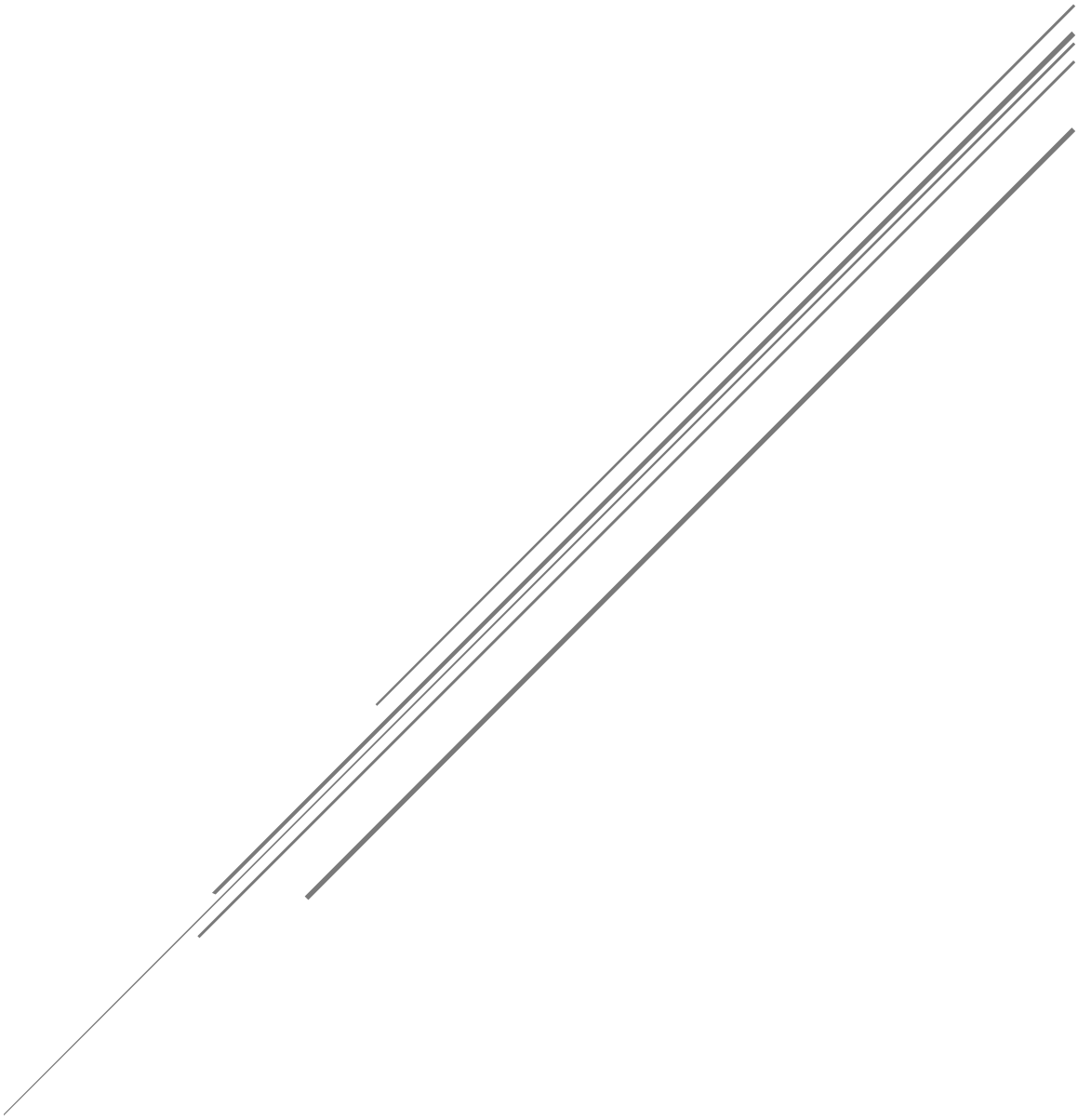
MIDDLESEX COUNTY UTILITIES AUTHORITY

RULES AND REGULATIONS



WASTEWATER DIVISION

Sayreville, New Jersey

RECORD OF CHANGES

MIDDLESEX COUNTY UTILITIES AUTHORITY RULES AND REGULATIONS

CHANGE NO.	EFFECTIVE DATE	SIGNIFICANTLY AFFECTED SECTIONS
1	9/1998	Incorporated New Jersey CWEA
2	7/1999	1.2; 6.7; 9.4; 10.8
3	6/2008	Incorporated USEPA Streamling Regulation; 4.4; 10.9
4	11/2010	1.2; 3.1; 3.3; 5.5; 6.2; 6.5; 6.10; 6.13; 9.1;10.8
5	1/2022	1.2; 3.1; 5.2;6.12; 6.14; 10.8; 13, 14.1; 14.2; 14.4
6	4/2026	1.2, 1.3, 6.10, Table 1

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SECTION 1 - GENERAL PROVISIONS

1.1 Purpose and Policy

(A) These Rules and Regulations set forth uniform requirements for Users of the Middlesex County Utilities Authority (hereinafter, the "Authority" or the "MCUA", and as defined in Section 1.2) and enables the MCUA to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code § 1251 *et seq*.), the General Pretreatment Regulations (40 Code of Federal Regulations Part 403 *et seq*.), and the New Jersey Water Pollution Control Act (N.J.S.A 58:10A-1 *et seq*.). A User is required to comply with all applicable federal, state, and local rules, regulations, or ordinances. Compliance with these Rules and Regulations shall not be considered as a waiver of any other applicable requirements. The objectives of the MCUA's Rules and Regulations are:

(1) To prevent the introduction of pollutants into the MCUA treatment works that will interfere with its operation or cause damage to facilities;

(2) To prevent the introduction of pollutants into the MCUA treatment works that will pass through the treatment works, inadequately treated, into receiving waters, or otherwise be incompatible with the treatment works;

(3) To protect the health and safety of the general public and MCUA personnel who may be affected by wastewater, sludge, and associated emissions;

(4) To promote reuse and recycling of treated wastewater and sludge generated by the MCUA;

(5) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the MCUA treatment works; and

(6) To enable the MCUA to comply with its New Jersey Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Authority is subject.

(B) These Rules and Regulations shall apply to all Users of the MCUA wastewater treatment works. The Rules and Regulations authorize the issuance of Non-Domestic Wastewater Discharge Permits, Discharge Approvals, and Temporary Discharge Approvals; provide for monitoring, compliance, and enforcement activities; establish administrative review procedures; require User reporting; and provide for the setting of fees for the equitable distribution of costs resulting from the program established herein.

1.2 Definitions

Unless the context specifically indicates otherwise, the following terms and phrases, as used in these Rules and Regulations shall have the meanings hereinafter designated.

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

Agreement. The Agreement between the MCUA and its Participants currently in existence concerning treatment and its disposal of sewage and other wastes, together with any supplements, changes, or modifications thereof.

Approved Test Procedure. Analytical test procedures approved under 40 CFR Part 136; where an approved test procedure does not exist, appropriate procedures may be used as approved by the MCUA.

Authority. The Middlesex County Utilities Authority (MCUA) formerly the Middlesex County Sewerage Authority (MCSA).

Authorized Representative of the User.

(A) A responsible corporate officer, if the User is a corporation. For the purpose of this paragraph, a responsible corporate officer means:

(1) A president, secretary, treasurer, or 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 operating 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 other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for Control Document requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(B) If the User is an individual, partnership or sole proprietorship: the individual, a general partner or proprietor, respectively.

(C) If the User is a Federal, State, or local government facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(D) The individuals described in paragraphs (A) through (C), above, may designate another authorized representative if:

(1) The authorization is made in writing, by the individuals described in paragraphs (A) through (C), above;

(2) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company**;** and

(3) The written authorization is submitted to the Middlesex County Utilities Authority.

(E) If an authorization under paragraph (D) above 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 paragraph (D) above must be submitted to the MCUA prior to or together with any reports to be signed by an authorized representative.

Baseline Monitoring Report or BMR. The initial report to demonstrate Categorical compliance, pursuant to Section 6.2 of these Rules and Regulations.

Best Management Practices (BMPs). Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to assure compliance with the wastewater discharge prohibitions listed in Section 3.1 and/or 3.5 of these Rules and Regulations that may enter the MCUA Central Treatment Plant and its appurtenances. BMPs also include treatment requirements, operating procedures, and practices to control Plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

Biochemical Oxygen Demand or (BOD). The quantity of dissolved oxygen in milligrams per liter (mg/l), required during stabilization of decomposable organic matter by aerobic biochemical action as determined by analytical procedures set forth in 40 CFR Part 136.

Categorical Industrial User or CIU. A User subject to Categorical Pretreatment Standards in accordance with the EPA General Pretreatment Standards (40 CFR Part 403).

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

Chain-of-Custody (COC). A legal record (which may be a series of records) of each person who had possession of an environmental sample, from the person who collected the sample to the person who analyzed the sample in the laboratory, to the person who witnessed the disposal of the sample (i.e., sampling date(s), exact monitoring location, method, and time(s) of sampling, the name of the sampler, etc.).

Chemical Oxygen Demand or (COD). Chemical oxygen is expressed as the amount of dissolved oxygen consumed from the oxidation of a chemical during a specific test in mg/l. The COD is a measure of the oxygen-consuming capacity of the inorganic and organic matter present in the wastewater as determined by analytical procedures set forth in 40 CFR Part 136.

Chlorine Demand or (CLD). The quantity of chlorine absorbed by a wastewater in a given length of time to a specific residual

concentration, expressed in milligrams per liter (mg/l).

Combined Sewer. A sewer intended to receive both wastewater and storm or surface water.

Combined Wastestream Formula. The combined wastestream formula is a means of deriving alternative Categorical discharge limits where process effluent is mixed prior to treatment with wastewaters other than those generated by the regulated process.

Commissioner, MCUA. A member of the MCUA Board of Commissioners.

Commissioner, NJDEP. The Commissioner of the New Jersey Department of Environmental Protection or his/her authorized representatives.

Composite Sample. A sample representative of the User's discharge within a given twenty-four (24) hour period of operation. Samples may be done either manually or automatically, and continuously or discretely. With not less than four (4) samples to be composited or a sufficient number of individual aliquots to comprise a representative sample for the waste characteristics being analyzed for. Time proportional composite sampling may be authorized by the MCUA as an alternative to flow-proportional composite sampling techniques upon request by the User unless authorization is specifically granted in the MCUA Control Document.

Conventional Pollutant. Pollutants typical of municipal sewage, and for which municipal secondary treatments plants are typically designed; defined by federal regulation [40 CFR Part 401.16] as Biochemical Oxygen Demand (BOD), Total Suspended Solids (TSS), fecal coliform bacteria, oil and grease, and pH.

Control Document. A document that shall contain control measures as deemed necessary by the MCUA and shall include the following: Non-Domestic Wastewater Discharge Permit, Discharge Approval, Temporary Discharge Approval and/or Septage/Hauled Waste Approval.

Daily Discharge. The "discharge of a pollutant" measured during the calendar day or any twenty-four (24) hour period that reasonably represents the calendar day for purposes of sampling. For pollutants with limitations expressed in units of mass, the "daily discharge" is calculated as the total mass of the pollutant discharged over the day. For pollutants with limitations expressed in other units of measurement, the "daily discharge" is calculated as the average measurement of the pollutant over the day.

Delegated Local Agency. A local agency with an Industrial Pretreatment Program approved by the NJDEP, (*i.e., the Middlesex County Utilities Authority*).

Direct Connection. Any sanitary sewer connection made directly to the MCUA Trunk System, as defined herein.

Direct Trunk Sewer Discharge. The releasing, spilling, leaking, pumping, pouring, emitting, emptying, or dumping of a pollutant into the Trunk System.

Discharge Approval. An Approval issued pursuant to Section 5 of these Rules and Regulations.

Domestic Waste. Any liquid waste containing animal or vegetable matter in suspension or solution of the water carried wastes resulting from the discharge of water closets, laundry tubs, washing machines, sinks, dishwashers, or any other source of water-carried waste of human origin or containing putrescible material.

Effluent Limitation. Any restriction on quantities, quality, rates, and concentration of chemical, physical, thermal, biological, and other constituents of pollutants established by permit, approval, or imposed as an interim enforcement limit pursuant to an administrative order, including an administrative consent order.

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.

Executive Director. The Executive Director of the Middlesex County Utilities Authority or his/her authorized representative.

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.

Floatable Oil. The oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by treatment in an approved pretreatment facility.

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

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

Grace Period. The period of time afforded under N.J.S.A. 13:1D-125 *et seq*., commonly known as the Grace Period Law, and in these Rules and Regulations, for a person to correct a minor violation in order to avoid imposition of a penalty that would be otherwise applicable for such violation.

Hauled Wastes. Wastes conveyed to the Authority by other than a direct connection to the Public Sewer, as defined herein.

Hazardous Pollutant.

(A) Any toxic pollutant;

(B) Any substance regulated as a pesticide under the Federal Insecticide, Fungicide, and Rodenticide Act, Pub.L. 92-516 (7 U.S.C. 136 *et seq*.);

(C) Any substance the use or manufacture of which is prohibited under the Federal Toxic Substances Control Act, Pub.L. 94-469 (15 U.S.C. 2601 *et seq*.);

(D) Any substance identified as a known carcinogen by the International Agency for Research on Cancer;

(E) Any hazardous waste as designated pursuant to section 3 of P.L. 1981, c. 279 (C.13:1E-51) or the "Resource Conservation and Recovery Act," Pub.L. 94-580 (42 U.S.C. 6901 *et seq*.);

(F) Any hazardous substance as defined pursuant to Section 3 of P.L. 1976, c. 141 (C.58:10-23.11b).

Indirect Connection. Any sanitary sewer connection made to the MCUA Trunk System, as defined herein, through an existing wastewater collection system within the MCUA service area.

Indirect Sewer Discharge. The releasing, spilling, leaking, pumping, pouring, emitting, emptying, or dumping of a pollutant into the sewers of a Participant.

Industrial User or User. Any person who discharges, causes, or permits the direct or indirect discharge of non-domestic wastewater into the treatment works. All non-domestic wastes discharged by an industrial User shall be considered industrial waste.

Industry. Any establishment whose manufacturing process is included in the North American Industry Classification System (NAICS) and Standard Industrial Classification (SIC) codes.

Instantaneous Maximum Allowable Discharge Limit. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

Interference. Means inhibiting or disrupting the operation of a POTW or its treatment process so as to contribute to, cause or increase a violation of any condition of a State or Federal permit under which the POTW operates; or exceed the threshold concentrations of organic and inorganic pollutants that are inhibitory to biological treatment processes; or prevent the use or management of sludge produced by the POTW in accordance with section 405 of the Act, any regulations, criteria or guidelines developed pursuant to the Federal Resource Conservation and Recovery Act of 1976 (42 U.S.C. 3251 *et seq*), the Federal Clean Air Act (42 U.S.C. 7401 *et seq*), the Federal Toxic Substances Control Act (15 U.S.C. 2601 *et seq*), Section 2, 4 and 6 of the State Act, or the New Jersey Statewide Sludge Management Plan.

Joint Meeting. The meeting or assembly of the members of the governing bodies or boards of the several municipalities having authority to make and enter into contracts as defined in N.J.S.A. 40:63-69.

Local Agency. A political subdivision of the State, or an agency or instrumentality thereof, that owns or operates a municipal treatment works.

Local Limit. Where specific prohibitions or limits on pollutants or pollutant parameters are developed by the Middlesex County Utilities Authority in accordance with 40 CFR Part 403.5 (c), such limits shall be deemed Pretreatment Standards for the purposes of section 307(d) of the Act.

May. Means permissive.

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

MCUA. The Middlesex County Utilities Authority, formerly the Middlesex County Sewerage Authority (MCSA).

Municipality. Any city of any class, any borough, village, town, township, or any other municipality other than a county or a school district.

National Pretreatment Standard or Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by USEPA 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.

New Jersey Pollutant Discharge Elimination System or NJPDES. The New Jersey system for issuing, modifying, suspending, revoking and reissuing, terminating, monitoring and enforcing, discharge permits pursuant to the State Act.

New Source.
(A) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants into the MCUA~~'s~~ treatment works, 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 (A)(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

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

(b) 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

(c) 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.

Non-Contact Cooling Water or NCCW. Water used for cooling which does not come into direct contact with any raw material,

intermediate product, waste product, or finished product.

Non-Domestic Wastewater. Water which does not meet the definition of Domestic Waste *(i.e., groundwater, leachate, process)*.

Non-Domestic Wastewater Discharge Permit. An MCUA Non-Domestic Wastewater Discharge Permit issued pursuant to Section 5 of these Rules and Regulations.

Non-Significant Categorical Industrial User or NSCIU. The MCUA may determine that an Industrial User subject to Categorical Pretreatment Standards is a Non-Significant Categorical Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total Categorical wastewater *(excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard)* and the following conditions are met:

(A) The Industrial User, prior to the MCUA finding, has consistently complied with all applicable Categorical Pretreatment Standards and Requirements;

(B) The Industrial User annually submits the certification statement required in Section 6.12(C) of these Rules and Regulations together with any additional information necessary to support the certification statement; and

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

North American Industry Classification System (NAICS). The standard code used by the federal statistical agencies in classifying business establishments for the purpose of collecting, analyzing, and publishing statistical data related to the U.S. business economy.

Participant. A Municipality, Authority, Joint Meeting, or Company having entered into an Agreement with the Authority, so long as:

(A) an Authority is one as defined in N.J.S.A. 40:14A-4, a Joint Meeting is one as defined in N.J.S.A. 40:63-69,

(B) the sewage collected in the local sewerage systems of any Participant, including that of all Municipalities of an Authority or a Joint Meeting, is delivered into the Trunk System at a common point or points of connection; and

(C) each Participant, including each municipality of a Joint Meeting or Authority, executes an Agreement with the Authority.

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

Permit. An authorization, license, or equivalent control document issued by the MCUA to implement the requirements of these Rules and Regulations even where any or all conditions of the permit have been stayed. Permit does not include any permit which has not yet been the subject of final action, such as a “draft permit”. Permit includes a letter of agreement between the MCUA and a User of the MCUA’s Treatment Works, setting effluent limitations and other conditions on the User. Permit also includes a general permit.

Permittee. Any person authorized to conduct activity pursuant to an MCUA Control Document.

Person. Any individual, firm, company, partnership, corporation, association, group, or society, including the State of New Jersey, and agencies, districts, commissions, and political subdivisions created by or pursuant to State Law, and Federal agencies, departments or instrumentalities thereof.

Petroleum Hydrocarbons. Petroleum oil, non-biodegradable cutting oils, or product of mineral oil origin.

pH. The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution. Solutions with a pH greater than 7 are said to be basic; solution with a pH less than 7 are said to be acidic; pH equal to 7 is considered neutral. Analysis shall be performed in accordance with an approved test procedure.

Pollutant. Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, septage, munitions, medical wastes, chemical wastes, biological materials, radioactive substance, thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, or agricultural waste or other residue discharged into the sanitary sewer. This definition shall also include holding tank waste.

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

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

Pretreatment Standards or Standards. All applicable Federal, State and local rules and regulations implementing Section 307 of the Clean Water Act of 1977 (33 U.S.C. 1251 *et seq*) or N.J.S.A. 58:11-49, as well as any local requirements, the MCUA deems necessary. In cases of conflicting standards or regulations, the more stringent thereof shall be applied.

Priority Pollutants. Any chemical pollutant listed in 40 CFR Part 423, Appendix A and/or Appendix A, Tables II and III of N.J.A.C. 7:14A-4.

Process Wastewater. Any water which, during the manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.

Publicly Owned Treatment Works or POTW. Any devices or systems used in the collection, storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature which is owned by a "State", "Municipality" or "Authority". This definition includes sewers, pipes, or other conveyances only if they convey wastewater to a POTW providing treatment and owned and managed by the POTW.

Public Sewer. A common sewer controlled by a governmental agency or public utility.

Regional Administrator. The Administrator of Region II of the United States Environmental Protection Agency or his/her authorized representative.

Regulated Medical Waste or "RMW". Those medical wastes that have been listed or meet the waste characteristic classification described in N.J.A.C. 7-26-3A.6 and that must be managed in accordance with the requirements set forth in this subchapter.

Representative Sample. A sample from a wastestream that is identical or nearly identical in composition to that in the larger volume of wastewater being discharged.

Responsible Official. An Authorized Representative, or person designated by an authorized representative, as defined in this Section of the Rules and Regulations, that is certified to submit electronic Self-Monitoring Reports.

Sanitary Sewer. A sewer which carries sewage and to which storm, surface, and groundwater are not intentionally admitted, including Participants' sewers which discharge into the MCUA's trunk system.

Self-Monitoring Report or SMR. An electronic report, including any subsequent additions, revisions, modifications, and replacements, for the reporting of self-monitoring results by Users pursuant to their Control Document.

Septage. The combination of liquid and solid residues resulting from the treatment of waterborne domestic waste in an individual subsurface sewage disposal system.

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

Serious Violation. An exceedance, at a discharge point source, of an effluent limitation, except color, set forth in a Control Document, administrative order, or administrative consent agreement, including interim enforcement limits, as follows:

(1) For effluent limitations for pollutants that are measured by a concentration or mass;
    (i.) Violations of an effluent limitation that is expressed as a monthly average:
        (1) By 20 percent or more for a hazardous pollutant; and
        (2) By 40 percent or more for a nonhazardous pollutant;
    (ii.) Violations of an effluent limitation that is expressed as a daily maximum and without a monthly average:
        (1) By 20 percent or more of the average of all of the daily maximum values for a hazardous pollutant and
        (2) By 40 percent or more of the average of all of the daily maximum values for a nonhazardous pollutant
(2) For an effluent limitation for a pollutant that is not measured by a concentration or mass, the MCUA shall utilize an

equivalent exceedance factor.

(3) The greatest violation of a pH effluent range in any one calendar day which violation deviates from the midpoint of the range by at least 40 percent of the midpoint of the range excluding the excursions specifically excepted by a Control Document with continuous pH monitoring.
For example: Assuming that a permittee's effluent limitation range for pH is 6.0 to 9.0, the midpoint would be 7.5.
If five separate readings for pH during a given day were 4.3, 5.8, 6.5, 6.0 and 6.5, the reading of 4.3 would be a serious violation as follows:
For example: Using the same information above.
40 percent of 7.5 is 3; therefore, if the greatest violation of a pH range for any calendar day has a pH of 4.5 or less or a pH of 10.5 or greater, the violation would be a "serious violation".

(4) Notwithstanding the above, the MCUA may utilize, on a case-by-case basis, a more stringent factor of exceedance to determine a serious violation if the MCUA states the specific reasons therefore, which may include the potential for harm to human health or the environment.

Sewage. The wastes and waterborne animal or vegetable wastes from water closets, buildings, residences, industrial establishments, or other places, together with such ground water infiltration, surface water, admixtures or other wastes as may be present.

Sewage Treatment Plant. Any arrangement of devices and structures used for treating sewage.

Shall. Means mandatory.

Signatory Requirements for Industrial User Reports. All reports required by Section 6 of these Rules and Regulations shall be signed by an Authorized Representative of the User or designated Responsible Official, as defined in this Section of the Rules and Regulations.

Significant Industrial User or SIU.
Except as provided in Subsections C and D below, the term Significant Industrial User means:

(A) A User subject to Categorical Pretreatment Standards; or

(B) A non-domestic User that meets any of the following criteria:

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

(2) The amount of BOD, COD or Suspended Solids in the discharge exceeds the mass equivalent of 25,000 gallons per day of domestic waste per the following table:

PARAMETER	FLOW	CONCENTRATION	LOADING PER DAY	
	(mgd)	*(mg/l)*	*(kg)*	*(lbs)*
BOD (5-Day)	0.025	200	18.9	41.7
COD	0.025	500	47.3	104.3
TSS	0.025	250	23.7	52.2

(3) the volume exceeds five percent of the average daily flow of the Trunk System; or

(4) the discharge contributes five percent or more of the mass loading of any EPA established priority pollutant; or

(5) is designated as such by the Middlesex County Utilities Authority on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(C) The MCUA may determine that an Industrial User subject to Categorical Pretreatment Standards under 40 CFR Part 403.6 and 40 CFR chapter I, subchapter N is a Non-Significant Categorical Industrial User *(as defined in this Section of the Rules and Regulations)* rather than a Significant Industrial User.

(D) Upon a finding that a User meeting the criteria in Subsection (B) of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the MCUA 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 Part 403.8(f)(6), determine that such User should not be considered a Significant Industrial User.

Significant Noncompliance or SNC

(A) Federal Criteria [40 CFR Part 403.8(f)(2)(viii)]

(1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken for the same pollutant parameter during a six (6) month period exceed *(by any magnitude)* a numeric Pretreatment Standard or Requirement;

(2) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for the same pollutant parameter during a six (6) month period equals or exceeds the product of the numeric Pretreatment Standard multiplied by the applicable criteria *(1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH)*;

(3) Any other violation of a Pretreatment Standard or Requirement that the MCUA believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

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

(5) Failure to meet within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a Control Document or enforcement order for starting construction, completing construction, or attaining final compliance;

(6) Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with Categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;

(7) Failure to accurately report noncompliance; or

(8) Any other violation or group of violations, which may include a violation of Best Management Practices, which the MCUA determines will adversely affect the operation or implementation of the local pretreatment program.

(B) State Criteria [N.J.A.C. 7:14-8.2]

(1) Any person who commits a serious violation for the same hazardous pollutant or the same nonhazardous pollutant, at the same discharge point source, in any two months of any six-month period;

(2) Any person who exceeds the monthly average or, in a case of a pollutant for which no monthly average has been established, the monthly average of the daily maximums for an effluent limitation for the same pollutant at the same discharge point source by any amount in any four months of any six-month period;

(3) Failure to submit a completed discharge monitoring report in any two months of any six-month period.

Significant Noncomplier. A User which is in significant non-compliance with either the Federal Criteria or the State Criteria for Significant Noncompliance. The MCUA may utilize, on a case-by-case basis, a more stringent frequency or factor of exceedance to determine a significant non-complier, if the MCUA states the specific reasons therefore, which may include the potential for harm to human health or the environment.

Slug Discharge. Any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate these Rules and Regulations, Local Limitations or Control Document conditions.

Slug/Accidental Discharge Control Plan. A plan to prevent uncontrolled slug or accidental discharges into the POTW in accordance

with Section 4.4 of these Rules and Regulations.

Slug Load. Any pollutant released in a discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Section 3.1 of these Rules and Regulations.

Standard Industrial Classification (SIC). A classification system which categorizes industries based upon their business activities by a four (4)-digit code.

State Act. The New Jersey "Water Pollution Control Act", N.J.S.A. 58:10A-1 *et seq.*

Storm Drain or Storm Sewer. A sewer which carries storm and surface waters and drainage but excludes sewage and industrial wastes other than unpolluted cooling water.

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

Temporary Discharge Approval. An Approval issued pursuant to Section 5 of these Rules and Regulations.

Total Suspended Solids or (TSS). The total non-filterable residue as determined by analytical procedures set forth in 40 CFR Part 136.

Toxic Pollutant. Any pollutant identified pursuant to the Federal Act, or any pollutant or combination of pollutants, including disease causing agents, which after discharge and upon exposure, ingestion, inhalation or assimilation into any organism, either directly or indirectly by ingestion through food chains, will, on the basis of information available to the commissioner, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformation, in such organisms or their offspring.

Treatment Works. Any device or system whether public or private, used in the storage, treatment, recycling, or reclamation of municipal or industrial waste of a liquid nature including intercepting sewers, outfall sewers, sewage collection systems, cooling towers and ponds, pumping, power and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alterations thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any other works including sites for the treatment process or for ultimate disposal of residues resulting from such treatment. Additionally, "treatment works" means any other method or system for preventing, abating, reducing, storing, treating, separating, or disposing of pollutants, including storm water runoff, or industrial waste in combined or separate storm water and sanitary sewer systems. Treatment works shall also mean all treatment works owned or operated by the MCUA.

Trunk System or System. All sewers, conduits, pipelines, mains, pumping and ventilating stations, sewage treatment and disposal systems, plants and works, connections and outfalls, and all other plants, structures, equipment, boats, and related appurtenances, but does not include the public sewage collection system of any Municipality. The Trunk System includes but is not limited to the Main Trunk Sewer, Main Trunk Relief Sewer, South River Interceptor, South River Relief Interceptor, South Bay Interceptor, Heyden Gravity Sewer and any and all other connecting sewers owned and operated by the MCUA.

Unit. A dwelling unit or a portion of a structure normally occupied by a single family.

Upset. An exceptional incident in which there is unintentional and temporary noncompliance with an effluent limitation 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.

USEPA Cross-Media Electronic Reporting Rule (CROMERR). Requires a user with an MCUA Control Document to submit reports electronically in accordance with 40 CFR Part 3, the MCUA Rules and Regulations, and the Authority's current approved CROMERR compliant software.

User. Any Person as defined here to include any individual, firm, company, partnership, corporation, association, group or society, mobile source, including the State of New Jersey, and agencies, districts, commissions, and political subdivisions created by or pursuant to State Law, and Federal agencies, departments, or instrumentalities thereof who discharges, causes, or permits the direct or indirect discharge of non-domestic wastewater into the MCUA treatment works.

Waived Pollutant. The MCUA may authorize the Industrial User subject to a Categorical Pretreatment Standard to forego sampling

of a pollutant regulated by a Categorical Pretreatment Standard if the conditions in Section 7.6(B) of these Rules and Regulations are met.

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.

Watercourse. A natural or artificial channel for the passage of water either continuously or intermittently.

Terms not otherwise defined herein shall be as adopted in the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, the American Water Works Association and the Water Pollution Control Federation; the latest volume thereof "Federal Guidelines for State and Local Pretreatment Programs", EPA-430/9-76-017a, Volume 1, 1977, or the latest revision thereof; the Federal Act; the State Act; or "Pretreatment Standards for Sewerage, etc.", N.J.S.A. 58:11-49 *et seq*.

1.3 Abbreviations

The following abbreviations shall have the designated meanings:

ACO	Administrative Consent Order
AO	Administrative Order
BMPs	Best Management Practice
BMR	Baseline Monitoring Report
BPJ	Best Professional Judgment
BOD	Biochemical Oxygen Demand
CFR	Code of Federal Regulations
CIU	Categorical Industrial User
COD	Chemical Oxygen Demand
CROMERR	Cross-Media Electronic Reporting Rule
DA	Discharge Approval
EPA	U.S. Environmental Protection Agency
gpd	gallons per day
IPP	Industrial Pretreatment Program
IU	Industrial User or User
l	Liter
lb	Pound
M	Minor as it relates to the Grace Period Rule
MCUA	Middlesex County Utilities Authority
mg	Milligrams
mg/l	Milligrams per liter
MGD	Million gallons per day
NAICS	North American Industry Classification System
NDWDP	Non-Domestic Wastewater Discharge Permit
N.J.A.C.	New Jersey Administrative Code
N.J.S.A.	New Jersey Statutes Annotated
NJDEP	New Jersey Department of Environmental Protection

NJPDES	New Jersey Pollutant Discharge Elimination System
NJWPCA	New Jersey Water Pollution Control Act
NM	Non-Minor as it relates to the Grace Period Rule
NSCIU	Non-Significant Categorical Industrial User
NOV	Notice of Violation
POTW	Publicly Owned Treatment Works (i.e., MCUA)
SIC	Standard Industrial Classification
SIU	Significant Industrial User
SMR	Self-Monitoring Report
SNC	Significant Non-Compliance
TDA	Temporary Discharge Approval
TRC	Technical Review Criteria
TSS	Total Suspended Solids
USC	United States Code

SECTION 2 - PARTICIPANT APPLICATION FOR SERVICE

New Participants in the System will be considered upon request to the MCUA and acceptance by the applicant of the terms and conditions of the Agreement, and these Rules and Regulations and any modifications thereto then in effect between the MCUA and its existing Participants. New Participants shall provide metering and sampling facilities to comply with Section 6.13 and 7.1-7.8 of these Rules and Regulations; the design of the facilities shall be in accordance with sound engineering practice and Plans and Specifications for same shall be subject to approval by the MCUA prior to construction. All costs of construction, procurement of land and materials for the facilities shall be borne by the Participant. The facilities and necessary land shall then be deeded to the MCUA.

3.1 Prohibited Discharge Standards

(A) General Prohibitions.

(1) No User shall introduce or cause to be introduced into the MCUA any pollutant or wastewater which cause a violation of any regulatory permits *(i.e., Federal, State, and/or Local)* issued to the MCUA; or causes interference, pass through, or upset; or pose a threat to human health and safety; or causes damage to the MCUA treatment works. These general prohibitions and the specific prohibitions in paragraph (B) of this section apply to all Users of the MCUA whether or not they are subject to Categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or requirements. A violation under this section is non-minor and, therefore, not subject to a grace period.

(2) 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 MCUA. A violation under this section is non-minor and, therefore, not subject to a grace period.

(B) Specific Prohibitions. A violation under this section is non-minor and, therefore, not subject to a grace period. No User shall introduce or cause to be introduced into the POTW the following pollutants, substances, and/or wastewater:

(1) Wastewater of such a nature and in such a quantity as to impair the hydraulic capacity of the POTW;

(2) Pollutants of such a nature as to, by either chemical or mechanical action, impair the strength or the durability of the sewer structures;

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

(4) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference;

(5) Pollutants which will cause corrosive structural damage to the POTW, and the discharge pH shall be equal to or greater than 5.0, and less than 12.5. However, in the case of continuous pH monitoring, the compliance level shall be 99% with an absolute minimum of 4.0 and an absolute maximum of 12.5;

(6) Wastewater which includes any radioactive substance, unless the MCUA shall have given written consent to its inclusion; but in no case, a radioactive discharge which does not comply with Federal Regulations (10 CFR Part 20 *et seq*.) and/or State Regulations (N.J.A.C. 7:28-1.1 *et se*q.);

(7) Wastewater which includes any garbage or ground garbage other than that received directly into public sewers from residences, unless the MCUA shall have given written consent to its inclusion;

(8) Wastewater which contains any unpolluted waters that may be discharged to a separate storm sewer, which includes, but is not limited to storm water and or non-contact cooling water, unless the MCUA shall have given written consent to its inclusion;

(9) Wastewater which contains heat in amounts which will inhibit biological activity in the sewage treatment plant resulting in Interference, but in no case heat in such quantities that the temperature at the sewage treatment plant exceeds 104°F (40°C);

(10) Wastewater which has a monthly average concentration higher than 100 mg/l of petroleum oil, non-biodegradable cutting oils, or product of mineral oil origin, unless the MCUA shall have given written consent to its inclusion; but in no case, a wastewater which contains a daily maximum concentration greater than 150 mg/l;

(11) Pollutants, including oxygen demanding pollutants *(BOD, etc.)* released in a discharge at a flow rate and/or pollutant concentration which, either alone or by interaction with other pollutants, will cause interference, pass through, or upset with the sewage treatment plant;

(12) Substances which are not amenable to treatment or reduction by the sewage treatment processes employed, or are amenable to treatment only to such a degree that the sewage treatment plant effluent cannot meet the requirements of

the regulatory agencies having jurisdiction over discharge to the receiving waters, emissions of pollutants to the air or result in concentrations in the sludge produced at the sewage treatment plant which do not meet the requirements of the regulatory agencies or of the sludge management process being used;

(13) Pollutants which, either alone or by interaction with other wastes, are malodorous, are capable of creating a public nuisance or hazard to life or health, or are present in sufficient concentrations to prevent entry into the Trunk System for its maintenance and repair, or result in the presence of toxic gases, vapors, or fumes within the MCUA treatment works in a quantity that may cause acute health and safety problems;

(14) Wastewater which contains heavy metals, toxic materials or any other materials which in concentrations discharged into the Sanitary Sewer or Trunk Sewer will have a deleterious effect on the wastewater treatment process, sludge processing, the plant effluent, air emissions or the sludge produced;

(15) Any sewer disposal of hazardous waste pharmaceuticals from healthcare facilities and reverse distributors in accordance 40 CFR Part 266 Subpart P and prescription medication;

(16) Any trucked or hauled pollutants, except at discharge points designated by the MCUA;

(17) Medical wastes and regulated medical wastes, except as specifically authorized by the MCUA;

(18) Sludges, screenings, or other residues from the pretreatment of industrial wastes;

(C) When Specific Limits Must Be Developed.

(1) The MCUA shall develop and enforce specific limits to implement the prohibitions listed in paragraphs 3.1(A) and (B) of this section. The MCUA shall develop these limits as necessary and effectively enforce such limits.

(2) Specific effluent limits shall not be developed and enforced without individual notice to persons or groups who have requested such notice and an opportunity to respond.

(D) Local Limits. The MCUA reserves the right to develop specific prohibitions or limits on pollutants or pollutant parameters in accordance with paragraph (C) above, such limits shall be deemed Pretreatment Standards for the purposes of section 307(d) of the Act. A violation under this section is non-minor and, therefore, not subject to a grace period.

(E) Best Management Practices. The MCUA may develop Best Management Practices (BMPs) to assure compliance with Sections 3.1 and 3.5 of these Rules and Regulations. Such BMPs shall be considered local limits and Pretreatment Standards for the purposes of this part and section 307(d) of the Act. A violation under this section is non-minor and, therefore, not subject to a grace period.

3.2 General Pretreatment Standards

40 CFR 403.1 *et seq*. is hereby incorporated by reference, including all supplements and amendments thereto. A violation under this section is non-minor and, therefore, not subject to a grace period.

3.3 National Categorical Pretreatment Standards

(A) 40 CFR 403 *et seq*.is hereby incorporated by reference, including all supplements and amendments thereto. Upon the effective date of the National Categorical Pretreatment Standard for a particular industrial subcategory, the Federal Standard, if more stringent than limitations imposed under these Rules and Regulations for sources in that subcategory, shall immediately supersede the limitations imposed under these Rules and Regulations and affected Industrial Users shall comply with such standards within the stated deadlines. The MCUA shall notify affected industrial Users of their applicable reporting requirements. A violation under this section is non-minor and, therefore, not subject to a grace period.

(B) Equivalent Concentration Limitations. The MCUA may convert the mass limitations of the Categorical Pretreatment Standards at 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual Industrial Users. When converting such limits to concentration limits, the MCUA will use the concentrations listed in the applicable subparts of 40 CFR Parts 414, 419, and 455 and document that dilution is not being substituted for treatment as prohibited by Section 3.7 of these Rules and Regulations.

(1) Equivalent Concentration Limitations calculated in accordance with Section B above are deemed Pretreatment Standards for the purposes of Section 307(d) of the Act and this part. Once incorporated into its Control Document, the Industrial User must comply with the Equivalent Concentration Limitations in lieu of the promulgated Categorical standards from which the Equivalent Concentration Limitations were derived.

(2) Many Categorical Pretreatment Standards specify one limitation for calculating maximum daily discharge limitations and a second limitation for calculating maximum monthly average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum Equivalent Concentration Limitations.

(3) Any Industrial User operating under a Control Document incorporating Equivalent Concentration limitations calculated from a production-based standard shall notify the MCUA within two (2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the MCUA of such anticipated change will be required to meet the concentration limitations in its Control Document that were based on the original estimate of the long-term average production rate. A violation under this section is non-minor and, therefore, not subject to a grace period.

(C) Equivalent Mass Limitations. When the limitations in a Categorical Pretreatment Standard are expressed only in terms of pollutant concentrations, an Industrial User may request that the MCUA convert the limitations to Equivalent Mass Limitations. The determination to convert concentration limitations to mass limitations is within the discretion of the MCUA. The MCUA may establish Equivalent Mass Limitations only if the Industrial User meets all the following conditions in paragraph (1)(a) through (1)(e) of this section.

(1) To be eligible for Equivalent Mass Limitations, the Industrial User must:

(a) Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its Control Document;

(b) Currently use control and treatment technologies adequate to achieve compliance with the applicable Categorical Pretreatment Standard, and not have used dilution as a substitute for treatment;

(c) Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and long-term average production rate must be representative of current operating conditions;

(d) Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the Discharge; and

(e) Have consistently complied with all applicable Categorical Pretreatment Standards during the period prior to the Industrial User's request for Equivalent Mass Limitations.

(2) An Industrial User subject to Equivalent Mass Limitations must:

(a) Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the Equivalent Mass Limitations;

(b) Continue to record the facility's flow rates using a continuous effluent flow monitoring device;

(c) Continue to record the facility's production rates and notify the MCUA whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in paragraph (1)(c) of this section. Upon notification of a revised production rate, the MCUA will reassess the Equivalent Mass Limitation and revise the limitation as necessary to reflect changed conditions at the facility; and

(d) Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to paragraph (1)(a) of this section so long as it discharges under an Equivalent Mass Limitation.

(3) Where the MCUA chooses to establish Equivalent Mass Limitations, it will:

(a) Calculate the Equivalent Mass Limitations by multiplying the actual average daily flow rate of the regulated process(es) of the Industrial User by the concentration-based daily maximum and monthly average Standard for the applicable Categorical Pretreatment Standard and the appropriate unit conversion factor;

(b) When notified of a revised production rate, reassess the Equivalent Mass Limitations and recalculate the limitations as necessary to reflect changed conditions at the facility; and

(c) Retain the same Equivalent Mass Limitations in subsequent Control Document terms if the Industrial User's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the Equivalent Mass Limitations were not based on the use of dilution as a substitute for treatment pursuant to Section 3.7 of these Rules and Regulations. In addition, the Industrial User must be in compliance with Section 12.3 of these Rules and Regulations *(regarding the prohibition of bypass)*.

(4) The MCUA may not express limitations in terms of mass for pollutants such as pH, temperature, radiation, or other pollutants which cannot appropriately be expressed as mass.

(5) Equivalent Mass Limitations calculated in accordance with Subsection (C) above are deemed Pretreatment Standards for the purposes of section 307(d) of the Act and this part. Once incorporated into its Control Document, the Industrial User must comply with the Equivalent Mass Limitations in lieu of the promulgated Categorical standards from which the Equivalent Mass Limitations were derived.

(6) Many Categorical Pretreatment Standards specify one limitation for calculating maximum daily discharge limitations and a second limitation for calculating maximum monthly average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum Equivalent Mass Limitations.

(7) Any Industrial User operating under a Control Document incorporating Equivalent Mass Limitations calculated from a production-based standard shall notify the MCUA within two (2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the MCUA of such anticipated change will be required to meet the mass limitations in its Control Document that were based on the original estimate of the long-term average production rate. A violation under this section is non-minor and, therefore, not subject to a grace period.

3.4 State Requirements

State requirements and limitation on discharges shall apply in any case where they are more stringent than Federal requirements and limitations or those in these Rules and Regulations. A violation under this section is non-minor and, therefore, not subject to a grace period.

3.5 Local Limits

[RESERVED]

3.6 MCUA Right of Revision

The MCUA reserves the right to establish, by Rules and Regulations or in Control Documents, more stringent limitations, or requirements on discharges to the sanitary sewer.

3.7 Dilution

No User shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards, or in any other pollutant-specific limitation developed by the MCUA or State. A violation under this section is non-minor and, therefore, not subject to a grace period.

3.8 Removal Credit

The MCUA reserves the right at its discretion to issue Pretreatment Removal Credits in accordance with 40 CFR Part 403.7. Any costs associated with determination of Pretreatment Removal Credits for any priority pollutant shall be borne by the User requesting said credit.

3.9 Net/Gross Calculation

Pursuant to 40 CFR Part 403.15, Categorical Pretreatment Standards may be adjusted to reflect the presence of pollutants in the Industrial User's intake water in accordance with this section.

(A) Application.

(1) Any Industrial User wishing to obtain credit for intake pollutants must make application to the MCUA. Upon request of the Industrial User, the applicable Standard will be calculated on a "net" basis *(i.e., adjusted to reflect credit for pollutants in the intake water)* if the requirements of paragraphs (B) of this section are met.

(B) Criteria.

(1) Either:

(a) The applicable Categorical Pretreatment Standards contained in 40 CFR Subchapter N specifically provide that they shall be applied on a net basis.

(b) The Industrial User must demonstrate that the control system it proposes or uses to meet applicable Categorical Pretreatment Standards would, if properly installed and operated, meet the Standards in the absence of pollutants in the intake waters.

(2) Credit for generic pollutants such as biochemical oxygen demand (BOD), total suspended solids (TSS), oil and grease should not be granted unless the Industrial User demonstrates that the constituents of the generic measure in the User's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.

(3) Credit shall be granted only to the extent necessary to meet the applicable Categorical Pretreatment Standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with Standard(s) adjusted under this section.

(4) Credit shall be granted only if the User demonstrates that the intake water is drawn from the same body of water as that into which the MCUA discharges. The MCUA may waive this requirement if it finds that no environmental degradation will result.

SECTION 4. PRETREATMENT OF WASTEWATER

4.1 Pretreatment Facilities

Dischargers shall provide necessary wastewater treatment as required to comply with these Rules and Regulations and shall achieve compliance with all applicable Federal Categorical Pretreatment Standards within the time limitations specified by the Federal Pretreatment Regulations. Pretreatment facilities, where required, shall be provided for, and operated efficiently by the owner or operator at its own costs and expense and shall be maintained in good working order, subject to the requirements of these Rules and Regulations and all other applicable Federal, State and/or local statutes, regulations, or Rules and Regulations. A violation under this section is non-minor and, therefore, not subject to a grace period.

4.2 Additional Pretreatment Measures

(A) Whenever deemed necessary, the MCUA 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 domestic wastestreams from non-domestic wastestreams, and such other conditions as may be necessary to protect the POTW and determine the User's compliance with the requirements of these Rules and Regulations, except under emergency conditions, these actions will take place only after the User has been notified and provided an opportunity to respond.

(B) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter, except under emergency conditions, these actions will take place only after the User has been notified and provided an opportunity to respond.

4.3 Submission of Information

Where pretreatment or equalization of wastewater flows prior to discharge into the treatment works is required, plans, specifications, operating procedures, and other pertinent data or information relating to such pretreatment or flow-control facilities shall first be submitted by the User to the MCUA for review and/or comment. The review of such plans and operating procedures shall not relieve the discharger of the responsibility of modifying the facility as necessary to produce wastewater acceptable to the MCUA under the provisions of these Rules and Regulations. Furthermore, any review shall not exempt the discharge of such facilities from compliance with any applicable code, Rules and Regulations, rule, regulation, or order of any governmental authority. Any subsequent modifications to such pretreatment or flow-control facilities or in any method of operation which may affect the discharge shall not be made without due notice to the MCUA. A violation under this section is minor and, therefore, subject to a grace period of thirty (30) days.

4.4 Accidental Discharge/Slug Control Plan

(A) Accidental Discharge Control Plan**.** Each User shall provide protection from accidental discharge(s) and slug load(s) of prohibited materials or other substances regulated by these Rules and Regulations or other materials that may cause potential problems for the MCUA. Facilities to prevent accidental discharge(s) and slug load(s) of prohibited materials or other materials that may cause potential problems for the POTW shall be provided and maintained at the owner or User's own expense. Upon request, detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the MCUA for review and comment prior to their construction. All existing industrial Users, where required, shall complete such a plan within ninety (90) days from adoption of these Rules and Regulations by the MCUA. No industrial User who commences contribution to the sanitary sewer after the effective date of these Rules and Regulations shall be permitted to introduce pollutants into the system until accidental discharge prevention procedures have been reviewed and commented on by the MCUA. Review of such plans and operating procedures shall not relieve the industrial User of the responsibility of modifying its facility as necessary to meet the requirements of these Rules and Regulations.

(B) Slug Control Plan. The MCUA shall evaluate whether each Significant Industrial User needs a plan or other action to control Slug Discharges. Each Significant Industrial User must be evaluated within one (1) year of being designated a Significant Industrial User. For purposes of this subsection, a Slug Discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the MCUA regulations, local limits, or permit conditions. The results of such activities shall be available to the Approval Authority upon request. Significant Industrial Users are required to notify the MCUA immediately of any changes at its facility affecting potential for a Slug Discharge.

(C) If the MCUA decides that an accidental discharge/slug control plan is needed, the plan shall contain, at a minimum, the

following elements:

(i) Description of discharge practices, including non-routine batch discharges;

(ii) Description of stored chemicals;

(iii) Procedures for immediately notifying the MCUA of any accidental or slug discharge, as required by Section 6.6 of these Rules and Regulations; and

(iv) 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.

(D) A violation under this section is non-minor and, therefore, not subject to a grace period.

4.5 Waste Minimization Plan

Users identified by the MCUA may be required to develop and implement a waste minimization plan. Waste minimization is the use of procedures, practices, or processes that reduce or eliminate the generation of pollutants and wastes at the source. Waste minimization encompasses both the concepts of volume reduction and toxicity reduction. Within the manufacturing sector, examples of waste minimization include such activities as input substitution or modification, product reformulation, process modification, improved housekeeping, and on-site closed-loop recycling. A violation under this section is minor and, therefore, subject to a grace period of thirty (30) days.

(A) Contents

A waste minimization plan, at a minimum, shall be comprised of the following parts:

(1) An inventory of the use and generation of hazardous substances at the facility which shall identify each production process and determine the quantities of hazardous substances that each process uses, generates or releases based upon best engineering estimates.

(2) Identification of specific waste minimization methods that the facility may consider.

(3) Analysis and selection of waste minimization methods.

(4) Selection of five-year waste minimization goals.

SECTION 5 - CONTROL OF DISCHARGES

5.1 General

(A) The MCUA may require Users to obtain Control Documents as necessary to carry out the purposes of these Rules and Regulations.

(B) Any violation of the terms and conditions of a Control Document shall be deemed a violation of these Rules and Regulations and subjects the discharger to the sanctions set out in Sections 10 and 11 of these Rules and Regulations. A User who obtains a Control Document is not relieved from the obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, and local law.

(C) No discharges to the MCUA Treatment Works shall be allowed except in compliance with these Rules and Regulations. A violation under this section is non-minor and, therefore, not subject to a grace period.

5.2 Control of Discharges

All Discharges to the MCUA Treatment Works may be subject to the following control documents as deemed necessary by the

MCUA.

(A) Non-Domestic Wastewater Discharge Permits.

All Significant Industrial Users identified by the MCUA, all new Users, and all Industrial Users subject to Federal Categorical Pretreatment Standards, in the system will be considered for a Non-Domestic Wastewater Discharge Permit upon submittal to the MCUA of an Application for a Non-Domestic Wastewater Discharge Permit on the form required by the MCUA, and acceptance of the terms and conditions of these Rules and Regulations and any modifications thereto then in effect.

(1) No Significant Industrial User shall discharge wastewater into the treatment works without first obtaining a Non-Domestic Wastewater Discharge Permit from the MCUA.

(B) Discharge Approvals

The MCUA receives requests from Users, which are not Significant Industrial Users, seeking permission to discharge non-domestic wastewater into the MCUA wastewater treatment works. Acceptance of non-domestic wastewater shall be subject to review and a case-by-case determination by MCUA-technical staff that the specific discharges will not cause an adverse impact on the MCUA wastewater treatment system.

(1) A Discharge Approval may be issued for a specified time period.

(2) A Discharge Approval shall include such conditions as are deemed reasonably necessary by the MCUA to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect air quality, protect health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(3) A Discharge Approval application may be on a specified form, as the MCUA deems appropriate.

(4) A Discharge Approval may contain fees, as directed by the MCUA.

(C) Temporary Discharge Approvals

The MCUA receives requests from private and public sector entities seeking permission to temporarily discharge to the MCUA wastewater treatment system groundwater recovered during environmental remediation required to be performed under the oversight of the New Jersey Department of Environmental Protection (NJDEP) at properties within the MCUA service area.

(1) Acceptance of treated groundwater shall be subject to review and a case-by-case determination by MCUA-technical staff that the specific discharge will not cause an adverse impact on the MCUA wastewater treatment system.

(2) Temporary Discharge Approvals shall only be issued from sites within the MCUA Service Area that are required by Federal, State or Local Regulations to remediate groundwater where such groundwater is treated as the MCUA technical staff may direct.

(3) Temporary Discharge Approvals shall be issued based upon a review of the project as stated in (C)(1) above and subject to charges set forth in Section 14.2 of these Rules and Regulations unless the groundwater is “reused” prior to being discharged directly to the wastewater collection system.

(4) A Temporary Discharge Approval application may be on a specified form, as the MCUA deems appropriate.

(5) A Temporary Discharge Approval shall have a term of one year, renewable each year upon application to and the approval of the MCUA, subject to a maximum life of five (5) years. After a Temporary Discharge Approval reaches its maximum life of five (5) years, it shall expire and the discharge shall cease, unless the MCUA, in its discretion, determines to issue a new Temporary Discharge Approval.

(D) Septage/Liquid Hauled Waste Approval

The MCUA shall receive septage/liquid hauled waste only at discharge points designated by the MCUA. The septage/trucked waste shall be of a domestic origin only, which shall not contain any waste generated at any treatment plant, grease trap or industrial process, unless the MCUA shall have given written consent to its inclusion. The MCUA reserves its right to refuse acceptance of septage/hauled waste at any time without cause.

(1) Septage/liquid hauled waste shall be generated at properties within the MCUA-service area, unless the MCUA shall have given written consent to its inclusion.

(2) The MCUA requires haulers to have valid NJDEP registration.

(3) The MCUA requires that haulers provide valid certificates of insurance for the following minimum coverages and amounts:

(a) Commercial General Liability (CGL) – covering CGL on an "occurrence" basis, including products and completed operations, property damage, bodily injury and personal and advertising injury with limits no less than $2,000,000 per occurrence. If a general aggregate limit applies, either the general aggregate limit shall apply separately to this project/location or the general aggregate limit shall be twice the required occurrence limit

(b) Automobile Liability – coverage for all owned, non-owned and hired vehicles with limits not less than $1,000,000 per occurrence, combined single limits (CSL) or its equivalent.

(c) Workers' Compensation – insurance required by the State of New Jersey, with Statutory Limits, and Employers' Liability insurance with a limit of no less than $1,000,000 per accident for bodily injury or disease; and

(d) Pollution Liability – with limits no less than $2,000,000 per occurrence or claim, and $2,000,000 policy aggregate

(4) The septage/liquid hauled waste fee schedule is set forth in Section 14.3 of these Rules and Regulations.

5.3 Non-Domestic Wastewater Discharge Permit Decisions

(A) The MCUA will evaluate the data provided by the User and may require additional information. The MCUA may deny any application for a Non-Domestic Wastewater Discharge Permit.

(B) Where a User becomes aware that any relevant facts have not been submitted in a permit application, or that incorrect information has been submitted in a permit application, the User shall promptly submit such facts or information within ten (10) days of the time the User becomes aware of the correct information. A violation under this section is minor and, therefore, subject to a grace period of thirty (30) days.

(C) The MCUA shall deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by Industrial Users where such contributions would violate any conditions set forth in these Rules and Regulations.

5.4 Non-Domestic Wastewater Discharge Permit Duration

A Non-Domestic 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 Non-Domestic Wastewater Discharge Permit may be issued for a period less than five (5) years, at the discretion of the Authority. Each Non-Domestic Wastewater Discharge Permit will indicate a specific date upon which it will expire.

5.5 Non-Domestic Wastewater Discharge Permit Contents

A Non-Domestic Wastewater Discharge Permit shall include such conditions as are deemed reasonably necessary by the Authority to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect air quality, protect health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

(A) Non-Domestic Wastewater discharge permits shall contain:

(1) A statement that indicates the Non-Domestic Wastewater Discharge Permit duration, which in no event shall exceed five (5) years;

(2) A statement that the Non-Domestic Wastewater Discharge Permit is transferable to a new owner or operator with prior notification to the Authority in accordance with Section 5.8 of these Rules and Regulations, and provisions for furnishing the new owner or operator with a copy of the existing Non-Domestic Wastewater Discharge Permit;

(3) Effluent limits including Best Management Practices or Best Professional Judgement based upon applicable Pretreatment Standards, Categorical Pretreatment Standards, local limits, and State and local law;

(4) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored *(including the process for seeking a waiver for a pollutant neither present or expected to be present in the discharge in accordance with Section 7.6 of these Rules and Regulations),* sampling location, sampling frequency, and sample type based upon Federal, State, and local law;

(5) A statement of applicable civil and criminal penalties for violation of Pretreatment Standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law;

(6) Requirements to control Slug Discharges, if determined by the MCUA to be necessary;

(7) A statement that no Non-Domestic Wastewater Discharge Permit may be issued, renewed, or modified by the MCUA so as to relax any effluent limitation until the applicant, or permit holder, as the case may be, has paid all fees, penalties or fines due and owing pursuant to P.L.1977, c.74, or has entered into an agreement with the MCUA establishing a payment schedule therefore; except that if a penalty or fine is contested, the applicant or permit holder shall satisfy the provisions of this section by posting financial security as required pursuant to Paragraph (5) of subsection d. of Section 10 of P.L.1977, c.74 (C. 58:10A-10);

(8) A statement requiring the permittee, at all times, to maintain in good working order and operate as effectively as possible, any pretreatment or pollution control equipment, facilities, systems or devices installed to achieve compliance with the Non-Domestic Wastewater Discharge Permit; and

(9) A statement or statements requiring the permittee to comply with all applicable reporting and notification requirements of Section 6 of these Rules and Regulations.

(B) Non-Domestic Wastewater Discharge Permits may contain, but not limited to, the following conditions:

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

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

(3) Requirements for the development and implementation of accidental discharge/slug control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;

(4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the MCUA;

(5) Requirements for installation and maintenance of inspection and sampling facilities and associated equipment;

(6) A statement that compliance with the Non-Domestic Wastewater Discharge Permit does not relieve the permittee of responsibility for compliance with all applicable Federal, State and/or local Pretreatment Standards, including those which become effective during the term of the Non-Domestic Wastewater Discharge Permit; and

(7) Other conditions and/or compliance schedules as deemed appropriate by the MCUA to ensure compliance with these Rules and Regulations, Federal, State and/or local laws, rules, and regulations.

5.6 Non-Domestic Wastewater Discharge Permit Comments/Appeals

(A) Comments

The MCUA shall public notice the issuance, renewal, major modification, and/or termination of a Non-Domestic Wastewater Discharge Permit as defined in Section 9.2 of these Rules and Regulations.

(B) Appeals

Aggrieved parties may seek an appeal of a final Non-Domestic Wastewater Discharge Permit action, as set forth in Section 9.4 of these Rules and Regulations.

5.7 Modification of Non-Domestic Wastewater Discharge Permits

(A) Major Modification of Non-Domestic Wastewater Discharge Permits

The MCUA may make a major modification to a Non-Domestic Wastewater Discharge Permit for good cause, including, but not limited to, the following reasons:

(1) To incorporate any new or revised Federal, State, or local Pretreatment Standards and/or requirements;

(2) To address significant alterations or additions to the User's operation, processes, or wastewater volume or characteristics since the issuance of the Non-Domestic Wastewater Discharge Permit;

(3) A change in the treatment works that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(4) Information indicating that the permitted discharge poses a threat to the MCUA, its personnel, or the receiving waters;

(5) Violation of any terms or conditions of the Non-Domestic Wastewater Discharge Permit;

(6) Misrepresentations or failure to fully disclose all relevant facts in the Non-Domestic Wastewater Discharge Permit application or in any required reporting; or

(7) Revision of or a grant of variance from Categorical Pretreatment Standards pursuant to 40 CFR Part 403.13.

(B) Minor Modification of Non-Domestic Wastewater Discharge Permits

The MCUA, with the consent of the permittee, may modify a permit to make corrections or allowances for changes in the permitted activity listed in this Section. Such changes shall be made without following the procedures set forth in Section 9.2 of these Rules and Regulations. Minor modifications may only:

(1) Correct typographical errors *(and language changes that have no legal or substantial effect)*;

(2) Require more frequent monitoring or reporting by the permittee;

(3) Change an interim compliance date in a schedule of compliance, provided the new date is not more than one-hundred twenty (120) days after the date specified in the existing permit and does not interfere with attainment of the final compliance date requirement;

(4) Allow for a change in company name, ownership or operational control of a facility where the MCUA determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittees has been submitted to the MCUA;

(5) Change the construction schedule for a discharger which is a new source. No such change shall affect a discharger's obligation to have all pollution control equipment installed and in operation prior to discharge; or

(6) Delete a point source outfall when the discharge from that outfall is terminated and does not result in a discharge of pollutants from other outfalls except in accordance with permit limits.

(C) Non-Domestic Wastewater Discharge Permit modifications requested by the permittee shall be subject to the permit modification fee as defined in Section 14.1(A) of these Rules and Regulations. A violation under this section is non-minor and, therefore, not subject to a grace period.

5.8 Transferability of Non-Domestic Wastewater Discharge Permits

(A) In the event of any change in control or ownership of facilities from which the authorized discharges emanate, the existing User shall notify the succeeding User of the existence of a Non-Domestic Wastewater Discharge Permit, in writing, prior to the

transfer via certified mail with a copy to the Executive Director. The Non-Domestic Wastewater Discharge Permit may be transferred to a new User only if the new User gives written notice of the transfer to the Executive Director within forty-eight (48) hours of the transfer. A violation under this section is non-minor and, therefore, not subject to a grace period. The notice to the Executive Director must include a written certification by the new User which:

(1) States that the new User has no immediate intent to change the facility's operations and processes;

(2) Identifies the specific date the transfer occurred;

(3) Acknowledges full responsibility for complying with the existing Non-Domestic Wastewater Discharge Permit; and

(4) Includes the appropriate Non-Domestic Wastewater Discharge Permit transfer fee as defined in Section 14.1(A) of these Rules and Regulations.

(B) Failure to provide written notice of a transfer to the Executive Director as required by Section 5.8(A) renders the Non-Domestic Wastewater Discharge Permit void as of the date of the transfer.

(C) If the new User intends to immediately change the facility's operations and processes, the existing Non-Domestic Wastewater Discharge Permit shall not be transferable. The new User shall apply for a new Non-Domestic Wastewater Discharge Permit, in accordance with Section 5.2 of these Rules and Regulations. A violation under this section is non-minor and, therefore, not subject to a grace period.

5.9 Termination of Non-Domestic Wastewater Discharge Permits

(A) In addition to the provisions of Section 10.11 of these Rules and Regulations, the MCUA may terminate a Non-Domestic Wastewater Discharge Permit or deny a permit renewal application for good cause, including, but not limited to, the following reasons:

(1) Failure to notify the MCUA of significant changes to the wastewater prior to the changed discharge;

(2) Failure to provide prior notification to the MCUA of changed conditions pursuant to Section 6.5 of these Rules and Regulations;

(3) Misrepresentation or failure to fully disclose all relevant facts in the Non-Domestic Wastewater Discharge Permit application;

(4) Falsifying self-monitoring reports;

(5) Tampering with monitoring equipment;

(6) Refusing to allow the MCUA timely access to the facility premises and records;

(7) Failure to meet effluent limitations resulting in Significant Non-Compliance;

(8) Failure to pay fines;

(9) Failure to meet compliance schedules resulting in Significant Non-Compliance;

(10) Failure to complete a wastewater survey or the Non-Domestic Wastewater Discharge Permit application;

(11) Failure to apply for a Non-Domestic Wastewater Discharge Permit renewal a minimum of one-hundred eighty (180) days prior to the expiration of the User's existing Non-Domestic Wastewater Discharge Permit;

(12) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

(13) Violation of any pretreatment standard or requirement, or any terms of the Non-Domestic Wastewater Discharge Permit or these Rules and Regulations resulting in Significant Non-Compliance.

(B) Non-Domestic Wastewater Discharge Permits shall be voidable upon cessation of operations or transfer of business ownership

when the new User has an immediate intent to change the facility's operations and processes. All Non-Domestic Wastewater Discharge Permits issued to a particular User are void upon the issuance of a new Non-Domestic Wastewater Discharge Permit to that User.

5.10 Renewal of Non-Domestic Wastewater Discharge Permits

(A) A User with an expiring Non-Domestic Wastewater Discharge Permit shall apply for Non-Domestic Wastewater Discharge Permit renewal a minimum of one-hundred eighty (180) days prior to the expiration of the User's existing Non-Domestic Wastewater Discharge Permit. All Non-Domestic Wastewater Discharge Permits previously issued to a particular User are void upon the issuance of a new Non-Domestic Wastewater Discharge Permit to that User. A violation under this section is non-minor and, therefore, not subject to a grace period.

(B) A Non-Domestic Wastewater Discharge Permit renewal shall be subject to the permit renewal fee as defined in Section 14.1(A) of these Rules and Regulations. A violation under this section is non-minor and, therefore, not subject to a grace period.

5.11 Continuation of Expiring Non-Domestic Wastewater Discharge Permit

(A) The conditions of an expired Non-Domestic Wastewater Discharge Permit are continued in force, until the effective date of a new permit if:

(1) The permittee has submitted a timely and complete application for renewal in accordance with Section 5.10 of these Rules and Regulations;

(2) The MCUA, through no fault of the permittee, does not issue a new permit with an effective date on or before the expiration date of the previous permit.

(B) Non-Domestic Wastewater Discharge Permits continued under this section remain fully effective and enforceable.

(C) When the permittee is not in compliance with the conditions of the expired or continued Non-Domestic Wastewater permit, the MCUA, in its discretion, may choose to do one or more of the following:

(1) Initiate enforcement action based upon the permit which has been continued;

(2) Issue a public notice of intent to deny the new Non-Domestic Wastewater Discharge Permit, in accordance with Sections 5.6 and 5.9 of these Rules and Regulations. If the permit is denied, the owner or operator would be required to cease the activities authorized by the continued permit or be subject to enforcement action for operating without a Non-Domestic Wastewater Discharge Permit.

(3) Issue a new Non-Domestic Wastewater Discharge Permit with appropriate conditions; or

(4) Take other actions authorized by these Rules and Regulations.

(D) In the event that the permittee fails to submit a timely and complete application for renewal, all non-domestic wastewater discharges from the permittee's facility shall cease unless the MCUA, in its discretion, grants approval in writing to the permittee to continue to discharge in conformance with the terms or conditions of the expiring Non-Domestic Wastewater Discharge Permit. Such approval shall terminate upon the effective date of the renewed Non-Domestic Wastewater Discharge Permit.

5.12 Modification of Discharge Approvals

(A) The MCUA may modify a Discharge Approval for good cause, including, but not limited to, the following reasons:

(1) To incorporate any new or revised Federal, State, or local pretreatment standards and/or requirements;

(2) To address significant alterations or additions to the User's operation, processes, or wastewater volume or characteristics since the issuance of the Discharge Approval;

(3) A change in the treatment works that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(4) Information indicating that the approved discharge poses a threat to the MCUA, it's personnel, or the receiving waters;

(5) Violation of any terms or conditions of the Discharge Approval;

(6) Misrepresentations or failure to fully disclose all relevant facts in the application for a Discharge Approval or in any required reporting;

(7) To correct typographical or other minor changes in the Discharge Approval.

(B) Discharge Approval modifications requested by the discharger may be subject to a fee.

5.13 Transferability of Discharge Approvals

(A) Discharge Approvals may be transferred provided that prior to any change in control or ownership of facilities from which the discharge emanates, the existing User shall notify the succeeding User of the existence of the Discharge Approval in writing prior to the transfer via certified mail with a copy to the Executive Director. The Discharge Approval may be transferred to a new User only if the new User gives written notice of the transfer to the Executive Director within forty-eight (48) hours of the transfer. A violation under this section is non-minor and, therefore, not subject to a grace period. The notice to the Executive Director must include a written certification from the new User which:

(1) States that the new User has no immediate intent to change the facility's operations and processes;

(2) Identifies the specific date on which the transfer occurred; and

(3) Acknowledges full responsibility for complying with the existing Discharge Approval.

(B) Failure to provide written notice of a transfer to the Executive Director as required by this Section renders the Discharge Approval void as of the date of the transfer.

(C) If the new User intends to immediately change the facility's operations and processes, the existing Discharge Approval shall not be transferable. The new User shall apply for a new Discharge Approval, in accordance with Section 5.2 of these Rules and Regulations. A violation under this section is non-minor and, therefore, not subject to a grace period.

5.14 Termination of Discharge Approvals

(A) In addition to the provisions of Section 10.11 of these Rules and Regulations, the MCUA may terminate a Discharge Approval or deny a Discharge Approval renewal for good cause, including, but not limited to, the following reasons:

(1) Failure to notify the MCUA of significant changes to the wastewater prior to the changed discharge;

(2) Failure to provide prior notification to the MCUA of changed conditions pursuant to Section 6.5 of these Rules and Regulations;

(3) Misrepresentation or failure to fully disclose all relevant facts in the application for a Discharge Approval;

(4) Falsifying reports;

(5) Tampering with monitoring equipment;

(6) Refusing to allow the MCUA timely access to the facility premises and records;

(7) Failure to meet effluent limitations;

(8) Failure to pay fines;

(9) Failure to meet compliance schedules;

(10) Failure to complete a wastewater survey or the application for a Discharge Approval;

(11) Failure to apply for a Discharge Approval renewal a minimum of sixty (60) days prior to the expiration of the User's existing Discharge Approval if the time from the date of application is insufficient for MCUA to perform the necessary evaluation for renewal;

(12) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

(13) Violation of any pretreatment standard or requirement, or any terms of the Discharge Approval or these Rules and Regulations resulting in Significant Non-Compliance.

(B) Discharge Approvals shall be voidable upon cessation of operations or transfer of business ownership when the new User has an immediate intent to change the facility's operations and processes. All Discharge Approvals issued to a particular User are void upon the issuance of a new Discharge Approval to that User.

5.15 Renewal of Discharge Approvals

(A) A User with an expiring Discharge Approval shall apply for a Discharge Approval renewal a minimum of sixty (60) days prior to the expiration of the User's existing Discharge Approval. All Discharge Approvals previously issued to a particular User are void upon the issuance of a new Discharge Approval to that User. A violation under this section is non-minor and, therefore, not subject to a grace period.

(B) A Discharge Approval renewal may be subject to a renewal fee, as the MCUA deems necessary.

5.16 Continuation of Expiring Discharge Approvals

(A) The conditions of an expired Discharge Approval are continued in force, until the effective date of a new approval if:

(1) The discharger has submitted a timely and complete application for renewal in accordance with Section 5.15 of these Rules and Regulations;

(2) The MCUA through no fault of the discharger, does not issue a new approval with an effective date on or before the expiration date of the previous approval.

(B) Discharge Approvals continued under this section remain fully effective and enforceable.

(C) When the discharger is not in compliance with the conditions of the expired or continued Discharge Approval, the MCUA, in its discretion, may choose to do one or more of the following:

(1) Initiate enforcement action based upon the approval which has been continued;

(2) Deny the new Discharge Approval, in accordance with Sections 5.14 of these Rules and Regulations. If the approval is denied, the owner or operator would then be required to cease the activities authorized by the continued approval or be subject to enforcement action for operating without a Discharge Approval.

(3) Issue a new Discharge Approval with appropriate conditions; or

(4) Take other actions authorized by these Rules and Regulations.

(D) In the event that the discharger fails to submit a timely and complete application for renewal, all non-domestic wastewater discharges from the discharger's facility shall cease unless the MCUA, in its discretion, grants approval in writing to the discharger to continue to discharge in conformance with the terms or conditions of the expiring Discharge Approval. Such approval shall terminate upon the effective date of the renewed Discharge Approval.

5.17 Modification of Temporary Discharge Approvals

(A) The MCUA may modify a Temporary Discharge Approval for good cause, including, but not limited to, the following reasons:

(1) To incorporate any new or revised Federal, State, or local Pretreatment Standards and/or requirements;

(2) To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since

the time of Temporary Discharge Approval issuance;

(3) A change in the treatment works that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(4) Information indicating that the approved discharge poses a threat to the MCUA, it's personnel, or the receiving waters;

(5) Violation of any terms or conditions of the Temporary Discharge Approval;

(6) Misrepresentations or failure to fully disclose all relevant facts in the application for a Temporary Discharge Approval or in any required reporting;

(7) To correct typographical or other minor changes in the Temporary Discharge Approval.

(B) Temporary Discharge Approval modifications requested by the discharger may be subject to a fee.

5.18 Transferability of Temporary Discharge Approvals

Temporary Discharge Approvals shall be non-transferable. In the event of any change in control or ownership of facilities from which the discharge emanates, the User shall notify the succeeding owner or controller of the existence of this discharge approval, and the need to obtain a new approval prior to commencement of discharge. A copy of the User's written notification to the succeeding owner or controller shall be forwarded to the MCUA no later than forty-five (45) days prior to the change. A violation under this section is non-minor and, therefore, not subject to a grace period.

5.19 Termination of Temporary Discharge Approvals

(A) In addition to the provisions of Section 10.11 of these Rules and Regulations, the MCUA may terminate a Temporary Discharge Approval or deny a Temporary Discharge Approval renewal for good cause, including, but not limited to, the following reasons:

(1) Failure to notify the MCUA of significant changes to the wastewater prior to the changed discharge;

(2) Failure to provide prior notification to the MCUA of changed conditions pursuant to Section 6.5 of these Rules and Regulations;

(3) Misrepresentation or failure to fully disclose all relevant facts in the application for a Temporary Discharge Approval;

(4) Falsifying reports;

(5) Tampering with monitoring equipment;

(6) Refusing to allow the MCUA timely access to the facility premises and records;

(7) Failure to meet effluent limitations;

(8) Failure to pay fines;

(9) Failure to meet compliance schedules;

(10) Failure to complete a wastewater survey or the application for a Temporary Discharge Approval;

(11) Failure to apply for a Temporary Discharge Approval renewal a minimum of sixty (60) days prior to the expiration of the User's existing Temporary Discharge Approval;

(12) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

(13) Violation of any pretreatment standard or requirement, or any terms of the Temporary Discharge Approval or these Rules and Regulations.

(B) Temporary Discharge Approvals shall be voidable upon cessation of operations or transfer of business ownership. All

Temporary Discharge Approvals issued to a particular User are void upon the issuance of a new Temporary Discharge Approval to that User.

5.20 Renewal of Temporary Discharge Approvals

(A) A User with an expiring Temporary Discharge Approval shall apply for a Temporary Discharge Approval renewal a minimum of sixty (60) days prior to the expiration of the User's existing Temporary Discharge Approval. A violation under this section is non-minor and, therefore, not subject to a grace period. All Temporary Discharge Approvals previously issued to a particular User are void upon the issuance of a new Temporary Discharge Approval to that User.

(B) A Temporary Discharge Approval renewal may be subject to a renewal fee, as the MCUA deems necessary.

5.21 Continuation of Expiring Temporary Discharge Approvals

(A) The conditions of an expired Temporary Discharge Approval are continued in force, until the effective date of a new approval if:

(1) The discharger has submitted a timely and complete application for renewal in accordance with Section 5.20 of these Rules and Regulations;

(2) The MCUA through no fault of the discharger, does not issue a new approval with an effective date on or before the expiration date of the previous approval.

(B) Temporary Discharge Approvals continued under this section remain fully effective and enforceable.

(C) When the discharger is not in compliance with the conditions of the expired or continued Temporary Discharge Approval, the MCUA, in its discretion, may choose to do one or more of the following:

(1) Initiate enforcement action based upon the approval which has been continued;

(2) Deny the new Temporary Discharge Approval, in accordance with Sections 5.19 of these Rules and Regulations. If the approval is denied, the owner or operator would then be required to cease the activities authorized by the continued approval or be subject to enforcement action for operating without a Temporary Discharge Approval.

(3) Issue a new Temporary Discharge Approval with appropriate conditions; or

(4) Take other actions authorized by these Rules and Regulations.

(D) In the event that the discharger fails to submit a timely and complete application for renewal, all non-domestic wastewater discharges from the discharger's facility shall cease unless the MCUA, in its discretion, grants approval in writing to the discharger to continue to discharge in conformance with the terms or conditions of the expiring Temporary Discharge Approval. Such approval shall terminate upon the effective date of the renewed Temporary Discharge Approval.

SECTION 6 - REPORTING REQUIREMENTS

6.1 Wastewater Survey

When requested by the MCUA, a User must submit information on the nature and characteristics of its wastewater, in a format acceptable to the MCUA, within thirty (30) days of the request. The MCUA may use its discretion to lengthen the response time and grant an extension. A violation under this section is non-minor and, therefore, not subject to a grace period.

6.2 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, except for Non-Significant Categorical Industrial Users *(as defined in these Rules and Regulations)*, currently discharging to or scheduled to discharge to the POTW shall submit to the MCUA 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 MCUA 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. A violation under this section is non-minor and, therefore, not subject to a grace period.

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

(1) Identifying Information. The name, address, and telephone number of the facility, including the name, address, telephone number and email address of the Authorized Representative and Primary Contact Official.

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

(3) Description of Operations. A brief description of the nature, average rate of production, and Standard Industrial Classifications of the operation(s) carried out by such User. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

(4) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:
(a) Regulated process streams; and
(b) Other streams, as necessary, to allow use of the combined wastestream formula of 40 CFR Part 403.6(e).

(5) Measurement of Pollutants.

(a) The Categorical Pretreatment Standards applicable to each regulated process.

(b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the MCUA, of regulated pollutants in the discharge from each regulated process. Daily maximum and 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 forth in Section 7 of these Rules and Regulations. In cases where the Pretreatment Standard requires compliance with a Best Management Practice *(or pollution prevention alternative)*, the User shall submit documentation required by the MCUA or the applicable Pretreatment Standards to determine compliance with the Standard.

(c) Sampling must be performed in accordance with procedures set forth in Section 7 of these Rules and Regulations.

(d) The reports required under this Section shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of conditions occurring during the reporting period. A violation under this section is non-minor and, therefore, not subject to a grace period.

(6) Certification. A statement, reviewed by the User's authorized representative and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.

(7) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment and/or O&M. The completion date 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 forth in Section 6.3 of these Rules and Regulations. Failure to comply with a Compliance Schedule is a violation and is non-minor and, therefore, not subject to a grace period.

(8) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with Section 6.12 of these Rules and Regulations.

6.3 Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by Section 6.2(B)(7) of these Rules and Regulations:

(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 plans, completing final plans,*

executing contracts for major components, commencing construction, 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 MCUA 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. A violation under this section is non-minor and, therefore, not subject to a grace period.

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

6.4 Reports on Compliance with Categorical Pretreatment Standard Deadline

(A) 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 MCUA a report containing the information described in Section 6.2(B)(4-6) above, except for Non-Significant Categorical Industrial Users *(as defined in these Rules and Regulations)*. For User's subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR Part 403.6(c), this report shall contain a reasonable measure of the User's long-term production rate. For all other User's 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 by the facility's Authorized Representative. A violation under this section is non-minor and, therefore, not subject to a grace period.

(B) The reports required in this Section shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of conditions occurring during the reporting period. A violation under this section is non-minor and, therefore, not subject to a grace period.

6.5 Periodic Compliance Reports

(A) All Significant Industrial Users and Categorical Industrial Users, except for Non-Significant Categorical Industrial Users *(as defined in these Rules and Regulations)* shall, at a frequency determined by the MCUA but in no case less than twice per year *(in June and December)*, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice *(or pollution prevention alternative)*, the User shall submit documentation required by the MCUA or the Pretreatment Standard necessary to determine the compliance status of the User. All periodic compliance reports must be signed and certified by the facility's Authorized Representative. A violation under this section is non-minor and, therefore, not subject to a grace period.

(B) 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 violation under this section is non-minor and, therefore, not subject to a grace period.

(C) Should a User monitor a pollutant more frequently than required by a MCUA Control Document, the User shall use the procedures prescribed in Section 7 of these Rules and Regulations and shall report the results of this monitoring in the SMR. A violation under this section is non-minor and, therefore, not subject to a grace period.

(D) The reports required in this Section shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of conditions occurring during the reporting period. A violation under this section is non-minor and, therefore, not subject to a grace period.

6.6 Reports of Changed Conditions

Each User must notify the MCUA Authority of any change in ownership or any planned significant changes to the User's operations *(including a change in operations that would cause a Waived Pollutant to be present)* or system *(including any change of User)* which might alter the nature, quality, or volume of its wastewater at least ninety (90) days before the change. A violation under this section is non-minor and, therefore, not subject to a grace period.

(A) The MCUA may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a Control Document application under Section 5 of these Rules and Regulations.

(B) Pursuant to Section 5 of these Rules and Regulations, the MCUA may issue a Control Document or modify an existing Control Document in response to changed conditions or anticipated changed conditions.

(C) For purposes of this requirement, significant changes include, but are not limited to, flow and loading *(i.e., BOD, TSS)* changes of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants.

6.7 Reports of Potential Problems

(A) In the case of any discharge, including, but not limited to, accidental discharges, slug discharges *(i.e., discharges of a non-routine, episodic nature, an accidental spill, or a non-customary batch discharge)*, or a slug load, that may cause potential problems for the POTW, injuries to persons, damage to the environment, or poses a threat to human health or the environment, the User shall, immediately upon the occurrence of the incident, but in no case later than two (2) hours after the incident, telephone and notify the MCUA of the incident at 732-588-1041. This notification shall include the following information:
(1) Location of the discharge
(2) Type of waste
(3) Concentration and volume, if known
(4) Corrective actions taken by the User, and any other information requested by the MCUA.
A violation under this section is non-minor and, therefore, not subject to a grace period.

(B) Within twenty-four (24) hours of an accidental discharge or slug discharge, other than a discharge as defined in 6.7(A) above; or within twenty-four (24) hours of the User becoming aware of an effluent limitation exceedance, the User shall report the following:
(1) Cause(s) of the discharge
(2) Measures taken or to be taken by the User to prevent similar future occurrences.
(3) An estimate of the danger posed by the discharge to the environment.
(4) An indication whether the discharge is continuing, and any other information requested by the MCUA.
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 these Rules and Regulations. A violation under this section is non-minor and, therefore, not subject to a grace period.

(C) Within five (5) days of a discharge, which is identified in 6.7(A) or (B) above, the User shall submit a detailed written report with the following information:
(1) Date, time, and duration of the occurrence
(2) Volume, material discharged and associated hazards.
(3) Cause(s) of the discharge
(4) Immediate corrective action(s) taken to minimize or cease the discharge.
(5) Measures taken or to be taken by the User to prevent similar future occurrences, and any other information requested by the MCUA.

The five (5) day period shall not be automatically extended upon the submission to the MCUA of any request for waiver or extension of the five-day period. A violation under this section is non-minor and, therefore, not subject to a grace period.

(D) A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in Section 6.5 (A), above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure. A violation under this section is non-minor and, therefore, not subject to a grace period.

6.8 Reports from Unpermitted Users

All Users not required to obtain a Control Document shall provide appropriate reports to the MCUA as the MCUA may require.

6.9 Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a User indicates a violation, the User must notify the MCUA 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 sampling to the MCUA within thirty (30) days after becoming aware of the violation. Where the MCUA has performed the sampling and analysis in lieu of the User, the MCUA will perform the repeat sampling and analysis unless it notifies the User of the violation and requires the User to perform the repeat sampling and analysis. All sampling and analytical costs shall be paid by the User, pursuant to Section 14.1(B) of these Rules and Regulations. The User is not required to resample if the MCUA monitors at the User's facility at least once a month, or if the MCUA samples between the User's initial sampling and when the User receives the results of this sampling. A violation under this section is non-minor and, therefore, not subject to a grace period.

6.10 Self-Monitoring Reports

(A)(1) All MCUA Users with Control Documents are required to submit Self-Monitoring Reports (SMRs) electronically, using the MCUA's current approved USEPA CROMERR compliant software. A violation under this section is non-minor and, therefore, not subject to a grace period.

(2) Any discrepancy between the MCUA Control Document and the Self-Monitoring Report, the Control Document always takes precedence.

(B)(1) Samples required to be obtained, in accordance with an MCUA Control Document, shall be representative of the User's discharge. A violation under this section is non-minor and, therefore, not subject to a grace period.

(2) Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times, except for periods of normal maintenance and except if an "upset" condition arises, as defined in Section 12.2 of these Rules and Regulations. A violation under this section is non-minor and, therefore, not subject to a grace period.

(3) 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 not representative of its discharge.

(4) The reports required in this Section shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report; and the data is representative of conditions occurring during the reporting period. A violation under this section is non-minor and, therefore, not subject to a grace period.

(C) If a User subject to the reporting requirement in this section monitors any pollutant more frequently than required by the MCUA, using the procedures in Section 7.8 of these Rules and Regulations, the results of this monitoring shall be included in the SMR. A violation under this section is non-minor and, therefore, not subject to a grace period.

(D) The following SMR reporting requirements and procedures for Control Documents shall be followed:

(1) MONTHLY REPORTING: Users with Control Documents are required to submit monthly SMRs. These SMRs must include values for all parameters monitored during that month unless the facility is in "No Discharge Status". A No Discharge Certification Form must be signed and attached to the monthly SMR. A violation under this section is non-minor and, therefore, not subject to a grace period.

(2) Facilities that have ceased discharge are still required to submit SMRs until the MCUA Control Document has been officially terminated. A No Discharge Certification Form must be signed and attached to the monthly SMR. A violation under this section is minor and subject to a ten (10) day grace period.

(3) MONTHLY AVERAGE: All Users with Control Documents must report a monthly average on their SMR for all limited pollutants (except pH) required to be monitored as set forth in their respective MCUA Control Document. Please note, if only one sample is taken during the month, the same value must be reported for the monthly average and the daily maximum. A violation under this section is non-minor and, therefore, not subject to a grace period.

(4) The SMR should be submitted electronically to the MCUA no later than the due date provided in the current approved USEPA CROMERR compliant software. A violation under this section is minor and subject to a ten (10) day grace period.

(5) MONITORING REQUIREMENTS DUE TO SERIOUS/SIGNIFICANT NONCOMPLIANCE VIOLATIONS:

(a) The User with a Control Document shall be required to monitor monthly if the User:

(i) in any month commits a serious violation or fails to submit a completed self-monitoring report and does not contest, or unsuccessfully contests, the assessment of a civil administrative penalty; therefore, or

(ii) exceeds an effluent limitation for the same pollutant at the same discharge point source by any amount for four out of six consecutive months. A violation under this section is non-minor and, therefore, not subject to a grace period.

(b) The MCUA may restore the monitoring requirement stipulated in the Control Document if the User with a Control Document has not committed any of the violations identified in this paragraph for six (6) consecutive months. Failure of a User with a Control Document to continue this monthly schedule until the User has submitted six consecutive monthly Self-Monitoring Reports that show compliance with the particular serious violation parameter at the particular discharge point is a violation under this section, is non-minor and, therefore, not subject to a grace period.

(E) REPORTING REQUIREMENTS DUE TO SERIOUS/SIGNIFICANT NONCOMPLIANCE VIOLATIONS:

The User with a Control Document shall report to the MCUA any serious violation within thirty (30) days of the violation, explain the nature of the serious violation and the measures taken to remedy the cause or prevent a recurrence of the serious violation. A violation under this section is non-minor and, therefore, not subject to a grace period.

6.11 Notification of the Discharge of Hazardous Waste

(A)(1) Any User who commences the discharge of hazardous waste shall notify the MCUA, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the MCUA of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the following:
(a) Name of the hazardous waste as set forth in 40 CFR Part 261
(b) EPA hazardous waste number
(c) Type of discharge (continuous, batch, or other)

If the User discharges more than one hundred (100) kilograms of such waste per calendar month to the MCUA, the notification also shall contain the following information to the extent such information is known and readily available to the User:
(i) an identification of the hazardous constituents contained in the wastes,
(ii) an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and
(iii) an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months.

(2) All notifications must take place no later than thirty (30) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 6.5 of these Rules and Regulations. The notification requirement in this section does not apply to pollutants already reported by Users subject to Categorical Pretreatment Standards under the self-monitoring requirements of Sections 6.2, 6.4, and 6.5 above.

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

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

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

(E) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by these Rules and

Regulations, a Control Document or approval issued thereunder, or any applicable Federal or State law.

(F) A violation under this section is non-minor and, therefore, not subject to a grace period.

6.12 Data Accuracy Certification/Authorized Signatory

(A) All reports required by Section 6 of these Rules and Regulations shall be signed by an authorized representative of the facility, as defined in Section 1.2, and include 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.

A violation under this section is non-minor and, therefore, not subject to a grace period.

(B) Failure to submit a new authorization satisfying the requirements of this Section, when there has been a change in authorization, prior to or together with any reports, information or applications signed by an Authorized Representative is a violation and is non-minor and, therefore, not subject to a grace period.

(C) NON-SIGNIFICANT CATEGORICAL INDUSTRIAL USERS

(1) Where the MCUA has determined that an Industrial User meets the criteria for classification as a Non-Significant Categorical Industrial User, the MCUA will evaluate, at least once per year, whether an Industrial User continues to meet the criteria stated in the Definition of a Non-Significant Categorical Industrial Users in Section 1.2 of these Rules and Regulations.

(2) Annual certification by Non-Significant Categorical Industrial Users. An industrial User determined to be a Non-Significant Categorical Industrial User pursuant to subsection (1) above must annually submit the following certification statement, signed by the Authorized Representative. This certification must accompany any alternative report required by the MCUA:

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

A violation under this section is minor and, therefore, subject to a grace period of ten (10) days.

6.13 Record Keeping

Users subject to the reporting requirements of these Rules and Regulations shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by these Rules and Regulations, including documentation associated with Best Management Practices, 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 five (5) years. This period shall be automatically extended for the duration of any litigation concerning the User or User's service area, or where the User has been specifically notified of a longer retention period by the MCUA. A violation under this section is non-minor and, therefore, not subject to a grace period.

6.14 Reporting Requirements for Participant's Licensed Public Wastewater Collection System Operators

The designated Licensed Public Wastewater Collection System Operator for a Participant's wastewater collection system shall immediately report to the MCUA, in accordance with N.J.A.C. 7:10A-1.12(b), any system deficiencies, breaks, breakdowns, problems, bypasses, pump failures, occurrences, emergencies, complaints, and/or intervening factors within the system that result in or necessitate deviation from the routine O&M procedures and any situations that have the potential to affect public health, safety, welfare, or the environment or have the potential to affect any permits, regulations, or laws relating to N.J.A.C. 7:10A *et seq*.

(A) Each designated Licensed Operator of a Participants wastewater collection system shall submit to the MCUA a monthly report summarizing all the events described above and the remedial action taken, by the 10th day of the month following each month for which the data is collected.

(B) Each designated Licensed Operator of a Participants wastewater collection system shall maintain a record of all industrial and commercial dischargers into such system which could exert a deleterious effect on either the collection system or the receiving treatment system and provide a list of such industrial and commercial dischargers to the MCUA by the 10th day of the month following each month for which the data is collected.

(C) The monthly report may be on a specified form as the MCUA deems appropriate.

(D) A violation under this section is non-minor and, therefore, not subject to a grace period.

SECTION 7 - COMPLIANCE MONITORING

7.1 Monitoring Equipment

(A) The User of any facility discharging into the sanitary sewer or trunk sewer shall install at its own expense suitable monitoring equipment to facilitate the accurate observation, sampling, and measurement of wastes. Such equipment shall be maintained in proper working order and kept safe, secure from unauthorized entry or tampering and accessible to authorized personnel at all times. All devices used to measure wastewater flow and quality shall be inspected and/or calibrated, where such devices are capable of calibration, in accordance with the manufacturer's recommendation to ensure their accuracy. This paragraph does not preclude the MCUA from installing such equipment at its own expense. A violation under this section is non-minor and, therefore, not subject to a grace period.

(B) Whether constructed and installed on public or private property, the monitoring facilities shall be constructed in accordance with all applicable construction standards and specifications. Plans and specifications for all such work shall be submitted to the MCUA for review, comment, and subject to approval prior to construction.

7.2 Representative Sampling Point

All Users proposing to connect to or continue to discharge into any part of the sanitary sewer must make available a sampling point which *(if a sampling point acceptable to the MCUA does not already exist)* will allow obtaining representative samples of the discharge and is acceptable to, and approved by, the MCUA. This point must be available to the MCUA, for purposes of conducting sampling inspections, compliance monitoring and/or metering operations. Samples and measurements taken for the purpose of monitoring shall be representative of the monitored activity. A violation under this section is non-minor and, therefore, not subject to a grace period.

7.3 Admission to Property

(A) Whenever it shall be necessary for the purpose of these Rules and Regulations, the MCUA, or any representative thereof, upon the presentation of credentials, may enter upon the premises of any User at reasonable times for the purpose of inspecting/copying any records required to be kept under the provisions of these Rules and Regulations.

(B) The MCUA, or any representative thereof, upon presentation of credentials, may enter upon the premises of any User at reasonable times for the purpose of inspecting any monitoring equipment or method, and/or measuring, sampling, and/or testing any discharge of wastewater to the sanitary sewer in order to determine compliance with any pretreatment standard.

(C) Unreasonable delays in allowing the MCUA access to the User's premises shall be subject to enforcement actions pursuant to

Section 10 of these Rules and Regulations.

(D) A violation under this section is non-minor and, therefore, not subject to a grace period.

7.4 Search Warrants

If the MCUA 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 these Rules and Regulations, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the MCUA designed to verify compliance with these Rules and Regulations or any Control Document or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the MCUA may seek issuance of a search warrant.

7.5 Compliance Determination

(A) Compliance determinations by the MCUA with respect to these Rules and Regulations, shall be made by instantaneous grab samples or representative composite samples of the wastewater discharge, or as otherwise may be determined by the MCUA.

(B) For sampling required in support of baseline monitoring (Section 6.2) and ninety (90)-day compliance reports (Section 6.4), a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, petroleum hydrocarbons, sulfide, and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the MCUA may authorize a lower minimum. For the periodic compliance reports (Section 6.5), the MCUA shall require the number of grab samples necessary to assess and assure compliance by Industrial Users with Applicable Pretreatment Standards and Requirements. A violation under this section is non-minor and, therefore, not subject to a grace period.

(C) The MCUA shall require a frequency of monitoring necessary to assess and assure compliance by Industrial Users with applicable Pretreatment Standards and Requirements.

7.6 Sampling Frequency

(A) Sampling of wastewater for the purpose of compliance determinations with respect to these Rules and Regulations will be done at such intervals as required by the Control Document, unless a Serious/SNC violation occurs, shall be subject to terms set forth in Section 6.9 and Section 6.10(D)(4) of these Rules and Regulations; or a Sampling Waiver for Categorical Pollutants has been granted as per Section 7.6(B) of these Rules and Regulations. A violation under this section is non-minor and, therefore, not subject to a grace period.

(B) Sampling Waivers for Categorical pollutants

The MCUA may authorize the Industrial User subject to a Categorical Pretreatment Standard to forego sampling of a pollutant regulated by a Categorical Pretreatment Standard if the Industrial User has demonstrated through sampling and other technical factors that the pollutant is neither present or expected to be present in the Discharge or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Industrial User. This authorization is subject to the following conditions:

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

(2) The monitoring waiver is valid only for the duration of the effective period of the Permit or Control Document, but in no case longer than five (5) years. The User must submit a new request for the waiver before the waiver can be granted for each subsequent control mechanism.

(3) In making a demonstration that a pollutant is not present, the Industrial User must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.

The request for a monitoring waiver must be signed in accordance with Section 6.12 of these Rules and Regulations and include the certification statement in Section 6.12(A). Non-detectable sample results may only be used as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

(4) Any grant of the monitoring waiver by the MCUA must be included as a condition in the User's Control Document. The reasons supporting the waiver and any information submitted by the User in its request for the waiver will be maintained by the MCUA for five (5) years after expiration of the waiver.

(5) Upon approval of the monitoring waiver and revision of the User's Control Document by the Industrial User must certify on each report with the statement below, that there has been no increase in the pollutant in its wastestream due to activities of the Industrial User:

> Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard(s) under 40 CFR _____ [applicable for this facility], I certify that, since filing of the last Self-Monitoring Report, to the best of my knowledge and belief, there has been no increase, due to the activities at the facility, in the level of the following waived pollutant(s) in the wastewaters: [List waived pollutant(s)].

A violation under this section is minor and, therefore, subject to a grace period of ten (10) days.

(6) In the event that a waived pollutant is found to be present or is expected to be present based on changes that occur in the User's operations, the User must immediately: Comply with the monitoring requirements of the Control Document or other more frequent monitoring requirements imposed by the MCUA; and notify the MCUA. A violation under this section is non-minor and, therefore, not subject to a grace period.

(7) This provision does not supersede certification processes and requirements established in Categorical Pretreatment Standards, except as otherwise specified in the Categorical Pretreatment Standard.

(C) It is the intention of the MCUA to conduct compliance sampling or to cause such sampling to be conducted for all Significant Industrial Users at least once every year. The fees for this sampling shall be charged in accordance with Section 14.1(B) of these Rules and Regulations. Failure to pay the required fee is a non-minor violation and, therefore, not subject to a grace period.

7.7 Sample Collection

(A) Except as indicated in Section (B), below, the User must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is not feasible, the MCUA may authorize the use of time proportional sampling, where samples may be done either manually or automatically, and continuously or discretely. With not less than (4) four samples to be composited or a sufficient number of individual aliquots where the User demonstrates that this will provide a representative sample of the effluent being discharged. Where time-proportional composite sampling or grab sampling is authorized by the MCUA, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the User's Control Document for that facility or facilities. Using protocols *(including appropriate preservation)* specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24)-hour period may be composited prior to the analysis as follows: For cyanide, total phenols, and sulfide, the samples may be composited in the laboratory or in the field; for volatile organics, petroleum hydrocarbons and oil & grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the MCUA, as appropriate. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(B) Samples for petroleum hydrocarbons, oil and grease, temperature, pH, cyanide, total phenols, sulfide, and volatile organic compounds must be obtained using grab collection techniques.

(C) Sample collection shall be in accordance with all Federal and State regulations *(40 CFR Part 136 and N.J.A.C. 7:18, respectively)*.

(D) A violation under this section is non-minor and, therefore, not subject to a grace period.

7.8 Analysis of Wastewaters

Laboratory analyses of wastewater samples shall be performed in accordance with an approved test procedure as defined in 40 CFR Part 136 and shall be performed by a laboratory certified to do the analyses by the State of New Jersey *(N.J.A.C. 7:18)*. A violation under this section is non-minor and, therefore, not subject to a grace period.

8.1 Confidential Information

(A) Information and data on a User obtained from reports, surveys, questionnaires, permit applications, permits, and monitoring reports and from the MCUA'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 MCUA, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets or due to reasons of business confidentiality as that term is defined and applied in 40 CFR Part 2. Any such request must be asserted at the time of submission of the information or data.

(B) When requested and demonstrated by the User furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made 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 shall not be recognized as confidential information and shall be available to the public without restriction.

8.2 Open Public Records Act

(A) The New Jersey Public Access to Government Records Act N.J.S.A. 47:1A-1 *et seq*. (the "Act") requires that the MCUA grant members of the public access to government records as defined in the Act. The Act defines a "government record" as "any paper, written or printed book, document, drawing, map, plan, photograph, microfilm, data-processed or image-processed document, information stored or maintained electronically or by sound-recording or in a similar device, or any copy thereof, that has been made, maintained or kept on file in the course of his or its official business by any officer, commission, agency, or MCUA of the state or of any political subdivision thereof, including subordinate boards thereof, or that has been received in the course of his or its official business by any such officer, commission, agency, or MCUA of the state or of any political subdivision thereof, including subordinate boards thereof."

(B) The Act safeguards certain categories of information from disclosure, including the following:

(1) Inter- or intra-agency "advisory, consultative, or deliberative material";

(2) Trade secrets or proprietary commercial or financial information including without limitation, matters enumerated in Paragraph (A) above;

(3) Any record within the attorney-client privilege;

(4) Administrative or technical information about computers which, if disclosed, would jeopardize their security;

(5) Emergency or security information regarding any building or facility which, if disclosed, would compromise security, including without limitation, matters enumerated in the Section above;

(6) Security or surveillance information which, if disclosed, could risk the general safety of the public;

(7) Information which, if disclosed, would give an advantage to competitors or bidders;

(8) Information about sexual harassment complaints or grievances,

(9) Information between the MCUA and an insurer,

(10) Personal information such as social security, driver's license, credit card, and unlisted phone numbers, and

(11) Information kept confidential under court order.

(C) Requests for records should be made to the Executive Director, who is designated as the custodian of the MCUA's records for purposes of the Act.

(D) Requestors are asked to fill out a form specific to their request, which is available in the Office of the Executive Director, and

pay the appropriate fee, in advance. A records request must be in writing and must be hand-delivered, mailed, faxed, or otherwise conveyed to the Executive Director. Requests cannot be made by telephone. The fee for copies of records are defined in Section 14.4 of these Rules and Regulations.

(E) If special equipment is needed to make the copies *(e.g., for maps)*, the requester may be charged the actual cost of duplication. Special charges may also be levied for unusual requests or those that require direct expenditure of funds by the MCUA *(e.g., for computerized records)* to reproduce the records.

(F) The MCUA is required to make government records, with the exception of those listed above, available within the following time periods:

(1) Immediate access will be provided to budgets, bills, vouchers, contracts, including collective negotiations agreements, individual employment contracts, and public employee salary and overtime information. Immediate access will be provided as soon as reasonably possible following receipt of the request if the record is not being used and is not in archive storage.

(2) Not later than seven (7) business days after receiving the records request, access will be granted or denied to all other government records provided record is currently available, not in use and not in storage or archived. The Executive Director shall respond to the requestor within seven (7) business days after receiving a request unless the requestor has elected not to provide a name, address or telephone number, or other means of contacting the requestor, in which case the Executive Director shall not be required to respond until the requestor reappears before the Executive Director seeking a response to the original request. Failure to respond within seven (7) business days to a person who has provided a name, address and telephone number will be considered a denial.

(G) A person who is denied access to a government record by the Executive Director, at the option of the requestor may institute a proceeding challenging the Executive Director's decision by

(1) Filing a complaint with the Government Records Council; NJ Division of Local Government Services.

(2) Filing an action in the Superior Court, Middlesex County Courthouse, New Brunswick, NJ.

8.3 Publicity

The MCUA exclusively controls all rights to publicity that uses its name or facilities and as a matter of policy does not issue endorsements of any kind. Accordingly, the MCUA will only permit its projects or activities to be used for publicity or marketing by a vendor or consultant to the MCUA, under the following conditions:

(A) Photography and other activities are to be conducted in a way that does not impede the MCUA's activities or the progress of the project or jeopardize the safety of any persons or property including that of the MCUA.

(B) No press release, advertisement, or other publicity is to state or imply that the MCUA or any officer, commissioner, or staff member is endorsing any product, service, or company. To avoid any misimpressions, no MCUA officer, commissioner, or staff member is to be quoted in any advertisement, press release or other publicity without the prior review and approval of the quoted material by the Executive Director of the MCUA in each instance.

(C) Any direct vendor or consultant to the MCUA will be held responsible for its own conduct and that of its subcontractors. If there is any doubt whatsoever as to whether a particular press release or other item is permissible, all such items are to be brought to the Executive Director's attention for review prior to any publication or press release.

SECTION 9 - PUBLIC PARTICIPATION

9.1 Publication of Users in Significant Noncompliance

The MCUA shall annually publish in a newspaper(s) of general circulation that provides meaningful public notice within the jurisdictions served by the MCUA, a list of the Users which, during the previous twelve (12) months, were in significant noncompliance with applicable Pretreatment Standards and Requirements in accordance with 40 CFR 403.8(f)(2)(viii).

9.2 Publication of Proposed Non-Domestic Wastewater Discharge Permit Actions

(A) Public Notice

The MCUA shall publish in the official MCUA newspaper(s), a list of the Users the MCUA proposes to issue, renew, modify and/or terminate Non-Domestic Wastewater Discharge Permits.

(B) Comments

(1) The Comment Period shall be a minimum of thirty (30) days.

(a) The MCUA may use its discretion to lengthen the comment period and may grant an extension upon approval of the written request to do so.

(b) The extension of the comment period, in accordance with Section 9.2(B)(1)(a) of these Rules and Regulations, except that when the comment period is extended for fifteen (15) days or less, public notice of the extension shall be limited to an oral or written notice to the applicant and to those persons who commented on the draft.

(2) Comments on a Non-Domestic Wastewater Discharge Permit action may be made prior to the end of the public comment period as stated in the public notice. Written comments may be submitted to:

Executive Director
Middlesex County Utilities Authority
2571 Main Street Extension
P.O. Box 159
Sayreville, NJ 08872

(3) All comments submitted by interested persons in response to the public notice will be considered by the MCUA. If there are no substantive comments submitted, the Non-Domestic Wastewater Discharge Permit action may be approved at a regularly scheduled meeting of the MCUA Commissioners.

9.3 Publication of Proposed Issuance of Administrative Consent Orders

(A) Public Notice

Pursuant to N.J.S.A 58:10A-6.1, the MCUA shall publish in the official MCUA newspaper(s), a list of the Users the MCUA proposes to issue an Administrative Consent Order (ACO), if the Administrative Consent Order would establish interim enforcement limits that would relax effluent limitations established in a Control Document.

(B) Comments

(1) The Comment Period shall be a minimum of thirty (30) days.

(2) Comments on an Administrative Consent Order may be made prior to the end of the public comment period as stated in the public notice. Written comments may be submitted to:

Executive Director
Middlesex County Utilities Authority
2571 Main Street Extension
P.O. Box 159
Sayreville, NJ 08872

(3) All comments submitted by interested persons in response to the public notice will be considered by the MCUA. If there are no substantive comments submitted, the Administrative Consent Order may be approved at a regularly scheduled meeting of the MCUA Commissioners.

(C) The MCUA, on its own initiative or at the request of any person submitting comments pursuant to (B) above, may hold a public hearing on the proposed administrative consent order, prior to final adoption when the order would establish interim enforcement limitations that would relax for more than twenty-four (24) months effluent limitations established in a permit or a

prior administrative consent order. Public Notice of the public hearing to be held shall be published not more than thirty (30) days and not less than fifteen (15) days prior to the hearing. The hearing shall be held in the municipality in which the violation necessitating the order occurred.

9.4 Appeals

(A) Aggrieved parties seeking review of the final Non-Domestic Wastewater Discharge Permit action or order must do so in accordance with N.J.A.C. 7:14A-17.

(B) The conditions of the Non-Domestic Wastewater Discharge Permit action or order shall not be automatically stayed pending any challenge thereto or appeal there from any party aggrieved by such conditions, action, or order may seek such a stay by appropriate application to a Court of competent jurisdiction.

9.5 Publication of Proposed Substantial Modification of the Industrial Pretreatment Program

(A) Public Notice

Pursuant to 40 CFR Part 403.18, the MCUA shall publish in the official MCUA newspaper(s), proposed substantial modification(s) of the Industrial Pretreatment Program. The following are substantial modifications for purposes of this section:

(1) Changes to the MCUA's legal authorities;

(2) Changes to local limits, which result in less stringent local limits;

(3) Changes to the MCUA's control mechanism, as described in 40 CFR Part 403.8(f)(1)(iii);

(4) A decrease in the frequency of self-monitoring or reporting required of Users;

(5) A decrease in the frequency of Industrial User inspections or sampling by the MCUA;

(6) Changes to the MCUA's confidentiality procedures;

(7) Significant reductions in the MCUA's Industrial Pretreatment Program resources *(including personnel commitments, equipment, and funding levels);*

(8) A modification which would have a significant impact on the operation of the MCUA's Industrial Pretreatment Program;

(9) A modification which would result in an increase in pollutant loadings at the MCUA;

(10) A modification which would result in less stringent requirements being imposed on Users of the MCUA; and

(11) The NJDEP may designate other specific modifications, in addition to those listed above, as substantial modifications.

(B) Comments

(1) The Comment Period shall be a minimum of thirty (30) days.

(2) Comments on a substantial modification of the Industrial Pretreatment Program may be made prior to the end of the public comment period as stated in the public notice. Written comments may be submitted to:

Executive Director
Middlesex County Utilities Authority
2571 Main Street Extension
P.O. Box 159
Sayreville, NJ 08872

(3) All comments submitted by interested persons in response to the public notice will be considered by the MCUA. If there are no substantive comments submitted, the Industrial Pretreatment Program substantial modification may be approved at a regularly scheduled meeting of the MCUA Commissioners.

10.1 Enforcement Response Plan

Attached hereto as Appendix A, and incorporated into these Rules and Regulations by reference, is the MCUA Enforcement Response Plan for violations of the MCUA Industrial Pretreatment Program. The enforcement actions are not limited to the specific non-compliance situations listed in the Enforcement Response Plan.

10.2 Notification of Violation

(A) When the MCUA finds that a User has violated, or continues to violate, any provision of these Rules and Regulations, a Control Document or order issued hereunder, or any other Pretreatment Standard or Requirement, the MCUA may serve upon that User a written Notice of Violation. Within ten (10) 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 MCUA. A violation under this section is non-minor and, therefore, not subject to a grace period. Submission of this plan in no way relieves the User of liability for any violations occurring before or after receipt of, or mentioned in, the Notice of Violation.

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

10.3 Administrative Consent Orders

The MCUA may enter into Administrative 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 10.5 and 10.6 of these Rules and Regulations and shall be judicially enforceable.

(A) The MCUA may order a User which has violated, or continues to violate, any provision of these Rules and Regulations, a Control Document or order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before the MCUA and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the hearing, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail *(return receipt requested)* at least thirty (30) days prior to the hearing. Such notice may be served on any authorized representative of the User.

10.4 Show Cause Hearing

A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User

10.5 Compliance Orders

(A) When the MCUA finds that a User has violated, or continues to violate, any provision of these Rules and Regulations, a Control Document or order issued hereunder, or any other Pretreatment Standard or Requirement, the MCUA may issue an order to the User responsible for the discharge directing that the User come into compliance within a specified time. The order shall include the following:

(1) Specify the provision or provisions of these Rules and Regulations, a Control Document or order issued hereunder, or any other Pretreatment Standard or Requirement of which the User is in violation;
(2) Cite the action which caused such violation;
(3) Require compliance with such provision or provisions; and
(4) Give notice to the User of their right to a hearing on the matters contained in the order.

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. 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.

(B) 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.

(C) Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the User.

10.6 Cease and Desist Orders

(A) When the MCUA finds that a User has violated, or continues to violate, any provision of these Rules and Regulations, a Control Document or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, the MCUA may issue an order to the User directing it to Cease and Desist all such violations and directing the User to:

(1) Immediately comply with all requirements; and

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

Failure to obey a Cease and Desist Order when required by the MCUA is a non-minor violation and, therefore, not subject to a grace period.

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

10.7 Summons

(A) The MCUA may issue a summons to any User which has violated any provision of these Rules and Regulations, a Control Document or order issued hereunder, or any other Pretreatment Standard or Requirement, if the amount of the civil penalty is $5000 or less.

(B) The summons shall be enforceable, in accordance with the "Penalty Enforcement Law," N.J.S.A. 2A:58-1 *et seq*., in the municipal court of the territorial jurisdiction in which the violation occurred. Proceedings before, and appeals from a decision of, a municipal court shall be in accordance with the Rules Governing the Court of the State of New Jersey. Of the penalty amount collected pursuant to an action brought in a municipal court pursuant to this section, 10% shall be paid to the municipality or municipalities in which the court retains jurisdiction for use of court purposes, with the remainder to be retained by the MCUA.

(C) Issuance of a summons shall not be a bar against, or a prerequisite for, taking any other action against the User.

10.8 Civil Administrative Penalty Determination

(A)(1)(a) The MCUA may assess a civil administrative penalty against any User, of not more than $50,000, for each violation of each provision of the Water Pollution Control Act and for each violation of any rule, pretreatment standard, effluent limitation, administrative order or Control Document issued by the MCUA pursuant thereto, including but not limited to, civil administrative penalties for each such violation which is a serious violation as defined in N.J.A.C. 7:14-8.2 or which causes the violator to be or continue to be a significant noncomplier as defined N.J.A.C. 7:14-8.2. The MCUA may also assess, by civil administrative order, any costs recoverable pursuant to N.J.S.A. 58:10A-10.c. *et seq*., including the reasonable costs of investigation and inspection, and preparing and litigating the case before an administrative law judge pursuant to this section, except assessments for compensatory damages and economic benefits. The MCUA may also assess a civil administrative penalty pursuant to this section against each violator who submits inaccurate information or who makes a false statement, representation or certification in any application, record or other document required to be submitted or maintained, or who falsifies, tampers with or renders inaccurate any monitoring device or method required to be maintained under the Water Pollution Control Act or these Rules and Regulations or any rule, water quality standard, effluent limitation, administrative order or Control Document issued pursuant thereto. The MCUA may also assess a civil administrative penalty pursuant to this section against each violator who fails to carry out monitoring or sampling activities or to submit discharge monitoring reports, baseline monitoring reports or monitoring report forms required by the Water Pollution Control Act or these Rules and Regulations or any rule, water quality standard, effluent limitation, administrative order, or Control Document issued pursuant thereto. Notice of the penalty or assessment shall be given to the violator in writing by the MCUA, and payment of the penalty or assessment shall be due and payable, unless an administrative hearing request is submitted to the MCUA, in a format acceptable to the MCUA, in writing by the violator, within twenty (20) days of receipt of notice. If an administrative hearing is requested, the penalty or assessment shall be deemed a contested case. If the MCUA and violator cannot negotiate a settlement, then the case shall be submitted to the Office of Administrative Law by the MCUA for an administrative hearing in accordance with N.J.S.A.

52:14B-9 and 52:14B-10).

(b) The MCUA shall assess a minimum mandatory civil administrative penalty in an amount:

(i) Not less than $1,000 for each serious violation, as defined under N.J.A.C. 7:14-8.2 and in these Rules and Regulations, occurring after January 18, 1999; and

(ii) Not less than $5,000 for each violation that causes a violator to be, or continue to be, a significant noncomplier, as defined under N.J.A.C. 7:14-8.2 and in these Rules and Regulations, occurring after January 18, 1999.

(c) For any person's failure to submit a complete Self-Monitoring Report and/or failure to take representative samples in accordance with the Control Document, the MCUA shall assess a minimum mandatory civil administrative penalty of not less than $100.00 for each effluent parameter omitted on a Self-Monitoring Report, nor greater than $50,000 per month for any one Self-Monitoring Report, for any Self-Monitoring Report required to be submitted after January 18, 1999.

(i) The civil administrative penalty assessed pursuant to (c) above shall begin to accrue on the fifth day after the date on which the Self-Monitoring Report was due and shall continue to accrue at least for thirty (30) days if the violation is not corrected.

(ii) The MCUA may continue to assess civil administrative penalties for the failure to submit a complete Self-Monitoring Report beyond the thirty (30) day period referenced in (c)(i) above until the violation is corrected.

(iii) To contest a civil administrative penalty assessed pursuant to (c) above, a violator shall submit evidence of extenuating circumstances that prevented timely submission of a complete Self-Monitoring Report, or portion thereof, within thirty (30) days after the date on which the effluent parameter information was required to be submitted to the MCUA. If the violator fails to submit the required information within this thirty (30) day period, the violator shall have waived its right to contest the civil administrative penalty in this manner and be barred from doing so.

(iv) A violator will not be subject to a civil administrative penalty for the inadvertent omission of one or more effluent parameters in a Self-Monitoring Report if both of the following conditions are met:

(aa) The violator submits the omitted information to the MCUA within ten (10) days after receipt by the violator of notice of the omission; and

(bb) The violator demonstrates to the satisfaction of the MCUA that the violation for which the MCUA assessed the civil administrative penalty was due to an inadvertent omission by the violator of one or more effluent parameters.

(2) Upon conclusion of an administrative hearing held pursuant to section 2 of P.L.1991, c.8 (C. 58:10A-10.5), the administrative law judge shall prepare and transmit a recommended report and decision on the case to the MCUA's Executive Director and to each party of record, as prescribed in subsection c. of section 10 of P.L.1968, c. 410 (C. 52:14b-10). The Executive Director shall afford each party of record an opportunity to file exceptions, objections and replies thereto, and to present arguments in writing. After reviewing the record of the administrative law judge, and any filings received thereon, but not later than forty-five (45) days after receipt of the record and decision, the Executive Director shall adopt, reject, or modify the recommended report and decision. If the Executive Director fails to modify or reject the report within the forty-five (45) day period, the decision of the administrative law judge shall be deemed adopted as the final decision of the Executive Director, and the recommended report and decision shall be made part of the record in the case. For good cause shown, and upon certification by the Director of the Office of Administrative Law and the MCUA's Executive Director, the time limits established herein may be extended.

(3) A final decision or order of the Executive Director shall be in writing or stated in the record. A final decision shall include separately stated findings of fact and conclusions of law, based upon the evidence of record at the hearing of the administrative law judge. Findings of fact shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. A final decision or order may incorporate by reference any or all the recommendations of the administrative law judge.
Parties of record shall be notified either by personal service or by mail of any final decision or order. Upon request, a copy of the decision or order shall be delivered or mailed forthwith by registered or certified mail to each party of record and to a party's attorney of record.

A final decision or order shall be effective on the date of delivery or mailing, whichever is sooner, to the party or parties of record, or shall be effective any date thereafter, as the MCUA may provide in the decision or order. The date of delivery or mailing shall be stamped or typed on the face of the final decision or order. A final decision or order shall be considered a final agency action and shall be appealable in the same manner as a final agency action of a State department or agency.

(4)(a) A User who is assessed a civil administrative penalty or is subject to an assessment levied pursuant to section 2 of P.L.1991, c.8 (C. 58:10A-10.5) and fails to contest or pay the penalty or assessment or fails to enter into a payment schedule with the MCUA within thirty (30) days of the date that the penalty or assessment is due and owing, shall be subject to an interest charge on the amount of the penalty or assessment from the date that the amount was due and owing. The rate of interest shall be established by the New Jersey Supreme Court for interest rates on judgments, as set forth in the Rules Governing the Courts of the State of New Jersey.

(b) Any User who fails to pay a civil administrative penalty or assessment, in whole or in part, when due and owing, or who fails to agree to a payment schedule, therefore, shall be subject to the civil penalty provisions of subsection e, of section 10, of P.L.1977, c. 74 (C. 58:10A-10).

(c) A civil administrative penalty or assessment imposed pursuant to a final order:

(i) may be collected or enforced by summary proceeding in a court of competent jurisdiction in accordance with the "penalty enforcement law, (N.J.S.A. 2A:58-1 *et seq*.); or

(ii) shall constitute a debt of the violator, and the civil administrative penalty may be docketed with the clerk of the Superior Court and shall have the same standing as any judgment docketed pursuant to N.J.S.A. 2A:16-1.

(5) The Director of the Office of Administrative Law shall establish by regulation adopted pursuant to the "Administrative Procedure Act," P.L.1968, c.410 (C. 52:14B-1 *et seq*.), a schedule of reimbursement for the costs to that office of an administrative hearing provided pursuant to P.L.1991, c.8 (C. 58:10A-10.4 *et seq*.). Reimbursements shall be paid by the MCUA but shall be recoverable from the violator by the MCUA, if the prevailing party, along with such other costs as may be recoverable for preparing and litigating the case. An assessment for hearing costs shall be included in the final decision or order issued by the MCUA's Executive Director.

(B) Each violation of any provision of 33 U.S.C. Section 1251 *et seq*., N.J.S.A. 58:10A-1 *et seq*. and for each violation of any rule, pretreatment standard, effluent limitation, administrative order, or Control Document, shall constitute an additional, separate, and distinct violation. In addition, the un-Control Documented discharge of each separate pollutant shall constitute an additional, separate, and distinct violation. If a violator establishes, to the satisfaction of the MCUA, that a single operational occurrence has resulted in the simultaneous violation of more than one effluent limit, the MCUA may consider, for purposes of calculating the civil administrative penalties to be assessed pursuant to (A) above, the violation of interrelated effluent limits to be a single violation.

(C) Each day during which a violation as set forth in (B) above continues shall constitute an additional, separate, and distinct violation.

(D) Unless the MCUA assesses a civil administrative penalty as set forth in N.J.A.C. 7:14-8.6 through 7:14-8.12, the MCUA may assess a civil administrative penalty for violations described in this section as described in (E) below.

(E) Determination of Penalty:

To assess a civil administrative penalty pursuant to this section, the MCUA shall:

(1) Identify the penalty range within the matrix in (F) below by:

(a) Determining the seriousness of the violation pursuant to (G) below; and

(b) Determining the conduct of the violator pursuant to (H) below.

(2) The penalty shall be assessed at the midpoint of the range within the matrix in (F) below, unless adjusted pursuant to (I) below.

(F) Penalty Matrix:

The matrix of ranges of penalties is as follows:

		SERIOUSNESS		
		Major	Moderate	Minor
CONDUCT	Major	$10,000-$50,000	$5,000-$25,000	$2,000-$13,000
	Moderate	$5,000-$10,000	$2,500-$5,000	$500- $3,000
	Minor	$500-$7,500	$500-$2,500	$250- $1,250

(G) Determination of Seriousness:

The MCUA shall determine the seriousness of the violation as major, moderate or minor as set forth in (G)(1) through (3) below.

(1) Major shall include:

(a) Any violation of any effluent limitation that is measured by concentration or mass for any discharge exceeding the effluent limitation as follows:

(i) By more than 50 percent for a hazardous pollutant; or

(ii) By more than 100 percent for a non-hazardous pollutant; or

(b) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment; and

(c) The greatest violation of a pH effluent range in any one calendar day which violation deviates from the midpoint of the range by more than 50% of the midpoint of the range excluding the excursions specifically excepted by an MCUA issued Control Document with continuous pH monitoring; and

(d) Any other violation not included in (G)(1)(a) or (b) above which either:

(i) Has caused or has the potential to cause serious harm to human health or the environment; or

(ii) Seriously deviates from the requirements of 33 U.S.C. Section 1251 *et seq*., N.J.S.A. 58:10A-1 *et seq*. and for violations of any rule, pretreatment standards, effluent limitation, administrative order, or Control Document issued pursuant thereto; serious deviation shall include, but not be limited to, those violations that are in complete contravention of the requirement, or if some of the requirement is met, which severely impair or undermine the operation or intent of the requirement.

(2) Moderate shall include:

(a) Any violation, other than a violation of an effluent limitation identified in (G)(2)(b) or (c) below, which has caused or has the potential to cause substantial harm to human health or the environment; or

(b) Any violation of an effluent limitation which is measured by concentration or mass of any discharge exceeding the effluent limitation as follows:

(i) By 20 to 50 percent for a hazardous pollutant; or

(ii) By 40 to 100 percent for a non-hazardous pollutant;

(c) The greatest violation of a pH effluent range in any one calendar day which violation deviates from the midpoint of the range

by at least 40% but no more than 50% of the midpoint of the range excluding the excursions specifically excepted by an MCUA issued Control Document with continuous pH monitoring; or

(d) Any violation, other than a violation of an effluent violation identified in (G)(2)(b) or (c) above, which substantially deviates from the requirements of the of the Water Pollution Control Act and for violations of any rule, pretreatment standards, effluent limitation, administrative order or Control Document issued pursuant thereto; substantial deviation shall include, but not be limited to, violations that are in substantial contravention of the requirements or which substantially impair or undermine the operation or intent of the requirement.

(3) Minor shall include:

(a) Any violation, other than a violation of an effluent limitation identified in (G)(3)(b) or (c) below, not included in (G)1 or 2 above; or

(b) Any violation of an effluent limitation which is measured by concentration or mass for any discharge exceeding the effluent limitation as follows:

(i) By less than 20 percent for a hazardous pollutant; or

(ii) By less than 40 percent for a non-hazardous pollutant;

(c) The greatest violation of a pH effluent range in any one calendar day which violation deviates from the midpoint of the range by less than 40% of the midpoint of the range excluding the excursions specifically excepted by an MCUA issued Control Document with continuous pH monitoring.

(H) Determination of Conduct:

The MCUA shall determine the conduct of the violator as major, moderate or minor as follows:

(1) Major shall include any intentional, deliberate, purposeful, knowing, or willful act or omission by the violator;

(2) Moderate shall include any unintentional but foreseeable act or omission by the violator; or

(3) Minor shall include any other conduct not included in (H)(1) or (2) above.

(I) Basis for Adjusting Penalty:

The MCUA may, in its discretion, move from the midpoint of the range to an amount not greater than the maximum amount nor less than the minimum amount in the range, on the basis of the following factors:

(1) The compliance history of the violator;

(i) No violation of the same effluent limitation and discharge point at all in the two (2) years immediately preceding the pending violation shall result in a reduction equal to 25 percent of the midpoint.

(ii) No serious or fewer than four (4) lesser violations of the same effluent limitation and discharge point in the two (2) years immediately preceding the pending violation shall result in the reduction equal to 10 percent reduction of the midpoint.

(iii) One (1) isolated serious violation or four (4) or more lesser violations of the same effluent limitation and discharge point in the two (2) years immediately preceding the date of the pending violation shall result in an increase equal to 10 percent of the midpoint.

(iv) Any violation(s) which caused a person to become or remain in significant noncompliance or two (2) or more isolated serious violations where such violations are of the same effluent limitation and discharge point in the two (2) years immediately preceding the date of the pending violation shall result in a 25 percent increase from the midpoint.

(2) Where the nature, timing and effectiveness of any measures taken by the violator to mitigate the effects of the violation for which the penalty is being assessed results in compliance within thirty (30) days of the receipt of the notice of violation from the MCUA;

(3) Any unusual or extraordinary costs or impacts directly or indirectly imposed on the public or the environment as a result of the violation;

(4) Any impacts on the receiving water, POTW, its treatment processes or operations, or its sludge processes, including stress upon the aquatic biota, or impairment of receiving water uses, such as for recreational or drinking water supply, resulting from the violation; and

(5) Other specific circumstances of the violator or violation.

(6) If the MCUA determines that the violator has gained an economic benefit from a violation, the MCUA may, in addition to any other civil administrative penalty assessed pursuant to this subchapter, include as part of a civil administrative penalty the economic benefit (in dollars) which the violator has realized as a result of not complying, or delaying compliance, with the requirements of the Water Pollution Control Act, pretreatment standard, effluent limitation, administrative order or Control Document issued pursuant thereto.

(7) Economic benefit shall include:

(i) The amount of savings realized from avoided capital or noncapital costs resulting from the violation;
(ii) The return earned or that may be earned on the amount of the avoided costs;
(iii) Any benefits accruing to the violator as a result of a competitive market advantage enjoyed by reason of the violation; and
(iv) Any other benefits resulting from the violation.

(8) The MCUA shall consider the following factors in determining economic benefit:
(i) The amount of capital investments required, and whether they are one-time or recurring;
(ii) The amount of one-time non-depreciable expenditures;
(iii) The amount of annual expenses;
(iv) The useful life of capital;
(v) Applicable tax, inflation and discount rates;
(vi) The amount of low interest financing, the low interest rate, and the corporate debt rate; and
(vii) Any other factors relevant to the economic benefit.

(9) If the total economic benefit was derived from more than one violation, the total economic benefit amount may be apportioned among the violations from which it was derived so as to increase each civil administrative penalty assessment to an amount no greater than $50,000 per violation.

(J) Penalties for Failure to Submit Reports:

For any failure to submit reports *(i.e., complete self-monitoring reports, compliance schedule progress reports, etc.)* as required of a User by the MCUA, the MCUA may assess a civil administrative penalty in accordance with this section.

(1) The civil administrative penalty assessed pursuant to this Article shall begin to accrue on the fifth day after the date on which the self- monitoring report was due and shall continue to accrue at least for thirty (30) days if the violation is not corrected.

(2) The MCUA may continue to assess civil administrative penalties for the failure to submit a complete self-monitoring report beyond the thirty (30) day period referenced in (J)(1) above until the violation is corrected.

(3) To contest a civil administrative penalty assessed pursuant to this subsection, a violator shall submit evidence of extenuating circumstances beyond the control of the permittee, including circumstances that prevented timely submission of a complete self-monitoring report, or portion thereof, within thirty (30) days after the date on which the effluent parameter information was required to be submitted to the MCUA. If the violator fails to submit the required information within this thirty (30) day period, the violator shall have waived its right to contest the civil administrative penalty in this manner and be barred from doing so.

(4) A violator will not be subject to a civil administrative penalty for the inadvertent omission of one or more effluent parameters in a self-monitoring report if both of the following conditions are met:

(a) The violator submits the omitted information to the MCUA within ten (10) days after receipt by the violator of notice of the omission; and

(b) The violator demonstrates to the satisfaction of the MCUA that the violation for which the MCUA assessed the civil administrative penalty was due to an inadvertent omission by the violator of one or more effluent parameters.

(K) Reduction of Penalties:

A civil administrative penalty assessed pursuant to this subchapter may be reduced, considering the factors identified in (L) below.

(L) Settling of Penalties:

(1) In settling a civil administrative penalty, the MCUA may consider the following:

(a) Mitigating or extenuating circumstances not considered in the notice of civil administrative penalty assessment;

(b) The implementation by the violator of pollution prevention and/or abatement measures in addition to those minimally required by applicable statute or rule;

(c) The implementation by the violator of measures to clean up, reverse or repair environmental damage previously caused by the violation;

(d) The full payment by the violator of a specific part of the civil administrative penalty assessed if made within a time period established by the MCUA in an administrative order and/or a notice of civil administrative penalty assessment and provided that the violator waives the right to request an adjudicatory hearing on the civil administrative penalty; or

(e) Any other terms and conditions acceptable to the MCUA.

(2) In settling a civil administrative penalty, the MCUA may reduce the penalty up to 50 percent, provided that the penalty as reduced is not less than any applicable minimum amount set forth in Section 10.8(A) of these Rules and Regulations.

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

(N) Ten (10) percent of the amount of any penalty assessed and collected pursuant to this section shall be deposited in the "Wastewater Treatment Operators' Training Account," established in accordance with N.J.S.A. 58:10A-14.5 and used to finance the cost of training operators of POTWs. The remainder shall be used by the MCUA solely for enforcement purposes, and for upgrading the POTW.

10.9 Grace Period Applicability; Procedures

(A) Each violation identified in Table 1 at 10.9(E) by an “M” in the Type of Violation column and for which the conditions at (C) below are satisfied, is a minor violation, and is subject to a grace period, the length of which is indicated in the column with the heading Grace Period.

(B) Each violation identified in the Table 1 at 10.9(E) by an “NM” in the Type of Violation column is a non-minor violation and is not subject to a grace period.

(C) The MCUA shall provide a grace period for any violation identified as minor under this section, provided the following conditions are met:

(1) The violation is not the result of the purposeful, knowing, reckless or criminally negligent conduct of the person responsible for the violation;

(2) The violation poses minimal risk to the public health, safety and natural resources;

(3) The violation does not materially and substantially undermine or impair the goals of the regulatory program;

(4) The activity or condition constituting the violation is capable of being corrected and compliance achieved within the time prescribed by the MCUA;

(5) The activity or condition constituting the violation has existed for less than twelve (12) months prior to the date of discovery by the MCUA;

(6) In the case of a violation that involves a Control Document, the person responsible for the violation has not been identified in a previous enforcement action by the MCUA as responsible for a violation of the same requirement of the same permit within the preceding twelve (12) month period;

(7) In the case of a violation that does not involve a Control Document, the person responsible for the violation has not been notified in a previous enforcement action by the MCUA as responsible for the same or a substantially similar violation at the same facility within the preceding twelve (12) month period; and

(8) In the case of any violation, the person responsible for the violation has not been identified by the MCUA as responsible for the same or substantially similar violations at any time that reasonably indicate a pattern of illegal conduct and not isolated incidents on the part of the person responsible.

(D) For a violation determined to be minor under (C) above, the following provisions apply:

(1) The MCUA shall issue a notice of violation to the person responsible for the minor violation that:

(a) Identifies the condition or activity that constitutes the violation and the specific statutory and regulatory provision or other requirement violated; and

(b) Specifies that a penalty may be imposed unless the minor violation is corrected, and compliance is achieved within the specified grace period.

(2) If the person responsible for the minor violation corrects that violation and demonstrates, in accordance with (D)3 below, that compliance has been achieved within the specified grace period, the MCUA shall not impose a penalty for the violation.

(3) The person responsible for a violation shall submit to the MCUA before the end of the specified grace period, written information certified to be true and signed by the person responsible for the minor violation, detailing the corrective action taken or compliance achieved.

(4) If the person responsible for the minor violation seeks additional time beyond the specified grace period to achieve compliance, the person shall request an extension of the specified grace period. The request shall be made in writing, be certified to be true and signed by the person responsible for the minor violation and received by the MCUA no later than one week before the end of the specified grace period. The request shall include the anticipated time needed to achieve compliance, the specific cause or causes of the delay, and any measures taken or to be taken to minimize the time needed to achieve compliance. The MCUA may, at its discretion, approve in writing an extension, which shall not exceed ninety (90) days, to accommodate the anticipated delay in achieving compliance. In exercising its discretion to approve a request for an extension, the MCUA may consider the following:

(a) Whether the violator has taken reasonable measures to achieve compliance in a timely manner;

(b) Whether the delay has been caused by circumstances beyond the control of the violator;

(c) Whether the delay will pose a risk to the public health, safety, and natural resources; and

(d) Whether the delay will materially or substantially undermine or impair the goals of the regulatory program.

(5) If the person responsible for the minor violation fails to demonstrate to the MCUA that the violation has been corrected and compliance achieved within the specified grace period or within the approved extension, if any, the MCUA may, in accordance with the provisions of this chapter, impose a penalty that is retroactive to the date the notice of violation under (D)1 was issued.

(6) The person responsible for a minor violation shall not request more than one extension of a grace period specified in a notice of violation.

(E) Table of minor and non-minor violations; grace periods

(1) Table 1 below identifies particular violations of the MCUA Rules and Regulations, as minor or non-minor for purposes of a grace period and identifies the duration of the grace period for minor violations. The descriptions of the violations set forth in the table in this section are provided for informational purposes only. If there is a conflict between a violation description in the table and the rule to which the violation description corresponds, the rule shall govern.

(2) The MCUA may assess a civil administrative penalty for a violation of the MCUA Rules and Regulations and/or for a violation of any rule, consent agreement or administrative order adopted or issued pursuant thereto, that is not listed in Table 1, following the procedure under (c) below.

(3) For violations not listed in Table 1, the MCUA shall determine whether the violation is a minor violation and subject to a grace period or whether the violation is non-minor and not subject to a grace period as follows:

(a) If, pursuant to (4) below, the violation is comparable to a violation listed in Table 1 and the comparable violation in Table 1 is minor, then the violation under this section is also minor, provided the criteria in Section 10.9(C) are also met. The minor violation shall be subject to the grace period set forth in Table 1 for the comparable violation.

(b) If the violation is not comparable to a violation listed in Table 1 and the violation meets the criteria in Section 10.9(C), then the violation under this section is minor. The minor violation shall be subject to a grace period of thirty (30) days.

(c) If, pursuant to (4) below, the violation is comparable to a violation listed in Table 1 and the comparable violation in Table 1 is non-minor, then the violation under this section is also non-minor and the penalty shall be assessed in accordance with Section 10.8.

(d) If the violation is not comparable to a violation listed in Table 1 and the violation does not meet the requirements of Section 10.9(C) above, the violation is non-minor, and the penalty shall be assessed in accordance with Section 10.8.

(4) Comparability of a violation under (C) above with a violation listed in Table 1 is based upon the nature of the violation *(for example, a violation of record keeping, permit limitation, or monitoring)*.

TABLE 1			
MCUA Rules and Regulations Citation	Description of Violation	Type of Violation	Grace Period
3.1(A)(1)	Discharging any pollutant, substance or waste that is a general prohibited waste	NM	
3.1(A)(2)	Improperly processing or storing prohibited pollutants, substances, and/or wastes	NM	
3.1(B)	Discharging any pollutant, substance or waste that is a specific prohibited waste	NM	
3.1(D)	Discharging waste above a local limit developed by the MCUA	NM	
3.1(E)	Failure to follow Best Management Practices developed by the MCUA	NM	
3.2	Failure of a User to comply with the General Pretreatment Standards	NM	
3.3	Failure of a User to comply with applicable National Categorical Pretreatment Standards	NM	
3.3(B)(3)	Discharging waste above an Equivalent Concentration Limitation	NM	
3.3(C)(7)	Discharging waste above an Equivalent Mass Limitation	NM	
3.4	Failure of a User to comply with New Jersey State Requirements	NM	
3.7	Dilution of a discharge, by a User without authorization, as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement	NM	
4.1	Failure of a User to operate efficiently and maintain in good working order any pretreatment facilities	NM	
4.3	Failure of a User to submit required information	M	30 Days
4.4	Failure of a facility to implement accidental discharge prevention procedures and/or submit a required Accidental Discharge and/or Slug Control Plan	NM	
4.5	Failure of a User to submit a required Waste Minimization Plan	M	30 Days

5.1(C)	Discharging any pollutant except in conformity with the MCUA Rules and Regulations and/or a required MCUA Control Document	NM	
5.3(B)	Failure of a User to submit relevant facts previously omitted in a permit application, or submit corrected information for a permit application, within 10 days of becoming aware of the correct information	M	30 Days
5.7(C)	Failure to submit the required permit modification fee	NM	
5.8(A)	Failure to provide written notice of a transfer or change in control or ownership of the discharge from a facility with a Non-Domestic Wastewater Discharge Permit	NM	
5.8(C)	Failure of a User to apply for a new Non-Domestic Wastewater Discharge Permit when the intentions are to immediately change the facility's operations and processes in the case of a transfer of control or ownership of an existing Non-Domestic Wastewater Discharge Permit	NM	
5.10(A)	Failure of an applicant to submit a complete Non-Domestic Wastewater Discharge Permit renewal application within the appropriate timeframe	NM	
5.10(B)	Failure of an applicant to submit the appropriate fee with the non-domestic wastewater discharge permit renewal application	NM	
5.13(A)	Failure to provide written notice of a transfer or change in control or ownership of the discharge from a facility with a Discharge Approval	NM	
5.13(C)	Failure of a User to apply for a new Discharge Approval when the intentions are to immediately change the facility's operations and processes in the case of a transfer of control or ownership of an existing Discharge Approval	NM	
5.15(A)	Failure of an applicant to submit a complete Discharge Approval renewal application within the appropriate timeframe	NM	
5.18	Failure to provide written notice of a transfer or change in control or ownership of the discharge from a facility with a Temporary Discharge Approval	NM	
5.20(A)	Failure of an applicant to submit a complete Temporary Discharge Approval renewal application within the appropriate timeframe	NM	
6.1	Failure of a required User to submit a complete Wastewater Survey within the appropriate timeframe	NM	
6.2(A)	Failure of a required User to submit a complete Baseline Monitoring Report within the appropriate timeframe	NM	
6.2(B)(5)(d)	Failure to properly sample and analyze wastewater	NM	
6.2(B)(7)	Failure of a User to comply with a required Compliance Schedule	NM	

6.3(C)	Failure of a User to submit a Compliance Schedule Progress Report within the appropriate timeframe	NM	
6.4(A)	Failure of a required User to submit a complete report on compliance with Categorical pretreatment standards within the appropriate timeframe	NM	
6.4(B)	Failure to properly sample and analyze wastewater	NM	
6.5(A)	Failure of a required User to submit periodic compliance reports	NM	
6.5(B)	Failure of a User to take representative wastewater samples and/or failure to maintain in good working order any monitoring and/or flow measurement equipment	NM	
6.5(C)	Failure of a User to report any additional certified analytical results when the facility monitors any pollutant more than required	NM	
6.5(D)	Failure to properly sample and analyze wastewater	NM	
6.6	Failure of a User to notify the MCUA of any substantial change in the volume or character of pollutants in its discharge	NM	
6.7(A)	Failure of a User to notify the MCUA of any discharge that may cause potential problems within two (2) hours of the commencement of the discharge, or of the User becoming aware of the discharge.	NM	
6.7(B)	Failure of a User to submit noncompliance report information to the MCUA within 24 hours of the commencement of the non-compliant discharge, or of the User becoming aware of the non-compliant discharge.	NM	
6.7(C)	Failure of a User to submit detailed written noncompliance report information to the MCUA within five (5) days of the commencement of the non-compliant discharge, or of the User becoming aware of the non-compliant discharge.	NM	
6.7(D)	Failure of a User to prominently post the emergency notification procedures	NM	
6.9	Failure of a User to notify the MCUA of a violation within twenty-four (24) hours of becoming aware of the violation; and/or failure of the User to repeat the sampling and analysis within thirty (30) days after becoming aware of the violation.	NM	
6.10(A)(1)	Failure of a User to submit a required Self-Monitoring Report	NM	
6.10(B)(1)	Failure of a User to take representative wastewater samples	NM	
6.10(B)(2)	Failure of a User to maintain in good working order any monitoring and/or flow measurement equipment	NM	

6.10(B)(4)	Failure to properly sample and analyze wastewater	NM	
6.10(C)	Failure of a User with a Control Document to include in its Self-Monitoring Report the results of monitoring that was performed more frequently than required	NM	
6.10(D)(1)	Failure of a User with a Control Document to submit its Self-Monitoring Reports on a monthly basis	NM	
6.10(D)(2)	Failure of a User with a Control Document to submit the completed Self-Monitoring Reports within the stated timeframe	M	10 Days
6.10(D)(3)	Failure of a User with a Control Document to report the monthly average properly on its Self-Monitoring Reports	NM	
6.10(D)(4)	Failure of a User with a Control Document to submit the completed Self-Monitoring Reports within the stated timeframe	M	10 Days
6.10(D)(5)(a)	Failure of a User with a Control Document to monitor monthly when the User commits a serious violation, fails to submit a completed Self-Monitoring Report, and/or commits a violation which causes the User to be in Significant Non-Compliance	NM	
6.10(D)(5)(b)	Failure of a User with a Control Document to continue this monthly schedule until the User has submitted six consecutive monthly Self-Monitoring Reports that show compliance with the particular serious violation parameter at the particular discharge point	NM	
6.10(E)	Failure of a User with a Control Document to notify the MCUA of a serious/significant non-compliance (SNC) violation within thirty (30) days after becoming aware of the violation and explain the nature of the serious/SNC violation and the measures taken to remedy the cause or prevent a recurrence	NM	
6.10(F)	Failure of a Non-Significant Categorical Industrial User to submit the required certification statement within the stated timeframe	M	10 Days
6.11(F)	Failure of a User to notify the MCUA of the discharge of hazardous waste	NM	
6.12(A)	Failure of the User to submit a required report without the authorized representative's signature and/or include the required certification statement	NM	
6.12(B)	Failure to submit a new authorization satisfying the signatory requirements prior to or together with any reports, information or applications signed by an Authorized Representative	NM	
6.13	Failure to comply with record keeping requirements	NM	
6.14(D)	Failure of participant's licensed public wastewater collection system operator to fulfill the reporting requirements	NM	

7.1(A)	Failure to properly install, use, and maintain monitoring equipment	NM	
7.2	Failure to take samples and measurements representative of the monitored activity	NM	
7.3(D)	Failure to allow an authorized representative of the MCUA to enter upon a person's premises for the purpose of inspection, sampling and/or copying	NM	
7.5 (B)	Failure to sample appropriately	NM	
7.6(A)	Failure of a User with a Control Document to monitor in accordance with the Control Document	NM	
7.6(B)	Failure to pay the required fee within the specified timeframe	NM	
7.6(B)(5)	Failure of a User to submit a waived pollutant certification statement within the stated timeframe	M	10 Days
7.6(B)(6)	Failure of a User to comply with the monitoring requirements of the Control Document after a waived pollutant is present or is expected to be present	NM	
7.7(D)	Failure of a User to collect the required sample in accordance with the protocols listed in Section 7.7	NM	
7.8	Failure of a User to have the required sample analyzed by an approved test procedure as defined by 40 CFR Part 136, and performed by a laboratory certified to do the analyses by the State of New Jersey	NM	
10.2(A)	Failure of a User, which has received a Notice of Violation, to provide, within ten (10) days, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions	NM	
10.6	Failure to obey a Cease and Desist Order when required by the MCUA	NM	
10.10(A)(3)	Failure to suspend a discharge in an emergency situation.	NM	
12.2(C)(3)	Failure to notify the MCUA of an upset condition within twenty-four (24) hours (orally and five (5) days written) of the time of becoming aware of the upset	NM	
12.3(C)(1)	Failure to notify the MCUA, at least ten (10) days in advance of an anticipated bypass	NM	
12.3(C)(2)	Failure to notify the MCUA of an unanticipated bypass within twenty-four (24) hours from the time of becoming aware of the bypass; and, if required, a written notification within five (5) days that includes the required information	NM	

10.10 Emergency Suspensions

(A) The MCUA may immediately suspend a User's discharge, after appropriate notice, when such suspension is necessary, in the opinion of the MCUA, in order to stop an actual or potential discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, or cause interference as defined herein.

(1) Any User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a User's failure to immediately comply voluntarily with the suspension order, the MCUA shall take such steps as are deemed necessary including immediate severance of the sewer connection pursuant to N.J.S.A. 58:11-56, to prevent or minimize damage to the MCUA, its receiving water, or endangerment to any individuals. The MCUA may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the MCUA that the period of endangerment has passed unless the termination proceedings in Section 10.11 of these Rules and Regulations are initiated against the User.

(2) A detailed written statement submitted by the discharger describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the MCUA within five (5) days of the date of occurrence.

(3) A violation under this section is non-minor and, therefore, not subject to a grace period.

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

10.11 Termination of Service

(A) In addition to the provisions in Sections 5.9, 5.14, and 5.19 of these Rules and Regulations, any User who violates the following conditions is subject to discharge termination:

(1) Intentional failure of a User to factually report the wastewater constituents and characteristics of their discharge;

(2) Failure of the User to report significant changes in operations, or wastewater volume, constituents and characteristics prior to discharge;

(3) Refusal of reasonable access to the discharger's premises for the purpose of inspection or monitoring; or,

(4) Any and all violations of provisions of these Rules and Regulations, as deemed appropriate by the MCUA in its best interest to do so.

(B) Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 10.4 of these Rules and Regulations why the proposed action should not be taken. Exercise of this option by the MCUA shall not be a bar against, or a prerequisite for, taking any other action against the User.

SECTION 11 - JUDICIAL ENFORCEMENT REMEDIES

11.1 Injunctive Relief

(A) When the MCUA finds that a User has violated, or continues to violate, any provision of these Rules and Regulations, a Control Document or order issued hereunder, or any other pretreatment standard or requirement, the MCUA may petition the Court for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the Control Document, order, or other requirement imposed by these Rules and Regulations on activities of the User. The MCUA may also seek such other appropriate legal and/or equitable relief, including, but not limited to, a requirement for the User to conduct environmental remediation and repairs to the MCUA wastewater treatment works as might have sustained damage due to the User's discharge.

(B) 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 these Rules and Regulations, a Control Document or order issued hereunder, or any other pretreatment standard or requirement, or who fails to pay a civil administrative penalty in full pursuant to Section 10 of these Rules and Regulations, or fails to make a payment pursuant to a payment schedule entered into with the MCUA, shall be subject upon order of a court to a civil penalty not to exceed $50,000 per day of such violation, and each day's continuance of the violation shall constitute a separate violation. Any penalty incurred under this section may be recovered with costs, and, if applicable, interest charges, in a summary proceeding pursuant to "the penalty enforcement law" (N.J.S.2A:58-1 *et seq*.). In addition to any civil penalties, costs or interest charges, the court, in accordance with subsection (C) of this section and N.J.S.A. 58:10A-10.c.(5), may assess against a violator the amount of any actual economic benefit accruing to the violator from the violation. The Superior Court shall have jurisdiction to enforce the "the penalty enforcement law" in conjunction with these Rules and Regulations.

(B) The MCUA 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 the MCUA.

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

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

11.3 Criminal Prosecution

(A) A User who purposely, knowingly, or recklessly violates any provision of these Rules and Regulations, a Control Document or order issued hereunder, or any other pretreatment standard or requirement, and the violation causes a significant environmental effect, shall, upon conviction, be guilty of a crime of the second degree, and shall, notwithstanding the provisions of subsection a. of N.J.S.2C:43-3, be subject to a fine of not less than $25,000 nor more than $250,000 per day of violation, or by imprisonment, or by both. As used in this section, a significant environmental effect includes, but is not limited to, any discharge of pollutants that has caused imminent endangerment to the public or to the environment or has resulted in the MCUA's exercise of its emergency authority to halt or prevent such a discharge.

(B) A User who purposely, knowingly, or recklessly violates these Rules and Regulations, a Control Document or order issued hereunder, or any other pretreatment standard or requirement, including making a false statement, representation or certification in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to these Rules and Regulations, Control Document, or order issued hereunder, or who falsifies, tampers with or renders inaccurate, any monitoring device or method required to be maintained under these Rules and Regulations, Control Document or order issued hereunder, shall, upon conviction, be guilty of a crime of the third degree, and shall, notwithstanding the provisions of subsection b. of N.J.S.2C:43-3, be subject to a fine of not less than $5,000 nor more than $75,000 per day of violation, or by imprisonment, or both.

11.4 Remedies Nonexclusive

The remedies provided for in these Rules and Regulations are not exclusive. The MCUA may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with Section 10 of these Rules and Regulations. However, the MCUA may take other action against any User when the circumstances warrant. Further, the MCUA is empowered to take more than one enforcement action against any noncompliant User.

SECTION 12 - AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

12.1 Affirmative Defenses

(A) A User may be entitled to an affirmative defense to liability for an assessment of a civil administrative penalty, pursuant to Section 10.8 of these Rules and Regulations, for a violation of an effluent limitation occurring as a result of an upset, anticipated, or unanticipated bypass, or a testing or laboratory error. A User shall be entitled to an affirmative defense only if, in the determination of the MCUA, the User satisfies the provisions of sections 12.2, 12.3, or 12.4, as applicable.

(B) An assertion of an upset, a bypass or a testing or laboratory error as an affirmative defense pursuant to this section may not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, lack of preventive maintenance, or careless or improper operation.

12.2 Upset

(A) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with 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 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 MCUA 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.

A violation under this section is non-minor and, therefore, not subject to a grace period.

(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.

12.3 Bypass

(A) For the purposes of this section,

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

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

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

(C)(1) If a User knows in advance of the need for a bypass, it shall submit prior notice to the MCUA, at least ten (10) days before the date of the bypass, if possible. A violation under this section is non-minor and, therefore, not subject to a grace period.

(2) A User shall submit oral notice to the MCUA 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 MCUA may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours. A violation under this section is non-minor and, therefore, not subject to a grace period.

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

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

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

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

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

12.4 Testing or Laboratory Error

A User asserting a testing or laboratory error as an affirmative defense pursuant to this section shall have the burden to demonstrate, to the satisfaction of the MCUA, that a violation involving the exceedance of an effluent limitation was the result of unanticipated test interferences, sample contamination, analytical defects, or procedural deficiencies in sampling or other similar circumstances beyond the control of the User.

12.5 Prohibited Discharge Standards

A User shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions established in Section 3.1(A) or the specific prohibitions in Sections 3.1(B)(4), (9), (10), (11), and (13) of these Rules and Regulations where the User can demonstrate that:

(A) It did not know, or have reason to know, that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause Pass Through or Interference; and

(B)(1) A local limit exists for each pollutant discharged and the User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or

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

SECTION 13 - PARTICIPANT CHARGE SYSTEM

13.1 For the purpose of the MCUA Participant Charge System in determining the quality of Biochemical Oxygen Demand, Total Suspended Solids and Chlorine Demand will be analyzed by the MCUA or an NJDEP Certified Laboratory using the latest edition of "Standard Methods for the Examination of Water and Wastewater" in 40 CFR Part 136.

13.2 The Participants shall pay to the MCUA, quarterly, the Estimated User Charges based upon the Schedule of Rates adopted before the first day of the new fiscal year in accordance with the requirements of the Authority's Service Agreement, Bond Resolution and N.J.S.A. 40:14B-23.

13.3 The MCUA shall, on or before January 25 next ensuing after the end of the fiscal year, compute the final quarterly charge for each Participant based upon the actual flow, actual BOD, actual Suspended Solids and actual Chlorine Demand in each quarter of the fiscal year. If the final annual charge for each Participant is more, or less than the estimated annual charge, the Participant shall be advised before February 1. The Participant shall pay the deficiency to the MCUA or receive payment or credit from the MCUA as required to adjust the estimated annual payment for the fiscal year to the final annual payment for the fiscal year on or before March 1 next ensuing after the end of the fiscal year.

13.4 [RESERVED]

13.5 [RESERVED]

13.6 [RESERVED]

13.7 [RESERVED]

13.8 [RESERVED]

13.9 [RESERVED]

13.10 [RESERVED]

13.11 [RESERVED]

13.12 [RESERVED]

13.13 [RESERVED]

13.14 [RESERVED]

13.15 [RESERVED]

13.16 [RESERVED]

13.17 [RESERVED]

SECTION 14 - FEES AND SERVICE CHARGES

14.1 Industrial Pretreatment Program

(A) Non-Domestic Wastewater and Temporary Discharge Approval Permit Actions

All Non-Domestic Wastewater and Temporary Discharge Approval Permit actions, pursuant to Section 5 of these Rules and Regulations, shall be subject to charges payable to the MCUA upon request for the following:

ACTION	CHARGE
Initial Permit	$ 2,765.00
Permit Renewal *(Non-Domestic Permit only)*	$ 1,660.00
Major Permit Modification *(Non-Domestic Permit only)*	$ 990.00
Minor Permit Modification *(Non-Domestic Permit only)*	$ 500.00

(B) Sampling and Analysis

All MCUA Control Document sampling and analysis costs shall be recovered based upon the following schedule:

ACTION	CHARGE
Composite Sampling *(includes grab sampling, if required)*	$ 925.00
Grab Sampling	$ 525.00
Laboratory Analysis Cost	$ Varies
Replacement/Damaged Sampling Equipment *(caused by Industrial User)*	$ Varies

14.2 Temporary Discharge Approval Groundwater Discharge Fee

Temporary Discharge Approvals shall be issued, pursuant to Section 5.2(C) of these Rules and Regulations, and subject to a groundwater discharge fee of $30,584.19 per million gallons of discharge payable in a time frame specified by the MCUA, during the term of the Temporary Discharge Approval or any renewal thereof, or in accordance with such other payment schedule as the MCUA may approve. This groundwater discharge fee shall be revised annually by resolution of the Board of Commissioners. The revised groundwater discharge fee shall be applicable to any Temporary Discharge Approval issued or renewed on or after the revision.

14.3 Septage/Liquid Hauled Waste Charges

Septage/Liquid Hauled waste approvals shall be issued, pursuant to Section 5.2(D) of these Rules and Regulations and subject to the following charges payable to the MCUA in a specified time period based upon the capacity of the tanker, not actual quantity disposed.

WASTE	CHARGE
Septage *(cost per 1,000 gallons)*	$ 48.00
Other Liquid Hauled Waste *(cost per 1,000 gallons)*	$ 74.00

14.4 Service Application Review Fee Schedule

The MCUA service application review fee schedules for reviewing plans, engineer reports for sanitary and industrial sewer extensions, waste quality reports of septage and other liquid hauled wastes are set forth in the following tables:

SEWER EXTENSION	FEE
MCUA Participant	$ 525.00
Design capacity *(10,000 gpd or less)*	$ 525.00
Design capacity *(10,001 gpd – 1,000,000 gpd)*	$ 800.00
Design capacity *(1,000,001 gpd or more)*	$ 1,575.00
New direct connection to MCUA *(Minimum Fee)* and design capacity fee above	$ 2,075.00

INDUSTRIAL SEWER EXTENSION	FEE
Minimum Plan review fee and Design capacity fee above *(10,000 gpd or less)*	$ 1,025.00
Minimum Plan review fee and Design capacity fee above *(10,001 gpd – 1,000,000 gpd)*	$ 1,300.00
Minimum Plan review fee and Design capacity fee above *(1,000,001 gpd or more)*	$ 1,830.00
New direct connection to MCUA *(Minimum Fee)* and design capacity fee above	$ 2,075.00
Extensive Plan review and fee applicable to Design capacity above – *(minimum to a maximum fee for Extensive Plan review)*	$800.00 - $1,575.00

SEPTAGE AND OTHER HAULED LIQUID WASTES	FEE
Sanitary Septage Waste Only	No Charge
All other Liquid Hauled Wastes	$ 75.00
Extensive Plan review and fee applicable to all other Hauled Wastes above – *(minimum to a maximum fee for Extensive Plan review)*	$800.00 - $1,575.00

MISCELLANEOUS	FEE
Copies – letter size paper; Cost per page	$ 0.05
Copies – legal size paper; Cost per page	$ 0.07
Maps/Drawings/Prints; Cost per page	$ 1.00
Delivery and Postage	$ Varies
Extraordinary Services Requested	$ Varies

14.5 Participant Charges

Participant Charges shall be adopted annually by resolution of the Board of Commissioners based upon the Authority's Service Agreement, Bond Resolution and N.J.S.A. 40:14B-23.

14.6 Explanatory Notes for This Section

(A) "Participant" as defined in Section 1.2 of these Rules and Regulations.

(B) "Sanitary sewers or wastes" are defined as those emanating solely from the sanitary convenience of dwellings *(including apartments, hotels, etc.)*, office buildings, commercial and industrial facilities, and institutions. All other sewers or wastes shall

be classified as industrial or other hauled wastes.

(C) "Extensive" the meaning of this term shall be determined by and in the discretion of the MCUA's staff.

(D) "Payment" for all fixed Fee Charges, as indicated in the Schedule, shall be made payable to the "Middlesex County Utilities Authority" and must be submitted with the application.

(E) For all variable "Fee" Charges as indicated in the Schedule, shall be made payable to the "Middlesex County Utilities Authority" for the minimum fee and must be submitted with the application. The remainder of the variable Fee as determined by the MCUA's staff will be payable prior to the release of the MCUA's final review of the application.

14.7 Additions, Deletions and Revisions to Fee and Charge Schedules

All charges and fees, set forth in this Section, may be added to, deleted from and/or revised at any time, by resolution of the Board of Commissioners. These charges and fees relate solely to the matters covered by these Rules and Regulations and are separate from all other charges, fees, fines, and penalties chargeable by the MCUA.

SECTION 15 – NEW CONNECTIONS

15.1 Direct Connection to the MCUA Trunk System

All direct connections to the MCUA Trunk System are subject to the provisions set forth in "Agreement with the Middlesex County Sewerage Authority and Others, Article III".

15.2 Indirect Connection to the MCUA Trunk System

(A) All indirect connections to the MCUA's Trunk System thru an existing Participant's wastewater collection system shall comply with the requirements set forth in N.J.A.C. 7:14A-22 *et. seq*.

(B) All indirect connections not required to obtain NJDEP approval shall complete the Form(s) provided by the MCUA

(C) All requests for indirect connections shall contain the appropriate fee as set forth in Section 14.4 of these Rules and Regulations.

SECTION 16 - MALICIOUS DAMAGE

No person(s) shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is a part of the Trunk System. Any person(s) violating this provision shall be subject to prosecution by the MCUA under the applicable laws.

SECTION 17 - SEVERABILITY

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

SECTION 18 - REVISIONS TO THE RULES AND REGULATIONS

The provisions set forth in these Rules and Regulations may be revised, amended or supplemented from time to time by the MCUA, upon resolution of the Board of Commissioners.

SECTION 19 - FLOW EQUALIZATION PROGRAM

[RESERVED]

SECTION 20 - INFILTRATION/INFLOW REDUCTION AND CORRECTIVE ACTION PROGRAM

[RESERVED]

SECTION 21 - EFFECTIVE DATE

These Rules and Regulations and the Participant Charge System contained herein shall be in full force and effect immediately following its passage, approval, and publication, as provided by law.

ENFORCEMENT RESPONSE PLAN

APPENDIX A

APPENDIX A

ENFORCEMENT RESPONSE PLAN

Noncompliance	Nature of Violation	Enforcement Responses	Time Frame	Personnel	Violation/ Grace Period
UNAUTHORIZED DISCHARGES					
1. Discharge without a permit (Permit Required)	No harm to POTW/ environment	NOV with application form, if needed	60 days	IPP Coordinator	NM
	Harm to POTW/environment (IU in Federal SNC) Noncompliance with order to submit application	Take action to halt activity; Seek penalty/Public Notice	2 days/6 months/Annually, but no later than 60 days after 403 annual report submitted to NJDEP	IPP Coordinator	NM
2. Failure to renew	Failure to submit application prior to 180 days of expiration of current permit	NOV	60 days	IPP Coordinator	NM
	Failure to apply continues after notice by the POTW	Seek penalty	6 months	IPP Coordinator	NM
3. Discharge outside scope of application/permit	Failure to notify in advance of new pollutants or significant change in existing pollutants	NOV with permit application to be modified	60 days	IPP Coordinator	NM
DISCHARGE LIMIT VIOLATIONS					
1. Exceedance of local or Federal standard (permit limit)	Individual or monthly non-serious violation	NOV; compliance response/corrective action plan, if needed	60 days from receipt	IPP Coordinator	NM
	Serious violation (individual or monthly)	NOV; Seek at least a mandatory minimum penalty in accordance with N.J.A.C. 7:14-8.16	60 days from receipt; 6 months	IPP Coordinator	NM
	Significant noncompliance (IU meets SNC criteria under 40 CFR Part 403 (Federal SNC))	Public Notice	Annually, but no later than 60 days after 403 annual report submitted to NJDEP	IPP Coordinator	NM
	Significant noncompliance (IU meets SNC criteria under N.J.S.A 58:10A-3.w (State SNC))	NOV; Seek at least a mandatory minimum penalty in accordance with N.J.A.C. 7:14-8.16	60 days from receipt; 6 months	IPP Coordinator	NM

APPENDIX A

ENFORCEMENT RESPONSE PLAN

MONITORING AND REPORTING VIOLATIONS					
Noncompliance	Nature of the Violation	Enforcement Responses	Time Frame	Personnel	Violation/ Grace Period
1. Reporting Violation	Late, 5 to 30 days after due date (but complete)	NOV, seek penalty, including at least mandatory minimum penalty for overdue effluent parameter information, if any, in accordance with N.J.A.C 7:14-8.9 (Note: penalty waived if complete report is received within 10 days of receipt of the NOV)	60 days from the due date; 6 months	IPP Coordinator	NM
	Late, 31 days or more after due date (but complete)	Public notice, NOV, and seek penalty, including at least mandatory minimum penalty for overdue effluent parameter information, if any, in accordance with N.J.A.C 7:14-8.9 (Note: Penalty waived if complete report is received within 10 days of receipt of the NOV)	Annually in accordance with approved program; 60 days from receipt; 6 months	IPP Coordinator	NM
	Incomplete for effluent parameter omission (IU State SNC)	NOV; Seek at least a mandatory minimum penalty in accordance with N.J.A.C 7:14-8.9	60 days from receipt; 6 moths	IPP Coordinator	NM
	Incomplete for data omission (IU meets SNC criteria under 40 CFR Part 403 (Federal SNC))	Public Notice	Annually in accordance with approved program	IPP Coordinator	NM
	Incomplete for effluent parameter omission (IU meets SNC criteria under NJWPCA (State SNC))	Public notice and seek at least a mandatory minimum penalty in accordance with N.J.A.C 7:14-8.16(a)	Annually in accordance with approved program; Penalty within 6 months	IPP Coordinator	NM
	Incomplete for other omissions (IU meets SNC criteria under NJWPCA (State SNC))	Public notice and seek at least a mandatory minimum penalty in accordance with N.J.A.C 7:14-16	Annually in accordance with approved program; 6 months	IPP Coordinator	NM
	Incomplete for other omissions	NOV	60 days	IPP Coordinator	M-10 Days
	Falsification	Refer to county prosecutor and/or seek penalty	60 days	Executive Director	NM
2. Failure to adhere to compliance schedules (in control document, permit, AO/ACO, letter of agreement)	Missed milestone by less than 30 days	NOV, seek penalty (Note: penalty may be waived if final compliance is met by due date)	60 days from receipt; 6 months	IPP Coordinator	NM
	Missed milestone by more than 30 days (Federal SNC)	NOV, seek penalty, public notice (Note: penalty may be waived if final compliance is met by the due date)	60 days from receipt; 6 months	IPP Coordinator	NM
	Failure to meet compliance date	NOV, seek penalty	60 days; 6 moths	IPP Coordinator	NM
3. Failure to notify	Failure to report spill or changed discharge	NOV; seek penalty where necessary	60 days of discovery; 6 months	IPP Coordinator	NM
4. Failure to monitor correctly	Incorrect: sample location, sample type, sample collection techniques, or sample analysis	NOV, with proper re-sampling, including sample analysis	60 days	IPP Coordinator	NM
5. Failure to report additional monitoring	POTW inspector finds additional files	NOV with request to submit additional monitoring data	60 days	IPP Coordinator	NM

APPENDIX A

ENFORCEMENT RESPONSE PLAN

OTHER VIOLATIONS					
Noncompliance	Nature of the Violation	Enforcement Responses	Time Frame	Personnel	Violation/ Grace Period
1. Waste streams are diluted to achieve discharge limits	Dilution	NOV, seek penalty	60 days; Penalty -6 months	IPP Coordinator	NM
2. Continuing failure to halt or prevent a discharge which caused or causes imminent endangerment to human health, welfare, or the environment or has resulted in the POTW's exercise of its emergency authority under 40 CFR 403.8(f)(1)(vi)(B)	Refusal to continue activity upon notification	Take physical (effective) action or seek court order discharge	2 days max.	Executive Director	NM
3. Failure to maintain in good working order and properly operate, any facilities or systems of control installed to achieve compliance with the terms and conditions of the permit and/or Rules and Regulations	Violation of operation requirements	NOV	60 days	IPP Coordinator	NM
4. Entry denial	Entry denied or consent withdrawn; copies of records denied	NOV, seek penalty	60 days; 6 months	IPP Coordinator	NM
5. Inadequate record keeping	POTW inspector finds files incomplete or missing	NOV	60 days	IPP Coordinator	NM