BOARD OF SUPERVISORS
COUNTY OF NEW KENT
VIRGINIA

O-17-04

At the regular meeting of the Board of Supervisors of the County of New Kent in the Board Room of the County Office Building in New Kent, Virginia, on the 9th day of August, 2004:

Present	Vote
Mark E. Hill	Aye
D. M. "Marty" Sparks	Aye
Stran L. Trout	Aye
W. R. "Ray" Davis, Jr.	Aye
James H. Burrell	Aye

Motion was made by Mr. Sparks, which carried 5:0 to adopt the following ordinance:

AN ORDINANCE TO AMEND
CHAPTER 38 OF THE CODE OF NEW KENT COUNTY
TO REGULATE USERS OF THE WASTEWATER COLLECTION
AND TREATMENT SYSTEMS OF THE PUBLICLY OWNED
TREATMENT WORKS IN THE COUNTY

WHEREAS, the Board of Supervisors wishes to prevent the introduction of pollutants into wastewater systems in the County which may interfere with the operation of the system; and

WHEREAS, the Board wishes to prevent any introduction of pollutants into wastewater systems in the County which may pass through the system untreated and enter into receiving waters or the atmosphere; and

WHEREAS, the Board is interested in protecting the waters of the County and the Commonwealth, the environment, and the citizens of New Kent County; and

WHEREAS, without the immediate adoption of regulations that limit the substances allowed to enter the County's treatment works, the treatment works and the environment are exposed to potential irreparable harm,

NOW THEREFORE BE IT RESOLVED, by the Board of Supervisors of New Kent County that the Code of New Kent County be amended as follows:

ARTICLE VI. PRETREATMENT

DIVISION 1. GENERALLY

Section. 38-248 Purpose and policy.

(a) This article sets forth uniform requirements for direct and indirect users of the waste-water collection and treatment systems of the publicly owned treatment works (POTW) within the county and enables the POTW to comply with all applicable state and federal laws required by the Clean Water Act of 1977, the General Pretreatment Regulations (40 CFR, Part 403), and the Virginia General Pretreatment Regulations for Existing and New Sources of Pollution (9 VAC 25-31-730, et al.)

(b) The objectives of this article are:

(1) To prevent the introduction of pollutants into wastewater systems which will interfere with the operation of the system or contaminate the resulting sludge;

(2) To prevent the introduction of pollutants into wastewater systems which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;

(3) To improve the opportunity to recycle and reclaim wastewaters and sludges from the system.

(c) This article provides for the regulation of direct and indirect users of the wastewater system through the issuance of permits to certain nondomestic users and through enforcement of general requirements for other users, authorizes monitoring and enforcement activities, requires user reporting, and assumes that existing customer's capacity will not be preempted.

(d) This article shall apply to New Kent County and to persons outside this county who are, by contract or agreement with the county users of a POTW. Except as otherwise provided herein, the Director, as defined herein, shall administer, implement, and enforce the provisions of this article.

Section. 38-249 Definitions.

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

Act or the act: The Federal Water Pollution Prevention and Control Act, also known as the Clean Water Act (CWA), as amended, 33 U.S.C. 1251, et seq.

Administrator: The administrator of the U.S. Environmental Protection Agency or his agents or delegates.

Approval authority: The executive director of the Virginia Department of Environmental Quality.

Authorized representative of industrial user: An authorized representative of an industrial user may be:

(1) A principal executive officer of at least the level of vice-president, if the industrial user is a corporation;

(2) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively;

(3) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates; or

(4) The director or highest official appointed or designated to oversee the operation and performance of the government facility, if the industrial user is a federal, state or local governmental facility.

Biochemical oxygen demand (BOD): The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at twenty (20) degrees Centigrade, expressed in terms of weight and concentration (milligrams per liter (mg/i)).

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

Categorical pretreatment standards: Any regulation containing pollutant discharge limitations promulgated by EPA in accordance with § 307 of the Clean Water Act (33 U.S.C. 1317), that apply to specified process wastewaters of particular industrial categories.

Categorical user: A user whose wastewater is regulated by a categorical pretreatment standard.

Compatible pollutant: Biochemical oxygen demand, suspended solids, phosphorus, pH, and fecal coliform bacteria, plus additional pollutants identified in the Virginia Pollutant Discharge Elimination System (VPDES) permit if the serving treatment works was designed to treat such pollutants, and in fact does remove such pollutants to a substantial degree.

Cooling water: The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

Control authority: The term "control authority" shall refer to the "approval authority," defined hereinabove; or the Director of the servicing POTW.

County: New Kent County.

Direct discharge: The discharge of treated or untreated wastewater directly to the waters of the State of Virginia.

Director: The New Kent County Director of Public Works, or his duly authorized designee.

Domestic user: A source of exclusively domestic waste.

Domestic waste: Water-carried wastes normally discharged from sanitary conveniences.

Environmental Protection Agency or EPA: The U.S. Environmental Protection Agency or; where appropriate, the term may also be used as designation for the administrator or other duly authorized official of said agency.

Grab sample: A sample which is taken from a wastestream on a one-time basis with no regard to the flow in the wastestream and without consideration of time.

Holding tank waste: Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

Indirect discharge: The discharge or the introduction of nondomestic pollutants from any source regulated under § 307(b) or (c) of the Act, (33 U.S.C. 1317), into the POTW (including holding tank waste discharged into the system).

Industrial user (IU): A source of nondomestic waste. Any nondomestic source discharging pollutants to a POTW.

Interference: A discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

(1) Inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use, or disposal; and

(2) Therefore is a cause of a violation of any requirement of the POTW's VPDES permit (including an increase in the magnitude or duration of a violation) or prevents sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): § 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recover Act (RCRA)) and including state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research, and Sanctuaries Act.

National Pollutant Discharge Elimination System or NPDES permit: A permit issued pursuant to § 402 of the Act (33 U.S.C. 1342).

National Prohibitive Discharge Standard or prohibitive discharge standard: Any regulation developed under the authority of 307(b) or (c) of the Act and 40 CFR, § 403.5.

New source: A new source shall be as defined in 40 CFR 403.3(k).

Pass through: A discharge which exits the POTW into waters of the United States in quantities or concentrations which, along or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

Person: Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

pH: The negative logarithm (base 10) of the hydrogen ion concentration expressed in moles per litre of solution.

Pollutant: Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

Pollution: The manmade or man-induced alteration of the chemical, physical, biological, and/or radiological integrity of water.

Pretreatment or treatment: The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or other means, except as prohibited by 40 CFR § 403.6(d).

Pretreatment requirements: Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an industrial user.

Publicly owned treatment works (POTW): A treatment works as defined by § 212 of the Act (33 U.S.C. 1292), owned by New Kent County. This definition includes any sewers that convey wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this article, "POTW" shall also include any sewers that convey wastewaters to the POTW from persons outside the county who are, by contract or agreement with the county, users of a POTW. POTW shall also refer to the governing body of a POTW and the authorized agents, officers, and representatives thereof.

POTW treatment plant: That portion of a POTW designed to provide treatment to waste-water.

Shall is mandatory; *may* is permissive.

Significant industrial user: Any user of the POTW wastewater disposal system who is a categorical industrial user or a noncategorical industrial user who:

(1) Has a discharge flow of twenty-five thousand (25,000) gallons or more of nondomestic waste per average work day; or

(2) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW; or

(3) Is found by the POTW, the State Water Control Board or the U.S. Environmental Protection Agency (EPA) to have significant impact, either singly or in combination with other contributing industries, on the wastewater treatment system, the quality of sludge, the system's effluent quality, or air emissions generated by the sludge.

Significant noncompliance: A violation of one (1) or more of the specific criteria listed in 40 CFR 403.8(f)(2)(vii). Any user determined to be in significant noncompliance will be included in the annually published list of users in significant noncompliance.

Slug discharge: Any pollutant (including biochemical oxygen demand) released in a discharge at a flow rate or concentration which will cause a violation of the specific discharge prohibitions in 40 CFR 403.5(b) to 403.12(f).

State: Commonwealth of Virginia.

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

Stormwater: Any flow occurring during or following any form of natural precipitation and resulting therefrom.

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.

Toxic pollutant: Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the administrator of the Environmental Protection Agency under the provision of CWA 307(a) or other acts.

User: Any person who contributes, causes or permits the contribution of wastewater into a POTW.

Wastewater: The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any ground water, surface water, and stormwater that may be present, whether treated or untreated, which is contributed into or permitted to enter a POTW.

Wastewater discharge permit: As set forth in section 38-259 of this article.

Waters of the state: All water on the surface and underground, wholly or partially within or bordering the commonwealth or within its jurisdiction.

Section. 38-250 Abbreviations.

The following abbreviations shall have the designated meanings:

BOD -- Biochemical Oxygen Demand

CFR -- Code of Federal Regulations

CWA -- Clean Water Act

COD -- Chemical Oxygen Demand

DEQ -- Department of Environmental Quality

EPA -- Environmental Protection Agency

1 -- Liter

mg -- Milligrams

mg/l -- Milligrams per Liter

NPDES -- National Pollutant Discharge Elimination System

POTW -- Publicly Owned Treatment Works

SIC -- Standard Industrial Classification

SWDA -- Solid Waste Disposal Act, 42 U.S.C. 6901, et seq.

TSS -- Total Suspended Solids

USC -- United States Code

VPDES -- Virginia Pollution Discharge Elimination System

DIVISION 2. REGULATIONS

Section. 38-251 General discharge prohibitions.

(a) 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 POTW including interference with use or disposal of POTW sludge. These general prohibitions apply to all users of a POTW, whether or not the user is subject to National

Categorical Pretreatment Standards or any other national, state, or local pretreatment standards or requirements. A user shall not contribute the following substances to any POTW:

(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 POTW or the operation of the POTW. At no time, shall the closed cup flashpoint be less than one hundred forty (140) degrees Fahrenheit or sixty (60) degrees Celsius using the test methods specified in 40 CFR 261.21 at the point of discharge into the system (or at any point in the system). Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides.

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

(3) Any wastewater having a pH less than 5.0 or more than 9.0, or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.

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

(5) 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 sewers for maintenance and repair.

(6) Any storm water, surface water, groundwater, roof runoff or subsurface drainage.

(7) Any ceramic glazing with a concentration that exceeds the concentration that is found in normal domestic sewage.

(8) Any lime, calcium sulphate, chlorine products, or other similar sludge with a concentration that exceeds the concentration that is found in normal domestic sewage.

(9) Medical waste, except when specifically authorized by the Director in an industrial wastewater discharge permit.

(10) Detergents, surface-active agents or other substances which may cause excessive foaming in the POTW.

(11) Wastewater that contain perchloroethylene.

(12) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under § 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.

(13) Any substance which will cause the POTW to violate its VPDES permit.

(14) Any wastewater with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.

(15) Any wastewater having a temperature greater than 150 degrees Fahrenheit at its point of discharge into the public system or which will inhibit biological activity in the POTW treatment plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW which exceeds forty (40) degrees Celsius (one hundred four (104) degrees Fahrenheit).

(16) Any pollutants, including oxygen demanding pollutants (BOD, etc.), released at a flow rate or pollutant concentration which causes interference to the POTW. In no case shall a slug load have a flow rate or contain concentration or qualities 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.

(17) 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.

(18) Any wastewater which causes a hazard to human life or creates a public nuisance.

(19) Any wastewater containing petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

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

(21) Any trucked or hauled pollutants except at discharge points designated by the POTW.

(22) Any industrial wastes containing floatable fats, waxes, grease or oils, or which become floatable at the wastewater temperature at the introduction to the treatment plant during the winter season; but in no case, industrial wastewater containing more emulsified oil or grease as set by local limit.

(23) Nonbiodegradable cuttings, commonly called soluble oils, which form a persistent water emulsion, and nonbiodegradable complex carbon compounds.

(24) Except as may be expressly authorized by the Director in writing, any material identified as i.) a hazardous substance pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. 101 (14), et seq., and any regulations promulgated thereunder, ii.) a hazardous waste pursuant to the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901, et seq., and any regulations promulgated thereunder, iii.) a hazardous waste pursuant to the Superfund Amendments and Reauthorization Act (SARA), 42 U.S.C. 1104, et seq., and any regulations promulgated thereunder or iv.) hazardous waste pursuant to 40 CFR part 261.

(25) Sludge screenings, or other residues from the pretreatment of industrial wastes.

(26) Any other water or waste which violates pretreatment standards or regulations when it is discharged.

(27) Any other substance that is prohibited from being discharged under federal regulations.

(b) When the Director determines that a user is contributing to the POTW any of the above-enumerated substances the Director shall:

(1) Advise the user of the impact of the contribution on the POTW; and

(2) Develop effluent limitations for such user; and/or initiate enforcement action in accordance with Division 4 of this article.

(c) No hauler of residential holding tank wastes may discharge into the POTW wastes containing in excess of the following limitations (based on a grab sample) without a valid wastewater discharge permit. Dilution of any wastewater discharge for the purpose of satisfying these requirements will not be permitted.

Biochemical oxygen demand (five-day) 5,000 mg/1
Suspended solids 15,000 mg/1
Total Kjeldahl Nitrogen (expressed as N) 600 mg/1
pH 6—9

Section 38-253 shall apply to holding tank wastes at the option of the Director. Haulers of other than residential waste may not discharge into the POTW any waste that exceeds of local limits for the POTW. All haulers must submit a manifest to the POTW prior to discharging any waste.

(d) A limited affirmative defense is available to the user when both of the following two (2) conditions are satisfied:

(1) The user can demonstrate that it did not know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause pass through or interference; and

(2) the user can demonstrate compliance with local limits designed to prevent pass through and/or interferences directly prior to and during the pass through or interference or, where a local limit has not been developed the user's discharge directly prior to and during the Pass Through or Interference did not change substantially in nature or constituents for the User's prior discharge activity when the POTW was regularly in compliance with the POTW's NPDES permit requirements and, in the case of interference, applicable requirements for sewage sludge use or disposal.

Section. 38-252 Federal Categorical Pretreatment Standards.

The categorical pretreatment standards located in 40 CFR chapter I, subchapter N, parts 405-471, as amended, are hereby incorporated. All significant industrial users subject to a categorical pretreatment standard shall comply with all requirements of such standard, and shall also comply with any additional or more stringent limitations contained in this article.

Compliance with categorical pretreatment standards for existing sources subject to such standards or for existing sources which hereafter become subject to such standards shall be within three (3) years following promulgation of the standards unless a shorter compliance time is specified in the standards. Compliance with national pretreatment standards for new sources shall be required upon promulgation of the standard.

Section. 38-253 Local limits.

(a) All users discharging into the sewer system shall remove all pollutants for which a local limit has been specified by the POTW serving such user to the local limit. Local limits for each POTW may be obtained by contacting the Director. Existing significant industrial users must comply with all local limits within one (1) year from the date such limits are established, except as otherwise provided in Section 38-259(10), and unless interim limits are otherwise imposed by the Director.

(b) Limits for pollutants which do not have specified local limits may also be set on a case-by-case basis and listed in a significant industrial user's permit. Such limits shall be established based on calculations that incorporate sound technical criteria and assumptions, and are designed to prevent pass through, interference, injury to POTW workers, or nuisance. In this case, the significant industrial user shall remove all such pollutants to the limit set forth in the user's permit.

(c) Dilution of any wastewater discharge for the purpose of satisfying these requirements shall be considered a violation of this article.

Section. 38-254 State requirements.

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

Section. 38-255 Right of revision.

The Director reserves the right to establish more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives presented in section 38-248 of this article, and nothing herein or anything done or permitted hereunder shall create any vested rights of any nature in any person or user.

Section. 38-256 Excessive discharge.

No user shall increase the use of process water or, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards, or in any other pollutant-specific limitation developed by the county, service authority, POTW or state.

Section. 38-257 Accidental discharges.

(a) Slug discharge control plan. Each user shall provide protection in accordance with industry standards from accidental discharge including slug discharge of prohibited materials or other substances regulated by this article. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the user's own cost and expense. Should the Director determine that an industrial user is required to develop a slug discharge control plan, such plan shall be submitted to the Director within thirty (30) days of the request and shall include the following:

(1) A description of discharge practices, including nonroutine batch discharges.

(2) A description of stored chemicals.

(3) Procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site 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.

(4) Follow-up practices to limit the adverse effects of a slug discharge on the POTW or the environment.

The Director shall review the slug discharge control plan and shall notify the user if revisions to the plan are required for approval. Such revisions shall be submitted to the Director within fifteen (15) days of the request. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the user's facility as necessary to meet the requirements of this article.

(b) Responsibility to notify. In the case of an accidental discharge, including slug discharge, it is the responsibility of the user to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, description and duration of the accidental discharge, and corrective actions.

(c) Written notice. Within five (5) days following an accidental discharge, including slug discharge, the user shall submit to the Director a detailed written report describing the discharge, the cause of the discharge, the duration of the discharge (including exact dates and times), the anticipated time that the discharge is expected to continue if it has not been corrected, and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, 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 article or other applicable law.

(d) Notice to employees. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

DIVISION 3. ADMINISTRATION

Section. 38-258 Wastewater dischargers.

(a) It shall be unlawful to discharge to the POTW without a valid permit any wastewater except as authorized by the Director in accordance with the provisions of this article.

(b) All users shall notify the Director and obtain approval prior to any change in the volume or nature of the discharge. Notification to the POTW shall be given ninety (90) days prior to the change.

Section. 38-259 Wastewater discharge permits.

(a) General permits. All significant industrial users proposing to connect to or to contribute to the POTW shall obtain a wastewater discharge permit before connecting to or contributing to the POTW.

(b) Permit application. Significant industrial users shall complete and file with the Director an application in the form prescribed by the Director. Existing significant industrial users shall apply for a wastewater discharge permit within ninety (90) days after the effective date of this article, and proposed new significant industrial users shall apply at least ninety (90) days prior to connecting to or contributing to the POTW. In support of the application, the significant industrial user shall submit, in units and terms appropriate for evaluation, the following information:

(1) Name, address and location, (if different from the address);

(2) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;

(3) Wastewater constituents and characteristics including but not limited to those mentioned in section 38-251 of this article as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to § 304(g) of the Act and contained in 40 CFR, Subchapter D, Part 136, as amended;

(4) Time and duration of contribution;

(5) Average daily and peak wastewater flow rates, including daily, monthly and seasonal variations, if any;

(6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation;

(7) Description of activities, facilities and plan processes on the premises including all materials which are or could be discharged;

(8) Where known, the nature and concentration of any pollutants in the discharge which are limited by any applicable POTW, state or federal pretreatment standards, and a statement regarding whether or not the pretreatment standards are being met on a consistent basis and if not, whether additional operation and maintenance and/or additional pretreatment is required for the significant industrial user to meet applicable pretreatment standards;

(9) Certification from a duly licensed engineer that the facility will meet all standards and limits set forth herein;

(10) If additional pretreatment and/or operation and maintenance will be required to meet the pretreatment standards as determined by a duly licensed engineer; the

shortest schedule by which the significant industrial user will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard.

The following conditions shall apply to the schedule required by Section 38-259(b)(10):

a. The schedule 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 significant industrial user to meet the applicable pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.);

b. The schedule shall reflect the minimum reasonable time to complete each increment referred to in subsection (b)(10)a. The Director may require changes in the schedule to meet this requirement;

c. Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the significant industrial user shall submit a progress report to the Director including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the user to return the construction to the schedule established;

(11) Each product produced by type, amount, process or processes and rate of production;

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

(13) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system; and

(14) Any other information as may be deemed by the Director to be necessary to evaluate the permit application.

The Director will evaluate the data furnished by the significant industrial user and may require additional information. After evaluation and acceptance of the data furnished, the Director may issue a wastewater discharge permit subject to terms and conditions provided herein.

(c) *Permit modifications.*

(1) Within ninety (90) days of the promulgation of a National Categorical Pretreatment Standard, the wastewater discharge permit of significant industrial users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a significant industrial user, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for a wastewater

discharge permit as required by section 38-259(b), the significant industrial user shall apply for a wastewater discharge permit within ninety (90) days after the promulgation of the applicable National Categorical Pretreatment Standard. In addition, the significant industrial user with an existing wastewater discharge permit shall submit to the Director within ninety (90) days after the promulgation of an applicable Federal Categorical Pretreatment Standard the information required by subparagraphs (b)(8), (b)(9) and (b)(10) of section 38-259.

(2) Significant industrial users shall notify the director in writing of any increases or changes in the volume of flow or the nature of the pollutants in the industrial waste discharge that is regulated by the permit. The Director may approve the increase or change subject to conditions or the Director may disapprove the increase or change.

(3) The Director may also take immediate action to temporarily modify or suspend a permit when there is an imminent risk of injury to the sewage system, to the health and welfare of the public or to the environment.

(d) *Permit conditions.* Wastewater discharge permits shall be expressly subject to all provisions of this article and all other applicable regulations, user charges and fees established by the POTW, the county, or both of them. Permits shall contain the following:

(1) The unit charge or schedule of user charges and fees for the wastewater to be discharged to a POTW;

(2) Limits on the average and maximum wastewater constituents and characteristics based on applicable general pretreatment standards, categorical standards, local limits, and state and local law;

(3) Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization;

(4) Requirements for installation and maintenance of inspection and sampling facilities;

(5) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;

(6) Compliance schedules;

(7) Requirements for submission of technical reports or discharge reports (see section 38-261);

(8) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the Director, and affording the POTW and service authority access thereto;

(9) Requirements for notification of the POTW of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;

(10) Requirements for notification of slug discharges as required by section 38-257;

(11) Statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and, where required, any applicable compliance schedules;

(12) A statement of duration (not more than five (5) years);

(13) A statement of nontransferability without prior notification to the POTW and provision of a copy of the permit to the new owner or operator; and

(14) Other conditions as deemed appropriate by the Director to ensure compliance with this article, and the accomplishment of its objectives.

(e) *Permit duration.* Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date or the occurrence of an event. The significant industrial user shall apply for permit reissuance a minimum of one hundred eighty (180) days prior to the expiration of the significant industrial user's existing permit. The terms and conditions of the permit may be subject to modification by the Director during the term of the permit as limitations or requirements as identified in this article are modified or if other just cause exists. The significant industrial user shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(f) *Permit transfer.* Wastewater discharge permits are issued to a specific significant industrial user for a specific operation. A wastewater discharge permit shall not be reassigned or transferred to a new owner, new user, different premises, or a new or changed operation without the prior approval of the Director. Any succeeding owner or user shall be provided with a copy of this article and the county pretreatment program by the Director. Any succeeding owner or user shall comply with the terms and conditions of the existing permit.

(g) *Change of discharge.* The permittee shall give written notice to the Director ninety (90) days prior to any facility, production, or process modifications which result in changed volume or nature of the discharge. The filing of a request by the permittee for a permit modification, revocation and reissue, or termination, or a modification of planned changes or anticipated noncompliance, does not stay any permit conditions.

Section. 38-260 Measurement of volume of industrial waste.

The volume of industrial waste that is discharged by a significant industrial user into the sanitary sewer system shall be measured by one or more of the following methods:

(a) If the volume of wastewater that is produced by a significant industrial user is substantially the same as the volume of water that the significant industrial user purchases from

the County, then the volume of water metered shall be deemed to be the same as the volume of wastewater discharged, unless the Director finds that circumstances exist to require that a wastewater meter be installed.

(b) If a substantial portion of the water that the significant industrial user purchases from the County produces normal domestic sewage or is used for cooling or other purposes that do not produce a discharge of the water to the sanitary sewer system, the significant industrial user shall, at its own expense:

(1) Install a meter on the water supply line to the industrial process operations; or

(2) Install a meter on the wastewater line from the industrial process operations.

The volume of water or wastewater flow as measured by the meter shall be considered to be the volume of industrial waste that is discharged in to the sanitary sewer system. The meter shall accurately measure and record all rates of flow to the satisfaction of the Director.

(c) If any significant industrial user does not receive his entire water source from the County the significant industrial user shall, at its own expense, install a meter on the wastewater line from the industrial process operation. The volume of waste flow, as measured by the meter, shall be considered to be the volume of waste that the significant industrial user discharges to the sanitary sewer system.

(d) The Director shall approve the design of any meter that is installed in accordance with this section.

Section. 38-261 Reporting requirements.

(a) *Baseline monitoring report.* Within ninety (90) days after the effective date of a categorical pretreatment standard, or ninety (90) days after the final administrative decision made upon a category determination, whichever is later, existing industrial users subject to categorical pretreatment standards and currently discharging to or scheduled to discharge to a POTW shall submit to the POTW the information listed. All new sources shall also submit to the POTW the information listed.

(1) *Identifying information.* Name and address of the facility including the name of the operator and owners.

(2) *Permits.* List any environmental control permits held by or for the facility.

(3) *Description of operations.* Describe the nature, average rate of production and Standard Industrial Classification Code of the operation carried out by such industrial user. Include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

(4) *Flow measurement.* The measurement average daily and maximum daily flow in gallons per day to the POTW from regulated process streams; and other streams as necessary to allow use of the combined wastestream formula.

(5) *Measure of pollutants.*

a. Identity the pretreatment standards applicable to each regulated process.

b. Submit the results of sampling and analysis identifying the nature and concentration, or mass, or regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations.

c. A minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, twenty-fourhour composite samples must be obtained through flow-proportional composite sampling techniques where feasible. Flow-proportional composite sampling may be waived for any user that demonstrates that flow-proportional sampling is infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged.

d. Samples shall be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated waste water prior to pretreatment, the industrial user should measure the flows and concentrations necessary to allow use of the combined wastestream formula. When an alternate concentration or mass limit has been calculated in accordance with the combined wastestream formula, this adjusted limit, along with supporting data shall be submitted to the Director.

e. The Director may allow the submission of only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

f. The time, date, and place of sampling, and methods of analysis, and certification that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.

(6) *Certification.* Submit a statement, reviewed by an authorized representative of-the industrial user and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and if not, whether additional operation and maintenance and/or additional pretreatment is required for the industrial user to meet the pretreatment standards and requirements.

(7) *Compliance schedule.* If additional pretreatment and/or operation and maintenance are required to meet the pretreatment standards, the industrial user shall submit the shortest schedule by which he will provide such additional pretreatment and/or operation and

maintenance. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. This shall be an incremental schedule 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 industrial user to meet the applicable categorical pretreatment standards. No increment shall exceed nine (9) months.

a. When the industrial user's categorical pretreatment standard has been modified by the combined wastestream formula, and/or a fundamentally different factors variance, the industrial user shall submit the information pertaining to the modified limits.

b. If the categorical pretreatment standard is modified by the combined waste-stream formula, and/or a fundamentally different factors variance after the industrial user submits the information, any necessary amendments shall be submitted by the industrial user within sixty (60) days after the modified limit is approved.

(b) *Periodic compliance reports.*

(1) All significant industrial users shall submit to the Director every six (6) months after issuance of a permit, unless required more frequently in the pretreatment standard or by the Director, a report indicating the nature and concentration of pollutants in the effluent which are limited by such pretreatment standards. In addition, this report shall include a record of measured or estimated average and maximum daily flow volumes and all daily flows which during the reporting period exceeded the average daily flow reported in section 38-259(b)(5). In the case of an existing categorical user, the reports shall be required after the compliance date of a pretreatment standard. In the case of a new source or any other significant industrial user, the reports shall be required after commencement of the discharge to the POTW. The reporting dates for the above reports shall be set forth in the significant industrial user's permit and shall be determined by the Director.

(2) The Director may impose mass limitations on significant industrial users where the imposition of such limitations are appropriate. In such cases, the report required by subparagraph (1) of this paragraph shall indicate the mass of pollutants regulated by pretreatment standards in the effluent of the user. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the Director, of pollutants contained therein which are limited by the applicable pretreatment standards.

(c) *Report on compliance with categorical pretreatment standard deadline.* Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards or in the case of a new source following commencement of the introduction of wastewater into the POTW, any industrial user subject to pretreatment standards and requirements shall submit to the POTW a report containing the information described in paragraphs (a) (1) through (6) of this section. For industrial users subject to equivalent mass or concentration limits established by the POTW, this report shall contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production

(or other measure of operation), this report shall include the user's actual production during the appropriate sampling period.

(d) *Compliance schedule progress report.* Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report on compliance with the increment of progress to be met on that date and if not, the date on which it expects to comply, the reason for delay, and the steps being taken by the industrial user to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports.

(e) *Prohibition on hazardous discharge and notice requirements.* The Discharge of any materials designated as hazardous wastes and/or hazardous substances pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 (CERCLA), 42 U.S.C. 101 (14), et seq., and any regulations promulgated thereunder, ii.) the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. 6901, et seq., and any regulations promulgated thereunder, iii.) the Superfund Amendments and Reauthorization Act (SARA), 42 U.S.C. 1104, et seq., and any regulations promulgated thereunder or iv.) 40 CFR part 261 is prohibited.

In the event of a discharge of any hazardous waste and/or hazardous substance, the User shall notify the Director and Plant Operators immediately upon discovery of such discharge. The User shall also provide the Director with written notice of the discharge within 24 hours. At minimum, the notification must include the following: :

(1) The name of the hazardous waste.

(2) The EPA hazardous waste number, if any.

(3) The date and time the discharge occurred.

(4) All persons with knowledge of the discharge.

(5) An identification of the hazardous constituent contained in the wastes.

(6) An estimation of the mass and concentration of such constituents discharged in the waste stream .

(7) A description of how the discharge occurred.

(8) A description of all steps taken to mitigate the discharge and prevent any future discharges

(9) Any other information relevant to the identification and mitigation of any adverse effects from the discharge on the POTW.

(f) *Slug discharge control plan.* All users shall submit a slug discharge control plan upon request by the Director as set forth in section 38-257.

(g) *Notice of violation/resampling requirement.* All users shall notify the Director immediately of any known violation with information on the nature and magnitude of the violation. Notification shall be by telephone. The user shall also repeat sampling and analysis as required by the Director and submit the results of the repeat analysis to the Director within thirty (30) days after becoming aware of the violation.

(h) *Records of monitoring activities.* Any industrial user subject to reporting requirements shall maintain records of all information resulting from any monitoring activities. Such records for all samples shall include:.

(1) The date, exact place, method and time of sampling, and the names of the persons taking the samples;

(2) The dates analyses were performed;

(3) Who performed the analyses;

(4) The analytical techniques or methods used; and

(5) The results of the analyses.

Records shall be retained for a minimum of three (3) years, whether or not such monitoring activities are required. Such records shall be available for inspection and copying by the Director. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user or when required by the Director.

(i) *Sampling and analysis requirements.* All sampling and analysis performed pursuant to the requirements of this article shall be in accordance with 40 CFR, Subchaper D, part 136 and amendments thereto or with any other test procedures approved by the administrator.

(j) *Certification and signatory requirement.* All reports submitted by users under this article shall be signed by an authorized representative of the user and shall contain the certification statement of 40 CFR 403.6(a)(2)(ii).

Section. 38-262 Monitoring facilities.

(a) Every significant industrial user shall be required to provide, operate and maintain at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer, internal drainage systems, or both. The monitoring facility should normally be situated on the significant industrial user's premises, but the Director may, when such a location would be impractical or cause undue hardship on the significant industrial user, allow the facility to be constructed and located off premises. 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 expense of the significant industrial user.

(b) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with county requirements and all applicable local construction standards and specifications. Construction shall be completed within ninety (90) days following written notification to comply by the POTW.

Section. 38-263 Inspection and sampling.

The Director shall inspect the facilities of any user to ascertain whether the purpose of this article is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is created or discharged shall allow the Director ready access at reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination, records reproduction or in the performance of any duties imposed hereunder. The county, Director, and the approval authority shall have the right to set up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. 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 their security guards so that upon presentation of suitable identification, personnel from the county and approval authority and the Director or his representative will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

Section. 38-264 Pretreatment.

(a) Users shall provide necessary wastewater treatment as required to comply with this article and shall achieve compliance with all Federal Categorical Pretreatment Standards within the time limitations as specified by the federal pretreatment regulations. Any facilities required to pretreat wastewater to a level acceptable to the POTW shall be provided, operated, and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Director for review, and shall be acceptable to the POTW before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the POTW under the provisions of this article. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be approved by the POTW prior to the user's initiation of the changes.

(b) The Director shall annually publish in the largest daily newspaper in New Kent County a list of the users which were in significant noncompliance with any pretreatment requirements or standards at least once during the twelve (12) previous months. The notification shall also summarize any enforcement actions taken against the users during the same twelve (12) months.

(c) All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or approval authority upon request.

Section. 38-265 Confidential information.

(a) Information and data on a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction to the extent required by the Virginia Freedom of Information Act, Va. Code 2.2-3700, et seq. ("FOIA"), unless the user specifically requests and is able to demonstrate to the County Attorney that the information may be properly withheld under FOIA, or other applicable law.

(b) Unless otherwise prohibited by law, all reports or portions thereof shall be available to governmental agencies for uses related to this article, the National Pollutant Discharge Elimination System (NPDES) permit, state disposal system permit and/or the pretreatment programs, and for use in administrative or judicial review or enforcement proceedings. Wastewater constituents and characteristics will not be recognized as confidential information.

DIVISION 4. ENFORCEMENT

Section. 38-266 Harmful contributions.

(a) Notwithstanding any other section herein, the Director may suspend the wastewater treatment service and/or a wastewater discharge permit when such suspension is necessary, in the opinion of the Director, to stop an actual or threatened discharge which presents or may present an imminent or substantial danger to the health or welfare of persons, to the environment, or causes interference to the POTW or causes the POTW to violate any condition of its NPDES permit.

(1) Any user notified of a suspension of the wastewater treatment service and/or the wastewater discharge permit shall immediately stop or eliminate the contribution. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall also be submitted to the Director within fifteen (15) days of the date of occurrence.

(2) 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 POTW system or danger to any individuals. Should severance of the sewer connection be necessary, the cost of necessary repairs to the sewer connection upon reinstatement of the wastewater discharge permit and/or wastewater treatment service shall be borne by the user.

(3) The Director shall reinstate the wastewater discharge permit and/or the wastewater treatment service upon proof of the elimination of the noncomplying discharge.

Section. 38-267 Revocation of permit.

Any significant industrial user who violates the following provisions of this article, or applicable state and federal regulations, is subject to having the user's permit revoked:

(1) Failure of a significant industrial user to accurately report the wastewater constituents and characteristics of the discharge;

(2) Failure of the significant industrial user to report significant changes in operations, or wastewater constituents and characteristics;

(3) Refusal of reasonable access to the significant industrial user's premises for the purpose of inspection, sampling or monitoring; or,

(4) Violation of conditions of the permit.

Section. 38-268 Notification of violation.

(a) Whenever the Director finds that any user has violated or is violating this article, the user's wastewater discharge permit, or any prohibition, limitation or requirements contained herein, the Director may serve upon such user a written notice stating the nature of the violation and ordering that the violation be abated. A plan for the satisfactory correction and prevention thereof to include specific required actions may be required to be submitted to the Director. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notification of violation. Other enforcement actions may be pursued by the Director before or after the issuance of a notification of violation. The notice shall be sent to the significant industrial user at the address where the significant industrial user receives utility bills. If the significant industrial user fails to comply with the order within the prescribed time period, the Director may suspend the permit, and may terminate County water and/or sewer service to the significant industrial user.

Section. 38-269 Show cause hearing.

(a) *Notice.* The Director may order any user who causes or allows an unauthorized discharge to enter the POTW to show cause why a proposed enforcement action should not be taken. A notice shall be served on the user specifying the time and place of a hearing to be held by the Director regarding the violation, the reasons why an enforcement action is to be taken, the proposed enforcement action, and directing the user to show cause why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation. If sent by certified mail, the notice shall be sent to the user at the address where the user receives utility bills. Whether or not a duly notified user appears as requested, immediate enforcement action may be ordered.

(b) *Hearing.* The Director may conduct the hearing and take the evidence, or may designate a duly authorized representative to do so. The Director or his representative shall:

(1) Issue in the name of the County, as appropriate, notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such bearings;

(2) Take the evidence; and

(3) Issue a decision upon which an order will be based.

(c) *Record.* At any hearing held pursuant to this article, testimony taken shall be under oath and recorded. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of a reasonable charge thereof.

(d) *Order.* After the Director has concluded the hearing or , he may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, and such devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may also be issued. The issuance of an order under this sections shall not preclude the Director from pursing additional enforcement actions.

Section. 38-270 Administrative orders.

(a) *Compliance order.* Notwithstanding the provisions of Section 38-270, if the Director finds that a user has violated or continues to violate this article, or a permit or an order issued hereunder, the Director may issue an order to the user responsible for the discharge directing, at minimum, immediate compliance and that corrective and preventative measures be taken. The compliance order may direct that sewer and/or water service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated. Orders may also contain such other requirements as might be reasonably

necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices. The order shall be sent to the significant industrial user at the address where the significant industrial user receives utility bills. If the significant industrial user fails to comply with the order within the prescribed time period, the Director shall suspend the permit, and shall terminate County water service to the significant industrial user.

(b) *Consent order.* The Director may enter into a consent order with any user responsible for noncompliance. Such orders will include specific action to be taken by the user to correct the noncompliance within a time period also specified by the order.

Section. 38-271 Civil action.

(a) Any violation of this article or any order, rule, regulation or permit issued hereunder shall be punishable by a maximum civil penalty of five thousand dollars ($5,000.00) per day for each violation. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. The County may commence an action in the Circuit Court to apply such penalty and in addition may seek other appropriate legal/or equitable relief, including the recovery of any costs related to or arising from any damage to the POTW and the repair thereof.. In addition to the civil penalties and other damages provided herein, the county may recover reasonable attorneys' fees, court costs, court reporters' fees and other expenses of litigation against the user in any such action.

Section. 38-272 Criminal action.

Violation of this article or any order, rule, regulation, or permit issued by New Kent County shall be punishable as a class II misdemeanor. Each day on which a violation occurs or continues shall be deemed a separate and distinct offense.

Section. 38-273 Falsifying information.

Any person who knowingly makes any false statement, representation or certification with regard to any requirement of this article or any order, rule or regulation or permit issued hereunder by New Kent County or in any application, record, report, plan, or other document filed or required to be maintained pursuant thereto; or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required pursuant thereto; shall be guilty of a class 1 misdemeanor. Each day on which a violation occurs or continues shall be deemed a separate and distinct offense.

Section. 38-274 Severability.

In the event that any portion of this ordinance is declared void for any reason, such decision shall not affect the remaining portions of the ordinance, which shall remain in full force and effect, and for this purpose the provisions of this ordinance are hereby declared to be severable.

Gary F. Christie
County Administrator

James H. Burrell
Chairman

New Kent County Department of Public Works

Local Limits for Wastewater Dischargers (as of 6/28/04)

	Acute Dis		Chronic Di	
BOD	N/A	mg/L	240	mg/L
TKN	N/A	mg/L	30	mg/L
Phosphorus	N/A	mg/L	8	mg/L
Oil/Grease	N/A	mg/L	50	mg/L
pH	5.0	(MINIMUM)	9.0	(MAXIMUM)
Arsenic	620	micrograms/L	270	micrograms/L
Cadmium	12	micrograms/L	3.4	micrograms/L
Chromium III	3200	micrograms/L	410	micrograms/L
Chromium IV	90	micrograms/L	61	micrograms/L
Copper	96	micrograms/L	64	micrograms/L
Cyanide	70	micrograms/L	17	micrograms/L
Lead	300	micrograms/L	35	micrograms/L
Mercury	3.5	micrograms/L	1.9	micrograms/L
Nickel	310	micrograms/L	35	micrograms/L
Selenium	40	micrograms/L	10	micrograms/L
Silver	14	micrograms/L	14	micrograms/L
Zinc	560	micrograms/L	560	micrograms/L