

## CHAPTER 26

### EMERALD COAST UTILITIES AUTHORITY CODE

#### WASTEWATER COLLECTION AND TREATMENT SYSTEM USE REGULATIONS

##### **Sec. 26-1. General provisions.**

###### *A. Purpose and policy.*

This chapter sets forth uniform requirements for discharge into the Emerald Coast Utilities Authority (ECUA) wastewater collection and treatment system. It is adopted pursuant to the Clean Water Act of 1972, codified at 33 United States Code § 1251 *et seq.* and all applicable State and Federal laws.

The objectives of this chapter are:

1. To prevent the introduction into the wastewater facility of pollutants which could interfere with the operation of the system or contaminate the resulting sludge;
2. To prevent the introduction into the wastewater system of pollutants which could pass through the system, inadequately treated, into receiving waters, in reclaimed water usage, or into the atmosphere and could result in NPDES permit or receiving water quality violations, whole effluent toxicity or air emission violations, or otherwise be incompatible with the system;
3. To prevent the introduction into the wastewater system of pollutants which could endanger the health and safety of the general public and WWF personnel;
4. To increase opportunities to recycle and reclaim wastewater and sludge from the system; and
5. To prevent the introduction of pollutants that will increase the potential for SSOs and I&Is.

This chapter provides for regulation of the use of the wastewater system through enforcement of general requirements for all users, and through the issuance of permits to certain non-domestic users, authorizes monitoring and enforcement activities, requires user reporting, and assures that existing customer capacity will not be preempted. It also applies to compliance activities, administrative review procedures, setting of fees for the equitable

distribution of costs resulting from the program established herein.

This chapter shall apply to all persons who, whether by contract, permit, agreement, or otherwise, discharge wastewater into the ECUA wastewater collection and treatment facilities, or who are in any way users of the ECUA wastewater collection or treatment facilities. Except as otherwise provided herein, the ECUA Executive Director, or a duly authorized representative, shall administer, implement, and enforce the provisions of this chapter.

***B. Definitions.***

Unless the context specifically indicates otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated:

1. *Accidental discharge.* An unintended, unplanned, non-routine, non-customary discharge of prohibited materials or industrial wastewater at a flow rate or concentration which could cause WWF interference or endanger worker health and safety.
2. *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.*
3. *Aerobically digested or held sludge.* Residue from a wastewater treatment or pretreatment facility which has been aerated and maintained in an aerobic state.
4. *Amalgam separator* is a device that employs filtration, settlement, centrifugation, or ion exchange to remove amalgam and its metal constituents from a dental office vacuum system before it discharges to the sewer.
5. *Amalgam waste* means and includes non-contact amalgam (amalgam scrap that has not been in contact with the patient); contact amalgam (including, but not limited to, extracted teeth containing amalgam); amalgam sludge captured by chairside traps, vacuum pump filters, screens, and other amalgam trapping devices; used amalgam capsules; and leaking or unusable amalgam capsules.
6. *ANSI/ADA Standard No. 108.* The American National Standards Institute and American Dentistry association standard for amalgam separators.
7. *Approval authority.* The Florida Department of Environmental Protection or its successor agencies.
8. *Authorized representative of an industrial user.*

- a. A responsible corporate officer if the industrial user is a corporation;
  - b. A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively;
  - c. A duly authorized representative of a person described in a. or b. above if the authorization is made in writing by the individual described in a. or b. above; if the authorization specifies either an individual or a position having responsibility for the overall operation of the facilities from which the discharge originates or having overall responsibility for environmental matters for the user; and if the written authorization is submitted to ECUA;
  - d. If an authorization under c. above is no longer valid, 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 c. above shall be submitted to ECUA prior to or together with any reports to be signed by an authorized representative; or
  - e. A duly authorized governmental official if the industrial user submitting the report is a governmental agency.
9. *Best management practices or BMPs.* Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 26-2.A. BMPs 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.
10. *Biomedical waste.* Any solid waste or liquid waste which may present a threat of infection to humans. The term includes, but is not limited to, non-liquid human tissue and body parts; laboratory and veterinary waste which contain human-disease-causing agents; discarded disposable objects such as needles; human blood, and human blood products and body fluids; and other materials which in the opinion of the Director represent a significant risk of infection to persons outside the generating facility.
11. *Biochemical Oxygen Demand (BOD).* The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/L).

12. *Bypass*. The intentional diversion of wastewater from any portion of a user's treatment facility.
13. *Carbonaceous biochemical oxygen demand (CBOD)*. A method defined test measured by the depletion of dissolved oxygen by biological organisms in a body of water in which the contribution from nitrogenous bacteria have been suppressed.
14. *Categorical standard*. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with section 307(b) and (c) of the Act (33 U.S.C. § 1317) which applies to a specific category of industrial users (as established in 40 CFR, Chapter I, Subchapter N Parts 405-471).
15. *Categorical industrial user*. An industrial user subject to a categorical pretreatment standard or categorical standard.
16. *Chemical Oxygen Demand (COD)*. A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.
17. *Collection/transmission system*. Sewers, pipelines, conduits, pumping stations, force mains, and all other facilities used for collection and transmission of wastewater from individual service connections to facilities intended for the purpose of providing treatment prior to release to the environment.
18. *Contact cooling water*. Water used to reduce temperature which comes into contact with a raw material, intermediate product, waste product other than heat, or finished product.
19. *Daily Maximum Limit*. The maximum allowable discharge limit of a pollutant during a calendar day. Where Daily Maximum Limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where Daily Maximum Limits are expressed in terms of a concentration, the daily discharge is the arithmetic measurement of the pollutant concentration derived from all measurements taken that day.
20. *Dental Amalgam*. Alloy of elemental mercury and other metal(s) that is used in the practice of dentistry.
21. *Dental Discharger*. A facility where the practice of dentistry is performed, including, but not limited to, institutions, permanent or temporary offices, clinics, home offices, and facilities owned and operated by Federal, state or local governments, that discharges wastewater to a publicly owned treatment works (POTW).

22. *Director.* The ECUA Executive Director or a duly authorized representative.
23. *Discharge.* The introduction of pollutants from any source regulated under Section 307 (b), (c) or (d) of the Act into the WWF (including holding tank waste discharged into the system).
24. *Domestic wastewater.* Wastewater derived principally from dwellings, business buildings, institutions, and the like, commonly referred to as sanitary wastewater or sewage. Domestic wastewater shall not include or contain industrial wastewater.
25. *Emerald Coast Utilities Authority or ECUA.* A local governmental body enacted by the Legislature of the State of Florida under Chapter 2001-324, Laws of Florida, as amended, most notably by Chapter 398, Laws of Florida (changing ECUA's name to its current form). This body, also referred to as the Authority, is an independent special district.
26. *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.
27. *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.
28. *Existing Source. (Dental Discharger).* Is any facility subject to this Section whose first discharge to the sewer collection system occurred on or before July 14, 2017.
29. *Florida Department of Environmental Protection or FDEP.* The Department of Environmental Protection of the State of Florida or the secretary or other duly authorized official of that agency, as the context may require.
30. *Food establishment sludge.* Fats, oils, greases, food scraps, and other grease interceptor contents generated by a food preparation facility using a grease interceptor.
31. *Grab sample.* An individual sample taken over a period of time not to exceed fifteen (15) minutes. Grab Samples are taken without regard to flowrate.

32. *Grease*. Fats, oils, and other semisolid or solidified material generated as a result of food preparation. Automotive or other machinery oils and lubricants are not classified as grease for purposes of this chapter.
33. *Grease interceptors*. Plumbing devices designed to intercept most greases and solids before they enter a wastewater disposal or collection system.
34. *Healthcare facility*. Means any person that is lawfully authorized to:
- a. Provide preventative, diagnostic, therapeutic, rehabilitative, maintenance or palliative care, and counseling, service, assessment or procedure with respect to the physical or mental condition, or functional status, of a human or animal or that affects the structure or function of the human or animal body; or
  - b. Distribute, sell, or dispense pharmaceuticals. This definition includes, but is not limited to, wholesale distributors, third-party logistics providers that serve as forward distributors, military medical logistics facilities, hospitals, psychiatric hospitals, ambulatory surgical centers, health clinics, physicians' offices, optical and dental providers, chiropractors, long-term care facilities, ambulance services, pharmacies, long-term care pharmacies, mail-order pharmacies, retailers of pharmaceuticals, veterinary clinics, and veterinary hospitals.

Healthcare facility does not include pharmaceutical manufacturers.

35. *Hauled waste*. Wastewater entering a wastewater facility by any means other than a sanitary sewer connection.
36. *Hazardous waste pharmaceutical*. A pharmaceutical that is a solid waste, as defined in Title 40 of the Code of Federal Regulations (40 CFR) section 261.2, and exhibits one or more characteristics identified in 40 CFR part 261 subpart C or is listed in 40 CFR part 261 subpart D.
37. *Holding tank waste*. Waste from holding tanks such as those of vessels, chemical toilets, campers, and trailers.
38. *Industrial discharge permit*. A permit which certain non-domestic users are required to obtain from ECUA prior to discharge to the ECUA collection system in accordance with this chapter.
39. *Infiltration & Inflow (I&I)*. Infiltration means water, other than wastewater, that enters a collection/transmission system (including sewer service connections and foundation drains) from the ground

through such means as defective pipes, pipe joints, connections or manholes. Inflow means water, other than wastewater, that enters a collection/transmission system (including sewer service connections) from sources such as, but not limited to, roof leaders, cellar drains, yard drains, area drains, drains for springs and swampy areas, manhole covers, cross-connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, surface run-off, street wash waters, or drainage.

40. *Industrial user.* A source of industrial wastewater discharge into ECUA wastewater system.
41. *Industrial wastewater.* Process and non-process wastewater from manufacturing and commercial facilities or activities, including the runoff and leachate from areas that receive pollutants associated with industrial or commercial storage, handling, or processing, and all other wastewater not otherwise defined as domestic wastewater.
42. *Instantaneous maximum allowable discharge limits.* The maximum concentrations allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.
43. *Interference.* A discharge which, alone or in conjunction with a discharge or discharges from other sources,
  - a. inhibits or disrupts the WWF, its treatment processes or operation, or its domestic wastewater residuals processes, use, or disposal; and
  - b. is the cause of a violation of any requirement of any ECUA NPDES permit (including an increase in the magnitude or duration of a violation) or prevents use or disposal of domestic wastewater residuals in compliance with local regulations or FDEP rules and Chapter 403, Florida Statutes or
  - c. disrupts the collection and transmission systems and increases the potential for SSOs and I&Is.
44. *ISO 11143.* Is the International Organization for Standardization's standard for amalgam separators.
45. *Local Limit* Specific discharge limits developed and enforced by ECUA upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR § 403.5(a)(1) and (b).

46. *National pollutant discharge elimination system or NPDES permit.* A permit issued to a WWF in accordance with Rule 62-620, F.A.C.

47. *New source.*

- a. Any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under section 307(c) of the Act, which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
  - (1) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
  - (2) The building, structure, facility, or installation totally replaces the process or production equipment that cause 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, should 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 subparagraph 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
  - (2) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which may be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.
- 48. *New Source (Dental Discharger)*. Is any facility subject to this Section whose first discharge to the sewer system occurs after July 14, 2017 and must comply immediately upon commencement of discharge.
- 49. *Non-contact cooling water*. Water used to reduce temperature which does not come into direct contact with any raw material, intermediate product, waste product other than heat, or finished product.
- 50. *Pass through*. A discharge which exits an ECUA wastewater facility 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 any ECUA NPDES permit, or any FDEP enforcement action, consent order or rule, including an increase in the magnitude or duration of a violation.
- 51. *Person*. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity, or its legal representatives, agents, or assigns. The masculine gender shall include the feminine, the singular shall include the plural as the context may require.
- 52. *pH*. A measure of the acidity or alkalinity of a solution expressed in standard units.
- 53. *Pharmaceutical*. Means any drug or dietary supplement for use by humans or other animals; any electronic nicotine delivery system (e.g., electronic cigarette or vaping pen); or any liquid nicotine (e-liquid) packaged for retail sale for use in electronic nicotine delivery systems (e.g., pre-filled cartridges or vials). This definition includes, but is not limited to, dietary supplements, as defined by the Federal Food, Drug and Cosmetic Act; prescription drugs, as defined by Title 21 of the Code of Federal Regulations part 203.3(y); over-the-counter drugs;

- homeopathic drugs; compounded drugs; investigational new drugs; pharmaceuticals remaining in non-empty containers; personal protective equipment contaminated with pharmaceuticals; and clean-up material from spills of pharmaceuticals. Pharmaceutical does not include dental amalgam or sharps.
54. *Pollutant*. Wastewater which alters the character of the carrier water, such as, but not limited to: human waste, industrial waste, biomedical waste, chemical waste, and heat.
55. *Portable toilet waste*. Human body waste and the receiving liquid and chemicals used in portable toilets.
56. *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 discharging or otherwise introducing such pollutants into a WWF. The reduction or alteration may be obtained by a physical, chemical, or biological process, process changes, or other means except dilution, which is prohibited by Rule 62-625,410(5), F.A.C.
57. *Pretreatment requirement*. Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on a user.
58. *Pretreatment standard*. Prohibited discharge standards, categorical standards, and the pollutant limitations set forth in Section 26-2.
59. *Prohibited Discharge Standards or Prohibited Discharge*. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 26-2.A of this ordinance.
60. *Reverse distributor*. Means any person that receives and accumulates prescription pharmaceuticals that are potentially creditable hazardous waste pharmaceuticals for the purpose of facilitating or verifying manufacturer credit. Any person, including forward distributors, third-party logistics providers, and pharmaceutical manufacturers, that processes prescription pharmaceuticals for the facilitation or verification of manufacturer credit is considered a reverse distributor.
61. *Sanitary Sewer Overflow (SSO)*. Means an unintentional release of sewage from a collection/transmission system before it reaches facilities intended for the purpose of providing treatment prior to release to the environment.
62. *Septage*. A nontoxic, non-hazardous mixture of sludge, fatty materials, human feces, and wastewater removed during the pumping of septic tanks. Excluded from this definition are industrial wastewater and the contents of portable

toilets, holding tanks, and grease interceptors.

63. *Septic tank.* A watertight receptacle constructed to promote separation of solid and liquid components of wastewater, to provide limited digestion of organic matter, to store solids, and to allow clarified liquid to discharge for further treatment and disposal into a drain field.
64. *Severe property damage.* 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.
65. *Sewage.* Human excrement and gray water (household showers, dishwashing operations, etc.)
66. *Shall* is mandatory; *may* is permissive.
67. *Significant industrial user or SIU.*
  - a. Any industrial user subject to categorical standards; and
  - b. any other industrial user that discharges an average of twenty-five thousand (25,000) gallons per day, or more, of process wastewater (excluding domestic wastewater, noncontact cooling and boiler blow down wastewater), contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the WWF, or is designated as such by ECUA on the basis that the user has a reasonable potential for adversely affecting the operation of the WWF or for violating any pretreatment standard or requirement.
  - c. Upon a finding that an industrial user meeting the criteria in b. above has no reasonable potential for adversely affecting the operation of the WWF or for violating any pretreatment standard or requirement, ECUA may at any time, on its own initiative, or in response to a petition received from an industrial user, and in accordance with Rule 62-625.500(2)(e), F.A.C., determine that such industrial user is not a significant industrial user.
68. *Slug discharge.* Any discharge at a flow rate or concentration which could cause WWF interference or endanger worker health and safety.
69. *State.* State of Florida.

70. *Storm water.* Any flow occurring during or following any form of natural precipitation and resulting therefrom.
71. *Suspended solids.* The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquids, and which is removable by laboratory filtering in accordance with standard methods.
72. *Toxic pollutant.* Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under section 307(a) of the Clean Water Act, or other applicable law.
73. *Upset.* 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.
74. *User.* Any person who introduces wastewater into an ECUA wastewater facility.
75. *Wastewater.* The 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 WWF.
76. *Wastewater facility or WWF.* Any or all of the following: the collection/transmission system, the treatment plant, and the reuse or disposal system of ECUA.

**C. Abbreviations.**

The following abbreviations shall have the designated meanings:

BOD	-Biochemical Oxygen Demand
COD	-Chemical Oxygen Demand
CBOD	-Carbonaceous Biochemical Oxygen Demand
CFR	-Code of Federal Regulations
BMP	-Best Management Practices
EPA	-Environmental Protection Agency
F.A.C.	-Florida Administrative Code
F.S.	-Florida Statutes
FDEP	-Florida Department of Environmental Protection
I&I	-Infiltration and Inflow

<i>L</i>	-Liter
<i>Mg</i>	-Milligram
<i>mg/L</i>	-Milligrams per liter
<i>NPDES</i>	-National Pollutant Discharge Elimination System
<i>SSO</i>	-Sanitary Sewer Overflow
<i>TSS</i>	-Total suspended solids
<i>U.S.C.</i>	-United States Code
<i>WWF</i>	-Wastewater facility

**Sec. 26-2. Regulations pertaining to all dischargers.**

*A. General discharge prohibitions.*

No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will pass through or interfere with the operation or performance of the WWF. These general prohibitions apply to all users of ECUA wastewater facilities whether or not the user is subject to categorical pretreatment standards, or any other National, State or local pretreatment standards or requirements. No user may contribute the following substances to any ECUA wastewater facility:

1. Any liquids, solids, or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the WWF or the operation of the WWF. This includes waste streams with a closed cup flashpoint of less than one hundred forty (140) degrees Fahrenheit or sixty (60) degrees Celsius using test methods specified in 40 CFR § 261.21. At no time shall two (2) successive readings on an explosion hazard meter at the point of discharge into the system (or at any point in the system) be more than five (5) percent nor any single reading more than ten (10) percent of the lower explosive limit (LEL) of the meter.
2. Solid or viscous substances which may obstruct the flow in a sewer or otherwise interfere with the operation of the WWF such as, but not limited to: grease, garbage with particles greater than one-half inch in any dimension, ashes, cinders, sand, perlite, metal, glass, straw, shavings, grass clippings, rags, waste paper, wood, plastic, tar, or asphalt residues.
3. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that may cause interference or pass through.
4. Any wastewater not having a pH between 5.5 and 12.0, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or ECUA personnel.

5. Any wastewater containing toxic pollutants in sufficient quantity either singly or by interaction with other pollutants to injure or interfere with any wastewater collection or treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the WWF, or exceed the limitation set forth in a specific pollutant limitation or categorical standard. A toxic pollutant shall include but not be limited to any pollutant identified pursuant to section 307(a) of the Act. More stringent standards or requirements can be established in permits as well as by resolution.
6. Pollutants which result in the presence of toxic gases, vapors, or fumes within the publicly owned treatment works (POTW) or WWF in a quantity that may cause acute worker health or safety problems.
7. Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewer system for maintenance and repair.
8. Any substance which may cause the effluent or any other product of the WWF, such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance be discharged to the WWF which may cause ECUA to be in non-compliance with sludge use or disposal criteria, or reuse criteria, guidelines, or regulations developed under section 405 of the Act, any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.
9. Any substance which may cause ECUA to violate its NPDES and/or state disposal system permit or the receiving water quality standards.
10. Wastewater which imparts color which cannot be removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
11. Any wastewater having a temperature which may inhibit biological activity in the WWF resulting in interference, but in no case wastewater with a temperature at the introduction into the WWF which exceeds one hundred thirty (130) degrees Fahrenheit or fifty-four and four tenths (54.4) degrees Celsius.
12. Any pollutants, including oxygen demanding pollutants (CBOD, etc.), released at a flow rate and/or pollutant concentration which may cause interference to the WWF. In no case shall a slug discharge have a flow rate or contain

concentrations or quantities of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four-hour concentration, quantities, or flow during normal operation.

13. Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Director in compliance with applicable state or federal regulations.
14. Any wastewater which may cause a hazard to human life or create a public nuisance.
15. Any storm water, surface runoff, groundwater, roof runoff, swimming pool drainage, condensate, non-contact cooling water, or unpolluted drainage water unless specifically authorized by the Director.
16. Any hauled waste, except as follows:
  - a. Septage, food establishment sludge removed from grease interceptors, and portable toilet waste shall be discharged only at points designated by ECUA; and
  - b. All other wastes, such as aerobically held sludge from a wastewater or pretreatment facility or untreated domestic wastewater, shall be approved by ECUA before they are brought to an ECUA wastewater facility for discharge.
  - c. Discharge of hauled waste shall be subject to all user charges and fees established by resolution of the ECUA Board.
  - d. All hauled waste may be permitted by ECUA in accordance with ECUA guidelines. When the Director determines that a User is contributing to the WWF any of the substances listed in subsection 26-2.A, above, in such amounts as to pass through or interfere with the operation of the WWF, the Director shall:
    - (1) Advise the User in writing of the impact of the contribution on the WWF; and
    - (2) Require the User to obtain an industrial discharge permit; or
    - (3) Suspend the User's wastewater treatment service and/or industrial discharge permit.

It should be noted that any discharge containing suspended solids, biochemical or chemical oxygen demand, total organic carbon, nitrogen, or phosphorus in strengths in excess of normal domestic sewage may be subject to surcharge in accordance with a schedule of rates adopted by ECUA.

*B. Specific pollutant limitations.*

No person shall discharge wastewater containing pollutants in excess of the local limits for those pollutants which have been established for ECUA's WWFs using standard procedures, calculations and methods acceptable to FDEP to protect against pass through, interference, protection of WWF employees, and adverse effects on wastewater residuals disposal. No industrial user shall discharge process waste streams, unregulated waste streams, or dilute waste streams in excess of the concentrations set forth by the Director.

Local limits shall be included as permit conditions and attached to each SIU wastewater permit issued.

The established local limits are subject to change and shall be modified as needed based on regulatory requirements and standards, WWF operation, performance and processes, the industrial user base, potable water quality and domestic wastewater characteristics.

Modifications to the established local limits must be reviewed and approved by FDEP prior to implementation. Implementation shall be effective 30 days from notice of acceptance of the modified limits by FDEP. Permitted SIUs shall also be issued an addendum to their wastewater discharge permit containing the new local limits.

The established local limits apply at the point where the wastewater is discharged to the WWF. All concentrations for metallic substances are for total metal unless indicated otherwise. At his or her discretion, the Director may impose mass limitations in addition to or in place of the concentration-based limitations.

A copy of the approved local limits is available upon request by contacting ECUA's Industrial Pretreatment Coordinator at 9250 Sturdevant St. Pensacola, FL. 32514 or by calling 850-969-3344.

The Director may develop BMPs, by ordinance or individual wastewater discharge permits, to implement local limits and the requirements of section 26-2.



1. *Pharmaceutical Waste.*

a. *General Prohibitions.*

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

(1) Any hazardous waste pharmaceuticals from healthcare facilities and reverse distributors.

2. Requirements for dental facilities that remove or place amalgam fillings.

a. All owners and operators of dental facilities that remove or place amalgam fillings shall comply with the following reporting and waste management practices:

(1) For existing sources, the One-Time Compliance Report is due no later than October 12, 2020 or no later than 90 days after transfer of ownership.

(2) For new sources, the One-Time Compliance Report is due within 90 days of the start of discharge to the sewer collection system.

(3) No person shall rinse chairside traps, vacuum screens, or amalgam separators equipment in a sink or other connection to the sanitary sewer.

(4) Owners and operators of dental facilities shall ensure that all staff members who handle amalgam waste are trained in the proper handling, management and disposal of mercury-containing material and fixer-containing solutions and shall maintain training records that shall be available for inspection by the Director or designee during normal business hours.

(5) Amalgam waste shall be stored and managed in accordance with the instructions of the recycler or hauler of such materials.

(6) Bleach and other chlorine-containing disinfectants shall not be used to disinfect the vacuum line system.

(7) The use of bulk mercury is prohibited. Only pre-capsulated dental amalgam is permitted.

b. All owners and operators of dental vacuum suction systems, except as set forth in subsections 3 and 4 of this section, shall comply with the following:

(1) An ISO 11143 or ANSI/ADA Standard No. 108 certified amalgam separator or equivalent device shall be installed for each dental vacuum suction system on or before July 14, 2020; provided, however, that all dental facilities that are newly constructed on and after the effective date of this ordinance shall include an installed ISO 11143 or ANSI/ADA Standard No. 108 certified amalgam separator device. The installed device must be ISO 11143 or ANSI/ADA Standard No. 108 certified as capable of removing a minimum of 95 percent of amalgam. The amalgam separator system shall be certified at flow rates comparable to the flow rate of the actual vacuum suction system operation. Neither the separator device nor the related plumbing shall include an automatic flow bypass. For facilities that require an amalgam separator that exceeds the practical capacity of ISO 11143 test methodology, a non-certified separator will be accepted, provided that smaller units from the same manufacturer and of the same technology are ISO-certified.

(2) Proof of certification and installation records shall be submitted to the Director within 30 days of installation.

(3) Amalgam separators shall be maintained in accordance with manufacturer recommendations. Installation, certification, and maintenance records shall be available for immediate inspection upon request therefor by the Director or designee during normal business hours. Records shall be maintained for a minimum of three years.

(4) If an amalgam separator is discovered to be malfunctioning, repairs or a replacement must be completed no later than 10 business days after discovery. ECUA must be notified in writing within 14 days of the separator malfunction. The notification shall include estimated duration of malfunction, date of repair or replacement and the specifications of the replacement including manufacturer and model.

c. Facilities with vacuum suction systems that meet all the following conditions may apply to the Director for an exemption to the requirements of subsection 2 of this section:

(1) The system is a dry vacuum pump system with an air-water separator.

- (2) The sedimentation tank is non-bottom draining, with the drain above the anticipated maximum level of accumulated sludge.
- (3) Evidence of regular pump outs by a licensed hauler (a minimum of once a year, or more often if either directed by the manufacturer or necessary to keep solids from exiting through the drain) is maintained and open to inspection by the Director during normal business hours.
- (4) The system has no direct discharge pipe to the sewer on the bottom of the sedimentation tank.

An owner or operator whose facility meets conditions (1) through (4) may apply for this exemption by written letter to the Director. The Director or designee will review the system and, if the exemption is approved, shall provide a written letter of exemption.

An exemption obtained pursuant to this subsection (c) shall expire upon installation of a new vacuum system. Upon expiration of the exemption, the facility shall comply with subsection (b) of this section before commencing further operation.

- d. Dental dischargers that exclusively practice one or more of the following specialties are not subject to the requirements of this section: (1) Orthodontics; (2) Periodontics; (3) Oral and maxillofacial surgery; (4) Radiology; (5) Oral pathology or oral medicine; (6) Endodontistry and prosthodontistry.
- e. Dental practices that do not place dental amalgam, and do not remove amalgam except in limited emergency or unplanned, unanticipated circumstances, are exempt from the requirements of this part, provided the dental practice:

- (1) Submits the following statement to ECUA, signed by a responsible corporate officer, general partner, proprietor, or a duly authorized representative by the applicable compliance date:

"This facility is a dental discharger subject to this rule and does not place or remove dental amalgam except in limited emergency or unplanned, unanticipated circumstances. I am a responsible corporate officer, a general partner or proprietor (if the facility is a partnership or sole proprietorship), or a duly authorized representative in accordance with the requirements of § 403.12(l) of the above named dental facility, and 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.”

(2) Removes dental amalgam for limited emergency or unplanned, unanticipated circumstances, no more than 5% of dental procedures per year,

(3) The dental practice notifies ECUA of any changes affecting the applicability of this certification.

f. Disposal of hauled waste from dental facilities to the sanitary sewer is prohibited in accordance with Section 26-2.A.16.

g. Dental dischargers that fail to comply with this section may be considered significant industrial users, and may be subject to the requirements herein, including the compliance monitoring, reporting requirements, and enforcement remedies identified in ECUA Code Chapter 26.

*C. State and federal requirements.*

The most stringent of federal, state, or ECUA requirements and limitations on discharges shall be applicable.

*D. Categorical pretreatment standards.*

The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Part 405-471 are hereby incorporated in this document.

1. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Director may impose equivalent concentration or mass limits in accordance with 40 CFR § 403.6(c).
2. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Director shall impose an alternate limit using the combined waste stream formula in 40 CFR § 403.6(e).
3. A User may obtain a variance from a categorical pretreatment standard if the User can prove, pursuant to the procedural and substantive provisions of 40

CFR § 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

4. A User may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR § 403.15.
5. Upon the promulgation of a categorical pretreatment standard for a particular industrial subcategory, the categorical standard, if more stringent than limitations imposed under this chapter for sources in that subcategory, shall immediately supersede the limitations imposed under this chapter. The Director shall notify all affected users of the applicable reporting requirements under Rule 62-625.600, F.A.C.

*E. Right of revision.*

ECUA reserves the right to establish by resolution more stringent limitations or requirements on discharges to the WWF if deemed necessary to comply with the objectives presented in subsection 26-1A. of this chapter.

*F. Excessive discharge.*

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 national categorical pretreatment standards, or any other pollutant-specific limitations developed by ECUA or the State.

*G. New sewers and connections.*

All new sewers and connections to the wastewater system shall be properly designed and constructed according to standards established by ECUA, FDEP, or EPA, whichever are applicable.

*H. Regulation of waste received from other jurisdictions.*

No wastewater utility, including any governmental entity operating a wastewater collection system, located outside the ECUA service area shall discharge, or cause or permit to be discharged, wastewater into any ECUA wastewater facility without the approval of the Director. The Director may enter into an interlocal agreement with the wastewater utility. Such interlocal agreement shall contain the following conditions:

1. Limits on the nature and volume of the discharge at the point of discharge to the ECUA WWF;

2. Requirements for monitoring the discharge;
3. A requirement for the utility to submit annually an updated inventory of all users discharging to the utility;
4. A provision specifying that all users comply with the terms and conditions of this chapter, that ECUA be given the authority to issue an industrial discharge permit to any industrial user served by such utility, and that industrial discharge permit issuance, inspection, sampling, and compliance enforcement will be the responsibility of ECUA in accordance with this chapter; and
5. A provision specifying remedies available for breach of the terms and conditions of the interlocal agreement.

*I. Wastewater Analysis*

When requested by the Director, a User must submit information on the nature and characteristics of its wastewater within 60 days of the request. The Director is authorized to prepare a form for this purpose and may periodically require Users to update this information.

**Sec. 26-3. Regulations pertaining to industrial dischargers.**

*A. Wastewater system users.*

It shall be a violation of this chapter to discharge any wastewater to an ECUA wastewater facility except as authorized by the Director in accordance with the provisions of this chapter.

1. Any source of industrial wastewater as defined in subsection 26-1.B.41 may be required by the Director to submit to ECUA one or more of the reports prescribed by section 26-3.
2. The Director may require any person discharging into an ECUA wastewater facility to provide any of the following additional measures:
  - a. Restriction of discharge during peak flow periods, designation that certain wastewater be discharged only into specific sewers, relocation and/or consolidation of points of discharge, separation of sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the WWF and determine the User's compliance with the requirements of this chapter;

- b. Installation and maintenance, on the User's property and at the User's expense, of a suitable storage and flow-control facility to ensure equalization of flow. An industrial discharge permit may be issued solely for flow equalization;
- c. Installation and maintenance, on the User's property and at the User's expense, of grease, oil, and sand interceptors when necessary for the proper handling of wastewater containing excessive amounts of grease, oil, or sand. Such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by ECUA and shall be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly as needed, by the User at the User's expense; and/or
- d. Any other additional pretreatment measures that may be necessary to prevent interference or pass-through or any discharge having the potential to adversely affect the WWF or endanger worker health and safety.

***B. Industrial discharge permits.***

1. *Permit required.* No person shall discharge, or cause or permit to be discharged, industrial wastewater into any ECUA wastewater facility without the approval of the Director. The Director may require that an industrial discharge permit be obtained by a User whose discharge ECUA may wish to control. These include, but are not limited to, significant industrial users, groundwater remediation facilities, and surface water collection systems installed for the purpose of preventing storm water contamination.

Any violation of the terms and conditions of an industrial discharge permit shall be deemed a violation of this chapter and shall subject the permittee to the sanctions set out in section 26-4. Obtaining an industrial discharge permit does not relieve the permittee of the obligation to comply with all federal, state, and local pretreatment standards or requirements or with any other requirements of federal, state, and local law.

2. *Permit application.* Applications for industrial discharge permits shall be completed and filed with the Director in the form prescribed by ECUA. Within ninety (90) days of receipt of a completed industrial discharge permit application the Director will determine whether or not to issue an industrial discharge permit. The Director may deny an application for an industrial discharge permit. Existing significant industrial users who have not obtained an industrial discharge permit from ECUA shall apply for an industrial discharge permit within thirty (30) days after the effective date of this chapter.

Proposed new users shall apply at least thirty (30) days prior to connecting to or discharging industrial wastewater to the WWF. In support of the application, the applicant shall submit the following information:

- a. All information required by subsection 26-3.E.1.b.(1) through (7);
  - b. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, sewer connections, and appurtenances by size, location, and elevation;
  - c. Any other information as may be deemed by the Director to be necessary to evaluate the permit application; and
  - d. Application fee, as established by resolution of the ECUA Board.
3. *Signatory and certification requirements.* Each industrial discharge permit application and industrial user report shall contain the following certification statement and shall be signed by an authorized representative of the User:
- "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 gathered and evaluated the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."
4. *Permit conditions.* Industrial discharge permits shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges, and fees established by ECUA.

- a. Each industrial discharge permit shall contain the following:
  - (1)The duration of the permit, which shall not exceed 5 years;
  - (2)A statement that the permit shall be nontransferable without prior notification to and approval by the Director, and shall provide for furnishing the new owner or operator with a copy of the existing permit;



- (3) Discharge limits, including Best Management Practices, applicable to the User, which shall be based on applicable pretreatment standards established by federal, state, and local law, rule, and regulation;
  - (4) Self-monitoring, sampling, reporting, notification, and recordkeeping requirements, which shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law;
  - (5) A statement of applicable civil, criminal, and administrative penalties for violation of pretreatment standards and requirements; and
  - (6) Requirements to control Slug Discharge, if determined by the Director to be necessary.
- b. Permits may contain the following:
- (1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a WWF;
  - (2) Limits on the average and maximum wastewater constituents and characteristics; although these limits will normally be concentrations, mass limits may be applied where appropriate;
  - (3) Limits on average and maximum rate and time of discharge or requirements for flow regulation and equalization;
  - (4) 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;
  - (5) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
  - (6) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the WWF;
  - (7) Requirements for installation and maintenance of inspection and sampling facilities;
  - (8) Compliance schedules which shall contain increments of progress 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 may include hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, beginning and conducting routine operation). No increment of progress shall exceed nine (9) months;

- (9) Requirements for notice to ECUA of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the WWF;
  - (10) Requirements for notification of slug discharges;
  - (11) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit;
  - (12) Monitoring, and or fees for special monitoring of ECUA's wastewater or collection system; and other conditions deemed appropriate by the Director to ensure with these regulations compliance.
5. *Wastewater Discharge Permit Appeal.* The Director shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the User, may petition the director to reconsider the terms of a wastewater discharge permit within sixty (60) days of the notice of the issuance.
- a. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
  - b. In the petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reason for the objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
  - c. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
  - d. If the Director fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater

discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

- e. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the appropriate court having jurisdiction over matters in Escambia County, Florida within the timeframe established by applicable law.

6. *Reporting requirements for permittees.*

a. *Periodic compliance reports.*

- (1) Each permitted industrial user shall, at a frequency to be determined by the Director, but in no case less frequently than twice per year, submit a self-monitoring 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. All periodic compliance reports shall be signed and certified in accordance with subsection 26-3.B.3.
- (2) The periodic compliance reports prescribed by subsection 26-3.B.5.a. shall be based upon data obtained through sampling and analysis performed during the period of time covered by the report. All wastewater samples shall 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.
- (3) If an industrial user subject to the reporting requirement prescribed by this subsection monitors any pollutant more frequently than required by ECUA using the procedures prescribed in subsection 26-3.E.6., the results of such monitoring shall be included in the report.
- (4) If sampling performed by a User indicates a violation of discharge limitations, the User shall notify the Director within twenty-four (24) hours of becoming aware of the violation, repeat the sampling and analysis, and submit the results of the repeat analysis to the Director within thirty (30) days after becoming

aware of the violation. The User is not required to resample if ECUA performs sampling between the User's initial sampling and the receipt by the User of the results of this sampling.

- b. *Compliance schedule progress report.* If an industrial discharge permit includes a compliance schedule in accordance with subsection 26-3.B.4.b.(8), the User shall submit a progress report to the Director 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. In no event shall more than nine (9) months elapse between submission of such progress reports.
  - c. *Report on compliance with categorical pretreatment standard deadline.*
    - (1) Within ninety (90) days following the date for final compliance with applicable categorical standards or, in the case of a new source, following commencement of the introduction of wastewater into the WWF, any User subject to such pretreatment standards and requirements shall submit to the Director a report containing the information prescribed in subsection 26-3.E.1.b.(6) through (7).
    - (2) For Users subject to equivalent mass or concentration limits established in accordance with 62-625.410(4), F.A.C., this report shall contain a reasonable measure of the User's long-term production rate.
    - (3) For all other Users subject to categorical 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.
    - (4) All compliance reports shall be signed and certified in accordance with subsection 26-3.B.3.
7. *Permit renewal.* The User shall submit an industrial discharge permit renewal application not less than ninety (90) days prior to expiration. The application shall include the information listed in subsection 26-3.E.1.b.(1) through (7) and shall be accompanied by all applicable fees.
8. *Permit modifications.* The Director may modify an industrial discharge permit for good cause, including, but not limited to, the following reasons:

- a. To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
- b. To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of industrial discharge permit issuance;
- c. A change in the WWF that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- d. Information indicating that the permitted discharge poses a threat to the WWF, ECUA personnel, or the receiving waters;
- e. Violations of any terms or conditions of the industrial discharge permit;
- f. Misrepresentations or failure to fully disclose all relevant facts in the industrial discharge permit application or any required reports;
- g. Revision of, or a grant of variance from, categorical standards pursuant to Rule 62-625.700, F.A.C.;
- h. To correct typographical or other errors in the industrial discharge permit; or
- i. To reflect a transfer of the facility ownership or operation to a new owner or operator.

Within one hundred eighty (180) days from the promulgation of a categorical standard, the industrial discharge permit of each User subject to such standard shall be revised to require compliance with such standard within the time frame prescribed by such standard. In the event a User subject to a categorical standard had not previously submitted an application for an industrial discharge permit as required by subsection 26-3.B.1., the User shall apply for an industrial discharge permit within one hundred eighty (180) days after the promulgation of the applicable categorical standard. In addition, each User with an existing industrial discharge permit shall submit to the Director within one hundred eighty (180) days after the promulgation of an applicable categorical standard information required by subsection 26-3.E.1.b.(6) and (7).

9. *Permit transfer.* An industrial discharge permit shall be issued to a specific user for a specific operation. An industrial discharge permit shall not be reassigned, transferred, or sold to a new owner, new user, different premises, or a new or changed operation without the approval of the Director. Any succeeding owner or user shall also comply with the terms and conditions of any existing

permit so transferred. A permit transfer cannot occur unless a notice stating that the new owner and/or operator has no immediate intent to change the facility's operations and processes and identifies the specific date for which the transfer will occur.

10. *Pretreatment of wastewater.* Users shall provide wastewater treatment as may be necessary to comply with this chapter and shall achieve compliance with any applicable pretreatment standards within the time limitations specified by the pretreatment standard.

- a. Any facility required to pretreat wastewater shall be provided, operated, and maintained at the User's expense.
- b. Detailed plans showing a proposed pretreatment facility and operating procedures shall be submitted to the Director for review and shall be approved by the Director before construction of the facility.
- c. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying the facility as necessary to produce an effluent which complies with the provisions of this chapter, as it may be amended from time to time.
- d. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the Director prior to the User's initiation of changes. All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or FDEP upon request.

*C. Contaminated groundwater discharge permits.*

The owner of any facility discharging contaminated groundwater into an ECUA wastewater facility shall obtain a groundwater discharge permit. Permit application, duration, terms and conditions, reporting requirements, and compliance monitoring shall be as those listed for industrial discharge permits in subsection 26-3B.

1. ECUA will accept for treatment contaminated groundwater containing only benzene, toluene, ethyl benzene, xylene, or other pollutants which the Director determines to be treatable. ECUA may require chronic toxicity tests at appropriate dilutions to ensure the contaminated groundwater concentrations are not toxic to the WWF's effluent. ECUA may at any time and at its sole discretion require a customer to cease or reduce discharge to the WWF if for any reason the Director determines that the discharge has the potential to adversely affect the WWF.

2. Discharge of contaminated groundwater shall be subject to all user charges and fees established by resolution by the ECUA Board, including a surcharge in addition to the minimum charge and volume charge for wastewater service. In the event a capacity impact fee is not paid for the discharge of contaminated groundwater, capacity is not guaranteed, and the Director may at any time and at his or her sole discretion require a customer to cease or reduce discharge to the WWF if for any reason ECUA determines that sufficient wastewater system capacity is not available to meet demands for service.
3. In the event that the discharge of contaminated groundwater to a sanitary sewer ceases permanently or is interrupted for a period of thirty (30) days, the User shall notify the Director within sixty (60) days of the cessation of discharge.

*D. Prevention of accidental discharges.*

Each User shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter.

1. *Facilities to prevent accidental discharge.* Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the User's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the Director for review and shall be approved by the Director before construction of the facility.
2. *Accidental discharge control plans.* At least once every two (2) years, the Director shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The Director may require any User to develop, submit for approval, and implement such a plan. The Director may develop such a plan for any User.
  - a. An accidental discharge control plan shall address at a minimum the following:
    - (1) Description of discharge practices, including non-routine batch discharges;
    - (2) Description of stored chemicals and containment areas;
    - (3) Procedures for immediately notifying ECUA of any accidental or slug discharge and procedures for follow-up written notification within five (5) days as prescribed by subsection 26-3.E.4; and

- (4) Procedures to prevent adverse impact from any accidental or slug discharge.
  - (5) Such procedures may 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.
- b. Review and approval of such plans and operating procedures shall not relieve the User of the responsibility to modify the User's facility as necessary to meet the requirements of this chapter.
  - c. Each industrial user shall permanently post on a bulletin board or other prominent place a notice advising employees whom to call in the event of an accidental discharge. Employers shall ensure that all employees who may cause or allow an accidental discharge to occur are advised of the emergency notification procedure.

*E. Reporting requirements for all industrial users.*

Any source of industrial wastewater as defined in subsection 26-1.B.41 may be required by the Director to submit one or more of the following reports:

*1. Baseline monitoring reports.*

- a. Submission of a baseline monitoring report shall be required in the following circumstances:
  - (1) If required to do so by the Director, the User shall submit a baseline monitoring report which contains the information listed in subsection 26-3.E.1.b.(1) through (7), below.
  - (2) Within one hundred eighty (180) days after the effective date of an applicable categorical standard or one hundred eighty (180) days after the final administrative decision by FDEP on a category determination under Rule 62-625.410(2), F.A.C., whichever is later, an existing source subject to such categorical standard and currently discharging to or scheduled to discharge to the WWF shall submit to the Director a report which contains the information listed in subsection 26-3.E.1.b.(1) through (7) below.



- (3) At least ninety (90) days prior to commencement of discharge, a new source as defined in subsection 26-1.B.47 subject to such categorical standard or an existing source that becomes a categorical industrial user subsequent to the promulgation of an applicable categorical standard shall submit to the Director a report which contains the information listed in subsection 26-3.E.1.b.(1) through (6), below. New sources shall provide estimates of the information required by subsection 26-3.E.1.b.(5) and (6) below.
- b. Each baseline monitoring report shall contain the following information:
- (1) The name, address, and location, if different from the mailing address, of the facility including the name of the operator and owner;
  - (2) Number of employees, hours of operation, and years in business;
  - (3) A list of environmental control permits held by or for the facility;
  - (4) 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 shall include a list of all raw materials and chemicals used or stored at the facility and a schematic process diagram which indicates points of discharge to the WWF from the regulated processes.
  - (5) The measured average daily and maximum daily flow, in gallons per day, to the WWF from regulated process streams and other streams as necessary to allow use of the combined waste stream formula set out in Rule 62-625.410(6), F.A.C.
  - (6) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by a categorical standard or by ECUA, of regulated pollutants in the discharge from each regulated process. Both daily maximum and long-term average concentrations and mass, where required, shall be reported. The sample shall be representative of daily operations and shall be collected and analyzed in accordance with procedures set out in subsection 26-3.E.6.
  - (7) A statement indicating whether pretreatment standards are being met on a consistent basis and, if not, whether an enhanced operation and maintenance program and/or additional

pretreatment is required to meet the pretreatment standards and requirements. If an enhanced operation and maintenance program and/or additional pretreatment will be required to meet the pretreatment standards, the User shall provide a schedule for implementation. The completion date in this schedule shall not be later than the compliance date established for any applicable pretreatment standard. A compliance schedule pursuant to this subsection shall meet the requirements set out in subsection 26-3.B.4.b.(5).

- c. Baseline monitoring reports must be signed and certified in accordance with subsection 26-3.B.3.
- 2. *Reports from non-significant industrial users.* All Users not subject to the requirements of an industrial discharge permit shall provide appropriate reports to ECUA as the Director may require.
- 3. *Report of changed conditions.*
  - a. Each industrial user shall notify the Director of any planned significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least thirty (30) days before the change.
  - b. The Director may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of an industrial discharge permit application, based upon which the Director may issue an industrial discharge permit or modify an existing industrial discharge permit.
  - c. For purposes of this requirement, flow increases of twenty (20) percent or greater, and the discharge of any previously unreported pollutants, shall be deemed significant.
- 4. *Reports of discharges which may cause potential problems.*
  - a. In the case of any discharge that may cause potential problems for the WWF, including, but not limited to, an accidental discharge, a discharge of a non-routine, episodic nature, a non-customary batch discharge, or a slug discharge, the User shall immediately notify the Director of the incident. This notification shall include the location of discharge, type of waste, concentration and volume, if known, and any corrective actions taken by the User.

- b. Within five (5) days following such discharge, unless waived by the Director, the User shall submit a detailed written report describing the cause of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the WWF, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties, or other liability which may be imposed by this chapter or other applicable law.
- c. Significant Industrial Users are required to notify the Director immediately of any changes at its facility affecting the potential for a slug discharge.
- d. Each failure to notify the Director of potential problem discharge shall be deemed a separate violation of this chapter.

5. *Notification of the discharge of hazardous waste.*

- a. Any User shall notify ECUA and the FDEP hazardous waste and pretreatment authorities and the EPA regional Waste Management Division Director, in writing of any discharge into the WWF of a substance which, if otherwise disposed of, would be a hazardous waste under Rule 62-730, F.A.C. Such notification shall include the name of the hazardous waste, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the User discharges more than one hundred (100) kilograms of such waste per calendar month to the WWF, the notification shall also contain the following information to the extent such information is known and reasonably available to the User: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months. Notification shall take place no later than one hundred eighty (180) days after the discharge commences. Any notification under this subparagraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges shall be submitted in accordance with subsection 26-3.E.3. The notification requirement prescribed by this subsection does not apply to pollutants already reported under the self-monitoring requirements of subsection 26-3.B.5.a.

- b. Dischargers are exempt from the requirements of subparagraph 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 Rule 62-730, F.A.C. 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 Rule 62-730, F.A.C., requires a one-time notification. Subsequent months during which the industrial user discharges more than such quantities of any hazardous waste do not require additional notification.
  - c. In the case of any new Section 3001 RCRA regulations or FDEP regulations identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the industrial user shall notify ECUA and FDEP hazardous waste and pretreatment authorities, and the EPA Regional Waste Management Waste Division Director, 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 subsection, the industrial user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
  - e. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this ordinance, a permit issued thereunder, or any applicable Federal or State law.
6. *Requirements for sampling and analysis.* All pollutant analyses, including sampling techniques, to be submitted as part of an industrial discharge permit application or report shall comply with Rule 62-160, F.A.C. and shall be performed in accordance with Rule 62-625.600(1)(e), F.A.C.
- a. Except as indicated in subparagraphs b. and c. below, the User shall collect wastewater samples using 24-hour flow proportional composite sampling techniques, unless time proportional composite sampling or grab sampling is authorized by the Director. Where time proportional composite sampling or grab sampling is authorized by ECUA, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples

for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by ECUA, as appropriate. In addition, grab samples may be required to show compliance with instantaneous Limits.

- b. Samples for analysis of pH, cyanide, total phenol, oil and grease, sulfide, volatile organics, temperature, dissolved oxygen, chlorine residual, un-ionized ammonia, microbiology, specific conductance, dissolved constituents (e.g., orthophosphate), and toxicity must be collected using grab sampling techniques. Grab samples may be required to show compliance with instantaneous maximum allowable discharge limits.
  - c. For sampling required in support of baseline monitoring and 90-day compliance reports required in section 26-3.E, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Director may authorize a lower minimum. For the reports required by section 26-3.B.6, the Industrial User is required to collect the number of grab samples necessary to assess and ensure compliance with applicable Pretreatment Standards and Requirements.
7. *Submittal date.* Written reports shall be deemed to have been submitted on the date postmarked or sent.
8. *Record keeping.* Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with Best Management Practices. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or ECUA, or where the User has been specifically notified of a longer retention period by ECUA.
9. *Confidential information.* In accordance with Chapter 119, F.S., all information and documents submitted to ECUA are considered to be public information, and as such are available to the public for reading and copying. However, any

information submitted to ECUA in accordance with this chapter and exempt from disclosure by Section 403.111, F.S., may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission by stamping the words "confidential business information" on each page containing such information. If no claim is made at the time of submission, ECUA shall make the information available to the public without further notice. If a claim is asserted, the information will be treated in accordance with the procedures set forth in Section 403.111, F.S. Pursuant to Rule 62-625.800(2), F.A.C., effluent information and data provided to ECUA in accordance with this chapter shall be available to the public without restriction.

*F. Compliance monitoring.*

1. *Monitoring facilities.* ECUA may require monitoring facilities to allow inspection, sampling, and flow measurement of the wastewater at a suitable point in the sewer which conveys such wastewater from the User's premises into the WWF. Monitoring facilities shall be provided and operated at the User's expense.
  - a. The monitoring facility should normally be situated on the User's premises, but the Director may, when such a location would be impractical or cause undue hardship on the User, allow the facility to be constructed in the public street or sidewalk area (subject to the approval of the governmental body having jurisdiction over such public street or sidewalk area) and located so that it will not be obstructed by landscaping or parked vehicles.
  - b. There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the User's expense.
  - c. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with ECUA requirements and all applicable local construction standards and specifications. Construction shall be completed within three (3) months following written notification by ECUA.
2. *Inspection and sampling.* ECUA may inspect the facilities of any User to ascertain whether the purpose of these regulations is being met and whether the User is in compliance with all the requirements of this chapter.

- a. Owners or occupants of premises where wastewater is created or discharged shall allow ECUA or its representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination, and photocopying, or in the performance of any of their duties.
- b. ECUA, FDEP, and EPA shall have the right to install on the User's property such devices as may be necessary to conduct sampling, compliance monitoring, and/or metering operations.
- c. Where a User has security measures in force which would require proper identification and clearance before entry into their premises, the User shall make necessary arrangements with its security guards so that upon presentation of suitable identification, personnel from ECUA, FDEP, and EPA will be permitted to enter, without delay, for the purpose of performing their specific responsibilities.
- d. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and /or sampled shall be promptly removed by the User at the written or verbal request of the Director and shall not be replaced. The cost of clearing such access shall be borne by the User.
- e. Unreasonable delays in allowing the Director, or his or her designee access to the User's premises shall be a violation of this ordinance.
- f. If ECUA or its representatives have been refused access to a building, structure, property, or any part thereof, other than an owner-occupied family residence, and are able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as a part of a routine sampling program to verify compliance with this chapter or any permit or order issued hereunder , or to protect public health and safety, the Director may apply to a court of competent jurisdiction for the issuance of an inspection warrant in accordance with Section 933.20, F.S., et seq.

**Sec. 26-4. Enforcement measures.**

*A. Administrative enforcement measures.*

- 1. *Notice of violation.* Whenever the Director finds that, during the previous twelve (12) months that any User has violated or is violating any provision of this chapter, any condition of an industrial discharge permit, or any order issued pursuant to this chapter, the Director may serve upon such user a written Notice of Violation, stating the nature of the violation. Within thirty

(30) days of the date of the notice, the User shall submit to the Director an explanation of the violation and a plan for satisfactory correction and prevention thereof, which shall include specific required actions, and which shall be subject to approval of the Director. Submission of this plan shall in no way relieve the User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Director to take any other action without first issuing a Notice of Violation.

2. *Wastewater Discharge Permit Revocation.* The Director may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:
  - a. Failure to notify the Director of significant changes to the wastewater prior to the changed discharge;
  - b. Failure to provide prior notification to the Director of changed conditions pursuant to Section 26-3.E.3 of this ordinance;
  - c. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
  - d. Falsifying self-monitoring reports;
  - e. Tampering with monitoring equipment;
  - f. Refusing to allow the Director timely access to the facility premises and records;
  - g. Failure to meet effluent limitations;
  - h. Failure to pay fines;
  - i. Failure to pay sewer charges;
  - j. Failure to meet compliance schedules;
  - k. Failure to complete a wastewater discharge permit application;
  - l. Failure to provide advance notice of the transfer of a business ownership of a permitted facility; or



- m. Violation of any pretreatment standard or requirement or any terms of the wastewater discharge permit or this ordinance.
3. *Notice to show cause.* When the Director finds that a User has violated or continue to violate, any provision of this chapter, an industrial discharge permit, or any order issued hereunder, or any other pretreatment standard or requirement, the Director may require the User to attend a show cause hearing.
- a. Notice of this hearing 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 requirement that the User show cause why the proposed enforcement action should not be taken. The notice shall be hand delivered or served by registered or certified mail at least fourteen (14) days prior to the hearing and shall be served on any authorized representative of the User. Attendance by the User is mandatory, and failure to comply with such notice may result in the implementation of such other remedies as are provided by this chapter. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.
  - b. The Director, with assistance from the ECUA Attorney, shall chair the show cause hearing. Testimony taken shall be under oath and recorded stenographically.
  - c. After conducting the hearing, the Director may recommend that the ECUA Board impose administrative fines pursuant to subsection 26-4.A.4 below and issue such further orders and directives as may be appropriate.
4. *Administrative fines.* When ECUA finds that a User has violated, or continues to violate, any provision of this chapter, an industrial discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, ECUA may fine such User not less than one thousand dollars (\$ 1,0 0 0 .0 0) for each offense. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, ECUA may recover reasonable attorneys' fees, court reporters' fees, expert witness fees, and other expenses of litigation by appropriate legal proceedings against the User.
5. *Consent orders.* When the Director finds that a User has violated, or continues to violate, any provision of this chapter, an industrial discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Director may enter into consent orders, assurances of voluntary

compliance, or similar agreements with the User responsible for the discharge. Any such agreement shall include specific action to be taken by the User to correct the violation within a time period specified by the agreement.

6. *Compliance orders.* When the Director finds that a User has violated, or continues to violate, any provision of this chapter, an industrial discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Director may issue an order to the User responsible for the discharge directing that the User come into compliance within a specified time. If the User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders may also contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the WWF. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor shall a compliance order relieve the User of liability for any violation, including a continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking other action against the User.
7. *Cease and desist orders.* When the Director finds that a User has violated, or continues to violate, any provision of this chapter, an industrial discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, or that the User's past violations are likely to recur, the Director may issue an order to the User directing that the User cease and desist all such violations and directing the User to:
  - a. Immediately comply with all requirements of this chapter and any permit or order issued under this chapter; and
  - b. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

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

8. *Revocation of permit.* When the Director finds that a User has violated, or continues to violate, any provision of this chapter, an industrial discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Director may revoke the User's industrial discharge permit.

9. *Termination of discharge.* In addition to the provisions in Section 26-4.A.2 of this ordinance, any User who violates the following conditions is subject to discharge termination:

- a. Violation of wastewater discharge permit conditions;
- b. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- c. Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;
- d. Refusal of reasonable access to the User 's premises for the purpose of inspection, monitoring, or sampling, or
- e. Violation of the pretreatment standards in Section 26-2 and subsection 26-3.B.10 of this ordinance. Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under subsection 26-4.A.3 of this ordinance why the proposed action should not be taken.

Exercise of this option by the Director shall not be a bar to, or a prerequisite for, any other action against the User.

10. *Emergency Suspensions,* The Director may suspend the wastewater treatment service and/or industrial discharge permit when such suspension is necessary, in the opinion of the Director, in order to stop an actual or threatened discharge which fails to comply with permit limits or presents or is likely to present an imminent or substantial danger to the health or welfare of persons or to the environment, which causes or is likely to cause interference to the WWF, or which causes or is likely to cause ECUA to violate any condition of its NPDES permit.

- a. Any person notified of a suspension of the wastewater treatment service and / or industrial discharge permit shall immediately stop or eliminate the discharge.
- b. In the event of a failure of the User to comply voluntarily with the suspension order, the Director shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the WWF or endangerment to any individual.

- c. The Director may reinstate the industrial discharge permit and/or the wastewater treatment service upon proof of the elimination of the non-complying discharge.
- d. A detailed written statement submitted by the User describing the cause for the termination of service and the measures taken to prevent any future occurrences shall be submitted to the Director within five (5) business days of the date of occurrence in accordance with subsection 26-3.E.4.b.

*B. Judicial enforcement measures.*

When ECUA finds that a User has violated, or continues to violate, any provision of this chapter, an industrial discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the director may petition a court of competent jurisdiction, through ECUA's Attorney, for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this ordinance on activities of the User. The Director may seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against or a prerequisite for, taking any other action against a User. ECUA may commence an action for appropriate legal and/or equitable relief, and it may request the state attorney to initiate appropriate enforcement proceedings.

*1. Civil Penalties*

- a. A User who has violated or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to ECUA for a minimum civil penalty of \$1,000 per violation per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
- b. The Director may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by ECUA.
- 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, and 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.

## *2. Criminal Prosecution*

- a. A User who willfully or negligently violates any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not less than \$1,000 per violation, per day, or imprisonment for not more than 60 days, or both.
- b. A User who willfully or negligently introduces any substance into the publicly owned treatment works or WWF which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of a minimum of \$1,000 or be subject to imprisonment for not more than 60 days, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.
- c. A User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan or other documentation filed, or required to be maintained, pursuant to this ordinance, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance shall, upon conviction, be punished by a fine of not less than \$1,000 per violation, per day, or imprisonment for not more than one year, or both.

## *C. Publication of users in significant noncompliance.*

ECUA shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by ECUA, a list of users which, at any time during the previous twelve (12) months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The term Significant Noncompliance shall be applicable to all Significant Industrial Users (or any other Industrial User that violates Paragraphs (3), (4) or (8) of this Section) and shall mean:

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

Instantaneous Limits as defined in Section 26-2;

2. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of wastewater measurements taken for each pollutant parameter during a six-(6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Section 26-2 multiplied by the applicable criteria (1.4 for CBOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
3. Any other violation of a Pretreatment Standard or Requirement as defined by Section 26-2 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Director determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of WWF personnel or the general public;
4. Any discharge of a pollutant that has resulted in imminent endangerment to the public or to the environment, or has caused ECUA's exercise of its emergency authority to halt or prevent such a discharge;
5. Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in an industrial discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
6. Failure to provide, within forty-five (45) days after the due date, any required reports, such as baseline monitoring reports, reports on compliance with categorical standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
7. Failure to accurately report noncompliance; or
8. Any other violation(s), which may include a violation of Best Management Practices, which the Director determines will adversely affect the operation or implementation of the local pretreatment program.

*D. Remedies nonexclusive.*

The remedies provided for in this chapter are not exclusive. ECUA may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the ECUA enforcement response plan. However, ECUA is empowered to take more than one enforcement action against any noncompliant user.

*E. Wastewater Discharge Permit Appeals*

The Director shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the User, may petition the Director to reconsider the terms of a wastewater discharge permit within thirty (30) days of notice of its issuance.

**Sec. 26-5. Affirmative defenses.**

*A. Upset.*

An upset as defined in subsection 26-1.B.73 shall constitute an affirmative defense to an action brought for noncompliance with pretreatment standards if the following requirements are met:

1. A User who wishes to establish the affirmative defense of upset shall demonstrate through properly signed, contemporaneous logs or other relevant evidence that:
  - a. An upset occurred and the User can identify the cause of the upset;
  - b. The facility was at the time being operated in a prudent manner and in compliance with applicable operation and maintenance procedures; and
  - c. The User has submitted to the Director the following information within twenty-four (24) hours of becoming aware of the upset:
    - (1) A description of the discharge and cause of noncompliance;
    - (2) The duration of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
    - (3) A plan to reduce, eliminate, and prevent recurrence of the noncompliance.
2. In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof.
3. A User may assert an affirmative defense of upset only in an enforcement action brought for noncompliance with pretreatment standards.

4. 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.

*B. Prohibited discharge standards.*

A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in subsection 26-2.A.3 through 14 or the specific pollutant limitations in subsection 26-2.B of this chapter if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

1. A specific pollutant limitation 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 specific pollutant limitation exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when the ECUA wastewater facility was regularly in compliance with its NPDES permit and, in the case of interference, was in compliance with applicable sludge use or disposal requirements.

*C. Bypass.*

A User may allow to occur any bypass as defined in subsection 26-1.B.12 which does not cause pretreatment standards to be violated, but only to allow for essential maintenance to ensure efficient operation of the pretreatment facility. These bypasses are not subject to the provisions of subparagraphs 1 and 2 below.

1. If a User knows in advance of the need for a bypass, it shall provide notification to the Director at least ten (10) days before the date of the bypass, if possible. A User shall provide notification to the Director of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. The Director may require that written notification be submitted within five (5) days of the time the User becomes aware of the bypass. Notification shall include the following:
  - a. A description of the nature of the bypass and its cause;



- b. The duration of the bypass, including exact dates and times; and, if the bypass has not been corrected, the anticipated time the bypass is expected to continue; and
  - c. A plan to reduce, eliminate, and prevent recurrence of the bypass.
- 2. Bypass is prohibited, and the Director may implement enforcement action against a User for a bypass, unless:
  - a. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage as defined in subsection 26-1. B.64;
  - b. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastewater, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup 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 notification as required under subsection 26-5.C.1 of this chapter.
- 3. The Director may approve an anticipated bypass, after consideration of possible adverse effects, if the Director determines that the bypass meets the conditions prescribed in subsection 26-5.C.2.a. through c. of this chapter.

**Sec. 26-6. Provisions not exclusive.**

The requirements contained in this chapter shall be in addition to the requirements of applicable laws, rules and regulations of Federal, State, and local government.

**Sec. 26-7. Severability.**

If any provision, paragraph, word, section, or article of this chapter 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.

**Sec. 26-8. Effective Date.**

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