

**JOINT MEETING  
OF  
ESSEX AND UNION COUNTIES**

***RULES AND REGULATIONS***

*Modified:  
6/17/10*

Joint Meeting of Essex & Union Counties  
500 South First Street  
Elizabeth, NJ 07202

# **HISTORY of MODIFICATIONS to the JMEUC RULES & REGULATIONS**

## **6/94**

Modification to allow for acceptance of groundwater cleanup discharges for long-term continuous projects and short-term projects. Long-term discharges required a 2:1 Inflow / Infiltration Offset Policy and issuance of a Discharge Permit. Short-term discharges required a cost/gallon fee and that the discharge be trucked to the Joint Meeting.

## **6/97**

Modification to include fees for annual inspections, permit applications, etc

## **6/99**

Modification to incorporate the Enforcement Response Plan.

## **12/03**

Complete overhaul of the Rules & Regulations; included revised local limits, variances (pH & Oil/Grease), etc.

## **7/08**

Modified to incorporate the Grace Period Regulations

## **7/10**

Modified to incorporate the Streamlining provisions

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## ARTICLE I - GENERAL PROVISIONS

### 1.1 POLICY AND PURPOSE:

- (a) These Rules and Regulations set forth uniform requirements for dischargers into the Joint Meeting wastewater collection and treatment systems, and enable the Joint Meeting to protect the public health in conformity with all Applicable Laws relating thereto. The objectives of these Rules and Regulations are:
- (1) to prevent the introduction of pollutants into the Joint Meeting Treatment Works, which will interfere with the normal operation of the Treatment Works or contaminate the resulting sludge;
  - (2) to prevent the introduction of pollutants into the Treatment Works which do not receive satisfactory treatment by the Treatment Works or which pass through the system into receiving waters or the atmosphere or otherwise would be incompatible with the Treatment Works; and
  - (3) to improve the opportunity to recycle and reclaim wastewater.

These Rules and Regulations provide for the regulation of discharges into the Joint Meeting Treatment Works through the issuance of an Industrial User Permit.

- (b) All Users of the Joint Meeting Treatment Works, whether issued an Industrial User Permit or not, shall be subject to and must comply with the requirements of the written rules and regulations of the Municipality and Joint Meeting, which regulations shall become effective upon the filing of certified copies in the Office of the Municipal Clerk of the respective Municipality after the effective date of these Rules and Regulations.

### 1.2 INJURY TO WASTEWATER FACILITY PROHIBITED:

- (a) No person shall maliciously, intentionally, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance, or equipment, including but not limited to sampling or monitoring equipment that is part of the Treatment Works of the Municipality or Joint Meeting.  
**(NM) (ie Non-Minor; see Section 5.7)**
- (b) All categorical and non-categorical Industrial Users shall notify the Joint Meeting immediately of all discharges that could cause problems to the

Treatment Works, including any slug loadings, as defined in Article IV, Section 4.12. Such discharges must be reported within two hours of occurrence, or of the User becoming aware of the occurrence. Within (24) twenty-four hours of the occurrence of such a discharge, or of an exceedance, or becoming aware of an exceedance, of an effluent limitation for a toxic pollutant, the User shall provide the Joint Meeting with any additional information regarding the discharge as the Joint Meeting may require. **(NM)**

### **1.3 DISCHARGE TO NATURAL OUTLETS PROHIBITED:**

It shall be unlawful to discharge any wastewater or other polluting material into any natural outlet within the Municipality, except where suitable treatment has been provided and where a NJPDES Industrial User Permit has been obtained from the appropriate governmental authority where required. **(NM)**

### **1.4 NOTICE:**

#### **1.4.1 Notice to Users:**

Unless otherwise provided herein, any notice required to be given under these Rules and Regulations shall be in writing and served in person or by certified mail. If served by mail, the notice shall be sent to the last address known to the Joint Meeting:

- (a) Where the address is unknown, service may be made upon the owner of record of the property upon which the alleged violation occurred. If written notice served in person or by certified mail is not accepted, then said notice shall be posted in a conspicuous location by or on the property upon which the alleged violation occurred.
- (b) Notice to a User shall be deemed to have been given at the time of deposit, postage prepaid, in a facility regularly serviced by the United States Postal Service. A dated, signed receipt shall be determinant for the acknowledgment of such notice and the start of any time limitation.

#### **1.4.2 Notice to Joint Meeting:**

- (a) In all instances in which a User is required to submit notice to the Joint Meeting under these Rules and Regulations, such notice should be addressed in the following manner:

Joint Meeting of Essex and Union Counties  
Attn: Pretreatment Coordinator  
500 South First Street  
Elizabeth, NJ 07202

### **1.4.3 Notice to the Public:**

The following actions shall be taken by the Joint Meeting pursuant to N.J.A.C. 7:14A-19.10 et seq.

- (a) **ADJUDICATORY HEARINGS** - The Joint Meeting shall provide public notice that an adjudicatory hearing has been granted by mailing a copy of the notice to:
- (1) the applicant(s) or permittee(s);
  - (2) all persons who have submitted comments on the draft Industrial User permit;
  - (3) all persons who testified at the public hearing, if held; and
  - (4) all persons who requested an adjudicatory hearing or who requested to be considered a party to the action, as defined in Article 3, Section 3.12.
- (b) **SIGNIFICANT NONCOMPLIANCE** - The Joint Meeting shall provide public notice identifying those Users which, at any time during the period covered by the Joint Meeting's 40 C.F.R. 403 Annual Report submitted to the NJDEP pursuant to N.J.A.C. 7:14A-19.6(f), were in significant noncompliance with applicable Pretreatment requirements. For the purposes of this provision, a Significant Industrial User (or any Industrial User which violates paragraphs 403.8(f)(2)(viii)(C),(D), or (H)) is in significant noncompliance if its violation meets one or more of the criteria listed in 403.8(f)(2)(viii)). The cited criteria are also included in the Significant Noncompliance definition in these Rules & Regulations. This public notice shall be published in an official daily newspaper designated by the Joint Meeting no later than (60) sixty days after the 40 C.F.R. 403 Annual Report due date.
- (c) **ADMINISTRATIVE CONSENT ORDERS** - The Joint Meeting shall afford an opportunity to the public to comment on that portion of a proposed administrative consent order (ACO) prior to final adoption if the ACO would establish interim enforcement limits that would be less stringent than those established in an Industrial User Permit or prior administrative order. Such public comment shall be limited to that portion of the ACO which express the

less stringent limitations. The Joint Meeting shall provide public notice of the proposed ACO, announce the length of the comment period, which shall be not less than (30) thirty days, commencing from the date of publication of the notice. The notice shall also include a summary statement describing the nature of the violation necessitating the ACO and its less stringent limitations; shall specify how additional information on the ACO may be obtained; and shall identify to whom written comments should be submitted.

The Joint Meeting shall consider the written comments received during the comment period prior to final adoption of the ACO. Not later than the date that final action is taken on a proposed ACO, the Joint Meeting shall notify each person or group having submitted written comments on the main provisions of the approved ACO and respond to the comments received.

## **1.5 PUBLIC HEARINGS:**

- (a) **ADMINISTRATIVE CONSENT ORDERS** - The Joint Meeting, on its own initiative or at the request of any person submitting written comments pursuant to Section 1.4.3(c) above, may hold a public hearing on the proposed administrative order or ACO, prior to final adoption if the order or ACO would establish interim enforcement limits that would relax for more than (24) twenty-four months effluent limitations established in an Industrial User Permit or a prior administrative order or ACO. Public notice for a public hearing held pursuant to this Section shall be published not more than (30) thirty and not less than (15) fifteen days prior to the holding of the hearing. The hearing shall be held in the Municipality in which the violation necessitating the order occurred.
- (b) **NEW INDUSTRIAL USER PERMITS** - The Joint Meeting shall provide public notice and may hold a public hearing for any proposed new Industrial User permits, proposed renewed Industrial User permits, proposed revocations of any Industrial User permits, or proposed major modifications to any existing Industrial User permits.

## **1.6 INFORMATION SUBMISSION CONCERNING WASTE DISCHARGE:**

As a pre-condition for the right to discharge waste in any form into the sewers and Treatment Works of the Municipality or the Joint Meeting, all persons subject to these Rules and Regulations shall be required to provide information to the Municipality, Joint Meeting, NJDEP or USEPA, as needed, to determine compliance with these Rules and Regulations. This information may include, but shall not be limited to the following: **(NM)**

- (a) wastewater discharge rate and volume over a specified time period;
- (b) chemical analysis of wastewater;
- (c) information on raw materials, processes, and products affecting wastewater volume and quality;
- (d) quantity and disposition of specified liquid, sludge, oil, solvent, or other materials important to sewer use control;
- (e) a plot plan of sewers on the User's property showing sewer pretreatment facility location;
- (f) details of wastewater Treatment Works;
- (g) details of systems designed to prevent and/or control the loss of spilled materials to the sanitary sewer (i.e. spill prevention plan).
- (h) any other information required by the Municipality, Joint Meeting, NJDEP or USEPA.

## **1.7 CONFIDENTIALITY:**

Information and data concerning an Industrial User obtained from reports, questionnaires, Industrial User Permit applications, permits, and monitoring programs and from inspections shall be available to the public without restriction unless the Industrial User specifically requests and is able to demonstrate to the satisfaction of the Joint Meeting that the release of such information, processes or methods of production is entitled to protection as a trade secret or due to reasons of business confidentiality as that term is defined and applied in 40 C.F.R. 2. Wastewater constituents and characteristics (i.e., effluent data) will not be recognized as confidential information. For the purposes of this section, effluent data shall be defined as set forth at 40 C.F.R. 2.302(a)(2).

When information accepted by the Joint Meeting as confidential is requested by the EPA and/or the NJDEP for uses related to these Rules and Regulations, the New Jersey Pollution Discharge Elimination System (NJPDES) and/or the State or Federal Pretreatment Programs, the Joint Meeting shall serve the person who furnished the information in question with written notice, by certified mail - return receipt requested at least ten (10) working days in advance of the disclosure, of its intent to disclose the information. The Joint Meeting shall submit the claim of confidentiality to the EPA or NJDEP with the information.

Non-confidential files concerning Industrial Users and the Pretreatment Program are open to the public for inspection at the Joint Meeting's office during normal business hours. Subject to the availability of a copy machine, there will be a charge for copies at a rate determined by the Joint Meeting. Appointments to review such material must be requested in writing.

## ARTICLE II - SEWER CONSTRUCTION AND SEWER USE

### 2.1 SEWER CONSTRUCTION:

#### 2.1.1 Direct Connections:

- (a) **EXCAVATION/CONNECTION PERMITS** - Connections or building sewers shall, wherever possible, be made to local sewers and not to the Joint Meeting main lines or trunk sewers. No Municipality or person shall make any direct connection with the Joint Sewer or alter or repair any connection with the Joint Sewer without having first obtained a written Excavation/Connection Permit from the Joint Meeting. In addition, every applicant shall comply with all applicable municipal, county, and state laws, ordinances and resolutions. A non-refundable review fee shall be enclosed with each Excavation/Connection Permit application, such fees shall be assessed as provided in Appendix C. **(NM)**
  
- (b) **EXCAVATION/CONNECTION PERMIT CONDITIONS** - Each permit to connect and use the Joint Sewer, if and when issued, will require that the applicant for such permit agrees that it or he/she will carefully make the connection with the Joint Sewer in the manner prescribed by the rules and regulations of the Joint Meeting; that it or he/she will indemnify and save harmless the Joint Meeting from all accidents and damages caused by any negligence in protecting its or his/her work or any imperfect or inadequate work done by virtue of such Excavation/Connection Permit; that it or he/she will faithfully comply with the ordinances of the Municipality and that it or he/she will replace and restore the sidewalks, pavement or street surface over any opening made, the work to be subject to the inspection and approval of the Joint Meeting and the Municipality. In addition every applicant must provide notification to New Jersey One Call (1-800-272-1000), as required by the New Jersey Underground Facility Protection Act and N.J.A.C. 14:2-1.1 through 14:2-6.4. **(NM)**
  
- (c) **CONNECTION REQUIREMENTS** - Connections with the Joint Sewer shall be made only by a licensed contractor in the Municipality where the connection is to be made or by some other person duly authorized by the Joint Meeting. Connections shall be made with suitable materials approved by the Joint Meeting. All work included in the construction of connections with the Joint Sewer or relating thereto shall be done to the satisfaction of the Joint Meeting, and the person or persons doing said work shall accept as

final all decisions of the Joint Meeting as to the fitness of all materials furnished or work done and shall immediately replace all work rejected. **(NM)**

Connections shall be such as to provide flexibility and water tight joints. A manhole shall be provided if required and shall be installed and constructed to the satisfaction of the Joint Meeting. Connections shall include a cast iron hub or approved equal set and sealed in the main sewer. No connections/excavation shall be backfilled until inspected and approved by the Joint Meeting. Backfill material shall be to the satisfaction of the Joint Meeting. No top connections will be permitted. **(NM)**

### **2.1.2 Connections to Municipal Systems:**

No person shall connect or cause to be connected to, or alter or cause to be altered, any municipally owned sewer, sewage pumping plant or other facility without first obtaining approval of the sewerage construction plans as required by local ordinances. If applicable, a Joint Meeting Industrial User Permit application shall be submitted as required by Article III, Section 3.1 of these Rules and Regulations. **(NM)**

### **2.2 CHANGE IN USE:**

If a person that is not an Industrial User contemplates a modification to the use of an existing sanitary sewer such that the User intends to introduce industrial wastes or discharge more than the equivalent of 25,000 gallons per day of process waste, a Sewer Use Application shall be submitted to the Joint Meeting and, if required, an Industrial User Permit issued prior to commencement of the discharge. The discharge of industrial or sanitary wastes without an Industrial User Permit, as stated in this section, constitutes a violation of these Rules and Regulations. **(NM)**

### **2.3 GROUNDWATER DISCHARGE:**

- (a) No person shall discharge or cause to be discharged any storm water, surface water, ground water (except as set forth below), roof runoff, subsurface drainage, uncontaminated cooling water, or unpolluted industrial process waters to any sanitary sewer. **(NM)**
- (b) Direct or indirect discharges of ground water to the Joint Meeting Wastewater Treatment Works shall only be permitted under the following circumstances:

- (1) The proposed discharger or applicant has filed an application for and has been issued an Industrial User Permit (“Permit”) by the Joint Meeting. **(NM)**
- (2) For long-term continuous discharges, the Municipality where the site remediation project of the applicant is located or, at the election of the Municipality, the proposed discharger or applicant (“Municipality/Applicant”) will be required to identify and eliminate two gallons of infiltration/inflow to the Joint Meeting Wastewater Treatment Works for each gallon of ground water to be delivered into the Joint Meeting Wastewater Treatment Works on a daily average over the life of the remediation project discharge (2 to 1 offset). **(NM)**
- (3) The location(s) of the remedial work to be performed by the Municipality/Applicant shall be identified by the Municipality and agreed to by the Joint Meeting, through the use of the Phase III Sewer System Evaluation Report, prepared by Hazen and Sawyer, dated August, 1983, and as supplemented, which was previously distributed by Joint Meeting to each member Municipality in the Joint Meeting service area, or such other report as may be available in the case of non-member Municipalities. **(NM)**
- (4) The remedial work to be performed by the Municipality/Applicant shall be completed within eighteen (18) months from the date of the initiation of discharge. In the event that extraordinary, unforeseen circumstances occur that will affect the ability of the Municipality/Applicant to meet the time period previously agreed upon by the parties for completion of the infiltration/inflow remedial work, the Municipality/Applicant may seek an extension of the time period through the filing of a written request not less than sixty (60) days before a previously defined and agreed upon milestone as set forth in a compliance schedule contained in an applicable Industrial User Permit, fully describing the extraordinary, unforeseen circumstances and specifying the additional time necessary to complete the remedial work as a result thereof. Such requests for extensions will be considered by the Joint Meeting on a case-by-case basis, and an extension of time shall not be unreasonably withheld. **(NM)**
- (5) An applicant may not discharge ground water to the Joint Meeting Treatment Works until it has obtained an Industrial User Permit and an agreement is reached between the Joint Meeting and the Municipality and/or the applicant upon the terms of the remedial work

to be performed to satisfy the 2 to 1 offset policy set forth in this regulation. **(NM)**

- (6) At intervals to be mutually agreed upon by the Municipality/Applicant and the Joint Meeting, the Municipality/Applicant shall be required to demonstrate, in written progress reports as required pursuant to a compliance schedule set forth in an applicable Industrial User Permit, to the satisfaction of the Joint Meeting that the Municipality/Applicant is making definable progress in performing the remedial work so as to be able to complete the work within the time frame established in accordance with this Section. **(NM)**
- (7) The Engineer of the Municipality where the remedial work has been performed will be required to submit to the Joint Meeting a certification stating that the remedial work has been completed and such certification must be submitted within one week of the date of the completion of the work. **(NM)**
- (8) After the time that the location(s) of the remedial work is identified by the Municipality and agreed to by the Joint Meeting, but prior to the initiation of the remedial work, the Municipality/Applicant will be required to submit proof to the Joint Meeting that a Performance Bond in the amount of 100% of the value of the remedial work and naming the Joint Meeting as a co-obligee has been issued to ensure that such work is completely performed. **(NM)**
- (9) For short-term discharges or batch discharges, the applicant will be required to identify and eliminate two gallons of infiltration/inflow into the Treatment Works for each gallon of groundwater to be delivered to the Treatment Works on a daily average over the life of the remediation project discharge (2 to 1 offset). **(NM)**

or

The material to be discharged from the site of the remediation project may be delivered in tanker vehicles to the Joint Meeting Wastewater Treatment Works in Elizabeth, New Jersey for direct discharge at a rate specified in Appendix C, to compensate Joint Meeting for the costs to sample, monitor and process the discharge. The use of this option will be at the reasonable discretion of the Joint Meeting in order to avoid the arrival of a number of trailers that will adversely impact the performance of treatment operations by the Joint Meeting. **(NM)**

- (10) If the 2 to 1 option is selected with respect to short-term, batch discharges, then the following procedures apply:
- (i) The remedial work to be performed by the Municipality/Applicant shall be completed within eighteen (18) months from the initiation of discharge. In the event that extraordinary, unforeseen circumstances occur that will affect the ability of the Municipality/Applicant to meet the time period previously agreed upon by the parties for completion of the infiltration/inflow remedial work, the Municipality/Applicant may seek an extension of the time period through the filing of a written request not less than sixty (60) days before a previously defined and agreed upon milestone as set forth in a compliance schedule contained in an applicable Industrial User Permit, fully describing the extraordinary, unforeseen circumstances and specifying the additional time necessary to complete the remedial work as a result thereof. Such requests for extensions will be considered by the Joint Meeting on a case-by-case basis, and an extension of time shall not be unreasonably withheld. **(NM)**
  - (ii) The location(s) of the remedial work to be performed by the Municipality/Applicant shall be identified by the Municipality and agreed to by the Joint Meeting, through the use of the Phase III Sewer System Evaluation Report, prepared by Hazen and Sawyer, dated August, 1983, and as supplemented, which was previously distributed by Joint Meeting to each member Municipality in the Joint Meeting service area, or such other report as may be available in the case of non-member Municipalities. **(NM)**
  - (iii) An applicant may not discharge ground water to the Joint Meeting Treatment Works until it has obtained an Industrial User Permit and an agreement is reached between the Joint Meeting and the Municipality and/or the applicant upon the terms of the remedial work to be performed to satisfy the 2 to 1 offset policy set forth in this regulation. **(NM)**
  - (iv) At intervals to be mutually agreed upon by the Municipality/Applicant and the Joint Meeting, the Municipality/Applicant shall be required to demonstrate, in written progress reports as required pursuant to a compliance schedule set forth in an applicable Industrial User Permit, to

the satisfaction of the Joint Meeting that the Municipality/Applicant is making definable progress in performing the remedial work so as to be able to complete the work within the time frame established in accordance with this Section. **(NM)**

- (v) The Engineer of the Municipality where the remedial work has been performed will be required to submit to the Joint Meeting a certification stating that the remedial work has been completed and such certification must be submitted within one week of the date of the completion of the work. **(NM)**
  - (vi) After the time that the location(s) of the remedial work is identified by the Municipality and agreed to by the Joint Meeting, but prior to the initiation of the remedial work, the Municipality/Applicant will be required to submit proof to the Joint Meeting that a Performance Bond in the amount of 100% of the value of the remedial work and naming the Joint Meeting as a co-obligee has been issued to ensure that such work is completely performed. **(NM)**
- (c) The groundwater to be discharged to the Joint Meeting Treatment Works pursuant to an Industrial User Permit will be, at all times, subject to analysis by the Joint Meeting, at the sole cost of the applicant, to ensure that the proposed discharge shall meet the quality limits as set forth in these Rules and Regulations. At any time during the period of the discharge of ground water to the Joint Meeting, a failure by the applicant to meet such quality limits shall be the basis for a revocation of the Industrial User Permit and a discontinuation of the discharge, and/or such enforcement measures as are authorized by law to be taken by the Joint Meeting. **(NM)**
  - (d) The proposed discharger or applicant shall be obligated to institute the pretreatment measures prior to the direct or indirect discharge of ground water to the Joint Meeting in the event the ground water fails to meet the parameters for acceptance of the discharge set forth in these Rules and Regulations. **(NM)**
  - (e) Credits for future discharges of ground water through the removal of infiltration/inflow pursuant to the above provisions may be accumulated or “banked”; however such credits may only be transferred in accordance with ownership of the site identified as the source of ground water at the time of the performance of the remediation work.

## 2.4 **STORM WATER:**

Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Municipality, but not into sanitary sewers, unless specifically allowed by the Joint Meeting, or as may be accepted into the system from existing combined sewers during wet-weather events. All residential connections which discharge storm water or other unpolluted drainage into a sanitary sewer, which existed prior to the effective date of these Rules and Regulations, must be disconnected upon sale of the residential property or any portion thereof. Unpolluted industrial cooling water or process water may not be discharged into sanitary sewers, unless specifically allowed by the Joint Meeting. **(NM)**

## ARTICLE III - INDUSTRIAL USER PERMITS

### 3.1 GENERAL:

It shall be unlawful for any person to discharge directly or indirectly into the Joint Meeting Treatment Works, sewage combined with industrial wastes or other wastes, the characteristics of which classify the person as a SIU, except under the issuance of an Industrial User Permit ("Permit") by the Joint Meeting and upon such terms and conditions as may be established by the Joint Meeting in the issuance of such an Industrial User Permit. **(NM)**

It shall be a violation of these Rules and Regulations for any person to violate any term or condition set forth in any Industrial User Permit. **(NM)**

### 3.2 EXISTING INDUSTRIAL USERS:

All Industrial User Permits in effect prior to the effective date of these Rules and Regulations shall remain in effect and in force for the remainder of the term thereof, subject to these Rules and Regulations, as amended and/or supplemented.

### 3.3 NEW INDUSTRIAL USERS:

New Industrial Users who desire to locate into the Joint Meeting sewer district or existing Industrial Users who desire to commence operations at a new facility within the Joint Meeting sewer district, shall apply for and receive an Industrial User Permit prior to the commencement of operations at the new facility. Although an Industrial User Permit Application may be submitted to the Joint Meeting at any time, the Joint Meeting shall issue an Industrial User Permit only after the User either procures title to the property or signs a lease agreement with the property owner. **(NM)**

### 3.4 APPLICATION FOR PERMITS:

- (a) Industrial Users required to obtain an Industrial User permit shall complete and file with the Joint Meeting, an application in the form prescribed by the Joint Meeting and subject to a reasonable fee or fees as set forth in Appendix C. **(NM)**
- (b) The Joint Meeting will evaluate the data furnished by the Industrial Users and may require additional information. After evaluation and acceptance of the data furnished, the Joint Meeting may issue an Industrial User Permit subject to terms and conditions provided herein.

### **3.5 RENEWAL OF PERMITS:**

If a Permittee wishes to continue discharging to the Joint Meeting Treatment Works, he shall apply for renewal of his Industrial User Permit no later than six months prior to the expiration date of the Industrial User permit then in force. The application shall be contained in a form prepared by the Joint Meeting, which will be mailed to the User no less than nine months before the expiration date. Renewal of the Industrial User permit shall be contingent upon the Permittee having complied with the terms and conditions of the expired Industrial User permit. **(NM)**

### **3.6 DURATION OF PERMITS AND ADMINISTRATIVE CONTINUANCE OF EXPIRED PERMITS:**

- (a) Permits shall be issued for a specified time period, not to exceed five years. An Industrial User Permit may be issued for a period less than five years if the Joint Meeting determines that a five year period is not needed. The Permittee shall submit such information, forms and fees as are required by the Joint Meeting for renewal no later than 180 days prior to the date of expiration.
- (b) If the Permittee is not notified by the Joint Meeting 30 days prior to the expiration of the Industrial User permit, the permit shall be extended until such time as the Joint Meeting reissues the permit.

### **3.7 MODIFICATIONS TO PERMITS:**

- (a) The terms and conditions of any Industrial User Permit may be subject to modifications and change by the Joint Meeting during the life of any Permit, as limitations or requirements are modified and changed. Except for minor modifications, the Permittee shall be informed of any proposed changes in its Industrial User Permit at least thirty (30) days prior to the effective date of change.
- (b) An Industrial User proposing to make a Significant Change in its discharge volume, or quality shall apply for an Industrial User Permit modification at least ninety (90) days before making changes. **(NM)**
- (c) The Permittee may request, by certified mail, a hearing to show cause why an Industrial User Permit should or should not be modified.
- (d) Modifications requested or submitted by an Industrial User will be subject to a fee in an amount to be determined by the Joint Meeting.

### **3.8 TRANSFER OF PERMITS:**

- (a) Industrial User Permits are issued to a specific User for a specific operation and are not transferable. An Industrial User Permit shall not be reassigned or transferred or sold to a new owner, new Industrial User, or new or changed operation. The Permittee shall notify the Joint Meeting within thirty (30) days of any change in ownership or corporate structure, where such change affects responsibility for compliance with these Rules and Regulations and/or the quality or quantity of discharge. **(NM)**
- (b) The new owner shall also submit a new Industrial User Permit Application to the Joint Meeting within (14) fourteen days of the transfer of ownership if there is no change in operation, or at least (6) six months prior to startup if there is a change in the operation. The User shall comply with the Joint Meeting Rules and Regulations, even if an Industrial User Permit has not been issued. **(NM)**

### **3.9 INDUSTRIAL USER PERMIT CONDITIONS:**

- (a) Industrial User permit conditions shall be expressly subject to all provisions of these Rules and Regulations and all other rules, regulations, User charges and fees which are in effect or which may be established by the Joint Meeting.
- (b) The following terms may be imposed by the Joint Meeting in the issuance of the Industrial User Permit:
  - (1) Effluent limits, including Best Management Practices, based upon General Pretreatment Standards, Categorical Pretreatment Standards, Local Limits, and State and Local law. **(NM)**
  - (2) The installation and maintenance by the Permittee at his own expense of: **(NM)**
    - (A) facilities or equipment for intermittent or continuous measurement of sewage, industrial waste or other wastes discharged;
    - (B) detention tanks or other facilities or equipment for reducing the maximum rates of discharge;
    - (C) pretreatment and flow control facilities;
    - (D) suitable control or sampling manhole or manholes; grease, oil and sand interceptors, separators or traps; and

- (E) otherwise maintain in good working order and operate as effectively as possible, any facilities or systems of control installed to achieve compliance with the terms and conditions of the Industrial User Permit.
- (3) The submission to and approval by the Joint Meeting of plans and specifications for any of the facilities or equipment required to be installed and maintained by the Permittee. **(NM)**
- (4) Maintenance of appropriate records of all measurements made by the Permittee of sewage, industrial wastes or other wastes as specified by the Joint Meeting and affording the Joint Meeting access thereto. **(NM)**
- (5) The submission by all Industrial Users to the Joint Meeting of monthly reports setting forth adequate data upon which the acceptability of the sewage, industrial waste, or other wastes may be determined subsequent to the commencement of operation of any pretreatment or flow control facility. This also includes Best Management Practices and specific waived pollutants. **(NM)**
- (6) Specifications for monitoring programs which may include sampling locations, frequency and method of sampling, number, type and standards for tests and reporting schedule. **(NM)**
- (7) Requirements for notification to the Joint Meeting of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the Joint Meeting Treatment Works. **(NM)**
- (8) Payments to cover the added cost of handling and treating the waters or wastes, which payments are not covered by existing sewer charges. **(NM)**
- (9) Requirements for all Industrial Users to notify the Joint Meeting immediately of: **(NM)**
  - (A) all discharges that could cause problems to the Treatment Works, including any slug loading;
  - (B) all violations discovered while conducting sampling requirements; and
  - (C) all discharges into the treatment works of substances classified under 40 C.F.R. 261 as hazardous waste. (See Appendix E).

- (10) Requirements for notification of accidental discharges. **(NM)**
- (11) Payment to cover the cost of Industrial User Permit administration. (See Appendix C.) **(NM)**
- (12) Compliance schedules. **(NM)**
- (13) Statements of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. **(NM)**
- (14) Requirements, for all Industrial Users, to submit to the Joint Meeting a report of any daily, Serious Violation and/or SNC within 30 days of the violation, together with a statement indicating that the User understands the civil administrative penalties required to be assessed for the serious and SNC violations, and may be assessed for the daily violations, and explaining the nature of the violation and the measures taken to remedy the cause or prevent a recurrence of the violation. **(NM)**
- (15) Use of flow meter and or pH recording charts in either twenty-four (24) hour or seven (7) day recording cycles, as specified by the Joint Meeting. All charts must be of the circular type. All flow meter and pH devices and accessories shall be subject to Joint Meeting approval. **(NM)**
- (16) A Variance for pH - The Joint Meeting may, in its discretion, provide a variance on a case-by-case basis for pH to those Industrial Users utilizing continuous pH monitoring devices. Such a variance may be granted for any period of time up to and including one percent of an Industrial User's total discharge time per calendar month ("one-percent variance"). (For example: Based on a 31-day calendar month an Industrial User who discharges 24 hours/day, 7 days/week would have a total discharge time of 744 hours/month and thus could receive a variance for up to 7 hours and 26 minutes/month - one percent of the Industrial User's total discharge time.) **(NM)**
  - (a) The following restrictions shall be applicable to every pH variance issued by the Joint Meeting:
    - (i) In accordance with 40 C.F.R. Part 403.5(b)(2), no discharge with a pH level below 5.0 S.U. shall be

discharged to the Joint Meeting Treatment Works. Any discharge below 5.0 S.U. shall be considered a violation of these Rules and Regulations and any affected Industrial User Permit, and shall be subject to an enforcement action.

- (ii) A pH variance for alkaline discharges may be issued when an alkaline pH limit is expressed in the affected Industrial User Permit. However, where a federal categorical pretreatment standard specifies an upper pH limit, a waiver from the requirement of that categorical standard will not be granted unless such waiver is authorized by the standard itself.
- (iii) All pH excursions exceeding a variance time-frame established pursuant to this Section shall be considered violations of these Rules and Regulations and the affected Industrial User Permit, and shall be subject to an enforcement action.
- (iv) All pH excursions exceeding one continuous hour in duration shall be considered violations of these Rules and Regulations and the affected Industrial User Permit, and shall be subject to an enforcement action.
- (v) Prior to the Joint Meeting granting a pH variance, the Industrial User must apply for a written statement of consent for such a variance from the local municipality in which the Industrial User is located, and present proof of such application to the Joint Meeting. A Municipal Statement of Consent application form may be obtained from the Joint Meeting by request. A reasonable application fee as set forth in Appendix C may be charged by the Joint Meeting.
- (vi) Any pH variance granted by the Joint Meeting to an Industrial User pursuant to this Section shall be effective for the term of the Industrial Users' existing Industrial User Permit. The Joint Meeting reserves the right to require an Industrial User, who has previously been granted a pH variance pursuant to this Section, to submit a new application for a pH variance in

accordance with this Section upon renewal, reissuance or modification of its Industrial User Permit.

- (vii) The Joint Meeting reserves the right to modify or revoke a pH variance granted pursuant to this Section should it determine it necessary to do so based upon, but not limited to, any changes in the factors considered by the Joint Meeting when it granted the Industrial User the pH variance.
- (17) A Variance for Oil & Grease - The Joint Meeting may, in its discretion, provide a variance on a case-by-case basis for Oil & Grease, excluding petroleum hydrocarbons.
- a. In determining whether or not to grant a variance the Joint Meeting may evaluate the potential for the requested variance to:
    - 1. cause or contribute to grease blockages in the sewer and/or grease accumulations in pump stations at and downstream of the point at which the discharge for which a variance is sought enters into the local sewer system;
    - 2. cause or contribute to interference with or negatively impact any function, process or equipment of the Joint Meeting's Treatment Works; or
    - 3. cause or contribute to pass-through of the Joint Meeting's Treatment Works such that compliance with any terms of its current, pending, or future NJPDES Industrial User Permit may be compromised.
  - b. In carrying out the evaluation described in subpart (a) above the Joint Meeting may consider the following factors:
    - 1. The specific characteristics of the discharge(s) for which a variance is sought. These characteristics may include:
      - i. flow volume and rate;
      - ii. temperature;
      - iii. pH; and

- iv. the concentration of various pollutants, which may include, but are not limited to, Oil & Grease, Total Petroleum Hydrocarbons (TPH), Total Suspended Solids (TSS), surfactants and emulsifying agents, and Biochemical Oxygen Demand (BOD<sub>5</sub>).
2. The specific characteristics of the wastewater in the sewer at the intended point of discharge, prior to the inclusion of the discharge(s) for which a variance is sought. Such characteristics may include:
  - i. flow volume and rate;
  - ii. temperature;
  - iii. pH; and
  - iv. the concentration of various pollutants, which include, but are not limited to, Oil & Grease, TPH, TSS, surfactants and emulsifying agents, and BOD<sub>5</sub>.
3. The physical characteristics of the sewer at, downstream and upstream of the Industrial User's existing or intended point of discharge for which a variance is sought. Characteristics which the Joint Meeting will consider may include, but will not be limited to:
  - i. pipe size;
  - ii. slope;
  - iii. depth from surface and frost line;
  - iv. changes in pipe alignment, size, or shape; and
  - v. condition and configuration of structures such as junctions, siphons, and pump station wet wells.

The Joint Meeting's assessment of these factors may include a physical inspection of the sewer and any structures at, downstream and upstream of the Industrial User's existing or intended point of discharge for which a variance is sought.

4. Any history of grease blockages and/or accumulation in the sewers or pump stations at, downstream and upstream of the Industrial User's existing or intended

point of discharge for which a variance is sought. In assessing this factor the Joint Meeting may make inquiries and obtain certain records from the municipality within which the Industrial User's facility is located.

- c. The following restrictions and conditions shall be applicable to every Oil & Grease variance issued by the Joint Meeting:
  1. **GENERALLY - No** discharge with an Oil & Grease level above the local limit, or a variance thereof granted by the Joint Meeting pursuant to this provision, shall be discharged to the Joint Meeting Treatment Works. Any discharge above the local limit for Oil & Grease or any variance thereto granted by the Joint Meeting pursuant to this provision shall be considered a violation of these Rules and Regulations and/or any affected Industrial User Permit, and shall be subject to an enforcement action. **(NM)**
  2. **EXISTING INDUSTRIAL USERS** - Prior to the Joint Meeting granting an Oil & Grease variance, an existing Industrial User must:
    - i. file a completed Oil & Grease Variance Form, with all data and information required by the form provided or attached thereto signed by a corporate office or an authorized representative; **(NM)**
    - ii. provide a summary and tabulation of all monitoring data collected by the Industrial User over the preceding thirty-six months; **(NM)**
    - iii. provide a report from an engineer licensed in the State of New Jersey, which provides the results of an engineering evaluation of the Industrial User's ability to meet the established local limit for Oil & Grease. This report shall identify and propose an alternative variance limit, up to 875 mg/l as an instantaneous grab sample. This report shall provide measures, if any, which are necessary for the Industrial User to comply with

the local limit for Oil & Grease and with the proposed alternative limit, and shall provide estimates of the capital and annual operating costs expected to be associated with measures to achieve each of the limits. This report shall also provide the result of an evaluation of the capability and likelihood of the discharge for which a variance is sought to cause or contribute to grease blockages in sewers, grease accumulations in pump stations, interference with, a negative impact upon any function, process or equipment at the Joint Meetings Treatment Works, or pass-through of the Joint Meeting's Treatment Works such that compliance with any terms or conditions of its current or pending NJPDES Industrial User Permit may be compromised; **(NM)**

- iv. provide engineering map(s) or drawing(s) showing the Industrial Users facilities, the proposed discharge line, all connections into the proposed discharge line, all access points (i.e., manholes and cleanouts) into the discharge line, the existing monitoring point, and the point of connection into the local sewer system; and **(NM)**
- v. TV the sewer line a minimum of 100 feet upstream and a minimum of 250 feet downstream of the connection point to the local sewer system, and provide a report from the engineer describing the condition of the sewer line, any hydraulic conditions that may be affected by oil & grease, and if the oil & grease may have an impact on either the structural or hydraulic condition of the sewer line. **(NM)**
- vi. provide analytical results for oil & grease and total petroleum hydrocarbons, for grab samples taken as follows: two samples per day (morning and afternoon) for 14 consecutive days and one sample per day during any non-process time frame (i.e., clean-up, preparation, etc.).

Sampling is not required for days where there is no discharge. A certification statement, as well as flow charts and/or totalizer readings, must be submitted in lieu of data for those days for which “no discharge” has been claimed. Sampling and analysis are to be performed in accordance with the Joint Meeting's protocol for Oil & Grease samples. **(NM)**

3. **NEW INDUSTRIAL USERS** - Prior to the Joint Meeting granting an Oil & Grease variance, a new Industrial User must:

- i. file a completed Oil & Grease Variance Form, with all data and information required by the form provided or attached thereto signed by a corporate officer or an authorized representative; **(NM)**
- ii. provide a summary and tabulations of all monitoring data collected by the Industrial User over the preceding six months; **(NM)**
- iii. provide a report from an engineer licensed in the State of New Jersey, which provides the results of an engineering evaluation of the Industrial User's ability to meet the established local limit for Oil & Grease. This report shall identify and propose an alternative variance limit, up to 875 mg/l as an instantaneous grab sample. This report shall provide measures, if any, which are necessary for the Industrial User to comply with the local limit for Oil & Grease and with the proposed alternative limit, and shall provide estimates of the capital and annual operating costs expected to be associated with measures to achieve each of the limits. This report shall also provide the result of an evaluation of the capability and likelihood of the discharge for which a variance is sought to cause or contribute to grease blockages in sewers, grease accumulations in pump stations, interference with, a negative impact upon any function,

process or equipment at the Joint Meetings Treatment Works, or pass-through of the Joint Meeting's Treatment Works such that compliance with any terms or conditions of its current or pending NJPDES Industrial User Permit may be compromised; **(NM)**

- iv. provide engineering map(s) or drawing(s) showing the Industrial Users facilities, the proposed discharge line, all connections into the proposed discharge line, all access points (i.e., manholes and cleanouts) into the discharge line, the existing monitoring point, and the point of connection into the local sewer system; and **(NM)**
- v. TV the sewer line a minimum of 100 feet upstream and a minimum of 250 feet downstream of the connection point to the local sewer system, and provide a report from the engineer describing the condition of the sewer line, any hydraulic conditions that may be affected by oil & grease, and if the oil & grease may have an impact on either the structural or hydraulic condition of the sewer line. **(NM)**
- vi. provide analytical results for oil & grease, and total petroleum hydrocarbons, for grab samples taken as follows: two samples per day (morning and afternoon) for 14 consecutive days and one sample during any non-process time frame (i.e., clean-up, preparation, etc.). Sampling is not required for days where there is no discharge. A certification statement, as well as flow charts and/or totalizer readings, must be submitted in lieu of data for those days for which "no discharge" has been claimed. Sampling and analysis are to be performed in accordance with the Joint Meeting's protocol for Oil & Grease samples. **(NM)**

- 4. **MUNICIPAL STATEMENT OF CONSENT** - All Industrial Users seeking an Oil & Grease variance must

apply for a written statement of consent for such a variance from the local municipality in which the Industrial User's facility is located, provided the municipality owns the lateral and/or any other conduit which connects the Industrial User's facility to the Joint Meeting's Trunk Sewer. Proof of such application must be provided to the Joint Meeting. A Municipal Statement of Consent application form may be obtained from the Joint Meeting by request. **(NM)**

5. **SAMPLING REQUIREMENTS** - Each Industrial User granted an Oil & Grease variance pursuant to this subsection must take grab samples for Oil & Grease at least twice per month and will be subject to random sampling by the Joint Meeting. **(NM)**
6. **TELEVISING** - Each Industrial User who is granted a variance for Oil & Grease is required to televise a minimum of 100 feet upstream and a minimum of 250 feet downstream one year and again three years after receiving a variance and upon submitting any future variance application. However, this provision, subject to the sole discretion of the Joint Meeting, may either be modified or waived. **(NM)**
7. **SURCHARGE** - Each Industrial User who is granted a variance for Oil & Grease will be required to reimburse the Joint Meeting for costs associated with the variance, including but not limited to, increased random sampling. These costs will be assessed by the Joint Meeting on an annual basis. **(NM)**
8. **TERMINATION AND MODIFICATION** -
  - i. Should the Joint Meeting determine that a variance for Oil & Grease is causing or contributing to grease blockages in the sewers, grease accumulations in pump stations, interfering with or negatively impacting any function, process or equipment at the Joint Meeting's Treatment Works, or may result in a

pass-through of the Joint Meeting's Treatment Works such that compliance with any of the terms and conditions of the Joint Meeting's current or pending NJPDES Industrial User Permit may be compromised, the Joint Meeting may revoke the granted variance, apply the established local limit for Oil & Grease or apply a lower variance limit for Oil & Grease than that originally granted, and require the Industrial User to take such measures, within a reasonable yet expeditious time frame, as necessary to comply with that limitation.

- ii. In no case shall the term of an variance exceed the term of an Industrial User's discharge Industrial User Permit. Any Industrial User seeking a variance pursuant to this section must submit a new variance application with each future discharge Industrial User Permit application. However, an Industrial User who is granted a variance within one year of the expiration of the Industrial User's discharge Industrial User Permit shall be permitted to re-submit its original variance application without any associated fee to the Joint Meeting for consideration of inclusion of an Oil & Grease variance in the Industrial User's new discharge Industrial User Permit, however, the Joint Meeting in its discretion may request that the Industrial User provide additional information.

9. **APPLICATION FEE** - A reasonable application fee may be charged by the Joint Meeting for all Oil & Grease variance requests. See, Appendix C. **(NM)**

- d. Each year, the Joint Meeting may reevaluate the appropriateness of each Oil & Grease variance granted, based upon factors including the Industrial User's compliance with all applicable Industrial User permit limits, terms and conditions, and an evaluation of the impact of the discharge for which a variance was granted upon the local sewer system and the Joint Meeting's Trunk Sewer and Treatment Works. If the Joint Meeting determines that the discharge for which a variance

has been granted is causing or contributing to grease blockages in the sewers, grease accumulations in pump stations, interfering with or negatively impacting any function, process or equipment at the Joint Meeting's Treatment Works, or may result in a pass-through of the Joint Meeting's Treatment Works such that compliance with any of the terms and conditions of the Joint Meeting's current or pending NJPDES Industrial User permit may be compromised, the Joint Meeting may revoke the granted variance, apply the established local limit for Oil & Grease or apply a lower variance limit for Oil & Grease than that originally granted, and require the Industrial User to take such measures, within a reasonable yet expeditious time frame, as necessary to comply with that limitation.

- e. Should the Joint Meeting determine it necessary to revoke a variance for Oil & Grease the Joint Meeting will provide the Industrial User with written notice within 30 days prior to revocation.

- (18) Any and all other conditions or requirements that the Joint Meeting determines may be necessary to protect the Joint Meeting Treatment Works and to comply with these Rules and Regulations and all Applicable Law.

### **3.10 INDUSTRIAL USER PERMIT SUSPENSIONS:**

- (a) The Joint Meeting may, without formal notice suspend any Industrial User Permit for a period not to exceed (45) forty-five days when such suspension is necessary in order to stop a discharge which reasonably appears to present an imminent or substantial hazard to the public health, safety or welfare of persons. **(NM)**
- (b) The Joint Meeting may, after serving notice on the Permittee, including the opportunity to respond, suspend any Industrial User Permit for a period not to exceed (45) forty-five days when such suspension is necessary in order to stop a discharge which presents or may present an endangerment to the environment or which threatens to interfere with operation of the Joint Meeting Treatment Works. **(NM)**
- (c) Any User notified of a suspension of his Industrial User Permit shall immediately cease and desist the discharge of all wastes regulated by that

Permit. In the event of a failure of the Industrial User to comply voluntarily with the suspension order, the Joint Meeting shall take such steps as are reasonably necessary to insure compliance, including, but not limited to, sealing or closing lateral connections pursuant to N.J.S.A. 58:11-56. **(NM)**

- (d) Any suspended User may file a request for a hearing with the Joint Meeting. Such a request shall stay the suspension. In the event of such a request, the Joint Meeting shall within (14) fourteen days of the receipt by the Joint Meeting of such a request, hold a hearing on the suspension and shall either confirm or revoke the action of the Joint Meeting. Reasonable notice of the hearing shall be given to the suspended User as provided for in Article I, Section 1.2.1. At this hearing the suspended User may appear personally or through counsel, cross examine witnesses and present evidence on his own behalf.
- (e) In the event that the Joint Meeting fails to meet within the time set forth above or fail to make a determination within (72) seventy-two hours after the close of the hearing, the order of suspension shall be stayed until a determination is made either confirming or revoking the action of the Joint Meeting.
- (f) The Joint Meeting shall reinstate the Industrial User Permit upon proof of satisfactory compliance with all discharge requirements. The Joint Meeting counsel may, upon recommendation of the Joint Meeting, commence and prosecute such legal action as may be appropriate to enforce the provisions of this Section.

### **3.11 INDUSTRIAL USER PERMIT REVOCATION:**

- (a) The Joint Meeting may revoke any Industrial User Permit upon a finding that the User has demonstrated a refusal, inability or failure to take reasonable steps to comply with any of the provisions of these Rules and Regulations. No revocation shall be ordered until a hearing has been held by the Joint Meeting, where the User shall have the right to be represented by counsel, cross examine witnesses and present evidence on his own behalf. Notice of the hearing shall be given to the User and to the Municipality wherein the User is located, in accordance with Article I Section 1.4.1 at least (15) days prior to the date of the hearing.
- (b) Any User whose Industrial User Permit has been revoked shall immediately cease and desist all discharge of wastes regulated by that Permit. The Joint Meeting may disconnect or permanently block from the public sewer, the

connection of any User whose permit has been revoked if such action is necessary to insure compliance with the order or revocation. **(NM)**

- (c) Before the discharge of wastes may be commenced by the User, he must apply for and receive a new Industrial User Permit, pay all charges, penalties and such other sums as may be owed, and comply with the conditions contained in any Administrative Consent Order or Judgment. Costs incurred by the Joint Meeting and any Municipality in revoking the Industrial User Permit and disconnecting the connection shall be paid by the User before a new Industrial User Permit is issued. **(NM)**

### **3.12 INDUSTRIAL USER PERMIT APPEALS:**

- (a) Upon issuance by the Joint Meeting of a final decision concerning an Industrial User Permit application an applicant or otherwise aggrieved party to the action may, pursuant to N.J.A.C. 7:14A-17 et seq. and these Rules and Regulations, file for an adjudicatory appeal. A permittee, applicant, or any person determined by the Joint Meeting to qualify as a party to the action pursuant to N.J.A.C. 7:14A-17.2 and this Section may submit to the Joint Meeting a written request, by certified mail, or by other means which provides verification of the date of delivery to the Joint Meeting for an adjudicatory hearing to contest the Joint Meeting's final decision to:
  - (1) Issue a new Industrial User permit, Industrial User permit modification, Industrial User permit revocation and reissuance, Industrial User permit renewal, Industrial User permit suspension, or Industrial User permit revocation;
  - (2) deny an application for a new Industrial User permit or permit renewal;  
or
  - (3) deny a variance.
- (b) A Permittee, applicant, or any person determined by the Joint Meeting to qualify as a party to the action pursuant to N.J.A.C. 7:14A-17.2 and this Section, who wishes to request an adjudicatory hearing, must submit a request for such a hearing in accordance with N.J.A.C. 7:14A-17.2(e) and this Section, within 30 days following receipt of the Joint Meeting's notification of a final Industrial User permit decision. The individual requesting the hearing must also provide a copy of its request for an adjudicatory hearing to any other person named in the Industrial User permit. The Joint Meeting, in its discretion, may extend the time allowed for submission of an adjudicatory request under this Section for good cause.

- (c) All requests for adjudicatory hearings shall be submitted to the Joint Meeting at the address listed below:

Joint Meeting of Essex and Union Counties  
Attn: Executive Director  
500 South First Street  
Elizabeth, NJ 07202

- (d) To be considered a party to the action for the purposes of requesting an adjudicatory hearing under this Section, a person shall submit, within 30 days following receipt of the Joint Meeting's notification of the final Industrial User permit decision, a request containing the requirements set forth at N.J.A.C. 7:14A-17.2(f). In addition, such a person, shall forward a copy of the request to the Permittee.
- (e) The Joint Meeting shall determine or shall refer the determination to an administrative law judge (ALJ) whether a person, other than an applicant or a Permittee, is a party to the action. The Joint Meeting must, within 30 days of receipt of the request, either determine whether a person is a party to the action or refer the request to an ALJ. If referred to an a ALJ, the ALJ has an additional 30 days in which to determine whether a person is a party to the action.
- (f) A person will be considered a party to the action only if:
- (1) The person's objection(s) to the Joint Meetings decision were raised by that person in the public hearing and/or in a written submission within the public comment period as set forth in Section 1.4.3;
  - (2) The person demonstrates the existence of a significant issue of law or fact;
  - (3) The persons shows that the significant issue of law or fact is likely to affect the Industrial User permit decision;
  - (4) The person can show an interest, including an environmental, aesthetic, or recreational interest, which is or may be affected by the Industrial User permit decision and that the interest can be fairly traced to the challenged action and is likely to be redressed by a decision favorable to that person. An organization may contest a permit decision on behalf of one or more of its members if the organization's member or members could otherwise be a party to the action in their own right, and the interests the organization seeks to protect are germane to the organization's purpose; and
  - (5) the person submits the information required under N.J.A.C. 7:14A-17.2(f).

- (g) A Permittee or an applicant shall be allowed to participate in any proceeding where a person, other than the Permittee, is seeking to become a party to the action. All requests by persons seeking to be considered party to the action for a particular Industrial User permit shall be combined in a single administrative hearing. When a person's request to be considered a party to the action is granted and a Permittee's request for an adjudicatory hearing is granted, the actions may be combined into a single administrative hearing by the Joint Meeting after consideration of the nature and scope of the issues.

### **3.13 GRANTING/DENYING APPEAL REQUESTS:**

- (a) The Joint Meeting, in its own discretion, shall decide whether to grant or deny, in whole or part, a request for an adjudicatory hearing. A request shall be denied if:
  - (1) the request does not conform with the information requirements for a Permittee or a person as set forth respectively, in N.J.A.C. 7:14A-17.2(e) and (f);
  - (2) the request does not include genuine issues of material fact or of law which are relevant to the Joint Meeting's decision;
  - (3) the request was not submitted within the time frames specified above;
  - (4) the contested legal and/or factual issues were not raised during the public comment period; or
  - (5) the request challenges duly promulgated regulations and not the Joint Meeting application of the regulations.
- (b) If a request for an adjudicatory hearing is granted, the contested Industrial User Permit conditions shall not be affected unless a stay has been granted pursuant to Section 3.14 below. A request for a hearing and a request for a stay may be combined into a single request document. If the Joint Meeting denies a hearing request in whole or in part it shall provide the party who made the request with a brief statement of the reasons for denial. Such a denial shall be considered final agency action.

### **3.14 STAYS OF INDUSTRIAL USER PERMIT CONDITIONS:**

- (a) The granting of a hearing request by the Joint Meeting shall not automatically stay any contested Industrial User Permit condition(s). A Permittee shall

submit a written request, as outlined in N.J.A.C. 7:14A-17.6(c), to the Joint Meeting, by certified mail, or by other means which provides verification of the date of delivery seeking a stay of the following:

- (1) any Industrial User Permit condition where the Permittee has requested an adjudicatory hearing, in accordance Section 3.12 above, to contest a specific Industrial User Permit condition; or
  - (2) any Industrial User Permit condition where the Permittee has requested a major modification or revocation and reissuance, in accordance with Sections 3.7 and 3.11 to alter the specific Industrial User Permit condition.
- (b) If the Joint Meeting determines that the written request submitted by the Permittee is deficient, it shall inform the Permittee and establish a time limit for resubmission. If the Permittee fails to resubmit the request within this time limit the Joint Meeting shall either:
- (1) deny the request; or
  - (2) make a final decision based upon whatever information has been submitted.
- (c) Upon consideration of the factors set forth at N.J.A.C. 7:14A-17.6(e) the Joint Meeting may grant or deny a stay in whole or in part. A stay shall not be requested or granted for the initial Industrial User Permit issued to a new source, new discharger, or recommencing discharger. Where such an initial Industrial User Permit is being adjudicated the Permittee must discharge in accordance with the Industrial User Permit or cease discharging until completion of the adjudication.

### **3.15 FACILITY INSPECTIONS:**

- (a) As a pre-condition for the right to discharge waste in any form into the sewers and wastewater facilities of the Municipality or the Joint Meeting, all Industrial Users shall provide Immediate Access to their facilities, property, premises, and records at any time during which there is a discharge to the wastewater facilities or at such other times as may be necessary during emergencies as determined by the Joint Meeting. Access shall also be provided for the purpose of: **(NM)**
- (1) checking the quality of the discharge;
  - (2) taking samples;
  - (3) making tests of the discharge;
  - (4) reviewing and/or copying any records maintained by the User, and/or

- (5) for the purpose of permitting the enforcement of these Rules and Regulations,

and shall be made available to the Municipality, Joint Meeting, NJDEP and USEPA.

- (b) Whenever it shall be necessary for the purpose of these Rules and Regulations, and/or any federal or state statute or regulation which may be applicable to the Joint Meeting, the Joint Meeting may require any person within the jurisdiction of the Joint Meeting to:
  - (1) File on such forms as are prescribed by Joint Meeting, a statement or report concerning any discharge to the Joint Meeting Treatment Works; or
  - (2) Respond to any reasonable request for information and/or data concerning any discharge to the Joint Meeting Treatment Works.
- (c) No person shall interfere with, delay, resist or refuse entrance to an authorized Joint Meeting personnel attempting to inspect any facility involved directly or indirectly with a discharge of wastewater to the Joint Meeting.  
**(NM)**

## ARTICLE IV - PRETREATMENT

### 4.1 DILUTION:

Except as expressly authorized to do so by an applicable Pretreatment Standard or Requirement, an Industrial User shall never increase the use of process water, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with Pretreatment Standards or Requirements. The Joint Meeting may impose mass limitations on Industrial Users which are using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases where the imposition of mass limitations is appropriate. **(NM)**

### 4.2 PROHIBITED INDUSTRIAL WASTES:

The following wastes are prohibited from being discharged to the Joint Meeting Treatment Works:

- (a) **Storm Water:** Storm water and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or to a natural outlet approved by the Municipality, but not into sanitary sewers, unless specifically allowed by the Joint Meeting, or as may be accepted into the system from existing combined sewers. All residential connections which discharge storm water or other unpolluted drainage into a sanitary sewer, which existed prior to the effective date of these Rules and Regulations, must be disconnected upon sale of the residential property or any portion thereof. Unpolluted industrial cooling water or process water may not be discharged into sanitary sewers, unless specifically allowed by the Joint Meeting. **(NM)**
  
- (b) **Explosive and/or Flammable Mixtures:** Pollutants which may create a fire or explosion in the Treatment Works including but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees Centigrade using the test methods specified in 40 C.F.R. 261.21. At no time shall two Successive Readings on an explosive hazard meter, at the point of discharge into the treatment works, be more than five percent (5%) nor any single reading over ten percent (10%) of the Lower Explosive Limit (L.E.L) of the meter. Prohibited materials include, but are not limited to: gasoline, kerosene, fuel oil, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides. **(NM)**

- (c) **Excessive Discharge:** Any pollutant, including oxygen demanding pollutants (BOD etc.) released in a Discharge at a flow rate and/or pollutant concentration which will cause interference with the Treatment Works. **(NM)**
- (d) **Oils and Grease:** **(NM)**
- (1) Petroleum oil, nonbiodegradable cutting oil, grease from industrial facilities, or products of mineral oil origin in amounts that will cause Interference or Pass Through;
  - (2) Wastewater from industrial facilities containing floatable fats, wax, grease, or oils; and
  - (3) Total fat, wax, grease, or oil concentration of more than the local limit for oil and grease, whether emulsified or not, or containing substances which may solidify or become viscous at temperatures between 32 degrees and 150 degrees Fahrenheit (0-65 degrees Celsius) at the point of discharge into the system.
- (e) **Temperature:** Heat in amounts that will inhibit biological activity in the treatment works resulting in Interference, but in no case heat in such quantities that the temperature at the discharge point exceeds 65°C (150°F) or that the temperature at the Treatment Works exceeds 40°C (104°F). **(NM)**
- (f) **Trucked/hailed wastes:** It shall be unlawful for any person to discharge holding tank waste without first obtaining written approval of the Joint Meeting. All liquid waste haulers shall discharge only at a point designated by the Joint Meeting, and shall comply with all provisions of these Rules and Regulations, or of an Industrial User Permit. **(NM)**
- (g) **Noxious Materials:** Incompatible pollutants which, either singly or by interaction with other wastes, are noxious or malodorous, are capable of creating a public nuisance, or are or may be sufficient to prevent entry into the Treatment Works for its maintenance and repair. **(NM)**
- (h) **Improperly Shredded Garbage:** Garbage that has not been ground or comminuted to such a degree that all particles will be carried freely in suspension under flow conditions normally prevailing in the Treatment Works, with no particle greater than on-half (½) inch in any dimension. **(NM)**

- (i) **Radioactive Wastes:** Radioactive wastes or isotopes of such half-life concentration that they do not comply with regulations or order issued by the appropriate authority having control over their use and which will or may cause damage or hazards to the Treatment Works or personnel operating the Works. **(NM)**
- (j) **Solid or Viscous Wastes:** Solid or viscous wastes which will or may cause obstruction to flow in a sewer, or otherwise interfere with the proper operation of the Treatment Works. Prohibited materials include, but are not limited to: grease, improperly shredded garbage, animal guts or tissues, Regulated Medical Waste, paunch manure, bones, hair, hide or fleshings, entrails, whole blood, feathers, ashes, cinder, sand, spent lime, stone or marble dust, metal glass, straw shavings, grass clippings, wood, plastic, tar, spent grains, spent hops, waste paper, asphalt residues, residues from refining or processing of fuel or lubricating oil, and similar substances. (Other materials may be specified at the discretion of the Director). **(NM)**
- (k) **Toxic Discharge:** Waters or wastes containing objectionable or toxic substances in sufficient quantity, either singly or by interaction with other pollutants, to result in Pass-Through, to cause Interference with the treatment works plant, to constitute a hazard to humans or animals, to create a toxic effect in the receiving waters of the POTW, or to exceed standards promulgated by the EPA pursuant to Section 307(a) of the Act, or the NJDEP pursuant to Section 4 of the State Act, (or maximum permissible concentrations specified in Table 1 in Appendix E). **(NM)**
- (l) **Discolored Material:** Wastes with color which would cause the treatment works to exceed water quality color criteria. **(NM)**
- (m) **Corrosive Wastes:** Any wastes which will cause corrosion or deterioration of the treatment system. All wastes discharged to the public sewer system must have a pH value in the range of (6) to (9) standard units, unless alternative limits have been prescribed through a pH variance established pursuant to Article III, Section 3.9(b)(16) of these Rules and Regulations. Prohibited materials include, but are not limited to acids, alkalies, sulfides, concentrated chloride and fluoride compounds, and substances which will react with water to form acidic or alkaline products. **(NM)**
- (n) **Substances Interfering With Sludge Management:** Any substance which may cause the Joint Meeting's sludge to be unsuitable for reclamation and reuse or to interfere with the reclamation process where the Joint Meeting is

processing a reuse and reclamation program. In no case shall a substance discharged to the Joint Meeting cause the Joint Meeting to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act and 40 C.F.R. 503; 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 the New Jersey Guidelines for the Utilization and Disposal of Municipal and Industrial Sludges and Septage. **(NM)**

- (o) **Interference and Pass-Through:** No person shall introduce or cause to be introduced in the Treatment Works any pollutant or wastewater which causes a violation of any regulatory permits (i.e., Federal, State, Local) issued to the Joint Meeting; or cause interference, pass through, or upset or poses a threat to human health and safety; or causes damage to the Treatment Works. **(NM)**

#### **4.3 LIMITATIONS ON WASTEWATER DISCHARGES:**

- (a) Table of Local Limitations set forth in Appendix D, lists the maximum concentrations of pollutants allowable in wastewater discharges to the wastewater Treatment Works. Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered a violation of these Rules and Regulations. **(NM)**

The USEPA and the NJDEP have promulgated or will be promulgating pretreatment standards and toxic effluent guidelines for twenty-one (21) Industrial Point Source Categories. As standards are promulgated for these substances, the limitations or prohibitions will apply. As these limitations are promulgated the more stringent limitation will apply. **(NM)**

#### **4.4 SAMPLING FACILITIES:**

- (a) All Industrial Users shall provide a structure for the sampling of wastewater before the point of discharge to a sanitary sewer. The sampling structure shall be constructed and maintained by the Industrial User at its own expense, and shall be kept safe and accessible at all times to the Municipality and the Joint Meeting. Sampling structure design shall be subject to the Joint Meeting's approval. When required by the Joint Meeting, NJDEP and/or USEPA, an Industrial User shall install and maintain additional facilities at their own expense including, for example, meters, sealed automatic monitoring systems, or other appurtenances to facilitate observation, sampling, and measurement of wastes. Construction,

installation, and maintenance of such additional facilities shall be the responsibility of the Industrial User which shall keep these facilities safe and accessible to the Municipality and the Joint Meeting at all times. Design and construction of such additional facilities shall be subject to the requirements of the governmental authority requiring them. **(NM)**

#### **4.5 PRETREATMENT STANDARDS:**

- (a) No person shall discharge, deposit or cause or allow to be discharged or deposited into the Treatment Works, any waste which violates any General Pretreatment Standard, Federal Categorical Standard or other Pretreatment Standard. **(NM)**
- (b) The General Pretreatment Standards set forth at 40 C.F.R. 403.1 et seq. are hereby incorporated by reference, including all supplements and amendments thereto. Further the Federal Categorical Standards set forth at 40 C.F.R. Chapter I, Subchapter N are hereby incorporated by reference, including all supplements and amendments thereto. **(NM)**
- (c) When pretreatment standards are adopted by NJDEP or USEPA for any given class of industries, then any industry within that class shall conform to the NJDEP and USEPA timetable for adherence to pretreatment requirements as well as all other applicable requirements promulgated by the NJDEP or USEPA in accordance with the provision of law. Additionally, such industries shall comply with such more stringent standards necessitated by local conditions as determined from time to time by the Municipality or Joint Meeting. **(NM)**
- (d) The Joint Meeting may impose case by case limitations on individual Permittees when necessary to prevent the Upset or Interference with the Joint Meeting treatment processes or Pass Through of pollutants which may impair its ability to meet effluent, sludge or air pollution limits, or to protect treatment plant worker health and safety. **(NM)**

#### **4.6 AFFIRMATIVE DEFENSES:**

- (a) **State:**

A User shall have an affirmative defense in any action brought against it alleging Pass Through or Interference; or for violation of any Pretreatment Standard adopted by the Joint Meeting; or for violation of any specific prohibitions listed in Section 4.2 and 4.3, upset, anticipated or unanticipated

bypass, a testing or laboratory error, or a permitted groundwater remedial action only where the User can demonstrate that:

- (1) The violation occurred as a result of an upset, anticipated or unanticipated bypass, a testing or laboratory error, or a permitted groundwater remedial action.
- (2) The violator complied with the reporting requirements set forth in Section 4.7.3 and N.J.A.C. 7:14A-6.10.
- (4) In the case of a permitted groundwater remedial action, the violation is a first violation of that Industrial User Permit limitation and the violation could not reasonably have been anticipated by the permittee. However, no such affirmative defense shall be granted by the Joint Meeting if:
  - (A) The violation was the result of a negligent act or omission of the permittee;
  - (B) The equipment used the remedial action had not been properly maintained or was not being properly operated at the time of the violation and the failure to properly maintain or operate the equipment was the proximate cause of the exceedance;
  - (C) The permittee fails to provide timely notice and information as required under these Rules and Regulations to the Joint Meeting;
  - (D) The permittee failed to take immediate measures, upon first becoming aware of the violation, to terminate the violation and to abate any adverse consequences therefrom; or
  - (E) The permittee fails to obtain an Industrial User Permit from the Joint Meeting;
- (5) In the case of a laboratory error, a violator shall also have the burden of demonstrating that the violation was the result of an unanticipated test interferences, sample contamination, analytical defects, or procedural deficiencies in sampling or other similar circumstances beyond the control of the violator;
- (6) In the case of an upset or unanticipated bypass, the violator must show compliance with any remedial measures required by the Joint Meeting;
- (7) In the case of an anticipated bypass, the violator must show that it first obtained prior written approval from the Joint Meeting and complied

with all conditions of the approval, including any remedial measures required by the Joint Meeting.

(b) **Federal:**

A User shall have an affirmative defense in any action brought against it alleging Pass Through or Interference; or for violation of any Pretreatment Standard adopted by the Joint Meeting; or for violation of any specific prohibitions listed in Section 4.2 and 4.3, where the violator can demonstrate:

- (1) It did not know or have reason to know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause Pass through or Interference; and
- (2) A local limit designed to prevent Pass Through and/or Interference, as the case may be, was developed in accordance with Joint Meeting's Pretreatment program for each pollutant in the User's Discharge and the User was in compliance with each such local limit directly prior to and during the Pass Through or Interference, the User's Discharge that caused the Pass Through or Interference, and the User was in compliance with each such local limit directly prior to and during the Pass Through or Interference; or
- (3) local limit designed to prevent Pass Through and/or Interference, as the case may be, has been developed in accordance with Joint Meeting's Pretreatment program for the pollutant(s) that caused the Pass Through or Interference, and the User's Discharge directly prior to and during the Pass Through or Interference did not change substantially in nature or constituents from the User's prior discharge activity when the Joint Meeting was in compliance with its NJPDES Industrial User Permit requirements, and in the case of Interference, applicable requirements for sewage sludge use or disposal.

(c) A person asserting a Bypass as an affirmative defense pursuant to this section, except in the case of an approved maintenance operation, shall notify the Joint Meeting of a Bypass occurrence, and, within five (5) days thereof, shall submit written documentation, including properly signed, contemporaneous operating logs or other relevant evidence, on the circumstances of the violation, and demonstrating that:

- (1) The unanticipated Bypass occurred, including the circumstances leading to the Bypass;
- (2) The permitted facility was at the time being properly operated;

- (3) The person submitted notice of the Bypass as required pursuant to this Section;
  - (4) The person complied with any remedial measures required by the Joint Meeting
  - (5) The Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; and
  - (6) There was no feasible alternative to the Bypass such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal period of downtime, except that the provisions of this subsection shall not apply to a Bypass occurring during normal periods of equipment downtime or preventative maintenance if, on the basis of the reasonable engineering judgment of the Joint Meeting, back-up equipment should have been installed to avoid the need for a Bypass.
- (d) Nothing contained in (a) or (b) of this Section shall be construed to limit the requirement to comply with self-monitoring and reporting as required by these Rules and Regulations.
- (e) A person may assert an anticipated Bypass as an affirmative defense pursuant to the Section only if the person provided prior notice to the Joint Meeting, if possible, at least ten (10) days prior to the date of the Bypass, and the Joint Meeting approved the Bypass, and if the person is able to demonstrate that:
- (1) The Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; and
  - (2) There was no feasible alternative to the Bypass such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of downtime, except that the provisions of this subsection may not apply to a Bypass occurring during normal periods of equipment downtime or preventative maintenance if, on the basis of the reasonable engineering judgment of the Joint Meeting, back-up equipment should have been installed to avoid the need for a Bypass.
- (f) A person asserting a testing or laboratory error as an affirmative defense pursuant to this Section shall have the burden to demonstrate, to the satisfaction of the Joint Meeting, that a serious violation involving the exceedance of an effluent limitation was the result of unanticipated test interferences, sample contamination, analytical defects, or procedural deficiencies in sampling or other similar circumstances beyond the control of the permittee.

- (g) An assertion of an Upset, a Bypass or testing or laboratory error as an affirmative defense pursuant to this Section may not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.
- (h) If the Joint Meeting determines, pursuant to the provisions of this Section, that a violation of an effluent limitation was caused by an Upset, a Bypass or a testing or laboratory error, the Executive Director may waive any minimum mandatory civil penalty which may be assessed pursuant to these Rules and Regulations for such violations, as well as any administrative penalty or civil damages which the Joint Meeting is entitled to assess or seek as a result of such violation.

## **4.7 INDUSTRIAL WASTE REPORTING:**

### **4.7.1 User Categories:**

Within (60) sixty days after the effective date of a Pretreatment Standard for a subcategory under which an Industrial User may be included the Industrial User may seek from The Joint Meeting written certification on whether the Industrial User falls within that particular subcategory. Such certification may also be sought by an existing Industrial User who adds or changes a process or operation which may be included in a subcategory. Certification must be requested by a new source prior to commencing discharge to the Treatment Works. Each application for certification must include:

- (a) a description of which subcategories may be applicable, and
- (b) citations to evidence and reasons why a particular subcategory is applicable and why others are not applicable. Any person signing an application statement shall make a certification as set forth at 40 C.F.R. 403.6(a)(2)(ii).

### **4.7.2 Records:**

All Industrial Users who discharge wastewater to the Treatment Works shall maintain such records of production and related factors, effluent flows, and pollutant amounts or concentrations as are necessary to demonstrate compliance with the requirements of these Rules and Regulations and any applicable State or Federal pretreatment standards or requirements.

Copies of all records submitted by any User pursuant to these rules and regulation or created by request of the Joint Meeting must be maintained, by the User, for a period of at least (5) years, as required by N.J.A.C. 7:14A-2.5 (a)(12)(iii). **(NM)**

Such records shall be made available upon request to the Joint Meeting. All such records relating to compliance with Pretreatment Standards shall be made available to officials of the Joint Meeting, NJDEP and the USEPA upon demand. A summary of such data indicating the Industrial Users' compliance with these Rules and 43 Regulations shall be prepared as specified in the Users Industrial User Permit and submitted to the Joint Meeting. **(NM)**

#### **4.7.3 Reporting:**

In addition, all Industrial Users who discharge to the treatment works shall also perform the following reporting requirements:

- (a) If applicable, submission of baseline monitoring reports in the manner and within the time frame set forth under 40 C.F.R. 403.12(b); **(NM)**
- (b) submission of compliance schedule progress reports in the manner and within the time frame set forth under an Industrial User Permit or if no Industrial User Permit than under 40 C.F.R. 403.12(c); **(NM)**
- (c) submission of report(s) on compliance with categorical deadline(s) in the manner and within the time frame set forth under 40 C.F.R. 403.12(d); **(NM)**
- (d) If applicable, submission of a periodic report on continuing compliance in the manner and within the time frame set forth under 40 C.F.R. 403.12(e); **(NM)**
- (e) submission of monthly reports in the manner set forth under N.J.S.A. 58:10A-6.f(5) and N.J.S.A. 58:10A-6.f(9); **(NM)**
- (f) submission of reports pertaining to resampling conducted due to noncompliance in the manner and within the time frame set forth under 40 C.F.R. 403.12(g), and N.J.S.A. 7:14A-6.5(d)(1)-(3); **(NM)**

- (g) If applicable, submission of reports pertaining to Best Management Practices or pollution prevention alternative, in the manner and within the time frame set forth under 40 C.F.R. 403.12(h).
- (h) submission of notice of the discharge of hazardous waste in the manner and within the time frame set forth under 40 C.F.R. 403.12(p); **(NM)**
- (i) submission of notice of bypass in the manner and within the time frame set forth under N.J.A.C. 7:14A-6.10(f)1; and **(NM)**
- (j) submission of notice of upset in the manner and within the time frame set forth under N.J.A.C. 7:14 -610(f)2. **(NM)**

The reports required under (a), (c), (d), (e) and g above shall comply with the signatory requirements for Industrial User reports set forth at 40 CFR 403.12(l).

#### **4.7.4 Accidental Discharges:**

If, for any reason, a facility does not comply with or will be unable to comply with any prohibitions or limitations in these Rules and Regulations, the facility responsible for such discharge shall immediately sample the discharge, shall take immediate corrective action(s) to prevent continued harm to the Treatment Works, and shall immediately notify the Joint Meeting so that additional corrective action may be taken to protect the Treatment Works. In addition, a written report addressed to the Joint Meeting detailing the date, time and cause of the accidental discharge, and action taken to prevent future discharges, shall be filed by the responsible person within five (5) days of the occurrence of the non-complying discharge. **(NM)**

#### **4.7.5 Sampling Waivers for Categorical Pollutants**

The Joint Meeting may authorize the Industrial User subject to a categorical Pretreatment Standard to forego sampling of a pollutant regulated by a categorical Pretreatment Standard if the Industrial User has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Industrial User. This authorization is subject to the following conditions:

- (a) The Joint Meeting may authorize a waiver where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical Standard and otherwise includes no process wastewater.
- (b) The monitoring waiver is valid only for the duration of the effective period of the Permit or other equivalent individual control mechanism, but in no case longer than 5 years. The User must submit a new request for the waiver before the waiver can be granted for each subsequent control mechanism.
- (c) In making a demonstration that a pollutant is not present, the Industrial User must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.

The request for a monitoring waiver must be signed in accordance with 403.12(l), *Signatory requirements for Indirect User reports*, and include the certification statement in 403.6(a)(2)(ii). Non-detectable sample results may only be used as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

- (d) Any grant of the monitoring waiver by the Joint Meeting must be included as a condition in the User's control mechanism. The reasons supporting the waiver and any information submitted by the User in its request for the waiver will be maintained by the Joint Meeting for 5 years after expiration of the waiver.
- (e) Upon approval of the monitoring waiver and revision of the User's control mechanism, the Industrial User must certify on each report with the statement below, that there has been no increase in the pollutant in its wastestream due to activities of the Industrial User:  
*Based on my inquiry of the persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR \_\_\_\_ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of \_\_\_\_ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under 40 CFR 403.12(e)(1).*

- (f) In the event that a waived pollutant is found to be present or is expected to be present based on changes that occur in the User's operations, the User must immediately: Comply with the monitoring requirements of 40 CFR 403.12(e)(1) or other more frequent monitoring requirements imposed by the Joint Meeting; and notify the Joint Meeting.
- (g) This provision does not supersede certification processes and requirements established in categorical Pretreatment Standards, except as otherwise specified in the categorical Pretreatment Standard.

**4.7.6 ANNUAL CERTIFICATION BY NON-SIGNIFICANT CATEGORICAL INDUSTRIAL USERS:**

An Industrial User determined to be a Non-Significant Industrial User pursuant to 40 CFR Part 403.3(v)(2) and Section 4.8.4 of these Rules & Regulations must annually submit the following certification statement, signed in accordance with the signatory requirements in 40 CFR Part 403.12(l). This certification must accompany any alternative report required by the Joint Meeting:

*“Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR \_\_\_\_\_, I certify that, to the best of my knowledge and belief that during the period from \_\_\_\_\_, to \_\_\_\_\_ [month, days, year]; (a) The facility described as \_\_\_\_\_ [facility name] met the definition of a non-significant categorical Industrial User as described in 403.3(v)(2); (b) the facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and (c) the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period. This compliance certification is based upon the following information:\_\_\_\_\_.”*

**4.8 INDUSTRIAL WASTE MONITORING:**

#### **4.8.1 Facilities/Equipment:**

The owner or operator of any premises or facility discharging industrial wastes into the system shall install at his/her own expense suitable monitoring equipment to facilitate the accurate observation sampling and measurement of wastes. Such equipment shall be maintained in proper working order and kept safe and accessible at all times. **(NM)**

Each major industrial discharger shall maintain separate monitoring equipment as required under Article IV, Section 4.4.

Whether constructed on public or private property, the monitoring facilities shall be constructed in accordance with the local municipal requirements and all applicable construction standards and specifications. Plans and specifications for all such work will be submitted to the Joint Meeting for approval prior to construction.

#### **4.8.2 Random Sampling:**

The Joint Meeting may randomly sample and analyze the effluent from Industrial Users and conduct surveillance activities in order to identify, independent of information supplied by industrial Users, occasional and continuing noncompliance with Pretreatment Standards. In addition to the annual inspection, random sampling of the effluent from each Significant Industrial User will be conducted at least once a year.

#### **4.8.3 Compliance Schedule:**

The Joint Meeting may require the development of a compliance schedule by each Industrial User for the installation of technology required to meet applicable Pretreatment Standards and Requirements. **(NM)**

#### **4.8.4 Non-Significant Categorical Industrial Users:**

Where the Joint Meeting has determined that an Industrial User meets the criteria for classification as a Non-Significant Industrial User, the Joint Meeting will evaluate, at least once per year, whether an Industrial User continues to meet the criteria per the definition of Non-Significant Categorical Industrial User in these Rules & Regulations (see definition section).

### **4.9 COMPLIANCE DETERMINATIONS:**

#### **4.9.1 Testing:**

Compliance determinations with respect to any Industrial User Permit prohibitions and limitations may be made by Joint Meeting on the basis of instantaneous grab samples, sequential samples or composite samples of the waste stream or on vapors emanating from the waste stream. Sequential or composite samples may be taken over a (24) twenty-four hour period, or a longer or shorter time span, as deemed necessary by the Joint Meeting, to meet the needs of specific circumstances.

#### **4.9.2 Inspecting:**

The Joint Meeting may inspect the monitoring facilities of an industrial User at any time to determine compliance with requirements of these Rules and Regulations as specified in Sections 4.4 and 4.8.1. In any event, the Joint Meeting shall conduct at least one inspection and sampling visit per calendar year at each Significant Industrial User's facility.

#### **4.9.3 Non-Use Certification:**

An Industrial User may demonstrate compliance with a categorical pretreatment limit by certifying non-use only if permitted in the applicable regulation. Pursuant to 40 CFR 403.12 et seq. this certification statement shall also be submitted with Baseline Monitoring Reports, 90-Day Compliance Reports and Periodic Reports. If permitted under State and Federal regulations, an Industrial User may demonstrate compliance with a State or Local Limit by certifying non-use, as described herein, unless prohibited by applicable regulations. Prior to claiming non-use the User shall analyze at least (3) three separate, daily composite samples for the regulated pollutants over a two week period. The User shall then submit the result of the analysis with the following statement in its next required report. The statement shall read:

**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 persons who manage the system, or those persons directly responsible for gathering the information, the information submitted, to the best of my knowledge, and belief is true, accurate and complete. I am aware that there are significant penalties for submitting false information,**

including the possibility of fine and imprisonment, for knowing violations.

#### **4.10 ANALYSIS OF INDUSTRIAL WASTE:**

##### **4.10.1 Laboratory:**

Laboratory analysis of industrial waste samples shall be performed by laboratories certified by the NJDEP in wastewater analyses for the parameters to be analyzed. Test procedures identified in 40 CFR 136, Test Procedures for the Analysis of Pollutants, shall be utilized for all analyses. (NM)

##### **4.10.2 Laboratory Procedures:**

All laboratory procedures, other than those permitted by 40 CFR 136, shall be considered as alternate procedures. The Joint Meeting may permit an Industrial User Permit an Industrial User to substitute an alternate method provided that the USEPA had previously approved use of the method by the laboratory performing the analysis and suitable application had been submitted to the Joint Meeting. Acceptable comparability data shall be included in the application. (NM)

##### **4.10.3 Sample Collection, Handling, and Preservation:**

Sample collection, handling and preservation techniques contained in 40 CFR 136 shall be followed for all parameters. Samples shall be maintained within the range of 1°C to 4°C while being collected, after collection and during transportation to the laboratory for analysis. Suitable logs and/or records shall be maintained at the monitoring station and at the analyzing laboratory to demonstrate proper temperature control. (NM)

#### **4.11 FREQUENCY OF SAMPLING AND ANALYSIS:**

##### **4.11.1 General:**

If applicable, Industrial wastes shall be sampled and analyzed by the User for such parameters as the Joint Meeting deems appropriate. The frequency of sampling and analysis shall be specified in the Industrial User Permit and shall be based on the frequencies contained in the Federal, State and local regulations. The Joint Meeting may increase the frequency on a temporary

basis if deemed necessary to verify data submitted by the User or to aid in determining the User's compliance with these Rules and Regulations. **(NM)**

If a Permittee analyzes its industrial waste for parameters not required in the Industrial User Permit or at a greater frequency than specified in the Industrial User Permit, these results shall also be included in the periodic monitoring reports submitted to the Joint Meeting. **(NM)**

Effluent data submitted to the Joint Meeting by an Industrial User shall be considered public information and shall not be kept confidential.

#### **4.11.2 Violations:**

Unless otherwise specified in an Industrial User's Permit, if sampling performed by an Industrial User indicates a violation, the User shall notify the Joint Meeting within (24) twenty-four hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Joint Meeting within (30) thirty days after becoming aware of the violation. **(NM)**

#### **4.12 SLUG DISCHARGES:**

- (a) The Joint Meeting shall evaluate whether each Significant Industrial User needs a plan or other action to control slug discharges. Each Significant Industrial User must be evaluated within 1 year of being designated a Significant Industrial User. For the purposes of this Section and Sections 1.2 and 3.9, a slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the Joint Meeting regulations, local limits or permit conditions. The results of such activities shall be available to the Approval Authority upon request. Significant Industrial Users are required to notify the Joint Meeting immediately of any changes at its facility affecting potential for a slug discharge.
- (b) If the Joint Meeting determines any Industrial User requires a slug control plan it may order the User to create such a plan as described at 40 C.F.R. 403.8(f)(2)(v). Such a plan shall contain at the least the following elements:  
**(NM)**
  - (1) Description of the discharge practices, including non-routine batch discharges;

- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the Joint Meeting as soon as possible, but in no case later than (2) two hours of becoming aware, of any slug discharges, including any discharge that would violate the prohibition under 40 CFR 403.5 (b) et seq. and Section 4.1 of these Rules and Regulations;
- (4) Procedures for the filing of a written report to the Joint Meeting, within 5 working days of the occurrence detailing the following:
  - (A) what occurred including a complete description;
  - (B) why it occurred;
  - (C) what was done to correct the problem; and
  - (D) the date and the time when the problem was or will be corrected; and
- (5) Procedures necessary to prevent adverse impacts from Slug Discharges.

#### **4.13 BEST MANAGEMENT PRACTICES:**

The Joint Meeting may develop Best Management Practices (BMPs) to implement the local limits noted in 4.2 (*Prohibited Industrial Wastes*), 4.3 (*Limitations on Wastewater Discharge*), and 4.5 (*Pretreatment Standards*). Such BMPs shall be considered local limits and Pretreatment Standards for the purposes of this part and section 307(d) of the Act.

#### **4.14 EQUIVALENT CONCENTRATION LIMITS:**

The Joint Meeting may convert the mass limits of the categorical Pretreatment Standards at 40 CFR parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual Industrial Users. When converting such limits to concentration limits, the Joint Meeting will use the concentrations listed in the applicable subparts of 40 CFR parts 414, 419, and 455 and document that dilution is not being substituted for treatment as prohibited by 40 CFR Part 403.6(d) or Section 4.1 of these Rules and Regulations.

#### **4.15 EQUIVALENT MASS LIMITS:**

When the limits in a categorical Pretreatment Standard are expressed only in terms of pollutant concentrations, an Industrial User may request that the Joint Meeting convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the Joint Meeting. The Joint Meeting may

establish equivalent mass limits only if the Industrial User meets all the following conditions in paragraph (a)(1) through (a)(5) of this section.

- (a) To be eligible for equivalent mass limits, the Industrial User must:
  - (1) Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its control mechanism;
  - (2) Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical Pretreatment Standard, and not have used dilution as a substitute for treatment;
  - (3) Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and long-term average production rate must be representative of current operating conditions;
  - (4) Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the Discharge; and
  - (5) Have consistently complied with all applicable Pretreatment Standards during the period prior to the Industrial User's request for equivalent mass limits.
  
- (b) An Industrial User subject to equivalent mass limits must:
  - (1) Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;
  - (2) Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;
  - (3) Continue to record the facility's production rates and notify the Joint Meeting whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in paragraph (a)(3) of this section. Upon notification of a revised production rate, the Joint Meeting will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and
  - (4) Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to paragraph (a)(1) of this section so long as it discharges under an equivalent mass limit.
  
- (c) Where the Joint Meeting chooses to establish equivalent mass limits, it will:

- (1) Calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the Industrial User by the concentration-based daily maximum and monthly average Standard for the applicable categorical Pretreatment Standard and the approximate unit conversion factor;
  - (2) When notified of a revised production rate, reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and
  - (3) Retain the same equivalent mass limit in subsequent control mechanism terms if the Industrial User's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to Section 4.1 (Dilution) of these Rules & Regulations. The Industrial User must also be in compliance with 403.17 (regarding the prohibition of bypass).
- (d) The Joint Meeting may not express limits in terms of mass for pollutants such as pH, temperature, radiation, or other pollutants which cannot appropriately be expressed as mass.

#### **4.16 EQUIVALENT MASS AND CONCENTRATION LIMITS – ADDITIONAL REQUIREMENTS / PROVISIONS:**

- (a) Equivalent limitations calculated in accordance with 4.14 and 4.15 of these Rules & Regulations are deemed Pretreatment Standards for the purposes of section 307(d) of the Act and this part. Once incorporated into its control mechanism, the Industrial User must comply with the equivalent limitations in lieu of the promulgated categorical standards from which the equivalent limitations were derived.
- (b) Many categorical Pretreatment Standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating monthly average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.
- (c) Any Industrial User operating under a control mechanism incorporating equivalent mass or concentration limits calculated from a production based standard shall notify the Joint Meeting within two (2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying

the Joint Meeting of such anticipated change will be required to meet the mass or concentration limits in its control mechanism that were based on the original estimate of the long term average production rate.

(d) If applicable, adherence to 403.6(c).

## ARTICLE V - ENFORCEMENT PROCEDURES

### 5.1 GENERAL:

- (a) If wastewater containing any prohibited substance, exceeding prescribed limits, or violating restrictions imposed by Article IV of these Rules and Regulations are discharged or proposed to be discharged into the Treatment Works of the Joint Meeting, the Joint Meeting may take any of the following actions necessary to protect the Treatment Works:
- (1) Prohibit the discharge of such wastewater;
  - (2) Require an Industrial User to demonstrate that in-plant modifications will reduce or eliminate the discharge of such substances so as to be in conformance with this Regulation;
  - (3) Require pretreatment, including storage facilities or flow equalization, necessary to ensure complete compliance with these Rules and Regulations;
  - (4) Require the discharger making, causing or allowing the discharge to pay all the additional cost or expense incurred by the Joint Meeting for any damages caused by excess loads imposed on the Treatment Works; and
  - (5) Take such other remedial action as may be deemed to be desirable or necessary to achieve the purposes of these Rules and Regulations;
  - (6) Issuance of a summons enforceable in municipal court, if the civil penalty amount is \$5,000 or less pursuant to N.J.S.A. 58:10A-10.4;
  - (7) Issuance of a civil administrative order, penalty or assessment pursuant to N.J.S.A. 58:10A-10.5, and N.J.A.C. 7:14A-19.5(a)1 and 7:14A-19.5(a)4;
  - (8) The ability to petition the county prosecutor or Attorney General to bring a criminal action in accordance with N.J.S.A. 58:10A-6.i, N.J.S.A. 58:10A-10a(5), and N.J.A.C. 7:14A-19.5(a)3.
  - (9) Issuance of an administrative consent order (ACO) per N.J.S.A. 58:10A-10a(1) and N.J.A.C. 7:14A-19.5(a)1.
- (b) Any such action or actions taken by the Joint Meeting shall be governed by and taken in accordance with the procedures established in N.J.S.A. 58:10A-10 through 58:10A-10.9.

### 5.2 LEGAL ACTION:

- (a) Any discharge in violation of the substantive provisions of these Rules and Regulations or an Order of the Joint Meeting and the local Municipality or any

Pretreatment Standard adopted by the Joint Meeting may be considered grounds for legal action. If any person discharges sewage, industrial wastes or other wastes into the Treatment Works contrary to the substantive provisions of these Rules and Regulations or any order of the Joint Meeting and the local Municipality or any pretreatment standard adopted by the Joint Meeting, the Executive Director may commence any action for injunctive relief and any other appropriate relieve, including a monetary penalty in the Superior Court of New Jersey pursuant to and in accordance with the New Jersey Water Pollution Control Act (WPCA), N.J.S.A. 58-10A-1, et seq., and/or any other applicable laws or regulations.

### **5.3 ENFORCEMENT RESPONSE PLAN:**

- (a) In order to fulfill its responsibilities under Federal and State Laws and Regulations, the Joint Meeting has developed and implemented an Enforcement Response Plan (ERP). This ERP contains detailed procedures indicating how the Joint Meeting will respond to instances of noncompliance. The ERP, set forth in Appendix B is hereby incorporated into the Joint Meeting Rules and Regulations
- (b) Whenever the Joint Meeting finds that any person has violated or is violating these Rules and Regulations, or any prohibition, pretreatment standard, limitation, or requirement contained herein or within an Industrial User Permit, the Joint Meeting shall, as outlined in the ERP, issue the following civil administrative penalties where applicable:
  - (1) mandatory minimum penalties for Significant Non-Compliance as defined at N.J.A.C. 7:14-8.2 and pursuant to N.J.A.C. 7:14A-19.4(d) and 19.5(a)7;
  - (2) mandatory minimum penalty for serious violations as defined at N.J.A.C. 7:14A-8.2 and pursuant to N.J.A.C. 7:14A-19.4(d) and 19.5(a)8;
  - (3) penalties for the submission of inaccurate or false information in accordance with N.J.A.C. 7:14-8.6 and as required by 7:14A-19.5(a)10;
  - (4) mandatory minimum penalties for failure to properly conduct monitoring, sampling activities, submit self monitoring reports/discharge monitoring reports (SMRs/DMRs) or other pretreatment monitoring reports in accordance with N.J.A.C. 7:14-8.9(c), (d) and (e), and pursuant to N.J.A.C. 7:14A-19.4(d) and 19.5(a)11.

## **5.4 NOTICE OF VIOLATION:**

- (a) Whenever the Joint Meeting issues to any person any penalty for any violation of these Rules and Regulations, or any prohibition, pretreatment standard, limitation, limitation stated in the ERP, or requirement contained herein or within an Industrial User Permit, the Joint Meeting shall provide the violator with a notice of penalty assessment and notice of opportunity to request an administrative hearing on the civil administrative penalty in accordance with N.J.S.A. 58:10A-10.5 and N.J.A.C. 7:14-8.4 and 7:14A-19.5(b)1. All penalties issued pursuant to these Rules and Regulations will be due and payable (20) days from receipt, by a violator, of notice of the penalty or assessment. A violator must, within (20) days from receipt of the notice, either pay the penalty or submit a request for an adjudicatory hearing. Any violator who fails to enter into a payment schedule with the Joint Meeting, to pay the penalty or assessment, within (30) days from the date the penalty or assessment becomes due, must pay interest in addition to the penalty or assessment levied pursuant to N.J.S.A. 58:10A-10.8(b). **(NM)**
- (b) A violator who fails to respond to a Notice of Violation within the time frame set forth therein shall be subject to a minimum of \$100/day penalty each day until the Joint Meeting receives a complete response containing all of the information requested by the Joint Meeting. **(NM)**

## **5.5 REQUESTING AN ADJUDICATORY HEARING:**

### **5.5.1 General:**

If a violator requests a hearing, the matter is deemed "contested" and will then be submitted by the Joint Meeting to the Office of Administrative Law OAL. Any adjudicatory hearing conducted pursuant to such a request must be carried out in compliance with the Administrative Procedures Act (APA), N.J.S.A. 52:14B-1 et. seq., and the Uniform Administrative Procedure Rules, N.J.A.C. 1:1 et. seq as required pursuant to N.J.S.A. 58:10A-10.8.

### **5.5.2 Recommended Report and Decision:**

At the conclusion of the administrative hearing the administrative law judge (ALJ) shall prepare a recommended report and decision on the case. Both the Executive Director and the violator shall receive copies of the report. The Joint Meeting must then provide an opportunity for the violator to file exceptions, objections, and to present arguments, either orally or in writing as required pursuant to N.J.S.A. 58:10A-10.8 and N.J.A.C. 7:14A-19.5(b)2.

### **5.5.3 Final Decision:**

Within 45 days after receipt of the record and decision the Joint Meeting must either adopt, reject, or modify the recommended report and decision. Failure of the Joint Meeting to act within the 45 day time frame will result in adoption of the ALJ's decision as the final decision of the DLA. However, the 45 day period can be extended by the OAL and the DLA if both agencies determine good cause exists to do so. see N.J.S.A. 58:10A-10.6 and N.J.A.C. 7:14A-19.5(b)3.

Any final decision issued by the Joint Meeting shall be in writing or stated in the record and must include a separately stated findings of facts and conclusions of law. The parties of record shall be notified of any final decision or order by personal service or mail and any such decision or order shall be effective, unless otherwise stated therein, upon delivery or mailing which ever is sooner. All final decisions and orders shall be considered final agency action, and shall be appealable in the same manner as a final agency action of a State Department or agency. N.J.S.A. 58:10A-10.7 and N.J.A.C. 7:14A-19.5(b)3.

### **5.5.4 Cost Recovery:**

If the Joint Meeting prevails it may then recover court costs, as well as other costs associated with preparing and litigating the matter, from the violator. To accomplish recovery the Joint Meeting must include an assessment for hearing costs along with the final decision issued to the violator as required pursuant to N.J.S.A.58:10A-10.5.

### **5.5.5 Penalty Reduction:**

The Joint Meeting may, at its own discretion, reduce any civil administrative penalty up to 50 percent, provided that the penalty as reduced is not less than any applicable minimum amount set forth in Joint Meeting's ERP and N.J.A.C. 7:14-8.5(a) or 8.9(e); however the Joint Meeting may not reduce the amount of any component of a civil administrative penalty which represents the economic benefit gained by the violator from the violation. see N.J.A.C. 7:14-8.3(e)3 and N.J.A.C. 7:14A-19.5(b)5.

### **5.5.6 Use of Recovered Penalties:**

Of the amount of money collected by the Joint Meeting from a civil administrative penalty issued pursuant to these Rules and Regulations, ten percent (10%) of the penalty monies collected will be deposited into the "Wastewater Treatment Operator's Account," and ten percent (10%) will be given to the Municipality when the action is brought in a municipal court. The remainder shall be retained by the Joint Meeting. See, N.J.S.A. 58:10A-6.i and 58:10A-10.4.

Any such action taken by the Joint Meeting shall be governed by and taken in accordance with the procedures established in N.J.S.A. 58:10A-10.4 through 10.9, including appeal, collection and enforcement procedures provided therein.

### **5.6 APPEAL OF FINAL DECISION:**

A violator may appeal a final order from the Joint Meeting directly to the Appellate Division. Such an appeal must be taken within (45) forty-five days from the date of service of the final decision. If any portion of the civil administrative penalty is upheld on appeal, the Joint Meeting will be entitled to daily interest on the amount of judgment from the date the appeal was taken to the date of final payment. N.J.S.A. 58:10A-10.8(a) and (b), the APA, and R.2:2-3(a)(2) and R. 2:4-1(b) of the Rules Governing The Courts of New Jersey.

### **5.7 GRACE PERIOD APPLICABILITY; PROCEDURES:**

- (a) Each violation identified in Table 1 at Appendix F by an "M" in the Type of Violation column and for which the conditions at (c) below are satisfied, is a minor violation, and is subject to a grace period, the length of which is indicated in the column with the heading Grace period.
- (b) Each violation identified in Table 1 at Appendix F by an "NM" in the Type of violation column is a non-minor violation and is not subject to a grace period.
- (c) The Joint Meeting shall provide a grace period for any violation identified as minor under this section, provided the following conditions are met:
  - (1) The violation is not the result of the purposeful, knowing, reckless or criminally negligent conduct of the person responsible for the violation;

- (2) The violation poses minimal risk to the public health, safety and natural resources;
  - (3) The violation does not materially and substantially undermine or impair the goals of the regulatory program;
  - (4) The activity or condition constituting the violation is capable of being corrected and compliance achieved within the time prescribed by the Joint Meeting;
  - (5) The activity or condition constituting the violation has existed for less than 12 months prior to the date of discovery by the Joint Meeting;
  - (6) In the case of a violation that involves a permit, the person responsible for the violation has not been identified in a previous enforcement action by the Joint Meeting as responsible for a violation of the same requirement of the same permit within the preceding 12-month period;
  - (7) In the case of a violation that does not involve a permit, the person responsible for the violation has not been notified in a previous enforcement action by the Joint Meeting as responsible for the same or a substantially similar violation at the same facility within the preceding 12-month period; and;
  - (8) In the case of any violation, the person responsible for the violation has not been identified by the Joint meeting as responsible for the same or substantially similar violations at any time that reasonably indicate a pattern of illegal conduct and not isolated incidents on the part of the person responsible.
- (d) For a violation determined to be minor under (c) above, the following provisions apply:
- (1) The Joint Meeting shall issue a notice of violation to the person responsible for the minor violation that:
    - (i) Identifies the condition or activity that constitutes the violation and the specific statutory and regulatory provision or other requirement violated and;

- (ii) Specifies that a penalty may be imposed unless the minor violation is corrected and compliance is achieved within the specified grace period.
- (2) If the person responsible for the minor violation corrects that violation and demonstrates, in accordance with (d)3 below, that compliance has been achieved within the specified grace period, the Joint Meeting shall not impose a penalty for the violation.
- (3) The person responsible for a violation shall submit to the Joint Meeting, before the end of the specified grace period, written information certified to be true and signed by the person responsible for the minor violation, detailing the corrective action taken or compliance achieved.
- (4) If the person responsible for the minor violation seeks additional time beyond the specified grace period to achieve compliance, the person shall request an extension of the specified grace period. The request shall be made in writing, be certified to be true and signed by the person responsible for the minor violation, and received by the Joint Meeting no later than one week before the end of the specified grace period. The request shall include the anticipated time needed to achieve compliance, the specific cause or causes of the delay, and any measures taken or to be taken to minimize the time needed to achieve compliance. The Joint Meeting may, at its discretion, approve in writing an extension, which shall not exceed 90 days, to accommodate the anticipated delay in achieving compliance. In exercising its discretion to approve a request for an extension, the Joint Meeting may consider the following:
  - (i) Whether the violator has taken reasonable measures to achieve compliance in a timely manner;
  - (ii) Whether the delay has been caused by circumstances beyond the control of the violator;
  - (iii) Whether the delay will pose a risk to the public health, safety and natural resources; and
  - (iv) Whether the delay will materially or substantially undermine or impair the goals of the regulatory program.

- (5) If the person responsible for the minor violation fails to demonstrate to the Joint Meeting that the violation has been corrected and compliance achieved within the specified grace period or within the approved extension, if any, the Joint Meeting may, in accordance with the provisions of this chapter, impose a penalty that is retroactive to the date the notice of violation under (d)1 was issued.
- (6) The person responsible for a minor violation shall not request more than one extension of a grace period specified in a notice of violation.

## **ARTICLE VI - FEES**

A schedule of fees is set forth in Appendix C

## ARTICLE VII - MISCELLANEOUS

### 7.1 **MEASUREMENTS, TESTS AND ANALYSIS:**

All measurements, tests, and analyses of the characteristics of wastewater, to which reference is made in these rules and regulations, shall be determined in accordance with the techniques prescribed in 40 C.F.R. 136, or in accordance with procedures approved by the EPA. Sampling method, location, time, duration, and frequency shall be determined on an individual basis by the governmental authority requiring the sample.

### 7.2 **SAVINGS CLAUSE:**

If any provision, paragraph, word, section, or article of these rules and regulations is invalidated by any Court of competent jurisdiction, the remaining provisions, paragraphs, words, sections and articles shall not be affected and shall continue in full force and effect.

## APPENDIX - A DEFINITIONS

Unless the context otherwise requires, the meaning of terms used herein shall be as follows:

- (1) **"Act" or "The Act"** means, unless otherwise specified, The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.
- (2) **"Applicable Law"** means the Federal Water Pollution Control Act 33 U.S.C. § 1311 et seq., and the New Jersey Water Pollution Control Act 58:10A-1 et seq., and any statute, law, constitution, charter, ordinance, resolution, order, decree, rule, registration, directive, interpretation, standard, or similarly binding authority which be enacted, adopted, promulgated, issued or effected by a Governmental Body relating to the Joint Meeting, the Treatment Works, and/or the Users use of the Treatment Works.
- (3) **"Approved Test Procedure"** means all analysis shall be performed in accordance with the analytical test procedures approved under 40 CFR Part 136. Analysis of those pollutants not covered therein shall be performed in accordance with procedure approved by the N.J. DEP.
- (4) **"Best Management Practices" or "BMPs"** means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR Part 403.5(a)1 and (b). BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
- (5) **"BOD"** (denoting Biochemical Oxygen Demand) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at 20° C., expressed in milligrams per liter.
- (6) **"Bypass"** means the anticipated or unanticipated intentional diversion of waste streams to any portion of the Joint Meeting's Treatment Works.

- (7) "**Compatible Pollutant**" means BOD, suspended solids, and coliform bacteria, and such additional pollutants as are now or may be in the future specified and controlled in the Joint Meeting's NJPDES Industrial User Permit for its Treatment Works where said facilities have been designed and used to reduce or remove such pollutants.
- (8) "**Cooling Water**" means any water used for the purposes of carrying away excess heat, and which may contain biocides used to control biological growth.
- (9) "**Director**" means the Executive Director of the Joint Meeting or his/her duly appointed deputy, agent, or representative.
- (10) "**Domestic Wastes**" means liquid (a) from the non-commercial preparation, cooking and handling of food or (b) consisting of human excrement and similar matter from the sanitary conveniences of dwellings, commercial buildings, industrial facilities and institutions. For the purposes of this regulation, normal domestic waste contains 200 ppm of BOD and 180 ppm of suspended solids.
- (11) "**ERP**" or "Enforcement Response Plan" means Joint Meeting's Industrial Pretreatment Program Enforcement Response Plan adopted pursuant to N.J.A.C. 7:14A-19 and attached as Appendix A hereto. The terms and conditions of the ERP are incorporated into these rules and regulations as if set forth at length herein.
- (12) "**Floatable Oil**" means fat, or grease in a physical state which will separate by gravity from wastewater through treatment in an approved pretreatment facility.
- (13) "**Garbage**" means solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of food.
- (14) "**Governmental Body**" means as appropriate, any one or several of: the United States of America, the State of New Jersey and its political subdivisions, or any court of competent jurisdiction, agency, authority or regulatory body which may have jurisdiction over, or power and authority to regulate the Joint Meeting, the Treatment Works, and /or the use thereof.

- (15) **"Grace period"** means the period of time afforded under N.J.S.A. 13:1D-125 et seq., commonly known as the Grace Period Law, for a person to correct a minor violation in order to avoid imposition of a penalty that would be otherwise applicable for such violation.
- (16) **"Grease or Fats"** means any material which is extractable from an acidified sample of a waste by hexane or other designated solvent or other acceptable means.
- (17) **"Hazardous Pollutant"** means:
- (1) any toxic pollutant;
  - (2) any substance regulated as a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, P.L. 92-516(7 U.S.C. § 136 et seq.);
  - (3) any substance the use or manufacture of which is prohibited under the Toxic Substance Control Act, P.L. 94-469 (15 U.S.C. § 2601 et seq.);
  - (4) any substance identified as a known carcinogen by the International Agency for the Research on Cancer;
  - (5) any hazardous waste as designated pursuant to section 3 of P.L. 1981, c. 279 (C.13:1E-51) or the "Resource Conservation and Recovery Act" P.L. 94-580 (42 U.S.C. § 6901 et seq.); or
  - (6) any hazardous substance as defined pursuant to section 3 of P.L. 1976, c. 141 (C. 58:10-23.11b).
- (18) **"Immediate Access"** means access without delay but in no event beyond 10 minutes from the time the request is made known to any guard or employee of the User.
- (19) **"Incompatible Pollutant"** means any pollutant which is not a "compatible pollutant" as defined in this section.
- (20) **"Industry" or "Industrial User" or "IU"** means a User of the Municipal or Joint Meeting wastewater facilities who discharges non-domestic wastewater that: (a) has a flow of 25,000 gallons or more per work day; or; (b) exceeds the mass equivalent for BOD or suspended Solids of 25,000 gallons per day of normal domestic wastes, or; (c) is subject to Federal categorical pretreatment standards, or; (d) is determined by the Joint Meeting to require regulation, or, (e) contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the Treatment Works.

- (21) **"Industrial User Permit"** means a permit issued by the Joint Meeting including, a letter of agreement entered into between the Joint Meeting and a user of it's Treatment Works, setting effluent limitations and other conditions on the user of the Joint Meeting's Treatment Works.
- (22) **"Industrial Wastes"** means the wastes from industrial manufacturing processes, trade, or business as distinct from domestic and/or commercial sanitary sewage.
- (23) **"Interference"** means a Discharge which, alone or in conjunction with a discharge or discharges from other sources both:
- (1) Inhibits or disrupts the Joint Meeting's treatment process, operations, or sludge process, use or disposal; and
  - (2) Therefore is a cause violation of the Joint Meeting's NJPDES Industrial User Permit (including an increase in the magnitude or duration of the violation) or of a prevention of sewage sludge use or disposal in compliance with relevant Federal and State regulations.
- (24) **"Joint Meeting"** means the Municipalities of the City of East Orange, the Township of Hillside, the Town of Irvington, the Township of Maplewood, the Township of Millburn, the City of Newark, the Borough of Roselle Park, the Township of South Orange Village, the City of Summit, the Township of Union and the Township of West Orange, organized in the Joint Meeting pursuant to 40:63-68, et seq., of the Revised Statutes of the State of New Jersey under the terms of a contract dated June 1, 1926, as supplemented, in the matter of an outlet sewer and treatment plant for said Municipalities, and when the contract requires, shall mean the Executive Director or his authorized deputy, agent, or representative.
- (25) **"Joint Sewer"** means the joint outlet or trunk sewer constructed by the several Municipalities under a contract dated March 15, 1901; the Supplementary Joint Trunk Sewer and Sewage Disposal Plant constructed under a contract between the member Municipalities dated June 1, 1926, and contract dated March 9, 1931; or shall mean any trunk sewer theretofore or thereafter constructed and maintained by the Joint Meeting.

- (26) **"Major Industry"** see "Significant Industrial User".
- (27) **"Municipality"** means any of the member Municipalities of the Joint Meeting and any Municipality that has entered into a contract with the Joint Meeting for the treatment and disposal of sewerage.
- (28) **"NPDES" (National Pollutant Discharge Elimination System), "NJPDES" (New Jersey Pollutant Discharge Elimination System):** means the program for issuing, conditioning and denying permits for the discharge of pollutants from point sources into the navigable waters, the contiguous zone and the oceans.
- (29) **"National Pretreatment Standard"** means any regulation containing pollutant discharge limits promulgated by the USEPA.
- (30) **"New Source"** means:
- (1) any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after publication of proposed pretreatment standards under section 307(c) of the Act, provided that:
    - (i) The building, structure, facility, or installation is constructed at a site at which no other source is located;  
or
    - (ii) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source;  
or
    - (iii) the production or wastewater generating process of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining independence factors such as the extent to which the new facility is integrated with the existing plant and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.
  - (2) construction on a site where an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation as defined in (1)(i) and (1)(ii) above, but

otherwise alters, replaces, or adds to the existing process or production equipment.

(3) Construction of a new source, as defined in (1) above has commenced if the owner or operator has:

(i) Begun or caused to begin as part of a continuous on-site construction program:

(A) Any placement, assembly or installation of equipment; or

(B) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary to the placement, assembly, or installation of new source facilities or equipment.

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

(31) **“Non-Significant Industrial User”** – The Joint Meeting may determine that an Industrial User subject to categorical Pretreatment Standards under 403.6 and 40 CFR chapter I, subchapter N is a Non-Significant 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:

(1) The Industrial User, prior to the Joint Meeting finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;

(2) The Industrial User annually submits the certification statement required [403.12(q)] together with any additional information necessary to support the certification statement; and

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

- (32) **"Non-Stationary Source"** means any mobile vehicle, piece of equipment or appurtenance thereof that is utilized in the discharge of waste or wastewater to any sewer or natural outlet. The terms include, but are not limited to, tank trucks and dump trucks as well as associated equipment and appurtenances. Fixed, permanent or semipermanent equipment is excluded from the category of nonstatutory source, and is regulated elsewhere in these rules and regulations.
- (33) **"Oil and Grease"** means nonpetroleum-based pollutants of animal and vegetable origin, and petroleum-based pollutants, which are analyzed by the EPA and/or New Jersey State Certified Laboratory approved method for oil and grease referenced in 40 C.F.R. 136, as amended, including subsequent amendments, and the petroleum-based pollutants analyzed by an EPA and/or New Jersey State Certified Laboratory approved method for petroleum hydrocarbons cited in Methods for Chemical Analysis of Water and Wastes, issued by the EPA, as amended.
- (34) **"pH"** means the logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution.
- (35) **"Pass Through"** means a Discharge which exits the Joint Meeting into the water of the United States in quantities or concentrations which, alone or in conjunction with discharge or discharges from other sources, is the cause of a violation of any of Joint Meeting's requirements of its NJPDES Industrial User Permit (including an increase in the magnitude or duration of a violation).
- (36) **"Permit" or "Industrial User Permit" or "Excavation Permit" or "Connection Permit"** means a permit issued by the Joint Meeting including, a letter of agreement entered into between the Joint Meeting and a User of its Treatment Works, setting effluent limitations and other conditions on the User of the Joint Meeting's Treatment Works.
- (37) **"Person"** means any individual, firm, company, partnership, corporation, association (public or private), group or society, and includes the State of New Jersey, and agencies, districts, commissions and political subdivision created by or pursuant to State Law.

- (38) **"Petroleum Hydrocarbons"** means that portion of the total extractable grease or fats, which is not retained on an activated alumina absorption column after elutriating with hexane, or other designated solvent.
- (39) **"Pollutant"** means any dredged spoil, solid waste, incinerator residue, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, radioactive substance, thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal or agricultural waste or other residue discharged into the Joint Meeting or Municipal Sewer system or waters of the State.
- (40) **"Pretreatment"** means treatment by application of physical, chemical and/or biological processes to reduce the amount of pollutants in, or alter the nature of, the pollutant properties in a wastewater, other than residential, prior to its direct or indirect discharge the Joint Meeting wastewater facilities and to remove illegal and/or undesirable waste constituents, or to reduce the strength of the waste prior to discharge to the publicly owned wastewater facilities.
- (41) **"Pretreatment Requirements or Standards"** shall mean any substantive or procedural requirement related to Pretreatment imposed on an Industrial User including any Federal, State and/or local pretreatment requirements or standards.
- (42) **"Regulated Medical Waste"** means any solid waste, generated in the diagnosis, treatment ( for example, provision of medical services), or immunization of human beings or animals, in research pertaining thereto, or in production or testing of biologicals, or as further defined under the Regulated Medical Waste Act N.J.A.C. 7:26-3.1 et seq.
- (43) **"Sanitary Sewer"** means a sewer which carries sewage and to which storm, surface, and groundwaters are not intentionally admitted.
- (44) **"Sewage"** means a combination of the water-carried wastes from residences, business buildings, institutions, and industrial establishments, together with such ground, surface and storm waters as may be present.
- (45) **"Sewer"** means a pipe or conduit for carrying sewage.

(46) **"Serious Violation"** means:

- (1) an exceedance of an effluent limitation for a discharge point source set forth in an Industrial User Permit, administrative order, or administrative consent agreement, including interim enforcement limits, by 20 percent or more for a hazardous pollutant, or by 40 percent or more for a nonhazardous pollutant, calculated on the basis of the monthly average for a pollutant for which an effluent limitation is expressed as a monthly average; or
- (2) in the case of an effluent limitation expressed as a daily maximum and without a monthly average, on the basis of the monthly average or all maximum daily test results for that pollutant in any month; or
- (3) in the case of pH, the greatest violation of a pH effluent range in any one calendar day which violation deviates from the midpoint of the range by at least 40 percent of the midpoint of the range excluding the excursions specifically excepted by an Industrial User Permit or Article III, Section 3.9 of these Rules and Regulations; or
- (4) in the case of an effluent limitation for a pollutant that is not measured by mass or concentration, and the department shall proscribe an equivalent exceedance factor therefore.
- (5) The Joint Meeting may utilize on a case by case basis, a more stringent factor or exceedance to determine a serious violation if the Joint Meeting states the specific reasons therefore, which may include the potential for harm to human health or the environment. "Serious Violation" shall not include a violation of an Industrial User Permit limitation for color.

(47) **"Significant Change"** means flow or loading that fluctuate by twenty percent (20%) or more.

(48) **"Significant Industrial User" or "SIU"** means:

- (1) Any user in the State including, but not limited to, and significant industrial user as defined in 40 CFR 403.3(t) but excluding municipal collection systems, who discharges wastewater into local agency where:
  - (i) The user is subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N;

- (ii) The user's average volume of process wastewater exceeds 25,000 gallons per day;
  - (iii) The amount of BOD, COD or Suspended Solids in the industrial process wastewater discharge exceeds the mass equivalent of 25,000 gallons per day of the domestic waste of the affected local agency;
  - (iv) The volume of industrial process wastewater in the discharge exceeds five percent or more of the average daily dry weather flow of the local agency;
  - (v) The user's discharge of process wastewater contributes, five percent or more of the daily mass loading of any of the pollutants listed in N.J.A.C. 7:14A-4, Appendix A Tables II through V;
  - (vi) The user is designated as an SIU by the control authority on the basis that the user has a reasonable potential for adversely affecting the local agency's operation;
  - (vii) The user is designated as an SIU by the control authority on the basis that the user has been in violation of any Federal, State, or local pretreatment standard or requirement, including, but not limited to, significant noncompliance as defined in 40 CFR 403.8(f)(2)(vii); or
  - (viii) The control authority determines it would be consistent with the intent of the Pretreatment Act or State Act to require a permit for the indirect user; and
- (2) Any user in areas of the State in which the Department is the control authority where:
- (i) The user is determined to be hazardous waste facility that received a permit in accordance with N.J.A.C. 7:26G-12;
  - (ii) The user's discharge consists of landfill leachate, which is either pure, treated, or diluted; or

- (iii) The user's discharge consists of 25,000 gallons per day or more of process wastewater and/or polluted ground water which is pumped from the ground in order to decontaminate an aquifer; however
  - (3) Upon finding that any user in the State has no reasonable potential for adversely affecting the local agency's operation or for violating any Federal, State, or local pretreatment standard or requirement, the control authority may at any time, on its own initiative or in response to a petition received from a user or a local agency, and in accordance with 40 CFR 403.8(f)(6), determine that any user specified in paragraphs 1 or 2 above, unless the user is subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N, is not a significant indirect user.
- (49) **"Significant Noncomplier" or "SNC" - State-** means:
- (a) any person who commits a serious violation for the same hazardous pollutant or nonhazardous pollutant, at the same discharge point source, in any two months of any six month period, or who exceeds a monthly average; or
  - (b) in the case of a pollutant for which no monthly average has been established, the monthly average of the daily maximums for an effluent limitation for the same pollutant at the same discharge point source by any amount in any four months of any six month period; or
  - (c) who fails to submit a complete discharge monitoring report in any two months of any six month period.
  - (d) The Joint Meeting may utilize, on a case by case basis, a more stringent frequency or factor of exceedance to determine a significant noncomplier, if the Joint Meeting states the specific reasons therefore, which may include the potential for harm to human health or the environment.
- (50) **"Significant Noncomplier" or "SNC" - Federal-** means:
- (a) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all of the measurements taken for the same pollutant parameter during a 6 month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits, as defined by 40 CFR 403.3(l);

- (b) Technical Review Criteria (TRC) violations, defined here as those in which 33 percent or more of all of the measurements taken for the same pollutant parameter during a 6 month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except for pH;
  - (c) Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Joint Meeting determines has caused, alone or in combination with other Discharges, Interference or Pass Through (including endangering the health of the Treatment Works personnel or the general public;
  - (d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the Joint Meeting's exercise of its emergency authority to halt or prevent such a discharge;
  - (e) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
  - (f) Failure to provide, within 45 days after the due date, request reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
  - (g) Failure to accurately report noncompliance;
  - (h) Any other violation or group of violations, which may include a violation of Best Management Practices, which the Joint Meeting determines will adversely affect the operation or implementation of the local pretreatment program.
- (51) "**Slug**" means any discharge of water, sewage, or industrial waste which in concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration or flows during normal operation.
- (52) "**State Act**" means The New Jersey "Water Pollution Control Act", N.J.S.A. 58:10A-1, et seq.

- (53) **"Storm Water"** means any flow occurring during or immediately following any form of natural precipitation and resulting therefrom.
- (54) **"Successive Readings"** means any two (2) successive readings within a ten (10) minute period
- (55) **"Suspended Solids"** means solids that either float on the surface of, or are in suspension in water, sewage, or other liquids, and which are removable by laboratory filtering.
- (56) **"Toxic Pollutant"** means those pollutants or combinations of pollutants, including disease-causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly or indirectly by ingestion through food chains, will, on the basis of information available, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions including malfunctions in reproduction or physical deformation in such an organism or its offspring.
- (57) **"Treatment Works"** means any device or system whether public or private, used in the conveyance, storage, treatment, recycling, or reclamation of municipal or industrial waste of a liquid nature, including: intercepting sewers, outfall sewers, sewage collection systems, cooling towers and ponds, pumping, power and other equipment and their appurtenances; extensions, improvements, remodeling, additions and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any other works including sites for the treatment process or for ultimate disposal of residues resulting from such treatment.
- (58) **"Unpolluted Water"** means water not containing any pollutants limited or prohibited by the effluent standards in effect, and water whose discharge will not cause any violation of receiving water quality standards.
- (59) **"Upset"** means an exceptional incident in which there is unintentional and temporary noncompliance with an effluent limitation because of an event beyond the reasonable control of the permittee, including fire, riot, sabotage, or a flood, storm event, natural cause or other act of god, or other similar circumstance, which is the cause of the violation. "Upset" also includes noncompliance consequent to the

performance operations for which a prior exception has been granted by the Joint Meeting.

- (60) "**User**" means any person who discharges, causes or permits the discharge of wastewater to the wastewater Treatment Works of the Joint Meeting.
- (61) "**User Classification**" means a classification of Users based on the 1972 (or subsequent) edition of the Standard Industrial Classification (SIC) Manual prepared by the Office of Management and Budget.
- (62) "**USEPA**" means the United States Environmental Protection Agency, or successor agency.
- (63) "**Wastewater**" means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water and storm water that may be present, whether treated or untreated, which is discharged into or permitted to enter the Joint Meeting treatment facilities.
- (64) Terms not otherwise defined herein shall be adopted in the latest edition of Standard Methods for the Examination of Water & Wastewater, published by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation; the Federal Guidelines for State and Local Pretreatment programs, EPA-43019-76-0179, Volume I, 1977; or the latest revision thereof; P.L. 95-217; N.J.S.A. 58 10A-1; or N.J.A.C. 58:11-49, 1972.

**APPENDIX - B**  
**ENFORCEMENT RESPONSE PLAN**

Following is the Joint Meeting Enforcement Response Plan which describes how the Joint Meeting shall investigate and respond to instances of industrial noncompliance.

Steps are as follows:

- 1) Determine the type of violation as required by N.J.A.C. 7:14A-19 Appendix A.
- 2) Determine the enforcement response required.
- 3) Assess mandatory minimum penalties for the following violations:
  - a) Serious violation
  - b) Significant noncompliance
  - c) Incomplete discharge report
- 4) Determine the grade of seriousness if a civil administrative penalty is to be assessed utilizing the penalty matrix.
- 5) Determine the grade of conduct if a civil administrative penalty is to be assessed utilizing the penalty matrix.
- 6) After steps 5 and 6 have been completed, determine the penalty amount according to the penalty matrix.

The Joint Meeting shall determine the type of violation on the table required by N.J.A.C. 7:14A-19 Appendix A.

**A. UNAUTHORIZED DISCHARGES**

<b>Noncompliance</b>	<b>Nature of the Violation</b>	<b>Enforcement Responses</b>	<b>Time Frame</b>	<b>Personnel</b>	<b>Type of Violation &amp; Grace Period (if any)</b>
1. Discharge without a permit (Permit required)	No harm to POTW or environment	NOV with application form, if needed	60 days	PC	NM
	Harm to POTW or environment [IU meets SNC criteria under 40 CFR Part 403.8(f)(s)(vii)]	Take action to halt activity ----- Public Notice	2 days  ----- Annually, but no later than 60 days after 403 Annual Report submitted to the NJDEP	PC ED LC	NM
	Noncompliance with order to submit application	Seek penalty	6 months	PC ED LC	NM
2. Failure to renew	Failure to submit application prior to 180 days of expiration of current permit	NOV	60 days	PC	NM
	Failure to apply continues after notice by the POTW	Seek penalty	6 months	PC ED LC	NM
3. Discharge outside scope of application / permit	Failure to notify in advance of new introductions of pollutants or significant change in existing pollutants	NOV with permit application to be modified	60 days	PC	NM

PC = Pretreatment Coordinator; ED = Executive Director; LC = Legal Counsel; M = Minor; NM = Non-minor

**B. DICHARGE LIMIT VIOLATIONS**

<b>Noncompliance</b>	<b>Nature of the Violation</b>	<b>Enforcement Responses</b>	<b>Time Frame</b>	<b>Personnel</b>	<b>Type of Violation &amp; Grace Period (if any)</b>
1. Exceedance of local or Federal standard (permit limit)	Individual or monthly non-serious violation	NOV; compliance response / corrective action plan, if needed	60 days from receipt	PC	NM
	Serious violation (individual or monthly)	Seek at least a mandatory minimum penalty in accordance with N.J.A.C. 7:14-8.16	NOV – 60 days Penalty – 6 months	PC ED LC	NM
	Significant noncompliance (IU meets SNC criteria under 40 CFR Part 403)	Public notice	Annually, but no later than 60 days after 403 annual report submitted to NJDEP	PC ED LC	NM
	Significant noncompliance (IU meets SNC criteria in NJWPCA, under N.J.S.A. 58:10A-3.w)	Seek at least a mandatory minimum penalty in accordance with N.J.A.C. 7:14-8.16	6 months	PC ED LC	NM

PC = Pretreatment Coordinator; ED = Executive Director; LC = Legal Counsel; M = Minor; NM = Non-minor

**C. MONITORING AND REPORTING VIOLATIONS**

<b>Noncompliance</b>	<b>Nature of the Violation</b>	<b>Enforcement Responses</b>	<b>Time Frame</b>	<b>Personnel</b>	<b>Type of Violation &amp; Grace Period (if any)</b>
1. Reporting violation	Late, 5 or more days after due date (but complete)	NOV, seek penalty, including at least mandatory minimum penalty for overdue effluent parameter information, if any, in accordance with N.J.A.C. 7:14-8.9 (note: Penalty waived if complete report is received within 10 days of receipt of the NOV).	NOV: 60 days  Penalty: 6 months	PC	NM
	Late 31 days or more after due date (but complete)	Public notice, NOV, and seek penalty, including at least mandatory minimum penalty for overdue effluent parameter information, if any, in accordance with N.J.A.C. 7:14-8.9 (note: Penalty waived if complete report is received within 10 days of receipt of the NOV).	Public notice in accordance with approved program  Penalty within 6 months	PC	NM
	Incomplete for data omission (IU meets SNC criteria under 40 CFR Part 403)	Public notice	Annually, but no later than 60 days after 403 Annual Report submitted to NJDEP	PC	NM
	Incomplete for effluent parameter omission (IU meets SNC criteria under NJWPCA)	Public notice and seek at least a mandatory minimum penalty in accordance with N.J.A.C. 7:14-8.9 and N.J.A.C. 7:14-8.16(a)	Public notice in accordance with approved program  Penalty within 6 months	PC	NM
	Incomplete for effluent parameter omission	Seek at least a mandatory minimum penalty in accordance with N.J.A.C. 7:14-8.9	Penalty within 6 months	PC	NM
	Incomplete for other omissions (IU meets the SNC criteria under NJWPCA)	Public notice and seek at least a mandatory minimum penalty in accordance with N.J.A.C. 7:14-8.16(a)	Penalty within 6 months	PC	NM
	Incomplete for other omissions	NOV	60 days	PC	M – 10 days
	Falsification	Seek penalty or refer to county prosecutor	60 days	PC ED LC	NM

PC = Pretreatment Coordinator; ED = Executive Director; LC = Legal Counsel; M = Minor; NM = Non-minor

**C. MONITORING AND REPORTING VIOLATIONS (cont.)**

<b>Noncompliance</b>	<b>Nature of the Violation</b>	<b>Enforcement Responses</b>	<b>Time Frame</b>	<b>Personnel</b>	<b>Type of Violation &amp; Grace Period (if any)</b>
2. Failure to adhere to compliance schedules (in control document, permit, AO/ACO, letter of agreement)	Missed milestone by less than 30 days	NOV, seek penalty (note: penalty may be waived if final compliance is met by due date)	NOV: 60 days Penalty: 6 months	PC	NM
	Missed milestone by more than 30 days (IU meets SNC criteria under 40 CFR Part 403)	NOV, seek penalty (note: penalty may be waived if final compliance is met by due date)	NOV: 60 days Penalty: 6 months	PC ED LC	NM
	Failure to meet final compliance date	NOV, seek penalty	NOV: 60 days Penalty: 6 months	PC ED LC	NM
3. Failure to notify	Failure to report spill or changed discharge	NOV, seek penalty where necessary	NOV: within 60 days of discovery  Penalty: no later than 6 months of discovery	PC ED LC	NM
4. Failure to monitor correctly	Incorrect sample location, incorrect sample type, incorrect sample collection techniques, or incorrect sample analysis	NOV, with proper resampling, including sample analysis	60 days	PC	NM
5. Failure to report additional monitoring	POTW inspection finds additional files	NOV with request to submit additional monitoring data	60 days	PC	NM

PC = Pretreatment Coordinator; ED = Executive Director; LC = Legal Counsel; M = Minor; NM = Non-minor

**D. OTHER PERMIT VIOLATIONS**

<b>Noncompliance</b>	<b>Nature of the Violation</b>	<b>Enforcement Responses</b>	<b>Time Frame</b>	<b>Personnel</b>	<b>Type of Violation &amp; Grace Period (if any)</b>
1. Wastestreams are diluted to achieve discharge limits	Dilution	NOV, seek penalty	NOV – 60 days Penalty – 6 months	PC ED LC	NM
2. Continuing failure to halt or prevent a discharge which caused or causes imminent endangerment to human health, welfare, or the environment or has resulted in the POTW's exercise of its emergency authority under 40 CFR 403.8(f)(1)(vi)(B)	Refusal to discontinue activity upon notification	Take physical (effective) action or seek court order to halt discharge	2 days maximum	PC ED LC	NM
3. Failure to maintain in good working order and properly operate, any facilities or systems of control installed to achieve compliance with the terms and conditions of the permit	Violation of operating requirements	NOV	60 days	PC	NM
4. Entry denial	Entry denied or consent withdrawn. Copies of records denied.	NOV, seek penalty	6 months	PC ED LC	NM
5. Inadequate record keeping	POTW inspector finds files incomplete or missing	NOV	60 days	PC	NM

PC = Pretreatment Coordinator; ED = Executive Director; LC = Legal Counsel; M = Minor; NM = Non-minor

**STEP TWO**

The Joint Meeting shall take the enforcement response required by N.J.A.C. 7:14A-19 Appendix A. This may include the following items:

- Issuing a Notice of Violation (NOV) when required.
- Seeking a penalty when required.
- Public noticing the violation in the newspaper when required.
- Referring the matter to the county prosecutor or Attorney General for prosecution.
- Seeking a court order to halt the discharge.
- Taking effective physical action to halt the discharge.

**STEP THREE**

The Joint Meeting shall determine if any violations meet the qualifications to assess a mandatory minimum penalty as required by N.J.A.C. 7:14A and N.J.S.A. 58:10A-1 et seq. The violations which require the assessment of a mandatory minimum penalty are those identified as Serious Violations, Significant Noncompliance Violations and Incomplete Discharge Reports.

The Joint Meeting shall assess mandatory minimum penalties required by N.J.A.C. 7:14A and N.J.S.A. 58:10A-1 et seq. as follows:

**SERIOUS VIOLATION** = \$1,000

**SIGNIFICANT NONCOMPLIANCE** = \$5,000 for a violation that causes the violator to be, or continue to be, in significant noncompliance

**INCOMPLETE DISCHARGE REPORTS** = \$100 per day for up to 30 days for each effluent parameter omitted on a discharge monitoring report

Following is an outline of what constitutes Serious Violations and Significant Noncompliance Violations:

**SERIOUS VIOLATION**

1. Violations of an effluent limitation that is expressed as a monthly average:
  - By 20% or more for a hazardous pollutant
  - By 40% or more for a nonhazardous pollutant
2. Violations of an effluent limitation that is expressed as a daily maximum or daily minimum without a monthly average:
  - By 20% or more of the average of all the daily maximum or minimum values for a hazardous pollutant
  - By 40% or more of the average of all the daily maximum or minimum values for a nonhazardous pollutant
3. pH
  - If the greatest violation for any calendar day has a pH of 4.5 or less or a pH of 10.5 or greater. These serious violation limitations for pH are calculated per the definition of pH Serious Violation which states that it is the greatest violation of pH effluent range in any one calendar day which violation deviates from the midpoint of the range by at least 40% of the midpoint of the range. The Joint Meeting Rules & Regulations contains an allowable pH range of 6.0-9.0 SU, therefore the midpoint of the range is 7.5 SU. Forty percent of 7.5 is 3. Therefore the serious violation points are  $(7.5-3 = 4.5)$  and  $(7.5+3 = 10.5)$ .

**SIGNIFICANT NONCOMPLIANCE (SNC)**

Violations which cause a person to become or remain in SNC include:

- A serious violation for the same pollutant, at the same discharge point source, in any two months of any consecutive six month period
- Exceedance of an effluent limitation expressed as a monthly average, for the same pollutant, at the same discharge point source, by any amount in any four months of any consecutive six month period
- If there is not an effluent limitation for a particular pollutant expressed as a monthly average, exceedance of the monthly average of the daily maximums for the effluent limitation, for the same pollutant, at the same discharge point source, by any amount in any four months of any consecutive six month period
- Any exceedance of an effluent limitation for pH by any amount at the same discharge point source in any four months of any consecutive six month period
- Failure to submit a completed discharge monitoring report in any two months of any consecutive six month period

## **STEP FOUR**

The Joint Meeting may assess a civil administrative penalty as outlined in N.J.A.C. 7:14-8.16(e) by first determining the seriousness of the violation. The Joint Meeting shall determine the seriousness of the violation as:

### **MAJOR SERIOUSNESS**

- Exceeds *Hazardous* pollutant limit by >50%
- Exceeds *Non-hazardous* pollutant limit by >100%
- *pH*: >50% from the midpoint (ie <3.75 SU or >11.25 SU)
- Any discharge of a pollutant which has caused, or has the potential to cause, serious harm to human health or the environment
- Any other violation that caused, or has the potential to cause, serious harm to human health, or the environment
- Any violation which seriously deviates from the requirements of the Water Pollution Control Act or the NJ Underground Storage of Hazardous Substances Act.

### **MODERATE SERIOUSNESS**

- Exceeds *Hazardous* pollutant limit by 20-50%
- Exceeds *Non-hazardous* pollutant limit by 40-100%
- *pH*: 40-50% from the midpoint (ie 3.75-4.50 SU or 10.50-11.25 SU)
- Any other violation which causes or has the potential to cause substantial harm to human health or the environment
- Any violation which substantially deviates from the requirements of the Water Pollution Control Act or the NJ Underground Storage of Hazardous Substances Act

### **MINOR SERIOUSNESS**

- Exceeds *Hazardous* pollutant limit by <20%
- Exceeds *Non-hazardous* limit by <40%
- *pH*: <40% from the midpoint (ie 4.51-5.99 SU or 9.01-10.49 SU)

**STEP FIVE**

After determining the seriousness of the violation, the Joint Meeting shall assess a civil administrative penalty as outlined in N.J.A.C. 7:14-8.16(e) by determining the conduct of the violation. The Joint Meeting shall determine the conduct of the violator as:

**Major Conduct:** Any intentional, deliberate, purposeful, knowing or willful act or omission by the violator.

**Moderate Conduct:** Any unintentional but foreseeable act or omission by the violator.

**Minor Conduct:** Any other conduct not included as major conduct or moderate conduct.

**STEP SIX**

After determining the seriousness of the violation and the conduct of the violator, the Joint Meeting shall assess a penalty utilizing the penalty matrix in N.J.A.C. 7:14-8.16(f).

**Penalty Matrix**

<i>NJAC 7:14-9.16(f)</i>	<b>Minor Seriousness</b>	<b>Moderate Seriousness</b>	<b>Major Seriousness</b>
<b>Minor Conduct</b>	\$250 - \$1,250 (\$750)	\$500 - \$2,500 (\$1,500)	\$500 - \$7,500 (\$4,000)
<b>Moderate Conduct</b>	\$500 - \$3,000 (\$1,750)	\$2,500 - \$5,000 (\$3,750)	\$5,000 - \$10,000 (\$7,500)
<b>Major Conduct</b>	\$2,000 - \$13,000 (\$7,500)	\$5,000 - \$25,000 (\$15,000)	\$10,000 - \$50,000 (\$30,000)

## APPENDIX - C USER FEE SCHEDULE

The following fees constitute the User fees for the use of the Joint Meeting Treatment Works, and review of all User, connection, and excavation permits related thereto. Such fees, and any additional fees the Joint Meeting deems necessary, shall be subject to change by the Joint Meeting at its sole discretion.

<b>A.</b>	<b>Industrial User Permit Fees:</b>	
1.	Industrial User Permit Application Fee	\$2,000.00
2.	Industrial User Permit Renewal Fee	\$1,500.00
<b>B.</b>	<b>Groundwater Remediation Fees:</b>	
1.	Long-term Permit Application Fee	\$2,000.00
2.	Long-term Permit Renewal Fee	\$1,500.00
3.	Short-term Review Fee	\$ 500.00
4.	Short-term Disposal Fee (per gallon charge)	\$ 0.03
<b>C.</b>	<b>Annual Non-Domestic Wastewater Discharge Inspection Fees:</b>	
1.	Administrative Inspection	\$ 250.00
2.	Automatic Sampler and Set-up (First Sampler)	\$ 180.00
3.	Each Additional Automatic Sampler	\$ 60.00
4.	Grab Sampling (Automatic Sampling Not Required)	\$ 30.00
5.	Each Additional Grab Sampling Location	\$ 15.00
6.	BOD Analysis	\$ 30.00
7.	TSS Analysis	\$ 15.00
8.	Metals Analysis (each parameter)	\$ 25.00
9.	Total Oil/Grease Analysis	\$ 50.00
10.	Petroleum Hydrocarbon Analysis	\$ 50.00
11.	Total Cyanide Analysis	\$ 45.00
12.	Amenable Cyanide Analysis	\$ 45.00
13.	pH	\$ 10.00
14.	Total Toxic Organics Analysis	\$ 340.00*
	a) Volatile Organics (Method 624)	\$ 60.00*
	b) BNAs (Method 625)	\$ 160.00*
	c) Pesticides / PCBs (Method 608)	\$ 120.00*
15.	Pharmaceutical Organics (Group 1)	\$ 975.00*
16.	Pharmaceutical Organics (Group 2)	\$1,370.00*
	*Fee subject to yearly bidding	
<b>D.</b>	<b>Variance Application Fee:</b>	<b>\$3,500.00</b>
<b>E.</b>	<b>Request for Major Modification</b>	<b>\$ 500.00</b>

**Appendix C (cont.)**

**F. Treatment Works Approval Review Fees:**

(Note: 300 gallons/day = 1 EDU)

1. Residential EDU's:

<u>EDU's</u>	<u>Review Fee</u>
1-4	\$150.00
5-25	\$250.00
26-50	\$400.00
51-100	\$600.00
>100	\$7.50 per EDU
  
2. Commercial EDU's:

\$150 + (total number of EDU's x \$7.50)

**G. Connection Review Fees:**

(Note: 300 gallons/day = 1 EDU)

1. Residential EDU's:

<u>EDU's</u>	<u>Review Fee</u>
1-4	\$150.00
5-25	\$250.00
26-50	\$400.00
51-100	\$600.00
>100	\$7.50 per EDU
  
2. Commercial EDU's:

\$150 + (total number of EDU's x \$7.50)

**Appendix D**  
**Table of Local Limitations**

<b>POLLUTANT</b>	<b>DAILY MAXIMUM (mg/l)</b>
Arsenic	0.22 (Action Level) <sup>1</sup>
Cadmium	0.4
Chromium - Total	3.0 (Action Level) <sup>1</sup>
Copper	1.00
Cyanide - Total	1.31
Lead	2.0
Mercury	0.011
Nickel	2.0 <sup>3</sup>
Oil & Grease (as HEM) (SGT-HEM portion not to exceed SGT-HEM limits)	300 <sup>4</sup>
Silver	1.0 <sup>3</sup>
Total Petroleum Hydrocarbons (as SGT-HEM)	150 - Daily Maximum 100 - Monthly Average
Total Toxic Organics (PCBs are prohibited)	1.0 (Action Level) <sup>2</sup>
BETX (Benzene, Ethylbenzene, Toluene, Xylene)	0.5 (Action Level) <sup>2</sup>
Zinc	4.53
pH	Permissible Range = 6.0 - 9.0 SU <sup>5</sup>

1 - Action Level (metals) : If the Action Level is exceeded, the user will be given a loadings allocation which will become effective within 6 months of granting of the allocation. The user must install a non-resettable flow meter at the affected outfall. If the flow meter is not installed, then the concentration limit noted in Appendix D will become the user's limit.

## Appendix D (cont.)

2 - Action Level (organics): If the Action Level is exceeded by any user discharging organic-contaminated groundwater, the user must install additional treatment equipment and/or upgrade their existing wastewater treatment technology to ensure that the discharge remains below the Action Level. Failure to meet the Action Level will be considered as failure to properly maintain their treatment system.

3- The JMEUC NJPDES Permit (Permit) contains limitations for these metals which may ultimately affect the daily maximum local limitation. The JMEUC has appealed the limitations, and been granted a stay. These local limitations will be revisited upon final designation of the JMEUC limits for these metals.

4 - Oil & Grease - JMEUC will consider requests for variances to 875 mg/l

5 - pH - JMEUC will consider requests for variances of 5.0 - 10.5 for up to 1% of discharge time

## **Appendix E**

### **Hazardous Pollutants Classified Under 40 C.F.R. 261**

Please refer to most current version of 40 C.F.R. 261

## **Appendix F**

### **Table of Minor and Non-Minor Violations; Grace Periods**

- (a) Table 1 below identifies particular violations of the Joint Meeting Rules and Regulations, as minor or non-minor for purposes of a grace period, and identifies the duration of the grace period for minor violations. The descriptions of the violations set forth in the table in this section are provided for informational purposes only. In the event that there is a conflict between a violation description in the table and the rule to which the violation description corresponds, the rule shall govern.
- (b) The Joint Meeting may assess a civil administrative penalty for a violation of the Joint meeting Rules and Regulations and/or for a violation of any rule, consent agreement or administrative order adopted or issued pursuant thereto, that is not listed in Table 1, following the procedure under (c) below.
- (c) For violations not listed in Table 1, the Joint Meeting shall determine whether the violation is a minor violation and subject to a grace period or whether the violation is non-minor and not subject to a grace period as follows:
  - i. If, pursuant to (d) below, the violation is comparable to a violation listed in Table 1 and the comparable violation in Table 1 is minor, then the violation under this section is also minor, provided the criteria at Article 5.7 are also met. The minor violation shall be subject to the grace period set forth in Table 1 for the comparable violation.
  - ii. If the violation is not comparable to a violation listed in Table 1 and the violation meets all of the criteria at Article 5.7, then the violation under this section is minor. The minor violation shall be subject to a grace period of 30 days.
  - iii. If, pursuant to (d) below, the violation is comparable to a violation listed in Table 1 and the comparable violation in Table 1 is non-minor, then the violation under this section is also non-minor and the penalty shall be assessed in accordance with Article 5.3.
- (d) Comparability of a violation under (c) above with a violation listed in Table 1 is based upon the nature of the violation (for example, a violation of record keeping, permit limitation, or monitoring).

**TABLE 1**

<b>Rule Citation</b>	<b>Description of Violation</b>	<b>Type of Violation</b>	<b>Grace Period</b>
1.2(a)	Injury to wastewater facility	NM	
1.2(b)	Failure to notify JMEUC of all discharges that could cause problems to the Treatment Works, including slug loadings. Must be reported within 2 hours of occurrence.	NM	
1.3	Discharge into any natural outlet without an appropriate permit	NM	
1.6	Failure to provide information to determine compliance with the Rules and Regulations.	NM	
2.1.1(a)	Failure to obtain an excavation/connection permit prior to altering or repairing any direct connection to the Joint Sewer.	NM	
2.1.1(b)	Failure to adhere to the excavation/connection permit issued by the Joint Meeting.	NM	
2.1.1(c)	Failure to adhere to the connection requirements contained in the excavation/connection permit issued by the Joint Meeting.	NM	
2.1.2	Failure to connect to the municipal system without notifying Joint Meeting and submitting, if necessary, an Industrial User Permit application.	NM	
2.2	Failure to notify Joint Meeting of a change in use such that the User intends to discharge industrial wastes or to discharge more than the equivalent of 25,000 gallons of industrial waste.	NM	
2.3(a) – 2.3(d)	Failure to abide by the groundwater discharge requirements as outlined in 2.3(a)-2.3(d)	NM	
2.4	Failure to abide by the storm water regulations as outlined in 2.4	NM	

<b>Rule Citation</b>	<b>Description of Violation</b>	<b>Type of Violation</b>	<b>Grace Period</b>
3.1	Industrial User Permits: Failure of a Significant Industrial User to obtain a Permit. It is a violation of the Rules and Regulations for any person to violate any term or condition set forth in any Permit.	NM	
3.3	New Industrial Users shall apply for and receive a Permit prior to commencement of operations.	NM	
3.4(a)	Failure to submit a completed permit application with appropriate fee.	NM	
3.5	Failure to submit a completed permit renewal application no later than 6 months prior to the expiration date of the Permit then in force.	NM	
3.7(b)	Failure of an Industrial User to notify the Joint Meeting (and apply for a Permit modification) of significant changes in its discharge volume or quality, at least 90 days before making changes.	NM	
3.8(a) & (b)	Transfer of Permits – Failure to abide by the language regarding changes in ownership, corporate structures, submittal of Permit Application.	NM	
3.9(b)(1) – 3.9(b)(16)	Industrial User Permit Conditions – Failure to abide by the terms imposed by the Joint Meeting in the issuance of the Permit.	NM	
3.9(b)(17)(c)(1) – 3.9(b)(17)(c)(7)	Oil & Grease Variance – Failure to adhere to the restrictions and conditions applicable to an oil & grease variance.	NM	
3.9(b)(17)(c)(9)	Oil & Grease Variance – Failure to pay the variance application fee.	NM	
3.10(a) – 3.10(c)	Permit Suspension – Failure to adhere to the suspension of discharge	NM	
3.11(b) - 3.11(c)	Permit Revocation – Failure to abide by the permit revocation.	NM	

<b>Rule Citation</b>	<b>Description of Violation</b>	<b>Type of Violation</b>	<b>Grace Period</b>
3.15(a)	Facility Inspections – Failure to provide immediate access to facilities, property, premises, and records at any time during which there is a discharge to the Joint Meeting or at such times as may be necessary during emergencies as determined by the Joint Meeting.	NM	
3.15(c)	Delay, interfere with, resist or refuse entrance to an authorized Joint Meeting personnel attempting to inspect any facility involved directly or indirectly with a discharge of wastewater to the Joint Meeting.	NM	
4.1	Dilution – Except as expressly authorized to do so by an applicable Pretreatment standard or requirement, an Industrial User shall never increase the use of process water, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with Pretreatment Standards or Requirements.	NM	
4.2(a)-4.2(o)	Prohibited Industrial Wastes – Failure to abide by the prohibition of discharging the outlined wastes.	NM	
4.3(a)	Failure to be in compliance with the Table of Local Limitations and/or any applicable Categorical Standard. In addition, dilution of any wastewater discharge for the purpose of attaining compliance is prohibited.	NM	
4.4(a)	Sampling Facilities – Failure to construct and maintain a sampling structure when required to do so by the Joint Meeting. Failure to abide by the requirements as outlined.	NM	

<b>Rule Citation</b>	<b>Description of Violation</b>	<b>Type of Violation</b>	<b>Grace Period</b>
4.5(a) – 4.5(d)	Pretreatment Standards – Failure to abide by the language set forth in these sections.	NM	
4.7.2	Records – Failure to maintain records of production and related factors, effluent flows and pollutant amounts or concentrations as are necessary to demonstrate compliance. These records must be maintained by the User for a period of at least 5 years. Such records shall be made available upon request to the Joint Meeting.	NM	
4.7.3(a) – 4.7.3(i)	Reporting – Failure to abide by the reporting requirements outlined in this section	NM	
4.7.4	Accidental Discharges – Failure to abide by the reporting and sampling requirements regarding accidental discharges. This includes, but is not limited to, immediately sampling the discharge, taking immediate corrective action(s) to prevent continued harm to the Joint Meeting, immediately notifying the Joint Meeting, and submission of a written report addressed to the Joint Meeting detailing the date, time and cause of the accidental discharge, and the action taken to prevent future discharges.	NM	
4.8.1	Industrial Waste Monitoring – Facilities/Equipment – Failure to install suitable monitoring equipment, failure to maintain the equipment in proper working order and kept safe and accessible at all times.	NM	

<b>Rule Citation</b>	<b>Description of Violation</b>	<b>Type of Violation</b>	<b>Grace Period</b>
4.8.3	Compliance Schedule – Failure to develop a compliance schedule for the installation of technology required to meet applicable Pretreatment Standards and Requirements.	NM	
4.10.1	Analysis of Industrial Waste – Failure to utilize a laboratory certified by the NJDEP in wastewater analysis for the parameters to be analyzed.	NM	
4.10.2	Analysis of Industrial Waste - Laboratory Procedures – Failure to utilize approved methodology.	NM	
4.10.3	Analysis of Industrial Waste – Sample Collection, Handling, and Preservation – Failure to follow approved methodology for sample collection, handling and preservation and failure to maintain suitable logs and/or records.	NM	
4.11.1	Frequency of Sampling and Analysis – Failure to sample and analyze for such parameters as the Joint Meeting deems appropriate. Failure to report all effluent data to the Joint Meeting.	NM	
4.11.2	Failure to notify the Joint Meeting with 24 hours of becoming aware of a violation resulting from self-monitoring. Failure to repeat the sampling and analysis and to submit the results of the repeat analysis to the Joint Meeting with 30 days after becoming aware of the violation.	NM	
4.12(b)	Slug Control Plan – Failure to create and implement a slug control plan.	NM	
5.4(a)	Notice of Violation – Penalties – Failure to either pay the issued penalty with 20 days of receipt of the penalty or to submit a request for adjudicatory hearing if appealing.	NM	

<b>Rule Citation</b>	<b>Description of Violation</b>	<b>Type of Violation</b>	<b>Grace Period</b>
5.4(b)	Notice of Violation – Failure to respond to a Notice of Violation within the time frame set forth shall be subject to a minimum of \$100/day penalty each day until the Joint Meeting receives a complete response containing all information requested by the Joint Meeting.	NM	
7.1	Measurements, Tests and Analyses – Failure to perform measurements, tests and analyses in accordance with procedures approved by the EPA. Failure to perform sampling (method, location, time, duration and frequency) as required by the governmental authority requiring the sample.	NM	