deemed necessary, RWRA may require Users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the User's compliance with the requirements of this regulation.

- B. RWRA may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to

ensure equalization of flow. An individual wastewater discharge permit may be issued solely for flow equalization.

C. FOG, oil, sand, solids and floatables, etc. interceptors shall be provided when, in the opinion of RWRA, they are necessary for the proper handling of wastewater containing excessive amounts of FOG, oil, sand, solids and floatables, etc.; except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity to adequately remove the pollutant of concern (1,000 gallons for a typical FOG unit unless a larger unit is warranted or a variance for a smaller unit is granted by RWRA). These units shall comply with RWRA's requirements and shall be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired in accordance with all RWRA management practices by the User at their expense. RWRA reserves the right to establish a cleaning schedule necessary to protect the POTW and may establish Enforcement Response penalties if the compliance schedule is not met.

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

3.3 Accidental Discharge/Slug Discharge Control Plans

RWRA shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges. RWRA may require any User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control Slug Discharges per **40 CFR 403.8(f)(1)(iii)(B)(6)**. Alternatively, RWRA may develop such a plan for any User. An accidental discharge/slug discharge control plan shall address, at a minimum, in accordance with **40 CFR 403.8(f)(2)(vi)**, the following:

- A. Description of discharge practices, including nonroutine batch discharges;
- B. Description of stored chemicals;
- C. Procedures for immediately notifying RWRA of any accidental or Slug Discharge, as required by Section 6.6 of this regulation; and
- D. Procedures to prevent adverse impact from any accidental or Slug Discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

3.4 Hauled Wastewater

- A. Septic tank waste may be introduced into the POTW only at locations designated by RWRA and at such times as are established by RWRA. Such waste shall not violate

Section 2 of this regulation or any other requirements established by RWRA. RWRA shall require septic tank waste haulers to obtain a general waste hauler permit. RWRA, at its discretion, may prohibit the disposal of any hauled septic tank waste.

B. RWRA shall require haulers of industrial waste to obtain a general waste hauler discharge permit. RWRA shall require generators of hauled industrial waste to obtain hauled waste discharge permits or a one-time discharge permit. RWRA, at its discretion, also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this regulation.

C. Industrial waste haulers may discharge loads only at locations designated by RWRA. No load may be discharged without prior consent/permit from RWRA. RWRA may collect samples of each hauled load to ensure compliance with applicable Standards. RWRA may require the industrial waste generator to provide a waste analysis (full laboratory data) of any load prior to discharge.

D. All waste haulers must provide a waste-tracking manifest for every load. This form shall include, at a minimum, the names and addresses of sources of waste, and volume of waste. This manifest is designed to provide the necessary information to ensure compliance with this regulation.

SECTION 4—INDIVIDUAL WASTEWATER DISCHARGE PERMITS

4.1 Wastewater Analysis

When requested by RWRA, a User must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request. RWRA is authorized to prepare a form for this purpose and may periodically require Users to update this information.

4.2 Individual Wastewater Discharge Permit Requirement

A. No Significant Industrial User shall discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit from RWRA; except that a Significant Industrial User that has filed a timely application for permit renewal may continue to discharge until such time as RWRA makes a determination.

B. RWRA may require other Users or other special discharge waste generators to obtain individual wastewater discharge permits as necessary to carry out the purposes of this regulation.

C. Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of this regulation and subjects the wastewater discharge permittee to the sanctions stipulated in RWRA's Enforcement Response Plan/Guide. Obtaining an individual wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or Requirements or with any other requirements of Federal, State, and local law.

4.3 Individual Wastewater Discharge Permitting: New Connections

Any User required to obtain an individual wastewater discharge permit who proposes to begin, modify or recommence discharging into the POTW must obtain such permit prior to the beginning, modifying or recommencing of such discharge. An application for this individual wastewater discharge permit must be approved prior to discharging to the RWRA system.

4.4 Individual Wastewater Discharge Permit Application Contents

A. All Users required to obtain an individual wastewater discharge permit must submit a permit application. RWRA reserves the right to require additional information and/or may require a site visit/inspection to verify the information contained within the application. RWRA may require Users to submit all or some of the following information as part of a permit application:

- (1) Identifying Information.
 - a. The name and address of the facility, including the name of the operator and owner.
 - b. Contact information, description of activities, facilities, and plant production processes on the premises;
- (2) Environmental Permits. A list of any environmental control permits held by or for the facility.
- (3) Description of Operations.
 - a. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.
 - b. Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
 - c. Number and type of employees, hours of operation, and proposed or actual hours of operation;
 - d. Type and amount of raw materials processed (average and maximum per day);
 - e. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
- (4) Time and duration of discharges;
- (5) The location for monitoring all wastes covered by the permit;

(6) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in **40 CFR 403.6(e)**.

(7) Measurement of Pollutants.

- a. The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
- b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by RWRA, of regulated pollutants in the discharge from each regulated process.
- c. Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.
- d. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in **40 CFR 136**. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by RWRA or the applicable Standards to determine compliance with the Standard.
- e. Sampling must be performed in accordance with procedures set out in Section 6.11 of this regulation.

(8) Any other information as may be deemed necessary by RWRA to evaluate the permit application.

B. Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

4.5 Application Signatories and Certifications

A. All wastewater discharge permit applications, User reports and certification statements must be signed by an Authorized Representative of the User and contain the certification statement in Section 6.14 A.

B. If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to RWRA prior to or together with any reports to be signed by an Authorized Representative.

C. A facility determined to be a Non-Significant Categorical Industrial User by RWRA pursuant to 1.4 GG(3) must submit the signed certification statement in Section 6.14 B in accordance with **40 CFR 403.3(v)(2)**.

SECTION 5—INDIVIDUAL WASTEWATER DISCHARGE PERMIT ISSUANCE

5.1 Individual Wastewater Discharge Permit Duration

An individual wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An individual wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of RWRA. Each individual wastewater discharge permit will indicate a specific date upon which it will expire per **40 CFR 403.8(f)(1)(iii)(B)(1)**.

5.2 Individual Wastewater Discharge Permit Contents

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

A. Individual wastewater discharge permits must contain, but is not limited to, the following:

- (1) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;
- (2) A statement that the wastewater discharge permit is nontransferable;
- (3) Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards;
- (4) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law;
- (5) A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law; and
- (7) Requirements to control Slug Discharge, if determined by RWRA to be necessary.

B. Individual wastewater discharge permits may contain, but need not be limited to, the following conditions:

- (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;

- (2) 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;
- (3) 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;
- (4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
- (5) The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW;
- (6) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
- (7) A statement that compliance with the individual wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the individual wastewater discharge permit; and
- (8) Other conditions as deemed appropriate by RWRA to ensure compliance with this regulation, and State and Federal laws, rules, and regulations.

5.3 Permit Modification

A. RWRA may modify an individual 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 the individual 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 RWRA's personnel, POTW, biosolids, or the receiving waters;
- (5) Violation of any terms or conditions of the individual 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) Revision of or a grant of variance from categorical Pretreatment Standards pursuant to 40 CFR 403.13(d); or
- (8) To correct typographical or other errors in the individual wastewater discharge Permit.

5.4 Individual Wastewater Discharge Permit Revocation

RWRA may revoke an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- A. Failure to notify RWRA of significant changes to the wastewater prior to the changed discharge;
- B. Failure to provide prior notification to RWRA of changed conditions pursuant to this regulation;
- C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- D. Falsifying self-monitoring reports and certification statements;
- E. Tampering with monitoring equipment;
- F. Refusing to allow RWRA personnel, its authorized representative(s) or any representative of the State and/or Federal regulating authorities timely access to the facility premises and records;
- G. Failure to meet effluent limitations;
- H. Failure to pay fines;
- I. Failure to pay sewer charges;
- J. Failure to meet compliance schedules;
- K. Failure to complete a wastewater survey or the wastewater discharge permit application;
- L. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

M. Violation of any Pretreatment Standard or Requirement, or any terms of the wastewater discharge permit or this regulation.

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

5.5 Individual Wastewater Discharge Permit Reissuance

A User with an expiring individual wastewater discharge permit shall apply for individual wastewater discharge permit reissuance by submitting a complete permit application, in accordance with this regulation, a minimum of **3 months (90 days)** prior to the expiration of the User's existing individual wastewater discharge permit.

SECTION 6—REPORTING REQUIREMENTS

6.1 Baseline Monitoring Reports

A. Within either one hundred eighty (180) days after the effective date of a categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing Categorical Industrial Users currently discharging to or scheduled to discharge to the POTW shall submit to RWRA 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 Industrial Users subsequent to the promulgation of an applicable categorical Standard, shall submit to RWRA a report which contains the information listed in paragraph B, below. A New Source shall report the method of pretreatment it intends to use to meet applicable categorical Standards. A New Source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

B. Users described above shall submit the information set forth below.

(1) All information required in this regulation in accordance with **40 CFR 403.12(b)(1) – (7)**.

(2) Measurement of pollutants.

- a. The User shall provide the information required by RWRA to acquire a discharge permit;
- b. The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph;
- c. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards.

Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to RWRA;

- d. Sampling and analysis shall be performed in accordance with **40 CFR 136**.
- e. RWRA may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;
- f. The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.

(3) Compliance Certification. A statement, reviewed by the User's Authorized Representative as defined in this regulation 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.

(4) 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 must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this Section must meet the requirements set out in Section 6.2 of this regulation.

(5) Signature and Report Certification. All baseline monitoring reports must be certified in accordance with this regulation and signed by an Authorized Representative of the User as defined herein.

6.2 Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by this regulation:

A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

B. No progress report referred to above shall exceed nine (9) months. This scheduled shall be determined by RWRA on a case by case basis.

C. The User shall submit a progress report to RWRA no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and

D. In no event shall more than nine (9) months elapse between such progress reports to RWRA.

6.3 Reports on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable categorical Pretreatment Standards, or in the case of a New Source following commencement of the introduction of wastewater into the POTW, any User subject to such Pretreatment Standards and Requirements shall submit to RWRA a report containing the information described in Section 6.1(B)(2) of this regulation. For Users subject to equivalent mass or concentration limits established in accordance with the procedures in Section 2.2 [**Note: See 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 this regulation. All sampling will be done in conformance with this regulation.

6.4 Periodic Compliance Reports [**403.12(g)(3),(4),(6)**]

A. Except as specified in this regulation, all SIUs must submit quarterly reports 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. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by RWRA or the Pretreatment Standard necessary to determine the compliance status of the User.

B. All periodic compliance reports must be signed and certified in accordance with this regulation.

C. 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.

D. If a User subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by RWRA,

using the procedures prescribed in this regulation, the results of this monitoring shall be included in the report in accordance with **40 CFR 403.12(g)(6)**.

6.5 Reports of Changed Conditions

Each User must notify RWRA of any significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least 180 days before the change, if known.

- A. RWRA may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application.
- B. RWRA may issue an individual wastewater discharge permit in accordance with this regulation or modify an existing wastewater discharge permit in response to changed conditions or anticipated changed conditions.

6.6 Reports of Potential Problems [**40 CFR 403.8(f)(2)(vi)**]

- A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a non-customary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the User shall immediately notify RWRA of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.
- B. Within five (5) days following such discharge, the User shall, unless waived by RWRA, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this regulation in accordance with **40 CFR 403.16(c)(3)**.
- C. Employers are responsible for the development of a plan/procedure to ensure that all applicable employees who may cause or are aware of a spill/discharge associated with this section are advised of the emergency notification procedure.
- D. Significant Industrial Users are required to notify the RWRA immediately of any changes at its facility affecting the potential for a Slug Discharge.

6.7 Reports from Unpermitted Users

All Users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to RWRA as required.

6.8 Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a User indicates a violation, the User must notify RWRA immediately upon becoming aware of the violation and shall submit notice in writing to RWRA within twenty-four (24) hours with an explanation of cause and compliance schedule. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to RWRA within thirty (30) days after becoming aware of the violation in accordance with **40 CFR 403.12(g)(2)**.

If RWRA performs the sampling and analysis in lieu of the user, RWRA will require the User to repeat sampling and analysis for non-compliance in accordance with **40 CFR 403.12(g)(2)**.

6.9 Notification of the Discharge of Hazardous Waste

A. Any User who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261 (**Identification and listing of Hazardous Waste**). Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the User discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the User: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 6.5 of this regulation. The notification requirement in this Section does not apply to pollutants already reported by Users subject to categorical Pretreatment Standards under the self-monitoring requirements of Sections 6.1, 6.3, and 6.4 of this regulation.

B. Dischargers are exempt from the requirements of paragraph A, above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the User discharges more than such quantities of any hazardous waste do not require additional notification.

C. In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the User must notify RWRA, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

D. In the case of any notification made under this Section, the User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

E. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this regulation, a permit issued there under, or any applicable Federal or State law.

6.10 Analytical Requirements

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in **40 CFR Part 136** and amendments thereto, unless otherwise specified in an applicable categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by RWRA or other parties approved by EPA.

6.11 Sample Collection

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period. RWRA shall set the frequency of monitoring necessary to assess and assure compliance by the User with applicable Pretreatment Standards and Requirements in accordance with **40 CFR 403.12(g)(3)**.

A. Except as indicated in Section B and C below, the User must collect wastewater samples using 24-hour time-proportional composite sampling techniques and the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by RWRA, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits in accordance with **40 CFR 403.12(g)(3)**.

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

C. For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 6.1 and 6.3 [**40 CFR 403.12(b) and (d)**], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, RWRA may authorize a lower minimum. For the reports required by paragraphs Section 6.4 (**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 in accordance with **40 CFR 403.12(g)(4.)**

6.12 Date of Receipt of Reports

Written reports will be deemed to have been submitted on the date of receipt.

6.13 Recordkeeping

Users subject to the reporting requirements of this regulation shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this regulation, 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 Section 2.4 D. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or RWRA, or where the User has been specifically notified of a longer retention period by RWRA. **40 CFR 403.12(o)**

6.14 Certification Statements

A. Certification of Permit Applications, User Reports and Initial Monitoring Waiver— The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Section 4.5; Users submitting baseline monitoring reports under Section 6.1 B (5); Users submitting reports on compliance with the categorical Pretreatment Standard deadlines under Section 6.3; and Users submitting periodic compliance reports required by Section 6.4 A–D. The following certification statement must be signed by an Authorized Representative as defined in Section 1.4 C:

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the

information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

B. Quarterly Certification for Non-Significant Categorical Industrial Users—A facility determined to be a Non-Significant Categorical Industrial User by RWRA pursuant to 1.4 GG(3) and 4.7 C must submit quarterly the following certification statement signed in accordance with the signatory requirements in 1.4 C. This certification must accompany an alternative report required by RWRA:

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

(a) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in 1.4 GG (3);

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

This compliance certification is based on the following information.

SECTION 7—COMPLIANCE MONITORING

7.1 Right of Entry: Inspection and Sampling

RWRA shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this regulation and any individual wastewater discharge permit or order issued hereunder. Users shall allow RWRA ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- A. Where 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 its security guards so that, upon presentation of suitable identification, RWRA shall be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. RWRA 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.
- C. RWRA 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 per manufacturer's recommendations to ensure their accuracy.
- D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of RWRA and shall not be replaced. The costs of clearing such access shall be born by the User.
- E. Unreasonable delays in allowing RWRA's representatives access to the User's premises shall be a violation of this regulation.

7.2 Search Warrants

If RWRA 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 regulation, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of RWRA designed to verify compliance with this regulation or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, RWRA may seek issuance of a search warrant from the appropriate Owensboro Daviess County Court.

SECTION 8—CONFIDENTIAL INFORMATION

Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, monitoring programs, and from RWRA'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 RWRA, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the 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, unless required by Kentucky Open Records Law or by Order of an appropriate court. However, such information shall be made available immediately upon request to governmental agencies for uses related to the KPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

SECTION 9—PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE – pursuant to 40 CFR 403.8(f)(2)(viii)(A)-(C)

RWRA shall publish annually, in the Owensboro Messenger-Inquirer, a list of the Users which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance shall be applicable to all Significant Industrial Users (or any other Industrial User that violates paragraphs (C), (D) or (H) of this Section) and shall mean:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Section 2;
- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Section 2 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- C. Any other violation of a Pretreatment Standard or Requirement as defined by Section 2 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that RWRA determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;
- D. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in RWRA's exercise of its emergency authority to halt or prevent such a discharge;

E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

F. Failure to provide within **forty-five (45)** days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

G. Failure to accurately report noncompliance; or

H. Any other violation(s), which may include a violation of Best Management Practices, which RWRA determines will adversely affect the operation or implementation of the local pretreatment program.

I. RWRA reserves the right to seek reimbursement of costs from Users found to be in Significant Non-Compliance and published in accordance with this section.

SECTION 10—ADMINISTRATIVE ENFORCEMENT REMEDIES

10.1 Notification of Violation

When RWRA finds that a User has violated, or continues to violate, any provision of this regulation, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, RWRA may serve upon that User a written Notice of Violation. Within thirty (30) days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the User to RWRA. Submission of such a 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 RWRA to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

10.2 Informal Meeting

RWRA may contact the User in an informal manner to expedite corrective measures to achieve permit compliance with the parameter(s) that created the Notice of Violation and/or repeat permit violations.

10.3 Administrative Hearing

RWRA may require that representatives from the User appear for an Administrative Hearing before RWRA's Agency Director.

This compliance plan will be incorporated into an Administrative Order to be issued by RWRA. Depending on the severity of the violation and the impact to the POTW, RWRA may assess penalties, up to and including fines up to the maximum of \$5000 per occurrence per day.

10.4 Administrative/Consent Orders

RWRA may issue an Administrative Order, assurances of compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents shall include specific action to be taken by the User to correct the noncompliance within a time period specified by the document.

10.5 Show Cause Hearing

RWRA may order a User which has violated, or continues to violate, any provision of this regulation, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before RWRA's Board of Directors and show cause why the proposed enforcement action should not be taken. The User may appeal a decision of RWRA's Staff to RWRA's Board of Directors. In either circumstance, notice shall be served on the User specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least fourteen (14) days prior to the hearing. Such notice may be served on any Authorized Representative of the User as defined in this regulation. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

10.6 Cease and Desist Orders

When RWRA finds that a User has violated, or continues to violate, any provision of this regulation, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, RWRA may issue an order to the User directing it to cease and desist all such violations and directing the User to:

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

10.7 Administrative Fines/Fees

- A. When RWRA finds that a User has violated, or continues to violate, any provision of this regulation, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, RWRA may fine such User in an amount not to exceed \$5000 per occurrence per day. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

B. Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of (1%) of the unpaid balance, and interest shall accrue thereafter at a rate of (1%) per month. A lien against the User's property shall be sought for unpaid charges, fines, and penalties.

C. Users desiring to dispute such fines must file a written request for RWRA to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit, RWRA may convene a hearing on the matter. In the event the User's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the User. RWRA may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

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

10.8 Emergency Suspensions

RWRA 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. RWRA 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.

A. Any User notified of a suspension of its discharge shall immediately stop or eliminate its discharge. In the event of a User's failure to immediately comply voluntarily with the suspension order, RWRA 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. RWRA may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of RWRA that the period of endangerment has passed, unless termination proceedings are initiated against the User.

B. 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 RWRA prior to the date of any show cause or termination hearing.

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

10.9 Termination of Discharge

In addition to the provisions in Section 5.4, any User who violates the following conditions is subject to discharge termination:

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

Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause why the proposed action should not be taken. Exercise of this option by RWRA shall not be a bar to, or a prerequisite for, taking any other action against the User.

SECTION 11—JUDICIAL ENFORCEMENT REMEDIES

11.1 Injunctive Relief

When RWRA finds that a User has violated, or continues to violate, any provision of this regulation, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, RWRA may petition the appropriate Owensboro Daviess County Court through RWRA's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, order, or other requirement imposed by this regulation on activities of the User. RWRA 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 be a bar against, or a prerequisite for, taking any other action against a User.

11.2 Civil Penalties

A. A User who has violated, or continues to violate, any provision of this regulation, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to RWRA for a minimum civil penalty of \$1,000 per violation, per day in accordance with **40 CFR 403.8(f)(1)(vi)(A)**; and a maximum civil penalty of \$5,000 per violation, per day in accordance with **KRS 224.99-010(2)**. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation in accordance with **40 CFR 403.8(f)(1)(vi)(A)**.

B. RWRA may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by RWRA.

C. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the 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 a prerequisite for, taking any other action against a User.

11.3 Criminal Prosecution

A. A User who willfully or negligently violates any provision of this regulation, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not less than \$1000 per violation in accordance with **40 CFR 403.8(f)(1)(vi)(A)**; and not more than \$25,000 per violation or by imprisonment for a term of not less than one year and not more than five years, or both fine and imprisonment, in accordance with **KRS 224.99-010(4)**.

B. A User who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not less than \$1000 per violation in accordance with **40 CFR 403.8(f)(1)(vi)(A)**; and not more than \$25,000 per violation or by imprisonment for a term of not less than one year and not more than five years, or both fine and imprisonment, in accordance with **KRS 224.99-010(4)**. This penalty 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 regulation, individual wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this regulation shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not less than \$1000 per violation in accordance with **40 CFR 403.8(f)(1)(vi)(A)**; and not more than \$25,000 per violation or by imprisonment for a term of not less than one year and not more than five years, or both fine and imprisonment, in accordance with **KRS 224.99-010(4)**.

11.4 Remedies Nonexclusive

The remedies provided for in this regulation are not exclusive. RWRA may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with RWRA's Enforcement Response Plan. However,

RWRA may take other action against any User when the circumstances warrant. Further, RWRA is empowered to take more than one enforcement action against any noncompliant User.

SECTION 12—SUPPLEMENTAL ENFORCEMENT ACTION

12.1 Performance Bonds

RWRA may decline to issue or reissue an individual wastewater discharge permit to any User who has failed to comply with any provision of this regulation, a previous individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, unless such User first files a satisfactory bond, payable to RWRA, in a sum determined by RWRA to be necessary to achieve consistent compliance.

12.2 Liability Insurance

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

12.3 Payment of Outstanding Fees and Penalties

RWRA may decline to issue or reissue an individual wastewater discharge permit to any User who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this regulation, a previous individual wastewater discharge permit, or order issued hereunder.

12.4 Water Supply Severance

Whenever a User has violated or continues to violate any provision of this regulation, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, water service to the User may be severed. Service will recommence, at the User's expense, only after the User has satisfactorily demonstrated its ability to comply.

12.5 Public Nuisances

A violation of any provision of this regulation, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement is hereby declared a public nuisance and shall be corrected or abated as directed by RWRA. Any person(s) creating a public nuisance shall be subject to the provisions of this regulation, including reimbursing RWRA for any costs incurred in removing, abating, or remedying said nuisance.

SECTION 13—AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

13.1 Upset

A. For the purposes of this Section, upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the User. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

B. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards if the requirements of paragraph (C), below, are met.

C. A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (1) An upset occurred and the User can identify the cause(s) of the upset;
- (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
- (3) The User has submitted the following information to RWRA within twenty-four (24) hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five (5) days:
 - (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.

E. Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical Pretreatment Standards.

F. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

13.2 Prohibited Discharge Standards

A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general or the specific prohibitions outlines in this regulation if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause Pass Through or Interference and that either:

- A. A Local Limit exists for each pollutant discharged and the User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or
- B. No Local Limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when RWRA was regularly in compliance with its KPDES permit, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements.

13.3 Bypass

A. For the purposes of this Section,

(1) Bypass means the intentional diversion of wastestreams from any portion of a User's treatment facility.

(2) 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.

B. A User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this Section.

C. Bypass Notifications

(1) If a User knows in advance of the need for a bypass, it shall submit prior notice to RWRA, at least thirty (30) days before the date of the bypass, if possible.

(2) A User shall submit oral notice to RWRA of an unanticipated bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) 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. RWRA may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

D. Bypass

(1) Bypass is prohibited, and RWRA may take an enforcement action against a User for a bypass, unless

- (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
- (c) The User submitted notices as required under paragraph (C) of this section.

(2) RWRA may approve an anticipated bypass, after considering its adverse effects, if RWRA determines that it will meet the three conditions listed in paragraph (D)(1) of this Section.

SECTION 14—WASTEWATER TREATMENT RATES

All users discharging wastewater into the sewer shall be subject to a surcharge (quality charges) on a case-by-case basis, in addition to any applicable sewer service charges, if the wastewater to be discharged possesses any of the following:

- A. A BOD (5-day biochemical oxygen demand) in excess of 265 mg/l.
- B. A TSS (total suspended solids) in excess of 265 mg/l
- C. An Oil & Grease test in excess of 100 mg/l
- D. RWRA may establish surcharge criteria and rates for other wastes and/or Parameters in concentrations considered to be excessive.

SECTION 15—MISCELLANEOUS PROVISIONS

15.1 Pretreatment Charges and Fees

RWRA may adopt reasonable fees for reimbursement of costs of setting up and operating RWRA's Pretreatment Program, which may include:

- A. Fees for wastewater discharge permit applications including the cost of processing such applications;

- B. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a User's discharge, and reviewing monitoring reports and certification statements submitted by Users;
- C. Fees for reviewing and responding to accidental discharge procedures and construction;
- D. Fees for filing appeals;
- E. Fees to recover administrative and legal costs associated with the enforcement activity taken by the RWRA to address IU noncompliance; and
- F. Other fees as RWRA may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this regulation and are separate from all other fees, fines, and penalties chargeable by RWRA.

15.2 Severability

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

SECTION 16—EFFECTIVE DATE

This regulation shall be in full force and effect immediately following its passage, approval, and publication, as provided by law.

Adopted August 19, 2013

Amended & Adopted November 17, 2014 – Cadmium limit changed to 0.015 mg/l

Amended & Adopted March 21, 2016 – West Plant Local Limits were adopted. RWRA now has a set of Local Limits per POTW.

Amended & Adopted May 21, 2018 – East Plant Local Limits were recalculated.