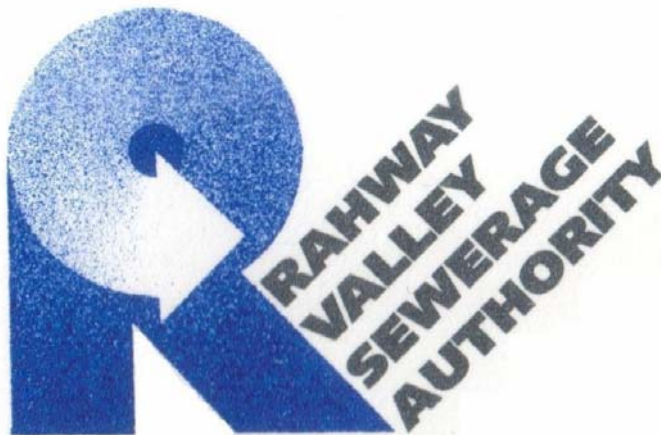


**RULES AND REGULATIONS  
CONCERNING DISCHARGES TO THE**



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## TABLE OF CONTENTS

	Page
<u>PART I:</u>	
<u>GENERAL PROVISIONS</u>	
SECTION 101: PURPOSE AND POLICY	4
SECTION 102: DEFINITIONS	4
SECTION 103: ADMINISTRATION	17
SECTION 104: NOTICE	17
SECTION 105: INSPECTIONS	17
SECTION 106: CHANGES, PUBLIC HEARINGS AND MEETINGS	17
SECTION 107: TRADE SECRETS	18
SECTION 108: RECONSIDERATION	18
SECTION 109: PUBLIC INSPECTION RULES	18
<u>PART II:</u>	
<u>SEWERAGE CONSTRUCTION AND SEWER USE</u>	
SECTION 201: APPROVAL OF PLANS FOR CONSTRUCTION OF CONNECTIONS	19
SECTION 202: CHANGE IN USE	20
SECTION 203: ALTERNATE DISPOSAL REQUIREMENTS	20
<u>PART III:</u>	
<u>REGULATIONS CONCERNING INDIRECT USERS AND INDIRECT USER DISCHARGE PERMITS</u>	
SECTION 301: WHO SHOULD OBTAIN AN INDIRECT USER DISCHARGE PERMIT	22
SECTION 302: NEW INDIRECT USERS	22
SECTION 303: RENEWAL OF PERMITS	22
SECTION 304: DURATION OF PERMITS	23
SECTION 305: MODIFICATION OF PERMITS	23
SECTION 306: TRANSFER OF PERMITS	24
SECTION 307: PROCEDURE FOR OBTAINING AN INDIRECT USER DISCHARGE PERMIT	24
SECTION 308: INDIRECT USER DISCHARGE PERMIT CONDITIONS	25
SECTION 309: SUSPENSION OF AN INDIRECT USER DISCHARGE PERMIT	26
SECTION 310: REVOCATION OF AN INDIRECT USER DISCHARGE PERMIT	27
SECTION 311: APPEALS OF FINAL PERMIT DECISIONS; REQUEST FOR AN ADJUDICATORY HEARING	27
<u>PART IV:</u>	
<u>REGULATIONS CONCERNING SEWER USE: PRETREATMENT REGULATIONS</u>	
SECTION 401: PROHIBITED WASTES	30
SECTION 402: EFFLUENT STANDARDS	32
SECTION 403: NONCOMPLIANCE WITH PERMIT CONDITIONS	35
SECTION 404: EMERGENCY NOTIFICATION	35
SECTION 405: AFFIRMATIVE DEFENSES	36
SECTION 406: PRETREATMENT FACILITIES	39

## TABLE OF CONTENTS (Cont'd.)

		Page
	SECTION 407: INDUSTRIAL WASTE REPORTING	39
	SECTION 408: INDUSTRIAL WASTE MONITORING	45
	SECTION 409: COMPLIANCE DETERMINATION	47
	SECTION 410: ANALYSIS OF INDUSTRIAL WASTES	48
	SECTION 411: FREQUENCY OF SAMPLING AND ANALYSIS	49
	SECTION 412: SAMPLING WAIVERS FOR CATEGORICAL POLLUTANTS	49
 <u>PART V:</u>	 <u>USER CHARGE</u>	
	SECTION 501: PURPOSE AND POLICY	51
	SECTION 502: BILLING AND COLLECTION RESPONSIBILITIES	51
	SECTION 503: CALCULATION OF USER CHARGES	52
	SECTION 504: CALCULATION OF THE INDIRECT USER DISCHARGE PERMIT FEE	52
	SECTION 505: PAYMENT OF USER CHARGES	52
	SECTION 506: CHANGE IN USER CLASS	52
 <u>PART VI:</u>	 <u>ADMINISTRATION</u>	
	SECTION 601: AUTHORITY, VIOLATIONS, PENALTIES AND CIVIL LIABILITIES	53
	SECTION 602: GRACE PERIOD APPLICABILITY; PROCEDURES	66
	SECTION 603: SAVINGS CLAUSE	72
	SECTION 604: CONFLICT	72
	SECTION 605: EFFECTIVE DATE	72
 <u>APPENDIX A:</u>	 MAXIMUM ALLOWABLE CONCENTRATIONS OF POLLUTANTS FOR ALL NON-DOMESTIC USERS	73
 <u>APPENDIX B:</u>	 INDIRECT USER DISCHARGE PERMIT FEE STRUCTURE	74
 <u>APPENDIX C:</u>	 ENFORCEMENT RESPONSE PLAN	75

**PART I - GENERAL PROVISIONS****SECTION 101: PURPOSE AND POLICY**

- 101.1 (a) These Rules and Regulations set forth uniform requirements for dischargers into the Rahway Valley Sewerage Authority (RVSA) Wastewater Collection and Treatment System and have been adopted to enable RVSA to protect the public health, safety and welfare in furtherance of all applicable Federal, State and local laws relating thereto.
- (b) The objectives of these Rules and Regulations are:
- (1) To prevent the introduction of pollutants into the RVSA Wastewater Collection and Treatment System that will interfere with its normal operations or contaminate the resulting residuals quality, including sludge quality;
  - (2) To prevent the introduction of pollutants into the RVSA Wastewater Collection and Treatment System which may be subject to inadequate treatment by the system, which pass through the system into the receiving waters or may otherwise be released into the environment or which may otherwise be incompatible with the RVSA Wastewater Collection and Treatment System; and
  - (3) To improve the opportunity to recycle and reclaim wastewater and residuals resulting from the wastewater treatment processes.
- (c) These Rules and Regulations are promulgated by the authority vested in the RVSA pursuant to N.J.S.A. 40:14A-1 et seq., in accordance with N.J.S.A. 58:10A-1 et seq. 40 CFR 403 including all amendments is hereby incorporated by reference.

**SECTION 102: DEFINITIONS**

- 102.1 Unless the context otherwise requires, the meaning of terms used in these Rules and Regulations shall be as follows:
- (a) ACT - The Federal Clean Water Act (33 United States Code [USC]) 1251 et seq.
  - (b) AD VALOREM TAX - The tax levied for the benefit of a person on the assessed value of property owned.
  - (c) AUTHORITY, or RVSA - The Rahway Valley Sewerage Authority, and, when the context requires, its authorized deputy, agent or representative.
  - (d) AUTHORIZED REPRESENTATIVE or DULY AUTHORIZED REPRESENTATIVE -
    - (1) If the User is a corporation:
      - (A) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who

performs similar policy- or decision-making functions for the corporation; or

- (B) The manager of one or more manufacturing, production, or operating facilities, provided, the manager is authorized to make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the User is a partnership or sole proprietorship, a general partner or proprietor, respectively.
- (3) If the User is a Federal, State, or local governmental facility, a director or highest official appointed or designated to oversee the operation and performance of the activities or the government facility, or their designee.
- (4) The individuals described in paragraphs 1 through 3, above, may designate a Duly Authorized Representative if the authorization is in writing; the authorization specifies the individual or position having responsibility for the overall operation of the facility from which the Discharge originates or having overall responsibility for environmental matters for the company; and the written authorization is submitted to the RVSA prior to or together with any reports to be signed by an authorized representative.
- (e) **BEST MANAGEMENT PRACTICES (BMPs)** - Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 401. BMPs also include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
- (f) **BIOCHEMICAL OXYGEN DEMAND (BOD)** - The quantity of oxygen utilized in the oxidation of organic matter under standard laboratory procedures for five (5) days and 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).
- (g) **BYPASS** - The anticipated or unanticipated intentional diversion of wastestreams from any portion of an Indirect User's treatment facility.
- (h) **COLLECTION SYSTEM** - The pipes, pumping stations, and other conveyances used to transport wastewater to the RVSA treatment plant. The collection system can be owned by RVSA, the municipality or the discharger.
- (i) **COMPLIANCE SCHEDULE** - For an Indirect User in violation of any Permit limitation, including categorical pretreatment standards, the shortest time schedule by which the Indirect User will provide such additional pretreatment and/or facility operation and maintenance as will be required to meet the applicable standards. The compliance

schedule shall conform to the milestone and reporting requirements of 40 CFR 403.12 in the case of Indirect Users subject to categorical pretreatment standards.

- (j) **COMPOSITE SAMPLE** - A sample that is made up of a series of small individual samples obtained at regular intervals over a designated time period. The volume of each sample may be fixed (time composite) or proportional to the discharge flow rate (flow composite).
- (k) **CONNECTION** - Any physical or operational change to a collections system or to the plumbing or piping of any building, residence, project, Facility or other structure either proposed or existing for which a building permit or other municipal approval, including site plan or subdivision approval is required, and which connects directly or indirectly to any portion of a domestic treatment works.
- (l) **CONSULTING ENGINEER** - The Engineer of the RVSA or his agent or representative.
- (m) **CONTACT OFFICIAL** - An employee or officer of a Facility who has knowledge of the Facility and who will normally be contacted first regarding matters contained in these Rules and Regulations.
- (n) **COOLING WATER** - The water discharged from any use such as air conditioning, cooling or refrigeration, during which activity, the only pollutant added to the water is heat.
- (o) **DISCHARGE** - An intentional or unintentional action or omission resulting in the releasing, spilling, leaking, pumping, pouring, emitting, emptying, or dumping of a pollutant into the waters of the State, onto land or into wells from which the pollutant might flow or drain into such waters, or into waters or onto lands outside the jurisdiction of the state which pollutant enters the waters of this State, and shall include the release of any pollutant into a municipal treatment works. A leak into a secondary containment system, which does not involve a release into the waters or lands of this State, is not a discharge for purposes of applying the Rules under this chapter to violations of the Underground Storage or Hazardous Substances Act, N.J.S.A. 58:11-49 et seq. and the rules promulgated pursuant thereto, N.J.A.C. 7:14B.
- (p) **DISCHARGER** - Any person that discharges or causes a discharge to a public sewer, or at any point within the RVSA Wastewater Collection and Treatment System.
- (q) **DOMESTIC WASTES** - The liquid waste or liquid-borne waste resulting from the discharge of household, commercial, or other wastes from bathrooms, toilets, sinks, home laundries, and kitchens, which are predominately the result of natural human waste elimination associated with bodily function, and food preparation.
- (r) **DOMESTIC WASTEWATER** - Domestic Wastes discharged into a Wastewater Collection and Treatment System.
- (s) **EXECUTIVE DIRECTOR** - The Executive Director of the RVSA or his/her agent or representative.
- (t) **FACILITY** - The geographically continuous property owned or leased by the User which may be divided by public or private right(s) of way. Geographically non-continuous

property owned or leased by the User but connected by a right of way which the User controls and to which the public does not have access, shall be considered one (1) Facility.

- (u) GARBAGE - Solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of food.
- (v) GRAB SAMPLE - An individual sample collected over a period of time not exceeding fifteen (15) minutes.
- (w) GRACE PERIOD - The period of time afforded under N.J.S.A. 13:1D-125 et seq., commonly known as the Grace Period Law, for a person to correct a minor violation in order to avoid imposition of a penalty that would be otherwise applicable for such violation.
- (x) HAZARDOUS POLLUTANT - 1) Any toxic pollutant; 2) Any hazardous substance as defined under N.J.S.A. 58:10-23.11b; 3) Any substance regulated as a pesticide under the Federal Insecticide, Fungicide and Rodenticide Act, P.L. 92-516 (7 USC 136, et seq.); 4) Any substance the use or manufacture of which is prohibited under the Federal Toxic Substances Control Act, P.L. 94-469 (15 USC 2601 et seq.); 5) Any substance identified as a known carcinogen by the International Agency for the Research on Cancer; or 6) any hazardous waste as designated pursuant to Section 3 of P.L. 1981, c.279 (N.J.S.A. 13:1E-51) or the Resource Conservation and Recovery Act, P.L. 94-580 (42 USC 6901 et seq.).
- (y) HAZARDOUS SUBSTANCE - Any substance so designated under 40 CFR 116, Section 311 of the Act, or the Spill Compensation and Control Act, N.J.S.A. 58:10 23.11a, et seq.
- (z) HAZARDOUS WASTE - Any waste so designated under the New Jersey Hazardous Waste Management Regulations, N.J.A.C. 7:26-6 or, at a minimum, as defined in 40 CFR 261, or any waste or combination of waste which poses a present or potential threat to human health, living organisms or the environment. "Hazardous waste" shall include, but not be limited to, waste material that is toxic, corrosive, irritating, sensitizing, radioactive, biologically infectious, explosive or flammable.
- (aa) INDIRECT DISCHARGE - The introduction of pollutants into a Publicly Owned Treatment Works (POTW) from any non-domestic source (40 CFR 403.3(i)).
- (bb) INDIRECT USER DISCHARGE PERMIT APPLICATION - A form to be filed with the RVSA by an Indirect User in order to obtain approval to discharge wastes into the RVSA Wastewater Collection and Treatment System.
- (cc) INDIRECT USER DISCHARGE PERMIT - A Permit issued by the RVSA to an Indirect User, which authorizes the discharge of wastes to the RVSA Wastewater Collection and Treatment System, subject to the conditions contained therein.
- (dd) INDIRECT USER OR USER - Means a source of Indirect Discharge.
- (ee) INDUSTRIAL PRETREATMENT COORDINATOR - The Industrial Pretreatment Coordinator of the RVSA or his/her agent or representative.

- (ff) INDUSTRIAL WASTE - Any non-domestic wastes resulting from any processes of industry, manufacture, trade or business or from the development of any natural resource.
- (gg) INTERFERENCE - A discharge which alone or in conjunction with a discharge or discharges from other sources, both:
  - (1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
  - (2) Therefore is a cause of a violation of any requirement of the POTW's NJPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent Federal, State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including State regulations contained in any State sludge management plan prepared pursuant to subtitle D of the SWDA) the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection Research and Sanctuaries Act.
- (hh) LARGE COMMERCIAL USER - Any non-residential User (except an Industrial or Tax Exempt User) that discharges more than the equivalent of 10,000 gallons per day of domestic waste.
- (ii) MUNICIPALITY - The local government unit wherein the User is located.
- (jj) NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM (NPDES) - The Federal program for issuing, modifying, revoking and reissuing, terminating, monitoring and enforcing Permits, and enforcing pretreatment requirements, under Sections 307, 402, 318, and 405 of the Act.
- (kk) NEW JERSEY POLLUTANT DISCHARGE ELIMINATION SYSTEM (NJPDES) - The NJPDES program as it is being administered by the New Jersey Department of Environmental Protection (NJDEP).
- (ll) NEW SOURCE - Any building, structure, facility or installation from which there is or may be a Discharge of pollutants, the construction of which commenced after the publication of proposed Pretreatment Standards under Section 307(c) of the Act which will be applicable to such source if such Standards are thereafter promulgated in accordance with that Section provided that:
  - (1) The building, structure, facility or installation is constructed at a site at which no other source is located; or
  - (2) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  - (3) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant,



and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

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 paragraphs (II)(2), or (II)(3) of this Section but otherwise alters, replaces, or adds to existing process or production equipment.

Construction of a new source as defined under this paragraph has commenced if the owner or operator has begun, or caused to begin as part of a continuous on-site construction program:

- (A) Any placement, assembly, or installation of facilities or equipment; or
  - (B) Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
  - (C) Entered into a binding contractual obligation for the purchase of facilities or equipment, which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.
- (mm) NON-COMMINUTED GARBAGE - Food processing wastes that have not been ground in a kitchen waste disposal unit.
- (nn) PASS-THROUGH - A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the RVSA NJPDES Permit, including an increase in the magnitude or duration of a violation.
- (oo) PERSON - An individual, corporation, company, limited liability company, limited liability partnership, partnership, firm, association, owner or operator of a treatment works, political subdivision of this State and any state, Federal or interstate agency or an agent or employee thereof. "Person" shall also mean any responsible corporate official for the purpose of enforcement action under Section 10 of the State Act.
- (pp) pH - The logarithm of the reciprocal of the weight of hydrogen ions in grams per liter of solution; a measure of the degree of acidity of a solution, using a scale of 0-14.
- (qq) POLLUTANT - Any dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, refuse, oil, grease, sewage sludge, munitions, chemical wastes, biological materials, radioactive substance, thermal waste, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, agricultural and construction waste or runoff or other residue discharged to the land, ground waters or surface waters of the State.

- (rr) **PRETREATMENT** - The reduction of the amount of pollutant, 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. The reduction or alteration may be obtained by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40 CFR 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug loadings that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with 40 CFR 403.6(e).
- (ss) **PRETREATMENT REQUIREMENTS** - Means any substantive or procedural requirement related to Pretreatment, other than a National Pretreatment Standard, imposed on an Indirect User.
- (tt) **PRETREATMENT STANDARDS** - All applicable Federal Rules implementing Section 307 of the Act, as well as any non-conflicting Federal, State or local standards. In cases of conflicting standards or regulations, the more stringent thereof shall apply.
- (uu) **PROPERTY OWNER** - The record titleholder of the property occupied by the User.
- (vv) **PUBLICLY OWNED TREATMENT WORKS (POTW)** - Any wastewater treatment system, as defined by Section 212 of the Act, which is owned by a State or municipality, or was created pursuant to the Sewerage Authorities Law, N.J.S.A. 40:14A-1 et seq. and, for the purposes herein, refers to the RVSA. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.
- (ww) **RADIOACTIVE WASTES** - Any waste which contains radioactive material in concentrations which exceed those listed in 10 CFR 20, Appendix B, Table II, Column 2, or exceed the “Criteria for Identifying and Applying Characteristics of Hazardous Waste and for Listing Hazardous Waste” in 40 CFR 261, whichever is applicable.
- (xx) **RECEIVING WATERS** - The Arthur Kill.
- (yy) **RESIDUALS** - Solids and associated liquids that are removed through a physical, chemical, or biological process or any other process designed to treat wastewater or any other discharges subject to regulation, including but not limited to sludges, grit, screenings, and scum.
- (zz) **RVSA WASTEWATER COLLECTION AND TREATMENT SYSTEM (RVSA SEWERAGE SYSTEM)** - Any devices, facilities, structures, equipment or works owned or operated by the RVSA for the purpose of transmission, storage, treatment, recycling and reclamation of industrial and domestic wastes, including sewers, conduits, pipelines and other conveyances, outfall sewers, sewage collection systems, cooling towers and ponds, pumping, power and other equipment and their appurtenances; extensions, improvements, remodeling, additions, and alteration thereof; elements essential to provide a reliable recycled supply such as standby treatment units and clear well facilities; and any other works including sites for the treatment process or for ultimate disposal of residues resulting from such treatment.

- (aaa) SEQUENTIAL SAMPLES - A series of grab or composite samples collected at regular intervals over a designated time period (commonly an operating day), each of which is held in an individual container.
- (bbb) SERIOUS VIOLATION - An exceedance, at a discharge point source, of an effluent limitation, except color, set forth in a Permit, Administrative Order, or Administrative Consent Agreement, including interim enforcement limits, as follows:
- (1) For effluent limitations for pollutants that are measured by concentration or mass, except for whole effluent toxicity;
    - (A) Violations of an effluent limitation that is expressed as a monthly average by twenty (20%) percent or more of the average of all of the daily maximum or daily minimum values for a hazardous pollutant; and by forty (40%) percent or more of the average of all of the daily maximum or minimum values of a non-hazardous pollutant;
    - (B) Violations of an effluent limitation that is expressed as a daily maximum or daily minimum without a monthly average by twenty (20%) percent or more of the average of all of the daily maximum or daily minimum values for a hazardous pollutant; and by forty (40%) percent or more of the average of all of the daily maximum or minimum values for a non-hazardous pollutant.
  - (2) For effluent limitations for pH, the greatest violation of a pH effluent range in any one (1) calendar day which deviates from the midpoint of the range by at least forty (40%) percent excluding the excursions specifically excepted by a NJPDES Permit with continuous pH monitoring, as defined in N.J.A.C. 7:14-8.2.

For example: Assuming that a Permittee's effluent limitation range for pH is 6.0 to 9.0, the midpoint would be 7.5.

If five separate readings of pH during a given day were 4.3, 5.8, 6.5, 6.0, and 6.5, the reading of 4.3 would be a Serious Violation as follows:

$$\frac{7.5 \text{ (midpoint)} - 4.3 \text{ (greatest exceedance)}}{7.5 \text{ (midpoint)}} \times 100 = 42.6\%$$

For example: Using the same information as above.

Forty percent of 7.5 is 3; therefore, if the greatest violation of a pH effluent range for any calendar day has a pH of 4.5 or less or a pH of 10.5 or greater, the violation would be a "Serious Violation."

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

- (ccc) SERVICE AREA - That geographic area within which Facilities must be located to be connected to the RVSA Wastewater Collection and Treatment System.
- (ddd) SEWER - A pipe or conduit constituting a part of the RVSA Wastewater Collection and Treatment System, used or usable to collect and convey sewerage and to which ground, surface, storm, and other non-sewerage waters or liquids are not admitted intentionally.
- (eee) SEWERAGE - A combination of the water-borne wastes from residences, businesses, institutions and industrial establishments, together with such ground, surface and stormwater as may be present in the RVSA Wastewater Collection and Treatment System.
- (fff) SIGNIFICANT INDIRECT USER (SIU) – Except as provided (fff)(2) of this section means:
  - (1) Any User in the State including, but not limited to, any Significant Indirect User as defined in 40 CFR 403.3(v) but excluding municipal collection systems, who discharges wastewater into the RVSA sewerage system where:
    - (A) The User is subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; or
    - (B) The User's average volume of process wastewater is 25,000 gallons per day or more; or
    - (C) The amount of BOD, COD or Suspended Solids in the User's process wastewater discharge is the mass equivalent of 25,000 gallons per day or more of the domestic waste of the RVSA; or
    - (D) The volume of process wastewater in the discharge is five (5%) percent or more of the average daily dry weather flow of the RVSA; or
    - (E) The User's discharge of process wastewater contributes five (5%) percent or more of the daily mass loading of any of the pollutants listed in N.J.A.C. 7:14 A-4, Appendix A, Tables II-V; or
    - (F) The User is designated as an SIU by the RVSA on the basis that the User has a reasonable potential for adversely affecting the RVSA's operation; or
    - (G) The User is designated as an SIU by the RVSA on the basis that the User has been in violation of any Federal, State, or local pretreatment standard or requirement, including but not limited to, significant noncompliance as defined in 40 CFR 403.8(f)(2)(viii); or
    - (H) The RVSA determines it would be consistent with the intent of the Pretreatment Act or State Act to require a permit for the indirect discharger; and

- (I) The User of a Domestic Treatment Works is determined to be a Hazardous Waste Facility under N.J.A.C. 7:26-12 and meets the requirements of N.J.A.C. 7:14A-4.2(b) 1.
  - (2) The RVSA may determine that an Indirect User subject to categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR chapter I, subchapter N is a Non-Significant Categorical Indirect User rather than a Significant Indirect User on a finding that the Indirect User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:
    - (A) The Indirect User, prior to the RVSA finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
    - (B) The Indirect User annually submits the certification statement required by Section 407.3 together with any additional information necessary to support the certification statement; and
    - (C) The Indirect User never discharges any untreated concentrated wastewater.
- (ggg) SIGNIFICANT NONCOMPLIANCE (SNC) - State means, for the purpose of the NJ Clean Water Enforcement Act any of the following violations:
- (1) A serious violation for the same pollutant at the same discharge point source, in any two (2) months of any consecutive six (6) month period;
  - (2) Exceedance of an effluent limitation expressed as a monthly average, for the same pollutant, at the same discharge point source, by any amount in any four (4) months of any consecutive six (6) month period;
  - (3) If there is not an effluent limitation for a particular pollutant expressed as a monthly average, exceedance of the monthly average of the daily maximum for the effluent limitation, for the same pollutant, at the same discharge point source, by any amount in any four (4) months of any consecutive six (6) month period;
  - (4) Any exceedance of an effluent limitation for pH by any amount, excluding the excursions specifically excepted by a NJPDES permit with continuous pH monitoring at the same discharge point source in any four (4) months of any consecutive six (6) month period; or
  - (5) Failure to submit a completed discharge monitoring report in any two (2) months of any consecutive six (6) month period.
- (hhh) SIGNIFICANT NONCOMPLIANCE (SNC) - Federal means, for the purpose of 40 CFR 403, a Significant Indirect User (or any Indirect User which violates paragraphs 102.1(hhh) (3), (4) or (8) of this section) is in significant noncompliance if its violation meets one or more of the following criteria:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which 66 percent or more of all of the measurements taken during a 6-month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement including instantaneous limits as defined by 40 CFR 403.3(l);
  - (2) Technical Review Criteria (TRC) violations, defined herein as those in which 33 percent or more of all of the measurements taken for the same pollutant parameter during a 6-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits as defined by 40 CFR 403.3(l) multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil and grease and 1.2 for all other pollutants except pH);
  - (3) Any other violation of a Pretreatment Standard or Requirement as defined by 40 CFR 403.3(l) (daily maximum or long-term average, instantaneous limit or narrative standard) that the RVSA determines has caused, alone or in combination with other Discharges, Interference or Pass-through (including endangering the health of RVSA personnel or the general public);
  - (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the RVSA's exercise of its emergency authority under 40 CFR 403.8 (f)(1)(vi)(B) to halt or prevent such a discharge;
  - (5) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
  - (6) Failure to provide, within 30 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;
  - (7) Failure to accurately report noncompliance; or
  - (8) Any other violation or group of violations, which may include a violation of Best Management Practices, which the RVSA determines will adversely affect the operation or implementation of the local Pretreatment program.
- (iii) **SLUG DISCHARGE** - Any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge that includes any of the slug loadings defined by Section 401.2, which has reasonable potential to cause Interference or Pass-through, or in any other way violate the RVSA's regulations, local limits or Permit conditions.
- (jjj) **SOLID WASTE** - Garbage, refuse, or other discarded material resulting from industrial, commercial and agricultural operations, and from domestic and community activities, and including all other waste materials, including sludge, chemical waste, hazardous wastes and liquids, except for solid animal and vegetable wastes collected by swine producers licensed by the State Department of Agriculture to collect, prepare and feed such wastes to swine on their own farms.

- (kkk) STATE ACT - The New Jersey “Water Pollution Control Act”, N.J.S.A. 58:10A-1, et seq.
- (lll) STORMWATER- Stormwater runoff, snow melt runoff, and surface runoff and drainage.
- (mmm) STORM SEWER - A pipe, conduit or system, used or usable to collect and convey storm, surface and ground water, exclusive of sewage.
- (nnn) TAX EXEMPT USER - Any User (except large commercial and industrial) that pays no ad valorem taxes or that receives substantial credits in paying such taxes.
- (ooo) THERMAL DISCHARGE - That component of any discharge that is comprised of heat, and that shall be limited in accordance with Sections 301, 306 and/or 316 of the Act, Section 6 of the State Act, or when determined necessary by the RVSA.
- (ppp) TOTAL SUSPENDED SOLIDS - Those solids which are retained by a glass fiber filter and dried to constant weight at 103-105°C.
- (qqq) TOXIC POLLUTANT - Any pollutant identified pursuant to the Act or any pollutant or combination of pollutants, including disease causing agents, which after discharge and upon exposure, ingestion, inhalation, or assimilation into any organism, either directly, or indirectly by ingestion through food chains, may, on the basis of information available, cause death, disease, behavioral abnormalities, cancer, genetic mutations, physiological malfunctions, including malfunctions in reproduction, or physical deformation, in such organisms or their offspring. Toxic pollutants shall include but not be limited to those pollutants identified pursuant to Section 307 of the Act or Section 4 of the State Act.
- (rrr) TREATMENT WORKS APPROVAL - An approval issued by the NJDEP pursuant to N.J.S.A. 58:10A-6 and N.J.A.C. 7:14A-22.3, or pursuant to former N.J.S.A. 58:12-3.
- (sss) TREATMENT WORKS SEWER CONNECTION ENDORSEMENT - An application to be filed with the RVSA by any User not subject to NJDEP Treatment Works Approval, prior to building, installing, modifying or operating any facility for the collection, treatment, or discharge of wastewater, including any connection as defined herein.
- (ttt) UNPOLLUTED WASTES - Any unpolluted water including, but not limited to, cooling water or uncontaminated storm water, which will increase the hydraulic load on the treatment plant, except as allowed by variance in the Indirect User Discharge Permit.
- (uuu) UPSET - An exceptional incident in which there is unintentional and temporary noncompliance with an effluent limitation, including local limits and pretreatment standards, due to factors beyond the reasonable control of the User, including fire, riot, sabotage, or a flood, storm event, natural cause, or other act of God, or other similar circumstance, which is the cause of the violation. Upset also includes noncompliance consequent to the performance of maintenance operations for which a prior exception has been granted by the RVSA. An upset does not include noncompliance to the extent caused by operational error, improperly designed facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation (N.J.A.C. 7:14 - 8.3(i)).
- (vvv) USEPA - The United States Environmental Protection Agency.

- (www) USER - Any Person who discharges, seeks to discharge or has the potential to discharge into the RVSA Wastewater Collection and Treatment System.
- (xxx) USER CHARGE - A charge levied on Users of the RVSA Wastewater Collection and Treatment System for the Users proportionate share of the cost of operation and maintenance (including replacement).
- (yyy) WASTES - Either domestic waste or industrial waste or both.



**SECTION 103: ADMINISTRATION**

103.1 Except as otherwise provided herein, the Executive Director shall administer, implement and enforce these Rules and Regulations. Any powers granted to or duties imposed upon the Executive Director may be delegated by him to persons acting in the beneficial interest of or in the employ of the RVSA.

**SECTION 104: NOTICE**

104.1 Unless otherwise provided herein, any notice required to be given pursuant to these Rules and Regulations shall be in writing and shall be served either in person or by certified and regular mail. If served by mail, the notice shall be sent to the last address of record known to the Executive Director.

104.2 If served by mail, notice shall be deemed to have been given upon the mailing thereof.

**SECTION 105: INSPECTIONS**

105.1 The Executive Director, upon presentation of credentials, may enter upon the property or premises occupied by any User for the purpose of:

- (a) Copying any records required to be kept pursuant to these Rules and Regulations or any Indirect User Discharge Permit;
- (b) Inspecting any User's Facility or monitoring equipment; or
- (c) Sampling any discharge of wastewater into the RVSA Wastewater Collection and Treatment System.

105.2 Authorized RVSA personnel shall be granted immediate access to all Facilities directly or indirectly connected to the RVSA Wastewater Collection and Treatment System during normal working hours and at such other times as may be necessary under emergency conditions as determined by the Executive Director. All Users shall provide easy access to the facilities to be inspected and shall promptly remove any obstruction, which may exist therein upon the verbal or written request of the Executive Director.

105.3 No person shall interfere with, delay, resist or refuse entrance to any RVSA employee authorized to inspect or sample any Facility involved directly or indirectly with a discharge of wastewater to the RVSA Wastewater Collection and Treatment System.

**SECTION 106: CHANGES AND PUBLIC HEARINGS AND MEETINGS**

106.1 RVSA reserves the right to promulgate changes to these Rules and Regulations in order to conform with changes in Federal, State and local laws and regulations, or where deemed necessary to comply with the objectives set forth in Section 101.

- 106.2 All public hearings and public meetings shall be conducted in accordance with the requirements of the USEPA as set forth in 40 CFR 25, as amended, and the laws of the State of New Jersey.

### **SECTION 107: TRADE SECRETS**

- 107.1 Any person required to furnish information to RVSA for any purpose may request that such information or any part thereof be classified as a trade secret. In the event that such a request is granted, the designated material shall be treated as proprietary information and shall not be made available for public inspection. RVSA shall have the right to forward such request to an appropriate Federal or State agency for a determination as to whether the information submitted is in fact a trade secret. In no event, however, shall the physical or chemical characteristics of a Users waste be classified as a trade secret.

### **SECTION 108: RECONSIDERATION**

- 108.1 Any person adversely affected by any decision, action or determination made by or on behalf of RVSA in implementing any provisions of these Rules and Regulations may request a reconsideration of such decision, action or determination. Such request shall be in writing and shall be filed with the RVSA within seven (7) calendar days of the action in dispute. The request shall set forth the action being appealed, the reasons for the appeal and the proposed alternative action. The Executive Director shall review the request for reconsideration and shall grant or deny the request within fifteen (15) days after receipt by the RVSA however, if the Executive Director does not grant or deny the request within fifteen (15) days after receipt by the RVSA, the request shall be deemed to be denied. If the Executive Director shall overrule the action and grant the request, the Executive Director shall notify in writing all persons directly affected by the decision.

### **SECTION 109: PUBLIC INSPECTION RULES**

- 109.1 Subject to the limitations, exceptions and restrictions set forth in N.J.S.A. 47:1A-1 et seq. documentation concerning the Pretreatment Program is generally available for inspection, examination and copying at the RVSA during regular business hours. All requests for access to public records must be made in writing. The RVSA will upon request provide a form to any individual for use in making its request for access to records. All requests will be responded to by the RVSA within seven days of its receipt of same. If at the time of data review, the photocopying machine is available, copies may be made at the rate of seventy-five cents (\$.75) per page for the first page to the tenth page; fifty cents (\$.50) per page for the eleventh page to the twentieth page; and twenty-five cents (\$.25) per page for all pages over twenty pages.

**PART II: SEWERAGE CONSTRUCTION AND SEWER USE****SECTION 201: APPROVAL OF PLANS FOR CONSTRUCTION OF CONNECTIONS**

201.1 No person, other than employees of the RVSA or persons contracted to do work for the RVSA shall connect directly to or cause to be connected directly to, or alter or cause to be altered, or operate any device, Facility, structure, equipment or works for the collection, treatment, or discharge of wastewater, including any connection as defined in Section 102.1, without first filing an application to construct a connection and obtaining approval from the RVSA and such other approvals as are required by Federal, State and local law and ordinances. Any violation of this Section shall be deemed a violation of major seriousness, subjecting the violator to the maximum penalty assessment permitted under 601.4.3 of these Rules and Regulations, in addition to any or all other penalties permitted by law.

All applications for sewer connection approval for which the design flow of the proposed sewer connection is **eight thousand (8,000) gallons per day or greater** (or other exception based on NJDEP criteria such as construction of more than 3 residential dwellings) are subject to the NJDEP Treatment Works Approval requirements as outlined in N.J.A.C. 7:14A-22.1 et seq. including submittal of a "Standard Application Form" (CP-1 Construction and Discharge Permit). Completed applications, with all necessary endorsements must be submitted to the RVSA by the first Thursday of the month, along with a \$100.00 administrative processing fee, in order to be considered by the RVSA at that month's Regular Meeting.

For applications for sewer connection approval for which the design flow of the proposed sewer connection **exceeds two thousand (2,000) gallons per day but is less than eight thousand (8,000) gallons per day**, applicants must file a Treatment Works Sewer Connection Application - Construction and Discharge Permit form with the RVSA (available at [www.rahwayvalleysa.com](http://www.rahwayvalleysa.com) under "Forms"). Completed application forms may be submitted by mail or in person to the RVSA between the hours of 8:30 a.m. and 3:30 p.m., Monday through Friday. Completed applications must be submitted to the RVSA by the first Thursday of the month, along with a \$100.00 administrative processing fee, in order to be considered by the RVSA at that month's Regular Meeting.

For **all other proposed connections**, applicants must file a Treatment Works Sewer Connection Endorsement with the RVSA (available at [www.rahwayvalleysa.com](http://www.rahwayvalleysa.com) under "Forms"). Completed application forms may be submitted by mail or in person to the RVSA between the hours of 8:30 a.m. and 3:30 p.m., Monday through Friday along with a twenty-five dollar (\$25.00) administrative processing fee.

**EXCEPTIONS**

As a result of a vote taken at the March 16, 1995 RVSA meeting, applications are still required for 1) modifications to an existing residential dwelling which will increase the number of bedrooms when the existing residential dwelling presently has less than three bedrooms; 2) demolition and reconstruction of an existing residential dwelling; 3) any new connection to the system; and/or 4) any/all modifications to commercial or industrial properties including zero flow applications (retrofit of existing space or plumbing modifications).

No local endorsement needs to be obtained from RVSA nor will any processing fee be required to be paid to RVSA for modifications to an existing residential dwelling which will result in zero (0) flow increase, such as when adding a bathroom or changing plumbing fixtures.

### **SECTION 202: CHANGE IN USE**

- 202.1 If a person that is not an Indirect User contemplates a modification to the use of an existing sanitary sewer such that the User intends to introduce industrial wastes or discharge more than the equivalent of ten thousand (10,000) gallons per day of sanitary waste, an Indirect User Permit Application (available at [www.rahwayvalleysa.com](http://www.rahwayvalleysa.com) with instructions) shall be submitted to RVSA and, if required, an Indirect User Discharge Permit issued in accordance with these Rules and Regulations prior to the commencement of the discharge. The discharge of industrial or sanitary wastes without an Indirect User Discharge Permit as stated in this Section constitutes a violation of these Rules and Regulations.

### **SECTION 203: ALTERNATE DISPOSAL REQUIREMENTS**

- 203.1 If a User within the RVSA service area seeks to discharge any wastewater arising from any State or Federally mandated site remediation, the RVSA shall have the right to require this discharge to be conveyed to the RVSA treatment plant via a route of transmission other than the trunk sewer system. This method of transport may be, but is not limited to, the use of hauling by tractor-trailer tank car. RVSA retains the right to approve the method of transport. If the User is subject to limitations set forth in an Indirect User Discharge Permit, all conditions therein shall apply to wastewater covered under this Section.

For any User that seeks an alternative waste disposal method and that does not have an Indirect User Discharge Permit, acceptance of the wastewater will be subject to the guidelines contained in Section 203.2 of these Rules and Regulations and at the sole discretion of the RVSA.

- 203.2 Any User that proposes to haul and discharge wastes at locations other than the RVSA trunk sewer must receive prior written approval from the RVSA.

A User may be required, based on the nature of the proposed wastes, to obtain an Indirect User Discharge Permit prior to commencement of discharge. All Users shall comply with all the terms and conditions contained therein.

Any waste transported from an industry subject to categorical pretreatment standards must meet the applicable Federal categorical standards. The generator of such wastes must provide proof of such compliance to the RVSA prior to the discharge of the applicable waste.

All wastes discharged under this Section must be in compliance with the RVSA local discharge limitations, as outlined in the Appendix to these Rules and Regulations. The generator must provide proof of such compliance prior to the discharge of the applicable waste.

A contract between the RVSA and the User or hauler shall be executed, and shall detail the costs associated with the wastewater disposal, method and terms of payment, and any other limitations which apply.

All wastes discharged under this Section are subject to all other requirements of these Rules and Regulations.

The following discharges are specifically prohibited under this Section:

- (a) Hazardous waste as defined in Section 102 of these Rules and Regulations;
- (b) Prohibited wastes as outlined in Section 401 of these Rules and Regulations; and
- (c) Septic Tank Waste.

All wastes may be discharged only at locations designated by the RVSA and at a prearranged frequency.

The RVSA may require the generator or waste hauler to provide a waste analysis of any load prior to discharge.

All waste haulers must provide a waste-tracking form for every load, unless otherwise directed by the RVSA. This form shall include, at a minimum, the name and address of the waste hauler, Permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of generator, known or suspected waste constituents, and whether any wastes are hazardous wastes pursuant to the Resource Conservation and Recovery Act, P.L. 94-580 (42 USC 6901 et seq.).

RVSA shall have the right to inspect, sample, and control discharges of all wastes discharged into the RVSA Wastewater Collection and Treatment System, and, at the discretion of the RVSA, to reject any unacceptable wastes generated within the RVSA Service Area.

**PART III: REGULATIONS CONCERNING INDIRECT USERS AND INDIRECT  
USER DISCHARGE PERMITS**

**SECTION 301: WHO SHOULD OBTAIN AN INDIRECT USER DISCHARGE PERMIT**

301.1 No Significant Indirect User (SIU) or Indirect User as designated by RVSA on the basis that the Indirect User has a reasonable potential for adversely affecting the RVSA's operations shall discharge or cause to be discharged any wastes, either directly or indirectly into the RVSA Wastewater Collection and Treatment System without first obtaining an Indirect User Discharge Permit, issued by the RVSA.

No permit may be issued, renewed, or modified by the RVSA so as to relax any water quality standard or effluent limitation until the applicant, or permit holder, as the case may be, has paid all fees, penalties or fines due and owing or has entered into an agreement with the RVSA establishing a payment schedule therefore.

**SECTION 302: NEW INDIRECT USERS**

302.1 New Indirect Users, including existing Indirect Users that desire to relocate in the RVSA service area, shall apply for and must receive an Indirect User Discharge Permit prior to commencement of operations at that Facility.

302.2 Application for an Indirect User Discharge Permit shall be made to the Industrial Pretreatment Coordinator of the RVSA.

302.3 All new Indirect Users must demonstrate compliance with all Permit conditions prior to commencement of discharge to the RVSA Wastewater Collection and Treatment System.

**SECTION 303: RENEWAL OF PERMITS**

303.1 Any person planning to continue discharging after the expiration date of an existing NJPDES permit shall file an application for renewal or a request for authorization under a general permit at least one hundred eighty (180) calendar days prior to the expiration of the existing permit, unless:

- (a) Otherwise required under these Rules and Regulations;
- (b) The existing permit is a general permit that provides for automatic renewal of authorization when that general permit is renewed (see N.J.A.C. 7:14A-6.13(d)9), or that provides for retroactive renewal of authorization after a new request for authorization is submitted or granted under the renewed general permit; or
- (c) The existing permit is an individual permit where:

- (1) The Permittee has been notified by the RVSA prior to submitting a renewal application pursuant to N.J.A.C. 7:14A-2.7 that the permit qualifies for expedited permit renewal under N.J.A.C. 7:14A-16.3(h), and elects to participate; or
  - (2) The Permittee has a stormwater only permit and is approved by the RVSA for expedited permit renewal.
- 303.2 One hundred eighty (180) days prior to the Indirect User Discharge Permit expiration date, RVSA will notify the Permittee that the Permit must be renewed. Failure to make a timely application may result in the suspension or revocation of the Indirect User Discharge Permit. Renewal of the Permit shall be contingent upon the Permittee having complied with the terms and conditions of the expired Permit.
- 303.3 A completed Indirect User Discharge Permit renewal application shall include:
- (a) A statement, signed by a corporate officer, stating that the Facility's operation has not changed since the previous Permit application was made; or
  - (b) A statement, signed by a corporate officer, describing the changes that have occurred including their impact on the nature and volume of the wastewater discharged.
- 303.4 RVSA shall provide public notice of a 30 day public comment period, and upon request, may hold a public hearing for any proposed new permit, proposed renewal of a permit, proposed revocation of any permit or proposed major modification to any existing permit.

#### **SECTION 304: DURATION OF PERMITS**

- 304.1 The expiration date will be indicated in the Indirect User Discharge Permit. Renewal of all Permits will be dependent upon compliance of the terms and conditions included in Section 303.

#### **SECTION 305: MODIFICATION OF PERMITS**

- 305.1 Any Indirect User that proposes to make any changes in its Facility or operation that affects or has the potential to affect the quality or quantity of its discharge to the RVSA Wastewater Collection and Treatment System shall apply in writing to the Industrial Pretreatment Coordinator of the RVSA for a modified Indirect User Discharge Permit at least one hundred eighty (180) days prior to initiating any change.
- 305.2 The RVSA may at its sole discretion require the modification of the terms and conditions of an Indirect User Discharge Permit during the term of the Permit or as a condition for Permit renewal. The Permittee shall be informed of any proposed changes to the Permit at least one hundred and eighty (180) days prior to the effective date of change. Any changes or new conditions shall be subject to Public Notice requirements as outlined in Section 307, and shall include a schedule for compliance, if applicable.
- 305.3 RVSA shall provide public notice of a 30 day public comment period, and upon request, may hold a public hearing for any proposed new permit, proposed renewal of a permit, proposed revocation of any permit or proposed major modification to any existing permit.

**SECTION 306: TRANSFER OF PERMITS**

- 306.1 Each Indirect User Discharge Permit shall be issued to a specific Indirect User for a specific operation and is not transferable. A Permit shall not be reassigned or transferred or sold to a new owner, new Indirect User, or a new or changed operation. The Permittee shall notify the RVSA within fourteen (14) days of any change in ownership or corporate structure.

**SECTION 307: PROCEDURE FOR OBTAINING AN INDIRECT USER DISCHARGE PERMIT**

- 307.1 Each person seeking an Indirect User Discharge Permit shall complete an RVSA application form and forward it to the RVSA. Upon receipt of all required information, the application shall be processed, and a draft Permit shall be issued. The draft Permit shall be subject to a thirty (30) day Public Comment Period, upon publication of a Notice in an authorized newspaper. Upon request, the draft permit may be subject to a public hearing in accordance with Section 106.2. The RVSA shall issue a response-to-comments document at the time a final permit is issued. Upon review and incorporation of all appropriate comments, if any, by the RVSA, a Permit will be issued.
- 307.2 The application for an Indirect User Discharge Permit shall be approved if the Facility is located within the RVSA Service Area, the applicant has complied with all applicable requirements of these Rules and Regulations and the applicant has furnished to the RVSA all required information. The final approval is contingent upon the availability of adequate capacity in the municipal flow allotment, and within the RVSA Collection and Treatment System to convey, treat and dispose of the proposed wastes.
- 307.3 The application for an Indirect User Discharge Permit shall be signed by a corporate officer or other executive officer so designated. An application signed by an individual other than a corporate officer shall include a corporate resolution granting the individual the authority to make the application on behalf of the corporation. An application submitted by an Indirect User other than a corporation shall be signed by the proprietor or general partner.
- 307.4 The RVSA shall issue a response-to-comments document at the time that a final permit is issued. The response-to-comments document shall:
- (a) State the action the RVSA has taken on the final permit;
  - (b) Specify which provisions, if any, of the draft permit have been changed in the final permit, and the reasons for any such change; and
  - (c) Briefly describe and respond to all relevant comments on the draft permit raised during the public comment period, or during the public hearing, if any.
- 307.5 No permit shall be issued, renewed, or modified by RVSA so as to relax any effluent limitation unless the Permittee or applicant has complied with the requirements of N.J.S.A. 58:10A-6(k).



**SECTION 308: INDIRECT USER DISCHARGE PERMIT CONDITIONS**

308.1 Each Indirect User Discharge Permit issued shall set forth the following minimum conditions:

- (1) Statement of duration (in no case more than five (5) years);
- (2) Statement of non-transferability;
- (3) Effluent limits, including Best Management Practices, based on applicable general pretreatment standards in 40 CFR 403, categorical pretreatment standards, local limits, Federal, State and local law, and any other legally applicable requirements;
- (4) Self-monitoring, sampling, reporting, notification and record keeping requirements, including an identification of the pollutants to be monitored (including the process for seeking a waiver for a pollutant neither present nor expected to be present in the Discharge in accordance with 40 CFR 403.12(e)(2), or a specific waived pollutant in the case of an individual Permit), sampling location, sampling frequency, and sample type, based on the applicable general pretreatment standards in 40 CFR 403, categorical pretreatment standards, local limits, Federal, State and local law, and any other legally applicable requirements;
- (5) Statement of applicable civil and criminal fines and penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule, and requirements and procedures for the payment of fines and penalties as required under N.J.S.A. 58:10A-6(k);
- (6) Compliance schedules, if required;
- (7) Appropriate control systems for operation and maintenance as required by N.J.S.A. 58:10A-6(f)(6);
- (8) Procedures for notification of violations and resampling requirements under 40 CFR 403.12(g);
- (9) Procedures for notification of any exceedance of an effluent limitation that causes injury to persons, or damage to the environment, or poses a threat to human health or the environment.
- (10) Procedures for the notification of discharges of hazardous wastes as required under 40 CFR 403.12(p);
- (11) Procedures for the notification of potential problems, including slug loads, as required under 40 CFR 403.12 (f) and N.J.S.A. 58:10A-6(f)(8);
- (12) Procedures for the notification of changed discharges as required under 40 CFR 403.12(j) and N.J.S.A. 58:10A-6(f)(4);
- (13) Procedures for the monthly reporting for CIUs and SIUs as required by N.J.S.A. 58:10A-6(f)(5);

- (14) Procedures for monthly reporting due to serious and/or SNC violations required under N.J.S.A. 58:10A-6(f)(9) and (f)(10); and
- (15) Requirements to control slug discharges, if determined by the POTW to be necessary.
- (16) Special conditions applicable to the Permittee on a case-by-case basis.

### **SECTION 309: SUSPENSION OF AN INDIRECT USER DISCHARGE PERMIT**

- 309.1 In addition to any other enforcement actions available under Federal, State and local law, municipal ordinance and these Rules and Regulations, the RVSA may, without formal notice, suspend an Indirect User Discharge Permit for a period not to exceed forty-five (45) days when such suspension is necessary in order to stop a discharge which reasonably appears to present an imminent or substantial hazard to public health, safety or welfare of persons.
- 309.2 In addition to any other enforcement actions available under Federal, State and local law, municipal ordinance and these Rules and Regulations, the RVSA may, after serving notice on the Permittee, and allowing the Permittee seventy-two (72) hours to respond, suspend an Indirect User Discharge Permit for a period not to exceed forty-five (45) days when such suspension is necessary in order to stop a discharge which presents or may present an endangerment to the environment or which threatens to interfere with the operation of the RVSA Wastewater Collection and Treatment System.
- 309.3 Any Indirect User notified of a suspension of their Indirect User Discharge Permit shall immediately cease and desist the discharge of all wastes regulated by the Permit. In the event of a failure of the Indirect User to comply with the suspension order, the RVSA shall take such steps as are necessary to insure compliance, which may include suspension of service.
- 309.4 Any suspended Indirect User may file with the Executive Director a request for a hearing. Such a request shall not stay the suspension. In the event of such request, the Executive Director shall, within thirty (30) days of the receipt of such request, hold a hearing on the suspension and shall either confirm or revoke the action. Reasonable notice of the hearing shall be given to the suspended Indirect User as provided in Section 104. At this hearing, the suspended Indirect User may appear personally or through counsel, cross-examine witnesses and present evidence on its own behalf.
- 309.5 In the event the Executive Director fails to conduct a hearing within the time set forth above or fails to make a determination within five (5) days after the close of the hearing, the order of suspension shall be stayed until a determination is made either confirming or revoking the action of the RVSA.
- 309.6 The RVSA shall reinstate the Indirect User Discharge Permit upon proof of satisfactory compliance with all discharge requirements, and upon demonstration that the cause of the noncompliance has been successfully corrected and that the noncompliance will not recur. The RVSA counsel may be authorized to commence and prosecute such legal actions as may be appropriate to enforce the provisions of this Section.

**SECTION 310: REVOCATION OF AN INDIRECT USER DISCHARGE PERMIT**

- 310.1 In addition to any other enforcement actions available under Federal, State and local law, municipal ordinance and these Rules and Regulations, the RVSA may revoke an Indirect User Discharge Permit if it finds that the Indirect User has demonstrated a refusal, inability or failure to take reasonable steps to comply with one (1) or more of the provisions of these Rules and Regulations. No revocation shall be ordered until a hearing has been held by the Executive Director, where the Indirect User shall have the right to be represented by counsel, cross examine witnesses and present evidence in its behalf. Notice of the hearing shall be given to the Indirect User in accordance with Section 104 at least fifteen (15) days prior to the date of the hearing.
- 310.2 Any Indirect User whose Indirect User Discharge Permit has been revoked shall immediately cease and desist all discharge of wastes regulated by the Permit. The RVSA may disconnect or permanently block from the RVSA Wastewater Collection and Treatment System the connection of any Indirect User whose Permit has been revoked if such action is necessary to insure compliance with the Order of revocation.
- 310.3 Before the discharge of wastes may be recommenced by the Indirect User, it must apply for and obtain a new Indirect User Discharge Permit and pay all charges, penalties and such other as may be owed. Costs incurred by RVSA and any municipality in revoking the Permit and disconnecting or permanently blocking the connection, including attorneys' fees, shall be paid by the Indirect User before a new Permit is issued.

**SECTION 311: APPEALS OF FINAL PERMIT DECISIONS: REQUEST FOR AN ADJUDICATORY HEARING**

- (a) A Permittee or a person who seeks and qualifies to be considered a party to the action pursuant to N.J.A.C. 7:14A-17.3 may submit to the RVSA a written request, by certified mail, or by other means which provides verification of the date of delivery to the RVSA for an adjudicatory hearing to contest the RVSA's final decision to:
- (1) Issue a new permit, permit modification, permit revocation and reissuance, permit renewal, permit suspension, or permit revocation; or
  - (2) Deny an application for a new permit or a permit renewal.
- (b) In order to request an adjudicatory hearing, a Permittee shall submit the request in accordance with the requirements in (e) below within thirty (30) days following receipt of the RVSA's notification of a final permit decision. In addition, the Permittee shall provide a copy of its request for an adjudicatory hearing to any other person named on the permit.
- (c) In order to be considered a party to the action for purposes of requesting an adjudicatory hearing under this Section, a person shall submit a request in accordance with the requirements in (f) below within thirty (30) days following receipt of the RVSA's notification of final permit decision. In addition, such person shall forward a copy of the request to the Permittee.

- (d) The request for an adjudicatory hearing shall be submitted to the RVSA at the address listed below :

Office of the Executive Director  
Attention: Adjudicatory Hearing Request  
Rahway Valley Sewerage Authority  
1050 East Hazelwood Avenue  
Rahway, New Jersey 07065

- (e) A Permittee shall request an adjudicatory hearing by completing an RVSA adjudicatory hearing request form which shall contain the following information:

- (1) A copy of the permit clearly indicating the permit number and issuance date;
- (2) The date that the notification of the final permit decision was received by the Permittee;
- (3) A list of the specific contested permit condition(s) and the legal or factual question(s) at issue for each condition, including the basis of any objection;
- (4) A statement as to whether the Permittee raised the legal and/or factual issues during the public comment period in accordance with N.J.A.C. 7:14A-15.13;
- (5) The relevance of the legal and/or factual issues to the permit decision;
- (6) Suggested revised or alternative permit conditions and how they meet the requirements of the Federal or State Act;
- (7) A request, if necessary for a barrier-free hearing location for disabled persons;
- (8) An estimate of the amount of time required for the hearing;
- (9) The name, mailing address and telephone number of the person making the request(s);
- (10) The name(s) and address(es) of the person(s) whom the requester represents; and
- (11) Information supporting the request or other written documents relied upon to support the request, unless this is already in the administrative record (in which case, such information shall be specifically referenced in the request).

- (f) A person seeking consideration as a party to the action shall include the following information in such person's request for an adjudicatory hearing:

- (1) The facility name and permit number;
- (2) A statement setting forth:
  - (A) Each legal or factual question alleged to be at issue;

- (B) Whether the legal or factual issue was raised by that person during the public comment period in accordance with the provisions of N.J.A.C. 7:14A-15.13;
  - (C) The relevance of the legal or factual issue to the permit decision, together with a designation of the specific factual areas to be adjudicated; and
  - (D) An estimate of the amount of time required for the hearing.
- (3) The date that notification of the final permit decision was received by the person making the hearing request;
  - (4) The name, mailing address, and telephone number of the person making the request;
  - (5) A clear and concise factual statement of the nature and scope of the interest of the requester which meets the criteria set forth at N.J.A.C. 7:14A-17.3(c)4;
  - (6) The names and addresses of all persons whom the person making the hearing request represents;
  - (7) A request, if necessary, for a barrier—free hearing location for disabled persons;
  - (8) A statement by the person making the hearing request that, upon motion by any party granted by the administrative law judge, or upon order of the administrative law judge's initiative, such person shall make available to appear and testify at the administrative hearing, if granted, the following persons:
    - (A) The person making the hearing request;
    - (B) All persons represented by the person making the hearing request; and
    - (C) All officers, directors, employees, consultants, and agents of the person making the hearing request.
  - (9) Specific references to the contested permit conditions, as well as suggested revised or alternative permit conditions, including permit denials, which, in the judgment of the person making the hearing request, would be required to implement the purposes of the State Act;
  - (10) Identification of the basis for any objection to the application of control or treatment technologies, if identified in the basis or fact sheets, and the alternative technologies or combination of technologies which, in the judgment of the person making the hearing request are necessary to satisfy the requirements of the State Act; and
  - (11) A completed RVSA adjudicatory hearing request tracking form.
- (g) The RVSA, in its discretion, may extend the time allowed for submission of an adjudicatory hearing request under this Section for good cause.

**PART IV: REGULATIONS CONCERNING SEWER USE: PRETREATMENT  
REGULATIONS**

**SECTION 401: PROHIBITED WASTES**

401.1 General Prohibitions

No User shall introduce or cause to be introduced into the RVSA Wastewater Collection and Treatment System any pollutant or wastewater, which causes Pass-Through or Interference, or otherwise violates provisions of N.J.S.A. 58:11-49 et seq. These general prohibitions apply to all Users whether or not they are subject to categorical pretreatment standards or any other Federal, State, local, or RVSA pretreatment standards or requirements.

401.2 Specific Prohibitions

No User shall introduce or cause to be introduced into the RVSA Wastewater Collection and Treatment System the following pollutants, substances, or wastes (unless specifically authorized in the Indirect User Permit):

- (a) Explosive Wastes: Pollutants that create a fire or explosive hazard to the Wastewater Collection and Treatment System, or to the operation of the system. Prohibited materials include, but are not limited to, gasoline, kerosene, and wastestreams with a closed—cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21.
- (b) Corrosive Wastes: Wastes which will cause corrosion or deterioration of the RVSA Wastewater Collection and Treatment System, including wastes having a pH less than 5.5 or greater than 9.5.
- (c) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that may cause Interference or Pass-Through.
- (d) Solids and Viscous Wastes: Solids or viscous wastes in amounts which would cause obstruction to the flow in the Wastewater Collection and Treatment System, resulting in Interference with its proper operation. Prohibited materials include, but are not limited to, uncomminuted garbage, bones, hides or fleshings, cinders, sand and glass.
- (e) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate or pollutant concentration which, either singly or by interaction with other pollutants, will cause Interference with the RVSA Wastewater Collection and Treatment System.
- (f) Slug Discharges as defined in Section 102 (iii).
- (g) Thermal discharges in excess of limitations established under Sections 301, 306 and 316 of the Federal list, or Section 6 of the State Act, or wastes which may inhibit or increase biological activity in the RVSA Wastewater Collection and Treatment System, which may cause Interference, or which cause or have the potential to cause the temperature of influent wastewater at the RVSA treatment facility to exceed 104°F (40°C).

- (h) Unpolluted Wastes: Any unpolluted wastes, including but not limited to, uncontaminated cooling water or uncontaminated storm water, unless specifically authorized by the RVSA, which will increase the hydraulic load on the RVSA Wastewater Collection and Treatment System.
- (i) Dilution Water: Except where expressly authorized to do so by an applicable Pretreatment Standard or Requirement, no Indirect User shall ever increase the use of process water, or in any other way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a Pretreatment Standard or Requirement. The RVSA may impose mass limitations on Indirect Users, which are using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases where the imposition of mass limitations is appropriate.
- (j) Hazardous Wastes, as defined in Section 102.
- (k) Fats, oils, and greases, as quantified by USEPA approved methods, the concentration of which shall not exceed 150 mg/l for any single sample, or 100 mg/l for a monthly average.
- (l) Any trucked or hauled wastes, unless in accordance with the conditions outlined in Section 203.
- (m) Pollutants which result in the presence of toxic gases, vapors, or fumes within the RVSA Wastewater Collection and Treatment system in a quantity that may cause worker health and safety problems.
- (n) Wastes that impart color that is not removed by the RVSA treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions that consequently impart color to the treatment plant effluent.
- (o) Sludges, screenings, or other residues from the pretreatment of industrial wastes.
- (p) Medical wastes, except as specifically authorized by the Indirect User Discharge Permit.
- (q) Detergents, surface-active agents, or other substance which may cause excessive foaming in the RVSA Wastewater Collection and Treatment System.
- (r) Lower Explosion Level (LEL) – At not time shall two (2) successive daily readings on the explosion hazard meter at the point of discharge into the RVSA Collection and Treatment System be more than forty (40%) percent of the lower explosive limit of the meter. The meter range is zero (0%) percent to one hundred (100%) percent.
- (s) Radioactive Wastes, as defined in Section 102.

Pollutants, substances, or wastewater prohibited by this Section shall not be processed or stored in such a manner that they could be discharged to the RVSA Wastewater Collection and Treatment System.

**SECTION 402: EFFLUENT STANDARDS**

## 402.1 National Categorical Pretreatment Standards

No person shall discharge, deposit, cause or allow to be deposited or discharged into the RVSA Wastewater Collection and Treatment System, any waste which violates applicable categorical pretreatment standards, including but not limited to the categorical pretreatment standards found at 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N, hereby incorporated by reference, including all future amendments and supplements. As pretreatment standards for toxic or other industrial wastes are promulgated by the USEPA for a given industrial category, all Indirect Users shall conform to the USEPA timetable for complying with discharge limitations.

## 402.2 State and Local Effluent Standards

All Indirect Users shall comply with any more stringent standards, which are established by the State, the RVSA, or other regulatory agency. Pretreatment limitations established by the RVSA are contained in Appendix A. Changes and additions shall be made as necessary from time to time by resolution. Where pretreatment or construction necessary to control or monitor Industrial Wastes is required, the Indirect User shall develop a compliance schedule for the installation of technology required to meet applicable pretreatment standards and requirements prior to final compliance date established in the regulations.

## 402.3 Best Management Practices as Local Limits

The RVSA may develop Best Management Practices (BMPs) to implement the local limits noted in Sections 401 and 402.2. Such BMPs shall be considered local limits and Pretreatment Standards for the purposes of this part and section 307(d) of the Act.

## 402.4 Concentration and Mass Limits

- (a) Pollutant discharge limits in categorical Pretreatment Standards will be expressed either as concentration or mass limits. Wherever possible, where concentration limits are specified in standards, equivalent mass limits will be provided so that local, State or Federal authorities responsible for enforcement may use either concentration or mass limits. Limits in categorical Pretreatment Standards shall apply to the effluent of the process regulated by the Standard, or as otherwise specified by the standard.
- (b) When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the RVSA may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Indirect Users.
- (c) The RVSA shall calculate equivalent mass-per-day limitations under Section 402.4(b) by multiplying the limits in the Standard by the Indirect User's average rate of production. This average rate of production shall be based not upon the designed production capacity but rather upon a reasonable measure of the Indirect User's actual long-term daily production, such as the average daily production during a representative year. For new sources, actual production shall be estimated using projected production.



- (d) The RVSA shall calculate equivalent concentration limitations under Section 402.4(b) by dividing the mass limitations derived under Section 402.4(c) by the average daily flow rate of the Indirect User's regulated process wastewater. This average daily flow rate shall be based upon a reasonable measure of the Indirect User's actual long-term average flow rate, such as the average daily flow rate during the representative year.

#### 402.5 Equivalent Concentration Limits

The RVSA may convert the mass limits of the categorical Pretreatment Standards at 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual Indirect Users. When converting such limits to concentrations limits, the RVSA will use the concentrations listed in the applicable subparts of 40 CFR Parts 414, 419, and 455 and document that dilution is not being substituted for treatment as prohibited by Section 401.2(i).

#### 402.6 Equivalent Mass Limits

When the limits in a categorical Pretreatment Standard are expressed only in terms of pollutant concentrations, an Indirect User may request that the RVSA convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the RVSA. The RVSA may establish equivalent mass limits only if the Indirect User meets all the following conditions in paragraph (a)(1) through (a)(5) of this section.

- (a) To be eligible for equivalent mass limits, the Indirect User must:
  - (1) Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its Permit;
  - (2) Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical Pretreatment Standard, and not have used dilution as a substitute for treatment;
  - (3) Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and long-term average production rate must be representative of current operating conditions;
  - (4) Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the Discharge; and
  - (5) Have consistently complied with all applicable categorical Pretreatment Standards during the period prior to the Indirect User's request for equivalent mass limits.
- (b) An Indirect User subject to equivalent mass limits must:
  - (1) Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;

- (2) Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;
  - (3) Continue to record the facility's production rates and notify the RVSA whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in paragraph (a)(3) of this section. Upon notification of a revised production rate, the RVSA will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and
  - (4) Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to paragraph (a)(1) of this section so long as it discharges under an equivalent mass limit.
- (c) Where the RVSA chooses to establish equivalent mass limits, it will:
- (1) Calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the Indirect User by the concentration-based daily maximum and monthly average Standard for the applicable categorical Pretreatment Standard and the appropriate unit conversion factor;
  - (2) When notified of a revised production rate, reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions and the facility; and
  - (3) Retain the same equivalent mass limit in subsequent Permit terms if the Indirect User's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to Section 401.2(i). The Indirect User must also be in compliance with Section 404 of the Rules and Regulations and 40 CFR 403.17 (regarding the prohibition of bypass).
- (d) The RVSA may not express limits in terms of mass for pollutants such as pH, temperature, radiation, or other pollutants which cannot appropriately be expressed as mass.
- 402.7 Equivalent limitations calculated in accordance with Sections 402.5 and 402.6 are deemed Pretreatment Standards for the purposes of section 307(d) of the Act and these Rules and Regulations. Once incorporated into its Permit the Indirect User must comply with the equivalent limitations in lieu of the promulgated categorical standards from which the equivalent limitations were derived.
- 402.8 Many categorical Pretreatment Standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum monthly average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation.
- 402.9 Any Indirect User operating under a Permit incorporating equivalent mass or concentration limits calculated from a production based standard shall notify the RVSA within two (2) business days after the User has a reasonable basis to know that the production level will significantly change

within the next calendar month. Any User not notifying the RVSA of such anticipated change will be required to meet the mass or concentration limits in its Permit that were based on the original estimate of the long term average production rate.

### **SECTION 403: NONCOMPLIANCE WITH PERMIT CONDITIONS**

403.1 Failure to comply with any prohibitions or limitations contained either in these Rules and Regulations or in the Indirect User Discharge Permit shall constitute a violation of these Rules and Regulations.

If for any reason, an Indirect User does not comply with or will be unable to comply with any prohibitions or limitations contained either in these Rules and Regulations, any municipal ordinance or in the Indirect User Discharge Permit, the Indirect User responsible for such discharge shall immediately notify the RVSA in accordance with the provisions of Section 404, below.

### **SECTION 404: EMERGENCY NOTIFICATION**

404.1 The Permittee shall report to the RVSA any exceedance of an effluent limitation, slug discharge, upset or bypass that causes injury to persons, or damage to the environment or to the RVSA facility or poses a threat to human health or the environment or to the RVSA facility within two (2) hours of its occurrence, or of the Permittee becoming aware of the occurrence. Within twenty-four (24) hours thereof, or of an exceedance, or of becoming aware of an exceedance, of an effluent limitation for a toxic pollutant, slug discharge, upset or bypass, a Permittee shall provide the RVSA with such additional information on the discharge as may be required by the RVSA, including an estimate of the danger posed by the discharge to the environment, whether the discharge is continuing, and the measures taken, or being taken, to remediate the problem and any damage to the environment, and to avoid a repetition of the problem.

404.2 Procedure for Emergency Notification

The following procedure shall be followed when contacting the RVSA to report any of the emergency situations described in Section 404.1 above:

During normal RVSA operating hours (7:00 a.m.-3:00 p.m.)

The Permittee shall call the Industrial Pretreatment Coordinator at (732) 388-0868 Ext. 255.

During Off-Hours (before 7:00 a.m. and after 3:00 p.m.)

The Permittee shall call (732) 388-0868 Ext. 298. Leave the following information at the tone:

- (a) There is an emergency and brief description of the emergency;
- (b) Your facility name;
- (c) The contact person at your facility; and
- (d) The phone number at your facility.

The message will be forwarded to the Shift Supervisor. The Supervisor will then call you back and get detailed information about the emergency.

The Permittee's notification of emergency discharges in accordance with RVSA requirements does not relieve it of other reporting requirements that arise under Federal, State and local laws.

#### 404.3 Follow-up Reporting of Emergency Discharges

Within five (5) days following the incident resulting in emergency notification, the Permittee shall submit to the RVSA a detailed written report. The report shall include a description and the cause of emergency discharge or situation requiring notification, an estimate of the danger posed by the discharge to the environment, whether the discharge is continuing, and the measures taken, or being taken, to remediate the problem and any damage to the environment, and to avoid a repetition of the problem.

In the event that the Permittee has experienced an upset as defined in Section 102, the written report must demonstrate that the treatment facility was being operated in a prudent and responsible manner. The Permittee shall ensure that the RVSA receives the information listed below as part of the written submission if not previously submitted, as follows:

- (a) All properly signed, contemporaneous operating logs, or other relevant evidence, on the circumstances of the noncompliance;
- (b) The reasons that the upset occurred, including the cause of the upset and the identity of the person causing the upset, as necessary;
- (c) Evidence that the Permittee was properly operating the facility at the time;
- (d) In the case of an upset resulting from the performance by the Permittee of maintenance operations, evidence that the Permittee provided prior notice and received prior written approval from the RVSA, including the name, title, address and telephone number of the individual who satisfied this requirement, the date and specific time the individual notified the RVSA for the Permittee, the specific method that the individual used to notify the RVSA, and the name and title of the individual within the RVSA to whom the Permittee gave such notice; and
- (e) Evidence that the Permittee complied with all remedial measures the RVSA required.

### **SECTION 405: AFFIRMATIVE DEFENSES**

405.1 A User shall have an affirmative defense in any action brought against it alleging a violation of the general prohibitions established in Section 401.1 and the specific prohibitions in Section 401.2 of these Rules and Regulations where the User can demonstrate that:

- (a) It did not know or have reason to know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause pass-through or interference;

- (b) A local limit designed to prevent pass-through and/or interference was developed by the RVSA for each pollutant in the User's discharge that caused pass-through or interference and the User was in compliance with each such local limit directly prior to and during the pass through or interference; or
  - (c) If a local limit designed to prevent pass through and/or interference has not been developed by the RVSA for the pollutant(s) that caused the pass through or interference, the User's discharge did not change substantially in nature or constituents from the User's prior discharge activity when the RVSA was regularly in compliance with the NJPDES permit requirements and/or applicable requirements for sludge use or disposal.
- 405.2 A User may be entitled to an affirmative defense to liability for a violation of an effluent limitation occurring as a result of an upset, an anticipated or unanticipated bypass, or a testing or laboratory error. A User shall be entitled to an affirmative defense only if, in the determination of the RVSA, the User satisfies the following provisions as applicable:
- (a) A User asserting an upset as an affirmative defense pursuant to this section, except in the case of an approved maintenance operation, shall notify the RVSA of an upset within twenty-four (24) hours of the occurrence, or of becoming aware of the occurrence, and, within five (5) days thereof, shall submit written documentation, including properly signed, contemporaneous operating logs, or other relevant evidence, on the circumstances of the violation, and demonstrating, as applicable, that:
    - (1) The upset occurred, including the cause of the upset and, as necessary, the identity of the person causing the upset;
    - (2) The permitted facility was at the time being properly operated;
    - (3) The User submitted notice of the upset as required pursuant to this section, or, in the case of an upset resulting from the performance by the Permittee of maintenance operations, the Permittee provided prior notice and received an approval therefore from the RVSA; and
    - (4) The User complied with any remedial measures required by the RVSA.
  - (b) A User asserting an unanticipated bypass as an affirmative defense pursuant to this section shall notify the RVSA of the unanticipated bypass within twenty-four (24) hours of its occurrence, and, within five (5) days thereof, shall submit written documentation, including properly signed, contemporaneous operating logs, or other relevant evidence, on the circumstances of the violation, and demonstrating that:
    - (1) The unanticipated bypass occurred, including the circumstances leading to the bypass;
    - (2) The permitted facility was at the time being properly operated;
    - (3) The person submitted notice of the bypass as required pursuant to this section;
    - (4) The User complied with any remedial measures required by the RVSA;

- (5) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; and
  - (6) There was no feasible alternative to the bypass such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of downtime, except that the provisions of this paragraph shall not apply to a bypass occurring during normal periods of equipment downtime or preventive maintenance if, on the basis of the reasonable engineering judgment of the RVSA, back-up equipment should have been installed to avoid the need for a bypass.
- (c) Nothing contained in subsection (a) or (b) of this section shall be construed to limit the requirement to comply with the provisions of N.J.S.A. 58:10A-6.
- (d) A User may assert an anticipated bypass as an affirmative defense pursuant to this section only if the User provided prior notice to the RVSA, if possible, at least 10 days prior to the date of the bypass, and the RVSA approved the bypass, and if the User is able to demonstrate that:
- (1) The bypass was unavoidable to prevent loss of life, personal injury, or severe property damage; and
  - (2) There was no feasible alternative to the bypass such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of downtime, except that the provisions of this paragraph shall not apply to a bypass occurring during normal periods of equipment downtime or preventive maintenance if, on the basis of the reasonable engineering judgment of the RVSA, back-up equipment should have been installed to avoid the need for a bypass.
- (e) A User asserting a testing or laboratory error as an affirmative defense pursuant to this section shall have the burden to demonstrate, to the satisfaction of the RVSA, that a serious violation involving the exceedance of an effluent limitation was the result of unanticipated test interferences, sample contamination, analytical defects, or procedural deficiencies in sampling or other similar circumstances beyond the control of the Permittee.
- (f) A determination by the RVSA on a claim that a violation of an effluent limitation was caused by an upset, a bypass or a testing or laboratory error shall be considered final agency action on the matter for the purposes of the "Administrative Procedure Act," P.L.1968, c. 410 (C.52:14B-1 et seq.), and shall be subject only to review by a court of competent jurisdiction.
- (g) An assertion of an upset, a bypass or a testing or laboratory error as an affirmative defense pursuant to this section may not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (h) If the RVSA determines, pursuant to the provisions of this section, that a violation of an effluent limitation was caused by an upset, a bypass or a testing or laboratory error, the RVSA shall waive any mandatory civil administrative penalty required to be assessed

pursuant to section 6 of P.L.1990, c. 28 (C.58:10A-10.1), and the violation shall not be considered a serious violation or violation causing a User to be designated a significant noncomplier.

- (i) The affirmative defense for an upset, a bypass or a testing or laboratory error provided in this section shall only apply to the imposition of mandatory penalties pursuant to section 6 of P.L.1990, c. 28 (C.58:10A-10.1) for serious violations and for determining a significant noncomplier. Nothing in this act shall be construed to limit the RVSA, to adopt regulations or permit conditions that include or do not include an upset, a bypass or a testing or laboratory error, using different standards, as a defense for any other exceedance of an effluent limitation.

#### **SECTION 406: PRETREATMENT FACILITIES**

- 406.1 A pretreatment facility or device may be required to be installed by an Indirect User prior to discharge to the RVSA Wastewater Collection and Treatment System for the purpose of treating or monitoring Industrial Wastes in order to meet all applicable pretreatment requirements and effluent limitations. Prior to the issuance of a Permit, or as prescribed in the Permit, schematics, detailed plans and specifications, process descriptions and other pertinent data or information relating to the pretreatment facility or device shall be filed with the RVSA. Such filing shall not exempt the User from compliance with any applicable code, ordinance, rule, regulation or order of any governmental authority or from these Rules and Regulations.

The Indirect User shall develop a “compliance schedule” for the installation of all necessary technology and implementation of changes to guarantee compliance prior to the final compliance date as established in the appropriate Federal regulation. In the case of non-categorical effluent limitations, compliance must be achieved by the earliest possible date, as approved by the RVSA.

- 406.2 If inspection of pretreatment facilities by authorized personnel of the RVSA reveals such systems are not installed or operating in conformance with the plans and procedures submitted to the RVSA, or are not operating in compliance with the effluent limitations required by RVSA, the Indirect User shall make those modifications necessary to meet those requirements. All pretreatment systems judged by the RVSA to require engineering design shall have plans prepared and signed by a licensed professional engineer. If pretreatment or control of waste flows is required, such facilities shall be maintained in good working order and operated as efficiently as possible by the owner or operator at his own expense, subject to the requirements of these Rules and Regulations and all other applicable codes, ordinances and laws.

#### **SECTION 407: INDUSTRIAL WASTE REPORTING**

- 407.1 All Indirect Users shall, at a minimum, comply with the reporting requirements specified in their Indirect User Discharge Permits. Required reports shall include, but not be limited to:

- (a) Baseline Monitoring Reports (BMR's)

A Baseline Monitoring Report (BMR) shall be submitted with the permit application form for a permit, unless an approved BMR has already been submitted. All new source Indirect Users subject to categorical standards must submit a BMR to the RVSA at least

ninety (90) days prior to the commencement of discharge. Existing sources subject to categorical standards are required to submit new BMR's within one hundred eighty (180) days after the effective date of any applicable categorical standard. The BMR shall contain the following information as per 40 CFR 403.12(b):

- (1) Identifying Information. The User shall submit the name and address of the facility including the name of the operator and owners;
- (2) Permits. The User shall submit a list of any environmental control permits held by or for the facility;
- (3) Description of Operations. The User shall submit a brief description of the nature, average rate of production, and Standard Industrial Classification of the operation(s) carried out by such Indirect User. This description should include a schematic process diagram, which indicates points of discharge to the RVSA from the regulated processes; and
- (4) Flow Measurement. The User shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the RVSA from each of the following:
  - (A) Regulated process streams; and
  - (B) Other streams as necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e).

The RVSA may allow for verifiable estimates of these flows where justified by cost or feasibility considerations.

- (5) Measurement of Pollutants.
  - (A) The user shall identify the Pretreatment Standards applicable to each regulated process;
  - (B) In addition, the User shall submit the results of sampling and analysis identifying the nature and concentration (or mass, where required by the Standard or RVSA) of regulated pollutants in the Discharge from each regulated process. Both daily maximum and average concentration (or mass, where required) shall be reported. The sample shall be representative of daily operations. In cases where the Standard requires compliance with a Best Management Practice or pollution prevention alternative, the User shall submit documentation as required by the RVSA or applicable Standards to determine compliance with the Standard;
  - (C) The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph;
  - (D) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with



the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e) in order to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the RVSA;

- (E) Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR 136 and amendments thereto. Where 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, or where the Administrator determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the RVSA or other parties, approved by the Administrator;
  - (F) The RVSA may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures; and
  - (G) The baseline report shall indicate the time, date and place, of sampling, and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the RVSA.
- (6) Certification. A statement, reviewed by an authorized representative of the Indirect User (as defined in paragraph (k) of this section) and certified to by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O and M) and/or additional pretreatment is required for the Indirect User to meet the Pretreatment Standards and Requirements.
- (7) Compliance Schedule. If additional pretreatment and/or O and M will be required to meet the Pretreatment Standards; the shortest completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard.

The Permittee shall submit no later than fourteen (14) days following each date in the above BMR compliance schedule, a report including, at a minimum:

- (A) Whether or not it complied with the increment of progress to be met on such date; and
- (B) If not:
  - (i) The date on which it expects to comply with the increment of progress;

- (ii) The reasons for the delay, and the steps being taken to return the project to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the RVSA.

(b) Ninety (90) Day Compliance Report

Within ninety (90) days following the date for final compliance with applicable categorical Pretreatment Standards or in the case of a New Source following commencement of the introduction of wastewater into the RVSA, any Indirect User subject to Pretreatment Standards and Requirements shall submit to the RVSA a report containing the information described in Section 407.1(a)(4) through (6).

For Indirect Users subject to equivalent mass or concentration limits established by the RVSA in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the User's long term production rate. For all other Indirect Users subject to categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the User's actual production during the appropriate sampling period.

(c) Monthly Discharge Monitoring Reports (DMR)

Except in the case of Non-Significant Categorical Users, Significant Indirect Users are required to submit a monthly Discharge Monitoring Report (DMR) to the RVSA once per month. The DMR Monthly Transmittal Forms are due the 30<sup>th</sup> day of the month immediately following the month being reported. The DMR Monthly Transmittal shall include Permit Number, Outfall Number, Reporting Month, Permittee Name, Permittee Address, Facility Name, Address, Telephone Number, Monthly Discharge Flow, and if there were any production changes during the month. All self-monitoring data must be submitted.

(d) Semi-Annual Compliance Reports

Except in the case of Non-Significant Categorical Users, self-monitoring results obtained shall be summarized and reported on a Semi-Annual Periodic Report Form. Semi-Annual Compliance Report forms will be sent to the Permittee each May 15 and November 15, along with RVSA sampling results for the Permittee's discharge(s) for the report period. An authorized representative must sign each report, fill in the required information and return the form to RVSA by June 1, and December 1.

The report shall include:

- (1) The facility name, address, name of owner, the contact person at the facility, the contact person's telephone number;
- (2) Information on whether the processes, operation or methods of wastewater disposal at the facility have changed since the last Semi-Annual Periodic Report on Continued Compliance;
- (3) A concise summary of the nature and concentration of all pollutants in the effluent for which self-monitoring sampling and analyses were performed during

the calendar months preceding the submission of each report, including measured/estimated maximum and average daily flows;

- (4) Identification of sampling point;
- (5) Name of New Jersey State Certified Laboratory used for self-monitoring and Laboratory Certification Number;
- (6) Whether the wastewater discharge from the facility was in compliance or not;
- (7) Copies of the original manifests of any manifest forms for residual (sludge) disposal; and
- (8) Signature of Authorized Representative.

Additionally, in cases where the Pretreatment Standard requires compliance with a Best Management Practice (or pollution prevention alternative), the User shall submit documentation required by the RVSA or the Pretreatment Standard necessary to determine the compliance status of the User.

(e) Annual Reports

An annual report concerning discharges to the RVSA shall be submitted by the Permittee to the RVSA by December 15<sup>th</sup> of each year, unless the Permittee is submitting other SMR's to the RVSA which contain a calculation of the volume of wastewater discharged to the RVSA. The Permittee shall use any convenient format to report the required information, including:

- (a) A calculation or estimate of volume of water discharged to the RVSA with supporting information, including but not limited to:
  - (A) Copies of the water bills/flow meter readings for the reporting period;
  - (B) Statement of the volume of water that was incorporated into products produced at the facility during the reporting period;
  - (C) A statement of the volume of water lost due to evaporation and/or used for other purposes and not discharged to the sanitary sewer; and
  - (D) A statement of the volume of condensate and non-contact cooling water from compressors and jacketed mix kettles discharged to the sanitary sewer during the reporting year.
- (b) A statement of any major operational changes made during the reporting period that would influence the volume or nature of wastewater discharged.

#### 407.2 Slug Control Plans

The RVSA shall evaluate whether Indirect User needs a plan or other action to control Slug Discharges. Each Significant Indirect User must be evaluated within 1 year of being designated a Significant Indirect User. For purposes of this subsection, a Slug Discharge is any discharge of a

non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violates the RVSA regulations, local limits or Permit conditions. The results of such activities shall be available to the RVSA upon request. Indirect Users are required to notify the RVSA immediately of any changes at its facility affecting potential for a Slug Discharge. If the RVSA decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

- (a) Description of discharge practices, including non-routine batch discharges;
- (b) Description of stored chemicals;
- (c) Procedures for notifying the RVSA immediately of slug discharges, including any discharge that would constitute prohibition under 40 CFR 403.5(b), with procedures for follow-up written notification within five (5) days; and
- (d) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures of and equipment for emergency response.

#### 407.3 Annual Certification by Non-Significant Categorical Indirect Users

An Indirect User determined to be a Non-Significant Categorical Indirect User pursuant to Section 102.1(fff)(2) must annually submit the following certification statement signed in accordance with the signatory requirements in Section 407.4 below. This certification must accompany any alternative report required by the RVSA:

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

#### 407.4 Signatory Requirements for Indirect User Reports

All the reports required by the Indirect User Discharge Permit submitted to the RVSA shall be signed by the Authorized Representative for the Permittee as defined by Section 102.1 (d) and shall include the following statement:

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

belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

Properly signed reports shall be submitted to the following address:

Industrial Pretreatment Coordinator  
Rahway Valley Sewerage Authority  
1050 East Hazelwood Avenue  
Rahway, New Jersey 07065

#### **SECTION 408: INDUSTRIAL WASTE MONITORING**

408.1 All Indirect Users who discharge or propose to discharge wastewater to the RVSA Wastewater Collection and Treatment System shall maintain such records as are necessary to demonstrate compliance with the requirements of these Rules and Regulations (including documentation associated with Best Management Practices), the Indirect User Discharge Permit and any applicable Federal and State pretreatment standards or requirements for a minimum of five (5) years. All records that pertain to matters that are the subject of special orders or any other enforcement or litigation activities brought by the RVSA shall be retained and preserved by the Permittee until all enforcement activities have concluded and all periods of limitations with respect to any and all appeals have expired.

408.2 Monitoring records shall be made available upon request of the Industrial Pretreatment Coordinator. A summary of the data indicating the Indirect User’s compliance with these Rules and Regulations shall be prepared and submitted, if required, to the Industrial Pretreatment Coordinator as designated in the Indirect User Discharge Permit.

408.3 Notification of Discharge of Hazardous Waste

The Indirect User shall notify the RVSA, the EPA Regional Waste Management Division Director, and State hazardous waste authorities in writing of any discharge into the RVSA sewerage system of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR 261, the EPA hazardous waste number, and the type of discharge (continuous, patch, or other). If the Indirect User discharges more than 100 kilograms of such waste per calendar month to the RVSA, the notification shall also contain the following information to the extent such information is known and readily available to the Indirect User: An identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve months. All notifications must take place within 180 days of the effective date of this rule. Indirect Users who commence discharging after the effective date of this rule shall provide the notification no later than 180 days after the discharge of the listed or characteristic hazardous waste. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under 40 CFR 403.12(j). The notification requirement in this section does not apply to pollutants already reported under the self-monitoring requirements of 40 CFR 403.12(b), (d), and (e).

- (a) Dischargers are exempt from the requirements of 40 CFR 403.12(p)(1), during a calendar month in which they discharge no more than fifteen kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification.

Subsequent months during which the Indirect User discharges more than such quantities of any hazardous waste do not require additional notification.

- (b) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the Indirect User must notify the RVSA, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.
- (c) In the case of any notification made under 40 CFR 403.12(p)(1), the Indirect User shall certify that it has a program in place to reduce the volume and toxicity of hazardous waste generated to the degree it has determined to be economically practical.

#### 408.4 Limitations for Continuous pH Monitoring

Where the Permittee continuously measures the pH of its effluent pursuant to a requirement or option in this control document, the Permittee shall maintain the pH of such effluent within the range set forth in Section 6.1, (Effluent Limitations and Monitoring Requirements Table 1) in Indirect User Discharge Permit, except where excursions from the range are permitted subject to the following limitations:

Facilities with continuous pH meters are to be certified for pH analyses by the NJDEP. Continuous pH meters are to be run for twenty-four (24) hours, seven (7) days per week. Startup and shutdown times are to be indicated on the charts. Continuous pH meters are to be calibrated no less than three (3) times a week using a minimum of two (2) standard buffer solutions covering the expected pH range. The pH calibrations are to be indicated on the charts, including date, time and buffer solution(s) used. If pH records are maintained electronically, a separate calibration log with the required information will be maintained. The Permittee will complete a pH Tabulation Sheet (Indirect User Discharge Permit Appendix A3) with the required reports.

- (a) The total time during which the pH values are outside the required range of pH values shall not exceed seven (7) hours and twenty-six (26) minutes (one (1%) percent of the time during a calendar month) in any calendar month;
- (b) No individual excursion from the range of pH values shall exceed sixty (60) minutes;
- (c) No discharge with a pH below 5.0 su (standard units) shall be allowed, unless the treatment works is specifically designed to accommodate such discharges. Any discharge below 5.0 su (standard units) shall be subject to an enforcement action; and
- (d) When the continuous pH monitoring system malfunctions or is otherwise inoperable, a pH sample shall be taken manually at a minimum of four (4) hour intervals each calendar day in lieu of continuous monitoring. If the pH analysis from the first grab sample is out

of the permitted range, a second sample will be taken within sixty (60) minutes. Hourly monitoring will continue until the pH levels are in compliance with discharge limitations.

#### 408.5 Noncompliance Monitoring

##### (a) Sampling in Response to a Violation

If the results of the Permittee's wastewater analysis indicate that a violation of the Permit and/or the Rules and Regulations has occurred, the Permittee must repeat the sampling and analysis of those parameter(s) causing the violation(s) and submit the results, in writing, to the RVSA within thirty (30) days after becoming aware of the violation. If the violation(s) was discovered as a result of self-monitoring, the thirty (30) day time frame commences from the date of the receipt of the laboratory report by the Permittee. If the violation(s) was discovered during RVSA's sampling, RVSA will re-sample within thirty (30) days of receipt of the laboratory report.

##### (b) Sampling in Response to a Serious Violation or Significant Noncompliance (SNC)

If the Permittee has a serious violation or is in significant noncompliance, sampling is to be performed monthly for the parameter(s) in serious violation or in significant noncompliance until six (6) consecutive months of sampling (self-monitoring and RVSA sampling) demonstrates compliance.

#### 408.6 Monitoring and Analysis to Demonstrate Continued Compliance

Except in the case of Non-Significant Categorical Users, the reports required in Section 407.1 shall contain the results of sampling and analysis of the Discharge, including the flow and the nature and concentration, or production and mass where requested by the RVSA, of pollutants contained therein which are limited by the applicable Pretreatment Standards. This sampling and analysis may be performed by the RVSA in lieu of the Indirect User.

### **SECTION 409: COMPLIANCE DETERMINATION**

409.1 Compliance determinations with respect to any Permit conditions or limitations may be made on the basis of instantaneous grab samples, sequential samples, or composite samples. Sequential or composite samples may be taken over a twenty-four (24) hour period, or any other time span, as deemed necessary by the RVSA, to meet the requirements of a specific situation.

409.2 The RVSA may inspect the monitoring facilities of any Indirect User to determine compliance with the requirements of these Rules and Regulations as specified in Section 105.

409.3 Where the RVSA has determined that an Indirect User meets the criteria for classification as a Non-Significant Categorical Indirect User, the RVSA will evaluate, at least once per year, whether an Indirect User continues to meet the criteria in Section 102.1(fff)(2) .

**SECTION 410: ANALYSIS OF INDUSTRIAL WASTES**

- 410.1 The reports required in Section 407.1 must be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of conditions occurring during the reporting period. The RVSA shall require that frequency of monitoring necessary to assess and assure compliance by Indirect Users with applicable Pretreatment Standards and Requirements. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the RVSA. Where time-proportional composite sampling or grab sampling is authorized by the RVSA, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the Indirect User file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: For cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil & grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the RVSA, as appropriate. All analyses shall be performed by a NJDEP certified laboratory, which must hold current certifications for the parameter(s) of interest at the time of analysis.
- 410.2 For sampling required in support of baseline monitoring and 90-day compliance reports required in Sections 407.1 (a) and (b), a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the RVSA may authorize a lower minimum. For the reports required by Sections 407.1 (c) and (d), the RVSA shall require the number of grab samples necessary to assess and assure compliance by Indirect Users with applicable Pretreatment Standards and Requirements.
- 410.3 All analyses shall be performed in accordance with procedures established by the Administrator pursuant to section 304(h) of the Act and contained in 40 CFR part 136 and amendments thereto or with any other test procedures approved by the Administrator. (See 40 CFR parts 136.4 and 136.5.) Sampling shall be performed in accordance with the techniques approved by the Administrator. Where 40 CFR part 136 does not include sampling or analytical techniques for the pollutants in question, or where the Administrator determines that the part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed using validated analytical methods or any other sampling and analytical procedures, including procedures suggested by the RVSA or other parties, approved by the Administrator.
- 410.4 If an Indirect User subject to the reporting requirement in Section 407.1 monitors any regulated pollutant at the appropriate sampling location more frequently than required by the RVSA, using the procedures prescribed in Section 410, the results of this monitoring shall be included in the report.



**SECTION 411: FREQUENCY OF SAMPLING AND ANALYSIS**

- 411.1 Industrial Wastes shall be analyzed by the RVSA for compliance with all Permit conditions and for the establishment of Permit fees as outlined in Section 503. The frequency of the sampling and analysis shall, at a minimum, be at the frequency specified in the Indirect User Discharge Permit.
- 411.2 The Permittee may be required by the RVSA to collect and analyze samples of its wastewater under certain conditions, in particular when the Permittee is in noncompliance with its Permit limitations. The Permittee may be required to report all data generated for the purposes of Permit compliance monitoring to the RVSA.
- 411.3 If the Permittee analyzes its wastewater for parameters not required in the Indirect User Discharge Permit, or as specified by the RVSA, those results shall be reported to the RVSA on a monthly basis.
- 411.4 If sampling performed by an Indirect User indicates a violation, the User shall notify the RVSA within twenty-four (24) hours of becoming aware of the violation. The User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the RVSA within thirty (30) days after becoming aware of the violation. Where the RVSA has performed the sampling and analysis in lieu of the Indirect User, the RVSA will perform the repeat sampling and analysis unless it notifies the User of the violation and requires the User to perform the repeat analysis. Resampling is not required if:
- (a) The RVSA performs sampling at the Indirect User at a frequency of at least once per month; or
  - (b) The RVSA performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the RVSA receives the results of this sampling.

**SECTION 412: SAMPLING WAIVERS FOR CATEGORICAL POLLUTANTS**

- 412.1 The RVSA may authorize the Indirect User subject to a categorical Pretreatment Standard to forego sampling of a pollutant regulated by a categorical Pretreatment Standard if the Indirect User has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Indirect User. This authorization is subject to the following conditions:
- (a) The RVSA may authorize a waiver where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical Standard and otherwise includes no process wastewater.
  - (b) The monitoring waiver is valid only for the duration of the effective period of the Permit, but in no case longer than 5 years. The User must submit a new request for the waiver before the waiver can be granted for each subsequent Permit.

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

The request for a monitoring waiver must be signed in accordance with and include the certification statement in Section 407.4. Non-detectable sample results may only be used as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

- (d) Any grant of the monitoring waiver by the RVSA must be included as a condition in the User's Permit. The reasons supporting the waiver and any information submitted by the User in its request for the waiver will be maintained by the RVSA for 5 years after the expiration of the waiver.
- (e) Upon approval of the monitoring waiver and revision of the User's Permit by the RVSA, the Indirect User must certify on each report with the statement below, that there has been no increase in the pollutant in its wastestream due to activities of the Indirect User:

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR [applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under 40 CFR 403.12(e)(1).

- (f) In the event that a waived pollutant is found to be present or is expected to be present based on changes that occur in the User's operations, the User must immediately: Comply with the monitoring requirements of 40 CFR 403.12(e)(1) or other more frequent monitoring requirements imposed by the RVSA; and notify the RVSA.
- (g) This provision does not supersede certification processes and requirements established in categorical Pretreatment Standards, except as otherwise specified in the categorical Pretreatment Standard.

**PART V: USER CHARGE****SECTION 501: PURPOSE AND POLICY**

501.1 State law requires that each User of a POTW pay a fair and equitable amount of the operation and maintenance costs of the RVSA. The POTW will assess charges annually for the BOD, suspended solids and flow discharged by each member municipality. Each municipality shall then maintain a fair and equitable system of charges to its sewer Users. In addition to the RVSA assessment, member municipalities may include local operation and maintenance costs in establishing User Charges. There are several methods of assessing User Charges. Each method requires separate billing of Users generating the equivalent of 25,000 gallons per pay of domestic wastewater for their contribution of BOD, suspended solids and flow. The methods include:

- (a) Ad valorem taxes;
- (b) Charges proportional to metered water use;
- (c) Charges based on actual metered sewer use; and
- (d) Charges based on the number of equivalent connections.

**SECTION 502: BILLING AND COLLECTION RESPONSIBILITIES**

502.1 In order to fulfill its responsibilities under the User Charge system RVSA shall:

- (a) Collect data to establish the volume and BOD and suspended solids concentrations of the wastewater discharged by each member municipality;
- (b) Determine the total flow, BOD and suspended solids assessment for each municipality;
- (c) Prepare invoices to bill each municipality for its total assessment; and
- (d) Collect usage data for some industrial establishments to assist municipalities in their billing.

502.2 In order to fulfill its responsibilities under the User Charge System each participating municipality shall:

- (a) Develop an acceptable User Charge System for submittal to the USEPA for approval. All of the methods listed in Section 501.1 have been approved in the past;
- (b) Establish and implement procedures for billing and collection of the applicable User Charges including the annual Indirect User Discharge Permit fee from Indirect Users;
- (c) Notify RVSA of any new, or changes in Indirect Users; and
- (d) Remit total municipal assessment to RVSA.

**SECTION 503: CALCULATION OF USER CHARGES**

- 503.1 All User Charges for Indirect Users shall be assessed and collected by each municipality in accordance with Appendix B, attached hereto.
- 503.2 Failure by a User to make timely payment to the municipality in which it is located shall constitute a violation of these Rules and Regulations.

**SECTION 504: CALCULATION OF INDIRECT USER DISCHARGE PERMIT FEE**

- 504.1 An annual Indirect User Discharge Fee shall be calculated based on the volume and the characteristics of the wastewater discharged. This fee shall include the cost to the RVSA to administer the Permit and to monitor the discharge for pertinent contaminants. The annual Permit fee shall be paid by each municipality on or before the actual due date as indicated on the Invoice, which is usually August 1st. Interest shall be charged at a rate of six (6%) percent per annum and shall accrue on unpaid balances beginning on the date due.

**SECTION 505: PAYMENT OF USER CHARGES**

- 505.1 All charges to municipalities shall be billed annually and shall be due and payable in two (2) equal installments, April 1st and July 1st, and shall be paid to the Treasurer of the RVSA. All charges to the municipalities shall be apportioned on the basis of the five (5) year moving average, per the 1995 Inter-municipal Agreement. Any payments which are made after the date when they are due and payable, shall accrue interest from the due date at the rate of six (6%) percent per annum.

**SECTION 506: CHANGE OF USER CLASS**

- 506.1 In order for each municipality to keep RVSA informed of all new or changed Indirect Users, the following information shall be submitted to RVSA when the municipality is notified or becomes aware of the new or changed User:
- (a) Name and address of the User; and
  - (b) Name and address of the official to be contacted at the Users facility.

**PART VI: ADMINISTRATION****SECTION 601: AUTHORITY VIOLATIONS PENALTIES AND CIVIL LIABILITY**

- 601.1 These Rules and Regulations are adopted pursuant to N.J.S.A. 40:14A-7(11), and N.J.S.A. 58:10A-1 et seq. and other appropriate Federal, State and local statutes and municipal ordinances.
- 601.2 Violations of any provision(s) of these Rules and Regulations, including but not limited to, the failure to pay fees, charges or surcharges imposed, or any violation of any condition or pretreatment limitation of an Indirect User Discharge Permit issued pursuant thereto shall be subject to such penalties as are authorized by N.J.S.A. 58:10A-1 et seq. and N.J.S.A. 58:11-54, 55 and 56, and all such other remedies as are available by law.
- 601.3 The Executive Director, or his designee, shall at his discretion employ any of the enforcement options available under N.J.S.A. 58:10A-10 including:
- (a) Issuing an Order pursuant to N.J.S.A. 58:10A-10(a)(1) and/or N.J.S.A. 58:10A-10(b). Whenever the RVSA finds that any User is in violation of any provision(s) of these Rules and Regulations, any condition or limitation of an Indirect User Discharge Permit issued pursuant thereto, any Order, or Pretreatment Standard, an Order may be issued:
    - (1) Specifying the provision(s) which is in violation;
    - (2) Citing the action which caused such violation;
    - (3) Requiring compliance with such provision or provisions; and
    - (4) Giving notice to the User of its right to a hearing on the matters contained in the Order.
  - (b) Bringing a civil action in Superior Court pursuant to N.J.S.A. 58:10A-10(a)(2) and/or N.J.S.A. 58:10A-10(c), whereby the RVSA may bring a civil action in Superior Court for appropriate relief for any violation of any provision(s) of these Rules and Regulations, any condition or limitation of an Indirect User Discharge Permit issued pursuant thereto, any Order, or Pretreatment standard adopted or issued hereunder. Such relief may include, singly or in combination:
    - (1) A temporary or permanent injunction;
    - (2) Assessment of the violator for the reasonable costs of any investigation, inspection, or monitoring survey which led to the establishment of the violation, and for the reasonable costs of preparing and litigating the case under this Subsection;
    - (3) Assessment of the violator for any reasonable cost incurred by the RVSA in removing, correcting or terminating the adverse effects upon water quality resulting from any unauthorized discharge of pollutants for which the action under this Subsection may have been brought;

- (4) Assessment against the violator of compensatory damages for any loss or destruction of wildlife, fish or aquatic life, or other natural resources, and for any other actual damages caused by the unauthorized discharge; and
- (5) Assessment against a violator of the actual amount of any economic benefits accruing to the violator from a violation. Economic benefits may include the amount of any savings realized from avoided capital or non-capital costs resulting from the violation; the return earned or that may be earned on the amount of avoided costs; any benefits accruing to the violator as a result of a competitive market advantage enjoyed by reason of the violation; or any other benefits resulting from the violation.

Assessments under item (4) of this Subsection shall be paid to the RVSA, except that compensatory damages shall be paid by specific order of the court to any Users who have been aggrieved by the unauthorized discharge. Assessments pursuant to actions brought by the RVSA under items (2), (3) and (5) of this Subsection shall be paid to the "Clean Water Enforcement Fund", established pursuant to Section 12 of P.L. 1990, c.28(C.58:10A-14.4).

- (c) Assessing a civil penalty pursuant to N.J.S.A. 58:10A-10(a)(4), and/or N.J.S.A. 58:10A-10(e) which states that any User who violates these Rules and Regulations, a Permit, Pretreatment standard or requirement, or an administrative order issued pursuant to 601.3(a) above, or a court order issued pursuant to 601.3(b), above, or who fails to pay a civil administrative penalty in full pursuant to N.J.S.A. 58:10A-10(d), or to make a payment pursuant to a payment schedule entered into with the RVSA, shall be subject upon order of a court to a civil penalty not to exceed \$50,000 per day of such violation, and each day's continuance of the violation shall constitute a separate violation. Any penalty incurred under this Subsection may be recovered with costs, and, if applicable, interest charges, in a summary proceeding pursuant to "the penalty enforcement law" (N.J.S.A. 2A:58-10 et seq.). In addition to any civil penalties, costs or interest charges, the court, in accordance with N.J.S.A. 58:10A-10(c)(5) may assess against a violator the amount of any actual economic benefits accruing to the violator from the violation. The Superior Court shall have jurisdiction to enforce "the penalty enforcement law" in conjunction with this Section.
- (d) The RVSA may assess a civil administrative penalty against each violator who submits inaccurate information or who makes a false statement, representation, or certification in any application, record, or other document required to be submitted or maintained, or who falsifies, tampers with or renders inaccurate any monitoring device or method required to be maintained under the Water Pollution Control Act or the New Jersey Underground Storage of Hazardous Substances Act or any rule, water quality standard, effluent limitation, administrative order or permit issued pursuant thereto. A violation under this section is non-minor and, therefore, not subject to a grace period.
  - (1) Each day, from the day of submittal by the violator of the false or inaccurate information to the RVSA to the day of receipt by the RVSA of a written correction by the violator shall be an additional, separate and distinct violation.

- (2) The RVSA shall assess a civil administrative penalty for violations described in this section based on the conduct of the violator at the midpoint of the following ranges except as adjusted pursuant to (3) below:
  - (A) For each intentional, deliberate, purposeful, knowing or willful act or omission by the violator, the civil administrative penalty shall be in an amount up to \$50,000 per act or omission;
  - (B) For each other violation not identified pursuant to (2)(A) above for which the violator does not correct the violation within 10 days after becoming aware of the violation, the civil administrative penalty shall be in an amount up to \$30,000; and
  - (C) For each other violation not identified pursuant to (2)(A) above for which the violator corrects the violation within 10 days after becoming aware of the violation, the civil administrative penalty shall be in an amount up to \$1,000.
- (3) The RVSA may, in its discretion, adjust the amount determined pursuant to (2) above to assess a civil administrative penalty in an amount no greater than the maximum amount nor less than the minimum amount in the range on the basis of the following factors:
  - (A) The compliance history of the violator;
  - (B) The number, frequency and severity of the violations;
  - (C) The measures taken by the violator to mitigate the effects of the current violation or to prevent future violations;
  - (D) The deterrent effect of the penalty;
  - (E) The cooperation of the violator in correcting the violation, remedying any environmental damage caused by the violation and ensuring that the violation does not reoccur;
  - (F) Any unusual or extraordinary costs or impacts directly or indirectly imposed on the public or the environment as a result of the violation;
  - (G) Any impacts on the receiving water, including stress upon the aquatic biota, or impairment of receiving water uses, such as for recreational or drinking water supply, resulting from the violation; and
  - (H) Other specific circumstances of the violator or violation.
- (e) Petition the Attorney General or County Prosecutor to bring a criminal action pursuant to N.J.S.A. 58:10A-10(f). Any person who purposely, knowingly, or recklessly violates any provision(s) of these Rules and Regulations, any condition or limitation of an Indirect User Discharge Permit issued pursuant thereto, any Order, or Pretreatment standard adopted or issued hereunder, and the violation causes a significant adverse environmental effect, shall, upon conviction, be guilty of a crime of the second degree, and shall,

notwithstanding the provisions of Subsection a. of N.J.S.A. 2C:43-3, be subject to a fine of not less than \$25,000 nor more than \$250,000 per day of violation, or imprisonment, or both. A violation under this section is non-minor and, therefore, not subject to a grace period.

- (1) As used in this Subsection, a significant adverse environmental effect exists when an action or omission of the defendant causes: serious harm or damage to wildlife, freshwater or saltwater fish, any other aquatic or marine life, water fowl, or to their habitats, or to livestock, or agricultural crops; serious harm, or degradation of, any ground or surface waters used for drinking, agricultural, navigational, recreational, or industrial purposes; or any other serious articulable harm or damage to, or degradation of, the lands or waters of the State, including ocean waters subject to its jurisdiction pursuant to P.L. 1988, c. 61 (C.58:10A-47 et seq.).
- (2) Any person who purposely, knowingly, or recklessly violates any provision(s) of these Rules and Regulations, any condition or limitation of an Indirect User Discharge Permit issued pursuant thereto, any Order, or Pretreatment standard adopted or issued hereunder, including making a false statement, representation, or certification in any application, record, or other document filed or required to be maintained under these Rules and Regulations, or by falsifying, tampering with, or rendering inaccurate any monitoring device or method required to be maintained pursuant to these Rules and Regulations, or by failing to submit a monitoring report, or any portion thereof, required pursuant to this Rules and Regulations, shall, upon conviction, be guilty of a crime of the third degree, and shall, notwithstanding the provisions of Subsection b. of N.J.S.A. 2C:43-3, be subject to a fine of not less than \$5,000 nor more than \$75,000 per day of violation, or imprisonment, or both.
- (3) Any person who negligently violates these Rules and Regulations, including making a false statement, representation, or certification in any application, record, or other document filed or required to be maintained under these Rules and Regulations, or by falsifying, tampering with, or rendering inaccurate any monitoring device or method required to be maintained pursuant to these Rules and Regulations, or by failing to submit a discharge monitoring report, or any portion thereof, required pursuant to these Rules and regulations, shall, upon conviction, be guilty of a crime of the fourth degree, and shall, notwithstanding the provisions of Subsection b. of N.J.S.A. 2C:43-3, be subject to a fine of not less than \$5,000 nor more than \$50,000 per day of violation, or imprisonment, or both.
- (4) Any person who purposely or knowingly violates an effluent limitation or other condition of a permit, or who discharges without a permit, and who knows at that time that he thereby places another person in imminent danger of death or serious bodily injury, as defined in Subsection b. of N.J.S.A. 2C:11-1, shall, upon conviction, be guilty of a crime of the first degree, and shall, notwithstanding the provisions of Subsection a. of N.J.S.A. 2C:43-3, be subject to a fine of not less than \$50,000 nor more than \$250,000, or, in the case of a corporation, a fine of not less than \$200,000 nor more than \$1,000,000, or imprisonment or both.



- (5) As used in this Subsection, “purposely,” “knowingly,” “recklessly,” and “negligently” shall have the same meaning as defined in N.J.S.A. 2C:22.
- (f) Assessing a civil administrative penalty pursuant to N.J.S.A. 58:10A-10.5, N.J.S.A. 58:10A-10.6, N.J.S.A. 58:10A-10.7, N.J.S.A. 58:10A-10.8 and/or N.J.A.C. 7:14-8 et seq., as follows:
- (1) Administrative Penalties, Notice Requirements, Hearings

The RVSA may issue a civil administrative penalty for any violation of the provisions of P.L. 1977, c.74 (C.58:10A-1 et seq.), including a violation of any provision(s) of these Rules and Regulations, any condition or limitation of an Indirect User Discharge Permit issued pursuant thereto, any Order, or Pretreatment standard adopted or issued hereunder, or assess, by civil administrative order, any costs recoverable pursuant to Subsection c. of Section 10 of that Act, including the reasonable costs of investigation and inspection, and preparing and litigating the case before an administrative law judge pursuant to this Section, except assessments for compensatory damages and economic benefits. Notice of the penalty or assessment shall be given to the violator in writing by the RVSA, and payment of the penalty or assessment shall be due and payable, unless a hearing is requested by the violator in writing and in full compliance with N.J.A.C. 7:14-8.4 (a), within twenty (20) days of the violator’s receipt of notice. If a hearing is requested, the penalty or assessment shall be deemed a contested case and shall be submitted to the Office of Administrative Law for an administrative hearing in accordance with Sections 9 and 10 of P.L. 1968, c.410 (C.52:14B-9 and 52:14B-10).

- (2) Administrative Law Judge Decisions

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

## (3) Final Decisions of the RVSA

A final decision or order of the Executive Director of the RVSA shall be in writing or stated in the record. A final decision shall include separately stated findings of fact and conclusions of law, based upon the evidence of record at the hearing of the administrative law judge. Findings of fact shall be accompanied by a concise and explicit statement of the underlying facts supporting the findings. A final decision or order may incorporate by reference any or all of the recommendations of the administrative law judge.

Parties of record shall be notified either by personal service or by mail of any final decision or order. Upon request, a copy of the decision or order shall be delivered or mailed forthwith by registered or certified mail to each party of record and to a party's attorney of record.

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

## (4) Appeals: Collection of Penalties

(A) User may appeal a civil administrative penalty or assessment levied in accordance with Section 2 of P.L. 1991, c.8 (C58:10A-10.5) whether contested as a contested case pursuant to P.L. 1968, c.410 (C52:14B-1 et seq.) or by appeal to a court of competent jurisdiction.

(B) A User who is assessed a civil administrative penalty, or is subject to an assessment levied pursuant to Section 2 of P.L. 1991, c.8 (C.58:10A-10.5), and fails to contest or pay the penalty or assessment, or fails to enter into a payment schedule with the RVSA within thirty (30) days of the date that the penalty or assessment is due and owing, shall be subject to an interest charge on the amount of the penalty or assessment from the date that the amount was due and owing. The rate of interest shall be that authorized pursuant to Subsection 601.5.1 of these Rules and Regulations.

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

(D) A civil administrative penalty or assessment imposed pursuant to a final order: 1) may be collected or enforced by summary proceedings in a court of competent jurisdiction in accordance with "the penalty enforcement law," (N.J.S.A. 2.A:58-10 et seq.) or 2) shall constitute a debt of the violator, and the civil administrative penalty may be docketed

with the clerk of the Superior Court, and shall have the same standing as any judgment docketed pursuant to N.J.S.A. 16-1.

- (5) Civil administrative penalty settlement restrictions in accordance with N.J.A.C. 7:14-8.3(e).

The RVSA may settle any civil administrative penalty assessed pursuant to this subchapter according to the following factors:

- (A) Mitigating or extenuating circumstances not considered in the notice of civil administrative penalty assessment;
  - (B) The implementation by the violator of pollution prevention and/or abatement measures in addition to those minimally required by applicable statute or rule;
  - (C) The implementation by the violator of measures to clean up reverse or repair environmental damage previously caused by the violation;
  - (D) The full payment by the violator of a specified part of the civil administrative penalty assessed if made within a time period established by the RVSA in an administrative order and/or a notice of civil administrative penalty assessment and provided that the violator waives the right to request an adjudicatory hearing on the civil administrative penalty;
  - (E) Any other terms or conditions acceptable to the RVSA; and/or
  - (F) The RVSA may reduce the civil administrative penalty up to fifty (50%) percent, provided that the penalty as reduced is not less than any applicable minimum amount set forth in N.J.A.C. 7:14-8.5(a) or 8.9(e); but the RVSA may not reduce the amount of any component of a civil administrative penalty which represents the economic benefit gained by the violator from the violation.
- (g) Issuing a Summons Pursuant to N.J.S.A. 58:10A-10.4: The RVSA may issue a summons for a violation of any provision of P.L. 1977, c.74 (C.58:10A-1 et seq.), including a violation of any provision(s) of these Rules and Regulations, any condition or limitation of an Indirect User Discharge Permit issued pursuant thereto, any Order, or Pretreatment standard adopted or issued hereunder. If the amount of the civil penalty assessed is \$5,000 or less. The summons shall be enforceable, in accordance with the penalty enforcement law, N.J.S.A. 2A:58-10 et seq., in the municipal court of the territorial jurisdiction in which the violation occurred. The summons shall be signed and issued by any person authorized to enforce the provisions of P.L. 1977, c.74 (C.58:10A-1 et seq.). Proceedings before, and appeals from a decision of, a municipal court shall be in accordance with Rules Governing the Court of the State of New Jersey. Of the penalty amount collected pursuant to an action brought in a municipal court pursuant to this section, ten (10%) percent shall be paid to the municipality or municipalities in which the court retains jurisdiction for use for court purposes, with the remainder to be retained by the department or the delegated local agency.

- (h) Under N.J.S.A. 58:11-56, if the RVSA finds that any person, corporation or municipality is discharging in violation of the any provision(s) of these Rules and Regulations, any condition or limitation of an Indirect User Discharge Permit issued pursuant thereto, any Order, or Pretreatment standard adopted or issued hereunder, the RVSA may, in addition to any remedy provided under that act, and under the permit, take such steps as may be necessary to seal off or close off such sewerage connection from the RVSA sewerage system until it is satisfied that adequate measures have been taken to prevent the reoccurrence of such violation.
- (i) Under 40 CFR 403.8(f)(1)(vi)(B), the RVSA may immediately halt or prevent any discharge which a) reasonably appears to present imminent endangerment to the health of persons, or b) presents or may present an endangerment to the environment or which threatens to interfere with the operation of the RVSA Wastewater Collection and Treatment System.

#### 601.3.1 Enforcement Response Plan

601.3.1A The RVSA will implement its enforcement policy by means of an Enforcement Response Plan (Appendix C) which outlines in an orderly fashion the procedures to be followed by the RVSA to identify, document, and respond to User violations of any provision(s) of these Rules and Regulations, any condition or limitation of an Indirect User Discharge Permit issued pursuant thereto, any Order, or Pretreatment standard adopted or issued hereunder, as follows:

When the RVSA has determined that a User has violated, or continues to violate, any provision of these Rules and Regulations, a Permit, any Order issued hereunder, or any other pretreatment standard or requirement, the RVSA may initiate one (1) or more of the following administrative actions:

- (a) The RVSA may send a Notice of Violation (NOV) to the User informing the User that a violation has occurred. A notice of penalty assessment may be included in the NOV. Within ten (10) days of the receipt of a NOV, an explanation of the violation and a plan for the satisfactory correction and prevention thereof shall be submitted by the User. Submission of this plan in no way relieves the User of liability for any violations occurring before or after receipt of the NOV. Nothing in this Section shall limit the authority of the RVSA to take any action, including emergency actions or any other enforcement action, without first issuing a NOV.
- (b) Whenever the RVSA finds that any User is in violation, it may issue an Order:
  - (1) Specifying the provision(s) of these Rules and Regulations, a Permit, any Order issued hereunder, or any other pretreatment standard or requirement, which is in violation;
  - (2) Citing the action which caused such violation;
  - (3) Requiring compliance with such provision(s); and
  - (4) Giving notice to the User of its right to a hearing on the matters contained in the order.

- (5) Noting if the violation is subject to a grace period and the length of the grace period, if applicable.

601.3.1B The RVSA may use any one of the following types of Administrative Orders as components of its Enforcement Response:

(a) Consent Order

An agreement between the RVSA and the User which may contain the following:

- (1) Compliance Schedule;
- (2) Administrative fine or remedial action; or
- (3) Signatory endorsement by the RVSA and the authorized industry representative.

(b) Show Cause Order

An Order which directs the non-complying User to appear at a hearing before the RVSA, to explain the noncompliance and to show cause why additional enforcement actions against the User should not proceed. The Order will identify the date, time and place of the hearing. The notice of the hearing shall be served personally or by registered or certified mail at least twenty (20) days prior to the hearing. Such notice may be served on any authorized representative of the User. A show cause hearing shall not be a bar against, or prerequisite for, taking any other enforcement action against the User.

(c) Compliance Orders

An Order to a non-complying User directing that the User come into compliance within a specified time. If the User does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. A Compliance Order may also contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the RVSA.

(d) Cease and Desist Orders

An Order to the User directing it to cease and desist all non-complying discharges to the RVSA or to terminate the discharge altogether. A Cease and Desist Order may direct the User:

- (1) Immediately to comply with all requirements; and
- (2) To take such appropriate remedial or preventive action as may be needed to address properly a continuing or threatened violation, including halting operations and/or terminating the discharge.

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

- (3) When the RVSA determines that a User has violated, or continues to violate any provision(s) of these Rules and Regulations, any condition or limitation of an Indirect User Discharge Permit issued pursuant thereto, any Order, or Pretreatment standard adopted or issued here under may assess an administrative penalty in an amount not to exceed \$50,000 for each violation. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.

(e) Public Notice on Administrative Consent Orders

The RVSA shall afford an opportunity to the public to comment on any proposed Order prior to final adoption if the Administrative Consent Order will establish interim enforcement limits that will relax effluent limitations established in a permit or in a prior Administrative Consent Order. The RVSA shall provide public notice of the proposed Administrative Consent Order, and announce the length of the comment period, which shall not be less than thirty (30) days, commencing from the date of publication of the notice. The notice shall also include a summary statement describing the nature of the violation necessitating the Administrative Consent Order and its terms or conditions; shall specify how additional information on the Administrative Consent Order may be obtained; and shall identify to whom written comments are to be submitted. At least three (3) days prior to publication of the notice, a written notice, containing the same information to be provided in the published notice, shall be mailed to the mayor or chief executive officer and governing body of the municipality and county in which the violation occurred, and to any other interested persons, including any other governmental agencies. The RVSA shall consider the written comments received during the comment period prior to final adoption of the Administrative Consent Order. No later than the date that final action is taken on the proposed order, the RVSA shall notify each person or group having submitted written comments of the main provisions of the approved Administrative Consent Order and respond to the comments received therefrom.

(f) Public Hearings on Proposed Administrative Orders and/or Administrative Consent Orders

The RVSA, on its own initiative or at the request of any person submitting written comments pursuant to the above, may hold a public hearing on the proposed administrative order or administrative consent order, prior to final adoption if the order would establish interim enforcement limits that would relax for more than twenty-four (24) months effluent limitations established in a permit or a prior administrative order or administrative consent order. Public notice for the public hearing to be held pursuant to this provision shall be published not more than thirty (30) and not less than fifteen (15) days prior to the holding of the hearing. The hearing shall be held in the municipality in which the violation necessitating the order occurred.

(g) Determination of “Seriousness” and “Conduct” of Violator

Penalties may be assessed through several enforcement mechanisms, including but not limited to a Notice of Violation (NOV) and/or Administrative Order, as outlined above.

Administrative Fines shall be assessed on the basis of the “seriousness” of the violation and the “conduct” of the violator, according to Sections (g); and (h), (i) and (j) below.

The “seriousness” of the violation shall be determined as “major,” “moderate,” or “minor” as follows:

- (1) Major Seriousness shall include:
  - (A) Any violation of any effluent limitation that is measured by concentration or mass for any discharge exceeding the effluent limitation as follows:
    - (i) By more than fifty (50%) percent for a hazardous pollutant; or
    - (ii) By more than one hundred (100%) percent for a non-hazardous pollutant; or
    - (iii) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment; or
  - (B) The greatest violation of a pH effluent range in any one (1) calendar day which violation deviates from the midpoint of the range by more than fifty (50%) percent of the midpoint of the range excluding the excursions specifically excepted by a NJPDES/SIU issued permit with continuous pH monitoring; or
  - (C) Any other violation not included in (g)(1)(A) or (g)(1)(B) above which either:
    - (i) Has caused or has the potential to cause serious harm to human health or the environment; or
    - (ii) Seriously deviates from the requirements of the New Jersey Water Pollution Control Act or of any rule, pretreatment standards, effluent limitation, administrative order or permit issued pursuant thereto; serious deviation shall include, but not be limited to, those violations that are in complete contravention of the requirement, or some of the requirement is met, which severely impair or undermine the operation or intent of the requirement.
- (2) Moderate Seriousness shall include:
  - (A) Any violation, other than a violation of an effluent limitation identified in (g)(2)(B) or (g)(2)(C) below, which has caused or has the potential to cause substantial harm to human health or the environment;
  - (B) Any violation of an effluent limitation which is measured by concentration or mass of any discharge exceeding the effluent limitation as follows:
    - (i) By twenty (20%) to fifty (50%) percent for a hazardous pollutant; or

- (ii) By forty (40%) to one hundred (100%) percent for a non-hazardous pollutant.
  - (C) The greatest violation of a pH effluent range in any one (1) calendar day which violation deviates from the midpoint of the range by at least forty (40%) percent but not more than fifty (50%) percent of the midpoint of the range excluding the excursion specifically excepted by a NJPDES/SIU issued permit with continuous pH monitoring; or
  - (D) Any violation, other than a violation of an effluent limitation identified in (g)(2)(B) or (g)(2)(C) above, which substantially deviates from the requirements of the New Jersey Water Pollution Control Act or of any rule, pretreatment standards, effluent limitation, administrative order or permit issued pursuant thereto; substantial deviation shall include, but not be limited to, violations that are in substantial contravention of the requirements or which substantially impair or undermine the operation or intent of the requirement.
- (3) Minor Seriousness shall include:
  - (A) Any violation, other than a violation of an effluent limitation identified in (g)(3)(B) or (g)(3)(C) below, not included in (g)(1) or (g)(2) above;
  - (B) Any violation of an effluent limitation which is measured by concentration or mass for any discharge exceeding the effluent limitation as follows:
    - (i) By less than twenty (20%) percent for a hazardous pollutant; or
    - (ii) By less than forty (40%) percent for a non-hazardous pollutant; or
  - (C) The greatest violation of a pH effluent range in any one (1) calendar day which violation deviates from the midpoint of the range by less than forty (40%) percent of the midpoint of the range excluding the excursions specifically excepted by a NJPDES/SIU issued permit with continuous pH monitoring.
- (h) The “conduct” of the violation shall be determined as “major,” “moderate,” or “minor” as follows:
  - (1) Major Conduct shall include any intentional, deliberate, purposeful, knowing or willful act or omission by the violator;
  - (2) Moderate Conduct shall include any unintentional but foreseeable act or omission by the violator; or
  - (3) Minor Conduct shall include any other conduct not included in (h)(1) or (h)(2) above.



- (i) The RVSA may at its discretion assess an administrative penalty in an amount not greater than the maximum nor less than the minimum amount in the matrix range provided below in this Section on the basis of the following factors as per N.J.A.C. 7:14-8.16(i):
  - (1) The compliance history of the violator
    - (A) No violations of the same effluent limitation and discharge point at all in the two (2) years immediately preceding the pending violation shall result in a reduction equal to twenty-five (25%) percent of the midpoint.
    - (B) No serious or fewer than four (4) lesser violations of the same effluent limitation and discharge point in the two (2) years immediately preceding the pending violation shall result in a reduction equal to ten (10%) percent reduction of the midpoint.
    - (C) One (1) isolated serious violation or four (4) or more lesser violations of the same effluent limitation and discharge point in the two years immediately preceding the date of the pending violation shall result in an increase equal to ten (10%) percent of the midpoint.
    - (D) Any violation(s) which caused a person to become or remain in significant noncompliance for two (2) or more isolated serious violations where such violations are of the same effluent limitation and discharge point in the two (2) years immediately preceding the date of the pending violation shall result in a twenty-five (25%) percent increase from the midpoint.
  - (2) Where the nature, timing and effectiveness of any measures taken by the violator to mitigate the effects of the violation for which the penalty is being assessed results in compliance within thirty (30) days of receipt of the Notice Of Violation from the RVSA;
  - (3) Any unusual or extraordinary costs or impacts directly or indirectly imposed on the public or the environment as a result of the violation;
  - (4) Any impacts on the receiving water, including stress upon the aquatic biota or impairment of receiving water uses, such as for recreational or drinking water supply, resulting from the violation; and
  - (5) Other specific circumstances of the violator or violation.
- (j) The following Penalty Assessment Matrix shall be used to determine the appropriate administrative fine for any violation assessed by the RVSA.

		<b>SERIOUSNESS</b>		
		<u>Major</u>	<u>Moderate</u>	<u>Minor</u>
<b>CONDUCT</b>	<u>Major</u>	\$10,000-\$50,000	\$5,000-\$25,000	\$2,000-\$13,000
	<u>Moderate</u>	\$5,000-\$10,000	\$2,500-\$5,000	\$500-\$3,000
	<u>Minor</u>	\$500-\$7,500	\$500-\$2,500	\$250-\$1,250

(k) Mandatory Minimum Penalties

Mandatory Minimum Penalties shall be assessed according to the requirements of N.J.A.C. 7:14-8.1 et seq., which requires the RVSA to assess civil administrative penalties in situations where Users have committed a serious violation, or a violation, which causes the violator to be, or continue to be, in Significant Noncompliance. The RVSA is required to assess a penalty for each effluent parameter omitted on a Discharge Monitoring Report (DMR). The mandatory minimum penalties required to be assessed include \$1,000 per serious violation, \$5,000 for a violation which causes the violator to be or continue to be in significant noncompliance, and \$100 per day (maximum of \$50,000) for each effluent parameter omitted on a DMR. A violation under this section is non-minor and, therefore, not subject to a grace period.

601.3.2 Of the amount of any civil administrative penalty assessed and collected pursuant to an action brought by the RVSA, ten (10%) percent shall be deposited in the Wastewater Treatment Operators Training Account, established in accordance with N.J.S.A. 58:10A-14.5, and used to finance the cost of training operators of municipal treatment works. The remainder shall be used by the RVSA solely for enforcement purposes, and for upgrading municipal treatment works.

601.4 Publication of Users in Significant Noncompliance

The RVSA shall publish annually, in a newspaper(s) of general circulation that provides meaningful public notice within the jurisdiction served by the RVSA, a list of the Indirect Users which, at any time during the previous twelve (12) months, were determined to be in Significant Noncompliance with applicable pretreatment standards and requirements. Significant Noncompliance is defined in Section 102.1(hhh) of these Rules and Regulations.

601.5 All administrative penalties assessed pursuant to this Section shall be paid to the Treasurer of the RVSA within thirty (30) days after the date of the Notice Of Violation setting forth the penalty assessed, unless a request for reconsideration pursuant to Section 108 of these Rules and Regulations is filed with the RVSA within seven (7) calendar days after the date of the Notice Of Violation.

601.5.1 Interest shall accrue on the unpaid balance of an administrative penalty at the rate established by the New Jersey Supreme Court for interest rates on judgments as set forth in the Rules Governing the Courts of the State of New Jersey, or at any other rate which is required or permitted by applicable statute or regulation. Interest shall begin to accrue on the 30th day after the date on which the administrative penalty was due and owing and continue until the administrative penalty is paid in full with interest.

## **SECTION 602: GRACE PERIOD RULE**

602.1 Applicability and Procedures

- (a) Each violation identified in the table at Section 602.2 by an “M” in the Type of Violation column and for which the conditions at (c) below are satisfied, is a minor violation, and is subject to a grace period, the length of which is indicated in the column with the heading “Grace Period”.

- (b) Each violation identified in the table at Section 602.2 by an “NM” in the Type of Violation column is a non-minor violation and is not subject to a grace period.
- (c) The RVSA shall provide a grace period for any violation identified as minor under this section, provided the following conditions are met:
  - (1) The violation is not the result of purposeful, knowing, reckless or criminally negligent conduct of the person responsible for the violation;
  - (2) The violation poses minimal risk to the public health, safety and the environment;
  - (3) The violation does not materially and substantially undermine or impair the goals of the regulatory program;
  - (4) The activity or condition constituting the violation is capable of being corrected and compliance achieved within the time prescribed by the RVSA;
  - (5) The activity or condition constituting the violation has existed for less than 12 months prior to the date of discovery by the RVSA;
  - (6) In the case of a violation that involves a permit, the person responsible for the violation has not been identified in a previous enforcement action by the RVSA as responsible for a violation of the same requirement of the same permit within the preceding 12-month period;
  - (7) In the case of a violation that does not involve a permit, the person responsible for the violation has not been notified in a previous enforcement action by the RVSA as responsible for the same or substantially similar violation at the same facility within the preceding 12-month period; and
  - (8) In the case of any violation, the person responsible for the violation has not been identified by the RVSA as responsible for the same or substantially similar violations at any time that reasonably indicate a pattern of illegal conduct and not isolated incidents on the part of the person responsible.
- (d) For a violation determined to be minor under (c) above, the following provisions apply:
  - (1) The RVSA shall issue a notice of violation to the person responsible for the minor violation that:
    - (A) Identifies the condition or activity that constitutes the violation and the specific statutory and regulatory provision or other requirement violated; and
    - (B) Specifies that a penalty may be imposed unless the minor violation is corrected and compliance is achieved within the specified grace period.
  - (2) If the person responsible for the minor violation corrects that violation and demonstrates, in accordance with (d)(3) below, that compliance has been

achieved within the specified grace period, the RVSA shall not impose a penalty for the violation.

- (3) The person responsible for a violation shall submit to the RVSA, before the end of the specified grace period, written information certified to be true and signed by the person responsible for the minor violation, detailing the corrective action taken or compliance achieved.
- (4) If the person responsible for the minor violation seeks additional time beyond the specified grace period to achieve compliance, the person shall request an extension of the specified grace period. The request shall be made in writing, be certified to be true and signed by the person responsible for the minor violation, and received by the RVSA no later than one week before the end of the specified grace period. The request shall include the anticipated time needed to achieve compliance, the specific cause or causes of the delay, and any measures taken or to be taken to minimize the time needed to achieve compliance. The RVSA may, at its discretion, approve in writing an extension, which shall not exceed 90 days, to accommodate the anticipated delay in achieving compliance. In exercising its discretion to approve a request for an extension, the RVSA may consider the following:
  - (A) Whether the violator has taken reasonable measures to achieve compliance in a timely manner;
  - (B) Whether the delay has been caused by circumstances beyond the control of the violator;
  - (C) Whether the delay will pose a risk to the public health, safety and the environment; and
  - (D) Whether the delay will materially or substantially undermine or impair the goals of the regulatory program.
- (5) If the person responsible for the minor violation fails to demonstrate to the RVSA that the violation has been corrected and compliance achieved within the specified grace period or within the approved extension, if any, the RVSA may, in accordance with the provision of this chapter, impose a penalty that is retroactive to the date the notice of violation under (d) 1 was issued.
- (6) The person responsible for a minor violation shall not request more than one extension of a grace period specified in a notice of violation.

#### 602.2 Table of minor and non-minor violations

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

- (b) The RVSA may assess a civil administrative penalty for a violation of the RVSA Rules and Regulations and/or for a violation of any rule, consent agreement or administrative order adopted or issued pursuant thereto, that is not listed in Table 1, following the procedure under (c) below.
- (c) For violations not listed in Table 1, the RVSA shall determine whether the violation is a minor violation and subject to a grace period or whether the violation is non-minor and not subject to a grace period as follows:
  - (1) If pursuant to (d) below, the violation is comparable to a violation listed in Table 1 and the comparable violation in Table 1 is minor, then the violation under this section is also minor, provided the criteria at Section 602.1 are also met. The minor violation shall be subject to the grace period set forth in Table 1 for the comparable violation.
  - (2) If the violation is not comparable to a violation listed in Table 1 and the violation meets all of the criteria at Section 602.1, then the violation under this section is minor. The minor violation shall be subject to a grace period of 30 days.
  - (3) If, pursuant to (d) below, the violation is comparable to a violation listed in Table 1 and the comparable violation in Table 1 is non-minor, then the violation under this section is also non-minor and the penalty shall be assessed in accordance with Section 601.3 (f).
  - (4) If the violation is not comparable to a violation listed in Table 1 and the violation does not meet the requirements of Section 602.1 above, the violation is non-minor and the penalty shall be assessed in accordance with Section 601.3 (f).
- (d) Comparability of a violation under (c) above with a violation listed in Table 1 is based upon the nature of the violation (for example, a violation of recordkeeping, permit limitation or monitoring).

TABLE 1

<b>Rule Citation</b>	<b>Description of Violation</b>	<b>Type of Violation</b>	<b>Grace Period</b>
Section 105	Failure of an Indirect User to allow authorized RVSA personnel access to inspect or sample a facility.	NM	n/a
Section 202	Failure of an Indirect User to notify the RVSA of significant change in volume of wastewater.	NM	n/a
Section 301.1	Discharge by a Significant Indirect User into the RVSA's treatment works without first obtaining an Indirect User Discharge Permit from the RVSA.	NM	n/a
Section 303.1	Failure of an existing Indirect User to submit a renewal application 180 days prior to expiration of current Permit.	NM	n/a
Section 306.1	Failure of an Indirect User to notify the RVSA within 14 days of any change in ownership or corporate structure.	M	30 days
Section 307.3	Failure of an Indirect User to have Discharge Permit application signed by an authorized representative.	M	30 days
Section 309.3	Failure of an Indirect User with a suspended permit to cease and desist discharge of all wastes regulated by Permit.	NM	n/a
Section 310.2	Failure of an Indirect User with a revoked permit to cease and desist discharge of all wastes regulated by Permit.	NM	n/a
Section 401	Discharge by an Indirect User into the RVSA's treatment works waste that is prohibited in 40 CFR Part 403.5.	NM	n/a
Section 402.1	Failure of an Indirect User to comply with a categorical pretreatment standard.	NM	n/a
Section 402.2	Discharge by an Indirect User into the RVSA's treatment works waste above a local limit developed by the RVSA.	NM	n/a
Section 402.7	Failure of an Indirect User to comply with equivalent concentration limits and mass limits.	NM	n/a
Section 402.9	Failure of an Indirect User with equivalent limits to notify the RVSA of change in production level.	NM	n/a
Section 404.1	Failure of an Indirect User to report to the RVSA of any exceedance of limitation, slug discharge, upset or bypass that poses a threat to human health or the environment within 2 hours of its occurrence.	NM	n/a
Section 406.2	Failure of an Indirect User to properly install and maintain pretreatment facilities.	NM	n/a
Section 407.1	Failure of an Indirect User subject to a categorical pretreatment standard to submit to the RVSA a baseline monitoring report.	NM	n/a

Table 1 (cont'd.)

Section 407.1(a)(7)	Failure of an Indirect User to submit to the RVSA a progress report within 14 days of a compliance schedule milestone date.	NM	n/a
Section 407.1(b)	Failure of an Indirect User to submit to the RVSA within 90 days a compliance report.	NM	n/a
Section 407.1(c)	Failure of a Significant Indirect User to submit to the RVSA a monthly Discharge Monitoring Report (DMR).	NM	n/a
Section 407.1(d)	Failure of an Indirect User to submit to the RVSA a Semi-Annual (Periodic) Compliance Report.	NM	n/a
Section 407.1(e)	Failure of an Indirect User to submit to the RVSA an Annual Report.	NM	n/a
Section 407.3	Failure of a Non-Significant Indirect User to submit annual certification.	NM	n/a
Section 407.4	Failure to have permit applications, requests for authorization, reports required by permits other than discharge monitoring reports, and other requested information signed by a person prescribed in Section 102.1(a).	M	30 days
Section 408.1	Failure of an Indirect User to maintain records necessary to demonstrate compliance (including BMP documentation) for a minimum of 5 years.	NM	n/a
Section 408.3	Failure of an Indirect User to notify the RVSA, the USEPA Regional Waste Management Division Director, and the Department's Division of Solid and Hazardous Waste in writing of any discharge into the RVSA's treatment works of a substance, which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261.	NM	n/a
Section 408.5(a)	Failure of an Indirect User to repeat sampling and analysis and report to RVSA within 30 days of becoming aware of the violation.	NM	n/a
Section 408.5(b)	Failure of an Indirect User with a Serious Violation or in SNC to sample monthly until in compliance for 6 consecutive months.	NM	n/a
Section 410	Failure of an Indirect User to conduct analysis in accordance with procedures contained in 40 CFR Part 136, as amended, or with any other test procedures approved by the RVSA.	NM	n/a
Section 411.2	Failure of an Indirect User to include in its compliance report the results of monitoring that was performed more frequently than required by the RVSA.	NM	n/a
Section 411.4	Failure of an Indirect User to notify the RVSA within 24 hours or becoming aware of the violation of pretreatment standard.	NM	n/a
Section 412.1(e)	Failure of an Indirect User that has been granted a waiver to submit required certification statement.	NM	n/a

**SECTION 603: SAVINGS CLAUSE**

603.1 If any provision, paragraph, work, Section or article of these Rules and Regulation is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, Sections and articles shall not be affected and shall continue in full force and effect.

**SECTION 604: CONFLICT**

604.1 All Rules and Regulations and parts thereof inconsistent or conflicting with any part of these Rules and Regulations are hereby repealed to the extent of such inconsistency or conflict.

**SECTION 605: EFFECTIVE DATE**

605.1 These Rules and Regulations shall be in full force and effect on March 1, 2010, and shall supersede those Rules previously approved by RVSA. A copy of these Rules and Regulations shall be filed with the Municipal Clerk of each participating municipality.



**APPENDIX A**

**MAXIMUM ALLOWABLE CONCENTRATIONS OF POLLUTANTS**

**FOR ALL NON-DOMESTIC USERS**

	<u>(mg/l)</u>
Arsenic	1
Chromium	3 (total)
Mercury	0.1
Cyanide (total)	0.1
Cadmium	0.1
Copper	3
Nickel	1
Zinc	3
Lead	0.5
Oil and Greases	150*
Sulfides	25

\* Daily maximum: 100 mg/l as a monthly average.

## APPENDIX B

### INDIRECT USER DISCHARGE PERMIT FEE STRUCTURE

The Indirect User Discharge Permit will be calculated based on the following equation:

$$\begin{array}{ccccccccc} \text{Flow} & \times & \text{Loading} & \times & \text{Number of} & = & \text{Permit} \\ \text{Factor} & & \text{Factor} & & \text{Sites samples} & & \text{Fee Points} \end{array}$$

Permit Fee = Permit Fee Points X Per Point Charge

#### FLOW FACTOR

If average daily flow is less than 5,000 GPD, the flow factor = 1

If average daily flow is greater than 5,000 GPD,  
but is less than 15,000 GPD, the flow factor = 2

If average daily flow is greater than 15,000 GPD,  
but is less than 30,000 GPD, the flow factor = 3

If average daily flow is greater than 30,000 GPD,  
but is less than 75,000 GPD, the flow factor = 4

If average daily flow is greater than 75,000 GPD, the flow factor = 5

#### LOADING FACTOR

If the average BOD or suspended solids concentration is:

Less than 100, the loading factor = 1

Equal to or greater than 100, but less than 200, the loading factor = 2

Equal to or greater than 200, but less than 300, the loading factor = 3

Equal to or greater than 300, but less than 700, the loading factor = 4

Equal to or greater than 700, the loading factor = 5

#### SAMPLE POINTS

The number of sample points means the number of locations where the RVSA monitors the Permittee's wastewater discharge to the collection system.

#### POINT CHARGE

In December of each year, the RVSA will calculate the total number of points for the past twelve (12) months for each Indirect User. The total number of points for all Users in the RVSA Wastewater Collection and Treatment System will be calculated. The budgeted cost of running the industrial pre-treatment program will be divided by the total number of Permit fee points to determine the per point charge.

**APPENDIX C**

**ENFORCEMENT RESPONSE PLAN**

Noncompliance	Nature of the Violation	Enforcement Responses	Time Frame	Personnel	Type of Violation & Grace Period (if any)
<b><u>Unauthorized Discharges</u></b>					
1. Discharge without a permit (Permit required)	No harm to POTW/environment	NOV with application form, if needed	60 days	1	NM
	Harm to POTW/ environment (IU meets SNC criteria under 40 CFR Part 403.8 (f)(2)(viii))	Cease & Desist; Public Notice	2 days; public notice annually	2	NM
	Noncompliance with order to submit application	Seek penalty	6 months	1	NM
2. Failure to renew	Failure to submit application prior to 180 days of expiration of current permit	NOV	60 days	1	NM
	Failure to apply continues after notice by the POTW	Seek penalty	6 months	1	NM
3. Discharge outside of scope of application/ permit	Failure to notify in advance of new introductions of pollutants or significant change in existing pollutants	NOV with permit application to be modified	60 days	1	NM
<b><u>Discharge Limit Violations</u></b>					
1. Exceedance of local or Federal standard (permit limit)	Individual or monthly non-serious violation	NOV, compliance response/corrective action plan, if needed	60 days from receipt	1	NM
	Serious violation (individual or monthly)	Seek at least a mandatory minimum penalty in accordance with N.J.A.C. 7:14-8.16	NOV-60 days; penalty within 6 months	1	NM
	Significant Noncompliance (IU meets criteria under 40 CFR 403)	Public Notice	Annual, but no later than 60 days after 403 annual report submitted to NJDEP	1	NM
	Significant Noncompliance (IU meets SNC criteria in NJWPCA, under N.J.S.A. 58:10A-3.w.)	NOV; Seek at least a mandatory minimum penalty in accordance with N.J.A.C. 7:14-8.16	NOV-60 days; penalty within 6 months	1	NM

Enforcement Response Plan (cont'd.)

Noncompliance	Nature of the Violation	Enforcement Responses	Time Frame	Personnel	Type of Violation & Grace Period (if any)
<b><u>Monitoring and Reporting Violations</u></b>					
1. Reporting violation	Late, 5 or more days after due date (but complete)	NOV, seek penalty, including at least mandatory minimum penalty for overdue effluent parameter information, if any, in accordance with N.J.A.C. 7:14-8.9 (note: penalty waived if complete report is received within 10 days of receipt of NOV)	6 months	1	NM
	Late 31 days or more after due date (but complete)	Public notice, NOV and seek penalty, including at least mandatory minimum penalty for overdue effluent parameter information, if any, in accordance with N.J.A.C. 7:14-8.9 (note: penalty waived if complete report is received within 10 days of receipt of NOV)	Public notice in accordance with approved program; penalty within 6 months	1	NM
	Incomplete for effluent parameter omission	Seek at least a mandatory minimum penalty in accordance with N.J.A.C. 7:14-8.9	Penalty within 6 months	1	NM
	Incomplete for data omission (IU meets SNC criteria under 40 CFR Part 403)	Public notice	Annually	1	NM
	Incomplete for effluent parameter omission (IU meets SNC criteria under NJWPCA)	Public notice and seek at least a mandatory minimum penalty in accordance with N.J.A.C. 7:14-8.9 and N.J.A.C. 7.14-8.16(a)	Public notice in accordance with approved program; penalty within 6 months	1	NM
	Incomplete for other omissions (IU meets SNC criteria under NJWPCA)	Public notice and seek at least a mandatory minimum penalty in accordance with N.J.A.C. 7:14-8.16	Public notice in accordance with approved program; penalty within 6 months	1	NM
	Incomplete for other omissions	NOV	60 days	1	M – 10 days
	Falsification	Seek penalty or refer to county prosecutor	60 days	3	NM
2. Failure to adhere to compliance schedules (in control document, AO/ACO, letter of agreement)	Missed milestone by less than 30 days	NOV, seek penalty, (note: penalty may be waived if final compliance is met by due date)	NOV-60 days; penalty within 6 months	1	NM

Enforcement Response Plan (cont'd.)

Noncompliance	Nature of the Violation	Enforcement Responses	Time Frame	Personnel	Type of Violation & Grace Period (if any)
2. Failure to adhere to compliance schedules (in control document, AO/ACO, letter of agreement) contd.	Missed milestone by more than 30 days (IU meets SNC criteria under 40 CFR Part 403)	NOV, seek penalty, public notice (note: penalty may be waived if final compliance is met by due date)	NOV-60 days; penalty within 6 months	1	NM
	Failure to meet final compliance date	NOV, seek penalty	NOV-60 days; penalty within 6 months		NM
3. Failure to notify	Failure to report spill or changed discharge	NOV, seek penalty where necessary	NOV w/in 60 days of discovery; penalty no later than 6 months of discovery	1	NM
4. Failure to monitor correctly	Incorrect sample location, incorrect sample type, incorrect sample collection techniques, or incorrect sample analysis	NOV, with proper resampling, including sample analysis	60 days	1	NM
5. Failure to report additional monitoring	POTW inspection finds additional files	NOV with request to submit additional monitoring data	60 days	1	NM
<b><u>Other Permit Violations</u></b>					
1. Wastestreams are diluted to achieve discharge limits	Dilution	NOV, seek penalty	NOV-60 days; penalty within 6 months	1	NM
2. Continuing failure to halt or prevent a discharge which caused or causes imminent endangerment to human health, welfare, or the environment or has resulted in the POTW's exercise of its emergency authority under 40 CFR 403.8(f)(1)(vi)(B)	Refusal to discontinue activity upon notification	Take physical (effective) action or seek court order to halt discharge	2 days max.	3	NM
3. Failure to maintain in good working order and properly operate, any facilities or systems of control installed to achieve compliance with the terms and conditions of the permit	Violation of operating requirements	NOV	60 days	1	NM
4. Entry denial	Entry denied or consent withdrawn; copies of records denied	NOV, seek penalty	6 months	1	NM
5. Inadequate record keeping	POTW inspector finds files incomplete or missing	NOV	60 days	1	NM

- 1 Industrial Pretreatment Coordinator
- 2 Executive Director
- 3 Executive Director and RVSA's attorney