

Rule Analysis

Fiscal Impacts of Proposed Amendments to Rules 15A NCAC 02H .0900

Pretreatment

Environmental Management Commission

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Authorizing Statute: G. S. 143-215.3(a)(14) and 143-215.1

Impacts Industrial Users and State and Local Governments

Purpose of Rules

The Federal and State pretreatment program establishes regulatory authority for the Environmental Protection Agency (EPA), states, and municipal governments to control the discharge of industrial wastewater into municipal Wastewater Treatment Plants (WWTPs) or Publicly Owned Treatment Works (POTWs). The objectives of the pretreatment program are to prevent pass-through, interference, or other adverse impacts to the POTW, its workers or the environment; to promote the beneficial reuse of biosolids; and to assure that all National Categorical Pretreatment Standards are met. Industrial dischargers with the potential to adversely impact the WWTP are considered a Significant Industrial User (SIU) and must obtain an Industrial User Pretreatment Permit (IUP) with conditions needed to control its industrial wastewater discharge to prevent the adverse impact.

Requirements for the Pretreatment Program were initially established in the Federal Water Pollution Control Act as amended by the Clean Water Act of 1977. The Federal Pretreatment Regulations in 40 CFR 403 were first adopted by EPA in 1978.

EPA delegated authority to implement the Pretreatment Program in North Carolina to the State in the early 1980s. This included adoption of the State Pretreatment Regulations in 15A NCAC 02H .0900. These Rules first became effective March 28, 1980. Initially, they adopted parts of 40 CFR 403 by reference. In later years, they were revised to address revisions to 403 and also to add requirements specific to North Carolina.

Upon approval by the North Carolina Division of Water of Quality (DWQ), the municipal POTW is delegated to implement their own local Pretreatment Program as required by their NPDES Permit. This includes adoption of a Sewer Use Ordinance (SUO) by their local governing Board. The SUO authorizes the POTW to make SIU determinations and issue and enforce IUPs.

There are currently 113 approved local Pretreatment Programs in North Carolina, covering around seven hundred SIUs.

Description of Rule Changes

The Pretreatment Rule .0900 currently consists of 21 individual rules. There are proposed changes for 20 of them, including the addition of a new individual rule.

EPA revised 40 CFR 403 in October 2005 to streamline the implementation of the pretreatment program. The purpose of the streamlining is to give the Control Authority or POTW organization more flexibility in the regulation of industry. This flexibility could allow for fewer Users being considered SIUs, thereby saving time and financial resources (i.e. permit fees, sampling costs) for both the Control Authority and the User. The State will also save time by not having to review permits and/or other documents related to these non-SIUs.

Most of these streamlining changes are adopted by reference in 15A NCAC 02H .0900 and thus are already available to NC POTWs. The few that are not are being incorporated by this Rule change. The remaining Rule changes are for clarification purposes, to remove any vagueness and to reflect current State and/or Federal requirements in 40 CFR 403. Appendix 4 describes all changes. Only two of the proposed rule changes (15 NCAC 02H .0903 and .0908) will result in economic impacts for SIUs, POTWs and/or the State, and they have been included in this analysis.

Data and Methodology

This analysis is based on what cost or benefit the proposed revisions may have above and beyond what the current pretreatment rules require. The data used to develop this analysis was obtained from multiple sources including the State's database, information from POTWs and from commercial laboratories.

The NC Pretreatment program database was used to gather information regarding the number of pretreatment programs throughout the State, the total number of SIUs and their classification. The database was also used to pull recent violation and non-compliance information. The EPA has defined large POTWs as those who discharge greater than ten million gallons per day (MGD), medium POTWs as those who discharge between one and ten MGD and small POTWs as those who discharge less than one MGD. The NC POTWs have been divided accordingly for the purposes of comparing costs. There are certain proposed changes that may have economic impacts only for the larger POTWs. Approximately ten percent of the active programs are considered large, sixty percent are medium and thirty percent are small.

The North Carolina Pretreatment Consortium (NCPC) representing over 140 pretreatment professionals from municipalities throughout the State were surveyed for information in regard to costs and time requirements for upgrades to compliance judgment software, updates to Sewer Use Ordinances, SIU permitting, sampling and inspections. Results were received from eight municipalities and the three groupings of POTW were represented. Two state certified labs provided analytical costs for performing metals and organics sampling required of SIUs.

For the purposes of this analysis, where time requirements were provided costs per hour were used as following: \$31.80 per hour for state government; \$37 per hour for POTW and SIU staff time; \$42.92 per hour for POTW director time; \$200 per hour for attorney costs. Costs were obtained from a state government Human Resources representative and from POTWs.

Basic Economic Impact

In order to take advantage of some of these rule changes, POTWs will have to update their SUOs. The SUOs must be prepared and submitted to the State for draft review and then adopted by the local governments. It is expected that 16 pretreatment programs will update their SUOs to take advantage of some of the proposed rule changes. The survey data showed that the larger POTWs will have their SUOs updated professionally and the rest will do them in house. Professional codification costs approximately \$10,000 per SUO. Eight POTWs may choose to update their SUO professionally; however, it is not a State requirement that the SUO be updated in this manner, so these costs were not included in the analysis. An in house update consists of eight hours of staff time, one hour for POTW director review and one hour for attorney review at a total cost of about \$540. If all facilities, regardless of size, perform the task in house, the estimated cost is about \$8,620.

There will be some initial costs to the State in the review of modifications to SUOs. As stated above, it was estimated that 16 programs will submit their SUO for review, resulting in 16 additional staff hours spent at a cost of approximately \$510.

Fiscal Impacts of the Specific Rule Changes

POTWs can establish fees to recover costs associated with their Pretreatment Program from their SIUs. This includes everything from the laboratory analysis of samples the POTW collects at its SIUs, staff time for collecting those samples and for doing all other pretreatment tasks such as reviewing data and other reports, performing inspections, and writing permits, preparing Headworks Analyses, as well as the purchase and maintenance of equipment such as samplers and vehicles. In NC, most POTWs do recover costs associated with the laboratory analysis of samples the POTW collects at its SIUs. Only a small number of POTWs, less than 10 %, assess any other cost recovery fees. Therefore, in evaluating POTW costs for this analysis, we have assumed the POTWs only recover laboratory analysis costs from SIUs they incurred from sampling those SIUs. In evaluating industrial user costs for this analysis, fees range across programs and no fee data is available, therefore we were unable to quantify any industrial user fee cost changes that might result from these rule changes.

Methodology to estimate the costs associated with the modification of the definition of Significant Industrial User:

One of the modifications to rule .0903(b)(33) is to allow current SIUs that discharge less than 100 gallons per day of EPA defined categorical process wastewater to now be considered Non-Significant Categorical Industrial Users (CIUs). These users would no longer be required to have a SIU permit as part of the pretreatment program. Based on a

review of the State's pretreatment database, five to ten current industrial users covered by the Metal Finishing categorical regulations may be reclassified as a result of this change. Eight have been used for these calculations. Note the Division does not anticipate an increase in the number of these facilities over the years, so only those that are currently permitted as part of a pretreatment program are evaluated in this analysis. Future facilities meeting this classification will only be required to submit an annual certification.

As a result of no longer being considered SIUs, each of these users will have a time reduction of 16 hours for completion of the five year permit renewal application at a cost of \$592, plus \$510 for laboratory costs for supplementary sampling required to be submitted along with the renewal application. This gives a total cost for the permit renewal application of \$1,102 per five year permit cycle, so this analysis assumes an average of \$220 in savings per year. Each user will also save \$245 for laboratory costs for SIU permit required annual self-monitoring (costs provided by two state certified labs). Nor will they have to reimburse the POTW for their own laboratory costs for sampling the SIU annually, for an additional savings of \$245. Finally, these users will have a time reduction of 14 hours per year required for report preparation and meetings with the POTW, including the POTW's annual inspection at a cost of \$520 per year. This brings the total cost savings per SIU per year to \$1,230, or \$9,830 per year for eight SIUs.

As a result of no longer having these SIUs, the POTWs will have a time reduction for the staff time costs required for travel and the set up and break down of sampling equipment at SIUs, estimated at three hours per year per SIU at a total cost savings of \$888. (the laboratory analysis cost for the sampling which would be saved would be offset by the foregone laboratory analysis cost reimbursement from the SIUs). Additionally, the POTW will no longer be required to perform an annual SIU inspection and will save time in preparing for, conducting and follow-up reporting, for a time savings of 12 hours per SIU, at a total savings of \$3,552 per year. Finally, they will no longer need to prepare and issue five year SIU permits, a savings of four hours per permit per SIU, for a savings of \$1,184 per five year permit cycle, so this analysis assumes an average savings of \$235 per year. This brings the total cost savings for POTWs to about \$580 per year per SIU, or \$4,677 per year for eight SIUs.

There will be some new costs for POTWs associated with these users becoming non-Significant CIUs. In the first year, POTWs will have to prepare non-Significant CIUs documentation and submit this to the State for approval, estimated at three hours per CIU at a total cost of \$888 for eight SIUs. Upon approval, POTWs must verify non-significant classification by the review of an annual certification, requiring one half hour of review per SIU per year at a total cost of \$148 for subsequent years.

The State must review the requests to drop these SIUs from the pretreatment program; assuming eight SIUs meet this criteria and a review time of one half hour for each request times \$31.80 equals an increased cost of \$127 in the first years. However, there will also be a cost savings as the State will no longer have to perform an in depth review of the

SIU permit renewal review completed at least once every five years, for a time savings of one hour of staff time per review, at a cost savings of \$250 over a five year period (analysis assumes \$51 per year).

Methodology to estimate the costs associated with the modification of the definition of Significant Noncompliance:

Compliance judgment for chronic and technical review criteria limits violations must be separated for daily maximum and monthly average limits as outlined in proposed changes to rule .0903(b)(34). This change will most likely result in more SIUs in significant non-compliance (SNC). During the 2006-2008 calendar years, there was an average of 49 SIUs in SNC for limit violations per year. The State estimates an additional ten percent or five additional SIUs in SNC as a result of this proposed change, each at a different POTW.

It is estimated the SIUs would have to spend four hours preparing a response to the POTW's notice of violation at a cost of \$148 per SIU. They would also be required to pay an average penalty of \$500. Total cost is estimated at \$3,240 per year for the five SIUs.

It is estimated that the POTW will have to spend an additional four hours per year per additional SNC to prepare notices of violation (NOVs), issue the public notice and include SNC information in their Pretreatment Annual Report (PAR), for a cost of \$148 per year per POTW, or \$740 per year for five POTWs. The POTW must also issue a public notice for these SIUs in SNC. The average cost of issuing a public notice is \$325 per POTW, with a total cost of \$1,625 per year. Total cost to the POTWs as a result of additional SIUs in SNC is \$2,365 per year.

It is estimated that each POTW will assess a penalty for each instance of additional SNC, for an increase in POTW revenue (cost savings) of \$500 per SNC, for a total savings of \$2,500 for five POTWs per year.

In addition to costs associated with the additional SNCs, data from the NCPC showed that an estimate of six POTWs would update their data management software systems or reprogram their current systems to adjust to the new method of judging compliance. It is estimated that these software systems are normally updated an average of once every five years as new technology emerges. It is estimated that as a result of this rule change, these six POTWs would be required to update their software two years earlier than they had already planned. This is estimated to result in an additional cost of \$1,185 per POTW over five years, or \$7,110 for all POTWs. This would be a one-time cost in the first year.

Methodology to estimate the costs associated with the reclassification of some Significant Industrial Users as middle-tier:

A revision to rule .0908(e)(1) will allow some SIUs that discharge 0.01% or less of the treatment plant capacity for all pollutant parameters may be considered middle-tier SIUs. The POTW will have their sampling and inspection requirements for these middle tier SIUs cut in half, to once every other year for inspections and sampling of organic

compounds and once per year sampling for all other parameters. Based on a review of the State's pretreatment database, five to ten SIUs covered by the Metal Finishing or Pharmaceutical categorical regulations may be reclassified as a result of this rule change. Eight have been used for these calculations, seven Metal Finishers and one Pharmaceutical.

As a result of being considered middle tier SIUs, these users save \$160 in laboratory analysis costs per SIU per year for SIU permit required annual self-monitoring. This figure was derived based on one-half of the current average annual laboratory analysis costs of \$320 per SIU per year, which in turn came from \$245 per SIU for the seven metal finishers and \$790 per SIU for one pharmaceutical (costs provided by two state certified labs). Nor will they have to reimburse the POTW for their own laboratory costs for sampling the SIU, for an additional savings of \$160 per SIU per year. Finally, these users will have a time reduction for report preparation and meetings with the POTW, including the POTW's annual inspection as they will only be inspected every other year. This will save \$260 per year per SIU (one half of \$520). This brings the total cost savings per SIU per year to \$580, or \$4,640 per year for eight SIUs.

As a result of changing these SIUs to middle tier status, the POTWs cut their staff time costs required for travel and the set up and break down of sampling equipment from three hours per year to one and a half hours, for a savings of \$444 per year for eight SIUs (the laboratory analysis cost for the sampling which would be saved would be offset by the foregone laboratory analysis cost reimbursement from the SIUs). Additionally, the POTWs will cut their staff time required to perform annual SIU inspections and will save the time in preparing for, conducting and follow-up reporting in half, for a time savings of six hours per SIU per year, at a total savings of \$1,776 per year for eight SIUs. Estimated time savings totals to seven and a half hours, at a cost savings of about \$280 per POTW per year, or \$2,220 total.

There will be some new costs for POTWs associated with these users becoming middle tier SIUs. In the first year, POTWs will have to prepare middle tier SIU documentation and submit this to the State for approval, estimated at three hours per SIU at a total cost of \$888 for eight SIUs.

The State must review the requests to reclassify these SIUs; at a cost of \$127.20 assuming eight SIUs meet this criteria and a review time of one half hour for each request. This will be a one-time cost for the first year only.

Methodology to estimate the cost of removing the requirement for Significant Industrial Users to update their waste reduction activities in the Pretreatment Annual Report:

Rule .0908(b)(6) is proposed to be removed which stated the requirement for SIUs to update their waste reduction activities annually. This requirement currently applies to SIUs that are part of pretreatment programs with full status. Full status applies to pretreatment programs at POTWs with a permitted flow of greater than 2 MGD or having

greater than three SIUs. Of the 113 Programs, 79 are Full Programs covering 655 SIUs per the State's pretreatment database.

Data submitted showed that the removal of this requirement would save each of the 655 affected SIU a fraction of an hour, for a total of 131 hours at a total savings to SIUs of \$4,847 annually.

The 79 Full Programs POTWs will no longer be required to include SIU waste reduction information in the PARs. Since each POTW has a different number of SIUs, the time savings for the POTWs is calculated based on the 655 affected SIUs. Data submitted showed that the removal of this requirement would save each program a fraction of an hour per SIU, or approximately 22 hours at a total savings to POTWs of about \$814 annually.

The State will no longer have to verify Waste Reduction activities are included in the PAR. This will result in a savings of a fraction of an hour for each of the 79 full pretreatment programs, or over two and a half hours of staff time, for a total savings to the State of \$84 per year.

Appendix 1

Summary of Costs

	Year 1	Year 2	Year 3	Year 4	Year 5
<i>State Government</i>					
State review of SUOs	\$510	\$0	\$0	\$0	\$0
State Approval of non-Significant SIU documentation	\$127	\$0	\$0	\$0	\$0
State Approval of middle-tier SIU documentation	\$127	\$0	\$0	\$0	\$0
<i>Subtotal</i>	\$764	\$0	\$0	\$0	\$0
<i>Local Government</i>					
SUO updates	\$8,620	\$0	\$0	\$0	\$0
POTW documentation of non-Significant SIUs	\$888	\$148	\$148	\$148	\$148
Upgrades to POTW compliance judgment software	\$7,110	\$0	\$0	\$0	\$0
Additional SNC as a result of SNC definition revision	\$2,365	\$2,365	\$2,365	\$2,365	\$2,365
POTW documentation of middle-tier SIUs	\$888	\$0	\$0	\$0	\$0
<i>Subtotal</i>	\$19,871	\$2,513	\$2,513	\$2,513	\$2,513
<i>Industrial Users</i>					
Additional SNC as a result of SNC definition revision	\$3,240	\$3,240	\$3,240	\$3,240	\$3,240
<i>Subtotal</i>	\$3,240	\$3,240	\$3,240	\$3,240	\$3,240
Total Costs	\$23,875	\$5,753	\$5,753	\$5,753	\$5,753

Appendix 2

Summary of Cost Reductions/Savings

	Year 1	Year 2	Year 3	Year 4	Year 5
<i>State Government</i>					
DWQ not having to review 5 year permit renewal for non-significant CIUs.	\$51	\$51	\$51	\$51	\$51
DWQ not having to verify Waste Reduction information included in the PAR	\$84	\$84	\$84	\$84	\$84
<i>Subtotal</i>	\$135	\$135	\$135	\$135	\$135
<i>Local Government</i>					
POTW time savings on 1/6 month sampling, annual inspection and permit writing for non-Significant SIUs.	\$4,677	\$4,677	\$4,677	\$4,677	\$4,677
POTW time savings by reducing middle-tier sampling and inspection by one half.	\$2,220	\$2,220	\$2,220	\$2,220	\$2,220
POTWs not having to include Waste Reduction information in the PAR	\$814	\$814	\$814	\$814	\$814
Additional SNC as a result of SNC definition revision	\$2,500	\$2,500	\$2,500	\$2,500	\$2,500
<i>Subtotal</i>	\$10,211	\$10,211	\$10,211	\$10,211	\$10,211
<i>Industrial Users</i>					
SIU saves 1/6 month sampling and annual inspection for non-Significant SIU classification.	\$9,827	\$9,827	\$9,827	\$9,827	\$9,827
SIU reduces sampling and inspection by one half for middle-tier classification.	\$4,640	\$4,640	\$4,640	\$4,640	\$4,640
SIUs not having to update Waste Reduction Activities on annual basis	\$4,847	\$4,847	\$4,847	\$4,847	\$4,847
<i>Subtotal</i>	\$19,314	\$19,314	\$19,314	\$19,314	\$19,314
Total Benefits	\$29,660	\$29,660	\$29,660	\$29,660	\$29,660

Appendix 3

Acronyms

DWQ:	Division of Water Quality
EPA:	Environmental Protection Agency
IUP:	Industrial User Pretreatment Permit
MGD:	million gallons per day
NCPC:	North Carolina Pretreatment Consortium
NOV:	Notice of Violation
PAR:	Pretreatment Annual Report
POTW:	Publicly Owned Treatment Works
SIU:	Significant Industrial User
CIU:	Categorical Industrial User
SNC:	significant non-compliance
SUO:	Sewer Use Ordinance
WWTP:	Wastewater Treatment Plant

Appendix 4

Amendments to 15A NCAC 02H .0900 Pretreatment Rules

Expansion in Requirements:

.0903(b)(34) – Revise definition of SNC as required by EPA Region IV.
403.8(f)(viii)(A) and (B).

Reductions in requirements:

.0908(b)(6) – Delete requirement to include description of POTW and SIU waste reduction activities in Pretreatment Annual Report (PAR).

.0917(c) – Added to allow flexibility for DWQ’s oversight in its role as the Approval Authority regarding POTW submittal of IUPs.

Incorporate all remaining Optional October 2005 Streamlining revisions to 40 CFR 403 General Federal Pretreatment Regulations that allow for reduction in IU oversight by Control Authorities.

- a) .0903(b)(34) – Non-Significant CIU definition incorporated; Annual evaluation of IU certification. 403.8(f)(2)(v)(B).
- b) .0903 – SNC Definition only criteria (C), (D) or (H) apply to non-SIUs. 403.8(f)(2)(v)(C)
- c) .0903(b)(34) – SNC definition 45 days late before SNC. 403.8(f)(2)(vii)
- d) .0908(e)(1) – Middle Tier SIU definition incorporated. Reduce required sampling and inspection by POTWs by half. 403.8(f)(2)(v)(C).

Clarifications:

Throughout Rule, replaced “industrial” and “pretreatment of industrial waste” with “non-domestic” and “discharge of non-domestic” clarify that the rule applies to all non-domestic discharges, and to mirror 40 CFR 403.

Throughout Rule, replaced POTW with Control Authority where referring to the local government. Any remaining places where we still have POTW, it means the WWTP itself, although in some cases it was changed to “POTW treatment plant” for even more clarity.

Various revisions to address Interjurisdictional situations when the POTW treatment plant is not owned by the Control Authority.

Throughout Rule, remove vague words such as “periodic” and “on-going.”

Clarify Rule to address Required October 2005 revisions to 40 CFR 403 General Federal

Pretreatment Regulations.

- a) .0903(b)(34) – SNC definition – general revisions to address clarification of what limits the different SNC criteria apply to. 403.8(f)(viii).
- b) .0908(i) – require notice by SIUs to POTW when they are not the Control Authority. 403.12(j).

Update/revise/delete outdated conditions and other errors, or to otherwise make rules reflect current DWQ requirements and/or Federal Requirements in 40 CFR 403.

- a) .0908(f): add recordkeeping requirements for non-permit related records.
- b) .0916(c)(4), .0917(b), and .0903(b)(24): revised requirements for permit supporting documentation to match what is currently required.
- c) .0903(b)(12) - IWS
- d) .0903(b)(15) – L/STMP
- e) .0903(b)(19) – New Source Definition
- f) .0905 – multiple
- g) .0907(e) and .0908(d) – Inactive Programs
- h) .0916 and .0917 - IUPs

.0913(b)(c) - New conditions to clarify submittal of confidential industrial information to DWQ regulators.

Moved conditions on Hearings for adjudication of pretreatment permits from .0916(h) to a new section .0922, including revision to clarify judicial review wording, and expanded to cover adjudications of civil penalties and administrative Orders.

.0908(i) and .0906(b)(12) – Allow POTWs to accept electronic reporting. 403.8(f)(2)(v)(B).

Appendix 5 Proposed Rules

SECTION .0900 – LOCAL PRETREATMENT PROGRAMS

15A NCAC 02H .0901 PURPOSE

(a) The rules in this Section are designed to implement North Carolina General Statutes 143-215.3(a)(14) and 143-215.1 and provisions of the Federal Water Pollution Control Act (also known as the "Clean Water Act") regarding the ~~pretreatment of industrial discharges~~ discharge of non-domestic wastewater into publicly owned treatment works (POTWs). They establish responsibilities of State and local government, industry, and the public to implement Pretreatment Standards to control pollutants which pass through or interfere with treatment processes in POTWs, which may contaminate sewage sludge, or which otherwise have an adverse impact on the POTW, its workers, or the environment.

(b) Copies of rules referenced in this Section may be obtained from the Division of ~~Environmental Management, Water Quality, Water Quality Section~~ Surface Water Protection Section at the following locations:

- (1) ~~——~~ Pretreatment Offices
Archdale Building
P. O. Box 29535, 512 N. Salisbury St.,
Raleigh, N.C. 27626-0535
- (1) <http://www.ncwaterquality.org/percs/>;
- (2) ~~the North Carolina Department of Environment and Natural Resources, Division of~~
Water Quality
Offices of the Pretreatment, Emergency Response, and Collection Systems (PERCS)
Unit
Physical Address: Archdale Building, 512 N. Salisbury St.,
Raleigh, N.C. 27604
Mailing Address: 1617 Mail Service Center
Raleigh, N.C. 27699-1617
- (2)(3) Raleigh Regional Office
3800 Barrett Dr.
Raleigh, N.C. ~~27611~~27609
- (3)(4) Asheville Regional Office
~~59 Woodfin Place~~ 2090 US Highway 70
~~Asheville, NC 28801~~ Swannanoa, NC 28778
- (4)(5) Mooresville Regional Office
~~919 N. Main St.,~~ 610 East Center Avenue, Suite 301
Mooresville, N.C. 28115
- (5)(6) Fayetteville Regional Office
~~Wachovia Systel Bldg; Suite 714~~
225 Green Street
Fayetteville, N.C. 28301
- (6)(7) Washington Regional Office
1424 Carolina Avenue,
Washington, N.C. 27889
- (7)(8) Wilmington Regional Office
127 Cardinal Drive Extension,
Wilmington, N.C. 28405-3845
- (8)(9) Winston-Salem Regional Office
~~8025 North Point Blvd.~~ 585 Waughtown Street
Winston-Salem, N.C. ~~27106~~27107

History Note: Authority G.S. 143-215.3(a)(14);
Eff. March 28, 1980;

Amended Eff. January 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984.

15A NCAC 02H .0902 SCOPE

These Rules apply to:

- (1) Pollutants and wastewater discharges from non-domestic sources covered by Pretreatment Standards which are indirectly discharged into or transported by truck or rail or otherwise introduced into POTWs as defined in 40 CFR Part 403.3 and Rule .0903 of this Section;
- (2) POTWs and Control Authorities which receive wastewater from sources subject to Pretreatment Standards; and
- (3) Any new or existing source subject to Pretreatment Standards. Pretreatment Standards do not apply to sources which discharge to a sewer which is not connected to a POTW treatment plant.

History Note: Authority G.S. 143-215.3(a)(14);

Eff. March 28, 1980;

Amended Eff. January 1, 2011; November 1, 1994; October 1, 1987.

15A NCAC 02H .0903 DEFINITION OF TERMS

(a) Unless otherwise defined in Paragraph (b) of this Rule, the definitions promulgated by the Environmental Protection Agency and codified as 40 CFR Part 403.3 are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the ~~Department of Environment, Health, and Natural Resources, Division of Environmental Management, Pretreatment Offices, Archdale Building, P. O. Box 29535, 512 N. Salisbury St., Raleigh, NC 27626-0535. Copies may be obtained from the US Government Printing Office Bookstore, P. O. Box 56445, Atlanta, Georgia 30343, phone number (404) 331-6947 at a cost of twenty six dollars (\$26.00).~~ locations listed in Rule .0901 of this Section and at http://cfpub1.epa.gov/npdes/home.cfm?program_id=3.

(b) For this Rule the following definitions in addition to those incorporated by reference in Paragraph (a) of this Rule shall apply:

- (1) "Approval Authority" means the Director of the Division of ~~Environmental Management~~ Water Quality of the North Carolina Department of ~~Environment, Health, Environment~~ and Natural Resources, or his/her designee.
- (2) "Average" means the value calculated by dividing the sum of the data values collected over a time period by the number of data points which comprise the sum.
- (3) "Bypass" is the intentional diversion of waste streams from any portion of a pretreatment facility.
- (4) "Commission" means the Environmental Management Commission of the North Carolina Department of ~~Environment, Health, Environment~~ and Natural Resources or its successor.
- (5) ~~"Compliance Judgment Point" or "CJP" is the term used for a value used in calculating significant noncompliance. Compliance judgment points are calculated by summing the number of individual sample values for a parameter and the number of averages of sample values calculated for the same parameter during a six month compliance judgment period.~~
- ~~(6)(5)~~ "Control Authority" refers to:
 - (A) ~~the POTW organization if the POTW's POTW organization's submission for its pretreatment program has been approved and that approval has not been subsequently withdrawn, withdrawn (see also Rule .0908(h) of this Section), or;~~
 - (B) ~~the approval authority if the submission has not been approved or the Division has subsequently withdrawn pretreatment program approval.~~
- ~~(6)(5)~~ "Control Authority" refers to the POTW organization if the POTW organization's Pretreatment Program has been approved in accordance with Rules .0905, .0906, and

- .0907 of this Section, and that approval has not been subsequently withdrawn. Otherwise, the Approval Authority is the Control Authority.
- (7)(6) "Division" refers to the North Carolina Department of ~~Environment, Health, Environment~~ and Natural Resources, Division of ~~Environmental Management, Water Quality.~~
 - (8)(7) "Enforcement Response Plan" or "ERP" means the ~~POTW—Control Authority~~ pretreatment program document describing the guidelines for identifying violations of and enforcing specific local limits and other pretreatment standards and requirements.
 - (9)(8) "EPA" means the United States Environmental Protection Agency.
 - (10)(9) "Fundamentally Different Factors" are factors upon which a variance from a National Categorical Pretreatment Standard may be granted. These factors are those relating to an industrial user that are fundamentally different from the factors considered during development of a National Categorical Pretreatment Standard applicable to that user and that may justify a different discharge limit than specified in the applicable National Categorical Pretreatment Standard.
 - (11)(10) "Headworks Analysis" or "HWA" is the analysis used to calculate the maximum allowable POTW influent loadings for pollutants of concern based on design capacity, permit limits, pass through, interference, sludge, or worker safety and health considerations, as applicable. The headworks analysis is the technical basis for deriving local limits applied to industrial users.
 - (11) "Indirect Discharge" or "Discharge" refers to the introduction of pollutants into a POTW from any non-domestic source regulated under section 307(b), (c), or (d) of the Clean Water Act.
 - (12) "Industrial User" or "User" means a source of Indirect Discharge.
 - (12)(13) "Industrial Waste Survey" refers to the periodic survey of the users of the POTW collection system and/or treatment plant performed by the ~~POTW Control Authority to determine those users meeting the criteria for Significant Industrial User status as required by 40 CFR Part 403.8 (f)(2)(i-iii) and Rule .0905 of this Section, including identification of all industrial users and the character and amount of pollutants contributed to the POTW by these industrial users and identification of those industrial users meeting the definition of Significant Industrial User. Where the Control Authority accepts wastewater from one or more satellite POTWs, the IWS for that Control Authority must~~ shall address all satellite POTW services areas, unless the Pretreatment Program in those satellite service areas is administered by a separate Control Authority.
 - (13)(14) "Interference" refers to inhibition or disruption of the POTW treatment processes; operations; or its sludge process, use, or disposal which causes or contributes to a violation of any requirement of the ~~POTW's Control Authority's (and/or the POTW, if different from the Control Authority)~~ NPDES, or Non-Discharge Permit or prevents sewage sludge use or disposal in compliance with specified applicable State and Federal statutes, regulations, or permits.
 - (14) ~~"Long Term Monitoring Plan" or "LTMP" is the monitoring plan designed to collect POTW site specific data for use in the Headworks Analysis.~~
 - (15) "Medical Waste" refers to isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
 - (16) "Monitoring Plan" refers to the monitoring plan designed to collect POTW site-specific data for use in the Headworks Analysis. Monitoring Plans may be designated as "Long Term" or "Short Term," LTMP and STMP, respectively, as the Division Director determines to be necessary.
 - (16)(17) "National Categorical Pretreatment Standard" or "Categorical Standard" refers to any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Federal Clean Water Act which applies to a specific category of industrial users, and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405-471.
 - (17)(18) "National Prohibited Discharge Standard" is an absolute prohibition against the discharge of certain substances to the POTW, including both general and specific prohibitions.
 - (18)(19) "Net/Gross Calculation" is an adjustment of a categorical pretreatment standard to reflect

the presence of pollutants in the industrial user's intake water.

(19) ~~"New Source" refers to:~~

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

~~(i) the building, structure, facility, or installation is constructed at a site at which no other source is located; or~~

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

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

~~(B) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Subparts (19)(A)(ii) or (iii) of this Rule but otherwise alters, replaces, or adds to existing process or production equipment.~~

~~(C) For purposes of this definition, construction of a new source has commenced if the owner or operator has:~~

~~(i) Begun, or caused to begin, as part of a continuous on site construction program:~~

~~(I) Any placement, assembly, or installation of facilities or equipment; or~~

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

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

(20) "Noncontact Cooling Water" is water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

(21) "Non-discharge Permit" is a permit issued by the State pursuant to G.S. 143-215.1(d) for a waste which is not discharged directly to surface waters of the State or for a wastewater treatment works which does not discharge directly to surface waters of the State.

(22) "Operator in Responsible Charge" is the operator designated to fulfill the requirements of G.S. 90A-44.

(23) "Pass Through" means a discharge which exits the POTW into waters of the State in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the POTW's Control Authority's (and/or the POTW's, if different from the Control Authority) NPDES permit, or Non-discharge permit, or of an instream water quality standard, standard even if not included in the permit.

(24) ~~"Permit Synopsis" refers to a document compiling information from the pretreatment permit application and industry inspection and providing the rationale for the~~

~~pretreatment permit limits.~~

- (25)(24) "Pollutant" includes any waste defined in G.S. 143-213(18); dredged spoil; solid waste; incinerator residue; garbage; sewage sludge; munitions; medical wastes; chemical waste; biological materials; radioactive materials; heat; wrecked or discarded equipment; rock; sand; cellar dirt; municipal and agricultural waste; and certain characteristics of wastewater, such as pH, temperature, TSS, turbidity, color, metals, BOD, COD, toxicity, and odor.
- (26)(25) "Pollutant of Concern" or "POC" is a pollutant identified as being of concern to the POTW Control Authority for purposes of the pretreatment program; a pollutant of concern may include but not be limited to conventional wastewater pollutant, such as BOD, TSS, or ammonia; any of the priority pollutants; flow; pH; and any pollutant that may be identified as a source of interference, pass through, whole effluent toxicity, or sludge contamination.
- (27)(26) "POTW", or Publicly Owned Treatment Works, means a treatment works as defined by Section 212 of the Federal Clean Water Act (CWA), which is owned by a State or local government organization. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the local government organization, or municipality, as defined in section 502(4) of the CWA, which has jurisdiction over indirect discharges to and the discharges from such a treatment works. In this context, the organization may be the owner of the POTW treatment plant or the owner of the collection system into which an indirect discharger discharges. This second type of POTW may be referred to as a "satellite POTW organization." For clarity, the local government may be referred to as the "POTW organization" or "Control Authority" as applicable in this Rule and all other Rules in this Section. See also Subparagraph (b)(5) of this Rule and Rule .0908(h) of this Section.
- (28)(27) "POTW Director" means the chief administrative officer of the ~~publicly owned treatment works~~ Control Authority or his/her delegate.
- (29)(28) "Pretreatment" refers to the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a ~~POTW~~ POTW collection system and/or treatment plant. The reduction or alteration may be obtained by physical, chemical, or biological processes, or process changes or other means, except as prohibited by 40 CFR ~~Section Part~~ 403.6(d).
- (30)(29) "Pretreatment Standard" is any prohibited discharge standard, categorical standard, or local limit which applies to an industrial user.
- (31)(30) "Process Wastewater" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product.
- (32)(31) "Removal Credits" are credits, available under certain conditions, that are applicable to categorical industrial users and are used to adjust categorical standards in such a way as to reflect POTW consistent removal of a particular pollutant.
- (33)(32) "Sewer Use Ordinance" or "SUO" means the ~~local government~~ POTW organization ordinance providing the legal authority for administering the pretreatment program.
- (34) ~~"Significant Industrial User" or "SIU" means an industrial user that discharges wastewater into a publicly owned treatment works and that:~~
- (A) ~~upon the effective date of this Rule until January 1, 1996, discharges an average of 50,000 gallons or more per day of process wastewater to the POTW; effective January 1, 1996, that discharges an average of 25,000 gallons or more per day of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewaters) or;~~
- (B) ~~contributes more than 5 percent of the design flow of the POTW treatment plant or more than 5 percent of the maximum allowable headworks loading of the POTW treatment plant for any pollutant of concern, or;~~
- (C) ~~is required to meet a national categorical pretreatment standard, or;~~

- ~~(D) is, regardless of Parts (A), (B), and (C) of this definition, otherwise determined by the control authority to have a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement or POTW's receiving stream standard, or to limit the POTW's sludge disposal options.~~
- (33) "Significant Industrial User" or "SIU" means an industrial user that discharges wastewater into a publicly owned treatment works and that:
- (A) Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewaters);
 - (B) Contributes process wastewater of more than five percent of the average permitted flow limit of the POTW treatment plant or more than five percent of the maximum allowable headworks loading of the POTW treatment plant for any other pollutant of concern;
 - (C) Is subject to Categorical Pretreatment Standards under 40 CFR Part 403.6 and 40 CFR chapter I, Subchapter N, Parts 405-471;
 - (D) is designated as such by the Control Authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirement, or the POTW's receiving stream standard, or to limit the POTW's sludge disposal options;
 - (E) Subject to approval under Rule .0907(b) of this Section, the Control Authority may determine that an Industrial User meeting the criteria in Subparagraph (b)(33), Parts (A) or (B) of this Rule has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standards or requirement and thus is not a Significant Industrial User; or
 - (F) Subject to approval under Rule .0907(b) of this Section, the Control Authority may determine that an Industrial User meeting the criteria in Subparagraph (b)(33), Part (C) of this Rule meets the requirements of 40 CFR Part 403.3(v)(2) and thus is a Non-Significant Categorical Industrial User.
- (35)(34) "Significant Noncompliance" or "SNC" is the status of noncompliance of a Significant Industrial User ~~an industrial user~~ when one or more of the following criteria are met: ~~met~~. Additionally, any Industrial User which meets the criteria in Subparagraph (b)(34), Parts (C), (D), or (H) shall also be SNC.
- (A) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six (66) percent or more of all the measurements ~~taken during a six-month period exceed (by any magnitude) for the daily maximum limit and the average limit pollutant parameter; this percentage is determined by dividing the total number of violations for the parameter by the number of compliance judgment points for the parameter taken for the same pollutant parameter (not including flow) during a six month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l);~~
 - (B) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three (33) percent or more of all the measurements ~~taken for each the same pollutant parameter taken during a six-month period equal or exceed the product of the daily maximum limit or the average limit numeric Pretreatment Standard or Requirement including instantaneous limits, as defined by 40 CFR Part 403.3(l) multiplied by the applicable TRC; (TRC = 1.4 for BOD, TSS, fats, oil and grease, 1.2 for all other pollutants (except flow and pH); this percentage is determined by dividing the total number of TRC violations for the parameter by the number of compliance judgment points for the parameter);~~
 - (C) Any other violation of a ~~pretreatment effluent limit (daily maximum or longer-term average)~~ Pretreatment Standard or Requirement as defined by 40 CFR Part 403.3(l) (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Control Authority and/or POTW determines has caused, alone or in combination with other discharges, interference or pass through (including

- endangering the health of POTW personnel or the general public);
- (D) Any discharge of a pollutant or wastewater that has caused imminent endangerment to human health, welfare or to the environment or has resulted in either the Control Authority's or the POTW's, if different from the Control Authority, exercise of its emergency authority under Paragraph (f)(1)(vi)(B) of 40 CFR 403.8 ~~40 CFR Part 403.8(f)(1)(vi)(B)~~ to halt or prevent such a discharge;
 - (E) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a pretreatment permit or enforcement order for starting construction, completing construction, or attaining final compliance;
 - (F) Failure to provide, within ~~30~~ forty-five (45) days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, ~~periodic~~ self-monitoring reports, and reports on compliance with compliance schedules;
 - (G) Failure to accurately report noncompliance; or
 - (H) Any other violation or group of violations that the Control Authority and/or POTW determines will adversely affect the operation or implementation of the local pretreatment program.
- (~~36~~)(35) "Staff" means the staff of the Division of ~~Environmental Management, Water Quality,~~ Department of ~~Environment, Health, Environment~~ and Natural Resources.
- (~~37~~)(36) "Upset" is an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial 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.
- (~~38~~)(37) "Waste reduction" means source reduction and environmentally sound recycling.
- (~~39~~)(38) "Wastewater" means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which are contributed into or permitted to enter the POTW.
- (~~40~~)(39) "Waters of the State" are all streams, rivers, brooks, swamps, sounds, tidal estuaries, bays, creeks, lakes, waterways, reservoirs, and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained in, flow through, or border upon the State or any portion thereof.

History Note: Authority G.S. 130A-334(13); 143-215.3(a)(1),(14); 150B-21.6;
 Eff. March 28, 1980;
 Amended Eff. January 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984.

15A NCAC 02H .0904 REQUIRED PRETREATMENT PROGRAMS

(a) The Regulations regarding pretreatment program development by the POTW Control Authority promulgated by the Environmental Protection Agency and codified as 40 CFR ~~Part~~ Parts 403.8(a) through ~~40 CFR Part~~ 403.8(e) are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the ~~Department of Environment, Health, and Natural Resources, Division of Environmental Management, Pretreatment Offices, Archdale Building, P. O. Box 29535, 512 N. Salisbury St., Raleigh, NC 27626-0535. Copies may be obtained from the US Government Printing Office Bookstore, P. O. Box 56445, Atlanta, Georgia 30343, phone number (404) 331-6947 at a cost of twenty six dollars (\$26.00).~~ locations listed in Rule .0901 of this Section and at http://cfpub1.epa.gov/npdes/home.cfm?program_id=3.

(b) The Division may allow a POTW Control Authority having a combined design permitted flow less than or equal to 2 million gallons per day and having fewer ~~less~~ than four Significant Industrial Users to develop and implement a Modified Pretreatment Program that encompasses a portion of the requirements in Rules .0905 and .0906 of this Section, as designated by the Division Director. ~~A POTW having a combined design flow less than or equal to 2 million gallons per day and having fewer than four Significant~~

~~Industrial Users may request that the Director consider the POTW for Modified Pretreatment Program status prior to January 1, 1996 only if the POTW demonstrates that all SIU's meeting the definition of SIU that is effective January 1, 1996 have been identified and permitted, if necessary. In making the decision to allow Modified Pretreatment Program development and implementation, the Division Director may consider factors including but not limited to percent industrial flow, industrial waste characteristics, compliance status of the facility, and the potential for industrial growth.~~

History Note: Authority G.S. 143-215.1(a),(b); 143-215.3(a)(14); 150B-21.6;
Eff. March 28, 1980;
Amended Eff. January 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984.

15A NCAC 02H .0905 POTW PRETREATMENT PROGRAM IMPLEMENTATION REQUIREMENTS

Except where specified differently in this Section, the POTW pretreatment program requirements promulgated by the Environmental Protection Agency and codified as 40 CFR Part 403.8(f) and (g) are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the ~~Department of Environment, Health, and Natural Resources, Division of Environmental Management, Pretreatment Offices, Archdale Building, P. O. Box 29535, 512 N. Salisbury St., Raleigh, NC 27626-0535. Copies may be obtained from the US Government Printing Office Bookstore, P. O. Box 56445, Atlanta, Georgia 30343, phone number (404) 331-6947 at a cost of twenty-six dollars (\$26.00).~~ locations listed in Rule .0901 of this Section and at http://cfpub1.epa.gov/npdes/home.cfm?program_id=3. In general, the implementation of a pretreatment program involves the updating of the Sewer Use Ordinance (SUO); ~~on-going implementation of industrial waste survey (IWS) activities; updating of the Headworks Analysis (HWA), or technical basis for local limits; implementation of the Long or Short Term Monitoring Plan (LTMP); (LTMP/STMP); on-going implementation of compliance activities, including sampling and inspection of significant industrial users; maintenance of Control Authority organization description; maintenance of staffing and funding information; implementation of the Enforcement Response Plan (ERP), and periodic reporting to the Division on pretreatment program activities.~~

History Note: Authority G.S. 143-215.1(a),(b); 143-215.3(a)(1),(14); 150B-21.6; 153A-274; 153A-275; 160A-311; 160A-312;
Eff. March 28, 1980;
Amended Eff. January 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984.

15A NCAC 02H .0906 SUBMISSION FOR PROGRAM APPROVAL

(a) Except where in conflict with any part of this Section, the regulations regarding the contents of pretreatment programs submitted for approval and the contents of a request to revise national categorical pretreatment standards, promulgated by the Environmental Protection Agency and codified as 40 CFR Part 403.9 are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the ~~Department of Environment, Health, and Natural Resources, Division of Environmental Management, Pretreatment Offices, Archdale Building, P. O. Box 29535, 512 N. Salisbury St., Raleigh, NC 27626-0535. Copies may be obtained from the US Government Printing Office Bookstore, P. O. Box 56445, Atlanta, Georgia 30343, phone number (404) 331-6947 at a cost of twenty-six dollars (\$26.00).~~ locations listed in Rule .0901 of this Section and at http://cfpub1.epa.gov/npdes/home.cfm?program_id=3. In general, pretreatment program development submissions include a Sewer Use Ordinance (SUO) providing the legal authority for implementing the pretreatment program, an attorney's statement, a description of the POTW organization which will administer the pretreatment program, and a description of funding levels and full and part time staffing available to implement the pretreatment program in addition to those items listed in Paragraph (b) of this Rule.

(b) In addition to the contents of a POTW Control Authority pretreatment program submission described

in Paragraph (a) of this Rule, the program submission shall contain:

- (1) A Sewer Use Ordinance (SUO) providing the legal authority for implementing the pretreatment program, along with an attorney's statement, as required by 40 CFR Part 403.8 (f)(1) and Rule .0905 of this Section;
- ~~(1)(2)~~ an Industrial Waste Survey (IWS), or industrial user survey, as required by 40 CFR Part 403.8 (f)(2) (i-iii) 403.8(f)(2)(i-iii) and 15A NCAC 2H .0905, Rule .0905 of this Section, including identification of all industrial users and the character and amount of pollutants contributed to the POTW collection system and/or treatment plant by these industrial users and identification of those industrial users meeting the definition of Significant Industrial User; User. Where the Control Authority accepts wastewater from one or more satellite POTWs, the IWS for that Control Authority shall address all satellite POTW services areas, unless the Pretreatment Program in those satellite service areas is administered by a separate Control Authority;
- ~~(2)(3)~~ a Long Term Monitoring Plan (LTMP)-Plan to provide POTW site-specific data for the HWA and subsequent technical evaluations of local limits to satisfy the requirements of 40 CFR 122.21(j); Part 122.21(j). Modified Pretreatment Programs developed under Rule .0904(b) of this Section may be allowed to implement a shorter term monitoring plan (STMP) as the Division Director determines to be necessary;
- ~~(3)(4)~~ a Headworks Analysis (HWA) and supporting documentation, including POTW site-specific and relevant literature data, upon which to base industrial user-specific effluent limits and other local limits for prohibited pollutants (as defined in 40 CFR Parts 403.5(a) and (b) and 15A NCAC 2H .0909); Rule .0909 of this Section);
- ~~(4)(5)~~ a compliance monitoring program, including inspection, sampling, equipment, and other compliance procedures, which will implement the requirements of 40 CFR Parts 403.8(f) and 403.12, and 15A NCAC 2H .0905 and .0908; Rules .0905 and .0908 of this Section;
- ~~(5)(6)~~ draft industrial user pretreatment permits for Significant Industrial Users as required by 40 CFR Parts 403.8(f)(1)(iii) and 403.9(b)(1)(ii) and Rule .0916 of this Section, and supporting documentation outlined in Rule .0917 of this Section;
- ~~(6)(7)~~ procedures for approving the construction of pretreatment facilities by industrial users and for permitting industrial users for construction, operation and discharge as required by G.S. 143-215.1; procedures for approving construction shall include issuance of authorization to construct, as appropriate;
- ~~(7)(8)~~ an Enforcement Response Plan (ERP) as required by 40 CFR Parts 403.8(f)(5) and 403.9(b)(1)(ii) for identifying violations of and enforcing specific local limits and other Pretreatment Requirements as required by and specified in 40 CFR Parts 403.5 and 403.6 and Rules .0909 and .0910 of this Section;
- ~~(9)~~ a brief description (including organization charts) of the Control Authority which will administer the Pretreatment Program. Where more than one POTW organization is involved in the POTW wastewater collections and/or treatment system, the description shall address all the agencies, including identification of which party will receive Industrial User applications for new and changed discharges and how the parties will communicate on Significant Industrial User determinations. At such time as a Significant Industrial User is identified in a satellite POTW organization's jurisdiction, the Division Director may require additional information, documents, and/or procedures as he or she determines necessary to ensure compliance with Pretreatment Program requirements, especially as needed to support appropriate communication between the POTW organizations as relates to Pretreatment Program. This may include submittal of any formal interjurisdictional agreements or other written procedures;
- ~~(10)~~ a description of funding levels and full- and part-time manpower available to implement the Program;
- ~~(8)(11)~~ a description of data management procedures for compiling and managing compliance, LTMP/STMP, and any other pretreatment-related monitoring data; data, including documentation of approval of electronic reporting procedures as required under 40 CFR Part 3 if applicable; and
- ~~(9)(12)~~ a request for pretreatment program approval as required by 40 CFR Part 403.9 and Rule .0900 of this Section.

~~(c) The POTW must submit three bound copies of the program containing the information in Paragraphs (a) and (b) of this Rule to the Division of Environmental Management.~~

*History Note: Authority G.S. 143-215.1(a),(b); 143-215.3(a)(1),(14); 150B-21.6;
Eff. March 28, 1980;
Amended Eff. January 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984.*

15A NCAC 02H .0907 PROCEDURES FOR PROGRAM APPROVAL, ~~PROCEDURES~~: REVISION AND WITHDRAWAL

(a) Procedures for approval of a POTW Control Authority pretreatment program and for removal credit authorization are as follows:

- (1) Except where in conflict with any part of this Section, the approval procedures for POTW Control Authority pretreatment programs and applications for removal credit authorization promulgated by the Environmental Protection Agency and codified as 40 CFR Part 403.11 are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the ~~Department of Environment, Health, and Natural Resources, Division of Environmental Management, Pretreatment Offices, Archdale Building, P. O. Box 29535, 512 N. Salisbury St., Raleigh, NC 27626-0535. Copies may be obtained from the US Government Printing Office Bookstore, P. O. Box 56445, Atlanta, Georgia 30343, phone number (404) 331-6947 at a cost of twenty six dollars (\$26.00).~~ locations listed in Rule .0901 of this Section and at http://cfpub1.epa.gov/npdes/home.cfm?program_id=3.
- (2) Upon program approval, a POTW Control Authority is delegated, subject to the provisions of Rules .0916 and .0917 of this Section, the authority to issue the construction, operation and discharge permits required by G.S. 143-215.1(a) for those Significant Industrial Users discharging or proposing to discharge to the POTW.

(b) Either the Division or the POTW Control Authority may initiate program revisions. The POTW Control Authority ~~must~~ shall submit a request to the Division for approval of modifications to its approved pretreatment program, including, but not limited to its legal authority, or Sewer Use Ordinance (SUO), Headworks Analysis (HWA), Long or Short Term Monitoring Plan (~~LTMP~~), (LTMP/STMP), Enforcement Response ~~Plan~~, Plan (ERP), summary of Industrial Waste ~~Survey~~, Survey (IWS) activities, revisions to the list of Significant Industrial Users (SIUs), and Division-approved forms. Revisions to an approved pretreatment program shall be accomplished as follows:

- (1) the POTW Control Authority shall submit a modified program description, an attorney's statement if the legal authority of the program is being modified, and other documents as the Division Director determines to be necessary under the ~~circumstances; the~~ circumstances. The attorney's statement may consist merely of a verification that the North Carolina Model Pretreatment Sewer Use Ordinance is proposed for adoption by the Control Authority, if that is the case;
- (2) whenever the Division Director determines that the proposed program modifications are substantial, the Division shall issue public notice and provide an opportunity for public comment as described in ~~15A NCAC 2H Rules .0109 and .0110; public .0110 of this Subchapter~~. Public notices issued by the Control Authority are deemed sufficient notice;
- (3) the Division Director or his/her delegate shall approve or disapprove program revisions based on the requirements of this Section, G.S. 143-215.1, G.S. 143-215.3 and the Water Quality Memorandum of Agreement between the Division and the EPA; and
- (4) a pretreatment program revision shall become effective upon written approval of the Division Director.

~~(c) Revision to the POTW's Significant Industrial Users (SIU) list shall be made using the procedure outlined in Paragraph (b) of this Rule. The SIU list may be revised at any time, provided sufficient documentation as required by the Division is supplied and supports such a determination. Requests for deletion of SIUs from the SIU list shall be accompanied by documentation which shows:~~

- ~~(1) the industrial user does not meet the criteria outlined in Subparagraph (b)(34) of Rule .0903 of this Section; or~~

- (2) ~~the industrial user meets the criteria outlined in Parts (b)(34)(A) or (B) of Rule .0903 of this Section and the wastewater treatment plant receiving the discharge has a significant available capacity for flow and all pollutants reasonably expected to be in the industrial user's discharge.~~
- (d)(c) The Division Director may withdraw pretreatment program approval when a POTW Control Authority no longer complies with requirements of this Section and the POTW Control Authority fails to take corrective action. The following procedures apply when the Division Director determines that program withdrawal may be needed:
- (1) The Division Director shall give the POTW Control Authority 180 days notice of the program withdrawal;
 - (2) the POTW Control Authority shall submit within 60 days of such notice a plan for the orderly transfer of all relevant program information not in the possession of the Division (such as permit files, compliance files, reports and permit applications) which is necessary for the Division to administer the pretreatment program;
 - (3) within 60 days of the receipt of the POTW Control Authority transfer ~~plan-plan~~, the Division Director shall evaluate the POTW Control Authority plan and shall identify any additional information needed by the Division for program administration or identify any other deficiencies in the plan; and
 - (4) at least 30 days before the program ~~withdrawal-withdrawal~~, the Division Director shall publish public notice of the program transfer and shall mail notice to all pretreatment permit holders of the POTW Control Authority.
- (e)(d) Applications for removal credit authorization shall be made in accordance with procedures established by this Rule. Approval shall become effective upon written approval of the Division Director.
- (f)(e) A pretreatment program is considered inactive when industrial users defined as Significant Industrial Users no longer discharge to the POTW, based on modifications of the Control Authority pretreatment program approved by the Division. Inactive approved pretreatment programs shall notify the Division when a Significant Industrial User proposes to discharge to the POTW. When required by the Division to return to active status, a POTW Control Authority may be required to update any or all of the requirements listed in Rule .0906 of this ~~Section~~. The Control Authority shall obtain Division approval of the reactivation under this Rule prior to commencement of discharge of the Significant Industrial User.
- (g)(f) The Division may require that representatives of Modified Pretreatment Programs developed under ~~Paragraph (b) of Rule .0904~~.0904(b) of this Section meet with Division personnel periodically to discuss implementation of and revisions to their Modified Pretreatment Program.

History Note: Authority G.S. 143-215(a); 143-215.1(a),(c); 143-215.3(a)(3),(14),(e); 150B-21.6;
 Eff. March 28, 1980;
 Amended Eff. January 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984.

15A NCAC 02H .0908 REPORTING/RECORD KEEPING REQUIREMENTS FOR POTWS/INDUSTRIAL USERS

- (a) Except where in conflict with any part of this Section, the regulations regarding the reporting requirements for POTWs Control Authorities and industrial users promulgated by the Environmental Protection Agency and codified as 40 CFR ~~Part~~ Parts 403.8(g) and 403.12 are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the Department of Environment, Health, and Natural Resources, Division of Environmental Management, Pretreatment Offices, Archdale Building, P. O. Box 29535, 512 N. Salisbury St., Raleigh, NC 27626-0535. Copies may be obtained from the US Government Printing Office Bookstore, P. O. Box 56445, Atlanta, Georgia 30343, phone number (404) 331-6947 at a cost of twenty six dollars (\$26.00). locations listed in Rule .0901 of this Section and at http://cfpub1.epa.gov/npdes/home.cfm?program_id=3.
- (b) POTWs Control Authorities with active approved pretreatment programs shall submit once per year a pretreatment report describing its pretreatment activities over the previous 12 months. Two copies of each pretreatment report shall be submitted to the Division ~~according to one of the following schedules: a report shall be submitted by September 1 of each year describing pretreatment activities for two six month periods, January 1 through June 30 of that year and July 1 to December 31 of the previous year; or a report~~

~~shall be submitted by March 1 of each year for activities conducted for two six-month periods, January 1 through June 30 and July 1 through December 31 of the previous year. The POTW shall be notified by the Division as to which schedule to follow.~~ This annual report shall contain the following information in accordance with forms specified by the Division:

- (1) a narrative summary of actions taken by the ~~permittee~~ Control Authority to ensure compliance with pretreatment requirements;
- (2) a pretreatment program summary on forms or in a format approved by the Division;
- (3) a list of ~~Significant~~ Industrial Users in significant noncompliance with pretreatment requirements, the nature of the violations, and actions taken or proposed to correct the violations; on forms or in a format approved by the Division;
- (4) an allocation table listing permit information for all Significant Industrial Users, including but not limited to permit limits, permit effective and expiration dates, and a comparison of total permitted flows and loads to the Division approved maximum allowable loadings of the POTW, on forms or in a format approved by the Division; and
- (5) other information which in the opinion of the Division Director is needed to determine compliance with the implementation of the pretreatment program, including, but not limited to, Significant Industrial User compliance schedules, public notice of ~~Significant~~ Industrial Users in significant noncompliance, a summary of Significant Industrial User effluent monitoring data as described in ~~Paragraph (f)~~ Paragraphs (a) and (e) of this Rule, a summary of information related to significant non-compliance determination for Industrial Users that are not considered Significant Industrial Users, and Long or Short Term Monitoring Plan data on forms or in a format approved by the Division; Division.
- ~~(6) a description of all POTW and Significant Industrial User waste reduction activities.~~

(c) In lieu of submitting annual reports as described in Paragraph (b) of this Rule, the Division Director may allow Modified Pretreatment Programs developed under Rule .0904(b) of this Section to submit only a partial annual report, or to meet with Division personnel as required to discuss enforcement of pretreatment requirements and other pretreatment implementation issues.

(de) Inactive pretreatment programs are not required to submit the report described in Paragraph Paragraphs (b) and (c) of this Rule. Inactive approved pretreatment programs shall notify the Division when a Significant Industrial User proposes to discharge to the POTW-POTW and shall comply with Rule .0907 of this Section.

(ed) Samples shall be collected and analyzed by the POTW-staff-Control Authority independent of the industry industrial users for each Significant Industrial User:

- ~~(1) for all permit limited parameters, except those listed in Paragraph (d)(2) of this Rule, a minimum of twice per year, twice each year is defined as once during each six-month period in Paragraph (b) of this Rule;~~
- ~~(2) for organic compounds limited in the Significant Industrial User permits, a minimum of once each year. If the POTW elects to sample and analyze in lieu of the industry, the POTW shall collect and analyze at a minimum samples as described in this Rule and, if applicable, in accordance with categorical standards. Independent monitoring of the industry by the POTW is not required for pollutants which are limited by a categorical standard for which specific certification or other alternative procedures apply, even if the industry chooses to monitor in addition to using certification or other alternative procedures;~~
- (1) Except as specified below, a minimum of once each year for permit-limited organic compounds, and a minimum of twice each year for all other permit-limited parameters including flow. For the purposes of this paragraph, "organic compounds" means the types of compounds listed in 40 CFR Part 136.3(a), Tables IC, ID, and IF, as amended, and "twice each year" is defined as once during each six-month period as described in Paragraph (b) of this Rule.
 - (A) Independent monitoring of the industrial user by the Control Authority is not required for pollutants which are limited by a categorical standard for which specific certification or other alternative procedures apply where the industrial user submits the required documentation for that certification or procedure, even if the industrial user chooses to monitor in addition to using certification or other alternative procedures;

- (B) The minimum frequencies in Subparagraph (e)(1) of this Rule shall be reduced by half for all permit-limited parameters at a Significant Industrial User determined to fit the criteria under 40 CFR Part 403.12(e)(3) (Middle Tier CIU), [after 403.8(f)(2)(v)(C)]; and
- (C) For categorical parameters with monitoring waived under 40 CFR Part 403.12(e)(2), a minimum of once during the term of the applicable Significant Industrial User Pretreatment Permit (403.8(f)(2)(v)(A))
- (2) If the Control Authority elects to sample and analyze in lieu of the industrial user, the Control Authority shall collect and analyze at a minimum samples as described in this Rule and, if applicable, in accordance with categorical standards.
- (e) ~~For the purpose of indicating the nature and concentration of the industries discharges in the baseline reports, deadline compliance reports and periodic compliance reports required in Paragraph (a) of this Rule the following shall apply:~~
- (1) ~~analyses shall be completed on all pollutants which are limited by the categorical standard unless the categorical standard contains specific certification or other alternative procedures for specific pollutants;~~
- (2) ~~compliance with a monthly average limitation shall be shown every six months by the analysis of a sufficient number of samples to be representative of the industry's monthly discharge.~~
- (f) ~~POTWs~~ Control Authorities and Industrial Users shall retain for a minimum of three years records of monitoring activities and results along with ~~support~~ supporting information including annual pretreatment reports, general records, water quality records, and records of industrial user impact on the POTW. ~~Support information for Other documents required by any portion of this Section for other Pretreatment Program elements, such as pretreatment permits (IUPs), shall be retained for five years-three years after the end of the effective period of the document, including supporting information.~~ A summary of all Significant Industrial User effluent monitoring data reported to the POTW Control Authority by the Industrial User or obtained by the POTW Control Authority shall be maintained on Division-approved forms or in a format approved by the Division for review by the Division. ~~Division~~. See also Rule ~~15A NCAC 02H .0805~~ of this Subchapter for laboratory records retention requirements.
- (g) ~~In lieu of submitting annual reports, Modified Pretreatment Programs developed under Paragraph (b) of Rule .0904 of this Section may be required to meet with Division personnel periodically to discuss enforcement of pretreatment requirements and other pretreatment implementation issues.~~
- (h)(g) ~~Forms or format deviating from Division-issued forms or format for all documents and supporting information required by any portion of this Section shall be submitted to the Division for approval and shall contain all required information in a logical order or, if appropriate, in a computer-compatible format.~~
- (h) In the case where the receiving POTW treatment plant is not owned by the same local governmental organization as the Control Authority, all information required to be reported to the industrial user's Control Authority by this Section shall also be submitted to the POTW treatment plant governmental organization.
- (i) In the case where the Control Authority accepts electronic reporting, the reporting shall comply with 40 CFR Part 3, and the Control Authority shall maintain documentation of approval as required under 40 CFR Part 3.

History Note: Authority G.S. 143-215.1(a),(b); 143-215.2; 143-215.3(a)(2),(14); 143-215.6(a)(1); 143-215.63 through 143-215.69; 150B-21.6;
Eff. March 28, 1980;
Amended Eff. January 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984.

15A NCAC 02H .0909 NATIONAL PRETREATMENT STANDARDS: PROHIBITED DISCHARGES

The regulations regarding national prohibited pretreatment standards and local limits development and enforcement promulgated by the Environmental Protection Agency and codified as 40 CFR Part 403.5 are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the ~~Department of Environment, Health, and Natural Resources, Division of~~

~~Environmental Management, Pretreatment Offices, Archdale Building, P. O. Box 29535, 512 N. Salisbury St., Raleigh, NC 27626-0535. Copies may be obtained from the US Government Printing Office Bookstore, P. O. Box 56445, Atlanta, Georgia 30343, phone number (404) 331-6947 at a cost of twenty-six dollars (\$26.00); locations listed in Rule .0901 of this Section and at http://cfpub1.epa.gov/npdes/home.cfm?program_id=3.~~

History Note: Authority G.S. 143-215.1(a)(7); 143-215.1(b); 143-215.3(a)(1),(14); 150B-21.6;
Eff. March 28, 1980;
Amended Eff. January 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984.

15A NCAC 02H .0910 NATIONAL PRETREATMENT STANDARDS: CATEGORICAL STANDARDS

The regulations regarding national categorical pretreatment standards promulgated by the Environmental Protection Agency and codified as 40 CFR Part 403.6 are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the ~~Department of Environment, Health, and Natural Resources, Division of Environmental Management, Pretreatment Offices, Archdale Building, P. O. Box 29535, 512 N. Salisbury St., Raleigh, NC 27626-0535. Copies may be obtained from the US Government Printing Office Bookstore, P. O. Box 56445, Atlanta, Georgia 30343, phone number (404) 331-6947 at a cost of twenty-six dollars (\$26.00); locations listed in Rule .0901 of this Section and at http://cfpub1.epa.gov/npdes/home.cfm?program_id=3.~~

History Note: Authority G.S. 143-215.1(a)(7); 143-215.1(b); 143-215.3(a)(14); 150B-21.6;
Eff. March 28, 1980;
Amended Eff. January 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984.

15A NCAC 02H .0911 REVISION TO REFLECT POTW REMOVAL OF POLLUTANT

History Note: Authority G.S. 143-215.1(a),(b); 143-215.3(a)(14);
Eff. March 28, 1980;
Amended Eff. December 1, 1984;
Repealed Eff. October 1, 1987.

15A NCAC 02H .0912 ADJUSTMENTS FOR FUNDAMENTALLY DIFFERENT FACTORS

The regulations regarding variances from national categorical pretreatment standards for fundamentally different factors promulgated by the Environmental Protection Agency and codified as 40 CFR Part 403.13 are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the ~~Department of Environment, Health, and Natural Resources, Division of Environmental Management, Pretreatment Offices, Archdale Building, P. O. Box 29535, 512 N. Salisbury St., Raleigh, NC 27626-0535. Copies may be obtained from the US Government Printing Office Bookstore, P. O. Box 56445, Atlanta, Georgia 30343, phone number (404) 331-6947 at a cost of twenty-six dollars (\$26.00); locations listed in Rule .0901 of this Section and at http://cfpub1.epa.gov/npdes/home.cfm?program_id=3.~~

History Note: Authority G.S. 143-215(a); 143-215.1(a),(b); 143-215.3(a),(14),(e); 150B-21.6;
Eff. March 28, 1980;
Amended Eff. January 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984.

15A NCAC 02H .0913 PUBLIC ACCESS TO INFORMATION

(a) Information and data provided by an industrial user to the POTW Director pursuant to this Section, identifying the nature and frequency of a discharge, shall be available to the public without restriction. All other information which may be so submitted ~~or which may be furnished by an industrial user to the POTW director-Director~~ in connection with any required ~~periodic~~ reports shall also be available to the public unless the industrial user or other interested person specifically identifies the information as confidential upon submission and is able to demonstrate to the satisfaction of the POTW ~~director-Director~~ that the disclosure of such information or a particular part thereof to the general public would divulge methods or processes entitled to protection as trade secrets.

(b) Information and data provided by an industrial user to the Division Director shall be subject to the processes set forth in G.S. 143-215.3C.

(c) Information provided by an industrial user to a Control Authority that is determined to be entitled to confidential treatment shall be made available upon written request to the Division or any state agency for uses related to the Pretreatment Program, the National Pollutant Discharge Elimination System (NPDES) Permit, collection system permit, stormwater permit, and/or Non-discharge permit, and for uses related to judicial review or enforcement proceedings involving the person furnishing the report.

(d) Information and data received by the Division or other state agency under Paragraph c) of this Rule shall be subject to the processes set forth in G.S. 143-215.3C.

History Note: Authority G.S. 132-1.2; 132-6; 132-9; 143-215.1(a),(b),(c); 143-215.3(a)(3); 143-215.1; 143-215.3; 143-215.3C;
Eff. March 28, 1098;
Amended Eff. January 1, 2011; October 1, 1997;

15A NCAC 02H .0914 UPSET PROVISION

The upset provision promulgated by the Environmental Protection Agency and codified as 40 CFR Part 403.16 is hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the ~~Department of Environment, Health, and Natural Resources, Division of Environmental Management, Pretreatment Offices, Archdale Building, P. O. Box 29535, 512 N. Salisbury St., Raleigh, NC 27626 0535.~~ Copies may be obtained from the US Government Printing Office Bookstore, P. O. Box 56445, Atlanta, Georgia 30343, phone number (404) 331-6947 at a cost of ~~twenty six dollars (\$26.00).~~ locations listed in Rule .0901 of this Section and at http://cfpub1.epa.gov/npdes/home.cfm?program_id=3.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.3(a)(14); 150B-21.6;
Eff. December 1, 1984;
Amended Eff. January 1, 2011; November 1, 1994; October 1, 1987.

15A NCAC 02H .0915 NET/GROSS CALCULATION

The net/gross calculation provisions promulgated by the Environmental Protection Agency and codified as 40 CFR Part 403.15 are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the ~~Department of Environment, Health, and Natural Resources, Division of Environmental Management, Pretreatment Offices, Archdale Building, P. O. Box 29535, 512 N. Salisbury St., Raleigh, NC 27626 0535.~~ Copies may be obtained from the US Government Printing Office Bookstore, P. O. Box 56445, Atlanta, Georgia 30343, phone number (404) 331-6947 at a cost of ~~twenty six dollars (\$26.00).~~ locations listed in Rule .0901 of this Section and at http://cfpub1.epa.gov/npdes/home.cfm?program_id=3.

History Note: Authority G.S. 143-215.3(a)(1); 143-215.3(a)(14); 150B-21.6;
Eff. December 1, 1984;
Amended Eff. January 1, 2011; November 1, 1994; October 1, 1987.

15A NCAC 02H .0916 PRETREATMENT PERMITS

(a) All Significant Industrial Users who discharge waste into a POTW or who construct or operate a pretreatment facility ~~must~~ shall obtain a permit from the Control Authority.

(b) Where the Division is the Control ~~Authority~~ Authority, permits shall be issued in accordance with Section .0100 of this Subchapter.

(c) Where the ~~POTW is the Control Authority~~, Authority is a POTW organization, Significant Industrial User permits shall be issued as follows:

(1) Application: any Significant Industrial User required to obtain a permit in Paragraph (a) of this Rule shall be required to complete, sign and submit to the Control Authority a permit application. Application fees and procedures may be prescribed by the Control Authority. All pretreatment permit applications shall include as a minimum:

(A) name of ~~industry~~; Industrial User;

(B) address of ~~industry~~; Industrial User;

(C) standard industrial classification (SIC) code(s) or expected classification and ~~industry~~ Industrial User category;

(D) wastewater flow;

(E) types and concentrations (or mass) of pollutants contained in the discharge;

(F) major products manufactured or services supplied;

(G) description of existing on-site pretreatment facilities and practices;

(H) locations of discharge points;

(I) raw materials used or stored at the site;

(J) flow diagram or sewer map for the ~~industry~~; Industrial User;

(K) number of employees;

(L) operation and production schedules; and

(M) description of current and projected waste reduction activities in accordance with G.S. 143-215.1(g).

(2) Renewals: Applications for pretreatment permit renewals shall be accomplished by filing an appropriate application form as listed in ~~.0916-Subparagraph (c)(1) of this Rule~~ prior to permit expiration. The number of days prior to expiration by which the application ~~must~~ shall be filed shall be established by the Control Authority.

(3) Review and Evaluation:

(A) The POTW Director is authorized to accept applications for the Commission and shall refer all applications to the ~~POTW~~ Control Authority staff for review and evaluation.

(B) The POTW Director shall acknowledge receipt of a complete application, or if not complete, shall return the application to the applicant with a statement of what additional information is required.

(C) The ~~POTW~~ Control Authority staff shall include ~~as part of the permit record~~ documentation of an on site inspection of the industrial ~~facility~~ user and any existing wastewater pretreatment ~~system~~. system as part of the permit record for new and renewed permits. Such inspection shall have been conducted a maximum of 12 months prior to the issue date of the pretreatment permit.

(D) The ~~POTW~~ Control Authority staff shall conduct an evaluation and make a tentative determination to issue or deny the permit. If the ~~POTW~~ Control Authority staff's tentative determination is to issue the permit, it shall make the following additional determinations in writing and transmit them to the ~~permittee~~; Industrial User:

(i) proposed effluent limitations for those pollutants proposed to be limited;

(ii) a proposed schedule of compliance, including interim dates and requirements, for meeting the proposed effluent limitations; and

(iii) a brief description of any other proposed special conditions which will have significant impact upon the discharge described in the application.

The ~~POTW~~ Control Authority staff shall organize the determinations made into a pretreatment permit.

- (4) ~~Permit synopsis and allocation table: A brief synopsis of the application and permit shall be prepared by the POTW staff for all Significant Industrial User permits. This synopsis shall be maintained in the POTW files in accordance with Rule .0908(f) of this Section. The synopsis and allocation table shall be sent to the Division along with the pretreatment permit if required in Rule .0917 of this Section. An allocation table listing permit information for all Significant Industrial Users, including but not limited to permit limits, permit effective and expiration dates, and a comparison of total permitted loads with Division approved maximum allowable loadings of the POTW shall be prepared on forms or in a format approved by the Division and updated as permits are issued, modified, or renewed. Forms or format deviating from Division issued forms or format shall be submitted to the Division for approval and shall contain all required information in a logical order or, if appropriate, in a computer compatible format. The contents of the synopsis shall include at least the following information:~~
- ~~(A) a copy of the completed industrial user application or a quantitative description of the discharge described in the application which includes at least the following:

 - ~~(i) the rate or frequency of the proposed discharge; if the discharge is continuous, the average daily flow;~~
 - ~~(ii) the average daily discharge in pounds per day of any pollutants which are present in significant quantities or which are subject to limitations or prohibition.~~~~
 - ~~(B) the basis, or rationale, for the pretreatment limitations, including the documentation of any calculations used in applying categorical pretreatment standards; and~~
 - ~~(C) a copy of the record of the inspection of the industrial user required in Part (c)(3)(C) of this Rule.~~
- (4) Permit supporting documentation. The Control Authority staff shall prepare the following documents for all Significant Industrial User permits.
- (A) An allocation table (AT) listing permit information for all Significant Industrial Users, including but not limited to permit limits, permit effective and expiration dates, and a comparison of total permitted loads with Division approved maximum allowable loadings of the POTW, including flow, on forms or in a format approved by the Division and updated as permits are issued or renewed, and as permits are modified where the permitted limits or other AT information is revised.
 - (B) The basis, or rationale, for the pretreatment limitations, including the following:
 - (i) documentation of categorical determination, including documentation of any calculations used in applying categorical pretreatment standards; and
 - (ii) documentation of the rationale of any parameters for which monitoring has been waived under 40 CFR Part 403.12(e)(2).
- (5) Hearings:
- (A) Adjudicatory Hearings. An applicant whose permit is denied, terminated, or is granted subject to conditions he/she deems unacceptable, shall have the right to an adjudicatory hearing before the POTW Director or other hearing officer appointed by the POTW Director upon making written demand, identifying the specific issues to be contested, to the POTW Director within 30 days following notice of the final decision to deny or grant the permit. Unless such written demand is made, the decision on the application shall be final and binding, subject to the provisions of Rule .0917 of this Section, and further appeal is barred. For modified permits, only those parts of the permit being modified may be adjudicated. The POTW Director or other hearing officer, as appropriate, shall make a decision on the contested permit within the time period specified in the Control Authority's Sewer Use Ordinance. The POTW Director shall transmit a copy of the hearing officer's decision to the petitioner by registered or certified mail. If no further administrative appeal is provided by the governing

~~body of the Control Authority under Part (c)(5)(B) of this Rule then the decision is a final decision for the purposes of seeking judicial review. An Official Record of the adjudicatory hearing must be prepared as described in Part (c)(5)(C) of this Rule.~~

- ~~(i) — New Permits. Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the permit is not in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.~~
- ~~(ii) — Renewed or Modified Permits. Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a renewed or modified permit, the terms and conditions of the existing permit remain in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.~~
- ~~(iii) — Terminated Permits. Upon appeal, including judicial review in the General Courts of Justice, of a terminated permit, no permit is in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.~~
- ~~(B) — Optional Appeal Hearings. If so provided by the governing body of the Control Authority, any decision of a hearing officer or POTW Director made as a result of an adjudicatory hearing held under Part (c)(5)(A) of this Rule may be appealed, to the governing body of the Control Authority or other unbiased entity designated by the governing body of the Control Authority upon filing a written demand within ten days of receipt of notice of the decision. Failure to make written demand within the time specified herein shall bar further appeal. The governing body of the Control Authority or other unbiased entity, as appropriate, shall make a final decision on the appeal within the time period specified in the Control Authority's Sewer Use Ordinance. The governing body of the Control Authority or its designee shall transmit a written copy of its decision by registered or certified mail to the petitioner. This decision is a final decision for the purposes of seeking judicial review. An Official Record of the hearing must be prepared as described in Part (c)(5)(C) of this Rule.~~
- ~~(C) — Official Record. When a final decision for the purposes of judicial review is issued under Subparagraph (c)(5) of this Rule, the hearing officer shall prepare an official record of the case that includes:
 - ~~(i) — All notices, motions, and other like pleadings;~~
 - ~~(ii) — A copy of all documentary evidence introduced;~~
 - ~~(iii) — A certified transcript of all testimony taken, if testimony is transcribed. If testimony is taken and not transcribed, then a narrative summary of any testimony taken;~~
 - ~~(iv) — A copy of the final decision of the hearing officer.~~~~
- ~~(D) — Judicial Review. Any person against whom a final decision of the hearing officer or POTW Director is entered, pursuant to the hearing(s) conducted under Subparagraph (c)(5) of this Rule, may seek judicial review of the decision, by filing a written petition within 30 days after receipt of notice by registered or certified mail of the final decision, but not thereafter, with the Superior Court of the appropriate county along with a copy to the Control Authority. Within 30 days after receipt of the copy of the petition of judicial review, the final decision maker shall transmit to the reviewing court the original or a certified copy of the official record.~~
- ~~(6)(5) Final Action on Permit Applications:~~
 - ~~(A) The POTW Director shall take final action on all applications by either issuing a pretreatment permit or by denying the discharge not later than 90 days following the receipt of a complete application. If, following the 30 day period required by Part (c)(5)(A) of this Rule and Rules .0917(c) Rules .0917(d) and .0922 of this Section, no written demand for hearing, objection, or request for more~~

information under Rule .0917(f)(2) of this Section has been made, the permit shall become final and binding.

- (B) The POTW Director is authorized to:
- (i) issue a permit containing such conditions as are necessary to effectuate the purposes of G.S. 143-215.1;
 - (ii) issue a permit containing time schedules for achieving compliance with applicable pretreatment standards and limitations and other legally applicable requirements;
 - (iii) modify or revoke any permit pursuant to Subparagraph ~~(e)(7)~~ (c)(6) of this Rule;
 - (iv) deny a permit application;
 - (v) issue permits to industrial users not identified as Significant Industrial Users using procedures prescribed by the Control Authority; and
 - (vi) require ~~Significant~~ Industrial Users to develop a waste reduction plan and implement waste reduction techniques and technologies.
- (C) Permits shall be issued or renewed for a period of time deemed reasonable by the POTW Director but in no case shall the period exceed five years.
- (D) The POTW Director shall notify an applicant by certified or registered mail of the denial of his/her permit application. Notifications of denial shall specify the reasons therefore and the proposed changes which in the opinion of the POTW Director will be required to obtain the permit.

~~(7)(6)~~ Modification and Revocation of Permits:

- (A) Any permit issued pursuant to this Rule is subject to revocation or modification in whole or part for good cause as outlined in the Control Authority's ~~sewer use ordinance~~, Sewer Use Ordinance.
- (B) Modifications of permits shall be subject to the same procedural requirements as the issuance of permits except as follows:
- (i) changes in the ownership of the discharge when no other change in the permit is indicated;
 - (ii) a single modification of any compliance schedule not in excess of four months;
 - (iii) modification of compliance schedules (construction schedules) in permits for new sources where the new source will not begin to discharge until control facilities are operational; or
 - (iv) modifications of the monitoring requirements in the permit.
- ~~(C) — Permit effective dates and modification effective dates shall not be retroactive.~~

(7) Permit effective dates and modification effective dates shall not be retroactive.

History Note: Authority G.S. 143-215(a); 143-215.1(a), (c), (g); 143-215.3(a)(3),(14)(e);
Eff. October 1, 1987;
Amended Eff. January 1, 2011; November 1, 1994.

15A NCAC 02H .0917 PRETREATMENT PERMIT SUBMISSION AND REVIEW

(a) Upon issuance, each ~~POTW Control Authority~~ shall transmit to the Division copies of all issued Significant Industrial User pretreatment permits.

~~(b) — For new Significant Industrial Users and for Significant Industrial Users identified as categorical industrial users, upon issuance, the POTW shall transmit to the Division:~~

- ~~(1) — Notice of actions taken by the POTW to the consideration of any permit application including a copy of each pretreatment permit and any conditions, requirements or documents which are related to the pretreatment permit;~~
- ~~(2) — A synopsis of the permit and an allocation table for the POTW receiving the discharge(s).~~

(b) Permits and permit renewal submissions to the Division for Significant Industrial Users shall include the supporting information listed below. Permit modification submissions for Significant Industrial Users shall include updated versions of this supporting information listed below as applicable to that

modification:

- (1) the rationale for limits and allocation table required by Rule .0916(c)(4) of this Section;
- (2) a copy of the completed industrial user application required in Rule .0916(c)(1) of this Section; and
- (3) a copy of the record of the inspection of the industrial user required in Rule .0916(c)(3)(C) of this Section.

(c) The Division Director may waive some or all of the requirements in Paragraphs (a) and (b) of this Rule. In making the decision to waive these requirements, the Division Director may consider factors including but not limited to training levels of Control Authority staff, quality of previous pretreatment permit submissions, percent maximum allowable headworks loading capacity remaining, percent industrial user flow, industrial user waste characteristics, and compliance status of the POTW and its respective environmental permits.

~~(c)(d)~~ The Division shall have 30 days from the receipt of pretreatment permits in which to make general comments upon, objections to or recommendations with respect to the permit. Unless such an objection or request for more information in accordance with Paragraph ~~(f)-(g)~~ of this Rule is made, the permit shall be final and binding.

~~(d)(e)~~ Within 30 days of the receipt of a pretreatment permit to which the Division Director has objected the Division staff shall set forth in writing and transmit to the Control Authority:

- (1) A statement of the reasons for the objection, including the regulations that support the ~~objection and;~~ objection; and
- (2) The actions which ~~must~~ shall be taken by the Control Authority to eliminate the objection including the effluent limitations and conditions which the permit would include if it were issued by the Division.

~~(e)(f)~~ The Division Director's objection to the issuance of a pretreatment permit ~~must~~ shall be based upon one or more of the following grounds:

- (1) the permit fails to apply or to ensure compliance with any applicable requirement of this Section;
- (2) the procedures followed in connection with formulation of the pretreatment permit failed to comply with the procedures required by State Statute or by the ~~POTW's~~ Control Authority's approved pretreatment program;
- (3) a finding made by the Control Authority in connection with the pretreatment permit which misinterprets any categorical pretreatment standard or pretreatment regulation or misapplies them to the facts;
- (4) the provisions of the pretreatment permit relating to the maintenance of records, monitoring or sampling by the ~~permittee~~ Control Authority and the industrial user are, in the judgment of the Division Director, inadequate to assure compliance with permit conditions or applicable pretreatment standards.

~~(f)(g)~~ Prior to notifying the ~~POTW~~ Control Authority of an ~~objection~~ objection, the Division Director:

- (1) shall consider all data transmitted pursuant to ~~Rule-Rules~~ Rules .0916 and .0917 of this Section;
- (2) may, if more information is needed to determine whether the permit is adequate, request the ~~POTW~~ Control Authority to make available to the Division staff the complete record of permit proceedings, or any portions of the record that the Division Director determines are necessary for review. Requests ~~must~~ shall be made within 30 days of the ~~state's~~ Division's receipt of the permit under Rule .0916 of this Section, and shall suspend the 30 day review period in Paragraph ~~(e)(d)~~ of this Rule. When the Division staff has obtained the requested records or portions of the record, the Division staff shall have an additional 30 days for review; and
- (3) may, to the extent feasible within the period of time available, afford interested persons the opportunity to comment on the basis for the objection.

~~(gh)~~ If within 60 days of the receipt of the Division Director's objection the ~~POTW~~ Control Authority does not resubmit a permit revised to meet the Division Director's objection, the Division Director may issue the permit in accordance with ~~45A NCAC 2H .0100. Section .0100 of this Subchapter.~~ Exclusive authority to issue the permit required by G.S. 143-215.1(a) passes to the Division when this time expires.

History Note: Authority G.S. 143-215(a); 143-215.1(a)(c); 143-215.3(a)(3),(14)(e);

Eff. October 1, 1987;
Amended Eff. January 1, 2011; November 1, 1994.

15A NCAC 02H .0918 LOCAL LAW

Nothing in the rules of this Section is intended to affect any pretreatment requirements, including any standards or prohibitions, established by local law as long as the local requirements are not less stringent than any set forth in National Pretreatment Standards, or any other requirements or prohibitions established under the Clean Water Act, the North Carolina General Statutes, or the rules of this Section.

History Note: Authority G.S. 143-215.1(a), (b); 143-215.3(a)(1), (14); 153A-274; 153A-275;
160A-311; 160A-312;
Eff. November 1, 1994.

15A NCAC 02H .0919 BYPASS

The regulations regarding the bypass provisions promulgated by the Environmental Protection Agency and codified as 40 CFR Part 403.17 are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the ~~Department of Environment, Health, and Natural Resources, Division of Environmental Management, Pretreatment Offices, Archdale Building, P. O. Box 29535, 512 N. Salisbury St., Raleigh, NC 27626-0535. Copies may be obtained from the US Government Printing Office Bookstore, P. O. Box 56445, Atlanta, Georgia 30343, phone number (404) 331-6947 at a cost of twenty six dollars (\$26.00).~~ locations listed in Rule .0901 of this Section and at http://cfpub1.epa.gov/npdes/home.cfm?program_id=3.

History Note: Authority G.S. 143-215.1(a)(1); 143-215.3(a)(14); 150B-21.6;
Eff. November 1, ~~1994~~1994;
Amended January 1, 2011;

15A NCAC 02H .0920 PRETREATMENT FACILITY OPERATION AND MAINTENANCE

(a) Upon classification of pretreatment facilities permitted under this Section and upon development of specific certification and training programs for operators of classified facilities, the ~~permittee industrial user~~ must shall designate an Operator in Responsible Charge and a back-up operator as required by the Water Pollution Control System Operators Certification Commission as established in ~~15A NCAC 8A .0202, Subchapter 08G of these Rules. Copies of this Rule are available from the Division of Environmental Management, Water Quality Section, Archdale Building, 512 N. Salisbury Street, P. O. Box 29535, Raleigh, North Carolina 27626-0535 at no charge.~~

(b) In order to insure the proper operation and maintenance of facilities permitted under this Section and classified under the Rules of the Water Pollution Control System Operators Certification Commission (~~15A NCAC 8), Subchapter 08G of these Rules~~), the Operator in Responsible Charge, or a back-up operator when appropriate, ~~must shall~~ operate and visit the facility as required by the Water Pollution Control System Operators Certification Commission as established in ~~15A NCAC 8A .0202, Subchapter 08G of these Rules. Copies of these Rules are available from the Environmental Management, Water Quality Section, Archdale Building, 512 N. Salisbury Street, P. O. Box 29535, Raleigh, North Carolina 27626-0535 at no charge.~~

(c) Copies of rules referenced in this Rule may be obtained at the following locations:

- (1) <http://www.ncwaterquality.org/tacu/index.html>
- (2) the North Carolina Department of Environment and Natural Resources, Division of Water Quality
Offices of the Technical Assistance and Certification Unit (TACU)
Physical Address: 219 North East Street
Raleigh, N.C. 27601

Mailing Address: 1618 Mail Service Center
Raleigh, N.C. 27699-1618

History Note: Authority G.S. 143-215.3;
Eff. November 1, 1994, 1994;
Amended January 1, 2011;

15A NCAC 02H .0921 REVISION TO REFLECT POTW REMOVAL OF POLLUTANT

The regulations regarding removal credits promulgated by the Environmental Protection Agency and codified as 40 CFR Part 403.7 are hereby incorporated by reference including any subsequent amendments and editions. This material is available for inspection at the ~~Department of Environment, Health, and Natural Resources, Division of Environmental Management, Pretreatment Offices, Archdale Building, P. O. Box 29535, 512 N. Salisbury St., Raleigh, NC 27626-0535. Copies may be obtained from the US Government Printing Office Bookstore, P. O. Box 56445, Atlanta, Georgia 30343, phone number (404) 331-6947 at a cost of twenty six dollars (\$26.00).~~ locations listed in Rule .0901 of this Section and at http://cfpub1.epa.gov/npdes/home.cfm?program_id=3.

History Note: Authority G.S. 143-215.1(a),(b); 143-215.3(a)(14); 150B-21.6;
Eff. November 1, 1994, 1994;
Amended January 1, 2011;

15A NCAC 02H .0922 HEARINGS

(a) Adjudicatory Hearings. An industrial user applicant whose permit is denied, terminated, or is granted subject to conditions he/she deems unacceptable, an industrial user assessed a civil penalty under the Control Authority's Sewer Use Ordinance, or an industrial user issued an administrative order under the Control Authority's Sewer Use Ordinance shall have the right to an adjudicatory hearing before the POTW Director or other hearing officer appointed by the POTW Director upon making written demand, identifying the specific issues to be contested, to the POTW Director within 30 days following notice of the final decision to deny or grant the permit, civil penalty assessment, or administrative order. Unless such written demand is made, the action shall be final and binding, subject to the provisions of Rule .0917 of this Section if applicable, and further appeal is barred. For modified permits, only those parts of the permit being modified may be adjudicated. The POTW Director or other hearing officer, as appropriate, shall make a decision on the contested action within the time period specified in the Control Authority's Sewer Use Ordinance but in no case shall the decision be made more than 90 days from receipt of the demand, including the time for any decision under Paragraph (b) of this Rule. The POTW Director shall transmit a copy of the hearing officer's decision to the petitioner by registered or certified mail. If no further administrative appeal is provided by the governing body of the Control Authority under Paragraph (b) of this Rule then the decision is a final decision for the purposes of seeking judicial review. An Official Record of the adjudicatory hearing must shall be prepared as described in Paragraph (c) of this Rule. The terms and conditions of a permit under appeal shall be as follows:

- (1) New Permits. Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a newly issued permit, the terms and conditions of the entire permit are stayed and the permit is not in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
 - (2) Renewed or Modified Permits. Upon appeal, including judicial review in the General Courts of Justice, of the terms or conditions of a renewed or modified permit, the terms and conditions of the existing permit remain in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
 - (3) Terminated Permits. Upon appeal, including judicial review in the General Courts of Justice, of a terminated permit, no permit is in effect until either the conclusion of judicial review or until the parties reach a mutual resolution.
- (b) Optional Appeal Hearings. If so provided by the governing body of the Control Authority, any

decision of a hearing officer or POTW Director made as a result of an adjudicatory hearing held under Paragraph (a) of this Rule may be appealed, to the governing body of the Control Authority or other unbiased entity designated by the governing body of the Control Authority upon filing a written demand within ten days of receipt of notice of the decision. Failure to make written demand within the time specified herein shall bar further appeal. The governing body of the Control Authority or other unbiased entity, as appropriate, shall make a final decision on the appeal within the time period specified in the Control Authority's Sewer Use Ordinance. The governing body of the Control Authority or its designee shall transmit a written copy of its decision by registered or certified mail to the petitioner. This decision is a final decision for the purposes of seeking judicial review. An Official Record of the hearing ~~must~~ shall be prepared as described in Paragraph (c) of this Rule.

(c) Official Record. When a final decision for the purposes of judicial review is issued under this Rule, the hearing officer shall prepare an official record of the case that includes:

- (1) All notices, motions, and other like pleadings;
- (2) A copy of all documentary evidence introduced;
- (3) A certified transcript of all testimony taken, if testimony is transcribed. If testimony is taken and not transcribed, then a narrative summary of any testimony taken; and
- (4) A copy of the final decision of the hearing officer.

(d) Judicial Review. Any person against whom a final decision of the hearing officer or POTW Director is entered, pursuant to the hearing(s) conducted under this Rule, may seek judicial review of the decision, by filing a written request for review by the superior court pursuant to Article 27 of Chapter 1 of the ~~G.S.~~ General Statutes within 30 days after receipt of notice by registered or certified mail of the final decision, but not thereafter, with the Superior Court of the appropriate county along with a copy to the Control Authority. Within 30 days after receipt of the copy of the request for judicial review, the final decision maker shall transmit to the reviewing court the original or a certified copy of the official record.

History Note: Authority G.S. 143-215(a); 143-215.1(a), (c), (g); 143-215.2(b); 143-215.3(a)(3),(14)(e); 143-215.6A(j), (k)
Eff. January 1, 2011.