

**FAUQUIER COUNTY WATER AND SANITATION AUTHORITY**

**(the “Authority”)**

**RESOLUTION**

**TO AMEND AND RESTATE THE OPERATING CODE, VOLUME 2,  
RULES AND REGULATIONS, PART D  
PRETREATMENT REGULATIONS**

**June 7, 2022**

**RECITALS**

- R-1** The Authority is organized under Title 15.2, Chapter 51 of the Code of Virginia, 1950, as amended, herein the “Virginia Code.”
- R-2** Pursuant to Section 15.2-5113 of the Virginia Code, the powers of the Authority are exercised by the Authority’s Board, herein the “Board.”
- R-3** The Board has adopted the Authority’s Operating Code, the “Operating Code,” governing the affairs of the Authority, including the Authority’s administration policies.
- R-4** The Board has considered the proposed amendments and restatements to Volume 2, Rules and Regulations, Part D, Pretreatment Regulations.
- R-5** The Board desires to amend and restate the Authority’s Operating Code, Volume 2, Part D, as contained in **Exhibit A**.

**NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF THE FAUQUIER COUNTY WATER AND SANITATION AUTHORITY, ON THIS 7TH DAY OF JUNE 2022, that the Board does hereby amend and restate Volume 2 of the Authority’s Operating Code, Part D, as attached in **Exhibit A**.**

**FURTHER BE IT RESOLVED** that the Chairman of the Board, and the Executive Director of the Authority, are hereby authorized and directed to take all measures necessary to effectuate the purposes of this Resolution.

The preceding Resolution was adopted at the Regular Session of the Board of the Authority held on June 7, 2022, by a vote of the Board as listed below.

Board Resolution  
To Amend and Restate the Operating Code, Volume 2,  
Part D, Pretreatment Regulations  
June 7, 2022  
Page 2 of 3

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Voting For:

Bill Chipman

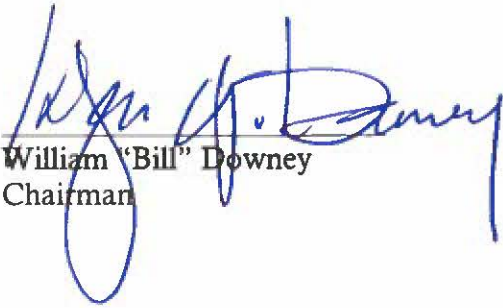
Bill Downey

Ross D'Urso

Mike Focazio

Voting Against:

Rick Berhardt - Absent

  
William 'Bill' Downey  
Chairman

  
Benjamin R. Shoemaker  
Secretary

**EXHIBIT A**

**OPERATING CODE, VOLUME 2, PART D  
PRETREATMENT REGULATIONS**

**FAUQUIER COUNTY WATER AND SANITATION  
AUTHORITY  
PRETREATMENT REGULATIONS**

June 7, 2022

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## **PART I. GENERAL PROVISIONS**

### **Section 1. Purpose and Policy**

- 1.1.1 This Part sets forth uniform requirements for dischargers into the wastewater treatment facilities of Fauquier County Water and Sanitation Authority (“FCWSA” or “the Authority”) and enables the Authority to comply with all applicable federal and state laws.
- 1.1.2 The objectives of these regulations are:
- (a) To prevent the introduction of pollutants into the wastewater treatment system that will interfere with the operation of the system or contaminate resulting sludge;
  - (b) To prevent the introduction of pollutants into the Authority’s Publicly Owned Treatment Works (“POTWs”) that will pass through the POTWs, inadequately treated, into receiving waters or will otherwise be incompatible with the POTWs;
  - (c) To protect the general public and POTW personnel who may be affected by wastewater and sludge;
  - (d) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Authority’s POTWs; and
  - (e) To enable the Authority to comply with its Virginia Pollutant Discharge Elimination System (“VPDES”) permit conditions, sludge use and disposal requirements, and any other Federal or State laws which apply to the operation of its POTWs.
- 1.1.3 These regulations shall apply to all Users of the POTWs and authorize the issuance of individual Wastewater Discharge Permits; provide for monitoring, compliance, and enforcement activities; establish administrative review procedures; and require User reporting.
- 1.1.4 These Regulations are authorized or required by the federal Clean Water Act, 33 U.S.C. Section 1251, et seq., and the Virginia State Water Control Law, Va. Code Section 62.1 – 44.2, et seq. and regulations thereunder; Va. Code Section 15.2-2122; and any permits issued to the Authority’s wastewater treatment facilities.

### **Section 2. Definitions**

- 1.2.1 The meaning of specific words as used in these regulations shall be interpreted, unless otherwise indicated, as follows, except in those instances when the context clearly indicates a different meaning:

(a) **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.

(b) **Administrator.** The administrator of the United States Environmental Protection Agency (“EPA”) or those acting on his behalf.

(c) **Authority.** Fauquier County Water and Sanitation Authority.

(d) **Authorized representative of the User.** An authorized representative of a User may be:

(1) if the User is a corporation:

(A) the president, secretary, treasurer, or a vice-president of the corporation who is 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; or

(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.

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 the Authority.

(e) **Best Management Practices (“BMPs”).** Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the

prohibitions listed in Part II [40 CFR 403.5(a)(1) and (b)]. BMPs include, but are not restricted to, treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(f) **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. § 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

(g) **Confidential Information.** Information that includes, but is not limited to, any secret formula, secret processes, or secret methods, including any plan, pattern, tool, mechanism, compound, procedure, production data, or compilation of information which is not patented, which is known only to certain individuals within a commercial concern who are using it to fabricate or produce a compound, an article of trade, or a service having value or which gives its users an opportunity to obtain a business advantage over competitors who do not know or use it.

(h) **Contaminants of Emerging Concern.** Contaminants posing unique issues and challenges to the environment and/or human health as a result of: (a) the recent development of new chemicals or other products; (b) new or recently identified byproducts or waste products; (c) newly discovered or suspected adverse human health or environmental impacts; (d) properties that are not fully evaluated or understood; (e) an absence of or pending changes to fully defined risk levels, water quality standards or guidance or other environmental program levels of control; and (f) other factors. Emerging contaminants include, but are not limited to, PFAS (per and polyfluoroalkyl substances), nanomaterials, pharmaceuticals and their constituents, and steroids and hormones.

(i) **Conventional Pollutants.** BOD, TSS, fecal coliform, oil and grease, and pH.

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

(k) **Domestic Sewage or Waste.** Water carried wastes normally discharged from sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories and institutions, free from storm water and/or industrial wastes. Wastewater generated by domestic Users.

(l) **Discharge or Indirect Discharge.** The introduction of pollutants or wastewater containing pollutants into the Authority's collection system or POTWs.

(m) **Existing Source.** Any source of discharge that is not a "New Source."

(n) **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.

(o) **Holding Tank Waste.** Any waste from holding tanks, such as, but not limited to, chemical toilets, campers, trailers, and septic tanks. These wastes are to be discharged at a POTW plant equipped to handle such waste and not into a public sewer.

(p) **Industrial Sewage or Waste.** The wastes from industrial processes, as distinct from domestic wastes.

(q) **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.

(r) **Interference.** A discharge which, alone or in conjunction with a discharge or discharges from other sources:

(1) inhibits or disrupts a POTW, its treatment processes or operations, or its sludge processes, or the use or disposal of its sludge;

(2) is a cause of a violation of any requirement of the Authority's VPDES permit, including an increase in the magnitude or duration of a violation; or

(3) prevents the use or disposal of sludge at a POTW from complying with any provisions of federal, state or local law, including but not limited to Section 405 of the Clean Water Act, the Resource Conservation and Recovery Act ("RCRA") (42 U.S.C. § 6901 et seq.), state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the RCRA, the Clean Air Act (42 U.S.C. § 7401 et seq.), and the Marine Protection, Research and Sanctuaries Act (33 U.S.C. § 1401 et seq.).

(s) **Local Limits.** Limitations on User discharges as set forth in Part II Section 5 of these regulations.

(t) **New Source.**

(1) Any building, structure, facility, or installation from which there is or may be a discharge, the construction of which commences after the publication in the Federal Register of proposed pretreatment standards under the Clean Water Act

that would be applicable to the source if such standards were thereafter promulgated, provided that:

(A) the building, structure, facility or installation is constructed at a site where no other source of pollutant discharges is located; or

(B) the building, structure, facility or installation totally replaces the process or production equipment that causes the discharge from 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 this "substantially independent" criterion is met, factors such as the extent to which the new facility is integrated with the existing plant and is engaged in the same general type of activity as the existing source shall be considered.

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

(3) Construction of a new source has commenced if the owner or operator has:

(A) begun, or caused to begin, as part of a continuous on-site construction program, any replacement, assembly, or installation of facilities or equipment, or any significant site preparation work, including excavation work or clearing or removal of existing buildings or structures; or

(B) entered into binding contractual obligations for the purchase of facilities or equipment which are intended to be used in the operation of the new source within a reasonable time; provided, that options to purchase, contracts which may be terminated or modified without substantial loss, and contracts for feasibility, engineering or design studies shall not constitute a contractual obligation under this subsection.

(u) **Noncontact Cooling Water.** Water used solely for cooling purposes which does not come in contact with any other discharge until it is discharged into the collection system or a POTW, and which does not exceed the pretreatment standards.

(v) **Pass Through.** Any discharge which exits a POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge from other sources, is a cause of a violation of any requirement of a POTW's VPDES permit,

including an increase in the magnitude or duration of a violation.

(w) **Permittee.** A holder of a Wastewater Discharge Permit issued by the Authority.

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

(y) **pH.** A measure of the acidity or alkalinity of a solution, expressed in standard units.

(z) **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).

(aa) **Pretreatment.** The reduction of the amount of pollutants, elimination of pollutants, alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into a 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.

(bb) **Pretreatment Requirements.** Any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.

(cc) **Pretreatment Standards.** Federal, State, or local standards which prohibit certain pollutants from appearing in discharges or which limit the quantity or concentration of certain pollutants which may appear in discharges, including national Categorical Pretreatment Standards promulgated by the United States Environmental Protection Agency.

(dd) **Prohibited Discharge.** Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Part II of these regulations.

(ee) **Publicly Owned Treatment Works ("POTW").** A treatment works as defined by Section 212 of the Act, (33 U.S.C. § 1292). 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. It does not include pipes or sewers designated to convey stormwater and which are not connected to a facility providing service.

(ff) **Slug Load or Slug Discharge.** Any discharge at a flow rate or concentration, which

could cause a violation of the prohibited discharge standards in Part II of these regulations. 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 a POTW's regulations, Local Limits, or VPDES permit conditions.

(gg) **Stormwater.** Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

(hh) **User.** Any person or entity which is the source of a discharge to the Authority.

(ii) **User, Industrial.** Any person or entity which is a non-residential source of a discharge.

(jj) **User, Significant Industrial**

(1) Types of Significant Industrial Users:

(A) **Categorical.** Any Industrial User subject to the national Categorical Pretreatment Standards in 40 C.F.R.403.6 and 40 C.F.R. Parts 405 through 471; and

(B) **Noncategorical.** Any other Industrial User that discharges an average of 25,000 or more gallons per day of process wastewater to a POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater), contributes a process waste stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of a POTW's treatment capacity, or is designated a Significant Industrial User in accordance with 40 C.F.R. 403.8(f)(6), on the basis that the Industrial User has a reasonable potential to adversely affect a POTW's operation or to violate any national Categorical Pretreatment Standard or requirement.

(2) The Authority 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 the Authority's finding, has consistently complied with all applicable Categorical Pretreatment Standards and Requirements;

(B) The Industrial User annually submits the certification statement required by 40 CFR 403.12(q), together with any additional information necessary to support the certification statement; and

(C) The Industrial User never discharges any untreated concentrated wastewater.

(3) Upon a finding that a User meeting the criteria in (jj)(1)(B) of this Section has no reasonable potential for adversely affecting a POTW's operation or for violating any Pretreatment Standard or Requirement, the Authority may determine that the User should not be considered a Significant User in accordance with procedures in 40 CFR 403.8(f)(6).

(kk) **Virginia Pollutant Discharge Elimination System ("VPDES").** The program of issuing, conditioning, and denying permits for the discharge of pollutants from point sources, pursuant to Section 402 of the Clean Water Act.

(ll) **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 a POTW.

## PART II. PROHIBITIONS AND LIMITATIONS ON WASTEWATER DISCHARGE

### Section 1. General Discharge Prohibitions

2.1.1 No User shall contribute or allow to be contributed, directly or indirectly, any pollutant or wastewater which will interfere with the operation or performance of a POTW, pass through a POTW, or contaminate the sludge. These general prohibitions apply to all Users whether or not the User is subject to national Categorical Pretreatment Standards. A User may not allow the following substances to be discharged to a POTW:

(a) Any gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquid, solid, or gas, which creates a fire or explosion hazard in the collection system or POTWs, including but not limited to waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using methods specified in 40 C.F.R. 261.21;

(b) Any petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;

(c) Any wastewater with a pH less than 5.0, or any wastewater with any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of a POTW;

(d) Any wastewater containing toxic pollutants in sufficient quantity either singly or by interaction with other pollutants to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of a POTW, or to exceed the limitation set forth in a Categorical Pretreatment Standard. A toxic pollutant shall include, but not be limited to, any pollutant identified pursuant to Section 307(a) of the Act;

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

(f) Any substance which may cause a POTW's effluent or any other product of a POTW, such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to a POTW cause that POTW to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act, any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substance Control Act, or state criteria applicable to the sludge management method used;

(g) Any substance which will cause a POTW to violate its VPDES permit or the receiving water quality standards;

(h) 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 or contributing to a potential to violate a POTW's VPDES permit;

(i) Any wastewater having a temperature which will inhibit biological activity in a POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the discharge into a POTW which exceeds 104 degrees Fahrenheit, or 40 degrees Celsius.

(j) Any pollutants, including oxygen demanding pollutants, released at a flow rate and or concentration which a User knows or has reason to know will cause interference to a POTW;

(k) Any radioactive wastes or isotopes of such life-line or concentration as may exceed limits established for compliance with applicable state or federal regulations;

(l) Any wastewater which causes a hazard to human life or creates a public nuisance;

(m) Any stormwater or unpolluted surface or ground water;

(n) Any wastewater containing fat, wax, grease or oil, whether emulsified or not, in excess of 100 mg/l, or containing substances which may solidify or become viscous at temperatures between 32 degrees and 150 degrees Fahrenheit;

(o) Any holding tank waste, trucked, or hauled pollutants, except at discharge points designated by the Authority;

(p) Any wastewater containing petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;

(q) Any wastewater containing pollutants which result in the presence of toxic gases, vapors, or fumes within a POTW (or at any point in the system) in a quantity that may cause acute worker health and safety problems; and

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

#### 2.1.2 Dilution of waste streams to meet the requirements of this Section is prohibited.

- 2.1.3 Substances, materials, waters, or wastes prohibited by this Section shall not be processed or stored in such a manner that they could be discharged into the Authority's collection system or POTWs.

## **Section 2. Accidental Discharges and Slug Loading**

- 2.2.1 Each User shall provide protection from accidental discharge of prohibited materials or other substances regulated by these regulations.

(a) Facilities to prevent accidental discharge of prohibited material shall be provided and maintained at the User's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Authority for review and approval before construction of the protection facilities.

(b) No User desiring to discharge wastewater to POTWs shall be permitted to introduce pollutants into the POTWs until accidental discharge procedures have been approved. Any existing User on the effective date of these regulations shall submit its accidental discharge procedures to the Authority at the Authority's request.

(c) Review and approval of such plans and operating procedures shall not relieve the User from the responsibility to modify their facility as necessary to meet the requirements of these regulations.

(d) In the case of an accidental discharge, including any slug load, the User shall immediately telephone the Authority to inform it of the incident, giving the location of the discharge, type of waste, concentration and volume, and corrective actions. Within five days following the leak or spill, the User shall submit to the Authority a detailed written report describing the cause of the leak or spill and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTWs or any other property or of injury to persons caused by the leak or spill. Any such notification shall not relieve the User of any liabilities, fines, or other applicable penalties which may be imposed under these regulations or other applicable laws.

### **2.2.2 Slug Discharge Control Plan.**

Upon submission of an Application for a Discharge Permit and every two years thereafter, the Authority shall evaluate whether each Significant Industrial User needs a plan to control slug discharges.

(a) The need for a Slug Discharge Control Plan shall be evaluated based upon the following criteria:

- (1) The potential for slug discharges,
- (2) History of slug discharges, and
- (3) Presence of stored chemicals, whether stored chemicals are in diked storage areas, and the proximity of floor drains to those stored chemicals.

(b) If a Slug Discharge Control Plan is required, it shall contain at least the following elements:

- (1) A description of discharge practices, including non-routine batch discharge,
- (2) A description of stored chemicals,
- (3) Procedures for promptly notifying a POTW of slug discharges, including any discharge that would violate a specific prohibition under Section 2.1.1, with procedures for follow-up written notification within five days,
- (4) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents) and/or measures and equipment for emergency response, and
- (5) If necessary, follow-up practices to limit the damage suffered by the treatment plant or the environment.

### **Section 3. Holding Tank Wastes**

- 2.3.1 Dischargers of holding tank wastes must obtain a Wastewater Discharge Permit from the Authority. No discharger or hauler of holding tank wastes may discharge into the Authority's POTWs wastes containing an excess of any limitations established in a Wastewater Discharge Permit. Dilution of any wastewater discharge for the purpose of satisfying these or other requirements will not be permitted to discharge at the facility.

### **Section 4. National Categorical Pretreatment Standards**

- 2.4.1 Industrial 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 the mass or the concentration of a pollutant in wastewater, the Authority may impose equivalent concentration or mass limits in accordance with 40 C.F.R. 403.6(c).

(b) Where wastewater subject to a Categorical Pretreatment Standard is mixed with wastewater not regulated by the same standard, the Authority shall impose an alternate limit using the combined waste stream formula in 40 C.F.R. 403.6(e).

(c) A User may obtain from the Authority a variance from a Categorical Pretreatment Standard if the User can prove, pursuant to the provisions in 40 C.F.R. 403.13, that the factors relating to its discharge are fundamentally different from the factors considered by the United States Environmental Protection Agency when developing the Categorical Standard.

(d) A User may obtain from the Authority a net gross adjustment to a Categorical Pretreatment Standard in accordance with 40 C.F.R. 403.15.

## **Section 5. Local Limits**

2.5.1 The Authority is authorized to establish Local Limits on specific pollutant parameters to control discharges from Users. These may include maximum mass or concentration discharge limits for any pollutant that threatens the public health, presents an endangerment to the environment, interferes with the operation of POTWs, or causes the Authority to be in violation of its VPDES permit or any permit issued to regulate the treatment or application of sludge.

2.5.2 The Authority may establish, by regulation or in Wastewater Discharge Permits, standards or requirements for discharges which are necessary to ensure User compliance with Section 2.1.1; provided, that no such standard or requirement may be less stringent than applicable federal standards and requirements.

2.5.3 These limits apply at the point where the wastewater is discharged to the Authority's POTWs.

## **Section 6. Dilution**

2.6.1 No User shall increase the use of process water, or in any way dilute a discharge, in order to achieve compliance with a discharge limit, unless expressly authorized by an applicable Pretreatment Standard or requirement. The Authority may impose discharge limits that are based on the mass of pollutants upon Users which are using dilution to meet applicable Pretreatment Standards or requirements, or when the imposition of such

limits is otherwise appropriate.

## **Section 7. Emerging Contaminants**

### **2.7.1 Control of Contaminants of Emerging Concern**

The Authority has determined that the discharge by Users, management within POTWs, discharge to receiving waters, presence within biosolids, and air exhausted by the Authority's systems of Contaminants of Emerging Concern ("CECs") may bring about unacceptable risks to the Authority's POTWs, human health, and pass-through or other adverse environmental impacts. The Authority shall address CECs in the following manner when determined necessary for the purposes of these regulations:

(a) The Authority may require Users to provide specified information on their purchase, use, manufacture (intentional or incidental), discharge as a wastewater or other waste constituent, or other information or data on specified CECs; and specified information on the User's products and processes that may contribute to the creation or discharge or CECs.

(b) The Authority may require Users to provide specified wastewater discharge or other data on any CECs identified by either the Authority or by the User within subsection (a) above or other determined by the Authority to be potentially discharged by the User as a wastewater or other waste pollutant. Such data shall include any existing data in the possession or control of the User and may include requirements for the User to sample and generate at its cost such data. The Authority may also itself sample and generate such data and the Authority's costs therefore may be billed to the User as an additional service associated with sewered wastes.

(c) When the Authority determines it necessary for the purposes of these regulations, the Authority may require by Wastewater Discharge Permit (through either a new permit, reissuance, or amendment), by Enforcement Order, or otherwise pursuant to the terms of these regulations actions by a User to address CECs. Such actions may include:

- (1) Further or routine monitoring requirements;
- (2) Numeric effluent limits adopted as Local Limits or calculated as either generally-applicable or User-specific technology-based limits; and
- (3) Requirements for Best Management Practices.

Any such requirements may be based on the Authority's determination of CEC numeric criteria based on available toxicity or other data, EPA or Commonwealth of Virginia

standards or criteria, or generally-accepted criteria determinations by recognized scientific entities.

## PART III. PROGRAM COMPLIANCE

### Section 1. Pretreatment of Wastewater

#### 3.1.1 Pretreatment Facilities

Users shall provide wastewater treatment as is necessary to comply with these regulations, and shall comply with all Categorical Pretreatment Standard and Local Limits and with the prohibitions set out in Section 2.1.1, within the time limitations specified by federal, state or local regulation or by the Authority, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Authority for review, and must be approved by the Authority 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 any such facility to produce a discharge acceptable to the Authority under the provisions of these regulations and the User's discharge permit. The Authority may require a User to have a certified operator on staff to ensure proper operation and maintenance of the pretreatment facility.

#### 3.1.2 Additional Pretreatment Measures

(a) Whenever determined necessary by the Authority, the Authority may require Users to restrict their discharge during peak flow periods, to discharge certain wastewater only into specific sewers, to relocate and/or consolidate points of discharge, to separate sewage waste streams from industrial waste streams, and to comply with such other conditions as are necessary to protect the POTWs. In addition, the Authority shall determine the User's compliance with requirements of these regulations.

(b) The Authority may require any person discharging into the Authority's POTWs to install and maintain on its property and at its expense, a suitable storage and flow-control facility to ensure equalization of flow. A Wastewater Discharge Permit may be issued solely for flow equalization.

(c) Grease, oil, and sand interceptors shall be installed when the Authority determines that they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; all interception units shall be of a type and capacity approved by the Authority and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired by the User at their expense.

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

## **Section 2. Wastewater Discharge Permits**

### **3.2.1 Wastewater Discharge Permits Generally**

- (a) No Significant Industrial User shall discharge wastewater into the POTWs without first obtaining a Wastewater Discharge Permit from the Authority. All existing Significant Industrial Users connected to or discharging into POTWs shall obtain a Wastewater Discharge Permit within 180 days after the effective date of these regulations. Dischargers of holding tank wastes must obtain a Wastewater Discharge Permit from the Authority.
- (b) The Authority may require other Users to obtain Wastewater Discharge Permits as may be necessary to carry out the purposes of these regulations.
- (c) When requested by the Authority, an Industrial User must submit information on the nature and characteristics of its wastewater within ninety (90) days of the request. The Authority is authorized to prepare a form for this purpose and may periodically require Industrial Users to update this information.
- (d) Any violation of the terms or conditions of a Wastewater Discharge Permit shall be deemed a violation of these regulations. Receipt of a Wastewater Discharge Permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards and requirements and with all other requirements of federal, state, and local law.
- (e) Any User required to obtain a Wastewater Discharge Permit which proposes to begin or recommence discharging into a POTW shall obtain such permit prior to beginning or recommencing such discharge. An application for a Wastewater Discharge Permit shall be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.

### **3.2.2 Wastewater Discharge Permits Application Content**

All Users required to obtain a Wastewater Discharge Permit shall submit a permit application. The Authority may require all Users to submit, as part of an application, the following information:

#### **(a) Identifying Information:**

- (1) The name and address of the facility, including the name of the operator and owner, and
- (2) Contact information, description of activities, facilities, and plant production processes on the premises.

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

(c) Description of Operations.

(1) 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 Industrial User. This description should include a schematic process diagram, which indicates points of discharge to a POTW from the regulated processes;

(2) 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 a POTW;

(3) Number and type of employees, hours of operation, and proposed or actual hours of operation;

(4) Type and amount of raw materials processed (average and maximum per day); and

(5) 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.

(d) Time and duration of discharges.

(e) The location for monitoring all wastes covered by the permit.

(f) Flow measurement information showing the measured average daily and maximum daily flow, in gallons per day, to POTWs from regulated process streams and other streams.

(g) Measurement of Pollutants.

(1) The Categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources;

(2) The results of sampling and analysis identifying the nature and concentration, and/or mass of regulated pollutants in the discharge from each regulated process, where required by the standard or by the Authority; and

(3) Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.

(h) Any other information as may be determined necessary by the Authority to evaluate the permit application.

### 3.2.3 Issuance of Wastewater Discharge Permit

The Authority will evaluate the application and any data and other information furnished by the User, and may require additional information. Within sixty (60) days after receipt of a complete Wastewater Discharge Permit application, the Authority will determine whether to issue a Wastewater Discharge Permit. The Authority may deny any application for a Wastewater Discharge Permit if it determines that the discharge will not comply with the requirements set forth in these regulations, or in Federal, State, and local law.

### 3.2.4 Wastewater Discharge Permit Content and Conditions

A Wastewater Discharge Permit shall contain a provision that expressly subjects the permittee to all provisions of these regulations and all other applicable Federal, State, and local laws, regulations and conditions, and any User charges and fees established by the Authority. A permit shall also contain, at a minimum, the following:

(a) The name and address of the owner or operator of the User (the permittee), and the issuance, effective, and expiration dates of the permit;

(b) The most stringent applicable discharge limits, including those limits established by these regulations, limits contained in applicable national Categorical Pretreatment Standards, and limits established by another political subdivision pursuant to agreements between the Authority and the subdivision;

(c) The local pretreatment limits as set forth in Part II, Section 5;

(d) The monitoring requirements imposed on all permittees, including but not limited to the pollutants to be monitored, the locations for taking samples, the methods of taking and analyzing samples, and the frequency of taking samples;

(e) The reporting requirements imposed on the permittee, including but not limited to the type and contents of each report and the date of submission for each report;

(f) A requirement that, in the event sampling indicates a violation of any permit condition, the permittee shall notify the Authority of the violation within 24 hours of first becoming aware of it, and shall repeat the sampling and analysis and submit the results of the repeat analysis to the Authority within 30 days of first becoming aware of the violation; provided, that the permittee shall not be required to resample if the Authority

or the permittee performs sampling at the facility covered by the permit at a frequency of at least once per month, or the Authority or the permittee performs sampling at the facility between the time when the permittee performs its initial sampling and the time when the permittee receives the results of this sampling;

(g) Standard conditions that are contained in all Wastewater Discharge Permits;

(h) Specific conditions that apply to the particular permittee, including but not limited to requirements to construct, maintain, and operate certain pretreatment facilities, requirements to develop and implement compliance schedules, requirements to develop and implement best management practices, and requirements to develop and implement accidental spill and slug control plans;

(i) Other conditions as may be reasonably necessary to regulate the permittee and ensure compliance with these regulations, and State and Federal laws, rules, and regulations; and

(j) The circumstances in which the permit may be examined and modified by the Authority.

### 3.2.5 Wastewater Discharge Permit Duration and Modification

(a) A Wastewater Discharge Permit shall be issued for a specified time period, not to exceed five years from the effective date of the permit. A Wastewater Discharge Permit may be issued for a period less than five years at the discretion of the Authority. Each Wastewater Discharge Permit shall indicate the specific date upon which it will expire.

(b) Upon the promulgation of a national Categorical Pretreatment Standard, the Authority shall notify all Users holding a Wastewater Discharge Permit which may be subject to the new standard. If the new standard is more stringent than corresponding requirements in the permits of such Users, the Authority shall modify the permits to require compliance with the new standard within the time frame prescribed by the standard. Where a User which becomes subject to a new Pretreatment Standard does not hold a Wastewater Discharge Permit, the User shall file a completed permit application form with the Authority within ninety (90) days after the promulgation of the new standard, unless a federal or state statute or regulation requires that the application be filed within a shorter period of time.

(c) A Wastewater Discharge Permit is subject to modification by the Authority as limitations or requirements identified in these regulations are revised or upon just cause. An Industrial User shall be informed of any permit modification at least thirty (30) days prior to the effective date of the modification, unless federal or state law or regulation requires an earlier effective date. Any modification in a permit shall include a reasonable

time schedule for compliance. Just cause for permit modification includes, but is not limited to, the following:

- (1) To incorporate any new or revised Federal, State, or local pre-treatment standard or requirement;
- (2) Material or substantial alterations or additions to the discharger's operation which were not covered in the effective permit;
- (3) A change in any condition 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 POTW personnel, or the receiving waters;
- (5) Violation of any terms or conditions of this permit;
- (6) Obtaining this permit by misrepresentation or failure to disclose fully all relevant facts; or
- (7) Upon request of the permittee, provided such request does not create a violation of any existing applicable requirements, standards, laws, or rules and regulations.

(d) A User shall give written notice to the Authority ninety (90) days prior to any facility, production, or process modifications which result in changed volume or nature of the discharge. The filing of a request for a permit modification, revocation, and re-issue, termination, or a modification of planned changes or anticipated non-compliance, does not stay any permit conditions.

### 3.2.6 Wastewater Discharge Permit Transfer

A Wastewater Discharge Permit shall be issued to a specific User, as the permittee, for a specific facility and a specific operation. A permit shall not be assigned, transferred, or sold by a permittee to a new owner or operator of the permittee's facility or to another User, unless the assignment, transfer, or sale has been approved by the Authority. A permit shall, in the case of a new or changed User operation, automatically expire unless the new or changed operation has been approved by the Authority.

### 3.2.7 Wastewater Discharge Permit Revocation

A User who violates the following conditions of the permit or these regulations is subject to having its permit revoked:

- (a) Failure to notify the Authority of significant changes to the wastewater prior to the changed discharge;
- (b) Failure to provide prior notification to the Authority of significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least ninety (90) days before the change;
- (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 the Authority timely access to the facility premises and records;
- (g) Failure to meet effluent limitations;
- (h) Failure to pay civil penalties or other charges;
- (i) Failure to meet compliance schedules;
- (j) Failure to complete a wastewater survey or the Wastewater Discharge Permit application;
- (k) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- (l) Violation of any Pretreatment Standard or Requirement, or any terms of the Wastewater Discharge Permit or these regulations.

#### 3.2.8 Wastewater Discharge Permit Reissuance

- (a) A User with an expiring individual Wastewater Discharge Permit shall apply for a Wastewater Discharge Permit reissuance by submitting a complete permit application, a minimum of 120 days prior to the expiration of the existing Wastewater Discharge Permit.
- (b) An individual Wastewater Discharge Permit shall be deemed to be administratively extended if the permittee has made a timely and complete reapplication at least 120 days prior to expiration, but the permit is not either reissued or reissuance denied prior to the stated expiration date.

#### 3.2.9 Hauled Wastewater

- (a) Septic tank waste may be introduced into a POTW only at locations designated by the

Authority, and at such times as are established by the Authority. Such waste shall not violate Part II of these regulations or any other requirements established by the Authority. The Authority shall require septic tank waste haulers to obtain Wastewater Discharge Permits.

(b) The Authority shall require haulers of industrial waste to obtain Wastewater Discharge Permits. The Authority may require generators of hauled industrial waste to obtain a Wastewater Discharge Permit. The Authority also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of these regulations.

(c) Industrial waste haulers may discharge loads only at locations designated by the Authority. No load may be discharged without prior consent of the Authority. The Authority may collect samples of each hauled load to ensure compliance with applicable Standards. The Authority may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

(d) Industrial waste haulers must provide a Wastewater Discharge Authorization form for every load and the form shall identify the name and location of the waste generator, type of industry, known or suspected waste constituents, along with volume and characteristics of waste and whether any wastes are hazardous wastes pursuant to 9 VAC 20-60.

### **Section 3. Sampling and Monitoring Requirements**

#### **3.3.1 Monitoring Facilities**

(a) Sampling points and monitoring facilities to monitor the wastewater stream must be pursuant to the Authority's requirements. If necessary, the Authority may require a User to construct sampling and monitoring facilities at the User's expense.

(b) Monitoring facilities with required sampling and metering equipment must be situated on the User's premise and allow easy access for inspection, and sampling. There shall be ample room in or near such monitoring facilities to allow accurate sampling, flow measuring, and compositing of samples for analysis.

(c) The facility's sampling and monitoring equipment shall be maintained at all times in a safe and properly operating condition by the User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at a frequency 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 the Authority and shall not be replaced. The costs of clearing such access shall be borne by the User.

### 3.3.2 Sampling and Compliance Monitoring

(a) All wastewater samples must be representative of the User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its monitoring facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.

(b) To demonstrate compliance with the permit, the sampling and analysis program shall conform to the discharge limitations listed in the Wastewater Discharge Permit. Daily concentrations shall be based on flow proportionate composite samples, except as otherwise specified in the Wastewater Discharge Permit. Instantaneous concentrations shall be based on a grab sample taken at any time.

(c) If the User subject to the reporting requirements monitors any regulated pollutant at the appropriate sampling location more frequently than required by Wastewater Discharge Permit, the results of this monitoring shall be included in the report.

(d) The User shall record for all samples:

- (1) The date, exact place, time and methods of sampling preservation techniques or procedures;
- (2) Who performed the sampling or measurements;
- (3) The date(s) the analyses were performed;
- (4) Who performed the analyses;
- (5) The analytical techniques or methods used; and
- (6) The results of such analyses.

(e) Test procedures for the analysis of pollutants shall conform to those analytical procedures as approved by EPA as listed in 40 C.F.R. 136 or as specified by the Authority.

(f) The User shall periodically calibrate and perform maintenance procedures on all monitoring and analytical instrumentation at intervals to ensure accuracy of

measurements.

**(g) Retention of Records**

(1) The User shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports required by this permit, and records of all data used to complete the application for this permit, for a period of at least three years from the date of the sample, measurement, report, or application. This period may be extended by request of the Authority at any time.

(2) All records that pertain to matters that are the subject of Orders under these regulations or any other enforcement or litigation activities brought by the Authority, the Virginia Department of Environmental Quality (“DEQ”), or EPA shall be retained and preserved by the User until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

**3.3.3 Authority Inspection and Sampling Rights**

The Authority may inspect the facilities of any User to ascertain compliance with all requirements and provisions of these regulations, and may examine or copy any records kept by the User which pertain to the quantity and characterization of its industrial waste. The Authority may inspect generally and may take independent samples. The User shall allow the Authority or its agents ready access at all reasonable times to all parts of the premises necessary for purposes of inspection and/or sampling in the performance of any of their duties. The Authority shall have the right to set up on the User’s property such devices as are necessary to conduct sampling or metering operations. Where the User has security measures in force which would require proper identification and clearance before entry into their premises, the User shall make necessary arrangements with the security guards so that upon presentation of suitable identification, personnel from the Authority will be permitted to enter without delay for the purposes of performing their specific responsibilities.

**Section 4. Reporting Requirements**

**3.4.1 Baseline Monitoring Reports**

Within 180 days after the effective date of a new or revised Categorical Pretreatment Standard, or 180 days after a final administrative decision regarding a category determination submission under 40 C.F.R. 403.6(a)(4), whichever is later, any existing Industrial User subject to the standard or determination which is currently discharging to

or scheduled to discharge to a POTW shall submit to the Authority a report which contains the information set forth in subsections (a) through (g) below. At least ninety (90) days prior to discharging into a POTW, any new Industrial User, and any User that becomes a categorical Industrial User by virtue of the promulgation of the new or revised Categorical Pretreatment Standard, shall submit to the Authority a report which contains the information described in subsections (a) through (g) below; provided, that new Users shall give estimates of the information requested in subsections (d) and (e). New Users shall also be required to include in this report information on the method of pretreatment that the User intends to use to meet the new or revised Pretreatment Standard.

(a) Identifying information. The Industrial User shall submit the name and address of the facility, including the name of the operator and owners.

(b) Permits. The Industrial User shall submit a list of any environmental control permits held by or for the facility.

(c) Description of operations. The Industrial User shall submit a brief description of the nature, average rate of production, and the standard industrial classification (SIC number) of each operation carried out by the User. This description should include a schematic process diagram which indicates points of discharge from the regulated processes to a POTW.

(d) Flow measurement. The Industrial User shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to a POTW from each of its regulated process streams and from all other streams as necessary to allow use of the combined waste stream formula of 40 C.F.R. 403.6(e). The Authority may allow for verifiable estimates of these flows where considerations are justified by cost or feasibility.

(e) Measurement of pollutants.

(1) The Industrial User shall identify the Pretreatment Standards applicable to each of its regulated processes.

(2) The Industrial User shall conduct, and submit the results of, sampling and analyses that identify the nature and concentration, or mass where required by an applicable Pretreatment Standard or by the Authority, of the regulated pollutants that are in the discharge from each of its regulated processes. Both daily maximum concentrations and applicable average concentrations, or mass where required, shall be reported for each regulated pollutant. All samples shall be representative of daily operations. All sampling and analyses shall be performed in accordance with the techniques prescribed in 40 C.F.R. Part 136 or those identified by the Authority.

(3) In conducting the sampling required by this subsection, the Industrial User shall take a minimum of one representative sample to compile the data necessary to comply with the requirements of this subsection.

(4) Samples shall be taken immediately downstream from pretreatment facilities associated with the Industrial User, if any, or immediately downstream from the User's regulated processes if no pretreatment facility exists. If non-regulated wastewater is mixed with the User's regulated wastewater prior to treatment, the User shall measure the flows and concentrations necessary to allow use of the combined waste stream formula of 40 C.F.R. 403.6(e) in order to evaluate compliance with each applicable Pretreatment Standard. Where an alternate concentration or mass limit has been calculated in accordance with 40 C.F.R. 403.6(e), this alternate limit, along with supporting data, shall be submitted to the Authority.

(5) The Industrial User shall state the time, date, and exact place of the sampling it has conducted pursuant to this subsection and the methods it used to analyze the samples, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the collection system and POTWs.

(6) The Authority may allow the submission of a baseline report which provides a measurement of pollutants by utilizing only historical data, as long as the Authority concludes that the data provide sufficient information for it to determine the need for industrial pretreatment measures.

(f) Certification. The Industrial User shall submit a statement, executed by an authorized representative of the User and certified by a qualified professional as required by 40 C.F.R. 403.12(b)(6), that it is meeting all applicable Pretreatment Standards and requirements on a consistent basis or, if not, that identifies the additional operation and maintenance measures and/or the additional pretreatment measures that are required in order for it to meet the standards and requirements.

(g) Compliance Schedule. If additional operation and maintenance measures and/or additional pretreatment measures are required in order for an Industrial User to meet any Pretreatment Standard, the User shall describe the shortest schedule by which it will provide and implement such additional measures. The completion date shown on such schedule shall not be later than the compliance date established for the applicable Pretreatment Standard.

(h) Modification of Pretreatment Standards.

(1) If, at the time an Industrial User's baseline report is submitted, the User's Categorical Pretreatment Standard has been modified by a removal allowance pursuant to 40 C.F.R. 403.7, by the combined waste stream formula pursuant to 40 C.F.R. 403.6(e), or by a fundamental different factors variance pursuant to 40 C.F.R. 403.13, the information required by subsections (f) and (g) shall pertain to the modified limits.

(2) If, subsequent to the submission of an Industrial User's baseline report, the User's Categorical Pretreatment Standard is modified by a removal allowance pursuant to 40 C.F.R. 403.7, by the combined waste stream formula pursuant to 40 C.F.R. 403.6(e), or by a fundamentally different factors variance pursuant to 40 C.F.R. 403.13, the User shall submit to the Authority all amendments to the information required by subsections (f) and (g) within 60 days after the modified limit is approved.

(i) Compliance Schedule Progress Report. Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the User shall submit a progress report on compliance with the increment of progress to be met on that date, and if not, the date on which it expects to comply, the reason for delay, and the steps being taken by the User to return the construction to the schedule established. In no event shall more than nine months elapse between such progress reports.

#### 3.4.2 Report on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with an applicable Categorical Pretreatment Standard or, in the case of a new source, following commencement of the introduction of wastewater into a POTW, any Industrial User subject to the Pretreatment Standard and its requirements shall submit to the Authority a report containing the information described in Section 3.4.1(d) through (f). For Industrial Users subject to equivalent mass or concentration limits established by the Authority in accordance with the procedures in 40 C.F.R. 403.6(c), this report shall contain a reasonable measure of the User's long term production rate. For all other Industrial 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.

#### 3.4.3 Periodic Compliance Reports

(a) All Industrial Users subject to Pretreatment Standards, after the compliance date of the standard or, in the case of a new source, after commencement of its discharge into a POTW, shall submit not less than two (2) times per year, unless required more frequently

in the Pretreatment Standard or by the Authority, a report stating the nature and concentration in the User's effluent of the pollutants which are limited by each Pretreatment Standard applicable to the User. This report shall also include a record of measured or estimated average and maximum daily flows during the reporting period for the discharge reported in Section 3.4.1(d), except that the Authority may require a more detailed report of the flows. At the Authority's discretion and in consideration of such factors as local high or low flow rates, holidays, budget cycles and similar factors, the Authority may agree to alter the months during which the reports required by this subsection shall be submitted. In cases where the Pretreatment Standard requires compliance with a Best Management Practice or pollution prevention alternative, the User must submit documentation required by the Authority or the Pretreatment Standard necessary to determine the compliance status of the User.

(b) Where the Authority has imposed mass limitations on Industrial Users, as provided for by 40 C.F.R. 403.6(d), the report required by subsection (a) shall indicate the mass of pollutants regulated by the applicable Pretreatment Standards in the discharge from the Industrial User.

(c) For Industrial Users subject to equivalent mass or concentration limits established by the Authority in accordance with the procedures in 40 C.F.R. 403.6(c), the report required by subsection (a) shall contain a reasonable measure of the User's long-term production rate. For all other Industrial Users subject to Categorical Pretreatment Standards expressed only in terms of allowable pollutant discharge per unit of production, or other measure of operation, the report required by subsection (a) shall include the User's actual average production rate for the reporting period.

(d) The User shall report all monitoring results collected at the prescribed monitoring point as specified in the wastewater permit.

#### 3.4.4 Reports of Changed Discharge

(a) Each User must notify the Authority, in writing, of any planned significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater, at least thirty (30) days prior to the change.

(b) The Authority may require the User to submit such information as may be determined necessary to evaluate the changed condition, including the submission of a Wastewater Discharge Permit application under Section 3.2.1 et seq..

(c) The Authority may issue a Wastewater Discharge Permit under Section 3.2.1 et seq. or modify an existing Wastewater Discharge Permit in response to changed conditions or anticipated changed conditions.

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

#### 3.4.5 Reports from Unpermitted Sources

All Users not required to obtain a Wastewater Discharge Permit shall provide reports to the Authority as required by the Authority.

#### 3.4.6 Notification of Hazardous Waste Discharge

(a) Users shall notify the Authority, the EPA Regional Waste Management Division Director, and the DEQ Waste Division in writing of any discharge into a POTW of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261 or 9 VAC 20-60. Such notification must include the name of the hazardous waste as set forth therein, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the Industrial User discharges more than 100 kg of such waste per calendar month to a POTW, the notification shall also contain the following information to the extent such information is known and readily available to the Industrial User:

- (1) An identification of the hazardous constituents contained in the wastes;
- (2) An estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month;
- (c) An estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve months; and
- (d) All hazardous waste discharge notifications must take place no later than 180 days after the discharge commences. Any notification under this subsection need be submitted only once for each hazardous waste discharged.

(b) Users are exempt from the requirements of subsection (a) during a calendar month in which they discharge no more than fifteen (15) kg of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kg 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 Industrial User discharges more than such quantities of any hazardous waste do not require additional notification.

(c) In the event that new regulations are promulgated under the federal or Virginia

hazardous waste programs identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the User shall notify the Authority, the EPA Regional Waste Management Waste Division Director, and the DEQ Waste Division of the discharge of such substance within ninety (90) days of the effective date of the regulations.

(d) In the case of any notification made under Section 3.4.6, 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 Section does not create a right to discharge any substance not otherwise permitted to be discharged under a permit issued under these regulations or pursuant to applicable Federal, State, or local law.

#### 3.4.7 Report Submission

All written reports which are required to be submitted to the Authority will be deemed to have been submitted on the date postmarked by the United States Postal Service. For any report which is not deposited, postage prepaid, into a mail facility serviced by the United State Postal Service, the date of the Authority's receipt of the report shall govern.

#### 3.4.8 Recordkeeping Requirements

All records which the Authority requires to be maintained by a User shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation involving the User or the Authority, or where the User has been specifically notified of a longer retention period by the Authority.

#### 3.4.9 Confidential Information

Upon written request by any User furnishing a report, permit application, or questionnaire, those portions of any document which might disclose Confidential Information shall not be made available to the public. The physical/chemical characteristics of a User's wastewater will not be recognized as confidential information.

#### 3.4.10 Signatory and Certification Requirements for Reports

All reports, data, product and materials information, and other information required by the Authority to be maintained by Users shall be submitted to the Authority upon request. All reports submitted to the Authority shall be signed by a representative of the User who is authorized to make a certification on behalf of the User, and shall include the following

certification:

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 the person or 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 a knowing violation.

#### 3.4.11 Information Requests to Users

The Authority may request that a User submit information on the nature and characteristics of its wastewater. The User shall provide this information within sixty (60) days of the request. The Authority is authorized to prepare a form for this purpose and may periodically require Users to update all information which has been provided in accordance with this Section.

## PART IV. ENFORCEMENT

### Section 1. Administrative Enforcement Remedies

#### 4.1.1 Notice of Violation

(a) A Notice of Violation is a written notice to a User by the Authority that the Authority has determined that the User has violated a Pretreatment Standard or another requirement of these regulations. Within five days of receipt of a Notice of Violation, the User shall inform the Authority in writing of the reasons for the violation and the actions it intends to take to correct the violation, after which the User shall proceed to undertake those actions and correct the violation.

(b) Nothing in this Section shall limit the authority of the Authority to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

#### 4.1.2 Show Cause Orders and Hearings

(a) Notwithstanding any other provision in this Section, the Authority may order a User that has violated, or continues to violate, any provision of these regulations, a Wastewater Discharge Permit, or Order issued hereunder, or any other Pretreatment Standard or requirement, to appear before the Authority and show cause why a proposed enforcement action should not be taken.

(b) 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.

(c) The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least fifteen (15) days prior to the hearing, which shall be informal. Such notice may be served on any authorized representative of the User.

(d) Following the show cause hearing, the Authority may take such any action as it deems appropriate, including but not limited to revocation of the User's permit, issuance of a written Order that discharges be ceased immediately or after a specified period of time, or any other action available to the Authority under this Part. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

#### 4.1.3 Cease and Desist Orders

(a) When the Authority finds that a User has violated, or continues to violate, any provision of these regulations, a 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, the Authority may issue an Order to the User directing it to cease and desist all such violations and directing the User to:

(1) Immediately comply with all requirements; and

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

(b) Issuance of a Cease and Desist Order shall not be a bar against, or a prerequisite for, taking any other action against the User.

#### 4.1.4 Consent Orders

The Authority may enter into Consent Orders, 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. Such documents shall have the same force and effect as the administrative Enforcement Orders issued pursuant to Section 4.1.5 of these regulations, shall be judicially enforceable, and may include agreed-to civil penalties. Issuance of a Consent Order shall not be a bar to, or a prerequisite for, taking any other action against the User.

#### 4.1.5 Enforcement Orders and Administrative Civil Penalties

(a) When the Authority finds that a User has violated, or continues to violate, any provision of these regulations, a Wastewater Discharge Permit, or Order issued hereunder, or any other Pretreatment Standard or requirement, after providing an opportunity for a hearing before an Authority representative, the Authority may issue an Enforcement Order to the User responsible for the discharge directing that the User come into compliance within a specified time. The User may also be assessed an Administrative Civil Penalty and any civil liability pursuant to Section 4.1.6 via the issuance of an Enforcement Order after an opportunity for a hearing as provided in Va. Code § 15.2-2122(10)(a). No such Civil Penalty shall exceed \$32,500 per violation, or \$100,000 per Enforcement Order, except with the consent of the User. The actual amount of any Penalty assessed shall be based on the severity of the violations, the extent of any potential or actual environmental harm or facility damage, the compliance history of User, any economic benefit realized from the noncompliance, and the ability of the User to pay the Penalty.

(b) These provisions shall not preclude the Authority from proceeding directly in Virginia

Circuit Court to compel compliance with the regulations, any permit, Consent Order or Enforcement Order, nor be interpreted as limiting any otherwise applicable legal remedies or sanctions. Each day during which a violation is found to have existed shall constitute a separate violation, and any Administrative Civil Penalties imposed shall be applied to the purpose of abating, preventing, or mitigating environmental pollution. Not by way of limitation, the Authority shall consider such civil penalties in the event of any of the following:

- (1) Violation by a User within a three year period of the assessment of a Civil Penalty against such User, or such User's consent thereto, for the same or a similar violation;
- (2) Any intentional violation of these regulations, any permit, Consent Order, or Enforcement Order;
- (3) Any falsification of records or reports; and
- (4) Any violation resulting in environmental harm or facility damage.

(c) Enforcement Orders also may contain other requirements to address the User's noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. An Enforcement Order may not extend the deadline for compliance established for a Pretreatment Standard or requirement, nor does an Enforcement Order relieve the User of liability for any violation, including any continuing violation.

(d) Any Enforcement Order issued by the Authority, whether or not it assesses a Civil Penalty, shall inform the User of its right to judicial review of any final Order by appeal to Circuit Court on the record of proceedings before the Authority. To commence an appeal the User shall file a petition in Circuit Court within 30 days of the date of the Order, and failure to do so shall constitute a waiver of the right to appeal. With respect to matters of law, the burden shall be on the party seeking review to designate and demonstrate an error of law subject to review by the court. With respect to issues of fact, the duty of the court shall be limited to ascertaining whether there was substantial evidence in the record to reasonable support such findings.

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

#### 4.1.6 Civil Liability and Cost Recovery

Any User who violates any provision of these regulations, a Wastewater Discharge

Permit, or Order issued hereunder, or any other Pretreatment Standard or requirement shall also be financially responsible and liable to the Authority for all costs incurred by the Authority associated with the violation(s), including, but not limited to, the following:

- (a) Cost of mileage and labor incurred in detecting, investigating, and correcting the violation;
- (b) Laboratory analysis costs associated with detecting, investigating, and correcting the violation;
- (c) Additional treatment costs caused by the violation or associated with detecting, investigating, and correcting the violation;
- (d) Costs of any additional equipment acquired or expended by the Authority for detecting, investigating, or correcting the violation;
- (e) Repair and/or replacement of any part of a POTW damaged as a result of the violation;
- (f) Any liability, damages, fines, or penalties incurred by the Authority as a result of the violation;
- (g) Any and all expenses of outside professionals to include, but not be limited to, engineers, scientists, and/or legal counsel;
- (h) Other costs as are associated with the detecting, investigating, and correcting of the violations.

#### 4.1.7 Emergency Suspensions

- (a) The Authority may immediately suspend a User's discharge, after informal notice to the User to the extent practicable, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons. The Authority may also immediately suspend a User's discharge, after notice and opportunity to respond to the extent practicable, that threatens to interfere with the operation of a POTW, or which presents, or may present, an endangerment to the environment.
- (b) Any User notified of a suspension of its authorization to discharge shall immediately stop or eliminate its discharging. In the event of a User's failure to immediately comply with a Suspension Order, the Authority may take such steps and measures as determined necessary, including immediate severance of the sewer connection, to prevent or minimize damage to a POTW or its receiving stream, or endangerment to any

individuals. Except where a notice of termination of discharge authorization under Section 4.1.8 has been instituted against the User, the Authority may allow the User to recommence its discharge when the User has demonstrated, to the satisfaction of the Authority, that the grounds for the Suspension Order have been eliminated.

(c) A User that is responsible, in whole or in part, for a discharge that presents imminent danger shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Authority, prior to the date of any show cause or other hearing under this Part.

(d) Nothing in Section 4.1.7 shall be interpreted as requiring a hearing prior to any Emergency Suspension by the Authority. Exercise of this option by the Authority shall not be a bar to, or a prerequisite for, taking any other action against the User.

#### 4.1.8 Termination of Service and Revocation of Permits

(a) Notwithstanding any other provision in this Part, if the Authority determines that a User violates any of the following conditions, then the Authority may, after providing notice to the User and an opportunity to rebut the Authority's determination, suspend wastewater treatment service, including collection and treatment services, to the User:

- (1) Violation of individual Wastewater Discharge Permit conditions;
- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (3) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- (4) Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or
- (5) Violation of the Pretreatment Standards in Part II of these regulations.

(b) Notwithstanding any other provision in this Part, if the Authority determines that a User's continued discharge into the collection system and a POTW will violate these regulations, federal, state or local law, or regulations and requirements issue pursuant to such law, then the Authority may, after providing notice to the User and an opportunity to rebut the Authority's determination, revoke any permits issued to the User under the provisions of these regulations.

(c) Exercise of this option by the Authority shall not be a bar to, or a prerequisite for,

taking any other action against the User.

## **Section 2. Judicial Enforcement Remedies**

### **4.2.1 Injunctive Relief**

(a) When the Authority finds that a User has violated, or continues to violate, any provision of these regulations, a Wastewater Discharge Permit, or Order issued hereunder, or any other Pretreatment Standard or requirement, the Authority may petition the Circuit Court through the Authority's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the Wastewater Discharge Permit, Order, or other requirement imposed by these regulations on activities of the User. In any such action the court shall grant an injunction without requiring a showing of a lack of an adequate remedy at law.

(b) The Authority may also seek other appropriate 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, the taking of any other enforcement action against a User.

### **4.2.2 Judicial Cost Recovery**

In addition to the penalties provided herein, the Authority may recover reasonable attorney's fees, court costs, court reporters' fees, and other expenses of litigation by appropriate suit at law against the User found to have violated these regulations or the Orders, rules, regulations, and permits issued hereunder.

## PART V. MISCELLANEOUS PROVISIONS

### Section 1. General

#### 5.1.1 Special Agreements

(a) A special agreement or arrangements between the Authority and a User may be established with respect to the issuance of a Wastewater Discharge Permit when, in the opinion of the Authority and User, unusual or extraordinary circumstances compel special terms and conditions. In no case shall allowable discharge be in excess of national Categorical Standards or the general and specific prohibitions of Section 2.1.1.

(b) No statement contained in these regulations shall be construed as preventing any special agreement or arrangement between the Authority and any User, whereby an industrial waste of unusual strength or character may be accepted by the Authority for treatment, subject to payment of specified charges by the industrial concern.

#### 5.1.2 Annual Notice of Significant Noncompliance

The Authority shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the Authority, 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. A User shall, for purposes of this Section, be in Significant Noncompliance for any of the following reasons:

(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;

(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, 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 Part II (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Authority determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;

(d) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Authority's exercise of its emergency authority to halt or prevent such a discharge;

(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 the Authority determines will adversely affect the operation or implementation of the local pretreatment program.

#### 5.1.3 Conflict

Any rules and regulations inconsistent or conflicting with any part of these regulations are hereby repealed to the extent of such inconsistency or conflict.

#### 5.1.4 Severability

If any provision, paragraph, word, Section, or article of these regulations is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, Sections, and chapters shall not be affected and shall continue in full force and effect.

## MEMORANDUM

**Date:** June 7, 2022

**To:** Board of Directors

**Subject:** Resolution to Amend and Restate the Operating Code, Volume 2, Rules and Regulations, Part D, Pretreatment Regulations

**Attachments:** (1) Resolution Dated June 7, 2022  
(2) Proposed Operating Code, Volume 2, Rules and Regulations, Part D (Exhibit A)

1. **PURPOSE:** To amend and restate the Authority's Operating Code, Volume 2, Rules and Regulations, Part D, Pretreatment Regulations.

2. **BACKGROUND:**

- A. The Authority maintains Operating Code Volume 2, Parts A through D, which set forth policies applicable to the public water and wastewater facilities now existing or which may, in the future, be under the jurisdiction of the Authority.
- B. Volume 2, Part D, Pretreatment Regulations, establishes policies governing sewer use in Fauquier County, Virginia.
- C. In 2010 DEQ removed the pretreatment program requirement from FCWSA, and Volume 2 Part D has not been maintained since that time.
- D. In 2021, due to the presence of a Significant Industrial User in Vint Hill, DEQ required that the Authority submit the Vint Hill WWTP Pretreatment Program by January 14, 2022.

3. **DISCUSSION:**

- A. One component of a Pretreatment Program is regulations governing use of the Authority's sewer system. Historically these regulations were maintained in Chapter 17 Part III of the Fauquier County Code, and replicated in the Authority's Operating Code Volume 2 Part D. With the necessary revisions to the Pretreatment regulations, the Authority updated Chapter 17 Part III of the Fauquier County Code and met with the County on multiple occasions.
- B. In December 2021 Fauquier County representatives requested that the Authority reevaluate the existing language in the Code, on which the updates were based.

The Authority then engaged specialized counsel to develop a new ordinance based directly off of state code.

- C. At the April 2022 Liaison Committee, the Authority discussed with representatives the following:
- a. Counsel recommends that the Authority adopt regulations directly in the Operating Code and request that the County eliminate Chapter 17 Part III of the Fauquier County Code (pursuant to a 2010 change in state code allowing Authorities to directly adopt such regulations).
  - b. The Authority submitted copies of the draft Pretreatment regulations to the Significant Industrial User in Vint Hill and received confirmation that the user has no objections to the regulations as written.
- D. DEQ is currently reviewing remaining components of the Pretreatment Program as submitted by the Authority and has allowed the Authority time to work through logistical issues with the current Significant Industrial User and the County.
- E. The attached Resolution will adopt the amended and restated Part D of Operating Code Volume 2, Pretreatment Regulations, and allow the Authority to submit the final component of the Pretreatment Program to DEQ for review.
- F. Staff notes that additional steps are required through DEQ to complete the Pretreatment Program approval, and should DEQ require additional revisions, staff will propose such to the Board when necessary.

4. **RECOMMENDATION:**

Adopt the attached Resolution