



BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE AMENDING CHAPTER 2, ARTICLE 40, AND CHAPTER 21 OF THE HAWAI‘I COUNTY CODE 1983 (2016 EDITION, AS AMENDED), RELATING TO WASTEWATER MANAGEMENT.

BE IT ORDAINED BY THE COUNCIL OF THE COUNTY OF HAWAI‘I:

SECTION 1. Chapter 2, article 40, sections 2-204, 2-205, and 2-206 of the Hawai‘i County Code 1983 (2016 Edition, as amended) are repealed.

SECTION 2. Chapter 21 of the Hawai‘i County Code 1983 (2016 Edition, as amended) is repealed and replaced with a new chapter, renamed “Wastewater Management,” to read as follows:

“CHAPTER 21

WASTEWATER MANAGEMENT

Article 1. General Provisions.

Section 21-1-1. Purpose of chapter.

(a) The provisions of this chapter, inclusive of any amendments, shall be known as the wastewater management code.

The purpose of this chapter is to set forth uniform requirements for contributions by all users to the Publicly Owned Treatment Works (POTW) for the County of Hawai‘i (County). These regulations enable the POTW for the County to comply with applicable state and federal laws required by the Clean Water Act (33 U.S.C. 1251 et seq.) and the General Pretreatment Regulations (40 CFR part 403) and subsequent amendments.

(b) The objectives of this chapter are:

- (1) To prevent the introduction of pollutants into the POTW that will interfere with its operation;
- (2) To prevent the introduction of pollutants into the POTW that will pass through the POTW, inadequately treated, into receiving waters, or otherwise be incompatible with the POTW;
- (3) To protect both POTW personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- (4) To promote reuse and recycling of industrial wastewater and sludge from the POTW;

- (5) To provide for regulation and control of sewer connections;
 - (6) To provide revenue for funding maintenance, operation, replacement, improvement, and extension of the POTW; and
 - (7) To enable the County to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the POTW is subject.
- (c) This chapter shall apply to all users of the POTW. The ordinance authorizes the issuance of industrial wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the pretreatment program established herein.

Section 21-1-2. Administration.

- (a) Except as otherwise provided herein, the director shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the director may be delegated by the director to a duly authorized County officer or employee. Unless otherwise provided for by law, the department shall have jurisdiction over and administer all matters covered by this chapter. The department may adopt rules pursuant to chapter 91, Hawai‘i Revised Statutes, necessary for the purposes of this chapter.
- (b) Failure to comply with any provision of this chapter, or any rule adopted pursuant to this chapter, or with conditions imposed as part of any permit issued pursuant to this chapter, shall constitute a violation of this chapter.
- (c) Where notices are required or prescribed in this chapter, the director may deliver them verbally or in writing. Written notifications may be delivered personally, by registered or certified mail or by another method approved by the director that provides a delivery receipt. Notices shall be considered received when that receipt is documented by the deliverer. If a user receives notification of an attempted delivery and either does not claim or refuses to claim the notice, then the notice shall be considered delivered 3 business days after the deliverer documents the notification. Alternatively, the notice shall be considered delivered when the director posts the notice in a conspicuous place upon the user’s premises.

Section 21-1-3. Abbreviations.

The following abbreviations, when used in this chapter, shall have the designated meanings:

“BOD ₅ ”	Biochemical Oxygen Demand
“BMP”	Best Management Practice
“BMR”	Baseline Monitoring Report
“CAA”	Clean Air Act
“CFR”	Code of Federal Regulations
“CIU”	Categorical Industrial User
“COD”	Chemical Oxygen Demand
“CWA”	Clean Water Act
“DEM”	County of Hawai‘i Department of Environmental Management
“DOH”	State of Hawai‘i Department of Health
“EPA”	U.S. Environmental Protection Agency
“gpd”	Gallons per day

“IU”	Industrial User
“l”	Liter
“mg/l”	Milligrams per liter
“NPDES”	National Pollutant Discharge Elimination System
“NSCIU”	Non-Significant Categorical Industrial User
“NSIU”	Non-Significant Industrial User
“POTW”	Publicly Owned Treatment Works
“PSES”	Pretreatment Standards for existing sources
“PSNS”	Pretreatment Standards for New Sources
“RCRA”	Resource Conservation and Recovery Act
“SIU”	Significant Industrial User
“SNC”	Significant Noncompliance
“TRC”	Technical Review Criteria
“TSS”	Total Suspended Solids
“U.S.C.”	United States Code

Section 21-1-4. Definitions.

As used in this chapter, unless the context specifically indicates otherwise:

“Accessible to a sewer” means property is within the sewer service area, there is an existing sanitary or dry sewer on the parcel or there is a sanitary sewer on an adjoining parcel, or as determined by the director.

“Act” means the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. section 1251 et seq.

“Approval Authority” means the State of Hawai‘i, which administers the EPA-approved pretreatment program through the Department of Health.

“Authorized representative of the user” or “duly authorized representative of the user” means:

- (a) If the user is a corporation:
 - (1) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
 - (2) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for industrial wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (b) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
- (c) If the user is a federal, state, or local governmental facility: A director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or the official’s designee.
- (d) The individuals described in paragraphs a through c, above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the

individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the County.

“Average Dry Weather Hydraulic Capacity” means the daily average flow volume of wastewater used for the of design of wastewater facilities.

“Best Management Practices” or “BMPs” means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR 403.5(a)(1) and (b). BMPs include treatment requirements, operating procedures as identified in section 21-3-15(a), and practices to control industrial and commercial site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

“Biochemical oxygen demand” or BOD₅ means the quantity of oxygen utilized in the biochemical oxidation of organic matter under a standard laboratory procedure in five days at twenty degrees centigrade, expressed in milligrams per liter by weight.

“Biohazardous waste” means any of the following:

- (a) Laboratory waste, including, but not limited to, all of the following:
 - (1) Human or animal specimen cultures from medical and pathological laboratories,
 - (2) Cultures and stocks of infectious agents from research and industrial laboratories,
 - (3) Waste from the production of bacteria, viruses, or the used spores, discarded live and attenuated vaccines, and culture dishes and devices used to transfer, inoculate, and mix cultures;
- (b) Waste containing any microbiologic specimens sent to a laboratory for analysis;
- (c) Human surgery specimens or tissues removed at surgery or autopsy which are suspected by the attending physician and surgeon or dentist of being contaminated with agents known to be contagious to humans;
- (d) Animal parts, tissues, fluids, or carcasses suspected by the attending veterinarian of being contaminated with infectious agents known to be contagious to humans;
- (e) Waste which, at the point of transport from the generator's site, at the point of disposal, or thereafter, contains recognizable fluid blood, fluid blood products, containers, or equipment containing blood that is fluid or blood from animals known to be infected with diseases which are highly communicable to humans; or
- (f) Waste containing discarded materials contaminated with excretion, exudate, or secretions from humans who are required to be isolated by infection control staff, the attending physician and surgeon, the attending veterinarian, or the local health officer, to protect others from highly communicable diseases or isolated animals known to be infected with diseases which are highly communicable to humans.

“Categorical Industrial User” means an Industrial User subject to a categorical Pretreatment Standard or categorical Standard.

“Categorical Pretreatment Standard” or “Categorical Standard” means any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

“Cesspool” means an individual wastewater system consisting of a shallow or deep, underground system for disposing of sanitary wastewater.

“Commission” means the Environmental Management Commission of the County.

“Connection” or “sewer connection” means the point where an individual sanitary sewer lateral attaches to the public sewer collection system.

“Chemical Oxygen Demand” or COD means a measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

“Control Authority” means the County.

“County” means the County of Hawai‘i.

“Daily Average” means the arithmetic average of all effluent samples for a pollutant collected during a calendar day.

“Day” means calendar day.

“Daily Maximum Limit” means 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 average measurement of the pollutant concentration derived from all measurements taken that day.

“Department” means the Department of Environmental Management.

“Director” means the director of the department of environmental management, or the director’s authorized representative.

“Domestic septage” means liquid and solid material removed from a septic tank, cesspool, portable toilet, Type III marine sanitation device, or similar treatment works that receives only domestic sewage. Domestic septage does not include liquid or solid material removed from a septic tank, cesspool, or similar treatment works that receives either commercial wastewater or industrial wastewater and does not include grease or food waste removed from a grease interceptor or trap servicing a food service establishment.

“Domestic sewage” or “residential sewage” means waste and wastewater from humans or household operations that is: (1) Discharged to or otherwise enters a treatment works; or (2) Of a type that is usually discharged to or otherwise enters a treatment works or an individual wastewater system.

“Dry sewer” means sewer system within the sewer service area that has been completely installed, tested and is ready for service, but is not connected to the public sewer and for which no wastewater is allowed until additional collection system piping is installed for connection to the public sewer.

“Dwelling” means any building which is wholly or partly used or intended to be used for living or sleeping by human occupants and includes, but is not limited to, apartment houses, single family houses, duplex houses, cluster houses, townhouses, and planned developments, but excludes hotels and lodging houses.

“Dwelling unit” for the purposes of this chapter only, means one or more rooms in a single-family dwelling, two-family dwelling, or multiple-family dwelling designed for occupancy by a single family for living and sleeping purposes and having either kitchen and bathroom facilities or both for the primary use of such family.

“Environmental Protection Agency” or EPA means the U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.

“Enterprise Fund” means a self-supporting government fund that sells goods and services to the public for a fee.

“Existing Source” means any source of discharge that is not a “New Source.”

“Extension” or “sewer extension” means the connection of proposed sewer infrastructure to the existing POTW which extends sewer service to previously inaccessible dwelling units.

“Fats, Oil and Grease” or “FOG” means nonpetroleum organic polar compounds derived from animal or plant sources such as fats, nonhydrocarbons, fatty acids, soaps, waxes, and oils that contain multiple carbon chain triglyceride molecules. These substances are detectable and measurable using analytical test procedures established at 40 C.F.R. Part 136.

“Food service establishment” means any facility or part of a facility which packages, processes, assembles, portions, or performs any operation which changes the form, flavor or consistency of food, but does not include trimming or produce. Food includes any raw or processed substance, ice, beverage, or ingredient intended to be used as food, drink, confection, or condiment for human consumption. A food preparation facility includes but is not limited to any facility for which an oil and grease interceptor is required. Food preparation facilities within a multiple-use facility served by one sewer connection, have combined wastewater constituents and characteristics that are significantly higher in wastewater strength than domestic wastewater sources. A facility having a food preparation facility; either individually or in combination with other uses, include, but are not limited to, the following type of businesses as defined by the North American Industrial Classification System (NAICS) Code:

NAICS Code Number	Description of Industries
311811	Retail Bakeries
311812	Commercial Bakeries
311830	Tortilla Manufacturing
445110	Supermarkets and Other Groceries
445210	Meat Markets
445220	Fish and Seafood Markets
447110	Gasoline Stations (with Convenience Stores with OGI requirement)
452910	Warehouse/Club Supercenters (with OGI requirement)
713210	Casinos
713290	Other Gambling Industries (with OGI requirement)
713910	Golf Courses and Country Clubs (with OGI requirement)
713950	Bowling Centers
721110	Hotels (with Restaurant)
722110	Full-Service Restaurant (Pay After)
722211	Limited-Service Restaurant (Pay Before)
722213	Snack and Non-alcoholic Beverage Bars
722320	Caterers
722410	Bar and Nightclub (with OGI requirement)
921190	Other General Government Support (with OGI requirement)

“Gang cesspool” means a cesspool designed to accept sewage from two or more sources.

“Grab sample” means a sample that is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed fifteen minutes.

“Grease interceptor” or “grease trap” means a pretreatment device designed, installed and operated/maintained to prevent fats, oils and grease from entering the POTW.

“Grease hauler” means an individual or business registered with the State department of health to engage in the pumping and hauling of FOG and FOG waste.

“Hazardous substance” means any substance capable of creating imminent endangerment to health of the environment, including, but not limited to, any substance designated under the Clean Water Act, 33 USC, section 1251, et seq., 40 CFR 302; and any imminently hazardous chemical substance subject to regulation under the Toxic Mixtures or Substances Control Act, 15 USC, section 2601, et seq. In general, substances which are toxic, explosive, corrosive, flammable, or irritants, or which generate pressure through heat or decomposition, e.g., heavy metals, pesticides, strong acids or bases, distillate fuels, oxidants, etc., are hazardous substances.

“Incompatible pollutant” means any pollutant which is not a compatible pollutant as defined in this section, and any pollutant listed by the United States Environmental Protection Agency as a priority pollutant or by the state of Hawai‘i as a toxic pollutant or a hazardous material.

“Indirect Discharger” or “Discharger” means a user that sends its wastewater into the POTW.

“Industrial user” means a discharger of non-domestic wastewater to the POTW.

“Industrial wastes” means the liquid wastes from industrial user processes.

“Infiltration” means the unintentional entry of water into the wastewater collection system from the surrounding environment. Infiltration can be freshwater, salt water or brackish water. Common points of entry include broken pipe and defective joints in the pipe or walls of manholes. Infiltration may result from sewers being laid below the groundwater table or from saturation of the soil by rain or irrigation water, seepage of groundwater or saltwater into a sewer system, including service connections. Seepage frequently occurs through defective or cracked pipes, pipe joints, connections, or manhole walls.

“Inflow” means water other than wastewater that enters a sewer system (including sewer service connections) from sources such as, but not limited to, roof leaders, cellar drains, yard drains, area drains, drains from springs, coastal and swampy areas, manhole covers, cross connections between storm sewers and sanitary sewers, catch basins, cooling towers, storm waters, surface runoff, sea- or brackish-water, street wash waters, or drainage. Inflow does not include and is distinguished from infiltration.

“Instantaneous limit” means the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

“Interference” means a disruption or inhibition of the POTW, its treatment processes or operations, or its sludge processes, use or disposal, that is caused by a discharge alone or in conjunction with a discharge or discharges from other sources, whether or not it is a cause of a violation of any of the County’s permits or Federal, State or County statutory/regulatory provisions.

“Large capacity cesspool” or “LCC” means a cesspool receiving sanitary waste from a business, a business in addition to a residence, or multiple dwelling units.

“Lateral” portion of the sewer network connecting individual and private properties to the POTW.

“Local Limit” means specific discharge limits developed and enforced by the County upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

“Main” or “sewer main” means a sewer to which several laterals or other branch sewer lines may discharge.

“Medical waste” or “Infectious waste” means wastes as defined in HAR 11-104.1 and HRS §321-21, which are hereby included by reference, and includes: animal wastes; blood, blood products and other fluids; contaminated sharps; cultures and stocks; foreign bodies; human pathological waste; infectious isolation waste; infections waste; body parts; contaminated bedding; surgical wastes; potentially contaminated laboratory wastes; and dialysis wastes.

“Medical waste generator” means any person whose act or process produces medical waste. All the following are examples of businesses which generate medical waste: Medical and dental offices, clinics, hospitals, surgery centers, laboratories, research laboratories, other health facilities;

- (a) Veterinary offices, clinics, and hospitals; and
- (b) Pet shops.

“Monthly Average” means the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.

“Monthly Average Limit” means the highest allowable average of “daily discharges” over a calendar month, calculated as the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.

“Municipal wastewater” means wastewater that is discharged to and treated by the POTW.

“New Source” means

- (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 that will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:
 - (1) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - (2) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an Existing Source; or
 - (3) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an Existing Source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the Existing Source, 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 section (1)(b) or (c) 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 a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

“Noncontact Cooling Water” means water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

“North American Industrial Classification System” or “NAICS” means the system adopted and revised every five years by the United States, Canada and Mexico, which divides the economy into twenty sectors which are then methodically grouped according to the production criterion. A specific NAICS number describes a particular type of industrial or commercial user of municipal utility services.

“Parcel” means a parcel of land and all buildings upon it (herein, referred to as the “property,” “lot” or “premises”).

“Pass Through” means a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the County’s NPDES permit, including an increase in the magnitude or duration of a violation.

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

“pH” means measure of the acidity or alkalinity of a solution, expressed in standard units.

“Pollutant” means any constituent or characteristic of wastewater on which a discharge limitation may be imposed either by the County or the regulatory bodies empowered to regulate the County.

“Population equivalent” means the calculated population which would normally contribute the same amount of pollutants or volume of flow per day as the daily wastes discharged by an industrial or commercial establishment, using methods established in the Department’s rules.

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

“Pretreatment Requirements” means any substantive or procedural requirement related to pretreatment imposed on a user, other than a Pretreatment Standard.

“Pretreatment Standards” or “Standards” means prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.

“Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in section 21-2-4.

“Property lateral” means that portion of the sewer line extending from a building to the public sewer.

“Public sewer” means a sewer system, including a cesspool and a gang cesspool system, owned, maintained, and operated by the County.

“Publicly Owned Treatment Works” or “POTW” means a treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292), which is owned by the County. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances, which convey wastewater to a treatment plant. The term “POTW” encompasses the terms “sewer works,” “sewer system,” “public sewer” and “sewer.”

“Residential user” means a discharger of domestic wastewater to the POTW. Residential users are a source of indirect discharge.

“Sanitary sewer” means a sewer that is intended to carry only wastewater.

“Sampling and evaluation program” means the determination of mass emission or concentration of constituents or other conditions specified in the industrial user’s permit.

“Septage” means either a liquid or solid material removed from a septic tank, cesspool, portable toilet, Type III marine sanitation device, or similar treatment works or storage tank that receives wastewater.

“Sewage” means the wastes derived from ordinary human processes and of such character as to permit satisfactory disposal, without special treatment, into the public sewer, a private sewer, or by means of a household sewage disposal system.

“Sewage sludge” or “sludge” means any solid, semi-solid, or liquid residue removed during the treatment of municipal wastewater or domestic sewage. Sewage sludge includes, but is not limited to, solids removed during primary, secondary, or advanced wastewater treatment, scum, septage, portable toilet pumping, Type III Marine Sanitation device pumpings (33 Code of Federal Regulations Part 159), and sewage sludge products. Sewage sludge does not include grit, screenings, or ash generated during the incineration of sewage sludge.

“Sewer service area” or “service area” means a geographic area determined by the director within which all parcels are planned to be connected to a POTW. The director may use the current or historical facility plan, or other data to develop sewer service area boundaries.

“Sewage works,” “sewer system,” or “sewer,” means all public facilities for collecting, pumping, treating and disposing of sewage.

“Significant Industrial User” or “SIU” means, except as provided in section c or d of this definition:

- (a) An Industrial User subject to Categorical Pretreatment Standards; or
- (b) An Industrial User that:
 - (1) Discharges an average of twenty-five thousand gallons per day (gpd) or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);
 - (2) Contributes a process waste stream which makes up five percent or more of the average dry weather hydraulic or organic capacity of the POTW; or
 - (3) Is designated as such by the director on the basis that it has a reasonable potential for adversely affecting the POTW’s operation or for violating any Pretreatment Standard or Requirement.
- (c) The director may determine that an Industrial User subject to Categorical Pretreatment Standards is a Non-Significant Categorical Industrial User on a finding that the Industrial User never discharges more than 100 gpd of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:

- (1) The Industrial User, prior to the director’s finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements.
 - (2) The Industrial User annually submits the certification statement required in section 21-4-4 and consistent with procedures in 40 CFR 403.12(q), together with any additional information necessary to support the certification statement; and
 - (3) The Industrial User never discharges any untreated concentrated wastewater.
- (d) Upon a finding that a user meeting the criteria in Subsection (2) of this part has no reasonable potential for adversely affecting the POTW’s operation or for violating any Pretreatment Standard or Requirement, the director may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user is not considered a Significant Industrial User.

“Significant noncompliance” (SNC) means an industrial user’s violation meets one or more of the following criteria:

- (a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all of the measurements taken for the same pollutant parameter taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits.
- (b) Technical review criteria (TRC) violations, defined here as those in which thirty-three percent or more of all the measurements taken for the same pollutant parameter during a six-month period equal or exceeds the product of the numeric pretreatment standard or requirement including instantaneous limits, multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH).
- (c) Any other violation of a pretreatment standard or requirement (daily maximum, long-term average, instantaneous limit, or narrative standard) that the County determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of County personnel or the public.
- (d) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment, or has resulted in the County’s exercise of its emergency authority under 40 CFR 403.8(f)(1)(vi)(B) to halt or prevent such a discharge.
- (e) Failure to meet, within ninety days after the schedule date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance.
- (f) Failure to provide, within forty-five days after the due date, any required reports such as baseline monitoring reports, ninety-day compliance reports, reports on compliance with categorical pretreatment standards or deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules.
- (g) Failure to accurately report noncompliance.
- (h) Any other violation or group of violations, which may include a violation of best management practices, which the County determines will adversely affect the operation or implementation of the local pretreatment program.

“Single-pass cooling water” means water used solely for the purpose of cooling. This water is used only once and is discarded.

“Slug Load or Slug Discharge” means any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in section 21-2-4. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill

or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any way violate the POTW’s regulations, Local Limits or Permit conditions.

“Special benefit charge” means a charge applied to developing properties in addition to the normal connection charges to finance master sewer plan projects relative to the construction of POTW where deficiencies are uniquely confined to specific geographic sewer service areas or improvement districts.

“Standard methods” means the standards contained in the latest edition of the book entitled “Standard Methods for the Examination of Water and Wastewater” published by the American Public Health Association, et al.

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

“Stormwater Sewer” means a system with the specific purpose to carry only stormwater.

“Subdivision” means a division of a parcel into two or more parcel. It also means the act of subdividing a parcel into two or more parcel.

“Subtractive water meter” means a secondary water service meter installed after and off of the primary water meter at the same service location to provide metering of nonsewer discharged water and separate metering at commercial locations having both high- and low-strength wastewater discharges to the same sewer lateral.

“Tenant(s)” mean person(s) under oral or written contract with the owner or agent to temporarily occupy premises.

“Total Suspended Solids” or “Suspended Solids” means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and that is removable by laboratory filtering.

“Treatment unit” means any plant, facility, or equipment used in the treatment of wastewater, including the necessary pumps, power equipment, blowers, motors, holding tanks, flow splitter, and other process equipment.

“Treatment Works” means any treatment unit and its associated collection system and disposal system, excluding individual wastewater systems. Treatment works may be publicly or privately owned. The term “treatment works” encompasses the terms “sewer works,” “sewer system,” and “sewer.”

“Trunk sewer” means a public sewer which transports sewage away from a general area, neighborhood, or subdivision.

“Unoccupied unit” means a dwelling unit that is not occupied but has accessibility to a sewer, plumbing fixtures located on it, and currently receives a water bill.

“Unpolluted water” means cooling water, single-pass cooling water, air conditioning condensate, ice melt, condensate, and rain water.

“Waste” means domestic sewage, industrial and agricultural matter, and all other liquid, gaseous, or solid substance, including radioactive substance, whether treated or not, which may pollute or tend to pollute the waters of this State.

“Wastewater” means any liquid waste, whether treated or not.

“Wastewater division” means a division within the Department of Environmental Management with the explicit purpose to manage the County’s wastewater resources and any subsequent use or disposal of any component of the wastewater treatment process.

“Wastewater hauler” means an individual or business registered with the State department of health and the County of Hawai’i Department of Environmental Management to engage in the pumping and hauling of septage, wastewater or wastewater sludge, or both, from a septic tank,

cesspool, portable toilet, Type III marine sanitation device, or similar treatment/disposal system or collection system that receives wastewater and disposes of their hauled wastes at a County of Hawai'i wastewater facility.

“Wastewater sludge” or “sewage sludge” means any solid, semi-solid, or liquid residue removed during treatment of municipal wastewater or domestic sewage. Includes, but is not limited to, solids removed during primary, secondary, or advanced wastewater treatment, scum, portable toilet pumping, Type III marine sanitation device (33 Code of Federal Regulations Part 159), and sewage sludge products. Sewage sludge does not include grit, screenings, or ash generated during the incineration of sewage sludge.

Article 2. General Sewer Use Requirements.

Section 21-2-1. Authority.

The County is regulated by several agencies of the United States government and the state of Hawai'i, pursuant to the provisions of federal and state law. These laws grant the County the authority to regulate and/or prohibit, by the adoption of regulations and/or by the issuance of discharge permits, the discharge of any waste, directly or indirectly, to the County's POTW. Said authority includes the right to establish limits, conditions, prohibitions, and best management practices; establish flow rate limitations or prohibit flows discharged to the County's POTW; require the development of compliance schedules for the installation and maintenance of equipment systems and materials by all users; and take all actions necessary to enforce its authority.

The establishment of limits, conditions, and prohibitions will be enforceable and contain, at a minimum, the following conditions:

- (a) Statement of permit duration (in no case more than five years);
- (b) Statement of nontransferability without, at a minimum, prior notification to the County and provision of a copy of the existing control mechanism to the new owner or operator;
- (c) Effluent limits based on applicable general pretreatment standards in 40 CFR part 403, categorical pretreatment standards, local limits, and state and local laws;
- (d) Self-monitoring, sampling, reporting, notification, and recordkeeping requirements, including an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type, based on applicable general pretreatment standards in 40 CFR part 403, categorical pretreatment standards, local limits, and state and local law;
- (e) Statement of applicable civil and criminal penalties for violation of pretreatment requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal deadlines.

Section 21-2-2. Delegation of authority.

- (a) The County has the authority under this chapter to deny or condition new or increased contributions of pollutants to the POTW by industrial users where such contributions do not meet applicable pretreatment requirements or standards, where such contributions would cause non-compliance and/or a violation of the any of the County's NPDES permits, or facility discharge requirements.
- (b) The County has the authority to:
 - (1) Randomly sample and analyze the effluent from industrial users and conduct surveillance activities in order to identify, independent of information supplied by

- industrial user's, occasional and continuing noncompliance with pretreatment requirements, or standards;
- (2) Inspect and sample effluent from each industrial user at least once a year; and
 - (3) Evaluate, periodically, whether each such industrial user needs a plan to control slug discharges.
 - (4) The results of such activities shall be available to the approval authority upon request.
- (c) The County has the authority to develop 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 run-off, worker training, building of containment structures or equipment measures for containing toxic organic pollutants (including solvents) and/or measures and equipment for emergency response.

Section 21-2-3. Use of public sewers – restrictions.

No person shall, without prior written approval of the director:

- (a) Obstruct or otherwise make inaccessible any portion of the public sewer;
- (b) Uncover or molest in any way, any public sewer;
- (c) Throw or discharge anything into any sewer manhole;
- (d) Enter, uncover, or tamper with any portion of the public sewer;
- (e) Connect to or discharge any wastewater or any other substance directly into a manhole or other opening in the public wastewater system other than in accordance with requirements of this chapter and through service sewers approved by the director, except that the director may grant permission and establish requirements and policies for such direct discharge.
- (f) Remove or demolish any building or structures with plumbing fixtures connected directly or indirectly to the public sewer.
- (g) Fill or backfill over, or cause to be covered or obstruct access to, any sewer manhole.
- (h) Erect any improvements, including but not limited to, foundations, structures or buildings over public sewers.

Section 21-2-4. Prohibited discharge standards.

- (a) General prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes Pass Through or Interference. These general prohibitions apply to all users of the POTW whether they are subject to categorical pretreatment standards or any other national, state, or local pretreatment standards or requirements or not.
- (b) Specific prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:
 - (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 CFR 261.21;
 - (2) Wastewater having a pH less than 5.0 or more than 11, or otherwise capable of causing corrosive structural damage to the POTW or equipment as determined by the director;
 - (3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW as determined by the director, whether resulting in interference or not;
 - (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with

- other pollutants, are capable of causing Interference with or pass through the POTW as determined by the director;
- (5) Wastewater having a which could inhibit biological activity in the treatment plant as determined by the director, but in no case shall it cause the temperature at the point of introduction into the treatment plant to exceed 104 degrees F (40 degrees C);
 - (6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that the director determines may impact operations or cause interference or pass through;
 - (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
 - (8) Trucked or hauled pollutants, except by permit at discharge points designated by the director, and in accordance with section 21-3-19;
 - (9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
 - (10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;
 - (11) Liquids other than wastewater, such as but not limited to storm water, surface water, ground water, salt water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, and noncontact cooling water, unless specifically authorized by the director;
 - (12) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
 - (13) Medical wastes, except as specifically authorized by the director and in conformance with HAR 11-104 in an industrial wastewater discharge permit;
 - (14) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail toxicity test;
 - (15) Detergents, surface-active agents, or other substances that may cause excessive foaming in the POTW;
 - (16) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/l or that have the potential to cause flow restrictions or process disruptions within the POTW; or
 - (17) Substances which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261.
- (c) Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.
 - (d) Dilution prohibited. No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The director may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

Section 21-2-5. Local limits.

- (a) The director is authorized to establish local limits pursuant to 40 CFR 403.5(c) by publishing them in the Department Rules or in industrial wastewater discharge permits.
- (b) The director may establish best management practices (BMPs) by Administrative Rules, within this chapter for explicit industrial or commercial uses, and in industrial wastewater discharge permits. BMPs shall be implemented to achieve Local Limits, address pollution specific operational problems, and the requirements of section 21-2-4.

Section 21-2-6. County’s right of revision.

The County reserves the right to establish, by ordinance, administrative rule or industrial wastewater discharge permits, more stringent standards or requirements on discharges to the POTW consistent with the purpose of this chapter.

Section 21-2-7. Special agreement.

The County reserves the right to enter into special agreements with industrial users setting out special terms under which they may discharge to the POTW. In no case will a special agreement waive compliance with a pretreatment requirement. However, the industrial user may request a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15; and may also request a variance from the categorical pretreatment standard from EPA.

Such a request will be approved only if the industrial user can prove that factors relating to his discharge are fundamentally different from the factors considered by EPA when establishing that pretreatment requirement. An industrial user requesting a fundamentally different factor variance must comply with the procedural and substantive provisions in 40 CFR 403.13.

Section 21-2-8. Applicability to public agencies.

The provisions of this chapter shall be applicable to any building, structure, or property situated within the County sewer service area which is owned, leased, controlled, operated, or occupied by the United States, the state, the County, a school district, or by any public or quasi-public agency, corporation, or association which contributes to any volume of septage or sewage of any of the POTW.

Section 21-2-9. Regulation of waste received from other jurisdictions.

- (a) If another public agency, or user located within another public agency, contributes wastewater to the POTW, the mayor shall enter into an agreement with the contributing public agency.
- (b) Prior to entering into an agreement required by paragraph (a), above, the director shall request the following information from the contributing public agency:
 - (1) A description of the quality and volume of wastewater discharged to the POTW by the contributing public agency;
 - (2) An inventory of all Users located within the sewer service area of the contributing public agency that discharge to the POTW; and
 - (3) Such other information as the mayor may deem necessary.
- (c) Should multiple public agencies be involved, a multi-jurisdictional agreement, as required by paragraph (a), above, shall contain the following conditions:
 - (1) A requirement for the contributing public agency to adopt a sewer use ordinance which is at least as stringent as this chapter and Local Limits, including required Baseline Monitoring Reports (BMRs) which are at least as stringent as those set out in section

- 21-2-5. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the County’s ordinance or local limits;
- (2) A requirement for the contributing public agency to submit a revised User inventory on at least an annual basis;
 - (3) A provision specifying which pretreatment implementation activities, including individual wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing jurisdiction; which of these activities will be conducted by the director; and which of these activities will be conducted jointly by the contributing public agency and the director;
 - (4) A requirement for the contributing public agency to provide the director with access to all information that the contributing public agency obtains as part of its pretreatment activities;
 - (5) Limits on the nature, quality, and volume of the contributing public agency’s wastewater at the point where it discharges to the POTW;
 - (6) Requirements for monitoring the contributing public agency’s discharge;
 - (7) A provision ensuring the director access to the facilities of Users located within the contributing public agency’s jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the director; and
 - (8) A provision specifying remedies available for breach of the terms of the agreement with the public agency.

Section 21-2-10. Analytical requirements.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the director or other parties approved by EPA.

The director shall set additional sampling and analytical requirements in the administrative rules.

Section 21-2-11. Sample collection.

Samples for the reporting period shall be collected using appropriate sampling and analysis and shall be representative of conditions occurring during the reporting period.

- (a) Except as indicated in subsections (b) and (c) below, the user must 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 the County, 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 shall be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples shall be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples shall be

composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies shall be authorized by the County, as appropriate. In addition, grab samples shall be required to show compliance with Instantaneous Limits.

- (b) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
- (c) For sampling required in support of baseline monitoring and 90-day compliance reports required in section 21-5-2 and 21-5-4 [40 CFR 403.12(b) and (d)], 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 paragraphs Section 21-5-5 (40 CFR 403.12(e) and 403.12(h)), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

Article 3. Pretreatment of Wastewater.

Section 21-3-1. Wastewater survey.

When requested by the director, an industrial user shall submit information on the nature and characteristics of the user's wastewater by completing a wastewater survey prior to commencing the discharge. The director is authorized to prepare a form for this purpose; and may periodically require an industrial user to update the survey. Failure to complete the survey shall be reasonable grounds for terminating service to the industrial user and shall be considered a violation of this chapter.

Section 21-3-2. National categorical pretreatment standards.

Users shall comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405–471.

- (a) 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 section 21-3-2(e) and 21-3-2(f).
- (b) When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the director may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users.
- (c) 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 in accordance with 40 CFR 403.6(e).
- (d) A CIU may obtain a net/gross adjustment to a categorical pretreatment standard in accordance with HAR Section 11-55-42.
- (e) When a categorical pretreatment standard is expressed only in terms of pollutant concentrations, an Industrial User may request that the County convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the director. The County may establish equivalent mass limits only if the Industrial User meets all the conditions set forth in this subsection.

- (1) To be eligible for equivalent mass limits, the Industrial User must:
 - (A) Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its industrial wastewater discharge permit;
 - (B) Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical Pretreatment Standard, and not have used dilution as a substitute for treatment;
 - (C) Provide sufficient information to establish the facility's actual average daily flow rate for all waste streams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;
 - (D) Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the discharge; and
 - (E) Have consistently complied with all applicable categorical pretreatment standards during the period prior to the Industrial User's request for equivalent mass limits.
- (2) An Industrial User subject to equivalent mass limits must:
 - (A) Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;
 - (B) Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;
 - (C) Continue to record the facility's production rates and notify the director whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in section 21-3-2(e)(1)(C). Upon notification of a revised production rate, the director will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and
 - (D) Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to section 21-3-2(e)(1)(A) so long as it discharges under an equivalent mass limit.
- (3) When developing equivalent mass limits, the director:
 - (A) Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the Industrial User by the concentration-based daily maximum and monthly average standard for the applicable categorical pretreatment standard and the appropriate unit conversion factor;
 - (B) Upon notification of a revised production rate, will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and
 - (C) May retain the same equivalent mass limit in subsequent individual wastewater discharger permit terms if the Industrial User's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to section 21-2-4(d). The Industrial User must also be in compliance with section 21-10-3 regarding the prohibition of bypass.

- (f) The director may convert the mass limits of the categorical pretreatment standards of 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual Industrial Users. The conversion is at the discretion of the director.
- (g) Once included in its permit, the Industrial User must comply with the equivalent limitations developed in this section in lieu of the promulgated categorical standards from which the equivalent limitations were derived.
- (h) Many categorical pretreatment standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum monthly average, or four-day average, limitations. Where such standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.
- (i) Any Industrial User operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based standard shall notify the director within two (2) business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not notifying the director of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long-term average production rate.

Section 21-3-3. Pretreatment facilities.

Users shall provide wastewater treatment as necessary to comply with this chapter and shall achieve compliance with all pretreatment standards, local limits, and the prohibitions set out in Article 1 within the time limitations specified by EPA, the state, or the director, whichever is more stringent. Any facilities necessary to pretreat wastewater to a level acceptable to the County shall be provided, operated, and maintained at the user's expense.

Detailed and certified engineering plans showing such facilities and operating procedures shall be submitted to the director for review and shall be acceptable to the director before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the County under the provisions of this chapter.

Section 21-3-4. Additional pretreatment facilities.

- (a) Whenever deemed necessary, the director may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate domestic sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this chapter.
- (b) Grease, oil, and sand interceptors shall be provided when, in the opinion of the director, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by the director, shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired by the user at their expense.
- (c) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

- (d) At no time shall readings of an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, be more than ten percent of the lower explosive limit (LEL) of the meter.

Section 21-3-5. Monitoring facilities.

The County shall require an industrial user to construct, at the user's own expense, monitoring facilities to allow inspection, sampling, and flow measurements of the premises, sewer, or internal drainage systems; and shall also require sampling, metering equipment, or flow measurement devices to be provided, installed, and operated at the owner's expense. Such monitoring facilities shall be situated on the owner's premises.

Monitoring facilities shall include accommodations to allow access by County personnel, such as a cover secured with a lock owned by County. There shall be adequate room in or near the monitoring facilities to permit accurate sampling, flow measuring, and composting of samples for analysis. The monitoring facilities and procedures and the equipment therefore shall be provided and always maintained in a safe and proper operating condition, and at the expense of the industrial user or applicant.

Monitoring facilities shall be constructed in accordance with uniform standards and specifications provided by the County. For existing industrial users, construction thereof shall be completed within one hundred and eighty days following written notification of the above requirements by the County. For new industrial users, construction thereof shall be completed prior to sewer discharge.

Section 21-3-6. Flow measurement.

All industrial users who discharge twenty-five thousand gallons per day or more of industrial wastewater shall install a continuous monitoring flow meter capable of measuring the industrial user's discharge to the POTW. The flow measurement device shall conform to standards issued by the director and be maintained as per the industrial user's permit.

Section 21-3-7. Owner and tenant responsibility.

Where an owner of property leases premises to any other person as a tenant under any rental or lease agreement, if either the owner or the tenant is an industrial user, either or both shall be held responsible for compliance with the provisions of this chapter.

Section 21-3-8. Vandalism.

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, tamper with, or prevent access to any structure, appurtenance, equipment, or other part of the POTW. Any person found in violation of this requirement shall be subject to the sanctions set out in administrative, judicial, or any supplemental enforcement actions established within this chapter.

Section 21-3-9. Separation of domestic and industrial waste.

Every person who discharges industrial wastewater shall keep the domestic wastewaters separate from all industrial wastewaters until the industrial wastewaters have passed through any required pretreatment system or device, or the industrial wastewater control manhole or sampling station.

Section 21-3-10. Gravity separation interceptor requirements.

- (a) All gravity separation interceptor chambers shall be immediately accessible at all times for the purposes of inspection and cleaning. At no time shall any material, debris, obstacles, or obstructions be placed in such a manner to prevent immediate access to the gravity separation interceptor.
- (b) Any gravity separation interceptor legally and properly installed before the effective date of this chapter shall be acceptable as an alternative to the gravity separation interceptor specified herein, provided such gravity separation interceptor is effective in removing floatable and settleable material and is so designed and installed that it can be inspected and properly maintained.
- (c) If the director finds, either by engineering knowledge or by observation, that a gravity separation interceptor is incapable of retaining adequately the floatable and settleable material in the wastewater flow, is structurally incomplete, or is undersized for the facility, the director shall condemn such gravity separation interceptor and declare that it does not meet the requirements of this chapter, and shall require the industrial user to install, at the user's expense, an acceptable replacement gravity separation interceptor.

Section 21-3-11. Standard gravity separation interceptor designs and policies.

The County shall maintain a file available for public use of suitable designs and policies of gravity separation interceptors. These shall be for informational purposes only. Installation of a gravity separation interceptor of a design shown in this file, or of any design meeting the size requirements set forth in this chapter, shall not impute any liability to the County for the adequacy of the gravity separation interceptor under actual conditions of use. It shall not relieve the owner or proprietor of responsibility for keeping floatable and settleable material out of the sewer.

Section 21-3-12. Gravity separation interceptor maintenance.

- (a) Any person who owns, operates, or maintains a gravity separation interceptor shall maintain it properly. It shall be cleaned as often as is necessary to ensure that sediment and floating materials do not accumulate to impair the efficiency of the gravity separation interceptor. The use of emulsifiers, bacterial additives, or other chemical agents to dissolve grease is specifically prohibited. When a gravity separation interceptor is cleaned, the sidewalls shall be scraped and hosed down, while all the solids and liquids contained are removed. All wastes removed from any gravity separation interceptor shall be legally disposed of other than to the sewer. The County specifically prohibits the following gravity separation interceptor practices:
 - (1) Pumping to remove only accumulated sediments or floating materials;
 - (2) Pumping operations which specifically separate floating or sediment interceptor solid wastes from wastewater and then return or decant the separated wastewater back into the gravity separation interceptor; and
 - (3) Transporting any hauled pollutants from another location for discharge into a gravity separation interceptor.
- (b) A gravity separation interceptor is not considered to be properly maintained if for any reason it is not in good working condition with all internal required plumbing of proper design and length in place, or if the operational fluid capacity has been reduced by more than twenty-five percent by the accumulation of floating and settled solids, oils, and greases.

The owner of any premises required to install a gravity separation interceptor; the lessee and sublessee, if there be such; and any proprietor, operator, or superintendent of such facility are individually and severally liable for any failure of proper maintenance of such gravity separation interceptor.

- (c) If the gravity separation interceptor is not maintained adequately under the conditions of use, the gravity separation interceptor shall be resized, and the industrial user shall install one which is effective in accomplishing the intended purpose.

Section 21-3-13. Food service establishment facilities.

- (a) Food preparation facilities shall include, but not be limited to, retail establishments selling prepared foods and drinks for consumption on the premises, and lunch counters and refreshment stands selling prepared foods and drinks for immediate consumption. Food preparation facilities, lunch counters, and drinking places operated as subordinate service facility by other establishments shall also be included.
- (b) Any person who operates, owns, or maintains a food preparation facility shall cause all food preparation wastes from floor drains, floor sinks, sinks, waste containers, wash racks, dishwashers, and garbage grinders to be directed through a minimum of five-hundred-gallon gravity separation interceptor, unless otherwise approved by the industrial waste division, and shall keep all domestic wastewaters from restrooms, showers and drinking fountains separate from the restaurant wastewater until the restaurant wastewaters have passed through all necessary pretreatment equipment devices, or monitoring stations.
- (c) Condensate (i.e., air conditioning) and ice melt shall be connected to the gravity separation interceptor at the discretion of the director. Sizing of gravity separation interceptors shall be determined as described in the Uniform Plumbing Code, as adopted by the County, or as otherwise approved by the director.

Section 21-3-14. Prohibited food service establishment wastewater discharges.

No person who owns, operates, or maintains a restaurant shall at any time discharge any wastewater to the street, storm drain, storm channel, parking lots, service dock areas, or ground, except for unpolluted cooling water that has been approved by the director and the building division. Wastewater generated by restaurants must be disposed of to a gravity separation interceptor connected to a sewer or approved individual wastewater system.

Section 21-3-15. Fats, oil, and grease.

The director shall develop a Fats, Oil, and Grease (FOG) control program to reduce sanitary sewer overflows (SSOs), reduce floatable FOG wastes within sewer pump station wet wells, collection system blockages, and to protect public health and the environment by minimizing public exposure to unsanitary conditions. By controlling the discharge of fats, oils, and grease to the wastewater collection system, excessive buildup in sewer pipes, mechanical equipment, and wet wells thereby increasing the system's operating efficiency and reducing the number of sewer line blockages and overflows.

- (a) All food service establishments shall implement BMPs to minimize the discharge of FOG to the sewer system, including, but not limited to, the following, as applicable:
 - (1) Drain screens shall be installed on all drainage pipes in food preparation areas.
 - (2) Waste cooking oil shall be disposed of in accordance with state and local law.

- (3) All waste cooking oil shall be collected and stored properly in recycling receptacles such as barrels or drums. Such recycling receptacles shall be maintained properly to ensure that they do not leak. Licensed waste haulers or an approved recycling facility must be used to dispose of waste cooking oil in accordance with applicable state and local law.
- (4) All food waste should be disposed of directly into the trash or garbage, or by a food recycling program. Disposal shall be in accordance with applicable state and local law and not into sinks and shall be disposed of in a manner that will ensure against leakage in the trash container or anywhere else.
- (5) Employees shall be trained by food service establishment ownership/management periodically on the following subjects:
 - (A) Dry-wiping pots, pans, dishware and work areas before washing to remove grease.
 - (B) Properly disposing food waste and solids in plastic bags prior to disposal in trash bins or containers to prevent leaking and odors.
 - (C) The location and use of absorption products to clean under fryer baskets and other locations where grease may be spilled or dripped.
 - (D) Properly disposing grease or oils from cooking equipment into a proper grease receptacle without spilling.
 - (E) Training shall be documented along with employee signatures. Training records shall be available for review at any time by authorized representatives of the County.
 - (F) Mechanical exhaust ventilation filters shall be cleaned as frequently as necessary to be maintained in good operating condition. The wastewater generated from cleaning exhaust filters shall be disposed of properly.
 - (G) Best management and FOG waste minimization practices shall be conspicuously visible on posted signage in the food preparation and dishwashing areas.
- (6) Any person or business who removes commercial FOG waste or commercial cooking oil waste from any source shall transport the waste to a recycling or disposal facility and unload the waste there. The facility shall be permitted by an appropriate agency having jurisdiction.
- (7) All Commercial FOG waste disposal facilities shall be considered a SIU if any component of the associated process wastes is received at any County POTW or solid waste facility.
- (8) Any person who comes into possession of commercial FOG waste or commercial cooking oil waste at a recycling or disposal facility shall either:
 - (A) Convert the waste into biodiesel or renewable fuel, compost, or another marketable product;
 - (B) Transport the waste to another permitted recycling facility and unload the waste there, or;
 - (C) Pretreat the waste and transport it to a permitted disposal facility.
- (9) The director may, suspend the requirements of this section during the period of a work stoppage or any other interruption of recycling transport service or recycling facility service

- (10) Whenever the director determines that there are inadequate recycling facilities or there is inadequate recycling capacity to dispose of all commercial FOG waste or commercial cooking oil waste in the County at a recycling facility.

Section 21-3-16. Conditional oil and grease interceptor waiver.

Notwithstanding any other provision in this section, an owner of an existing or proposed industrial user on may obtain a conditional oil and grease interceptor waiver, from the County, from the grease interceptor requirement to allow for the following situations:

- (a) The existing food preparation facility that was constructed prior to the effective date of this ordinance without an oil and grease interceptor, does not have a record of non-compliance, and will implement BMPs identified in section 21-3-15(a). The facility shall be subject to compliance if any improvement to the facility which requires a County development permit.
- (b) Existing food preparation facility not likely not generate FOG waste.
- (c) Allow alternative pretreatment technology that is equally effective in controlling the FOG discharge in lieu of a grease interceptor.

Section 21-3-17. Cost recovery for FOG.

All costs incurred for cleaning the sewer line to remove FOG buildup caused or contributed to by a food service establishment shall be reimbursed to the County by the owner of the food service establishment. Factors for determining responsible parties for cost recovery charges, include food service establishments that are discharging into the affected sewer line, the presence of grease removal devices or alternative pretreatment in the food service establishment, proper maintenance of grease removal devices by the owner or operator of the food service establishment, implementation of BMPs identified in section 21-3-15(a), and any conditional waivers granted.

Section 21-3-18. Accidental/slug discharge control plans.

All industrial users subject to pretreatment requirements or national pretreatment standards shall notify the director immediately of all discharges that could cause problems to the POTW, including any slug loading or prohibited discharge.

The director may require any industrial user to develop and implement an accidental discharge/slug control plan. The director will evaluate accidental discharge/slug control plan needs for all industrial users classified as significant industrial users and may develop such a plan for any industrial user. An accidental discharge/slug control plan shall address, at a minimum, the following:

- (a) Description of discharge practices, including nonroutine batch discharges;
- (b) Description of stored chemicals;
- (c) Procedures for immediately notifying the director of any accidental or slug discharge, as required by section 21-5-7; and
- (d) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

Section 21-3-19. Hauled wastewater.

- (a) The director may establish limits, requirements, fees, and pretreatment and permit requirements for cesspool septage, chemical toilet waste, wastewater, or wastewater sludge (hauled wastewater), or any other waste not prohibited under this chapter by publishing them in the administrative rules.
- (b) The director may require haulers and generators of hauled wastewater to obtain individual industrial wastewater discharge permits. The director also may prohibit the disposal of hauled wastewater in general or may prohibit discharge of specific types or generators/haulers. The discharge of hauled wastewater is subject to all other requirements of this chapter.
- (c) Hauled wastewater may be introduced into the POTW only at locations designated by the director, and at such times as are established by the director. Such discharge shall not violate Article 2 of this chapter, or any other requirements established by the County.
- (d) No hauled wastewater may be discharged without prior consent of the director. The director may collect samples of each hauled load to ensure compliance with applicable standards. The director may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- (e) Haulers shall provide information about their load. Information provided, at a minimum, shall be the name and address of the hauler, permit number, truck identification, names, and addresses of sources of waste, and volume and characteristics of waste. Hauler shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes. The director may request additional information about the hauled waste, set requirements, and establish forms for this purpose in the administrative rules.
- (f) The director may require submitted reports containing the tabulated information listed in paragraph (e) above to the wastewater division no later than thirty days after the last day of the month. Failure to provide the requested information may lead to revocation of the hauler's permit and initiation of formal complaint from County to other permitting agencies for haulers.

Article 4. Industrial Wastewater Discharge Permits

Section 21-4-1. Industrial wastewater discharge permit requirement.

All significant industrial users (SIUs) connected to or proposing to connect to the wastewater collection system shall obtain a permit from the director as a condition to be connected to and to discharge into the wastewater collection system. Non-significant industrial users connected to or proposing to connect to the wastewater collection system may be required to obtain a permit from the director as a condition to be connected to and to discharge into the wastewater collection system, as determined by the director. An existing industrial user shall obtain the permit within ninety days after receipt of notice from the director that the discharge qualifies the user as either an industrial user or a significant industrial user or provide evidence satisfactory to the director that the discharge does not bring the user within these definitions. New industrial users shall obtain the permit required in this section prior to connecting and discharging into the sewer collection system.

The director may require other users to obtain industrial wastewater discharge permits as necessary to carry out the purposes of this chapter.

Section 21-4-2. Industrial wastewater discharge permit applications.

Industrial users seeking a wastewater discharge permit shall complete an application in the form prescribed by the County.

The applicant may be required to submit some or all of the following information:

- (a) Applicant's name, mailing address, and standard industrial classification number;
- (b) Location address of property producing wastewater discharge, and name and telephone number of person to contact about discharge;
- (c) List of environmental control permits held by or for the applicant;
- (d) Volume of wastewater to be discharged, including source, frequency, and duration, peak and seasonal flows, and points of discharge to the wastewater collection system;
- (e) Wastewater constituents and characteristics to be determined by an independent laboratory approved by the County, including BOD, total suspended solids, pH, and any other constituents and characteristics as directed by the director. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. Sampling shall be performed in accordance with procedures set out in this chapter. Sample(s) shall be representative of daily operations;
- (f) Names of raw materials and products that would be defined as incompatible pollutants if they were to be discharged into the wastewater collection system. The director may request additional information if the applicant identifies that incompatible pollutants may be generated in the manufacturing process;
- (g) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers and appurtenances by size, location, and elevation;
- (h) A description of activities, facilities, and plant processes on the premises, including the names of raw materials used in production and related processes and of byproducts;
- (i) Chemical names and quantities of all materials stored or which are or could be discharged;
- (j) Each product produced by type, amount, and rate of production;
- (k) Number and types of employees and hours of work;
- (l) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on 40 CFR 403.12(e)(2).13. The location for monitoring all wastes covered by the permit; and
- (m) Any other information as may be deemed by the director to be necessary to evaluate the permit application.

Section 21-4-3. Permit issuance.

Wastewater discharge permits shall include such conditions as are deemed reasonably necessary by the County to prevent pass through or interference pollutants, protect the quality of the water body receiving the treatment plant(s) effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

- (a) Wastewater discharge permits are enforceable and contain, at a minimum, the following conditions:
 - (1) Statement of permit duration (in no case more than five years), issuance date, expiration date, and effective date;

- (2) Statement of non-transferability without, at a minimum, prior notification to the County and provision of a copy of the existing control mechanism to the proposed owner or operator;
 - (3) Effluent limits, including best management practices, based on applicable general pretreatment standards in 40 CFR part 403, categorical pretreatment standards, local limits, and state and local laws;
 - (4) Self-monitoring, sampling, reporting, notification, and record-keeping requirements, including an identification of pollutants (or best management practice) to be monitored, sampling location, sampling frequency, and sample type, based on applicable general pretreatment standards in 40 CFR part 403, categorical pretreatment standards, local limits, and state and local law;
 - (5) The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the discharge;
 - (6) Statement of applicable civil and criminal penalties for violation of pretreatment requirements, and any applicable compliance schedule. Such schedules may not extend the compliance date beyond applicable federal, state, or local law;
 - (7) Requirements to control slug discharge, if determined by the County to be necessary;
 - (8) Any grant of the monitoring waiver by the County must be included as a condition in the user's permit.
- (b) Wastewater discharge permits may contain, but need not be limited to, the following conditions:
- (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
 - (2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
 - (3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges;
 - (4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
 - (5) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
 - (6) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices;
 - (7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
 - (8) Other conditions as deemed appropriate by the County to ensure compliance with this chapter, and state and federal laws, rules, and regulations.

Section 21-4-4. Application signatories and certifications.

- (a) All wastewater discharge permit applications, user reports and certification statements must be signed by an authorized representative of the user and contain the following certification statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons directly responsible for gathering said 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.”

- (b) The certification shall be signed by an authorized representative of the industrial user.
- (c) If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section shall be submitted to the County prior to or together with any reports to be signed by an authorized representative.
- (d) Annual certification for non-significant categorical industrial users—A facility determined to be a non-significant categorical industrial user by the County pursuant to 40 CFR 403.3(v)(2) must annually submit the following certification statement signed in accordance with the signatory requirements of an “authorized representative” as defined in this code. This certification must accompany an alternative report required by the County:
“Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical pretreatment standards under 40 CFR _____, I certify that, to the best of my knowledge and belief that during the period from _____, _____ to _____, _____ [months, days, year]:
 - (1) The facility described as _____ [facility name] met the definition of a non-significant categorical industrial user as described in this chapter and 40 CFR 403.3(v)(2).
 - (2) The facility complied with all applicable pretreatment standards and requirements during this reporting period; and
 - (3) The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.This compliance certification is based on the following information.
- (e) Certification of Pollutants Not Present. Users that have an approved monitoring waiver must certify on each report with the following statement that there has been no increase in the pollutant in its waste stream due to activities of the user. [40 CFR 403.12(e)(2)(v)]
Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standard for 40 CFR _____ [User shall list applicable categorical pretreatment standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report.

Section 21-4-5. Industrial wastewater discharge permit decisions.

The director will evaluate the data furnished by the user and may require additional information. Within 30 days of receipt of a complete permit application, the director will determine whether to issue an industrial wastewater discharge permit. The director may deny any application for an industrial wastewater discharge permit.

Section 21-4-6. Industrial wastewater discharge permit duration.

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

Section 21-4-7. Permit modification.

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

- (a) To incorporate any new or revised federal, state, or local pretreatment standards or requirements;
- (b) To address significant alterations or additions to the industrial user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
- (c) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- (d) Information indicating that the permitted discharge poses a threat to the County's POTW, County's personnel, or the receiving waters;
- (e) Violation of any terms or conditions of the wastewater discharge permit;
- (f) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application, or in any required reporting;
- (g) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
- (h) To correct typographical or other errors in the wastewater discharge permit; or
- (i) To address more stringent standards of pollution control or other more restrictive requirements that are imposed on the County by federal or state law.

The filing of a request by the permittee for a wastewater discharge permit modification does not stay any wastewater discharge permit condition. The owner shall be informed of any proposed changes in the permit at least sixty days prior to the effective date of such change, and any change or new compliance condition imposed upon the owner shall include provision for a reasonable time schedule for the owner's compliance.

Section 21-4-8. Industrial wastewater discharge permit nontransferability.

Wastewater discharge permits are not transferable, either by operation of law or otherwise. Wastewater discharge permits shall not be assigned, transferred, or sold. Changes of ownership, size, or number of premises or operation shall require the owner to apply for a new wastewater discharge permit.

Section 21-4-9. Industrial wastewater discharge permit revocation.

The director may revoke an industrial 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 21-5-6;
- (c) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- (d) Falsifying self monitoring reports and certification statements;

- (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 or any levied fees for noncompliance to any state, federal, or local agency;
- (j) Failure to meet compliance schedules;
- (k) Failure to complete a wastewater survey or the wastewater discharge permit application;
- (l) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- (m) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this chapter.

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

Section 21-4-10. Industrial wastewater discharge permit reissuance.

An industrial user with an expiring industrial wastewater discharge permit shall apply for industrial wastewater discharge permit reissuance by submitting a complete permit application, in accordance with section 21-4-2, a minimum of 90 days prior to the expiration of the user's existing industrial wastewater discharge permit.

Section 21-4-11. Permit denial.

The County reserves the right to deny a wastewater discharge permit to an industrial user proposing to discharge into or connect to the wastewater collection system if the permit application or other evidence reveals that the proposed discharge may upset or damage the wastewater collection system, or will cause a violation of federal or state discharge standards, or will cause a public nuisance, and the applicant is unable or unwilling to bring the discharge into acceptable norms. Additionally, an industrial user must notify the County prior to a significant change in the user's discharge and receive approval of this change before the change occurs, as in cases of the industrial user applying for renewal of the permit.

The County has the authority under this chapter to deny or condition new or increased contributions of pollutants to the POTW by industrial users where such contributions do not meet applicable pretreatment requirements or where such contributions would cause a violation of the County's NPDES permit.

Article 5. Industrial User Reporting Requirements.

Section 21-5-1. Industrial user reporting requirements.

The director may set industrial user reporting requirements in the Department's administrative rules. The requirements may be for but not limited to the following reports:

- (a) Baseline Monitoring
- (b) Compliance schedule progress
- (c) Compliance with categorical pretreatment standard deadlines
- (d) Periodic Compliance
- (e) Changed Conditions

- (f) Reports of Potential Problems
- (g) Reports from unpermitted users
- (h) Notice of Violation/repeat sampling and reporting
- (i) Notification of the discharge of hazardous wastes

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not mailed, the date of receipt of the report shall govern.

Section 21-5-2. Baseline monitoring reports.

- (a) Within 180 days after the effective date of a categorical pretreatment standard, or one hundred eighty days after the final administrative decision made upon a category determination submission under 40 CFR 403.6(a)(4), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the POTW shall be required to submit to the County a baseline monitoring report which contains the information listed in 40 CFR 403.12(b)(1)—(7). Where reports containing this information already have been submitted, the industrial user will not be required to submit this information again.
- (b) At least 90 days prior to commencement of discharge, new sources, and sources that become categorical industrial users subsequent to the promulgation of an applicable categorical pretreatment standard, shall be required to submit to the County a baseline monitoring report which contains the information listed in 40 CFR 403.12(b)(1)—(5). New sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable categorical pretreatment requirements. New sources shall give estimates of the information requested in paragraphs (4) and (5) of this subsection.
 - (1) Identifying information. The user shall submit the name and address of the facility including the name of the operator and owners;
 - (2) Permits. The user shall submit a list of any environmental control permits held by or for the facility;
 - (3) Description of operations. The user shall submit a brief description of the nature, average rate of production, and standard industrial classification of the operation(s) carried out by such industrial user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
 - (4) Flow measurement. The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from each of the following:
 - (A) Regulated process streams; and
 - (B) Other streams as necessary to allow use of the combined waste stream formula of 40 CFR 403.6(e). (See paragraph (b)(5)(D) of this section.)The control authority may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.
 - (5) Measurement of pollutants.
 - (A) The user shall identify the pretreatment standards applicable to each regulated process;
 - (B) In addition, the user shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the standard or control authority) of 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. In cases where the standard requires compliance with a best management practice or pollution prevention alternative, the industrial user shall submit documentation as required by the control authority or the applicable standards to determine compliance with the standard;

- (C) The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph;
 - (D) Samples should 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 wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e) in order to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the County;
 - (E) Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR part 136 and amendments thereto. Where 40 CFR part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the director determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the County or other parties, approved by the director;
 - (F) The County may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;
 - (G) The baseline report shall indicate the time, date and place, of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW;
- (6) Certification. A statement, reviewed by an authorized representative of the industrial user (as defined in section 21-4-4) and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance and/or additional pretreatment is required for the industrial user to meet the pretreatment standards and requirements; and
- (7) Compliance schedule. If additional pretreatment and/or operation and maintenance will be required to meet the pretreatment standards; the shortest schedule by which the industrial user 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.
- (A) Where the industrial user's categorical pretreatment standard has been modified by a removal allowance (40 CFR 403.7), the combined wastestream formula (40 CFR 403.6(e)), and/or a fundamentally different factors variance (40 CFR 403.13) at the time the user submits the report required by paragraph (b) of this section,

the information required by paragraphs (b)(6) and (7) of this section shall pertain to the modified limits.

- (B) If the categorical pretreatment standard is modified by a removal allowance, the combined wastestream formula, and/or a fundamentally different factors variance after the user submits the report required by paragraph (b) of this section, any necessary amendments to the information requested by paragraphs (b)(6) and (7) of this section shall be submitted by the user to the County within sixty days after the modified limit is approved.

Section 21-5-3. Compliance schedule progress reports.

The County may require:

- (a) The development of a compliance schedule by each industrial user for the installation of technology required to meet applicable categorical pretreatment standards; and
- (b) The submission of all notices and self-monitoring reports from industrial users as are necessary to assess and assure compliance by industrial users with categorical pretreatment standards, including but not limited to the reports required in 40 CFR.
- (1) The following conditions shall apply to the compliance schedule required by 40 CFR 403.12(b)(7). 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 industrial user to meet the applicable categorical pretreatment standards (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, etc.)
- (2) No increment referred to in subsection (1) above shall exceed nine months.
- (3) Not later than fourteen days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the County, including at a minimum whether or not the industrial user complied with the increment of progress to be met on such date and, if not, the date on which the industrial user expects to comply with this increment of progress, 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 months elapse between such progress reports to the County.

Section 21-5-4. Reports on compliance with categorical pretreatment standard deadline.

Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the director a report containing the information described in sections 21-4-2. For users subject to equivalent mass or concentration limits established in accordance with the procedures in section 21-3-2, this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with section 21-4-4. All sampling will be done in conformance with section 21-2-11.

Section 21-5-5. Periodic compliance reports.

- (a) All significant industrial users, except as specified in section 21-5-5(d) or (e) (below), shall submit at a frequency determined by the County no less than twice per year (during the months of June and December or other dates specified) reports indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period.
- (b) In cases where the pretreatment standard requires compliance with a best management practice (BMP) or pollution prevention alternative, the user must submit documentation required by the County or the pretreatment standard necessary to determine the compliance status of the user.
- (c) The County may authorize a categorical industrial user to forego sampling of a pollutant regulated by a categorical pretreatment standard if the industrial user has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the industrial user per 40 CFR 403.12(e)(2). This authorization is subject to the following conditions:
 - (1) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical standard and otherwise includes no process wastewater.
 - (2) The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than five years. The user must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit.
 - (3) In making a demonstration that a pollutant is not present, the industrial user must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.
 - (4) The request for a monitoring waiver must be signed and include the certification statement in accordance with section 21-4-4.
 - (5) Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.
 - (6) Any grant of the monitoring waiver by the County must be included as a condition in the user's permit. The reasons supporting the waiver and any information submitted by the user in its request for the waiver must be maintained by the County for three years after expiration of the waiver.
 - (7) Upon approval of the monitoring waiver and revision of the user's permit by the County, the industrial user must certify on each report with the statement in section 21-4-4, that there has been no increase in the pollutant in its wastestream due to activities of the industrial user.
 - (8) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the user's operations, the user must immediately

- comply with the monitoring requirements imposed by the County, and notify the County.
- (9) This provision does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.
- (d) The County may reduce the requirement for periodic compliance reports for categorical industrial users 40 CFR 403.12(e)(1) to no less frequently than once a year, unless required more frequently in the pretreatment standard or by the EPA/state. Reduced reporting is not available to industrial users that have in the last two years been in significant noncompliance, as defined in this chapter. In addition, reduced reporting is not available to an industrial user with daily flow rates, production levels, or pollutant levels that vary so significantly that, in the opinion of the County, decreasing the reporting requirement for this industrial user would result in data that are not representative of conditions occurring during the reporting period.
- (e) The County may reduce the periodic compliance reports where the categorical industrial user's total categorical wastewater flow does not exceed any of the following:
- (1) Five thousand gallons per day, or 0.01 percent of the POTW's design dry-weather hydraulic capacity, whichever is smaller, as measured by a continuous effluent flow monitoring device (unless the industrial user discharges in batches); or
 - (2) 0.01 percent of the POTW's design dry-weather organic treatment capacity; or
 - (3) 0.01 percent of the POTW's maximum allowable headworks loading for any pollutant regulated by the applicable categorical pretreatment standard for which approved local limits were developed. [Note: For example, if the POTW's maximum allowable headworks loading for copper is five pounds, then 0.01 percent would be 0.0005 pounds; the POTW would need to do this calculation for each pollutant for which it has approved local limits.]
- (f) Sampling and analysis may be performed by the County in lieu of the significant industrial user. Where the County itself collects all the information required for the report, the significant industrial user will not be required to submit the report.
- (g) All periodic compliance reports must be signed and certified in accordance with this chapter, section 21-5-5.
- (h) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- (i) If a user subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the County, the results of this monitoring shall be included in the report.
- (j) Users that send electronic (digital) documents to the County to satisfy the requirements of this section must include the certification statement in this ordinance, section 21-4-4.
- (k) Where the County has imposed mass limitations on categorical industrial users as provided for by 40 CFR 403.6(c), the report required shall indicate the mass of pollutants regulated by categorical pretreatment standards in the discharge from the industrial user.
- (l) For categorical industrial users subject to equivalent mass or concentration limits established by the County in accordance with the procedures in 40 CFR 403.6(c), the report required,

shall contain a reasonable measure of the industrial user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed only in terms of allowable pollutant discharge per unit of production (or other measure of operation), the report required, shall include the industrial user's actual average production rate for the reporting period.

Section 21-5-6. Reports of changed conditions.

Each user must notify the director of any significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 30 days before the change.

- (a) The director may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application in compliance with section 21-4-2.
- (b) The director may issue an industrial wastewater discharge permit or modify an existing wastewater discharge permit under section 21-4-7 in response to changed conditions or anticipated changed conditions.

Section 21-5-7. Reports of potential problems.

- (a) In the case of any discharge that might cause potential problems for the POTW, the user shall immediately contact and notify the director of the incident. Such discharges include but are not limited to: accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, a slug discharge or slug load. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- (b) Within five (5) days following such discharge, unless waived by the director, the user shall submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which might be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.
- (c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph (a), above. Employers shall ensure that all employees who could cause such a discharge to occur, are advised of the emergency notification procedure.
- (d) Significant Industrial Users are required to notify the director immediately of any changes at its facility affecting the potential for a slug discharge.

Section 21-5-8. Reports from unpermitted users.

All industrial users not subject to categorical pretreatment standards and not required to obtain a wastewater discharge permit shall provide appropriate reports to the POTW as the director may require.

Section 21-5-9. Notice of violation/repeat sampling and reporting.

If sampling performed by a User indicates a violation, the User must notify the director within twenty four (24) hours of becoming aware of the violation. The user shall also repeat the

sampling within 7 days, and submit the results of the repeat analysis to the director within thirty (30) days after becoming aware of the violation. Resampling by the Industrial User is not required if the County performs sampling at the user's facility at least once a month, or if the County performs sampling at the user between the time when the initial sampling was conducted and the time when the user or the County receives the results of this sampling, or if the County has performed the sampling and analysis in lieu of the Industrial User.

Section 21-5-10. Notification of the discharge of hazardous wastes.

Discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261, is prohibited unless specifically permitted by the director.

- (a) Any User who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and state Department of Health, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, 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 POTW, the notification also shall contain the following information to the extent such information is known and readily 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 wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph needs to be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under section 21-5-6. The notification requirement in this section does not apply to pollutants already reported by Users subject to categorical pretreatment standards under the self-monitoring requirements of sections 21-5-2, 21-5-4, and 21-5-5.
- (b) Dischargers are exempt from the requirements of paragraph (a), above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the User discharges more than such quantities of any hazardous waste do not require additional notification.
- (c) In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the User must notify the director, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
- (d) In the case of any notification made under this section, the User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

- (e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued thereunder, or any applicable federal or state law.

Section 21-5-11. Recordkeeping.

Users subject to the reporting requirements established in this section shall retain, and make available for inspection and copying, all records of information obtained pursuant to monitoring activities required by this chapter, 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. If an industrial user monitors any regulated pollutant at the appropriate sampling location more frequently than required by the County, using test procedures prescribed in 40 CFR, Part 136, or amendments thereto, or otherwise approved by EPA or as specified in a permit, the results of such monitoring shall also be submitted to the County within seven days of receipt of the laboratory report. Records shall include the date, exact sampling location, 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. The records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or County, or where the user has been specifically notified of a longer retention period by County.

Section 21-5-12. Publication of users in significant noncompliance.

The director shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the users which, at any time during the previous twelve months, were in Significant Noncompliance with applicable Pretreatment Standards and Requirements. The director may establish rules, requirements, and procedures for this section in the Department’s administrative rules.

Article 6. Compliance Monitoring.

Section 21-6-1. Right of entry: inspection and sampling.

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

- (a) Where a User has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the director shall be permitted to enter without delay for the purposes of performing specific responsibilities.
- (b) The director shall have the right to set up on the user’s property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user’s operations.
- (c) The director may require the user to install monitoring equipment as necessary. The facility’s sampling and monitoring equipment shall be always maintained in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least annually to ensure their accuracy.

- (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 costs of clearing such access shall be borne by the user.
- (e) Unreasonable delays in allowing the director access to the user's premises shall be a violation of this chapter.
- (f) The department may access and utilize existing sewer lateral cleanouts for the purpose of inspecting, maintaining, or cleaning blockages in the public and in private sewer systems without notice.

Section 21-6-2. Search warrants.

If the director has been refused access to a parcel, premises, building, structure, or any part thereof, and has cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the County designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the director may seek issuance of a search warrant from a court of jurisdiction.

Section 21-6-3. Confidential information.

All information and data obtained from reports, questionnaires, permit applications, monitoring programs, and inspections shall be available to the public or other governmental agencies without restriction, unless the owner specifically requests that such information be maintained in confidence and demonstrates to the reasonable satisfaction of the County that the release of such information would divulge information in connection with processes or methods of the operations of the permit holder which would be detrimental to the permit holder's competitive position. Wastewater constituents and characteristics will in no event be treated as confidential information. The information accepted as confidential by the County will not be released to the public or to any other government agency except as a product of court order, and then only after notice to the permit holder. Under section 308 of the Clean Water Act, the EPA has access to all information collected by the County under its pretreatment program.

Article 7. Administrative Enforcement Remedies.

Section 21-7-1. Notification of violation.

When the director finds that a user has violated, or continues to violate, any provision of this chapter, an industrial wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the director may serve upon said user a written notice of violation as prescribed in 21-1-2(c). The director may establish rules, requirements, and procedures for this section in the department's administrative rules.

Within seven days of the receipt of this notice, the user shall submit an explanation of the violation and a plan for the satisfactory correction and prevention of future occurrences. The plan shall include specific required corrective actions and schedule of such corrective actions. The director shall accept or respond to the compliance plan within thirty days of receipt of the schedule. Any plan not acted upon after thirty days of receipt by the director shall be deemed accepted by the director.

Submission of such a plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the director to take any action, including emergency actions or any other enforcement action, without first providing notice of violation.

Section 21-7-2. Consent orders.

The director may enter into consent orders, assurances of compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents shall include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to sections 21-7-4 and 21-7-5 and shall be considered judicially enforceable.

Section 21-7-3. Show cause hearing.

The director may order a user that has violated, or continues to violate, any provision of this chapter, an industrial wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, to appear before the director and show cause why enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least seven days prior to the hearing. Such notice may be served on any Authorized Representative of the user as defined in section 21-1-4 and required by section 21-4-4. Whether or not the user appears as ordered, immediate enforcement action may be pursued following the hearing date. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

Section 21-7-4. Compliance orders.

When the director finds that a user has violated, or continues to violate, any provision of this chapter, an industrial wastewater 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 also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

Section 21-7-5. Cease and desist orders.

When the director finds that a user has violated, or continues to violate, any provision of this chapter, an industrial wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the

director may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- (a) Immediately comply with all requirements; and
- (b) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease-and-desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

Section 21-7-6. Order execution and appeal.

- (a) Any order issued pursuant to this section shall state with reasonable specificity the nature of the violation. Any administrative penalties assessed in the order shall be in accordance with section applicable County and state law.
- (b) Any order issued under this chapter shall become final, unless not later than twenty days after the notice of order is served, the person or persons named therein request in writing a hearing before the director.
- (c) Any penalty imposed under this chapter shall become due and payable twenty days after the notice of penalty is served unless the person or persons named therein requests in writing a hearing before the director. Whenever a hearing is requested on any penalty imposed under this chapter, the penalty shall become due and payable only upon completion of all review proceedings and the issuance of a final order confirming the penalty in whole or in part. Upon request for a hearing, the director shall require that the alleged violator or violators appear before the commission for a hearing at a time and place specified in the notice and answer the charges complained of.
- (d) Any hearing conducted under this section shall be conducted as a contested case under Hawai'i Revised Statute Chapter 91. If after a hearing held pursuant to this section, the commission finds that a violation or violations have occurred, the commission shall affirm or modify any penalties imposed or shall modify or affirm the order previously issued or issue an appropriate order or orders for the prevention, abatement, or control of the violation or disposals involved, or for the taking of such other corrective action as may be appropriate. If, after a hearing on an order or penalty contained in a notice, the commission finds that no violation has occurred or is occurring, the commission shall rescind the order or penalty. Any order issued after hearing may prescribe the date or dates by which the violation or violations shall cease and may prescribe timetables for necessary action in preventing, abating, or controlling the violation or disposals.
- (e) If the amount of any penalty is not paid to the department within thirty days after it becomes due and payable, the director may institute a civil action in the name of the County to collect the administrative penalty which shall be a government realization. In any proceeding to collect the administrative penalty imposed, the director need only show that:
 - (1) Notice was given;
 - (2) A hearing was held or the time granted for requesting a hearing expired without a request for a hearing;
 - (3) The administrative penalty was imposed; and
 - (4) The penalty remains unpaid.
- (f) In connection with any hearing held pursuant to this section, the director or commission shall have the power to subpoena the attendance of witnesses and the production of evidence on behalf of all parties.

Section 21-7-7. Penalties.

- (a) Any person who violates this chapter, any rule adopted pursuant to this chapter, or any condition of a permit or variance issued pursuant to this chapter shall be fined not more than \$1,000 for each separate offense, not to exceed \$24,000 per day. Each day of each violation shall constitute a separate offense. Any action taken in court to impose or collect the penalty provided for in this subsection shall be considered a civil action.
- (b) Any person who denies, obstructs, or hampers the entrance or inspection by any duly authorized officer or employee of the department of any building, place, or vehicle that the officer or employee is authorized to enter and inspect shall be fined not more than \$2,000 for each day of denial, obstruction, or hampering. Any action taken in court to impose or collect the penalty provided for in this subsection shall be considered a civil action.

Section 21-7-8. Administrative penalties.

- (a) When the director finds that a user has violated, or continues to violate, any provision of this chapter, an industrial wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, and in addition to any other judicial or administrative remedy provided by this chapter, the director may impose by order the penalties specified in section 21-7-7. Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.
- (b) Unpaid charges, fines, and penalties shall, after 30 calendar days, be assessed as an additional penalty of 5.0 percent of the unpaid balance, and monthly compounding interest shall accrue thereafter at a rate of 2.5 percent per month. The director may seek a lien against the user's property for unpaid charges, fines, accrued interest, administrative costs, and penalties.
- (c) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

Section 21-7-9. Emergency suspensions.

The director may immediately suspend a user's discharge, after notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons. The director may also immediately suspend a user's discharge, after notice to the user, that threatens to cause interference or bypass of the POTW, or which in the opinion of the director presents or may present an endangerment to the environment.

- (a) Any user ordered by the director to suspend its discharge shall immediately stop or eliminate its discharge. In the event of a user's failure to immediately comply voluntarily with the suspension order, the director may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The director may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the director that the period of endangerment has passed unless the termination proceedings in section 21-7-10 of this chapter are initiated against the user.
- (b) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful

contribution and the measures taken to prevent any future occurrence, to the director prior to the date of any show cause or termination hearing under sections 21-7-3 or 21-7-10. Nothing in this article shall be interpreted as requiring a hearing prior to any emergency suspension under this article.

Section 21-7-10. Termination of discharge.

In addition to the provisions in section 21-4-9, any user who violates the following conditions is subject to discharge termination:

- (a) Violation of industrial wastewater discharge permit conditions;
- (a) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (b) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- (c) Refusal of reasonable access to the user’s premises for the purpose of inspection, monitoring, or sampling; or
- (d) Violations of the provisions in Article 2 of this chapter.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under section 21-7-3 as to 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, taking any other action against the user.

Article 8. Judicial Enforcement Remedies.

Section 21-8-1. Civil penalties.

- (a) Any user who has violated, or continues to violate, any provision of this chapter, an industrial wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the County for a maximum 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 attorneys’ fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the County.
- (c) In determining the amount of civil liability, the Court shall consider all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user’s violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
- (d) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

Section 21-8-2. Injunctive relief.

Whenever a user has violated a pretreatment standard or requirement or continues to violate the rules of this chapter, wastewater discharge permits or orders issued under this section, or any other pretreatment requirement, the County may petition a competent circuit court within the State of Hawai‘i, or the United States District Court, State of Hawai‘i, through the County’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 chapter on activities of the industrial user. Such other action as appropriate for legal or equitable relief, or both, may also be sought by the County. A petition for injunctive relief need not be filed as a prerequisite to taking any other action against a user.

Section 21-8-3. Criminal prosecution.

(a) Negligent Violations

- (1) A user who willfully or negligently violates this chapter or any rule adopted by the department pursuant to this chapter, or any condition in a permit issued under this chapter or any requirement imposed in a pretreatment program under this chapter, shall be subject to the provisions of section 342D-32, Hawai‘i Revised Statutes.
- (2) A user who negligently introduces into a sewerage system or into a publicly owned treatment works any water pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable federal, state, or local requirements or permits, which causes such treatment works to violate any effluent limitation or condition in any permit issued to the treatment works under this chapter, shall be subject to the provisions of section 342D-32, Hawai‘i Revised Statutes.

(b) Knowing Violations

- (1) A user who knowingly violates this chapter or any rule adopted by the department pursuant to this chapter, or any condition in a permit issued under this chapter or any requirement imposed in a pretreatment program, shall be subject to the provisions of section 342D-33, Hawai‘i Revised Statutes.
- (2) A user who knowingly introduces into a sewerage system or into a publicly owned treatment works any water pollutant or hazardous substance which such person knew or reasonably should have known could cause personal injury or property damage or, other than in compliance with all applicable federal, state, or local requirements or permits, which causes such treatment works to violate any effluent limitation or condition in a permit issued to the treatment works under this chapter, shall be subject to the provisions of section 342D-33, Hawai‘i Revised Statutes.

(c) Knowing Endangerment

- (1) Any user who knowingly violates this chapter or any rule adopted by the department pursuant to this chapter, or any condition in a permit issued under this chapter, and who knows at that time that the violation places another person in imminent danger of death or serious bodily injury, shall be subject to the provisions of section 342D-34, Hawai‘i Revised Statutes.

(d) False Statements

- (1) Any person who knowingly makes any false material statement, representation, or certification in any application, record, report, plan or other document filed or required to be maintained under this chapter or who knowingly falsifies, tampers with, or renders inaccurate any monitoring device or method required to be maintained under this chapter, shall be subject to the provisions of section 342D-35, Hawai‘i Revised Statutes.

Section 21-8-4. Remedies nonexclusive.

The remedies provided for in this chapter are not exclusive. The director 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 County’s enforcement response plan. However, the director may take other action against any user when the circumstances warrant. Further, the director is empowered to take more than one enforcement action against any noncompliant user.

Section 21-8-5. Liability for other penalties.

In the event that any violation of this chapter causes the County to become liable for civil or criminal fines or penalties imposed by the federal or state government for improper wastewater discharge, the owner of the premises responsible for such discharge shall indemnify and hold harmless the County, its officers, officials, employees, agents, and volunteers, from any such penalty imposed, including reasonable attorney's fees for the necessary defense of any action or proceeding brought to impose such fine or penalties, and in addition shall pay an administrative penalty or penalty which may be imposed. The provisions of this section shall be in addition to any other fine or penalty imposed by this chapter. The owner of any premises failing to so indemnify the County shall have service terminated.

Article 9. Supplemental Enforcement Actions.

Section 21-9-1. Fees for late reports.

Fees shall be assessed to any user for each day that a report required by this chapter, a permit, or order issued under this chapter is late. Actions taken by the director to collect late reporting fines shall not limit the director’s authority to initiate other enforcement actions that may include penalties for late reporting violations. The director may establish rules, requirements, and procedures for this section in the Department’s administrative rules.

Section 21-9-2. Fees for reinspection.

Fees shall be assessed to any user for any reinspection of any deficiency noted on previous inspection. Actions taken by the director to collect reinspection fees shall not limit the director’s authority to initiate other enforcement actions that may include penalties for any other deficiency identified. The director may establish rules, requirements, and procedures for this section in the Department’s administrative rules.

Section 21-9-3. Performance bonds.

The director may decline to issue or reissue an industrial wastewater discharge permit to any user who has failed to comply with any provision of this chapter, a previous industrial wastewater discharge permit, or order issued under this chapter, or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to the County, in a sum not to exceed a value determined by the director to be necessary to achieve consistent compliance. The director may establish rules, requirements, and procedures for this section in the Department’s administrative rules.

Section 21-9-4. Liability insurance.

The director may decline to issue or reissue an industrial wastewater discharge to any user who has failed to comply with any provision of this chapter, a previous industrial wastewater discharge permit, or order issued under this chapter, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial

assurances sufficient to restore or repair damage to the POTW caused by its discharge. The director may establish rules, requirements, and procedures for this section in the Department’s administrative rules.

Section 21-9-5. Payment of outstanding fees and penalties.

The director may decline to issue or reissue an industrial wastewater discharge permit to any user who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this chapter, a previous industrial wastewater discharge permit, or order issued under this chapter. The director may establish rules, requirements, and procedures for this section in the Department’s administrative rules.

Section 21-9-6. Public nuisances.

A violation of any provision of this chapter, an industrial wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement is hereby declared a public nuisance pursuant to section 46-17 of Hawai‘i Revised Statutes and shall be corrected or abated as directed by the director. Any person(s) creating a public nuisance shall be subject to the provisions of the County code governing such nuisances, including reimbursing the County for any costs incurred in removing, abating, or remedying said nuisance. The director may establish rules, requirements, and procedures for this section in the Department’s administrative rules.

Article 10. Affirmative Defenses to Discharge Violations.

Section 21-10-1. Affirmative offence.

An industrial user shall have an affirmative defense to an enforcement action brought against the user for noncompliance with the general and specific prohibitions in this chapter, if the user can prove that the user did not know or have reason to know that his discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- (a) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or
- (b) No local limit exists, but the discharge did not change substantially in nature or constituents from the user’s prior discharge when the County was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

Section 21-10-2. Upset.

- (a) For the purposes of this section, upset means an exceptional incident in which there is unintentional and temporary noncompliance with pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (b) An upset shall constitute an affirmative defense of an action brought for noncompliance with pretreatment standards if the requirements of paragraph (c), below, are met.
- (c) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (1) An upset occurred and the user can identify the cause(s) of the upset;
- (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
- (3) The user has submitted the following information orally to the director within twenty-four hours of becoming aware of the upset. A written submission must be provided within five days:
 - (A) A description of the indirect discharge and cause of noncompliance;
 - (B) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
 - (C) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- (d) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- (e) Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- (f) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

Section 21-10-3. Bypass.

- (a) For the purposes of this section,
 - (1) Bypass means the intentional diversion of waste streams from any portion of a user's treatment facility.
 - (2) Severe property damage means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (b) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to ensure efficient operation. These bypasses are not subject to the provision of paragraphs (c) and (d) of this section.
- (c) Bypass Notifications
 - (1) If a user knows in advance of the need for a bypass, the user shall submit prior notice to the director, at least ten days before the date of the bypass.
 - (2) A user shall submit oral notice to the director of an unanticipated bypass that exceeds applicable Pretreatment Standards within twenty-four hours from the time the user becomes aware of the bypass. The user also shall submit a written notice within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The director may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(d) Bypass

- (1) Bypass is prohibited, and the director may take an enforcement action against a user for a bypass, unless:
 - (A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (C) The user submitted notices as required under paragraph (c) of this section.
- (2) The director may approve an anticipated bypass, after considering its adverse effects, if the director determines that it will meet the three conditions listed in paragraph (d)(1) of this section.

Article 11. Sewer Charges.

Section 21-11-1. Sewer charges for residential customers.

The director may assess sewer service charges for residential customers on all parcels within a service area as designated by the director or accessible to a public sewer or public gang cesspools whether connected or not. Sewer service charges for residential customers, which include service for single-family dwellings, duplexes, housing projects, condominiums, townhouses, apartments, and dormitories, shall be according to the schedule shown under section 21-11-11. User charges for unoccupied units will be the current monthly sewer service charge.

Section 21-11-2. Sewer charges for nonresidential customers.

The director may assess sewer service charges for nonresidential customers, including those connected to gang cesspools, on parcels accessible to a public sewer or within a service area designated by the director whether connected or not. Sewer use charges for nonresidential customers, which include industrial, commercial, agricultural, governmental, and miscellaneous services users, hotels, and service stations shall be based on water meter readings. Water volume usage fees shall be assessed according to the schedule shown under section 21-11-11.

Additional charges shall be assessed for wastes of unusual strength or character, water or wastes over the normal volume for the POTW and for industrial wastes under the pretreatment and FOG Control programs.

Section 21-11-3. Charges for discharging hauled wastewater into the POTW.

- (a) Haulers with valid permits may discharge hauled wastewater, or any other waste not prohibited under this Chapter, into the POTW at the location and times specified by the director.
- (b) A minimum charge according to the schedule shown under section 21-11-11 shall be made for discharging hauled wastewater into the POTW. The hauler shall be responsible for notifying the receiving facility personnel of the type and origin of hauled wastewater and of the discharge schedule. The director may require haulers or the industrial user generating the septage waste to pretreat the hauled wastewater prior to discharging into the POTW.

Section 21-11-4. Sewer service charges.

Each parcel that is accessible to a public sewer shall pay a monthly sewer service charge that consists of a flat rate for residential zoned sewer services or within a service area designated by the director. This flat rate may be reviewed and adjusted annually. A separate flat rate schedule can be used if it is determined the property's use is a short-term rental or a multi-room facility with greater than 4 bedrooms and/or more than one dwelling within a residentially zoned area.

Section 21-11-5. Sewer use charges based on water use.

The director may establish a use charge for sewer properties (residential and/or nonresidential) utilizing public or private water systems. The rates may be based upon the amount of water consumed and drawn through the water meters of the private system, or in the absence of meters, based upon a reasonable estimate of the water consumption with due consideration to the type and nature of the premises. The use rate may be reviewed and adjusted annually.

Section 21-11-6. Rates based on ad valorem taxes.

Residential and nonresidential customers will be assessed a sewer charge based on the ad valorem charge system for any additional expenses not covered by the flat rate and/or flow rate system.

Section 21-11-7. Infiltration and inflow expenses.

The director may distribute operational, maintenance and replacement expenses to address significant sources of infiltration and inflow into sewer charges and fees in accordance with the administrative rules.

Section 21-11-8. Charges upon connection and disconnection from sewer.

- (a) For any lot, building, dwelling unit or premises for which connection is made with the sanitary sewer systems, a sewer service charge shall be made pursuant to this chapter starting from the first day of the month following the date of the connection.
- (b) For any parcel that is accessible to a sewer or within a service area designated by the director but is not connected to the sanitary sewer system, a sewer service charge shall be made pursuant to this chapter starting 180 days after the Department provides notice in accordance with section 21-13-2.
- (c) Where a property has been disconnected from the sewer and passed inspection by the wastewater division, the sewer use charges for the month within which such discontinuance of sewer service takes place shall be for the full month based on the regular monthly charge to such lot, parcel of land, building, dwelling unit or premises. Sewer service charges will still apply.
- (d) The director may assess sewer connection fees for any new connections in accordance with the administrative rules and any fee schedules adopted by the County.

Section 21-11-9. Sewer fund designated; disposition of funds.

- (a) The funds received from the collection of the sewer service charges, connection fees, permit fees, or any other fee authorized by this chapter shall be deposited daily with the director of

finance, and shall be accounted for and be known as the “County sewer fund” and shall be expended for the purpose authorized.

- (b) The County shall have the authority to create an enterprise fund.
- (c) The department shall maintain a financial management system that will accurately account for revenues generated by the system and expenditures for operation and maintenance (including replacement) of the POTW.

Section 21-11-10. Miscellaneous requirements.

- (a) The user fees and charges attributed to any wastewater treatment facility shall be reviewed and evaluated annually and revised if necessary on the basis of actual operation and maintenance costs.
- (b) The user charge system shall take precedence over any terms or conditions or agreements or contracts which are inconsistent with the requirements of section 204(b)(1)(A) of the Clean Water Act and 40 CFR 35.2140.
- (c) Every user of the public sewer system shall be notified annually of the user’s current sewer service charge rate and that portion of the rate and/or ad valorem taxes which are attributable to wastewater treatment service in accordance with 40 CFR 35.2140. Notification may be in conjunction with a regular bill, newspaper notice, or other means acceptable to the regional administrator, Environmental Protection Agency.

Section 21-11-11. Wastewater service and use charge rates.

WASTEWATER SERVICE CHARGE RATE	
User Category	Effective Date*
	04/01/23
A. Single Unit Residential: 1. Monthly charge per unit	\$52.00
B. Multi-Unit Residential: 1. Monthly charge per unit	52.00
C. Nonresidential: 1. Monthly base rate charge per unit 2. Monthly usage charge per 1,000 gallons (after the first 8,000 gallons) per unit 8,001 - 15,000g 15,001 - 30,000g 30,001g +	54.00 7.50 9.00 9.50
D. Private Haulers Discharge Fee: 1. Discharge fee per 500 gallons or fraction thereof 2. Minimum charge per load	64.00 64.00
E. Gang Cesspools: 1. Monthly charge per unit	25.00

*Rate begins on first full billing cycle after effective date.

Section 21-11-12. Pretreatment charges and fees.

The director may establish rules, requirements, procedures, and fees for operation of the County’s Pretreatment Program in the Department’s administrative rules. Fees may include, but not be limited to:

- (a) Fees for wastewater discharge permit applications including the cost of processing such applications;
- (b) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user’s discharge, and reviewing monitoring reports and certification statements submitted by users;
- (c) Fees for reviewing construction plans;
- (d) Fees for responding to spills and accidental discharges;
- (e) Fees for filing appeals; and
- (f) Other fees as the County may deem necessary to operate the pretreatment program. These fees relate solely to the matters covered by this chapter and are separate from all other fees, fines, and penalties chargeable by the County.

Section 21-11-13. Billing penalties.

- (a) The charges levied pursuant to this chapter shall be collected by the director of finance or any bank designated by the wastewater division as an agent for collection. Billings for charges of nonresidential users shall be processed monthly or bimonthly in accordance with

the department of water supply billing cycle. Billing for single unit and multi-unit residential users shall be processed monthly or bimonthly.

- (b) Payment shall be due upon receipt of bill. Bills that are not paid within 30 days of issue date shall be past due. In addition, interest at the rate of one percent per month shall be imposed upon the outstanding balance for all accounts that are past due.
- (c) Charges shall be billed to the owner or owners of the parcel to which the services are provided. If requested by the owner, the department will bill a tenant or other individual designated (herein, referred to as the “designated person”) by the owner. Such request shall be in writing and signed by all parties involved, including all property owners and the designated person. The property owners and the designated person shall be jointly and severally liable for the entire charge without further notice of any delinquency to the property owners.
- (d) Where a landlord has requested that the department bill a tenant pursuant to paragraph (c):
 - (1) The director shall notify the landlord if a tenant’s payment is past due; and
 - (2) The interest on the outstanding balance shall not commence until thirty days after the department has sent such notice to the landlord of the delinquency.
 - (3) Charges levied pursuant to this chapter shall be a debt due to the County. If this debt is not paid when due, it shall be deemed delinquent and may be recovered by the County by a civil action filed against the parcel owners, or the designated person, or both. Any judgment against the parcel owners or responsible parties shall be filed with the Bureau of Conveyances.

Section 21-11-14. Remission of charges.

- (a) Water consumed for the following purposes that is not discharged into the sewer system may be eligible for remission of sewer use fees if a separate metering system is installed to provide a method of accounting for the water used for:
 - (1) coolers or chillers;
 - (2) swimming pools;
 - (3) irrigation; or
 - (4) other uses that are pre-approved and permitted by the director.
- (b) Sewer users who have been charged for sewer use fees pursuant to this section may ask for a remission of such charges to the extent and in the manner set forth herein:
 - (1) The user establishes, and the director determines that the user is entitled to an adjustment in water consumption totals.
 - (2) Any application for such adjustment must be made with the director within one year of the alleged error in the determination of water consumption totals.

Article 12. Sewer Management Provisions.

Section 21-12-1. Sewer monitoring program.

The director may develop and implement a sewer monitoring program in the administrative rules. As part of a sewer monitoring program, the department is authorized to do the following:

- (a) Inspect sewer laterals, located on private property, that connect to the County sewer after providing the property owner not less than ten calendar days’ written notice, to detect leaks from laterals, infiltration, and inflow;

- (b) Compel the owner of private property upon which a sewer lateral is located that connects to the County sewer to inspect that lateral for leaks, infiltration, and inflow and to perform repairs as necessary; and
- (c) Other tasks necessary to comply with DOH and EPA requirements.

Section 21-12-2. Special discharge program.

The director may establish a special discharge program through the administrative rules to provide for proper treatment of wastewater of unusual strength or character, or of water or wastes over the normal volume for the POTW. The special discharge program may include, but not be limited to program rules, policies, procedures, applications and forms, and additional user fees for accepting and treating the special discharges.

If the director determines that a user's discharge is acceptable to the POTW but is of unusual volume, strength or character, the director may assign the discharge to and manage it through the special discharges program.

Article 13. Treatment Works and Connections.

Section 21-13-1. Wastewater systems in critical wastewater disposal areas.

Wastewater systems in critical wastewater disposal areas as defined in HAR 11-62-5 that do not directly connect to the POTW shall meet the requirements of and be permitted by the State Department of Health. The director may act as the approval authority for such wastewater treatment systems as provided for in HAR 11-62-06(j).

Section 21-13-2. Connection to sewer required.

- (a) Owners of all parcels that are accessible to a public sewer as determined by the director are required at their expense to connect directly with the public sewer within one hundred eighty days after date of official notice.
- (b) If, due to rock, wastewater collection system depth, or other construction problems, a building cannot be practically served, the owner shall install, operate and maintain a residential pumping station.
- (c) To obtain a time extension under the provisions of subsection (a) of this section, owners must file a written request to the connection requirement before the expiration of the aforesaid one hundred eighty days. The written request shall document the need for the time extension and the requested amount of time.
- (d) Time extensions granted pursuant to subsection (c) of this section shall be for a period not to exceed two years.
- (e) An aggrieved person may appeal the times extension decision of the director to the commission within thirty days of receipt of the decision. A person is aggrieved by a decision of the director if:
 - (1) The person has an interest in the extension decision that is so directly and immediately affected, that the person's interest is clearly distinguishable from that of the general public; and
 - (2) The person is or will be adversely affected by the decision.
 - (3) An appeal shall be in writing, in the form prescribed by the commission, and shall specify the person's interest in the subject matter of the appeal and the grounds of the appeal. Any such appeal shall be accompanied by a filing fee of \$50. The person

appealing a decision of the director shall provide a copy of the appeal to the director and to the owners of the affected property and shall provide the commission with the proof of service. The appellant, the owners of the affected parcel, and the director shall be parties to an appeal. Other persons may be admitted as parties to an appeal, as permitted by the environmental management commission.

- (f) The director may establish rules, requirements, and procedures for this section in the Department's administrative rules.

Section 21-13-3. Sewer and treatment works required.

- (a) When a proposed subdivision is accessible to public sewer, the subdivider shall install all necessary sewer works to serve all lots and connect the sewer works to the public sewer.
- (b) The owner of any property within the County, which has a public sewer located within two hundred feet of the nearest exterior boundary of the property measured along publicly owned right-of-way or sewer easement, shall not install, replace, upgrade, expand, or repair any septic tank or waste disposal leach field thereon nor use any means of disposing of domestic wastewater or industrial waste other than through a sewer connection to a public sewer. The owner shall be required to connect the premises with available public sewer pursuant to and within the time limits specified in this chapter, and to pay in advance all sewer connection charges.
- (c) Where a proposed subdivision is within a sewer service area, but not accessible to public sewer at the time of application, the subdivider shall install all necessary sewer works to serve all lots and may extend and connect those sewer works to the public sewer as described in Article 15.
- (d) Where a proposed subdivision is not within a sewer service area and is not accessible to public sewer, the subdivider may apply for a permit from the director to install all necessary sewer works to serve all lots and extend the public sewer as described in Article 15 and connect the subdivision sewer works to the public sewer.
- (e) Where a proposed subdivision does not connect to the public sewer, the subdivider shall comply with State department of Health requirements for wastewater disposal. The director may act as the approval authority for all wastewater systems as provided for in HAR 11-62-06(j).
 - (1) Where wastewater disposal for the proposed subdivision will be via private sewer and treatment works, the subdivider shall obtain approval of the design, construction and operation of those works from the director.
 - (2) Where individual wastewater systems (IWSs) are proposed as the temporary means of wastewater disposal in lieu of wastewater treatment works, the following requirements shall apply:
 - (A) Each lot of the subdivision shall have at least 10,000 square feet of useable land for an IWS. The usable land area shall not include areas under buildings and shall be subject to the setback requirements of HAR 11-62-32.
 - (B) Total daily wastewater flow into each IWS shall not exceed 1,000 gallons, and one IWS shall not serve more than 5 bedrooms.
 - (C) Proposed IWS treatment units shall meet requirements of HAR 11-62-33.1.
 - (D) Proposed IWS disposal systems shall comply with the requirements of HAR 11-61-34.

- (E) The subdivider may apply to the director to utilize other individual wastewater systems, as described in HAR 11-62-35, upon approval by the director of the State Department of Health through processes established in the wastewater division administrative rules.
- (F) The director may require the installation of dry sewers as a condition of subdivision approval under the conditions listed under HAR 11-62-31.1(c).

Section 21-13-4. Cost of construction.

- (a) In every subdivision where treatment works are required by the director or State department of health, the cost of constructing such works shall be borne by the subdivider.
- (b) Additional costs to improve existing public treatment works to accommodate the subdivision shall be borne by the subdivider.
- (c) Final approval and acceptance of subdivision sewer works shall not be granted until the subdivider has settled all financial accounts with the County.

Article 14. Sewer Works Construction.

Section 21-14-1. Application.

An application for sewer works construction shall be made on a form prescribed by the department and submitted to the director. The director may establish forms, policies and procedures, and fees for processing application in the administrative rules.

Section 21-14-2. Permit for sewer connection.

- (a) A permit issued by the Wastewater Division and compliance with the provisions of this chapter shall be required prior to construction of a sewer connection. Sewer connections shall be installed at the expense of the owner of the premises under the supervision and inspection of the County. An applicant for the permit shall submit with the application, a diagram, not necessarily to scale, showing the complete details of the proposed construction and, where applicable, the dimensions of the line tap, cleanouts, and changes in grade and direction. Sewer connections that are connected prior to obtaining an approved permit are illegal and may be immediately disconnected by the director, any sewer impacts may be billed to the property owner, and all enforcement actions noted in this code may apply.
- (b) A permit for connection may be issued only after a permit authorizing performance of the plumbing work has been issued by the building division, department of public works.
- (c) Connection to the publicly owned sanitary sewer system shall be performed only by contractors who meet the following requirements as a minimum:
 - (1) Possession of a Class A, Class C-43, C-43a contractor's license as duly issued by the Hawai'i Department of Commerce and Consumer Affairs.
 - (2) For all work with an estimated cost equal to or exceeding \$20,000, the director may require a cash bond, surety company bond, or personal surety bond in favor of the County. The value of the bond shall be double the estimated cost of sewer improvements, restoration, or replacement of the County street to a condition equal to or better than its original condition.
 - (3) Provide insurance as required by the County.
- (d) The director may establish a fee in the administrative rules for the any associated inspections or reinspection of sewer improvements.

Section 21-14-3. Approval of plans required; time limit for beginning work.

All construction plans and specifications for sewer works shall be approved by the director. If construction has not commenced within one year after date of approval, the construction plans and specifications shall be resubmitted for reapproval.

Section 21-14-4. Construction standards and specifications.

All sewer works construction that will be dedicated to the County shall conform with the latest edition of the Wastewater Division standards and details, County standard specifications for public works construction, and the standard details for public works construction.

- (a) The applicant shall construct pumping stations where necessitated by site conditions or as required by the director to lift the wastewater to proper elevation for discharge to a treatment plant site, public sewer or discharge outfall. These stations shall be of adequate capacity and shall include the necessary physical units for proper operation, control and maintenance. The applicant shall obtain approval from the director for the station locations, design and construction.
- (b) Sewer mains shall be of length, type, and size necessary to provide the associated tributary area with adequate service, as determined by the director.
- (c) New laterals shall be installed in locations approved by the director. The parcel owner shall install the lateral within 180 days of receipt of requirement notification. An application for a lateral to a lot shall be made on a form prescribed by the department and submitted to the director.
 - (1) All laterals shall be a minimum of six inches in diameter and constructed at right angles to the main on a minimum grade of one percent. Each lateral shall terminate at the property line with a six inch by four inch pipe reducer, properly capped.
 - (2) Connection of the property lateral to this reducer and cleanout shall be completed with a forty-five degree “Y,” with the branch facing upward and extended one inch above the ground with a counter sunk six inch brass plug cleanout at the end. The exception is a sidewalk and driveway area where the cast iron cleanout box and cover shall be flush with the surface. The counter sunk six inch brass plug within the box shall be at a minimum of one-half inch below the cover. This connection shall not be backfilled or covered until approved by the director. A sewer manhole in lieu of the above cleanout shall be installed when directed by the director.
 - (3) If an existing lateral connection does not include a cleanout as described above, the property owner shall have one installed within 60 calendar days after written notice has been given the owner by the director.
 - (4) Special control structures and other appurtenances shall be constructed by the applicant when required by the director.

Section 21-14-5. Maintenance of sewer connections.

- (a) Maintenance of sewer connections, whether on public or private property, is the responsibility of the owner(s) served by the sewer lateral.
- (b) Sewer laterals and connections deemed to be causing a public nuisance or negatively impacting the POTW shall be video inspected and all repairs made to comply with County construction standards at the owner's expense.

Section 21-14-6. Construction inspections and cost recovery.

- (a) During the construction of all public sewer works and sewers to be dedicated to the County, the County shall have access thereto for inspection purposes and, if considered advisable by the director, to require an inspector on the job continuously. At no time shall sewer work be backfilled or covered until the director has been notified of and approved the work after proper inspection and test. If the work is not approved, it shall be repaired or removed and reconstructed, as required by the director. The subdivision sewer may not be connected to the public sewer until approval and acceptance of all construction.
- (b) All costs of inspection, testing and connection to the public sewers shall be borne by the applicant. The director may charge a fee for reinspection of construction that does not pass the initial inspection.

Section 21-14-7. Construction of trunk sewers.

It is the general policy of the County to construct those public sewers which are, in the opinion of the County council, trunk sewers in all areas within the sewer service area of the County, and all areas hereafter annexed into the County sewer service area which are not yet served by trunk sewers, as rapidly as funds are budgeted for such purposes by the County council. In appropriate circumstances as determined by the County, where private developers construct a trunk sewer at County's requirement either larger or deeper than is needed for the private developer's own development, the County may contribute to the cost of such oversizing or increased depth. Minimum sizes shall be established within the Wastewater Division Design Standards and Details.

Section 21-14-8. Construction of sewer laterals.

It is not the general policy of the County to extend lateral sewers at County expense. Other than in relation to new subdivisions, the County may, when it is deemed to be in the best interests of the County and its constituents, assist in the engineering, design, and supervision of the construction of sewer laterals in areas where the property owners petition for the formation of sewer districts.

Section 21-14-9. Acceptance of sewer works and treatment facilities.

All sewer works found acceptable by the director shall become the property of the County and shall be maintained and operated as part of the public system. Prior to final acceptance, the subdivider shall deliver to the County perpetual easements for all portions of the subdivision sewer system installed in other than publicly owned property. The subdivider shall also convey to the County fee simple title to all sites on which a pumping station or treatment plant is constructed by the subdivider as part of the public sewer works, together with easements for ingress and egress.

Section 21-14-10. Deposit required; inadequate deposit; refunds.

Should the County choose to construct sewer works for the applicant, the applicant shall submit a deposit equal to the County's estimate of the construction costs. If the actual construction cost is in excess of the deposit, the applicant will be billed and shall pay for the difference. If the actual cost is less than the deposit, the applicant shall be refunded the difference.

Article 15. Extensions.

Section 21-15-1. Applications for extensions.

Any person wishing to extend the public sewer system shall submit to the director an application in a form prescribed by the department. The application shall be processed in the manner set forth in this article.

Section 21-15-2. Approval of extensions of the public sewer system.

- (a) All sewer extensions shall be approved by resolution of the County council.
- (b) Private development and construction - Once an application for an extension of the public sewer system has been approved by the director or their designee, the application and a recommendation from the director shall be forwarded to the County council with all of the supporting material attached. Upon review of the recommendation of the director and the payment mechanism chosen by the applicant, the council may approve the application.

Section 21-15-3. Determination of construction specifications.

The applicant shall construct, or if approved by County council the County may construct the extension, including laterals to serve all parcels along the extension. Construction shall comply with Article 14 of this chapter. The applicant shall submit construction plans and specifications to the director for approval. The construction documents shall show all details of the construction, including: the alignment; the materials to be used; and the manner of construction. The applicant shall not have any title to the extension.”

SECTION 3. Severability. If any provision of this ordinance, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the ordinance which can be given effect without the invalid provision or application, and to this end the provisions of this ordinance are severable.

SECTION 4. This ordinance shall take effect 90 days after approval.

INTRODUCED BY:

COUNCIL MEMBER, COUNTY OF HAWAI‘I

_____, Hawai‘i
Date of Introduction:
Date of 1st Reading:
Date of 2nd Reading:
Effective Date: