Orange Water and Sewer Authority

Meeting of the Board of Directors

October 10, 2019

The Board of Directors of the Orange Water and Sewer Authority (OWASA) met in a work session on Thursday, October 10, 2019, at 6:00 p.m. in OWASA's Community Room, 400 Jones Ferry Road, Carrboro.

Board Members present: Raymond (Ray) DuBose (Chair), Ruchir Vora (Vice Chair), Bruce Boehm (Secretary), Yinka Ayankoya, John Cooley, Jody Eimers, Robert Morgan, John N. Morris and Bruce Runberg.

OWASA staff present: Mary Darr, Monica Dodson, Jesse DuClau, Robert Epting, Esq., (Epting and Hackney), Vishnu Gangadharan, Ed Kerwin, Simon Lobdell, Linda Low, Andrea Orbich, Ruth Rouse, Todd Taylor and Richard Wyatt.

Others present: Meg Holton (UNC Water Resources Manager), Ben Latino (McKim & Creed), Lauralee H. Long, Fatirnia Massagnoi (UNC student) and Ben Poulson (UNC Associate Director of Energy Services).

Motions

1. BE IT RESOLVED THAT the Board of Directors of the Orange Water and Sewer Authority adopts the Approval of Sole Source Procurement of Water Treatment Plant Process Equipment. (Motion by Bruce Boehm, second by Yinka Ayankoya and unanimously approved.)

2. Bruce Boehm made a motion to approve the Minutes of the September 26, 2019 Closed Session of the Board of Directors for the purpose of discussing a personnel matter; second by Yinka Ayankoya and unanimously approved.

3. BE IT RESOLVED THAT the Board of Directors of the Orange Water and Sewer Authority adopts the Resolution Establishing a Declaration of Intent to Amend the Sewer Use Ordinance. (Motion by Jody Eimers, second by Bruce Runberg and unanimously approved.)

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Announcements

Ray DuBose asked if any Board Member knows of a conflict of interest or potential conflict of interest with respect to any item on the agenda tonight to disclose the same at this time; none were disclosed.

Mr. DuBose said the Human Resources (HR) Committee met on September 30, 2019 to review 15 proposals received for the Executive Search and Assessment Services for OWASA's next Executive Director. The HR Committee agreed four consultants would be invited to interview

with Board: Developmental Associates, LLC; Colin Baenziger & Associates; The Mercer Group; and Slavin Management Consultants. The interviews will be conducted in a Special Meeting of the Board on Wednesday, October 16, 2019 at 6:00 p.m. in the OWASA Boardroom. The HR Committee agreed staff will conduct the consultant reference checks and provide that information in advance of the Special Meeting. Each firm will be allotted 15-minutes for a presentation and 15-minutes for questions and answers. Following the interviews, the Board will select a firm to perform the services.

Mr. DuBose said a New Board Member Diversity and Inclusion Training Session was held on October 8, 2019 and a full Board session will be scheduled later.

Mr. DuBose announced a meeting of Members of the Orange County Board of Commissioners and Orange County Appointees to the OWASA Board on Thursday, November 14, 2019 at 8:30 a.m. in the OWASA Boardroom. Topics for discussion are an update on OWASA's forest management, Orange County Climate Council and OWASA's solar project.

Bruce Boehm announced a Chapel Hill Town Council OWASA Committee and Chapel Hill Appointees to the OWASA Board of Directors meeting on Thursday, October 17, 2019 at 8:30 a.m. in the OWASA Boardroom to discuss: managing taste and odor in drinking water; employee Diversity and Inclusion; engagement with people living in master metered locations; and a status update to the Rogerson Drive Force Main replacement.

Mr. Boehm also announced a Finance Committee Meeting on Tuesday, October 22, 2019 at 5:00 p.m. in the OWASA Boardroom to discuss improvements to the budget process for Fiscal Year 2021.

Jody Eimers said the Chatham-Orange County Joint Planning Task Force met on October 3, 2019, to discuss solid waste recycling and electrical generation and climate change. Ms. Eimers said the next meeting will be Thursday, February 6, 2020 and the proposed topics for discussion are development along the 15-501 corridor, regional transportation, and affordable housing.

Ed Kerwin announced that OWASA will host the Chapel Hill Peoples Academy/Carrboro Citizens Academy on Saturday, October 19, 2019 at 9:00 a.m. in the Operations Center.

Mr. Kerwin said October 2, 2019, an Agua Vista update was provided to the Chapel Hill Town Council by Mary Tiger which was well received by the Council.

Ruth Rouse, Planning and Development Manager, announced she will attend the Orange County Commission for the Environment meeting on Monday, November 11, 2019, to present information on OWASA's Forest Management program.

Item One: Quarterly Report on Attendance at Board and Committee Meetings

The Board received this as an information item.

Item Two: Approval of Sole Source Procurement of Water Treatment Plant Process Equipment

Bruce Boehm made a motion to approve the resolution; second by Yinka Ayankoya and unanimously approved. Please see Motion 1.

Item Three: Minutes

Bruce Boehm made a motion to approve the Minutes of the September 26, 2019 Closed Session of the Board of Directors for the purpose of discussing a personnel matter; second by Yinka Ayankoya and unanimously approved. Please see Motion 2.

Item Four: Resolution Establishing a Declaration of Intent to Adopt Revisions to the Sewer Use Ordinance

Jody Eimers made a motion to approve the resolution; second by Bruce Runberg and unanimously approved by the Board of Directors. Please see Motion 3.

Staff will provide the Declaration of Intent to Amend the Sewer Use Ordinance to the local governments, the University of North Carolina at Chapel Hill and UNC Hospitals for review and comments as required by the State statutes.

Item Five: Update on Rogerson Drive Force Main Emergency Repair and Cost Estimate

The Board received and discussed an update from Simon Lobdell (Utilities Engineer) on the Rogerson Drive Force Main emergency repair and cost estimate. The force main is a critical pipeline within the wastewater collection system and the emergency replacement has been ongoing since April 2019.

Fatirnia Massagnoi, a UNC student, asked what measures are in place to avoid future sewer overflows and pipe failure.

Mr. Lobdell responded that OWASA has an internal pipe inspection program as well as an ongoing pipeline rehabilitation and improvement program.

Item Six: Response to a Board Petition regarding an Update to the 1996 Cane Creek Reservoir Watershed Study

Without objection, the Board agreed to consider updating the 1996 Cane Creek Reservoir Watershed Study after the completion of the Long-Range Water Supply Plan update and evaluate it alongside other initiatives that would be developed during the update of the Strategic Plan.

Item Seven: Review Board Work Schedule

The November 14, 2019 agenda may include the Executive Director’s Workplan through June 2020.

Without objection, the Board's Finance Committee will work with staff to evaluate information related to the social, regulatory, and environmental responsibility of banking institutions that responded to OWASA's request for proposals for banking services; the full Board is welcome to participate in the meeting. The full Board will be included in the doodle poll to schedule the Finance Committee meeting.

The Board agreed to tentatively schedule a Special Meeting of the Board on the Long-Range Water Supply Plan (LRWSP) regarding the draft evaluation of water supply and demand management alternatives in January 2020. They also agreed to receive a brief overview of the LRWSP schedule and process at the November 14, 2019 Board meeting.

Item Eight: Executive Director's Summary of Key Staff Action Items from the Work Session

Staff will schedule a Finance Committee meeting to review banking proposals and the full Board will be included in the doodle poll.

Item Nine: Closed Session

Without objection, the Board convened in a closed session for purpose of discussing a personnel matter.

The Board meeting reconvened in open session at 8:07 p.m., and the meeting was adjourned.

Respectfully submitted by:

Andrea Orbich

Andrea Orbich
Executive Assistant/Clerk to the Board

Attachments

Resolution Approving Sole Source Procurement for Water Treatment Plant Process Equipment

Whereas, State of North Carolina General Statute (GS) 143-129 (Procedure for letting of public contracts) allows a governing board to approve purchases of apparatus, supplies, materials or equipment through a non-competitive, or "sole source," process when: (i) performance or price competition are not available; (ii) a needed product is available from only one source of supply; or (iii) standardization or compatibility is the overriding consideration; and

Whereas, compatibility with an existing Schneider Electric Altivar variable frequency drive (VFD) is the overriding consideration for the selection of a VFD to be installed on Finished Water Pump 5; and

Whereas, compatibility with the existing Mechatron powdered activated carbon (PAC) system is the overriding consideration for the selection of PAC system component improvements, and these components are only available from Schenck Process LLC; and

Whereas, standardization to UGSI Encore diaphragm chemical metering pumps is the overriding consideration for the selection of high pressure metering pumps for the sodium hypochlorite, alum, and caustic feed systems; and

Whereas, this equipment will be included in future construction contract bids, essentially committing OWASA to a sole source procurement; and

Whereas, pursuant to GS 143-129, the OWASA Board of Directors must approve purchases made through the sole source process prior to the award of the contract;

Now, Therefore, Be It Resolved:

1. That the Board of Directors has concluded that a sole specification of Schneider Electric Altivar VFD, Schenck Process Mechatron PAC system, and UGSI Encore diaphragm pumps is appropriate for the applications referenced above because standardization or compatibility is the overriding consideration.

2. That the Board of Directors hereby approves the sole source procurement of a Schneider Electric Altivar VFD, the Schenck Process Mechatron PAC system, and UGSI Encore diaphragm pumps for the Jones Ferry Water Treatment Plant.

3. This resolution shall take effect immediately upon its passage.

Adopted this 10th day of October, 2019.

Raymond C DuBose

Raymond E. DuBose, Chair

ATTEST:

Bruce R

Bruce Boehm, Secretary

Resolution Establishing A Declaration of Intent To Amend the Sewer Use Ordinance

Whereas, on April 27, 1995, the OWASA Board of Directors of Orange Water and Sewer Authority (OWASA) approved a *Resolution Adopting a Sewer Use Ordinance*; and

Whereas, the revised Sewer Use Ordinance dated October 10, 2019, has been presented to the OWASA Board of Directors for review and comment; and

Whereas, North Carolina General Statute 162A-6(14c) requires that OWASA pass a "declaration of intent" to adopt a Sewer Use Ordinance at least 60 days prior to adoption of a revised Sewer Use Ordinance, and that such "declaration of intent" shall describe the ordinance proposed for adoption and be submitted to each governing body for review and comment during the 60-day notice period;

Now, Therefore, Be It Resolved:

1. That the Board of Directors of the Orange Water and Sewer Authority hereby declares its intent to adopt a Sewer Use Ordinance in the form of the attached revision dated October 10, 2019.

2. That the Executive Director is authorized to submit this "declaration of intent" to adopt a Sewer Use Ordinance to the managers of Orange County, the Town of Carrboro, and the Town of Chapel Hill and otherwise to comply with North Carolina General Statute 162A-6.14C relative to adoption of such ordinance.

Adopted this 10th day of October, 2019.

Raymond E. DuBose, Chair

ATTEST:

Bruce Boehm, Secretary

ORANGE WATER AND SEWER AUTHORITY

SEWER USE ORDINANCE

Adopted ~~December 14, 2006~~TBD

Revised October 10, 2019

ORANGE WATER AND SEWER AUTHORITY
SEWER USE ORDINANCE
Adopted ~~December 14, 2006~~TBD
Revised October 10, 2019

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(To be provided once approved)

OWASA SEWER USE ORDINANCE

SECTION 1 - GENERAL PROVISIONS

1.1 Purpose and Policy

This ordinance sets forth uniform requirements for users of the Publicly Owned Treatment Works for the Orange Water and Sewer Authority, hereinafter referred to as OWASA, to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code § 1251 et seq.) and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403). The objectives of this ordinance are:

A. To prevent the introduction of pollutants and wastewater discharges into the publicly Owned Treatment Works that will interfere with its operation or contaminate the resulting biosolids;

B. To prevent the introduction of pollutants and wastewater discharges into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;

C. To promote reuse and recycling of reclaimed water and biosolids from the Publicly Owned Treatment Works;

~~C.~~D. To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;

~~D.~~A. ~~To promote reuse and recycling of reclaimed and biosolids from the Publicly Owned Treatment Works;~~

E. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Publicly Owned Treatment Works; and

F. To enable OWASA to comply with its National Pollutant Discharge Elimination System permit conditions, biosolids and sludge use and disposal requirements, reclaimed water use and requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.

This ordinance shall apply to all users of the Publicly Owned Treatment Works. The ordinance authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative

review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

1.2 Administration

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

1.3 Abbreviations and Definitions

A. The following abbreviations, when used in this ordinance, shall have the designated meanings:

- BOD - Biochemical Oxygen Demand
- ~~CBOD~~ cBOD - Carbonaceous Biochemical Oxygen Demand
- CFR - Code of Federal Regulations
- COD - Chemical Oxygen Demand
- CWA - Clean Water Act
- NC DEQ – North Carolina Department of Environmental Quality
- ~~DWQ~~ DWR - Division of Water ~~Quality~~Resources, North Carolina Department of Environmental ~~and Natural Resources~~Quality
- EPA - U.S. Environmental Protection Agency
- gpd - gallons per day
- mg/l - milligrams per liter
- NCAC – North Carolina Administrative Code
- NCGS - North Carolina General Statutes
- NPDES -National Pollutant Discharge Elimination System
- O&M - Operation and Maintenance
- POTW - Publicly Owned Treatment Works
- RCRA - Resource Conservation and Recovery Act
- SIC - Standard Industrial Classification
- SIU – Significant Industrial User
- SU – Standard Unit
- TKN - Total Kjeldahl Nitrogen
- TRC – Technical Review Criteria

- TSS - Total Suspended Solids
- U.S.C. - United States Code

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

1. Act or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 *et seq*.

2. Administrator. The deputy, agent, or representative authorized by the Board of Directors of OWASA to act in behalf of OWASA.

3. Approval Authority. The Director of the Division of Water ~~Quality~~ Resources of the North Carolina Department of Environmental Quality ~~and Natural Resources~~ or a duly authorized representative.

4. Authorized Representative of the User.

   (a) If the user is a corporation:

      (1) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

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

   (b) If the user is a partnership or sole proprietorship a general partner or proprietor, respectively.

   (c) If the user is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or a duly

authorized representative.

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

~~matters for the company, and the written authorization is submitted to OWASA.~~

(e) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of this section must be submitted to OWASA prior to or together with any reports to be signed by an authorized representative.

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

6. Building Sewer. A sewer conveying wastewater from the premises of a user to the POTW.

~~6.~~7. Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

~~7.~~8. Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.

~~8.~~9. Existing Source. Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such

source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

~~9.~~10. Grab Sample. A sample which is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.

~~10.~~11. Indirect Discharge or Discharge. The introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c), or (d) of the Act, into the POTW.

~~11.~~12. Interference. ~~A discharge, which alone or in conjunction with a discharge or discharges from other sources,~~The inhibition~~s~~, or disruption~~s~~ of the POTW collection system, treatment processes, operations, its sludge or biosolids processes, reclaimed water system, use or disposal which causes or contributes to collection system treatment processes or operations or its sludge and biosolids processes, use or disposal; and therefore, is a cause of a violation of OWASA's collection system and/or NPDES permits or of the prevention of sewage sludge or biosolids use or reclaimed water system requirements or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local ordinances: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State sludge or biosolids management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

~~12.~~13. Medical Waste. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, and potentially contaminated laboratory wastes.

~~13.~~14. New Source.

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

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

(2) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(3) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, shall be considered.

(b) Construction on a site at which an existing source is located results in- a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1) (2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment.

(c) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:

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

(i) any placement, assembly, or installation of facilities or equipment; or

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

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

~~14.~~15. Noncontact Cooling Water. Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

~~15.~~

16. OWASA. The Orange Water and Sewer Authority, Carrboro, North Carolina acting through its Board of Directors.

~~16.~~17. Pass Through. A discharge which exits the POTW into waters of the ~~United~~ States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, ~~is a~~ cause~~s of~~ a violation, including an increase in the magnitude or duration of a violation, of any requirement of OWASA's ~~–~~NPDES, collection system permit, ~~including an increase in the magnitude or duration of a violation,~~ or a downstream water quality standard even if not included in the permit.

~~17.~~18. Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.

19. pH. A measure of the intensity of the acid or base condition of a solution, expressed in standard units. A value of 7 is neutral, below 7 is acidic, and above 7 is basic.

~~18.~~20. Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, metals, BOD, COD, toxicity, and/or odor).

~~19.~~21. Pretreatment. The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW collection system and/or treatment plant. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

~~20.~~22. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

~~21.~~23. Pretreatment Standards or Standards. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards,

~~and~~ or local limit~~s~~.

24. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 2.2 of this ordinance and are developed under the authority of 307(b) of the Act and 40 CFR, ~~s~~Section 403.5.

~~22.~~25. Publicly Owned Treatment Works or POTW. A "treatment works," as defined by Section 212 of the Act (33 U.S.C. §1292) which is owned by OWASA. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

~~23.~~26. Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

~~24.~~27. Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).

~~25.~~28. Shall is mandatory, and requires compliance: May is permissive and compliance is subject to the discretion of OWASA.

~~26.~~29. Significant Industrial User or SIU.

(a) A user subject to categorical pretreatment standards; or

(b) A user that:

(1) d~~D~~ischarges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater); or

(2) c~~C~~ontributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(3) i~~I~~s designated as such by OWASA on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement; or

(4) i~~I~~s found by OWASA, the Division of Water ~~Quality~~ Resources or the U.S. Environmental Protection Agency (EPA) to have the potential for impact, either singly or in combination with other contributing industrial users, on the wastewater treatment system, the quality of sludge or biosolids, the system's effluent quality,

or compliance with any pretreatment standards or requirements.

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

~~27.~~30. Slug Load or Discharge. Any discharge which in concentration of any given constituent or in quantity of flow has a reasonable potential to cause interference or pass-through, or in any other way violates the POTW's regulations, local limits, or User Permit conditions. This can include but is not limited to spills and other accidental discharges; discharges of a non- routine, episodic nature; a non-customary batch discharge; or any other discharge that can cause a violation of the prohibited discharge standards in Section 2.2 of this ordinance.

~~28.~~31. Standard Industrial Classification (SIC) Code. A classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

32. State. State of North Carolina.

~~29.~~33. Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

~~30.~~34. Total Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

~~31.~~35. User or Industrial User. A source of indirect discharge.

~~32.~~36. Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

37. Wastewater Treatment Plant or Treatment Plant. That portion of the POTW which is designed to provide treatment of municipal sewage and other compatible wastewater.

38. Waters of the State. All streams, rivers, brooks, swamps, sounds, tidal estuaries, bays, creeks, lakes, waterways, reservoirs and all other bodies

or accumulations of water, surface or underground, natural or artificial, public or private.-

SECTION 2 - GENERAL SEWER USE REQUIREMENTS

2.1 Building Sewers and Connections

No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining written approval from the Administrator. All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the Owner(s). The Owner(s) shall indemnify OWASA from any loss or damage that may directly or indirectly be occasioned by the installation of the building sewer provided, however, that such indemnification shall not extend to loss or damage due solely to willful misconduct or negligence on the part of OWASA. Excluding industrial plant sites or other sites which have written approval from the Administrator for single discharge points, a separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, courtyard, or driveway. The front building may be extended to the rear building and the whole considered as one building sewer; but OWASA does not and will not assume any obligation or responsibility for damage caused by or resulting from any such single connection aforementioned. Old building sewers may be used in connection with new buildings only when they are found, on examination and test by the Administrator, to meet all requirements of this ordinance. Existing building sewers may be kept in service if, in the opinion of the Administrator, they are in acceptable structural condition and operate satisfactorily. All new building sewers, including any necessary replacement of existing building sewers, must comply with the state plumbing code. The connection of the building sewer into the public sanitary sewer shall be made in accordance with the Sewer Extension Policy of OWASA.

No person(s) shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of infiltration/inflow to a pubic sanitary sewer or to a building sewer or building drain which in turn is connected directly or indirectly to a public sanitary sewer.

It shall be the responsibility of the property owner to keep and maintain the building sewer connected to the public sewer in good repair. The Owner shall be responsible for making necessary repairs, at ~~his~~ the Owner's own expense, to the building sewer when notified in writing by the Administrator that repairs are necessary. Should the Owner fail to repair the building sewer within 60 days after receiving written notification by the Administrator that such repairs are necessary, OWASA may make the necessary repairs to the building sewer and shall assess the Owner for the cost of the repairs.

Grease, oil, and sand interceptor sewers shall be provided when, in the opinion of the Administrator, they are necessary for the proper handling of liquid wastes containing floatable oil, sand, or other harmful ingredients; except that such interceptors shall not be required for private living quarters or dwelling units. All grease, oil, and sand interceptors shall be of a type and capacity approved by the Administrator, and shall be located as to

be readily and easily accessible for cleaning and inspection. Where installed, all grease, oil and sand interceptors shall be maintained by the Owner(s) at the Owner(s) expense in continuously efficient operation at all times. In the maintaining of these interceptors, the Owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal which are subject to review by the Administrator. Any removal and hauling of the collected materials not performed by Owner(s) personnel must be performed by a currently licensed waste disposal firms.

2.2 Prohibited Discharge Standards

A. General Prohibitions. No user shall contribute ~~introduce~~ or cause to be ~~introduced~~contributed, directly or indirectly, into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.

B. Specific Prohibitions. No user shall ~~introduce~~ contribute or cause to be ~~introduced~~ contributed into the POTW the following pollutants, substances, or wastewater:

1. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;

2. Wastewater having a pH less than 6.0 or greater 10.0, or otherwise, having any corrosive characteristics capable of causing damage or hazard to treatment processes, structures, equipment and/or personnel of the POTW;

3. Trucked or hauled pollutants, except at discharge points designated by the Administrator in accordance with Section 3.4 of this ordinance;

4. Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the POTW such as, but not limited to: floatable oil, garbage with particles greater than one-half inch (1/2") in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, pottery, casting clays, metal, glass, straw, shavings, grass clippings, rags, flushable wipes, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud or glass grinding or polishing wastes;

5. Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;

6. Wastewater having a temperature greater than 150°F (66°C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C);

7. Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;

8. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;

9. Hazardous waste as defined under 40 CFR Part 261;

~~9.~~10. Wastewater causing the treatment plant effluent to violate State Water Quality Standards for toxic substances as described in 15A NCAC 2B .0200;

~~10.~~11. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;

~~11.~~12. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating OWASA's NPDES permit;

~~12.~~13. Wastewater containing any radioactive wastes or isotopes except as specifically approved by the Administrator in compliance with applicable State or Federal regulations;

14. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the Administrator;

~~13.~~15. No elevator sump, dumpster pad~~,~~; heating, ventilating, and air conditioning (HVAC) condensate~~,~~; or swimming pool filter backwash connection shall be installed or used by a user connected to the OWASA wastewater system unless first reviewed and approved by the Administrator (see section 2.9 for Guidelines);

~~14.~~16. Sludges, screenings, or other residues from the pretreatment of industrial wastes;

~~15.~~17. Medical wastes, except as specifically authorized by the Administrator in a wastewater discharge permit;

18. Materials containing ammonia, ammonia salts or other chelating agents which will produce metallic complexes that interfere with the POTW;

19. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test or violate any applicable Water Quality Standards;

~~16.~~20. Recognizable portions of the human or animal anatomy;

~~17.~~21. Wastes containing ~~D~~detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;

~~18.~~22. Fats, oils, or greases of animal or vegetable origin in concentrations greater than 325 mg/l, as identified by EPA Method 1664 or 275 mg/l as identified by EPA Method 413 unless authorized by the Administrator;~~;~~

~~19.~~23. Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than five percent (5%) or any single reading over ten percent (10%) of the Lower Explosive Limit of the meter. Materials specifically prohibited from discharge into the POTW include gasoline, kerosene, naphtha, fuel oil, paints, solvents, or any other substance which may cause a fire or explosives hazards to the POTW;

~~20.~~24. Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, biosolids, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge or biosolids use or disposal regulations or permits issued under section 405 of the Act; the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the biosolids management method being used.

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

2.3 National Categorical Pretreatment Standards

Users subject to ~~The~~ categorical pretreatment standards are required to comply with applicable standards as set out in ~~found at~~ 40 CFR Chapter I, Subchapter N, Parts 405-471, which are hereby incorporated by reference.

A. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Administrator may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).

B. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Administrator shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

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

D. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

2.4 State Requirements

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

2.5 Local Limits

Specific pollutant limitations may be established by OWASA through an industrial user permit to prevent discharge of any wastewater which may interfere with the proper operation of the POTW. The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following average discharge limits unless authorized by OWASA through an individual permit:

- 25.0 mg/1 ammonia nitrogen
- 1.5 mg/l antimony
- 0.003 mg/1 arsenic
- 205 mg/1 ~~CBOD5~~cBOD5
- 0.003 mg/1 cadmium
- 0.05 mg/1 chromium
- 0.061 mg/1 copper
- 0.015 mg/1 cyanide
- 0.049 mg/1 lead
- 0.0003 mg/1 mercury
- 0.003 mg/1 molybdenum
- 0.021 mg/1 nickel
- 0.011 mg/l selenium
- 0.005 mg/l silver
- 40.0 mg/1 total kjeldahl nitrogen

- 5.0 mg/l total phenols
- 6.5 mg/l total phosphorus
- 235 mg/l total suspended solids
- 0.175 mg/1 zinc

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for "total" metal unless indicated otherwise. The Administrator may impose mass limitations in addition to, or in place of, the concentration-based limitations above.

2.6 Pharmaceutical Waste

Unused pharmaceuticals (both over the counter and prescription only medications) should be disposed of following State and Federal Regulations and using best management practices and should not be disposed of in the sanitary sewer system. The North Carolina Division of Waste Management's Safe Management of Household Waste ~~Pharmaceutical Waste~~ Guidance Document states "*To avoid the potential risks associated with household hazardous wastes [HHW] it is important that people always monitor the use, storage, and disposal of products with potentially hazardous substances in their homes. Improper disposal of HHW can include pouring them down the drain, on the ground, into storm sewers, or in some cases putting them out with the regular trash.*

The dangers of such disposal methods might not be immediately obvious, but improper disposal of these wastes can pollute the environment and pose a threat to human health. Certain types of HHW have the potential to cause physical injury to sanitation workers, contaminate septic tanks or wastewater treatment systems if poured down drains or toilets. They can also present hazards to children and pets if left around the house. ~~Do not dispose of any drug or chemical in the commode or drain~~".

2.7 OWASA's Right of Revision

OWASA reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

2.8 Dilution

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Administrator may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

~~2.8~~2.9 Guidelines for Elevator Sumps, Dumpster Pads, HVAC Condensate and Swimming Pool Backwash

No elevator sump, dumpster pad, heating, ventilating, and air conditioning (HVAC) condensate, or swimming pool filter backwash connection shall be installed and used by a customer connected to the OWASA wastewater system unless first reviewed and approved by OWASA.

Generally, i~~I~~t is recognized that these discharges are of a minor volume and will not be charged fees. If any of these discharges are of a significant volume, fees will be charged in accordance with the OWASA Schedule of Rates and Fees.

A. Elevator Sumps. In a situation where an elevator pit requires a drain or sump that must be connected to the wastewater system, either an oil/water separator or Oil-Minder Control System, or equivalent system, must be installed on the private service line. A plumbing plan showing the connections to the sewer must be submitted to OWASA's Engineering department for review and approval.

B. Dumpster Pads. In a situation where a solid waste dumpster pad requires a drain to the sewer, the area around the dumpster pad must be graded so that all stormwater drains away from the pad and only the concrete pad itself drains to the sewer. The area of the dumpster pad should be limited to the minimum dimensions necessary to hold the dumpster. An oil/water separator must be installed on the private service line. A plan showing grading, the oil/water separator, and service line must be submitted to OWASA's Engineering department for review and approval.

C. HVAC Condensate. In a situation where HVAC condensate treated with a biocide or other form of chemical treatment is proposed to be discharged to the wastewater system, the NCDEQ Division of Water Quality's "Biocide/Chemical Treatment Worksheet – Form 101" or other approved OWASA form must be completed by the applicant and submitted to OWASA. Chemicals used in the treatment on HVAC condensate can be harmful to the biological processes at the WWTP and substances can pass-through the WWTP causing violations of the NPDES permits. Plumbing and site plans showing the connection to the sewer system must also be submitted to OWASA's Engineering department for review and approval.

D. Swimming Pool Filter Backwash. In a situation where a swimming pool filter backwash systems is proposed to discharge to the wastewater collection system, plumbing and site plans showing the connection to the sewer system must be submitted to OWASA's Engineering department for review and approval. Outdoor swimming pool perimeter drains are not allowed to be connected to the wastewater collection system. Swimming pools may not be drained to the sanitary sewer system without prior approval by the Administrator.

~~No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Administrator may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.~~

SECTION 3 - PRETREATMENT OF WASTEWATER

3.1 Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this ordinance and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Section 2.2 of this ordinance within the time limitations specified by EPA, the State, or the Administrator, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Administrator for review, and shall be acceptable to the Administrator before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to OWASA under the provisions of this ordinance. Any subsequent changes to the pretreatment facilities or method of operations shall be reported to and be acceptable by the Administrator prior to the user's initiation of the changes.

3.2 Additional Pretreatment Measures

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

B. The Administrator may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

C. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Administrator, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the Administrator and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.

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

3.3 Accidental Discharge/Slug Control Plans

A. The Administrator shall evaluate whether each significant industrial user needs a plan or other action to control and prevent slug discharges and accidental discharges as defined in section 1.3(B)(30). All SIUs must be evaluated within

one year of being designated an SIU. The Administrator may require any user to develop, submit for approval, and implement such a plan or other specific action. Alternatively, the Administrator may develop such a plan for any user. ~~At least once every two (2) years, the Administrator shall evaluate whether each significant industrial user needs a plan to control and prevent slug discharges and accidental discharges as defined in Section 1.3(B)(29). All significant industrial users must be evaluated within one year of being designated a significant industrial user. The Administrator may require any user to develop, submit for approval, and implement such a plan. Alternatively, the Administrator may develop such a plan for any user.~~

~~A.~~B. All significant industrial users are required to notify the Administrator immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of non-routine, episodic nature, a non-customary batch discharge, or a slug load. Also, see sections 6.5 and 6.6.

~~B.~~C. An accidental discharge/slug control plan shall address, at a minimum, the following:

1. Description of discharge practices, including nonroutine batch discharges;

2. Description of stored chemicals;

3. Procedures for immediately notifying the Administrator of any accidental or slug discharge, as required by Section 6.6 of this ordinance; and

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

3.4 Hauled Wastewater

A. Septic tank waste may be introduced into the POTW only at locations designated by the Administrator, and at such times as are established by the Administrator. Such waste shall not violate Section 2 of this ordinance or any other requirements established by OWASA. The Administrator may require septic tank waste haulers to obtain wastewater discharge permits for use of OWASA's facility.

B. The Administrator shall require haulers of industrial waste to obtain wastewater discharge permits. The Administrator may require generators of hauled industrial waste to obtain wastewater discharge permits. The Administrator also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this ordinance.

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

D. Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous waste.

SECTION 4 - WASTEWATER DISCHARGE PERMIT APPLICATION

4.1 Wastewater Analysis

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

4.2 Wastewater Discharge Permit Requirement

A. No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Administrator, except that a significant industrial user that has filed a timely application pursuant to Section 4.3 of this ordinance may continue to discharge for the time period specified therein.

B. The Administrator may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance.

C. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in Sections 10 through 12 of this ordinance. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, and local law.

4.3 Wastewater Discharge Permitting: Existing Connections

Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within thirty (30) days after said date, apply to the Administrator for a wastewater discharge permit in accordance with Section 4.5 of this ordinance, and shall not cause or allow discharges to the POTW to continue after sixty (60) days of the effective date of this ordinance except in accordance with a wastewater discharge permit issued by the Administrator.

4.4 Wastewater Discharge Permitting: New Connections

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with Section 4.5 of this ordinance, must be filed at least sixty (60) days prior to the date upon which any discharge will begin or recommence.

4.5 Wastewater Discharge Permit Application Contents

All users required to obtain a wastewater discharge permit must submit a permit application. The Administrator may require all users to submit as part of an application the following information:

A. All information required by Section 6.1(B) of this ordinance;

B. Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;

C. Number and type of employees, hours of operation, and proposed or actual hours of operation;

D. Each product produced by type, amount, process or processes, and rate of production;

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

F. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

G. Time and duration of discharges; ~~and~~

H. Description of current and projected waste reduction activities in accordance with G.S. 143-215.1(g); and

~~H.~~I. Any other information as may be deemed necessary by the Administrator to evaluate the wastewater discharge permit application. Incomplete or inaccurate applications will not ~~h~~be processed and will be returned to the applicant for revision.

4.6 Application Signatories and Certification

All wastewater discharge permit applications and user reports must be signed by the current authorized representative of the user on file with the Administrator as defined in Section 1.3(B)(4) and contain the following certification statement:

> "I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

4.7 Wastewater Discharge Permit Decisions

The Administrator will evaluate the data furnished by the user and may require additional information. Within sixty (60) days of receipt of a complete wastewater discharge permit application, the Administrator will determine whether or not to issue a wastewater discharge permit. The Administrator may deny any application for a wastewater discharge permit.

SECTION 5 - WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS

5.1 Wastewater Discharge Permit Duration

A wastewater discharge permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge- permit may be issued for a period less than five (5) years, at the discretion of the Administrator. Each wastewater discharge permit will indicate a specific date upon which it will expire.

5.2 Wastewater Discharge Permit Contents

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

A. Wastewater discharge permits will contain:

1. A statement that indicates wastewater discharge permit duration, which in no event shall exceed five (5) years;

2. A statement that the wastewater discharge permit is nontransferable without prior notification to OWASA in accordance with Section 5.5 of this ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

3. Effluent limits based on applicable pretreatment standards;

4. Self-–monitoring sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law and made available to OWASA upon request;

5. Requirements for notifying the Administrator in the event of an accidental discharge or slug load as defined in Section 1.3(B)(29);

6. Requirements to implement a Plan or other controls for prevention of accidental discharges and/or slug loads as defined in Section 1.3(B)(29), if determined by the Administrator to be necessary for the User; and

7. Requirements for immediately notifying the Administrator of any changes at its facility affecting the potential for spills and other accidental discharges, or slug load as defined in 1.3(B)(29). Also see Section 6.5 and 6.6.

8. A statement of applicable civil and/or criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.

B. Wastewater discharge permits may contain, but are not be limited to, the following conditions:

1. Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow ordinance and equalization;

2. Limits on the instantaneous, daily and/or monthly average and/or maximum concentration, mass, or other measure of identified wastewater pollutants or properties;

3. Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;

4. Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

5. The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

6. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests, and reporting schedules.

7. Requirements for immediate reporting of any instance of noncompliance and for automatic resampling and reporting within (30) days where self-monitoring indicates a violation(s)

8. Compliance schedules for meeting pretreatment standards and requirements.

9. Requirements for submission of periodic self-monitoring or special notification reports.

10. Requirements from maintaining and retaining plans and records relating to wastewater discharges as specified in Section 6.12 and affording the Administrator, or his/her representatives, access thereto.

11. Requirements for the prior notification and approval by the Administrator of any change in the manufacturing and/or pretreatment process used by the permittee.

~~6.~~12. Requirements for installation and maintenance of inspection and sampling facilities and equipment;

~~7.~~13. A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and

~~8.~~14. Other conditions as deemed appropriate by the Administrator to ensure compliance with this ordinance, and State and Federal laws, rules, and ordinances.

5.3 Wastewater Discharge Permit Appeals

Any person, including the user, may petition the Administrator to reconsider the terms of a wastewater discharge permit within fifteen (15) days of notice of its issuance.

A. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

B. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

C. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.

D. If the Administrator fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

E. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the North Carolina Office of Administrative Hearings within thirty (30) days following the Administrator's decision.

5.4 Wastewater Discharge Permit Modification

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

A. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;

B. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;

C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

D. Information indicating that the permitted discharge poses a threat to OWASA's POTW, OWASA's personnel, or the receiving waters;

E. Violation of any terms or conditions of the wastewater discharge permit;

F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

G. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

H. To correct typographical or other errors in the wastewater discharge permit; or

I. To reflect a transfer of the facility ownership or operation to a new owner or operator.

5.5 Wastewater Discharge Permit Transfer

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

A. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

B. Identifies the specific date on which the transfer is to occur; and

C. Acknowledges full responsibility for complying with the existing wastewater discharge permit.

Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

5.6 Wastewater Discharge Permit Revocation

The Administrator may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

A. Failure to notify the Administrator of significant changes to the wastewater prior to the changed discharge;

B. Failure to provide prior notification to the Administrator of changed conditions pursuant to Section 6.5 of this ordinance;

C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

D. Falsifying self-monitoring reports;

E. Tampering with monitoring equipment;

F. Refusing to allow the Administrator timely access to the facility premises and records;

G. Failure to meet effluent limitations;

H. Failure to pay fines;

I. Failure to pay sewer charges;

J. Failure to meet compliance schedules;

K. Failure to complete a wastewater survey or the wastewater discharge permit application;

L. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

M. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this ordinance.

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

5.7 Wastewater Discharge Permit Reissuance

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 4.5 of this ordinance, a minimum of ninety (90) days prior to the expiration of the user's existing wastewater discharge permit.

5.8 Regulation of Waste Received from Other Jurisdictions

A. If another municipality, or user located within another municipality, contributes wastewater to the POTW, the Administrator shall enter into an intermunicipal agreement with the contributing municipality.

B. Prior to entering into an agreement required by paragraph A, above, the Administrator shall request the following information from the contributing municipality:

1. A description of the quality and volume of wastewater discharged to the

POTW by the contributing municipality;

2. An inventory of all users located within the contributing municipality that are discharging to the POTW; and

3. Such other information as the Administrator may deem necessary.

C. An intermunicipal agreement, as required by paragraph A, above, shall contain the following conditions:

1. A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this ordinance and local limits which are at least as stringent as those set out in Section 2.5 of this ordinance. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to OWASA's ordinance or local limits;

2. A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;

3. A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Administrator; and which of these activities will be conducted jointly by the contributing municipality and the Administrator;

4. A requirement for the contributing municipality to provide the Administrator with access to all information that the contributing municipality obtains as part of its pretreatment activities;

5. Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;

6. Requirements for monitoring the contributing municipality's discharge;

7. A provision ensuring the Administrator access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Administrator; and

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

SECTION 6 - REPORTING REQUIREMENTS

6.1 Baseline Monitoring Reports

A. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Administrator a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Administrator a report which contains the information listed in paragraph B, below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

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

1. Identifying Information. The name and address of the facility, including the name of the operator and owner.

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

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

4. Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e). Calibration records shall be maintained on site and made available to OWASA upon request.

5. Measurement of Pollutants.

(a) The categorical pretreatment standards applicable to each regulated process.

(b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Administrator, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term

average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 6.9 of this ordinance.

(c) Sampling must be performed in accordance with procedures set out in Section 6.10 of this ordinance and 40 CFR 403.12(b) and (g), including 40 CFR.12 (g)(4).

6. Certification. A statement, reviewed by the user's current authorized representative as defined in Section 1.3(B)(4) and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

7. Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Section 6.2 of this ordinance.

8. Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with Section 4.6 of this ordinance.

6.2 Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by Section 6.l(B)(7) of this ordinance:

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

B. No increment referred to above shall exceed nine (9) months;

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

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

6.3 Reports on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Administrator a report containing the information described in Section 6.1(B)(4-6) of this ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation) this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 4.6 of this ordinance.

6.4 Periodic Compliance Reports

A. All significant industrial users shall, at a frequency determined by the Administrator but in no case less than once every six months, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the applicable flows for the reporting period. Sampling and analysis must be performed in accordance with procedures set out in Sections 6.9 and 6.10 of this ordinance. All periodic compliance reports must be signed and certified in accordance with Section 4.6 of this ordinance.

B. If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Administrator, using the procedures prescribed in Section 6.9 and 6.10 of this ordinance, the results of this monitoring shall be included in the report.

6.5 Reports of Changed Conditions

Each user must notify the Administrator of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change. The permittee shall not begin the changes until receiving written approval from ~~OWASA~~the Administrator. See Section 6.6(D) for other reporting requirements.

A. The Administrator may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Section 4.5 of this ordinance.

B. The Administrator may issue a wastewater discharge permit under Section 4.7 of this ordinance or modify an existing wastewater discharge permit under Section 5.4 of this ordinance in response to changed conditions or anticipated changed conditions.

C. For purposes of this requirement, significant changes include, but are not limited to, flow or pollutant i~~i~~ncreases of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants. This includes, increases or decreases to production; increases in discharge of previously reported pollutants; discharge of pollutants not previously reported to OWASA; new or changed product lines; new or changed manufacturing processes and/or chemicals; or new or changed customers.

6.6 Reports of Potential Problems

A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in Section 1.3(B)(29), that may cause potential problems for the POTW, the user shall immediately telephone and notify the Administrator of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

B. Within five (5) days following such discharge, the user shall, unless waived by the Administrator, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.

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

D. All significant industrial users are required to notify the Administrator immediately of any changes at its facility affecting the potential for spills and other accidental discharge, discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug load as defined in Section 1.3(B)(29).

6.7 Reports from Unpermitted Users

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Administrator as the Administrator may require.

6.8 Notice of Violation/Repeat Sampling and Reporting

A. If sampling performed by a user indicates a violation, the user must notify the Administrator within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the

results of the repeat analysis to the Administrator within thirty (30) days after becoming aware of the violation. If allowed by the Administrator, the user is not required to resample:

1. if the Administrator monitors at the user's facility at least once a month; or

2. if the Administrator samples between the user's initial sampling and when the user receives the results of this sampling.

B. If the Administrator ~~does not require the user to perform any self-monitoring~~has performed the sampling and analysis in lieu of the user and the POTW sampling of the user indicates a violation, the Administrator shall repeat the sampling and obtain results of the repeat analysis within thirty (30) days after becoming aware of the violations, unless one of the following occurs:

1. the Administrator monitors the user's facility at least once a month; or

2. the Administrator samples the user between their initial sampling and when the POTW receives the results of this initial sampling; or

3. the Administrator requires the user to perform sampling and submit the results to the Administrator within the thirty (30) day deadline of the POTW becoming aware of the violation.

6.9 Analytical Requirements

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed by a laboratory certified by the state to perform the wastewater analysis in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard or unless otherwise performed in accordance with procedures approved by EPA or OWASA. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA and OWASA. Analyses must be performed by a State certified lab for each parameter analyzed, if such certification exists for that parameter.

6.10 Grab and Composite Sample Collection

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

~~A.~~B. Grab Samples must be used for pH, cyanide, total phenols, oil and grease,

sulfide, volatile organic compounds, and any other pollutants as required by 40 CFR 136. The Administrator shall determine the number of grabs necessary to be representative of the user's discharge. See 40 CFR 403.12(g)(5) for additional grab sample number requirements for baseline monitoring reports and 90 day compliance reports. Additionally, the Administrator may allow collection of multiple grabs during a 24 hour period which are composited prior to analysis as allowed under 40 CFR 136.

~~B.~~C. Composite Samples: All wastewater composite samples shall be collected with a minimum of hourly aliquots or grabs for each hour that there is a discharge. All wastewater composite samples shall be collected using flow proportional composite collection techniques, unless time-proportional composite sampling or grab sampling is authorized by the Administrator. When authorizing time-proportional composites or grabs, the samples must be representative and the decision to allow the alternate sampling must be documented.

6.11 Timing

Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.

6.12 Record Keeping

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

SECTION 7 - COMPLIANCE MONITORING

7.1 Right of Entry: Inspection and Sampling

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

A. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, OWASA ~~the Administrator~~ will be permitted to enter without delay for the purposes of performing specific responsibilities.

B. ~~The Administrator~~OWASA shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.

C. ~~The Administrator~~OWASA may require the user to install monitoring equipment as necessary. ~~–~~ The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated in accordance with the manufacturer's recommendations to ensure their accuracy. Records shall be made available to OWASA upon request.

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

E. Unreasonable delays in allowing the ~~Administrator~~ OWASA access to the user's premises shall be a violation of this ordinance.

7.2 Search Warrants

If ~~the Administrator~~OWASA has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of OWASA designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then ~~the Administrator~~OWASA may seek issuance of a search warrant from the North Carolina General Court of Justice.

SECTION 8 - CONFIDENTIAL INFORMATION

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

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

SECTION 9 - PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

The Administrator shall publish annually, in a newspaper of general circulation that provides meaningful public notice within OWASA's service area, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six (6) month period exceed the dally maximum limit or average limit for the same pollutant parameter by any amount;

B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period are equal to or greater than the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for ~~CBOD~~cBOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

C. Any other discharge violation that the Administrator believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

D. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Administrator's exercise of emergency authority to halt or prevent such a discharge;

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

F. Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on conformance with compliance schedules;

G. Failure to accurately report noncompliance; or

H. Any other violation(s) which the Administrator determines will adversely affect the operation or implementation of the local pretreatment program.

SECTION 10 - ADMINISTRATIVE ENFORCEMENT REMEDIES

10.1 Notification of Violation

When the Administrator finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Administrator may serve upon that user a written Notice of Violation. Within fifteen (15) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Administrator. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Administrator to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

10.2 Consent Orders

The Administrator may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 10.4 and 10.5 of this ordinance and shall be judicially enforceable.

10.3 Show Cause Hearing

The Administrator may order a user which has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Administrator and show cause why the proposed enforcement action ~~should~~ shall not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action ~~should~~ shall not be taken. The notice of the meeting ~~-~~shall be served personally or by registered or certified mail (return receipt requested) at least fifteen (15) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

10.4 Compliance Orders

When the Administrator finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Administrator may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. OWASA may disconnect or permanently block from the wastewater system of OWASA the private sewer of any user

whose permission to discharge has been revoked if such action is necessary to insure compliance with the order of revocation. Action to enforce compliance with the order of permission to discharge may include at the discretion of the Administrator, termination of public water service provided by OWASA. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

10.5 Cease and Desist Orders

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

A. Immediately comply with all requirements; and

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

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

10.6 Administrative Fines

A. When the Administrator finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Administrator may fine such user in an amount not to exceed $1,000 per day. Such fines may be assessed on a per violation, per day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

B. Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of one hundred percent (100%) of the unpaid balance, and interest shall accrue thereafter at a rate of one and one-half percent (1.5%) per month. A lien against the user's property will be sought for unpaid charges, fines, and penalties.

C. Users desiring to dispute such fines must file a written request for the Administrator to reconsider the fine along with full payment of the fine amount within fifteen (15) days of being notified of the fine. Where a request has merit, the Administrator may convene a hearing on the matter. In the event the user's

appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The Administrator may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

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

10.7 Emergency Suspensions

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

A. Any user notified of a suspension of its sewer service shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Administrator may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Administrator may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Administrator that the period of endangerment has passed, unless the termination proceedings in Section 10.8 of this ordinance are initiated against the user.

B. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Administrator prior to the date of any show cause or termination hearing under Sections 10.3 or 10.8 of this ordinance. Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

10.8 Termination of Permission to Discharge

The Administrator may revoke permission to discharge for good cause, including, but not limited to, the following reasons:

A. Violation of wastewater discharge permit conditions;

B. Failure to accurately report the wastewater constituents and characteristics of its discharge;

C. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;

D. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or,

E. Violation of the pretreatment standards in Section 2 of this ordinance or any applicable State and Federal Regulations.

Such user will be notified of the proposed termination of its sewer service and be offered an opportunity to show cause as provided for under Section 10.3 of this ordinance why the proposed action ~~should~~ shall not be taken. Exercise of this option by the Administrator shall not be a bar to, or a prerequisite for, taking any other action against the user.

SECTION 11 - JUDICIAL ENFORCEMENT REMEDIES

11.1 Injunctive Relief

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

11.2 Civil Penalties

A. A user who has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to OWASA for a maximum civil penalty of $25,000 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

   1. Penalties between $10,000 and $25,000 per day per violation may be assessed against a violator only if:

      (a) for any class of violation, only if a civil penalty has been imposed against the violator within the five years preceding the violation, or

      (b) in the case of failure to file, submit, or make available, as the case may be, any documents, data, or reports required by this ordinance, or the orders, rules, regulations and permits issued hereunder, only if the Administrator determines that the violation was intentional and a civil penalty has been imposed against the violator within the five years preceding the violation.

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

C. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

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

11.3 Remedies Nonexclusive

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

SECTION 12 - SUPPLEMENTAL ENFORCEMENT ACTION

12.1 Water Supply Severance

Whenever a user has violated or continues to violate any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user supplied by OWASA may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.

12.2 Public Nuisance

A violation of any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the Administrator. Any person(s) creating a public nuisance shall be subject to the provisions of laws governing such nuisances, including reimbursing OWASA for any costs incurred in removing, abating, or remedying said nuisance.

12.3 Contractor Listing

Users which have not achieved compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to OWASA. Existing contracts for the sale of goods or services to OWASA held by a user found to be in significant noncompliance with pretreatment standards or requirements may be terminated at the discretion of the Administrator.

SECTION 13 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

13.1 Upset

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

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

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

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

2. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

3. The user has submitted the following information to the Administrator within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days]:

(a) A description of the indirect discharge and cause of noncompliance;

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

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

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

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

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

13.2 Prohibited Discharge Standards

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 2.2(A) of this ordinance or the specific prohibitions in Sections 2.2(B)(4) through (21~~8~~)[1] of this ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

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

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

13.3 Bypass

A. For the purposes of this section,

1. "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.

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

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

[1] ~~Correction of typographical error in the ordinance adopted on December 14, 2007. Previously read "Sections 2.2(B)(4) through (20)".~~

C. 1. If a user knows in advance of the need for a bypass, it shall submit prior notice to the Administrator, at least ten (10) days before the date of the bypass, if possible.

2. A user shall submit oral notice to the Administrator of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass. The Administrator may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

D. 1. Bypass is prohibited and the Administrator may take ~~-~~an ~~-~~enforcement action against a user for a bypass, unless

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment sh<u>all</u>~~ould~~ have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

(c) The user submitted notices as required under paragraph (C) of this section.

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

SECTION 14 - WASTEWATER TREATMENT RATES AND FEES

Fees shall be assessed to users for wastewater discharges into the POTW and for executing or enforcing the provisions of this ordinance. These charges shall be developed by the Administrator and approved by OWASA in accordance with the user charge system and other regulations and policies of OWASA and applicable statutes of the State. The existing charges for the previous year will be reviewed prior to adopting each annual budget. Charges shall be developed for the following purposes:

A. Industrial monitoring, inspections, and surveillance procedures;

B. Reviewing accidental discharge procedures and construction;

C. Reviewing permit applications;

D. Reviewing appeals;

E. Special industrial discharges;

F. Recovering capital related expenditures;

G. Other charges, including user charges based on billable flow and excessive pollutant discharges to the POTW, necessary to recover the operation and maintenance costs of the wastewater disposal system.

Charges for Items A through E shall be based on the actual cost to OWASA for each specific user or incident. However, a fixed rate may be proposed by the Administrator, subject to OWASA approval, for those procedures that are repetitive and do not differ substantially within each class of users. Charges for Items F through G shall be developed and assessed in accordance with the user charge system.

The charges and fees developed in accordance with the provisions of this Article shall be in the form of a resolution adopted by OWASA**.**

SECTION 15 - AUTHORITY

This ordinance is adopted under the authority granted by North Carolina General Statutes 162A.

SECTION 16 - SEVERABILITY

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

SECTION 17 - CONFLICT

All other regulations and parts of other regulations inconsistent or conflicting with any part of this ordinance are hereby repealed to the extent of such inconsistency or conflict.

SECTION 18 - EFFECTIVE DATE

This ordinance shall be in full force and effect from and after its passage and approval as set forth in the attached Resolution of Adoption as provided by law.