

# CHAPTER 158





UNITED STATES ENVIRONMENTAL PROTECTION AGENCY  
Region 1  
5 Post Office Square, Suite 100  
BOSTON, MA 02109-3912

October 3, 2017

Ms. Sarita Croce  
Pretreatment Manager  
Town of Merrimack  
36 Mast Road  
PO Box 235  
Merrimack, NH 03054-0235

Re: Town of Merrimack  
Pretreatment Program Modifications

Dear Ms. Croce:

EPA is in receipt of the Town of Merrimack's (Town) revised Sewer Use Ordinance (SUO). The document was submitted via email to our office on October 3, 2017.

The purpose of this letter is to notify the Town that EPA has reviewed the document and found it to be consistent with 40 CFR 403. Therefore, EPA is hereby approving modifications to the Sewer Use Ordinance.

Please note that the revised document is effective upon approval and should be incorporated into the Town's Pretreatment Program.

Please feel free to contact me at (617) 918-1531 if you have any comments or questions regarding the contents of this letter.

Sincerely,



Justin Pimpare  
Regional Pretreatment Coordinator

Cc: Alexis Rastorguyeff, NH DES  
Joseph Canzano, EPA



Town of Merrimack  
Sewer Use Ordinance  
Proposed Changes  
October 3, 2017

| Proposed Change                                | Citation to be Revised                                   | Justification  | Proposed Language   |
|--|--|--|---|
| Update allocation language                     | 158-4 Requests for Allocations and Connections<br>Page 2 | Current language references original 1977 Sewer Master Plan that has since been replaced.<br><br>As properties change ownership, the potential for changes in flow allocation exists; therefore a new allocation request must be submitted to the Director. The same applies to change of use. | <b>REVISE 158-4: ADD language in bold.</b><br><br>All requests for sewer connections and sewer allocations for proposed developments shall be referred to the Public Works Director. The Director shall evaluate the request within the parameters established by the <del>Facilities Plan for Intereceptors and Trunk Sewers</del> <b>“Hamilton Study,” dated February 1977, with amendments [Town of Merrimack Sewer Master Plan, latest edition.]</b> The Director may request of the applicant projected construction phasing and implementation of requested allocation schedules. The Director may make aforementioned schedules a condition of approval of allocation requests. <b>[Existing allocations are non-transferrable upon sale of the property or Change of Use. A new allocation request must be made to the Director.]</b> |
| Revise Definition for Commercial Establishment | 158-6<br>Page 3  | Include additional clarification in 158-24 and other sections where the term “commercial is referenced”  | <b>Revise 158-4: ADD language in bold.</b><br>Any building or portion thereof where commerce is transacted.<br><b>Commercial facility may include but not be limited to: office buildings, medical centers including dental facilities, restaurants, food service facilities, hotels, malls, retail stores, farm land, multifamily housing buildings, warehouses, septage haulers, and garages.</b>   |
| ADD New Dentist Definition for New Dental Rule | 158-6<br>Page 3  | EPA approved the new Dental Amalgam rule on June 14, 2017.   | <b>Add Dental Definitions: ADD language in bold.</b><br><br><ul style="list-style-type: none"> <li>• <b>BEST MANAGEMENT PRACTICES - The term Best Management Practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other</b></li> </ul>   |

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|  | Page 4                 |  | <p>management practices to implement the prohibitions listed in Code of Federal Regulations Title 40 CFR §403.5(a)(1) and (b). 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.</p> <ul style="list-style-type: none"> <li>• <b>DENTAL DISCHARGER</b> - A facility where the practice of dentistry is performed, including, but not limited to, institutions, permanent or temporary offices, clinics, home offices, and facilities owned and operated by federal, state or local governments, that discharges wastewater to a publicly owned treatment works (POTW).</li> <li>• <b>DENTAL MOBILE UNIT</b> - A specialized mobile self-contained van, trailer, or equipment used in providing dentistry services at multiple locations.</li> </ul> |
| Add Elementary Neutralization Definition | 158-6<br>Page 4        | The definition is needed for hazardous waste revisions | <p><b>ADD the following definition to 158-6.</b></p> <p><b>ELEMENTARY NEUTRALIZATION SYSTEM</b><br/>Elementary neutralization systems are tanks, tank systems, or containers, used for neutralizing wastes that are hazardous only because they exhibit the corrosivity characteristic. Corrosivity characteristics of hazardous wastes are exhibited by liquids that have a pH equal to or less than 2.0 or greater than or equal to 12.5. These systems neutralize the waste which may be discharged to the Town between a pH of 5.0 and 9.5 per Town of Merrimack Code, Chapter §158-38(B)(3).</p>  |
| Add Public Works Director                | 158-6                  | Provides clarity on responsibility                     | <p><b>ADD the following definition to 158-6.</b></p>   |

| Proposed Change   | Citation to be Revised                       | Justification   | Proposed Language   |
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| Definition  | Page 9                                       |   | <p><b>PUBLIC WORKS DIRECTOR (DIRECTOR)</b><br/> <b>The public works director or his/her designee shall be responsible for all the functions and duties of the public works department as established by federal laws, state laws, Town of Merrimack ordinances, or resolutions.</b></p>   |
| Change property line to building                          | 158-11(A)<br>Owner Requirements<br>Page 14   | Current language references distance from sewer to property line in determining connection requirements. Case law and RSA 147:8 is based on the building.   | <p><b>REVISE 158-11(A): ADD language in bold.</b></p> <p>A. The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the Town and abutting on any street, alley, or right-of-way in which there is now located a public sanitary sewer of the Town, is hereby required at the owners expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter and the International Plumbing Code as adopted, within 180 days after date of official notice to do so, provided that said public sewer is within 200 feet of the said <del>property line</del> <b>[building]</b>.</p> <p><b>REVISE 158-11(B) as highlighted below: ADD language in bold.</b></p> |
| Change fixed date of 1985 to 30 years for waiver requests | 158-11 (B)<br>Owner Requirements<br>Pages 14 | The current waiver language of the requirement to connect to Town sewer is based on RSA 147:8 which include a 1985 date as one of the conditions to either approval or deny a waiver request. The 1985 date will become irrelevant over time. | <p>B. Upon written request from the owner to defer connection to the public sewer, the Town, through the Town Council, may defer the requirements to connect to the public sewer provided the owner meets the following criteria:</p> <ol style="list-style-type: none"> <li>(1) Has had an inspection performed by a New Hampshire licensed subsurface disposal designer <b>[approved by the Town]</b> demonstrating the system is properly functioning which has been reviewed and approved by the Health Officer and Public Works Director.</li> <li>(2) The system has received approval by the New Hampshire Department of Environmental Services (NHDES).</li> <li>(3) The system was installed <del>after 1985</del> <b>[less than 30 years from the</b></li> </ol>  |

| Proposed Change                                      | Citation to be Revised      | Justification   | Proposed Language   |
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| Add New Section of Industrials Classification Survey | 158-12<br>Pages 14 - 15     | 158-59 A (11) requires a survey or a discharge permit to be completed. Survey completion is a federal requirement. The new language will require all new industrial and commercial facilities to complete an industrial survey. Currently, new facilities are entering the town without completing the survey and as a result wastewater is not aware of the discharge. The new ordinance will require the submission of the survey prior to issuance of the building permit. | <p>time of the request.]</p> <p><b>ADD 158-12 B, C, &amp; D - Industrial wastewater classification survey. The existing section shall be labeled A. - ADD language in bold.</b></p> <p><b>B. All industrial and commercial facilities in the Town of Merrimack that will be discharging to the sewer system must complete and submit an industrial wastewater classification survey to the Director. A completed survey must be received by the director within 30 days of the occurrence of any of the following:</b></p> <ul style="list-style-type: none"> <li>a. Receipt of a survey questionnaire with a request for completion and submittal to a Town Official;</li> <li>b. Application for a building permit for initial construction, expansion or remodeling; and/or</li> <li>c. Change of use of the facility.</li> </ul> <p><b>C. The survey questionnaire must be submitted for review before the building permit is issued.</b></p> <p><b>D. All industrial and commercial users shall update their industrial wastewater classification survey on file with the Town of Merrimack whenever significant changes are made in an industrial operation or process. Significant changes include, but are not limited to, an increase or decrease in wastewater volume, changes in the concentration or mass loadings of waste materials or substances, or changes in types of waste discharged to the POTW sewer. The Director may also require the submittal of a new industrial wastewater discharge application in accordance with Chapter 158-24 as deemed necessary.</b></p> |
| Drain Layers   | 158-21<br>&<br>158-35 Drain | This section applies to all contractors. The change was made to clarify contractor requirement. The term  | <p><b>REVISE 158-35: ADD language in bold.</b></p> <p><b>§ 158-35 Drain-layers [Contractor]</b></p> <p>All <del>drain-layers</del> [contractors] who apply for a permit for making</p>  |



| Proposed Change    | Citation to be Revised | Justification  | Proposed Language   |
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|                    | Layers<br>Pages 16     | "drain layers" has been deleted and substitute "contractors." The term "approved" has also been deleted.   | <p>excavation within the limits of the public streets of the Town for the purpose of laying private sewers must comply with the following requirements:</p> <p>A. Applicant shall post a surety bond in an amount sufficient to cover the cost of the project as required in the permit to work in the Town right-of-way (ROW) as issued by the Public Works Department (PWD), Highway Maintenance Division.</p> <p>B. All work performed by <del>drain-layers</del> [contractors] under this permit shall comply with all Town regulations.</p> <p>C. All <del>approved drain-layers</del> [contractors] will cause the excavation to be properly guarded at all times for the protection of the public.</p> <p>D. All <del>approved drain-layers</del> [contractors] will properly make all connections and joints in every sewer and will indemnify and hold harmless the Town of Merrimack from any damage or cost for which it may be liable by reason of injury resulting from neglect, carelessness, or incompetence in constructing, repairing or connecting any private sewer, or proper fencing or lighting any excavation or obstruction, or in performing any other work connected therewith.</p> |
| Permit Application | 158-24<br>Page 17      | Include Septage Haulers and restaurants as commercial facilities which may be required to submit a permit. There is currently no allowance for permit extension. | <p><b>REVISE 158-24: ADD language in bold.</b></p> <p>There shall be two classes of building sewer permits: for residential and commercial service producing only domestic wastewater (or sanitary sewage) as defined herein, and for service to establishments producing industrial wastes and commercial facilities that produce a process wastewater effluent or discharge. [<b>Commercial facility may include</b></p>  |

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| Permit Application | 158-24<br>Page 18      | Clarify A(3)                                  | <p>but not be limited to: office buildings, medical centers including dental facilities, restaurants, food service facilities, hotels, malls, retail stores, farm land, multifamily housing buildings, warehouses, septic haulers, and garages.] In either case, the owner(s) or agent shall make application on a special form furnished by the Town. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Town. A permit and inspection fee, as established by the Town Council from time to time, for a residential or commercial building sewer permit shall be paid to the Town at the time the application is filed. The permit and inspection fee for industrial service and commercial facilities that produce a process wastewater effluent or discharge shall be based on the actual cost to the Town.</p> <p><b>REVISE A(3) as highlighted below: ADD language in bold.</b></p> <p>Requirements for monitoring programs [(including monitoring waivers approved in accordance with 158-44- Monitoring)], including flow measurement, wastewater sampling and analysis and schedule for reporting and submission of data. The Town will review the data furnished and has the authority to request additional information if required.</p> |
| Permit Application | 158-24<br>Page 18-19   | Extension of Permits/due date of applications | <p><b>ADD 158-24 C.</b></p> <p>C. A permit expiration date can be extended and will remain enforceable if the permit is not reissued provided the permittee complies with the following:</p> <ol style="list-style-type: none"> <li>1. The permittee has submitted a complete permit application at least sixty (60) days prior to the expiration date of the user's existing permit; and</li> <li>2. The failure to reissue the permit prior to expiration of the</li> </ol>   |

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| Permit Applications           | 158-24<br>Page 19      | Responsibility of the industrial/commercial discharger to fully disclose.  | <p>previous permit is not due to any act or failure to act on the part of the permittee.</p> <p>3. The extension shall not exceed one year period or 365 days.</p> <p><b>ADD 158-24 D.</b></p> <p><b>D. It is the responsibility of the permittee to ensure that all the characteristics of the wastewater have been fully disclosed. The permittee shall certify that there are no material omissions or misrepresentations in the application hereto and that neither the application nor the attached information contains any untrue statement of a material fact or omit to state any material facts necessary to issue a wastewater discharge permit. Permittees shall be subject to the remedies, including penalties for failure to disclose.</b></p>   |
| New Discharge/Cease Discharge | 158-34<br>Pages 21     | <p>State regulation prohibits the discharge of hazardous waste to the sewer system.</p> <p>Require notification when a facility plans to terminate industrial activities at a facility. This may include the elimination of a single production line or the entire facility.</p> | <p>A. Existing language is placed in item A.</p> <p><b>Revise the following from A. ADD language in bold.</b></p> <p>Any person proposing a new discharge into the system <del>or a discharge of listed or characteristic hazardous waste</del> or an increase in the volume, beyond limits previously permitted, or in the strength or character of pollutants that are discharged into the system shall make application to the Town at least 60 days prior to the proposed change or connection. No person shall operate with such an increase or change without first having received a modification to his permit. Proposed new discharges from residential or commercial sources involving loading exceeding 50 population equivalents (5,000 gpd) or any extensions of the sanitary sewer collection system with eight-inch pipe or larger, including manholes, etc., any new industrial</p> |

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|                 |                        |               | <p>discharge, or any alteration in either flow or waste characteristics in industrial discharge <del>must be approved</del> <b>may require approval</b> by the New Hampshire Department of Environmental Services (NHDES).</p> <p><b>ADD 158-34 B &amp; C.</b></p> <p><b>B. In the event a permittee intends to cease to discharge from a regulated process or plans to disconnect from the wastewater system, the Public Works Director must be notified no later than 60 days prior to commencement of any action by the permittee. The notification shall provide a closure management plan that includes the following information, as a minimum:</b></p> <ul style="list-style-type: none"> <li><b>a. Date of planned disconnect;</b></li> <li><b>b. Methods of disposal of regulated process tanks, chemicals, sludges, plating wastes, cleaning solutions;</b></li> <li><b>c. Methods of cleaning tanks, barrels or other vessels containing regulated pollutants;</b></li> <li><b>d. Names of carriers and ultimate disposal site(s) of the regulated pollutants and the EPA permit numbers for transportation of waste, if a permit is required by EPA.</b></li> </ul> <p><b>C. The permittee shall be responsible for all discharges to the wastewater system and shall not be disconnected until the Director has determined the permittee has disposed of the regulated wastes in a proper and safe manner and has requested termination of the discharge permit in writing. The permit shall be terminated in accordance 158-59(C).</b></p> |

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| Drain Layers         | 158-21 & 158-35 Drain Layers<br>Page 21-22 | This section applies to all contractors. The change was made to clarify contractor requirement. The term "drain layers" has been deleted and substitute "contractors." The term "approved" has also been deleted. | <p><b>REVISE 158-35: ADD language in bold.</b><br/> <b>§ 158-35 Drain-layers [Contractor]</b><br/> All <del>drain-layers</del> <b>[contractors]</b> who apply for a permit for making excavation within the limits of the public streets of the Town for the purpose of laying private sewers must comply with the following requirements:</p> <p>A. Applicant shall post a surety bond in an amount sufficient to cover the cost of the project as required in the permit to work in the Town right-of-way (ROW) as issued by the Public Works Department (PWD), Highway Maintenance Division.</p> <p>B. All work performed by <del>drain-layers</del> <b>[contractors]</b> under this permit shall comply with all Town regulations.</p> <p>C. All <del>approved drain-layers</del> <b>[contractors]</b> will cause the excavation to be properly guarded at all times for the protection of the public.</p> <p>D. All <del>approved drain-layers</del> <b>[contractors]</b> will properly make all connections and joints in every sewer and will indemnify and hold harmless the Town of Merrimack from any damage or cost for which it may be liable by reason of injury resulting from neglect, carelessness, or incompetence in constructing, repairing or connecting any private sewer, or proper fencing or lighting any excavation or obstruction, or in performing any other work connected therewith.</p> |
| Add commercial users | 158-38(A)<br>Page 22                       | Commercial users are also issued permits and have the potential to introduce chemicals (e.g. biocides, etc..) that can impact the MWWTF.  | <p><b>REVISE 158-38(A): ADD language in bold.</b><br/> Pollutants introduced into the POTW by an industrial <b>[or commercial user]</b> shall not pass through or interfere with operation or performance of</p>  |

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| Add additional prohibitions | 158-38<br>Page 22 -24  | <p>Add color, emulsifying agents, and biosolids clauses. Prohibit pesticides and herbicides from industrial sources. The current language only prohibits pesticides and herbicides from household sources. Given the recent PFOA issue, it would behoove the Town to have language that allows us to prohibit the discharge or release of compounds that could impact the biosolids.</p> <p>Revise solid or viscous condition to remove confusion with the federal definition of "Interference."</p> | <p>the POTW.</p> <p><b>REVISE 158-38 B(4): ADD language in bold.</b></p> <p>(4) Solid or viscous substances in quantities of or such size capable of causing obstruction to the flow in sewers [<del>and/or other interference</del> <b>[interferes]</b>] with the proper operation of the wastewater facilities, such as, but not limited to, ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.</p> <p><b>ADD to 158-38 B.</b></p> <p>(16) Any substance with color not removed at the POTW, such as, but not limited to, dye wastes and vegetable tanning solutions.</p> <p>(17) Any emulsifying agents, solvents or enzymes that causes fats, oils or grease to pass through an interceptor causing blockages of or the requirement for excessive maintenance of the sanitary sewer.</p> <p>(18) Any substance which may cause the POTW's effluent or treatment residues, biosolids or scums to be unsuitable for reclamation and reuse or which may interfere with such reclamation and reuse process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with biosolids use or disposal criteria, guidelines or regulations developed under section 405 of the Clean Water Act, any criteria, guidelines or regulations affecting biosolids use or disposal developed pursuant to the Solid Waste Disposal Act, Ambient Ground Water Quality regulations, the Clean Air Act, the Toxic Substances Control Act or state or local</p> |

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|                     |                        |  | <p>standards applicable to the biosolids management method adopted by the city.</p> <p>(19) Any substance which damages or causes unusual wear of POTW equipment.</p> <p>(20) Any wastewater that has not been specifically disclosed in the permit application.</p> <p>(21) Molybdenum based corrosion inhibitors from commercial and industrial dischargers.</p>  |
| Limited Discharge   | 158-39<br>Page 24      | Add method to oil and grease and require facilities to notify if FOG is being discharged. This language will ensure that the 100 mg/l compliance is based on the correct analysis. | <p><b>158-39 A: ADD language in bold.</b><br/>Wastewater containing more than 100 milligrams per liter of petroleum oil, nonbiodegradable cutting oils, or product of mineral oil origin. <b>Compliance shall be determined using Method 1664 A HEM and Method 8015 or an equivalent method which has been approved by the Director. If the facility also discharges FOG to the sewer system, then the facility shall substitute Method 1664 A HEM with Method 1664 A SGT (TPH method).</b></p>   |
| New EPA Dental Rule | 158-39<br>Page 31      | Add Section N which requires dentists to comply with the new rule.   | <p><b>Add Town of Merrimack Code § 158-39 (N) Limited discharges; enforcement.</b></p> <p><b>(N) Dental dischargers shall comply with the Best Management Practice requirements identified in Code of Federal Regulations Title 40 CFR, Part 441, <u>Dental Office Point Source Category</u> and the requirements identified in New Hampshire Code of Administrative Rules Env-Wq 306, <u>Standards For Management of Mercury-Containing Amalgam</u>. These rules do not apply to wastewater discharges from dental mobile units.</b></p> <p><b>REPLACE 158-41 with the language below Grease interceptors, oil</b></p> |
| FOG Changes         | 158-41                 | The new language will ensure that all  |   |

| Proposed Change | Citation to be Revised | Justification  | Proposed Language  |
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|                 | <p>Pages 32-34</p>     | <p>restaurants and food service industries install and maintain their grease traps. In February 2017 a blocked sewer pipe was plugged with food grease. If the sewer line had backed, the Town could have been faced with a release of sanitary sewage to a storm water drain. This language will also allow the Town to enforce chronic failure to maintain grease traps.</p> <p>Replace the current language (below) with suggested new:</p> <p>Grease, oil, and sand interceptors shall be provided when, in the opinion of the Town, they are necessary for the proper handling of liquid wastes containing floatable oil or grease in excessive amount, as specified in § 158-39A, or any flammable waste, sand, or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Town and shall be located as to be readily and easily accessible for cleaning and inspection. Grease and</p> | <p><b>separators and sand interceptors: ADD language in bold.</b></p> <p><b>A. Grease interceptors, oil separators and sand interceptors shall be installed for the proper handling of liquid wastes containing floatable oil or grease, as specified in § 158-39A on the building drain of the following users of the sewer system:</b></p> <ol style="list-style-type: none"> <li><b>a. All commercial establishments engaged in the preparation and sale of foodstuffs to the general public such as restaurants, cafes, lunch counters, cafeterias, bars, kitchens in hotels, hospitals, factories or other profit or nonprofit organizations providing food services;</b></li> <li><b>b. Establishments engaged in automatic and coin-operated laundries, car washes, filling stations, commercial garages or similar businesses having wash or grease racks;</b></li> <li><b>c. All establishments operating a commercial garbage grinder;</b></li> <li><b>d. Dairies, slaughterhouses, commercial processing plants and other similar sources of grease and fat byproducts, unless such establishments are otherwise regulated by a discharge permit issued under this chapter;</b></li> <li><b>e. Any other users producing quantities of grit, sand, grease, fat or other materials which have the potential of causing partial or complete obstruction of the building sewer or other areas in the sewer system, require excessive maintenance of sewer lines or impede the transmission or treatment of sewage.</b></li> </ol> <p><b>Interceptors—Design installation, operation and maintenance.</b></p> |



| Proposed Change | Citation to be Revised | Justification  | Proposed Language   |
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|                 |                        | <p>oil interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight, and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight. In the maintaining of these interceptors the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal which are subject to review by the Town. Any removal and hauling of the collected materials not performed by owner's personnel must be performed by currently licensed waste disposal firms.</p> <p>Flammable wastes cannot be discharged to the sewer system.</p> | <p><b>B. All interceptors shall be designed and installed in accordance with the requirements of current version of the International Plumbing Code, published by the International Code Council, Inc. All interceptors shall be of a type and capacity approved by the Town and shall be located as to be readily and easily accessible for cleaning and inspection.</b></p> <p><b>The design standards are such that excessive amounts of grease, oil, sand, and other inert solids are effectively prevented from entering the POTW sewer. All other requirements of the International Plumbing Code, including safety considerations, access provisions for maintenance and cleaning, design of vents and covers, and types of construction materials shall be applicable.</b></p> <p><b>They shall be of substantial construction, watertight, and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight. In the maintaining of these interceptors the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal which are subject to review by the Town</b></p> <p><b>C. All interceptors shall be installed, maintained, repaired and operated by the discharger at his or her own expense. The installation shall be kept in continuous operation at all times, and shall be inspected and cleaned on a regular basis as required for efficient operation, by a service contractor qualified to perform such cleaning and inspection. Bioremediation may be used in addition to regular maintenance provided that the grease does not pass through the interceptor and cause blockages or</b></p> |

| Proposed Change                                 | Citation to be Revised         | Justification   | Proposed Language  |
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|   |                                |   | <p>excessive maintenance requirements.</p> <p>Certificates of inspection and maintenance shall be kept on the premises of the interceptor installation and shall be made readily available to Town authorized personnel for review and inspection. Wastes removed from the interceptor must not be reintroduced into an interceptor or sewer. Dischargers shall be subject to the remedies, including penalties for failure to inspect and maintain interceptors.</p> <p><b>D. Enforcement</b></p> <p>Any person, firm, partnership or corporation found to be violating, or in violation of, this provision will be subject to enforcement actions in accordance with §158- 79, <i>Continuing Violations</i>, of this chapter. For all continuing violations, the response will include a compliance schedule. Additional enforcement responses available to the Town are consent orders, show cause hearing, compliance order, cease and desist order, administrative fines and civil or criminal prosecution.</p> |
| <p>Add the allowance for monitoring waivers</p> | <p>158-44<br/>Page 35 - 36</p> | <p>Add the allowance for monitoring waivers under EPA's revised regulations. This reduces the sampling and analysis burden for categorical dischargers.</p> | <p><b>158-44 C &amp; D - ADD language in bold.</b></p> <p>[C. All Industrial Users shall be allowed to apply for a monitoring waiver to forego sampling of a pollutant regulated by a categorical Pretreatment Standard if the permittee has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Industrial User. This authorization is subject to the following conditions:</p> <p>1. A monitoring waiver may also be granted where a pollutant is determined to be present solely due to sanitary wastewater</p>   |

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|                 |                        |               | <p>discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical Standard and otherwise includes no process wastewater.</p> <p>2. The monitoring waiver shall only be valid only for the duration of the effective period of the Permit. The User must submit a new request for the waiver with each permit application.</p> <p>3. In making a demonstration that a pollutant is not present, the permittee 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.</p> <p>4. The request for a monitoring waiver must be signed in accordance with Code of Federal Regulations Title 40 CFR § 403.6(a)(2)(ii). Non-detectable sample results may only be used as a demonstration that a pollutant is not present if the EPA approved method from Code of Federal Regulations Title 40 CFR part 136 with the lowest minimum detection level for that pollutant was used in the analysis.</p> <p>D. In lieu of continuous monitoring for total toxic organics (TTO), the permittee may submit a toxic organic management plan to the Town following receipt of TTO analyses results indicating full compliance with the federal categorical standard.</p> <ol style="list-style-type: none"> <li>1. At a minimum, the solvent/toxic organic management plan shall consist of: <ol style="list-style-type: none"> <li>a. Identification of the toxic organic compounds used [source(s) of pollutant(s)];</li> <li>b. Method of disposal (control options exercised); and</li> <li>c. Procedures for assuring that toxic organics do not</li> </ol> </li> </ol> |

| Proposed Change | Citation to be Revised | Justification | Proposed Language  |
|-----------------|------------------------|---------------|--|
|                 |                        |               | <p>routinely spill or leak into wastewater discharge to the Town (effectiveness of control options).</p> <p>2. Upon approval of the plan by the Town, the permittee shall submit a certification statement by June 1<sup>st</sup> and December 1<sup>st</sup> of each calendar year in lieu of performing the laboratory analysis for total toxic organics (Code of Federal Regulations Title 40 CFR 122, Appendix D, Table II).</p> <p>3. The certification statement shall be as follows:</p> <p>“Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standard for Total Toxic Organics (TTO), I certify that, to the best of my knowledge and belief, no discharge of toxic organics into the wastewaters has occurred since filing the last discharge monitoring report. I further certify that this facility is implementing the Toxic Organic Management Plan submitted to the Town of Merrimack.”</p> <p>4. The certification statement shall be signed by an individual as defined in Part 4, Section H of this permit and submitted to the office of the Merrimack Wastewater Treatment Facility, Industrial Wastewater Pretreatment Manager.</p> <p>Any change in toxic organic management plan at the permitted facility, including any change in the toxic organic compounds used, shall nullify the plan approval, and shall require an additional TTO analyses results (compliant with standards) be submitted to the Town. In addition, a revised toxic organic management plan (see 1. above) shall be</p> |

| Proposed Change                                 | Citation to be Revised                  | Justification   | Proposed Language  |
|---|---|---|--|
| Delete reference to hazardous waste discharge,  | 158-56 B (6), (7), (8) & (9)<br>Page 40 | State regulation prohibits the discharge of hazardous waste to the sewer system.                              | <p>submitted for approval in lieu of continued TTO monitoring.]</p>  |
| Add monitoring waiver certification requirement | 158-56 C(2)C<br>Page 42                 | Certification is required to continue with a monitoring waiver  | <p>Remove 158-56 (6) &amp; (7)<br/> <del>(6) Notification to the Town of any proposed or existing discharge of listed or characteristic hazardous waste [as required by 40 CFR 403.12(p)]</del><br/> <del>(7) In those instances in which the industrial user provides notification of discharge of hazardous wastes, the industrial user shall also provide the following certification: "I certify that (the company) has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree (the company) has determined to be economically practical."</del></p> <p>Recodify and revise 8 &amp; 9 as indicated below: <b>ADD language in bold.</b></p> <p><b>(8 6)</b> Information showing the measured averaged daily and maximum daily flow, in gallons per day, to the public sewer from regulated process streams and from other streams.</p> <p><b>(9-7)</b> A schedule of actions to be taken to comply with discharge limitations; <b>including a slug control plan if applicable.</b></p> <p><b>ADD – 158-56 C (2) C</b></p> <p><b>(c) The permittee shall submit a certification statement by June 1<sup>st</sup> and December 1<sup>st</sup> of each calendar year in lieu of performing the laboratory analysis for total toxic organics in accordance with 158-54(D).</b></p> <p><b>158-56 (C)(4)(A) : ADD language in bold.</b></p> |
| Revise Permit reissuance language               | 158-56 (4) (A)<br>Page 42               | The Town currently issues permits for three years. This language will be revised to reflect current practice. | <p>The permit will be in effect for a period not to exceed 3 years <del>one-year</del> and <del>may will be automatically renewed for</del> <b>upon review and receipt of a properly completed permit application. Permits may be extended in accordance with 154-24(C) for up to a] one-year period.</b></p>  |

| Proposed Change   | Citation to be Revised   | Justification   | Proposed Language  |
|---|--|---|--|
| This language is required to be added per NHDES/EPA audit findings            | 158-56 Industrial User Permit – Add H Page 45                  | This language is required to be added per NHDES/EPA audit findings  | <p>by issuance, on the anniversary, of a revised cover page or complete industrial user permit (IUP), unless the applicant is notified otherwise by the Town.</p> <p><b>DUTY TO HALT OR REDUCE ACTIVITY– ADD 158-56 H</b></p> <p>Upon reduction of efficiency of operation, or loss or failure of all or part of the treatment facility, the permittee shall, to the extent necessary to maintain compliance with its permit, control its production or discharges (or both) until operation of the treatment facility is restored or an alternative method of treatment is provided. This requirement applies, for example, when the primary source of power of the treatment facility fails or is reduced. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.</p> |
| Modify Language to include promulgation of new categorical pretreatment stds. | 158-58 – Wastewater Discharge Permit Modification Page 46 - 48 | <p>Further clarify the section to address changes in federal, state, and local rules. In addition, require industry to notify the town of changes in operational status.</p> <p>Original Text:<br/>The Town may modify the permit for any of the following:<br/>A. To incorporate any new or revised federal, state, or local pretreatment standards or requirements.<br/>B. To address significant alterations or additions to the industrial user's operation, processes, or wastewater</p> | <p><b>REPLACE 158-58- Wastewater Discharge Permit Modification with the conditions below - ADD language in bold.</b></p> <p>The Town may modify the permit for any of the following:</p> <p>A. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge. This may include the promulgation of new applicable national categorical pretreatment standards.</p> <p>B. If new federal, state, and/or local standards are promulgated, the Director shall so notify the industrial discharger in writing. The industrial discharger must submit a proposed schedule for complying with the new standards within 30 days of notification. The modified permit shall contain the new limits and a compliance schedule.</p>  |

| Proposed Change | Citation to be Revised | Justification  | Proposed Language  |
|-----------------|------------------------|--|--|
|                 |                        | <p>volume or character since the time of wastewater discharge permit issuance.</p> <p>C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.</p> <p>D. Information indicating that the permitted discharge poses a threat to the Town's POTW, Town POTW personnel, or the receiving waters.</p> <p>E. Violation of any terms or conditions of the wastewater discharge permit.</p> <p>F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting.</p> <p>G. Revisions or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13.</p> <p>H. To correct typographical or other errors in the wastewater discharge permit.</p> <p>I. To reflect a transfer of the facility ownership or operation to a new owner/operator.</p> | <p>C. Changes in the requirements of this chapter.</p> <p>D. Changes in state, federal or local regulations pertaining to the POTW biosolids or discharge.</p> <p>E. Information indicating that the permitted discharge poses a threat to the Town's POTW, Town POTW personnel, or the receiving waters, or a revision of federal or state water quality rules (groundwater or surface water).</p> <p>F. To address changes or additions to the industrial user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance. Changes in operational status may include but not be limited to:</p> <ul style="list-style-type: none"> <li>a. R&amp;D facility commencing manufacturing activities;</li> <li>b. Manufacturing facility downgrading production and becoming an R&amp;D facility;</li> <li>c. Increasing the concentration of a chemical or the addition of a new chemical which has the potential to impact or interfere with operations at POTW;</li> <li>d. Addition of new production activities including but not limited to: installation of new processing equipment, increasing manufacturing activities, addition of additional manufacturing capacity.</li> </ul> <p>G. Changes in available POTW capacity or modifications to the POTW treatment processes which necessitate changes to industrial discharges to the wastewater system.</p> |

| Proposed Change    | Citation to be Revised    | Justification   | Proposed Language   |
|--------------------|---------------------------|---|---|
|                    |                           |   | <p>H. Changes required as a result of any new information which was discovered or was not available or provided at the time of permit issuance.</p> <p>I. Violation of any terms or conditions of the wastewater discharge permit.</p> <p>J. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting.</p> <p>K. Violation of any terms or conditions of the wastewater discharge permit.</p> <p>L. Revisions or a grant of variance from categorical pretreatment standards pursuant to Code of Federal Regulations Title 40 CFR 403.13.</p> <p>M. Correct typographical errors.</p> <p>N. Transfer of facility ownership or operation to a new owner.</p> |
| Permit Termination | 158-59 (C)<br>Pages 48-49 | Add language which requires permit holders to comply with all regulations prior to the closure of the permit. | <p><b>158-59 - ADD language in bold.</b></p> <p>Wastewater Discharge Permit Revocation &amp; Termination<br/> <b>(C) Upon verification that the industrial user has closed the facility in compliance with all regulations, there is no hazardous waste stored at the facility, and all sewer fees have been paid, the Director may issue a letter which terminates the permit.</b></p>   |



| Proposed Change                 | Citation to be Revised | Justification   | Proposed Language  |
|---------------------------------|------------------------|---|--|
| National Pretreatment Standards | 158-60<br>Page 49 -51  | <p>According to the 40 CFR 403. Industry is responsible to ask/know that they are subject to a categorical discharge limit. This condition places the liability for classification on the Town rather than on the industry.</p> <p>40 CFR 403.6 – States:<br/><br/>Within 60 days after the effective date of a Pretreatment Standard for a subcategory under which an Industrial User may be included, the Industrial User or POTW may request that the Water Management Division Director or Director, as appropriate, provide written certification on whether the Industrial User falls within that particular subcategory.</p> | <p><b>Revise A as indicated below - ADD language in bold.</b></p> <p><del>Notification: ]The Town shall provide timely notification to appropriate industries of applicable categorical pretreatment standards. [All industrial users shall comply with the notification requirements per Code of Federal Regulations Title 40 CFR 403.6 - National Pretreatment Standards: Categorical Standards.]</del></p> <p>E. Categorical compliance schedule reports. Each user subject to a compliance schedule as required under Subsection <b>G(7)</b>, or federal regulation [<b>Code of Federal Regulations Title</b>] 40 CFR 403.12(b)(7), shall report on progress toward meeting compliance with these regulations as follows:</p> <p>G. Baseline monitoring reports. Within either 180 days after the effective date of a categorical pretreatment standard or the final administrative decision on a category determination under 40 CFR 403.6(a), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit a report which contains the information listed in Article <b>VIII</b>, § <b>158-56B</b>, of this chapter. At least 90 days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit a report which contains the information listed in Article <b>VIII</b>, § <b>158-56B</b>, of this chapter. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged. Users described above shall submit the information set forth below:</p> <p>(1) Identifying information. The name and address of the facility,</p> |

| Proposed Change | Citation to be Revised | Justification | Proposed Language   |
|-----------------|------------------------|---------------|---|
|                 |                        |               | <p>including the name of the operator and owner.</p> <p>(2) Environmental permits. A list of any environmental control permits held by or for the facility.</p> <p>(3) Description of operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.</p> <p>(4) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in [Code of Federal Regulations Title] 40 CFR 403.6(e).</p> <p>(5) Measurement of pollutants.</p> <p>(a) The categorical pretreatment standards applicable to each regulated process.</p> <p>(b) The results of sampling and analysis identifying the nature of the process wastewater, concentration and mass where required by the standard. Instantaneous, daily maximum, and long-term average concentrations or mass where required must be included in the report. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Article VII, § 158-46, of this chapter.</p> <p>(6) Certification. A statement reviewed by the user's authorized representative and certified by a qualified professional indicating</p> |

| Proposed Change             | Citation to be Revised | Justification   | Proposed Language  |
|-----------------------------|------------------------|---|--|
|                             |                        |   | <p>pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&amp;M) and additional pretreatment are required to meet the pretreatment standards and requirements.</p> <p>(7) Compliance schedule. If additional pretreatment and O&amp;M are required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and O&amp;M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this subsection must meet the requirements set out in [Code of Federal Regulations Title] 40 CFR 403.12(b)(7).</p> <p>(8) Signature and certification. All baseline monitoring reports must be signed and certified in accordance with Article VIII, § 158-56E, of this chapter.</p> |
| Slug Discharge Notification | 158-61<br>Page 51      | Changed “unallowed” to “unapproved.” There are discharges which are “allowed” but when discharge at large concentrations can cause a significant upset to the wastewater plant. | <p><b>REVISE 158-63 as indicated below: ADD language in bold.</b></p> <p>All industrial users shall notify the Town immediately of all <b>[unapproved]</b> discharges <del>which could cause problems</del> to the wastewater treatment facilities, including any slug loadings as defined in Article III, § 158-6. Within five days of the <del>unallowed</del> <b>[unapproved]</b> discharge, the industrial user shall provide the Town with a written report fully describing the <del>unallowed</del> <b>[unapproved]</b> discharge and the measures taken and <del>to be taken</del> to avoid recurrence of the <del>unallowed</del> <b>[unapproved]</b> discharge.</p>  |
| Hazardous Waste             | 158-63                 | The current language is not in compliance with NHDES regulations.   | <p><b>158-63: ADD language in bold.</b></p>  |

| Proposed Change                                | Citation to be Revised            | Justification  | Proposed Language  |
|--|-----------------------------------|--|--|
| Notification                                   | Page 52                           | Revise the current language to comply with NHDES regulations: “Any discharge into the POTW of a substance that, if otherwise disposed, would be a hazardous waste under 40 CFR Part 261 or is a hazardous waste as defined in the New Hampshire Department of Environmental Services (NHDES) Hazardous Waste Rules is prohibited unless permitted by applicable State of New Hampshire and federal permits, and that is also approved by the EPA Regional Waste Management Division Director.” | <p>In accordance with New Hampshire’s Code of Administrative Rules, Env-Wq 305.06, <i>Prohibited Wastes</i>, hazardous wastes are prohibited from discharge to the sewer system.</p> <p>Facilities may obtain a permit from the DES, Hazardous Waste Management Bureau for an elementary neutralization system in accordance with New Hampshire Code of Administrative Rules, Env-Hw 304.04, <i>Limited Permits</i>. These systems neutralize the waste which may be discharged to the Town between a pH of 5.0 and 9.5 per Town of Merrimack Code, Chapter §158-38(B)(3)<sup>1</sup>. All industrial users shall provide a copy of the Limit Permit within 5 business days of receipt.</p>  |
| Change language from property line to building | 158-74 Connection Charges Page 54 | Changing from property line to building will make it consistent with the change in 158-11 (A)  | <p><b>REVISE 15-74 as highlighted below: ADD language in bold.</b></p> <p>The owner(s) of existing houses, buildings, or other properties used for human occupancy, employment, recreation or other purposes situated within the Town and abutting on any street, alley, or right-of-way in which a public sewer has been installed shall be required to connect to the Town sewer and shall be required to pay to the Town a connection charge, provided that said <del>property line</del> <b>[building]</b> or its existing individual on-site sanitary disposal system is within 200 feet of said public sewer. In cases where the <del>property line</del> <b>[building]</b> is beyond 200 feet of said public sewer, the owner(s) shall pay to the Town a connection charge when, and if, such structure or its individual on site sanitary disposal system is connected to the public sewer system. The amounts of the connection charges shall be established by the Town Council from time to time.</p> |

<sup>1</sup> Any waters or wastes having pH lower than 5.0 or higher than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater works are specifically prohibited from discharge.

| Proposed Change                          | Citation to be Revised                              | Justification                             | Proposed Language   |
|--|---|---|---|
| Add "sewer rental charge" language       | 158-76<br>User Fees, Schedule of Payment<br>Page 55 | Sewer fees are consider rents in RSA 149. | <p><b>REVISE 158-76 as highlighted below: ADD language in bold.</b></p> <p>All affected property owners will be charged customary sewer user fees (<b>sewer rental charge</b>) commencing 180 days after notice that the public sewer is available to them or upon connection to the public sewer, whichever occurs earlier. Any prior notice, including the first sewer billing from the Public Works Department/Wastewater Division, given to property owners shall be used in the calculation of the one hundred eighty day notice requirement, unless the property owner has received a waiver per Article IV, 158-11B, of this chapter.</p>  |
| Add enforcement language per NHDES audit | 158-79<br>Pages 55-56                               | Add language per audit finding.           | <p><b>REVISE 158-79: ADD language in bold.</b></p> <p>Any person, firm, partnership or corporation found to be violating, or in violation of, any provision of this chapter may be served by the Town of Merrimack with a written notice stating the nature of the violation as determined by the Town, for the satisfactory correction thereof. Follow-up actions for continuing or reoccurring violations will be taken within 60 days of the initial enforcement response. For all continuing violations, the response will include a compliance schedule. Additional enforcement responses available to the Town are consent orders, show cause hearing, compliance order, cease and desist order <del>and</del>, administrative fines, <b>and civil or criminal prosecution.</b></p> |
| Add enforcement language per NHDES audit | 158-83<br>Page 56                                   | Add language per audit finding.           | <p><b>REVISE 158-83: ADD language in bold.</b></p> <p>Any person found to be violating any provisions of this chapter <del>shall</del> <b>[may]</b> be fined in the amount not to exceed \$10,000 per day of such violation. Each day in which any such violation shall continue shall be deemed a separate offense. <b>[In addition civil and criminal penalties, and injunctive relief, for noncompliance with pretreatment conditions by Industrial Users may consist of a fine of up to \$10,000 per day of</b></p>   |

| Proposed Change                     | Citation to be Revised     | Justification  | Proposed Language  |
|-------------------------------------|----------------------------|--|--|
| Correct References to federal regs. | 158-83<br>Page 57          | Reference the federal regulations consistently                   | <p>such violations, or by imprisonment, or both. The permittee may also be subject to additional enforcement actions under State and/or Federal law.]</p> <p><b>REVISE 158-83: ADD language in bold.</b></p> <p><b>§ 158-86 Public participation.</b><br/>The Town, pursuant to [Code of Federal Regulations Title] 40 CFR 403.8(f)(2)(viii), shall comply with the public participation requirements of [Code of Federal Regulations Title] 40 CFR Part 25, including provision for at least annually providing public notification of industrial users which, during the previous 12 months, were in significant noncompliance (SNC) with applicable pretreatment standards or other pretreatment requirements. For the purpose of this section, a significant noncompliance violation (SNC) is described in Article VII, § 158-39M.</p> |
| Enforcement Response Guide          | Attachment to Code Page 57 | Update the guide to reflect the current approach to enforcement. | Enforcement Response Guide – The revised Merrimack ERP is modeled after Narragansett Bay ERP.  |

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## **Chapter 158, SEWER USE ORDINANCE**

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**[HISTORY: Adopted by the Town Council of the Town of Merrimack 1-26-2012.  
Amendments noted where applicable.]**

### GENERAL REFERENCES

Payment of wastewater treatment deficits — See Ch. 79.

Stormwater management standards — See Ch. 167.

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## **Article I General Provisions**

### **§ 158-1 Intent.**

This chapter regulates the use of public and private sewers and drains, private wastewater disposal, the installation and connection of building sewers and the discharge of waters and wastes into the public sewer system and provides penalties for violations thereof in the Town of Merrimack, County of Hillsborough, State of New Hampshire.

### **§ 158-2 Purpose and policy.**

This chapter sets forth uniform requirements for users of the wastewater collection and publicly owned treatment works (POTW) for the Town of Merrimack and enables the Town to comply with all applicable state and federal laws, including the Clean Water Act (33 U.S.C. § 1251 et seq.) and the General Pretreatment Regulations (40 CFR Part 403). The objectives of this chapter are:

- A. To prevent the introduction of pollutants into the POTW that will interfere with the operation of the POTW;
- B. To prevent the introduction of pollutants into the POTW which will pass through the POTW, inadequately treated, into receiving waters or otherwise be incompatible with the POTW;
- C. To ensure that the quality of the wastewater treatment plant sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;
- D. To protect POTW personnel who may be affected by wastewater and sludge in the course of their employment and to protect the general public;
- E. To improve the opportunity to recycle and reclaim wastewater and sludge from the POTW;
- F. To provide for fees for the equitable distribution of the cost of operation, maintenance and improvement of the POTW; and

- G. To enable the Town to comply with its National Pollutant Discharge Elimination System (NPDES) permit conditions, sludge use and disposal requirements and any other federal or state laws to which the POTW is subject.

**§ 158-3 Applicability.**

This chapter shall apply to all users of the POTW. This chapter authorizes the issuance of wastewater discharge permits; authorizes monitoring, compliance and enforcement activities; establishes administrative review procedures; requires industrial user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

**Article II  
Allocation Policy**

**§ 158-4 Requests for allocations and connections.**

All requests for sewer connections and sewer allocations for proposed developments shall be referred to the Public Works Director. The Director shall evaluate the request within the parameters established by the ~~Facilities Plan for Intereceptors and Trunk Sewers "Hamilton Study," dated February 1977, with amendments~~ [Town of Merrimack Sewer Master Plan, latest edition]. The Director may request of the applicant projected construction phasing and implementation of requested allocation schedules. The Director may make aforementioned schedules a condition of approval of allocation requests. **[Existing allocations are non-transferrable upon sale of the property or Change of Use. A new allocation request must be made to the Director.]**

**§ 158-5 Grant or referral of requests.**

After proper evaluation, the Public Works Director may grant sewer connection and allocation. In the event that the sewer allocation request falls outside the parameters as described above, the Public Works Director shall refer the request, with his recommendation, to the Town Manager.

**Article III  
Definitions and Abbreviations**

**§ 158-6 Definitions.**

Unless the context specifically indicates otherwise, the meaning of terms used in this chapter shall be as follows:

**ACT**

The Federal Water Pollution Control Act, also known as the "Clean Water Act," as amended, 33 U.S.C. § 1251.

**APPROVAL AUTHORITY**

The EPA Regional Administrator.



## **AUTHORIZED AGENT**

Must be an individual or position having responsibility for the overall operation of the facility or the pretreatment program and has been given the authority by the Town Manager.

## **[BEST MANAGEMENT PRACTICES**

**The term Best Management Practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR §403.5(a)(1) and (b). BMPs 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.]**

## **BIOCHEMICAL OXYGEN DEMAND (BOD)**

The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five days at 20° C, expressed in milligrams per liter, as prescribed in Standard Methods for the Examination of Water and Wastewater, latest edition.

## **BUILDING LATERAL**

The sewer lateral from the building to the public sewer; also called "house connection."

## **BUILDING SEWER**

That part of the lowest horizontal piping of a drainage system which receives the discharge from inside the walls of the building and conveys it to the building lateral, beginning 30 inches outside the inner face of the building wall.

## **BYPASS**

The intentional diversion of waste streams from any portion of an industrial user's pretreatment facility.

## **COMBINED SEWER**

A sewer intended to receive both wastewater and storm- or surface water; such system as it exists in the Town shall be separated.

## **COMMERCIAL ESTABLISHMENT**

Any building or portion thereof where commerce is transacted. **[Commercial facility may include but not be limited to: office buildings, medical centers including dental facilities, restaurants, food service facilities, hotels, malls, retail stores, farm land, multifamily housing buildings, warehouses, septage haulers, and garages.]**

## **COMPOSITE SAMPLE**

The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

**CONTROL AUTHORITY**

The Town of Merrimack, in compliance with the EPA approval of the pretreatment program on February 27, 1985.

**[DENTAL DISCHARGER**

**A facility where the practice of dentistry is performed, including, but not limited to, institutions, permanent or temporary offices, clinics, home offices, and facilities owned and operated by Federal, state or local governments, that discharges wastewater to a publicly owned treatment works (POTW).]**

**[DENTAL MOBILE UNIT**

**A specialized mobile self-contained van, trailer, or equipment used in providing dentistry services at multiple locations.]**

**DOMESTIC WASTEWATER or SANITARY SEWAGE**

Normal water-carried household and toilet wastes or waste from sanitary conveniences, excluding ground-, surface or stormwater.

**DWELLING UNIT**

A building or portion of a building in which no more than one family lives.

**EASEMENT**

An acquired legal right for the specific use of land owned by others.

**[ELEMENTARY NEUTRALIZATION SYSTEM**

**Elementary neutralization systems are tanks, tank systems, or containers, used for neutralizing wastes that are hazardous only because they exhibit the corrosivity characteristic. Corrosivity characteristics of hazardous wastes are exhibited by liquids that have a pH equal to or less than 2.0 or greater than or equal to 12.5. These systems neutralize the waste which may be discharged to the Town between a pH of 5.0 and 9.5 per Town of Merrimack Code, Chapter §158-38(B)(3).]**

**EXISTING SOURCE**

Any source of discharge, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

**FEDERAL**

The United States Environmental Protection Agency.

**FLOATABLE OIL**

Oil, fat, or grease in a physical state such that it will separate by gravity from wastewater by

treatment in an approved pretreatment facility. A wastewater shall be considered free of floatable oil or fat if it is properly pretreated and the wastewater does not interfere with the collection system.

**GARBAGE**

The animal and vegetable waste resulting from the handling, preparation, cooking, and serving of foods.

**GRAB SAMPLE**

A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and without consideration of time.

**INDIRECT DISCHARGE**

A facility that discharges waste into a publicly owned treatment works (POTW) from any nondomestic source regulated under Section 307(b), (c) or (d) of the Act.

**INDUSTRIAL ESTABLISHMENT**

Any building or portion thereof where people or companies are engaged in industrial production or enterprise.

**INDUSTRIAL USER**

A person who discharges industrial wastes to the wastewater facilities of the Town of Merrimack.

**INDUSTRIAL WASTES**

The wastewater from industrial processes, trade, or business as distinct from domestic or sanitary wastes.

**INSTANTANEOUS MAXIMUM ALLOWABLE DISCHARGE LIMIT**

The maximum concentration (or loading) of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

**INTERFERENCE**

A discharge by an industrial user which, alone or in conjunction with discharges by other sources, inhibits or disrupts the publicly owned treatment works (POTW), its treatment processes or operations, or its sludge processes, use or disposal and which is a cause of a violation of any requirement of the POTW's National Pollutant Discharge Elimination System (NPDES) permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal by the POTW in accordance with groundwater protection rules, Chapter Env-Wq 400, solid waste rules, Chapters Env-Sw 100 through 2100, hazardous waste rules, Chapters Env-Hw 100 through 1100 and Appendix III, the Clean Air Act, the Toxic Substances Control Act, and the Marine

Protection Research and Sanctuaries Act.

**MAY**

Is permissive (see "shall").

**NATIONAL CATEGORICAL PRETREATMENT STANDARD or CATEGORICAL PRETREATMENT STANDARD**

Any regulations containing pollutant discharge limits promulgated by USEPA in accordance with Section 307(b) and (c) of the Clean Water Act (33 U.S.C. § 1317) which apply to a specific category of industrial users and which are found in the Code of Federal Regulations, 40 CFR, Subchapter N, Parts 401 through 471.

**NATURAL OUTLET**

Any outlet, including storm sewers and combined sewer overflows, into a watercourse, pond, ditch, lake, or any other body of surface or groundwater.

**NEW DEVELOPMENT**

Any new subdivision or condominium development.

**NEW SOURCE**

- A. Any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
- (1) The building, structure, facility or installation is constructed at a site at which no other source is located; or
  - (2) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  - (3) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- B. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility or installation meeting the criteria of Subsection A(2) or (3) above but otherwise alters, replaces, or adds to existing process or production equipment.
- C. Construction of a new source as defined under this definition has commenced if the owner

or operator has:

- (1) 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
- (2) Entered into a binding contractual obligation for the purchase of facilities or equipment which is 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 subsection.

#### **NHDES**

The New Hampshire Department of Environmental Services.

#### **NONCONTACT COOLING WATER**

The water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

#### **PASS-THROUGH**

The discharge of pollutants through the POTW into surface waters in quantities or concentrations which, alone or in conjunction with discharges from other sources, are a cause of a violation of any requirements of the POTW's National Pollutant Discharge Elimination System (NPDES) permit (including an increase in the magnitude or duration of a violation) or of applicable water quality criteria.

#### **PERSON**

Any individual, firm, company, association, society, corporation, group, partnership, municipality, governmental subdivision or other entity.

#### **pH**

The logarithm of the reciprocal of the hydrogen-ion concentration. The concentration is the weight of hydrogen-ions, in grams, per liter of solution. Neutral water, for example, has a pH value of 7 and a hydrogen-ion concentration of  $10^{-7}$ .

#### **pH EXCURSION**

An unintentional and temporary incident in which the pH value of discharge wastewater exceeds the range set forth in the applicable effluent limitations guidelines. Any pass-through or interference episode shall supersede an excursion event.

**PHARMACEUTICAL WASTE**

A prescription drug, as defined by RSA 318:1, XVII, or a nonprescription or proprietary medicine, as defined by RSA 318:1, XVIII, that is no longer suitable for its intended purpose or is otherwise being discharged.

**POLLUTANT**

Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, industrial wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, agricultural and industrial wastes, and the characteristics of the wastewater [i.e., pH, temperature, total suspended solids (TSS), turbidity, color, biochemical oxygen demand (BOD), chemical oxygen demand (COD), toxicity, and odor].

**POTW or PUBLICLY OWNED TREATMENT WORKS**

A wastewater treatment plant which is owned by the Town of Merrimack. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial waste of a liquid nature.

**PRETREATMENT**

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

**PRETREATMENT REQUIREMENTS**

Any substantive or procedural requirement related to pretreatment imposed on an industrial user, other than a pretreatment standard.

**PRETREATMENT STANDARDS or STANDARDS**

Prohibitive discharge standards, categorical pretreatment standards, and local limits.

**PRIVATE SEWER**

A sewer or sewer system privately owned, maintained, and used by one or more properties.

**PRIVATE WASTEWATER DISPOSAL SYSTEM**

Any privately owned and operated and maintained system, device, or facility for the collection, treatment and disposal of wastewaters. For example: condominiums developments, septic systems, and laterals from the main to the building.

**PROHIBITED DISCHARGE STANDARDS or PROHIBITED DISCHARGES**

The absolute prohibitions against the discharge of certain substances; these prohibitions appear in Article VII, § 158-38B.

**PROPERLY SHREDDED GARBAGE**

The animal or vegetable wastes from the preparation, cooking, and dispensing of food that have been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers, with no particle greater than 1/2 inch (1.27 centimeters) in any dimension.

**PUBLIC SEWER**

A common sewer controlled by a governmental agency or public utility.

**[PUBLIC WORKS DIRECTOR (DIRECTOR)**

**The public works director or his/her designee shall be responsible for all the functions and duties of the public works department as established by federal laws, state laws, Town of Merrimack ordinances, or resolutions.]**

**RADIOLOGICAL WASTE**

A radioactive waste as regulated by RSA 125-F.

**RESIDENTIAL USER**

Discharge of wastewater from household and toilet wastes or from sanitary conveniences, excluding ground-, surface or stormwater.

**RIGHT-OF-WAY**

Per RSA 674:24, VII, "right-of-way" means and includes all present and proposed Town, state and federal highways and land on either side of same as covered by statutes to determine the widths of rights-of-way.

**SANITARY SEWER**

A sewer that carries liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground-, storm-, and surface waters that are not admitted intentionally.

**SCREENING LEVEL**

That concentration of a pollutant which, under baseline conditions, would cause a threat to personnel exposed to the pollutant or would cause a threat to structures of wastewater facilities. If any of the sewer screening levels based on fume toxicity values are exceeded in the sewer system, the industrial user may be required at the discretion of the Town to further evaluate the health, flammability and chemical reactivity in the collection system.

**SEPTIC TANK WASTE**

Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

**SEWAGE**

The spent water of a community. The preferred term is "wastewater."

#### **SEWER**

A pipe or conduit that carries wastewater or drainage water.

#### **SHALL**

Is mandatory (see "may").

#### **SIGNIFICANT INDUSTRIAL USER**

A. Except as provided in Subsections **B** and **C** of this definition, the term "significant industrial user" means:

- (1) All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; and
- (2) Any other industrial user that discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process waste stream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the Control Authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement [in accordance with 40 CFR 403.8(f)(6)].

B. The Control Authority may determine that an industrial user subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N, is a nonsignificant industrial user rather than a significant industrial user on a finding that the industrial user never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, noncontact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:

- (1) The industrial user, prior to the Control Authority's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;
- (2) The industrial user annually submits the certification statement required in 40 CFR 403.12(q) together with any additional information necessary to support the certification statement; and
- (3) The industrial user never discharges any untreated concentrated wastewater.

C. Upon a finding that an industrial user meeting the criteria in Subsection **A(2)** of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standards or requirement, the Control Authority may at any time, on its own initiative or in response to a petition received from an industrial user or POTW,



and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.

**SLUG LOAD**

Any discharge at a flow rate or concentration which causes a violation of the prohibited discharge standards in Article VII, § 158-38B, of this chapter or any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a noncustomary batch discharge.

**STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODE**

A classification pursuant to the Standard Industrial Classification Manual issued by the U.S. Office of Management and Budget.

**STORM DRAIN (sometimes termed "storm sewer")**

A drain or sewer for conveying stormwater, groundwater, subsurface water, or unpolluted water from any source.

**STORMWATER**

Any flow occurring during or following any form of natural precipitation and resulting therefrom, including snowmelt.

**SUPERINTENDENT**

The supervisor of wastewater facilities, or of wastewater treatment works, or of water pollution control of the Town of Merrimack, or his authorized deputy, agent, or representative.

**SUSPENDED SOLIDS (SS)**

Total suspended matter that either floats on the surface of or is in suspension in water, wastewater, or other liquids and that is removable by laboratory filtering as prescribed in Standard Methods for the Examination of Water and Wastewater and referred to as "nonfilterable residue."

**TOWN**

The Town Council, Town of Merrimack, County of Hillsborough, State of New Hampshire.

**TOWN MANAGER**

The Town of Merrimack Principal Executive Officer.

**TOXIC POLLUTANT**

One of 126 pollutants, or combination of those pollutants, listed as toxic in regulations promulgated by the EPA under the provision of Section 307 (33 U.S.C. § 1317) of the Act.

**TREATMENT PLANT EFFLUENT**

Any discharge of pollutants from the POTW into waters of the state.

**UNPOLLUTED WATER**

Water of quality equal to or better than the effluent criteria in effect or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to the sanitary sewers and wastewater treatment facilities provided.

**WASTEWATER**

The spent water of a community. From the standpoint of source, it may be a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions, together with any groundwater, surface water, and stormwater that may be present.

**WASTEWATER FACILITIES**

The structures, equipment, and processes required to treat domestic and industrial wastes and dispose of the effluent.

**WASTEWATER TREATMENT WORKS**

An arrangement of devices and structures for the treatment of wastewater, industrial waste and sludge. Also known as "POTW or publicly owned treatment works," "wastewater treatment plant," "wastewater treatment facility" or "water pollution control plant."

**WATERCOURSE**

A natural or artificial channel for the passage of water either continuously or intermittently.

**§ 158-7 Abbreviations.**

The following abbreviations shall have the designated meanings:

|     |                                      |
|-----|--------------------------------------|
| BOD | Biochemical oxygen demand            |
| CFR | Code of Federal Regulations          |
| COD | Chemical oxygen demand               |
| EPA | U.S. Environmental Protection Agency |
| gpd | Gallons per day                      |
| l   | Liter                                |
| mg  | Milligrams                           |

|       |   |
|-------|---|
| mg/l  | Milligrams per liter                                |
| NHDES | New Hampshire Department of Environmental Services  |
| NPDES | National Pollutant Discharge Elimination System     |
| O&M   | Operation and maintenance                           |
| POTW  | Publicly owned treatment works                      |
| PWD   | Public Works Department                             |
| RCRA  | Resource Conservation and Recovery Act              |
| ROW   | Right-of-way  |
| SIC   | Standard industrial classifications                 |
| SWDA  | Solid Waste Disposal Act (42 U.S.C. § 6901 et seq.) |
| TSS   | Total suspended solids                              |
| USC   | United States Code                                  |

#### Article IV

### Use of Public Sewers Required

**§ 158-8 Unlawful deposit.**

It shall be unlawful for any person to place, deposit, or permit to be deposited any human or animal excrement, garbage, or other objectionable waste in any unsanitary manner on public or private property within the Town of Merrimack, or in any area under the jurisdiction of said Town.

**§ 158-9 Unlawful discharge.**

It shall be unlawful to discharge to any natural outlet within the Town of Merrimack, or in any area under the jurisdiction of said Town, any wastewater or other polluted waters, except where suitable treatment has been provided in accordance with subsequent provisions of this chapter.

**§ 158-10 Privies and septic tanks.**

When a public sewer is available, it shall be unlawful to construct or maintain any privy, privy

vault, septic tanks, cesspool, or other facility intended or used for the disposal of wastewater, except as hereinafter provided.

**§ 158-11 Owner requirements.**

- A. The owner(s) of all houses, buildings, or properties used for human occupancy, employment, recreation, or other purposes, situated within the Town and abutting on any street, alley, or right-of-way in which there is now located a public sanitary sewer of the Town, is hereby required at the owner's expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this chapter and the International Plumbing Code as adopted, within 180 days after date of official notice to do so, provided that said public sewer is within 200 feet of the said ~~property line~~ **[building]** .
- B. Upon written request from the owner to defer connection to the public sewer, the Town, through the Town Council, may defer the requirement to connect to the public sewer provided the owner meets the following criteria:
  - (1) Has had an inspection performed by a New Hampshire licensed subsurface disposal designer **[approved by the Town]** demonstrating the system is properly functioning which has been reviewed and approved by the Health Officer and Public Works Director.
  - (2) The system has received approval by the New Hampshire Department of Environmental Services (NHDES).
  - (3) The system was installed ~~after 1985~~ **[less than 30 years from the time of the request.]**

**§ 158-12 Industrial wastes.**

- A. Persons discharging industrial process wastes into the public sewer or Town wastewater treatment facility shall comply with the applicable requirements of the federal (including the National Categorical Pretreatment Standards, as amended) and New Hampshire Department of Environmental Services (NHDES) pretreatment regulations (as amended) in addition to this chapter.
- B. **[All industrial and commercial facilities in the Town of Merrimack that will be discharging to the sewer system must complete and submit an industrial wastewater classification survey to the Director. A completed survey must be received by the director within 30 days of the occurrence of any of the following:**
  - a. **Receipt of a survey questionnaire with a request for completion and submittal to a Town Official;**
  - b. **Application for a building permit for initial construction, expansion or remodeling; and/or**
  - c. **Change of use of the facility.**
- C. **The survey questionnaire must be submitted for review before the building permit is issued.**

**D. All industrial and commercial users shall update their industrial wastewater classification survey on file with the Town of Merrimack whenever significant changes are made in an industrial operation or process. Significant changes include, but are not limited to, an increase or decrease in wastewater volume, changes in the concentration or mass loadings of waste materials or substances, or changes in types of waste discharged to the POTW sewer. The Director may also require the submittal of a new industrial wastewater discharge application in accordance with Chapter 158-24 as deemed necessary.]**

## Article V Private Wastewater Disposal

### **§ 158-13 Use of private system.**

Where a public sanitary sewer is not available under the provisions of Article IV, § 158-11, the building sewer shall be connected to a private wastewater disposal system complying with the provisions of this article.

### **§ 158-14 Permit required; permit and inspection fees.**

Before commencement of construction of a private wastewater disposal system, the owner(s) shall first obtain design approval from the New Hampshire Department of Environmental Services (NHDES) and a written permit signed by the Town Building Inspector or designee. The application for such permit shall be made on a form furnished by the Town, which the applicant shall supplement by any plans, specifications, and other information as are deemed necessary by the Town. A permit and inspection fee as established by the Town Council shall be paid to the Town at the time the application is filed. Additional payments shall be made to the Town for inspection of private wastewater facilities serving larger industrial and commercial users. In such cases, the payment shall be based on the actual cost to the Town.

### **§ 158-15 Inspections.**

A permit for a private wastewater disposal system shall not become effective until the installation is completed to the satisfaction of the Town. The Town shall be allowed to inspect the work at any stage of construction, and, in any event, the applicant for the permit shall notify the Town when the work is ready for final inspection and before any underground portions are covered. The inspection shall be made within 72 hours of the receipt of notice by the Town.

### **§ 158-16 Construction standards.**

The type, capacities, location, layout and installation (including inspection) of a private wastewater disposal system shall comply with all laws and regulations of the New Hampshire Department of Environmental Services (NHDES) and the Town of Merrimack. No septic tank or cesspool shall be permitted to discharge to any natural outlet.

### **§ 158-17 Abandonment.**

At such time as a public sewer becomes available to a property serviced by a private wastewater disposal system, as provided in Article IV, § 158-11, a direct connection shall be made to the

public sewer within 180 days and any abandoned holding tank or tanks and connections thereto shall be filled and sealed in accordance with the provisions of the Town's International Plumbing Code as adopted.

**§ 158-18 Operation and maintenance.**

The owner(s) shall operate and maintain the private wastewater disposal facilities in a sanitary manner at all times, at no expense to the Town. At no time should any quantity of industrial waste be discharged to a private wastewater disposal facility.

**§ 158-19 Additional requirements.**

No statement contained in this article shall be construed to interfere with any additional requirements that may be imposed by the Building Inspector or designee of the Town of Merrimack pursuant to RSA 147:8.

**§ 158-20 Construction in public streets.**

No private sewer or drain shall be laid within the limits of any public street, except by an experienced, bonded drain layer approved by the Town. The bonded drain layer shall be held liable for any expense to the Town on account of any imperfect work within the street limits done by his employees.

**§ 158-21 ~~Drain layers.~~ [Contractor]**

All ~~drain layers~~ [contractors] who apply for a permit for making excavation within the limits of the public streets of the Town for the purpose of laying private sewers must comply with the following requirements:

- A. Applicant shall post a surety bond in an amount sufficient to cover the cost of the project as required in the permit to work in the Town right-of-way (ROW) as issued by the Public Works Department (PWD), Highway Maintenance Division.
- B. All work performed by ~~drain layers~~ [contractors] under this permit shall comply with all Town regulations.
- C. All ~~approved drain layers~~ [contractors] will cause the excavation to be properly guarded at all times for the protection of the public.
- D. All ~~approved drain layers~~ [contractors] will properly make all connections and joints in every sewer and will indemnify and hold harmless the Town of Merrimack from any damage or cost for which it may be liable by reason of injury resulting from neglect, carelessness, or incompetence in constructing, repairing or connecting any private sewer, or proper fencing or lighting any excavation or obstruction, or in performing any other work connected therewith.

**§ 158-22 Septage hauler requirements.**

Additional septage hauler requirements are as follows:

- A. The Town shall require septage haulers to obtain an individual user pretreatment permit prior to discharging to the Merrimack POTW. These permits will be reissued on a periodic basis.
- B. Septage haulers can only discharge loads at locations specifically designated by the Town.
- C. The Town may collect samples of each hauled load to ensure compliance with applicable pretreatment standards.
- D. No load may be discharged without prior consent of the Town.
- E. The Town may require the hauler to provide a waste analysis of any load prior to discharge.
- F. The waste hauler must use the POTW waste tracking form to record every load that is pumped and delivered to the POTW.
- G. Septage haulers are strictly prohibited from discharging industrial septage at the Merrimack POTW, unless prior consent is granted by the Town and New Hampshire Department of Environmental Services (NHDES).

## Article VI Building Sewers and Connections

### § 158-23 Permit required.

No unauthorized person(s) shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Town.

### § 158-24 Application for permit.

There shall be two classes of building sewer permits: for residential and commercial service producing only domestic wastewater (or sanitary sewage) as defined herein, and for service to establishments producing industrial wastes and commercial facilities that produce a process wastewater effluent or discharge. **[Commercial facility may include but not be limited to: office buildings, medical centers including dental facilities, restaurants, food service facilities, hotels, malls, retail stores, farm land, multifamily housing buildings, warehouses, septage haulers, and garages.]** In either case, the owner(s) or agent shall make application on a special form furnished by the Town. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Town. A permit and inspection fee, as established by the Town Council from time to time, for a residential or commercial building sewer permit shall be paid to the Town at the time the application is filed. The permit and inspection fee for industrial service and commercial facilities that produce a process wastewater effluent or discharge shall be based on the actual cost to the Town.

- A. The Town may stipulate special conditions and terms upon which the industrial user permit is predicated, and this may include, but shall not be limited to, the following:

- (1) Limitation on quantity, rate of discharge and wastewater characteristics.
- (2) Installation of flow monitoring and sampling facilities.
- (3) Requirements for monitoring programs **[(including monitoring waivers approved in accordance with 158-44- Monitoring)]**, including flow measurement, wastewater sampling and analysis and schedule for reporting and submission of data. The Town will review the data furnished and has the authority to request additional information if required.
- (4) Pretreatment requirements, including schedules of compliance and progress notification.
- (5) Special fees and service charges.
- (6) Wastewaters discharge peak rate and volume over a specified time period.
- (7) Chemical analyses of wastewaters.
- (8) Information on raw materials, processes, and products affecting wastewater volume and quality.
- (9) Quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer use control.
- (10) A plot plan of sewers on the user's property showing sewer and pretreatment facility location.
- (11) Details of wastewater pretreatment facilities.
- (12) Details of systems to prevent and control the losses of materials through spills to the municipal sewer.
- (13) Other requirements to comply with federal, state and local regulations.

B. Discharge permits shall not be transferred or reassigned.

**[C. A permit expiration date can be extended and will remain enforceable if the permit is not reissued provided the permittee complies with the following:**

- 1. The permittee has submitted a complete permit application at least sixty (60) days prior to the expiration date of the user's existing permit; and**
- 2. The failure to reissue the permit prior to expiration of the previous permit is not due to any act or failure to act on the part of the permittee.**
- 3. The extension shall not exceed one year period or 365 days.**



**D. It is the responsibility of the permittee to ensure that all the characteristics of the wastewater have been fully disclosed. The permittee shall certify that there are no material omissions or misrepresentations in the application hereto and that neither the application nor the attached information contains any untrue statement of a material fact or omit to state any material facts necessary to issue a wastewater discharge permit. Permittees shall be subject to the remedies, including penalties for failure to disclose.]**

**§ 158-25 Costs and expenses.**

All costs and expenses incidental to the installation, maintenance and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the improper maintenance or installation of the building sewer. Furthermore, the building owner is responsible for all costs of maintenance, cleaning and repair of the lateral connection from the sewer main to the building. All costs and expenses incidental to the installation, maintenance, cleaning and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify the Town from any loss or damage that may directly or indirectly be occasioned by the installation and maintenance of the building sewer, including the proper installation, maintenance and cleaning of backflow preventers (check valve) and building laterals where the building lateral fails or develops a blockage.

**§ 158-26 Separate building sewer required.**

Unless specifically authorized by the Town, a separate and independent building sewer shall be provided for every building, except where one building stands at the rear of another on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, the front building sewer may be extended to the rear building and the whole considered as one building sewer, but the Town does not and will not assume any obligation or responsibility for damage caused by, or resulting from, any such single connection aforementioned.

**§ 158-27 Use of old building sewers.**

Old building sewers may be used in connection with new buildings only when they are found, on examination and testing by the Town, to meet all requirements of this chapter. All costs of such testing and inspection, including any pipeline video recording [see Town Public Works Department (PWD) Construction Standards for testing requirements], shall be borne by the owner(s).

**§ 158-28 Materials and methods of construction.**

The size, slope, alignments, materials of construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench shall all conform to the requirements of the Town's Building and Plumbing Codes and the appropriate sections of the Town's standard specification for sewer construction. In the absence of code

provisions or in amplification thereof, the materials and procedures set forth in appropriate specifications of the latest edition of the ASTM Water Environment Federation Manual of Practice No. 9 shall apply.

**§ 158-29 Elevation of building sewer.**

Whenever possible, any building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow from the sanitary facilities to the public sewer, sanitary sewage carried by such building drain shall be lifted by an approved means and discharged to the building sewer at the owner's expense.

**§ 158-30 Surface runoff and groundwater.**

No person(s) shall make connection of roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which, in turn, is connected directly or indirectly to a public sanitary sewer.

**§ 158-31 Connection specifications.**

The connection of the building sewer into the public sewer shall conform to the requirements of the Town's Building and Plumbing Codes and other applicable rules and regulations of the Town or the procedures set forth in appropriate specifications of the ASTM and the Water Environment Federation Manual of Practice No. 9. All such connections shall be made gastight and watertight and verified by Town inspection. Any deviation from the prescribed procedures and materials must be approved by the Town before installation.

**§ 158-32 Inspection and supervision.**

The applicant for the building sewer permit shall notify the Town when the building sewer is ready for inspection and connection to the public sewer. The connection and testing shall be made under the supervision of the Town.

**§ 158-33 Guarding of excavations; restoration of disturbed property.**

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of work shall be restored in a manner satisfactory to the Town at the expense of the owner.

**§ 158-34 New discharge; increase or change in discharge.**

- A. Any person proposing a new discharge into the system ~~or a discharge of listed or characteristic hazardous waste~~ or an increase in the volume, beyond limits previously permitted, or in the strength or character of pollutants that are discharged into the system shall make application to the Town at least 60 days prior to the proposed change or connection. No person shall operate with such an increase or change without first having received a modification to his permit. Proposed new discharges from residential or commercial sources involving loading exceeding 50 population equivalents (5,000 gpd) or

any extensions of the sanitary sewer collection system with eight-inch pipe or larger, including manholes, etc., any new industrial discharge, or any alteration in either flow or waste characteristics in industrial discharge ~~must be approved~~ **[may require approval]** by the New Hampshire Department of Environmental Services (NHDES).

- B. [ In the event a permittee intends to cease to discharge from a regulated process or plans to disconnect from the wastewater system, the Public Works Director must be notified no later than 60 days prior to commencement of any action by the permittee. The notification shall provide a closure management plan that includes the following information, as a minimum:**
- a. Date of planned disconnect;**
  - b. Methods of disposal of regulated process tanks, chemicals, sludges, plating wastes, cleaning solutions;**
  - c. Methods of cleaning tanks, barrels or other vessels containing regulated pollutants;**
  - d. Names of carriers and ultimate disposal site(s) of the regulated pollutants and the EPA permit numbers for transportation of wastes, if a permit is required by EPA.**
- C. The permittee shall be responsible for all discharges to the wastewater system and shall not be disconnected until the Director has determined the permittee has disposed of the regulated wastes in a proper and safe manner and has requested termination of the discharge permit in writing. The permit shall be terminated in accordance 158-59(C).]**

#### **§ 158-35 ~~Drain layers~~ [Contractor]**

All ~~drain layers~~ **[contractors]** who apply for a permit for making excavation within the limits of the public streets of the Town for the purpose of laying private sewers must comply with the following requirements:

- A. Applicant shall post a surety bond in an amount sufficient to cover the cost of the project as required in the permit to work in the Town right-of-way (ROW) as issued by the Public Works Department (PWD), Highway Maintenance Division.**
- B. All work performed by ~~drain layers~~ **[contractors]** under this permit shall comply with all Town regulations.**
- C. All ~~approved drain layers~~ **[contractors]** will cause the excavation to be properly guarded at all times for the protection of the public.**
- D. All ~~approved drain layers~~ **[contractors]** will properly make all connections and joints in every sewer and will indemnify and hold harmless the Town of Merrimack from any damage or cost for which it may be liable by reason of injury resulting from neglect, carelessness, or incompetence in constructing, repairing or connecting any private sewer, or**

proper fencing or lighting any excavation or obstruction, or in performing any other work connected therewith.

## **Article VII Use of the Public Sewers**

### **§ 158-36 Discharge of unpolluted waters.**

No person(s) shall discharge or cause to be discharged to the wastewater facilities any unpolluted waters such as stormwater, groundwater, roof runoff, subsurface drainage, or noncontact cooling water to any sanitary sewer.

### **§ 158-37 Stormwater; industrial cooling water.**

Stormwater and all other unpolluted drainage shall be discharged to such sewers as are specifically designated as storm sewers, or a natural outlet approved by the Town. Industrial cooling water or process waters require a National Pollutant Discharge Elimination System (NPDES) permit and Town approval prior to discharge to a storm sewer or natural outlet.

### **§ 158-38 Pollutants; prohibited discharges.**

- A. Pollutants introduced into the POTW by an industrial **[or commercial]** user shall not pass through or interfere with operation or performance of the POTW.
- B. No person(s) shall discharge or cause to be discharged any of the following described waters or wastes to any public sewers:
  - (1) Pollutants which could create a fire or explosion hazard in the POTW, including but not limited to waste streams with a closed-cup flash point of less than 140° F. or 60° C. using the test methods specified in 40 CFR 261.21.
  - (2) Any industrial wastes, including oxygen demanding wastes (BOD, etc.), released in a discharge at a flow rate or concentration which will cause interference with the wastewater treatment works, constitute a hazard to humans or animals, create a public nuisance, exceed any applicable National Categorical Pretreatment Standards, or cause pass-through.
  - (3) Any waters or wastes having pH lower than 5.0 or higher than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater works.
  - (4) Solid or viscous substances in quantities or of such size capable of causing obstruction to the flow in sewers ~~[and/]or other interference~~ **[interferes]** with the proper operation of the wastewater facilities, such as, but not limited to, ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, unground garbage, whole blood, paunch manure, hair and fleshings, entrails and paper dishes, cups, milk containers, etc., either whole or ground by garbage grinders.

- (5) Wastewater sufficiently hot to cause the influent at the wastewater treatment facilities to exceed 104° F. (40° C.) or cause inhibition of biological activity in the POTW.
- (6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass-through.
- (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- (8) Any trucked or hauled pollutants, except at discharge points designated by the POTW and at such times as are established by the Town.
- (9) Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, deionized water, noncontact cooling water, and unpolluted industrial wastewater, unless specifically authorized by the Town.
- (10) Any wastewater causing the treatment plant's effluent to fail a whole effluent toxicity testing standard.
- (11) Any wastes containing detergents, surface active agents, or other substances which may cause excessive foaming in the POTW.
- (12) Strong acid pickling waste and concentrated plating solutions, whether neutralized or not.
- (13) Any medical/infectious wastes, pharmaceutical waste, or radiological waste except as specifically authorized in a discharge permit.
- (14) Household hazardous wastes, including but not limited to paints, stains, thinners, pesticides, herbicides, antifreeze, transmission and brake fluids, motor oil and battery acid.
- (15) Any hazardous waste listed or designated by New Hampshire Department of Environmental Services (NHDES) under Chapter Env-Hw 400 (Identification and Listing of Hazardous Wastes) of the New Hampshire Code of Administrative Rules.
- [(16) Any substance with color not removed at the POTW, such as, but not limited to, dye wastes and vegetable tanning solutions.**
- (17) Any emulsifying agents, solvents or enzymes that causes fats, oils or grease to pass through an interceptor causing blockages of or the requirement for excessive maintenance of the sanitary sewer.**
- (18) Any substance which may cause the POTW's effluent or treatment residues, biosolids or scums to be unsuitable for reclamation and reuse or which may interfere with such reclamation and reuse process. In no case shall a substance discharged to the POTW**

**cause the POTW to be in noncompliance with biosolids use or disposal criteria, guidelines or regulations developed under section 405 of the Clean Water Act, any criteria, guidelines or regulations affecting biosolids use or disposal developed pursuant to the Solid Waste Disposal Act, Ambient Ground Water Quality regulations, the Clean Air Act, the Toxic Substances Control Act or state or local standards applicable to the biosolids management method adopted by the city.**

**(19) Any substance which damages or causes unusual wear of POTW equipment.**

**(20) Any wastewater that has not been specifically disclosed in the permit application.**

**(21) Molybdenum based corrosion inhibitors from commercial and industrial dischargers.]**

**§ 158-39 Limited discharges; enforcement.**

The following described substances, materials, waters, or waste shall be limited in discharges to municipal systems to concentrations or quantities which will not harm either the sewers, wastewater treatment process or equipment, will not have an adverse effect on the receiving stream, or will not otherwise endanger life, limb, or public property or constitute a nuisance. The Town may set limitations lower than the limitations established in the regulations below if in its opinion such limitations are necessary to meet the above objectives. In forming its opinion as to the acceptability, the Town will give consideration to such factors as the quantity of subject waste in relation to flows and velocities in the sewers, materials of construction of the sewers, the wastewater treatment process employed, capacity of the wastewater treatment plant, and other pertinent factors. The Town shall not permit those discharges which are prohibited by § 158-38 of this article. The limitations or restrictions on materials or characteristics of waste or wastewaters discharged to the sanitary sewer which shall not be violated are as follows:

- A. Wastewater containing more than 100 milligrams per liter of petroleum oil , nonbiodegradable cutting oils , or product of mineral oil origin. **[Compliance shall be determined using Method 1664 A HEM and Method 8015 or an equivalent method which has been approved by the Director. If the facility also discharges FOG to the sewer system, then the facility shall substitute Method 1664 A HEM with Method 1664 A SGT (TPH method).]**
- B. Any garbage that has not been properly shredded (see the definition of "properly shredded garbage" in Article III, § 395-6). Garbage grinders may be connected to sanitary sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers.
- C. Any waters or wastes containing heavy metals, solvents, and similar objectionable or toxic substances to such degree that any such materials discharged to the public sewers exceed

the limits established by the Town, the New Hampshire Department of Environmental Services (NHDES), or the National Categorical Pretreatment Standards, as promulgated by the U.S. Environmental Protection Agency, for such materials.

- D. Any waters or wastes containing phenols or other taste- or odor-producing substances in such concentrations exceeding limits which may be established by the Town, as necessary, after treatment of the composite sewage, to meet the requirements of the state, federal or other public agencies of jurisdiction for such discharge.
- E. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Town in compliance with applicable state or federal regulations.
- F. Quantities of flow, concentrations, or both which constitute a "slug" as defined herein. Unusual volume of flow or concentration of wastes constituting "slugs" as defined herein. Any unusual concentrations, spills, or slugs shall be reported immediately to the Assistant Public Works Director/Wastewater Division of the wastewater treatment plant. A written report shall be sent by the industrial user to the Town within five days of the incident describing the reason for the spill, remedial action taken, and the steps taken to prevent its reoccurrence.
- G. Waters or wastes containing substances which are not amenable to treatment or reduction by the wastewater treatment processes employed or are amenable to treatment only to such degree that the wastewater treatment plant effluent cannot meet the permitted discharge.
- H. Any water or wastes which, by interaction with other water or wastes in the public sewer system, release obnoxious gases, form suspended solids which interfere with the collection system, or create a condition deleterious to structures and treatment processes.
- I. Wastewater with any of the following constituents at concentrations greater than those indicated below:

|                |           |
|----------------|-----------|
| Cadmium        | 0.09 mg/l |
| Total chromium | 1.54 mg/l |
| Copper         | 1.03 mg/l |
| Lead           | 0.15 mg/l |
| Nickel         | 0.44 mg/l |
| Silver         | 2.1 mg/l  |

|               |           |
|---------------|-----------|
| Zinc          | 2.1 mg/l  |
| Arsenic       | 0.19 mg/l |
| Selenium      | 1.0 mg/l  |
| Mercury       | 0.17 mg/l |
| Total cyanide | 3.73 mg/l |

- (1) At the discretion of the Public Works Director or his designee, the Town may impose mass limitations in addition to or in place of the concentration-based limitations above.
- (2) The daily maximum allowable discharge standards are concentration limitations based on contributory flow from industrial users discharging industrial process wastewater to the Town's wastewater treatment facility. Industrial users that have historically discharged at or below the domestic or background concentrations for all or any one of the pollutants listed above may not discharge above their current level. If the industrial user intends to increase its contribution above its current level, the industrial user must submit a formal request to the Town for review.
- (3) The Town shall review industrial monitoring results to ensure that an industrial user previously discharging a particular pollutant at or below the domestic or background concentrations has not exceeded the respective threshold level. If a significant change in the concentration of a particular pollutant(s) is identified, the Town shall evaluate its current allowable headworks loading value(s) for that particular pollutant(s). If necessary to ensure the maximum headworks loading thresholds are not exceeded, the Town shall recalculate and adjust the discharge standards accordingly.
- (4) If an industrial user exceeds any of the discharge standards, the industrial user shall notify the Town within 24 hours of becoming aware of the violation. The industrial user must attempt to identify the source and duration of noncompliance and initiate corrective action immediately. A written report on noncompliance must be submitted to the Town within 30 days of the event. The industrial user shall also repeat analysis to the Town within 30 days after becoming aware of the violation. Where the Control Authority has performed the sampling and analysis in lieu of the industrial user, the Control Authority must perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat analysis. However, the industrial user is not required to resample if the Town performs sampling at the industrial user at a frequency of at least once per month or the Town performs sampling at the industrial user between the time when the initial sampling was conducted and the time when the industrial user or the Town receives the results of this sampling.



- (a) All compliance reports 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 Control Authority shall require that frequency of monitoring necessary to assess and assure compliance by industrial 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, twenty-four-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Control Authority. Where time-proportional composite sampling or grab sampling is authorized by the Control Authority, the samples must be representative of the discharge, and the decision to allow the alternative sampling must be documented in the industrial 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 twenty-four-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Control Authority, as appropriate.
- (b) For sampling required in support of baseline monitoring and ninety-day compliance reports, a minimum of four 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 Control Authority may authorize a lower minimum. For the periodic reports on continued compliance and reports for industrial users not subject to categorical pretreatment standards, the Control Authority shall require the number of grab samples necessary to assess and assure compliance by industrial users with applicable pretreatment standards and requirements.
- J. The Town reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW if deemed necessary to comply with the objectives present in Article I, General Provisions (§ 395-2, Purpose and policy), of this chapter or the general and specific prohibitions in Article VII of this chapter.
- K. If any of the following sewer screening levels are exceeded in the sewer and the repeat analyses indicate noncompliance with this screening level, then the industrial user shall implement, within 30 days of receipt of the repeat analyses, a study to evaluate the potential impact of the discharge of this pollutant to the Town collection system or the wastewater treatment facility. This study must be conducted under the supervision and approval of the Town. The screening level for sulfate shall be adjusted to account for the type of concrete used in sewer construction and the dilution present (community-specific list of screening levels).

|          |            |
|----------|------------|
| Chloride | 1,500 mg/l |
| Sulfate  | 1,500 mg/l |
| Sulfide  | 1.0 mg/l   |
| Sulfite  | 2.0 mg/l   |

- L. If any individual sewer screening levels based on fume toxicity values are exceeded in the sewer system (list below is not all inclusive), the industrial user may be required at the discretion of the Town to further evaluate the health, flammability and chemical reactivity in the collection system. Such screening levels, generated on the basis of standard conditions, shall be adjusted for the particular conditions applicable to the specific discharge.

| <b>Compound</b>         | <b>mg/l</b> | <b>Compound</b>    | <b>mg/l</b> |
|-------------------------|-------------|--------------------|-------------|
| Acrylonitrile           | 6.08        | Vinyl Acetate      | 2.47        |
| Benzene                 | 0.071       | Tetrahydrofuran    | 163.4       |
| Bromomethane            | 0.002       | Naphthalene        | 3.99        |
| Carbon Disulfide        | 0.073       | Cresols            | 380         |
| Carbon Tetrachloride    | 1.34        | 1,2 Dichloroethane | 0.89        |
| Chlorobenzene           | 2.4         | Styrene            | 2.02        |
| Chloroform              | 2.04        | o,p,m-xylene       | 2.6         |
| Chloromethane           | 0.013       | Aldrin             | 0.38        |
| 1,2 Dichlorobenzene     | 3.7         | Chlordane          | 0.13        |
| 1,4 Dichlorobenzene     | 5.21        | p-Chloro-m-cresol  | 29.35       |
| Dichlorodifluoromethane | 0.04        | Chlorobenzene      | 2.4         |

| <b>Compound</b>             | <b>mg/l</b> | <b>Compound</b>                 | <b>mg/l</b> |
|-----------------------------|-------------|---------------------------------|-------------|
| 1,1 Dichloroethane          | 2.3         | DDT                             | 1.55        |
| trans 1, 2 Dichloroethylene | 0.29        | 2,4 Dichlorophenoxy Acetic Acid | > 1,000,000 |
| 1,2 Dichloropropane         | 5.39        | Dieldrin                        | 13,000      |
| 1,3 Dichloropropane         | 0.09        | Diethylphthalate                | 102.04      |
| Ethyl Benzene               | 2.01        | Dimethylphthalate               | 57          |
| Ethyl Dichloride            | 0.21        | 2,4 Dinitrotoluene              | 8.2         |
| Formaldehyde                | 0.12        | Endosulfan                      | 0.25        |
| Heptachlor                  | 0.003       | Endrin                          | 6.1         |
| Hexachloro-1, 3-butadiene   | 0.0002      | Isobutyl alcohol                | 714.29      |
| Hexachloroethane            | 0.98        | Isophorone                      | 595.74      |
| Methyl ethyl ketone         | 373.42      | Pentachlorophenol               | 4.4         |
| Toluene                     | 2.07        | Pyridine                        | 52,401      |
| 1,2,4 Trichlorobenzene      | 0.389       | Toxaphene                       | 0.0001      |
| Trichloroethylene           | 0.81        | 1,1,2 Trichloroethane           | 1.5         |
| Vinylidene                  | 0.01        | Vinyl Chloride                  | 0.0008      |
| Aroclor 1242                | 0.01        | Acetone                         | 1.545       |
| Acetic Acid                 | 565.6       | Methylene Chloride              | 83.73       |
| Tetrachloroethylene         | 2.19        | 1,1,1 Trichloroethane           | 2.0         |

| Compound               | mg/l  | Compound     | mg/l   |
|------------------------|-------|--------------|--------|
| Trichlorofluoromethane | 1.25  | Aroclor 1254 | 0.005  |
| Isopropanol            | 5,500 | Chlorine     | 0.0045 |

M. The Town shall enforce the provision of this chapter in accordance with EPA guidelines and will define noncomplying events using the following terms:

- (1) Significant noncompliance (SNC). Any violation of pretreatment requirements (limits, sampling, analysis, reporting and meeting compliance schedules and regulatory deadlines) is an instance of noncompliance for which the industrial user is liable for enforcement, including penalties. Instances of significant noncompliance (SNC) are industrial user violations which meet one or more of the following criteria:
  - (a) Violation of wastewater discharge limits.
    - [1] Chronic violations of wastewater discharge limits, defined here as those in which 66% or more of all of the measurements taken for the same pollutant parameter during a six-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 here as those in which 33% or more of all of the measurements taken for the same pollutant parameter during a six-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, long-term average, instantaneous limit, or narrative standard) that the POTW determines has caused, alone or in combination with other discharges, interference or pass-through (including endangering the health of POTW personnel or the general public).
    - [4] Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the POTW's exercise of its emergency authority to halt or prevent such a discharge.
  - (b) Violation of compliance schedule milestones, contained in the industrial user permit (IUP) or an enforcement order, for starting construction, completing construction, and attaining final compliance by 90 days or more after the schedule date.
  - (c) Failure to provide reports for compliance schedules, self-monitoring data, or categorical standards within 30 days from the due date.

- (d) Failure to accurately report noncompliance.
- (e) Any other violation or group of violations that the Town considers to be significant.

**[N. Dental dischargers shall comply with the Best Management Practice requirements identified in Code of Federal Regulations Title 40 CFR, Part 441, *Dental Office Point Source Category* and the requirements identified in New Hampshire Code of Administrative Rules Env-Wq 306, *Standards For Management of Mercury-Containing Amalgam*. These rules do not apply to wastewater discharges from dental mobile units.]**

**§ 158-40 Authority of Town.**

- A. If any waters or wastes are discharged or are proposed to be discharged to the public sewers, which waters or wastes contain the substances or possess the characteristics enumerated in § 158-39 of this article, or which, in the judgment of the Town, may have a deleterious effect upon the wastewater facilities, processes, equipment, or receiving waters, or which otherwise create a hazard to life or constitute a public nuisance, the Town may, subject to limitations in §§ 158-38 and 158-47 of this article:
  - (1) Reject the wastes.
  - (2) Require pretreatment to an acceptable condition for discharge to the public sewers.
  - (3) Require control over the quantities and rates of discharge, which includes flow equalization.
  - (4) Require industrial users with the potential to discharge flammable substances to install and maintain an approved combustible gas detection meter.
  - (5) Require any industrial user to develop and implement an accidental discharge/slug control plan. If required, slug control plans must be included in their industrial user discharge permit. At a minimum this slug control plan must include a description of discharge practices, including nonroutine batch discharges and a description of stored chemicals. This requirement will give the Town the flexibility to review the need for a slug control plan or other action as necessary on a continuing basis. Any additional significant industrial users must be evaluated within one year of being designated a significant industrial user. For purposes of this subsection, a slug discharge is any discharge of a nonroutine, episodic nature, including but not limited to an accidental spill or a noncustomary batch discharge, which has a reasonable potential to cause interference or pass-through or in any other way violate the POTW's regulations, local limits or permit conditions. Significant industrial users are required to notify the POTW immediately of any changes at their facility affecting potential for a slug discharge.
  - (6) Require payment to cover added cost of handling and treating the wastes.

- (7) Require procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, and measures for containing toxic organic pollutants (including solvents and equipment for emergency response).
- B. If the Town or federal effluent limitations require pretreatment or equalization of waste flows, the design and installation of such facilities shall be subject to the review and approval of the Town and the New Hampshire Department of Environmental Services (NHDES) and subject to the requirements of all applicable codes, ordinances and laws. Such facilities shall not be connected to the sanitary sewer until said approval is obtained in writing. Such approval shall not relieve the owner of the responsibility of discharging treated waste meeting the requirements of this chapter. Plans and specifications for a proposed pretreatment facility shall be the result of the design of a professional engineer registered in New Hampshire.
- C. To determine compliance with respect to prohibited discharges and categorical limitations on wastewater discharges with respect to the industrial user discharge permit, prohibitions and limitations may be made on the basis of either instantaneous grab samples or composite samples of the wastewater. Sampling of industrial wastewaters for the purpose of compliance determination will be performed at such frequency as the Town designates and may be on either a scheduled or random basis to ensure compliance.

**§ 158-41 Grease, oil and sand interceptors.**

- A. [Grease interceptors, oil separators and sand interceptors shall be installed for the proper handling of liquid wastes containing floatable oil or grease , as specified in § 158-39A on the building drain of the following users of the sewer system:**
- a. All commercial establishments engaged in the preparation and sale of foodstuffs to the general public such as restaurants, cafes, lunch counters, cafeterias, bars, kitchens in hotels, hospitals, factories or other profit or nonprofit organizations providing food services;**
  - b. Establishments engaged in automatic and coin-operated laundries, car washes, filling stations, commercial garages or similar businesses having wash or grease racks;**
  - c. All establishments operating a commercial garbage grinder;**
  - d. Dairies, slaughterhouses, commercial processing plants and other similar sources of grease and fat byproducts, unless such establishments are otherwise regulated by a discharge permit issued under this chapter;**

- e. Any other users producing quantities of grit, sand, grease, fat or other materials which have the potential of causing partial or complete obstruction of the building sewer or other areas in the sewer system, require excessive maintenance of sewer lines or impede the transmission or treatment of sewage.

**B. Interceptors Design installation, operation and maintenance.**

- C. All interceptors shall be designed and installed in accordance with the requirements of current version of the International Plumbing Code, published by the International Code Council, Inc. All interceptors shall be of a type and capacity approved by the Town and shall be located as to be readily and easily accessible for cleaning and inspection.

The design standards are such that excessive amounts of grease, oil, sand, and other inert solids are effectively prevented from entering the POTW sewer. All other requirements of the International Plumbing Code, including safety considerations, access provisions for maintenance and cleaning, design of vents and covers, and types of construction materials shall be applicable.

They shall be of substantial construction, watertight, and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight. In the maintaining of these interceptors the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal which are subject to review by the Town

All interceptors shall be installed, maintained, repaired and operated by the discharger at his or her own expense. The installation shall be kept in continuous operation at all times, and shall be inspected and cleaned on a regular basis as required for efficient operation, by a service contractor qualified to perform such cleaning and inspection. Bioremediation may be used in addition to regular maintenance provided that the grease does not pass through the interceptor and cause blockages or excessive maintenance requirements.

Certificates of inspection and maintenance shall be kept on the premises of the interceptor installation and shall be made readily available to Town authorized personnel for review and inspection. Wastes removed from the interceptor must not be reintroduced into an interceptor or sewer. Dischargers shall be subject to the remedies, including penalties for failure to inspect and maintain interceptors.

**D. Enforcement**

Any person, firm, partnership or corporation found to be violating, or in violation of, this provision will be subject to enforcement actions in accordance with §158- 79, *Continuing Violations*, of this chapter. For all continuing violations, the response will

**include a compliance schedule. Additional enforcement responses available to the Town are consent orders, show cause hearing, compliance order, cease and desist order, administrative fines and civil or criminal prosecution.]**

~~Grease, oil, and sand interceptors shall be provided when, in the opinion of the Town, they are necessary for the proper handling of liquid wastes containing floatable oil or grease in excessive amount, as specified in § 158-39A, or any flammable waste, sand, or other harmful ingredients, except that such interceptors shall not be required for private living quarters or dwelling units. All interceptors shall be of a type and capacity approved by the Town and shall be located as to be readily and easily accessible for cleaning and inspection. Grease and oil interceptors shall be constructed of impervious material capable of withstanding abrupt and extreme changes in temperature. They shall be of substantial construction, watertight, and equipped with easily removable covers which, when bolted in place, shall be gastight and watertight. In the maintaining of these interceptors the owner(s) shall be responsible for the proper removal and disposal by appropriate means of the captured material and shall maintain records of the dates and means of disposal which are subject to review by the Town. Any removal and hauling of the collected materials not performed by owner's personnel must be performed by currently licensed waste disposal firms.~~

**§ 158-42 Pretreatment standards.**

Persons discharging industrial process wastes into the public sewer or Town wastewater treatment facility shall comply with the National Categorical Pretreatment Standards, found in 40 CFR Chapter I, Subchapter N, Parts 405 to 471, which are hereby incorporated into this chapter. In addition, compliance is required with National Categorical Pretreatment Standards that have yet to be promulgated or amended, and the New Hampshire Department of Environmental Services (NHDES) pretreatment regulations (as amended), in addition to this chapter.

**§ 158-43 Industrial wastes.**

The Town, with the advice of a professional engineer registered in New Hampshire, shall determine the quantity and quality of all industrial wastes which can be properly taken into the sewerage system and treated at the sewage treatment works, in addition to the sanitary sewage from the Town, and the Town may regulate, by separate industrial user permit(s) approved by the Town Council, the flow of industrial wastes into the sewerage system.

**§ 158-44 Monitoring.**

- A. When required by the Town, the owner(s) of any property serviced by a building sewer carrying industrial wastes shall install a suitable control structure, together with such necessary meters and other appurtenances, in the building sewer to facilitate observation, sampling, and measurement of the wastes. Such structure, when required, shall be accessible and safely located and shall be constructed in accordance with plans approved by the Town. The structure shall be installed at the owner's expense and shall be maintained by the owner(s) to be safe and accessible at all times.



- B. All industrial users discharging into a public sewer shall perform such monitoring as the Public Works Director or duly authorized employees or agents of the Town may reasonably require, including installation, use and maintenance of monitoring equipment, keeping records and reporting the results of such monitoring to the PWD. Such records shall be made available upon request by the PWD to other agencies having jurisdiction over discharges to the receiving waters.
- [C. **All Industrial Users shall be allowed to apply for a monitoring waiver to forego sampling of a pollutant regulated by a categorical Pretreatment Standard if the permittee has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Industrial User. This authorization is subject to the following conditions:**
1. **A monitoring waiver may also be granted where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical Standard and otherwise includes no process wastewater.**
  2. **The monitoring waiver shall only be valid only for the duration of the effective period of the Permit. The User must submit a new request for the waiver with each permit application.**
  3. **In making a demonstration that a pollutant is not present, the permittee must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.**
  4. **The request for a monitoring waiver must be signed in accordance with Code of Federal Regulations Title 40 CFR § 403.6(a)(2)(ii). Non-detectable sample results may only be used as a demonstration that a pollutant is not present if the EPA approved method from Code of Federal Regulations Title 40 CFR part 136 with the lowest minimum detection level for that pollutant was used in the analysis.**
- D. **In lieu of continuous monitoring for total toxic organics (TTO), the permittee may submit a toxic organic management plan to the Town following receipt of TTO analyses results indicating full compliance with the federal categorical standard.**
1. **At a minimum, the solvent/toxic organic management plan shall consist of:**
    - a. **Identification of the toxic organic compounds used [source(s) of pollutant(s)];**
    - b. **Method of disposal (control options exercised); and**
    - c. **Procedures for assuring that toxic organics do not routinely spill or leak into wastewater discharge to the Town (effectiveness of control options).**

2. Upon approval of the plan by the Town, the permittee shall submit a certification statement by June 1<sup>st</sup> and December 1<sup>st</sup> of each calendar year in lieu of performing the laboratory analysis for total toxic organics (Code of Federal Regulations Title 40 CFR 122, Appendix D, Table II).

3. The certification statement shall be as follows:

**“Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standard for Total Toxic Organics (TTO), I certify that, to the best of my knowledge and belief, no discharge of toxic organics into the wastewaters has occurred since filing the last discharge monitoring report. I further certify that this facility is implementing the Toxic Organic Management Plan submitted to the Town of Merrimack.”**

4. The certification statement shall be signed by an individual as defined in Part 4, Section H of this permit and submitted to the office of the Merrimack Wastewater Treatment Facility, Industrial Wastewater Pretreatment Manager.

**Any change in toxic organic management plan at the permitted facility, including any change in the toxic organic compounds used, shall nullify the plan approval, and shall require an additional TTO analyses results (compliant with standards) be submitted to the Town. In addition, a revised toxic organic management plan (see 1. above) shall be submitted for approval in lieu of continued TTO monitoring.]**

**§ 158-45 Information to be provided.**

The Town may require a user of sewer services to provide information needed to determine compliance with this chapter. These requirements may include:

- A. Wastewater discharge peak rates and volume over a specified time period.
- B. Chemical analyses of wastewaters.
- C. Information on raw materials, processes, and products affecting wastewater volume and quality.
- D. Quantity and disposition of specific liquid, sludge, oil, solvent, or other materials important to sewer use control.
- E. A plot plan of sewers on the user's property showing sewer and pretreatment facility location.
- F. Details of wastewater pretreatment facilities, including plans and specifications.

- G. Details of systems to prevent and control the losses of materials through spills into the municipal sewer.

**§ 158-46 Measurements, tests and analyses.**

All measurements, tests, and analyses of the characteristics of waters and wastes to which reference is made in this chapter shall be determined in accordance with the EPA-approved methods published in the Code of Federal Regulations, Title 40, Part 136 (40 CFR 136), or if none are available, then sampling and analysis shall be performed using validated analytical methods or other applicable procedures approved by the Town. Sampling methods, location, times, duration, and frequencies are to be determined on an individual basis subject to approval by the Town.

**§ 158-47 Special agreements.**

- A. No statement contained in this article, except in § 158-38, shall be construed as preventing any special agreement or arrangement between the Town and any industrial user whereby an industrial waste of unusual strength or character may be accepted by the Town for treatment, provided that such agreements do not contravene any requirements of existing federal or state laws and/or regulations promulgated thereunder, are compatible with any user charge system in effect, and do not waive applicable National Categorical Pretreatment Standards. Special agreements may not, under any circumstances, be less stringent than any corresponding federal limitations established for the parameter of concern. Any special agreement established is subject to a mandatory annual evaluation.
- B. In addition, if at any time during the year the industrial user's process(es) or discharge(s) changes from the conditions to which the special agreement applies, or if a new industrial user connects to the Town's wastewater treatment facility whose discharge may impact the total industrial allocation of the specific parameter for which the special agreement has been reached, the Town may at that time reevaluate the special agreement and change the conditions of the agreement or revoke the agreement entirely, as determined to be necessary.

**§ 158-48 Reporting.**

Each significant industrial user must report twice a year to the Town on the first of June and first of December of each year, or such other time as designated by the Town, a semiannual report containing information as to the minimum, average and peak flows of industrial wastewater discharges during the previous year and at time or times designated, analyses and wastewater samplings taken in an acceptable manner at approved times during the flow measuring periods.

**§ 158-49 Septic tank waste.**

- A. Septic tank waste (septage) may be accepted into the sewer system at a designated receiving structure within the treatment plant area, and at such times as are established by the Public Works Department, provided such wastes do not contain toxic pollutants or materials, and provided such discharge does not violate any other special requirements established by the Town. Septage will not be accepted at the treatment facility which exhibits a pH of less than

five standard pH units. Permits to use such facilities shall be under the jurisdiction of the Public Works Department or its duly authorized representatives. The discharge of industrial wastes as "industrial septage" requires prior approval of the New Hampshire Department of Environmental Services (NHDES). Fees for dumping septage will be established as part of the user charge system. The Town shall have authority to limit the disposal of such wastes if such disposal would interfere with the treatment plant operation or violate the National Pollutant Discharge Elimination System (NPDES) permit. Procedures for the disposal of such wastes shall be in conformance with the operating policy of the Town, and disposal shall be accomplished under supervision of the Town unless specifically permitted otherwise. Municipalities need not accept septage if it would interfere with the proper operation of municipal treatment and disposal facilities (RSA 486:13).

B. Additional septage hauler requirements are as follows:

- (1) The Town shall require septage haulers to obtain an individual user pretreatment permit prior to discharging to the Merrimack POTW. These permits will be reissued on a periodic basis.
- (2) Septage haulers can only discharge loads at locations specifically designated by the Town.
- (3) The Town may collect samples of each hauled load to ensure compliance with applicable pretreatment standards.
- (4) No load may be discharged without prior consent of the Town.
- (5) The Town may require the hauler to provide a waste analysis of any load prior to discharge.
- (6) The waste hauler must use the POTW waste tracking form to record every load that is pumped and delivered to the POTW.
- (7) Septage haulers are strictly prohibited from discharging industrial septage at the Merrimack POTW, unless prior consent is granted from the Town and New Hampshire Department of Environmental Services (NHDES).

**§ 158-50 Dilution.**

It shall be illegal to meet requirements of this chapter by diluting wastes in lieu of proper pretreatment.

**§ 158-51 Protection from accidental discharge.**

Each industrial user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental discharges shall be provided and maintained at the industrial user's expense.

**§ 158-52 Bypass.**

Bypass is prohibited except where the bypass is unavoidable to prevent loss of life, personal

injury, or severe property damage. The industrial user shall notify the Town immediately in the event of any bypass. Prior authorization must be obtained from the Town to accommodate maintenance activities. Industrial users must still comply with Article VII of this chapter whenever permission is granted to bypass.

**§ 158-53 Notification of spill or other incident.**

A notice shall be permanently posted, plainly visible to an industrial user's personnel responsible for managing wastewater discharges, which shall instruct all employees whom to call in the event of a spill, slug discharge, pretreatment upset or bypass. Employers shall ensure that all employees who may cause or suffer such a discharge to occur know of the required notification of the Town.

**§ 158-54 Sampling.**

If sampling performed by an industrial user indicates a violation, the user shall notify the Town within 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 Town within 30 days after becoming aware of the violation, except that the industrial user is not required to resample if:

- A. The Town performs sampling at the industrial user at a frequency of at least once per month; or
- B. The Town performs sampling at the industrial user between the time when the user performs its initial sampling and the time when the user receives the results of this sampling.

**Article VIII  
Industrial Pretreatment**

**§ 158-55 Applicability.**

All persons discharging industrial process wastes into public or private sewers connected to the Town's wastewater works shall comply with applicable requirements of federal and state industrial pretreatment regulation (as amended), in addition to the requirements of these industrial pretreatment rules.

**§ 158-56 Industrial user permit (IUP).**

- A. Industrial user permit (IUP) required. Effective 120 calendar days after this provision is adopted by the Town, the discharge of any industrial process waste to the Town's wastewater works or to a public or private sewer connected to the Town's wastewater works is prohibited without a valid industrial user permit (IUP).
- B. Industrial user permit (IUP) application. Within 60 days after the effective date of these industrial pretreatment rules, and subsequently when required by the Town, persons subject to these rules shall submit an application for an industrial user permit (IUP) containing information required under applicable federal and state industrial pretreatment reporting

regulations. Such information, as a minimum, shall include:

- (1) The name and address of the facility, including the name of the operators and owners.
  - (2) A list of all environmental permits held by or for the facility.
  - (3) A brief description of the nature, average rate of production, and standard industrial classification of the operations carried out at such facility.
  - (4) An identification of the categorical pretreatment standards applicable to each regulated process.
  - (5) An analysis identifying the nature and concentration of pollutants in the discharge.
  - ~~(6) Notification to the Town of any proposed or existing discharge of listed or characteristic hazardous waste [as required by 40 CFR 403.12(p)].~~
  - ~~(7) In those instances in which the industrial user provides notification of discharge of hazardous wastes, the industrial user shall also provide the following certification: "I certify that (the company) has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree (the company) has determined to be economically practical."~~
  - (~~8~~-6) Information showing the measured averaged daily and maximum daily flow, in gallons per day, to the public sewer from regulated process streams and from other streams.
  - (~~9~~-7) A schedule of actions to be taken to comply with discharge limitations; **[including a slug control plan if applicable]**.
  - ~~(10~~-8) Additional information as determined by the Town may also be required.
  - ~~(11~~-9) Any other information which may be needed to meet the baseline monitoring requirements applicable to industrial users subject to National Categorical Pretreatment Standards.
- C. Provisions. The industrial user permit (IUP) will outline the general and specific conditions under which the industrial process waste is accepted for treatment at the Town's wastewater treatment plant.
- (1) Specifically, included in the permit are the following:
    - (a) Pretreatment and self-monitoring facilities required.
    - (b) Parameters to be monitored, type of samples, and monitoring frequencies required.
    - (c) Location of sampling site.

- (d) Notification by the industrial user of slugs, bypass or noncompliance.
  - (e) Penalties for noncompliance.
  - (f) Compliance schedule.
  - (g) Effluent limitation on the industrial process waste.
- (2) Reporting requirements.
- (a) Industrial users shall submit periodic reports as required, but not less often than semiannually, indicating the nature and concentration of pollutants in the discharge from the regulated processes governed by pretreatment standards and the average and maximum daily flow for these process units. The reports shall state whether the applicable categorical pretreatment standards and effluent limitations are being met on a consistent basis and, if not, what additional operation and maintenance practices and pretreatment are necessary. Additional requirements for such reports may be imposed by the Town.
  - (b) If an individual user subject to the report requirements in Subsection C(2)(a) monitors any pollutant more frequently than required by the Town, using procedures prescribed in Article VII, § 158-46, the results of this monitoring shall be included in the report. All industrial users must submit analytical results performed in accordance with 40 CFR Part 136.
- [(c) The permittee shall submit a certification statement by June 1<sup>st</sup> and December 1<sup>st</sup> of each calendar year in lieu of performing the laboratory analysis for total toxic organics in accordance with 158-54(D).]**
- (3) Monitoring records.
- (a) Industrial users subject to the reporting requirements under this section shall maintain records of information resulting from monitoring activities required to prepare such reports; such records shall include for each sample:
    - [1] The date, exact place, method and time of sampling and name of person or persons taking sample.
    - [2] The dates analyses were performed.
    - [3] The laboratory performing the analyses.
    - [4] The analytical techniques and methods used.
    - [5] The results of such analyses.
  - (b) Such records shall be maintained for a minimum of five years and shall be made available

for inspection and copying by the Town.

- (4) Additional conditions.
  - (a) The permit will be in effect for **[a period not to exceed 3 years]** ~~one year [and may] will be automatically renewed for [upon review and receipt of a properly completed permit application. Permits may be extended in accordance with 154-24(C) for up to a one-year period.]~~ by issuance, on the anniversary, of a revised cover page or complete industrial user permit (IUP), unless the applicant is notified otherwise by the Town.
  - (b) The permit is nontransferable and may be revoked by the Town for noncompliance or modified so as to conform to discharge limitation requirements that are enacted by federal or state rules and regulations.
  - (c) An industry proposing a new discharge or a change in volume or character of its existing discharge, beyond limits previously permitted, must submit a completed industrial user permit (IUP) application to the Town at least 60 days prior to the commencement of such discharge. The submitted application must include plans and engineering drawings, stamped by a registered professional engineer, of the proposed pretreatment facilities. Upon approval of the application by the Town, an indirect discharge request is submitted by the Town to the New Hampshire Department of Environmental Services (NHDES) on behalf of the industry. Upon approval of the indirect discharge request by the New Hampshire Department of Environmental Services (NHDES), the industry and the Town will enter into a new or amended IUP in accordance with the procedure outlined in this section.
  - (d) Industrial users and commercial facilities that produce a process wastewater effluent or discharge shall be assessed an annual fee by the Town as established by the Town Council from time to time to defray the administrative cost of the industrial user permit (IUP) program. These costs may include all personnel, operational, maintenance and capital costs necessary to operate a successful pretreatment program.
- (5) Wastewater discharge permits may contain, but need not be limited to, the following:
  - (a) Limits on the average or maximum rate of discharge, time of discharge, and requirements for flow regulation and equalization.
  - (b) Limits on the instantaneous, daily and monthly average or maximum concentration, mass, or other measure or identified wastewater pollutants or properties.
  - (c) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
  - (d) Development and implementation of spill control plans or other special conditions, including management practices necessary to adequately prevent accidental, unanticipated,



or routine discharges.

- (e) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW.
  - (6) Compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit.
- D. Signature for reports. The reports required by Subsections **B** and **C(2)(a)** of this section and § **158-60E** and **F** of this article shall include the certification as set forth in Subsection **E** of this section and shall be signed as follows:
- (1) By a responsible corporate officer, if the industrial user submitting the reports required in this chapter is a corporation. For the purpose of this subsection, a "responsible corporate officer" means:
    - (a) A president, manager, treasurer, or 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 operation 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 control mechanism requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
  - (2) By a general partner or proprietor if the industrial user submitting the reports required by this chapter is a partnership or sole proprietorship, respectively.
  - (3) By a duly authorized representative of the individual designated in Subsection **D(1)** or **(2)** if:
    - (a) The authorization is made in writing by the individual described in Subsection **D(1)** or **(2)**;
    - (b) The authorization specified either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager, operator of a well or well field, superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and

- (c) The written authorization is submitted to the Town.
- (4) If an authorization under Subsection **D(3)** is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new authorization satisfying the requirement of Subsection **D(3)** must be submitted to the Town prior to, or together with, any reports to be signed by an authorized representative.
- E. Certification. All reports required to be signed as specified in Subsection **D** shall include the following certification:

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 ensure 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.

- F. Annual certification by nonsignificant categorical industrial users. A facility determined to be a nonsignificant categorical industrial user pursuant to 40 CFR 403.3(v)(2) must annually submit the following certification statement, signed in accordance with the signatory requirements in 40 CFR 403.12(l). This certification must accompany any alternative report required by the Control Authority:

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 nonsignificant categorical industrial 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;
- c) And 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:

- G. Signatory requirements for POTW reports. Reports submitted to the Approval Authority by

the POTW in accordance with 40 CFR 403.12(i) must be signed by a principal executive officer, ranking elected official or other duly authorized employee who must be an individual or position having responsibility for the overall operation of the facility or the pretreatment program. This authorization must be made in writing by the principal executive officer or ranking elected official and submitted to the Approval Authority prior to or together with the report being submitted.

**[H. Upon reduction of efficiency of operation, or loss or failure of all or part of the treatment facility, the permittee shall, to the extent necessary to maintain compliance with its permit, control its production or discharges (or both) until operation of the treatment facility is restored or an alternative method of treatment is provided. This requirement applies, for example, when the primary source of power of the treatment facility fails or is reduced. It shall not be a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.]**

**§ 158-57 Wastewater discharge permit appeals.**

Any person, including the industrial user, may petition the Town to reconsider the terms of a wastewater discharge permit within 30 days of its issuance.

- A. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- B. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- C. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- D. If the Town fails to act within 30 days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative action for purposes of judicial review.
- E. Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the name of court for jurisdiction within appropriate state statute of limitations.

**§ 158-58 Wastewater discharge permit modification.**

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

- A. [A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge. This may include the promulgation of new applicable national categorical pretreatment standards.**
  
- B. If new federal, state, and/or local standards are promulgated, the Director shall so notify the industrial discharger in writing. The industrial discharger must submit a proposed schedule for complying with the new standards within 30 days of notification. The modified permit shall contain the new limits and a compliance schedule.**
  
- C. Changes in the requirements of this chapter.**
  
- D. Changes in state, federal or local regulations pertaining to the POTW biosolids or discharge.**
  
- E. Information indicating that the permitted discharge poses a threat to the Town's POTW, Town POTW personnel, or the receiving waters, or a revision of federal or state water quality rules (groundwater or surface water).**
  
- F. To address changes or additions to the industrial user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance. Changes in operational status may include but not be limited to:
  - a. R&D facility commencing manufacturing activities;**
  - b. Manufacturing facility downgrading production and becoming an R&D facility;**
  - c. Increasing the concentration of a chemical or the addition of a new chemical which has the potential to impact or interfere with operations at POTW;**
  - d. Addition of new production activities including but not limited to: installation of new processing equipment, increasing manufacturing activities, addition of additional manufacturing capacity.****
  
- G. Changes in available POTW capacity or modifications to the POTW treatment processes which necessitate changes to industrial discharges to the wastewater system.**

- H. Changes required as a result of any new information which was discovered or was not available or provided at the time of permit issuance.
- I. Violation of any terms or conditions of the wastewater discharge permit.
- J. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting.
- K. Violation of any terms or conditions of the wastewater discharge permit.
- L. Revisions or a grant of variance from categorical pretreatment standards pursuant to Code of Federal Regulations Title 40 CFR 403.13.
- M. Correct typographical errors.
- N. Transfer of facility ownership or operation to a new owner.]
- ~~O. A. To incorporate any new or revised federal, state, or local pretreatment standards or requirements.~~
- ~~B. To address significant alterations or additions to the industrial user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance.~~
- ~~C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.~~
- ~~D. Information indicating that the permitted discharge poses a threat to the Town's POTW, Town POTW personnel, or the receiving waters.~~
- ~~E. Violation of any terms or conditions of the wastewater discharge permit.~~
- ~~F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting.~~
- ~~G. Revisions or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13.~~
- ~~H. To correct typographical or other errors in the wastewater discharge permit.~~
- ~~I. To reflect a transfer of the facility ownership or operation to a new owner/operator.~~

**§ 158-59 Wastewater discharge permit revocation [& Termination].**

A. Wastewater discharge permits may be revoked for the following reasons:

- (1) Failure to notify the Town of significant changes to the wastewater prior to the changed discharge.
- (2) Failure to provide prior notification to the Town of changed condition.
- (3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application.
- (4) Falsifying self-monitoring reports.
- (5) Tampering with monitoring equipment.
- (6) Refusing to allow the Town timely access to the facility premises and records.
- (7) Failure to meet effluent limitations.
- (8) Failure to pay fines.
- (9) Failure to pay sewer charges.
- (10) Failure to meet compliance schedules.
- (11) Failure to complete a wastewater survey or the wastewater discharge permit application.
- (12) Failure to provide advance notice of the transfer of a permitted facility.
- (13) Violation of any pretreatment standard or requirement or any terms of the wastewater discharge permit or this chapter.

B. Wastewater discharge permits shall be voidable upon nonuse, cessation of operations, or transfer of business ownership. All wastewater discharge permits are void upon the issuance of a new wastewater discharge permit.

**[C. Upon verification that the industrial user has closed the facility in compliance with all regulations, there is no hazardous waste stored at the facility, and all sewer fees have been paid, the Director may issue a letter which terminates the permit.]**

**§ 158-60 National Categorical Pretreatment Standards.**

A. Notification[:]-~~The Town shall provide timely notification to appropriate industries of applicable categorical pretreatment standards [All industrial users shall comply with the notification requirements per Code of Federal Regulations Title 40 CFR 403.6 - National Pretreatment Standards: Categorical Standards].~~

- B. Compliance date for categorical standards. Compliance with categorical pretreatment standards shall be achieved within three years of the date such standards are effective, unless a shorter compliance time is specified in the standards.
- C. Amendment to industrial user permit (IUP) required. An industrial user subject to categorical pretreatment standards shall not discharge wastewater directly or indirectly to Town wastewater works after the compliance date of such standards unless an amendment to its industrial user permit (IUP) has been issued by the Town.
- D. Application for industrial user permit (IUP) amendment. Within 120 days after the effective date of a categorical pretreatment standard, an industry subject to such standards shall submit an application for an industrial user permit (IUP) amendment.
- E. Categorical compliance schedule reports. Each user subject to a compliance schedule as required under Subsection G(7), or federal regulation [**Code of Federal Regulations Title**] 40 CFR 403.12(b)(7), shall report on progress toward meeting compliance with these regulations as follows:
- (1) Not later than 14 days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the Town indicating whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply, the reason for the delay, and the steps being taken by the industrial user to return the progress to the schedule established.
  - (2) The time for any increment in the schedule, or the interval between reports required in Subsection E(1), shall not exceed nine months. An increment is the time between the dates for commencement and completion of major events leading to the construction and operation of pretreatment facilities necessary to achieve compliance with this chapter and National Categorical Pretreatment Standards.
- F. Report on compliance with categorical standard deadline. Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new industrial user following introduction of wastewater into the Town POTW, any industrial user subject to pretreatment standards and requirements shall submit to the Town a report indicating the nature and concentration of all pollutants in the discharge from the regulated process which are limited by pretreatment standards and the average and maximum daily flow for these process lines. The report shall state whether the applicable pretreatment standards are being met on a consistent basis. If the new industrial user is unable to meet these applicable pretreatment standards, the industrial user shall then be required to implement and install the necessary operational, maintenance and pretreatment upgrades in order to bring the industrial user into compliance with the applicable pretreatment standards. This statement shall be signed by an authorized representative (see § 158-56D) and certified by a qualified professional engineer.

G. Baseline monitoring reports. Within either 180 days after the effective date of a categorical pretreatment standard or the final administrative decision on a category determination under 40 CFR 403.6(a), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit a report which contains the information listed in Article VIII, § 158-56B, of this chapter. At least 90 days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit a report which contains the information listed in Article VIII, § 158-56B, of this chapter. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged. Users described above shall submit the information set forth below:

- (1) Identifying information. The name and address of the facility, including the name of the operator and owner.
- (2) Environmental permits. A list of any environmental control permits held by or for the facility.
- (3) Description of operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.
- (4) Flow measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in [Code of Federal Regulations Title] 40 CFR 403.6(e).
- (5) Measurement of pollutants.
  - (a) The categorical pretreatment standards applicable to each regulated process.
  - (b) The results of sampling and analysis identifying the nature of the process wastewater, concentration and mass where required by the standard. Instantaneous, daily maximum, and long-term average concentrations or mass where required must be included in the report. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Article VII, § 158-46, of this chapter.
- (6) Certification. A statement reviewed by the user's authorized representative and certified by a qualified professional indicating pretreatment standards are being met on a consistent basis and, if not, whether additional operation and maintenance (O&M) and additional pretreatment are required to meet the pretreatment standards and requirements.
- (7) Compliance schedule. If additional pretreatment and O&M are required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional



pretreatment and O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this subsection must meet the requirements set out in [**Code of Federal Regulations Title**] 40 CFR 403.12(b)(7).

- (8) Signature and certification. All baseline monitoring reports must be signed and certified in accordance with Article **VIII**, § **158-56E**, of this chapter.

**§ 158-61 Slug discharge notification.**

All industrial users shall notify the Town immediately of all [**unapproved**] discharges ~~which could cause problems~~ to the wastewater treatment facilities, including any slug loadings as defined in Article **III**, § **158-6**. Within five days of the ~~unallowed~~ [**unapproved**] discharge, the industrial user shall provide the Town with a written report fully describing the ~~unallowed~~ [**unapproved**] discharge and the measures taken ~~and to be taken~~ to avoid recurrence of the ~~unallowed~~ [**unapproved**] discharge.

**§ 158-62 Reports of potential problems.**

- A. In the case of any discharge, including but not limited to accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, which may cause potential problems for the POTW (including a violation of the prohibited discharge standards in Article **VII**, § **158-38B** of this chapter), it is the responsibility of the industrial user to immediately telephone and notify the Town of the incident. This notification shall include the location of discharge, type of waste, concentration and volume, if known, and corrective actions taken by the industrial user.
- B. Within five days following such discharge, the industrial user shall, unless waived by the Town, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the industrial user to prevent similar future occurrences. Such notification shall not relieve the industrial user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property, nor shall such notification relieve the industrial user of any fines, civil penalties, or other liability which may be imposed by this chapter.
- C. Failure to notify the Town of potential problem discharges shall be deemed a separate violation of this chapter.
- D. A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in Subsection A above. Employers shall ensure that all employees who may cause or suffer such a discharge to occur are advised of the emergency notification procedure.

**§ 158-63 Notification of discharge of hazardous waste.**

[In accordance with New Hampshire's Code of Administrative Rules, Env-Wq 305.06, *Prohibited Wastes*, hazardous wastes are prohibited from discharge to the sewer system.

Facilities may obtain a permit from the DES, Hazardous Waste Management Bureau for an elementary neutralization system in accordance with New Hampshire Code of Administrative Rules, Env-Hw 304.04, *Limited Permits*. These systems neutralize the waste which may be discharged to the Town between a pH of 5.0 and 9.5 per Town of Merrimack Code, Chapter §158-38(B)(3)<sup>1</sup>. All industrial users shall provide a copy of the Limit Permit within 5 business days of receipt.]

~~Any discharge into the POTW of a substance that, if otherwise disposed, would be a hazardous waste under 40 CFR Part 261 or is a hazardous waste as defined in the New Hampshire Department of Environmental Services (NHDES) Hazardous Waste Rules is prohibited unless permitted by applicable State of New Hampshire and federal permits, and that is also approved by the EPA Regional Waste Management Division Director.~~

**§ 158-64 Imminent endangerment.**

The Town may, after informal notice to the industrial user discharging wastewater to the public sewer, immediately halt or prevent any such discharge reasonably appearing to present an imminent endangerment to the health and welfare of person or any discharge presenting, or which may present, an endangerment to the environment or which threatens to interfere with operation of the public sewer or wastewater treatment facilities. Actions which may be taken by the Town in response to violations of this chapter include ex parte judicial injunctive relief, entry on private property to halt such discharge, blockage of a public sewer to halt such discharge, or demand of specific action by the industry.

**§ 158-65 Monitoring and surveillance.**

The Town shall, as necessary, sample and analyze the wastewater discharges of contributing industrial users and conduct surveillance and inspection activities to identify, independently of information supplied by such industrial users, occasional and continuing noncompliance with industrial pretreatment standards. All industries discharging to the Town system shall allow unrestricted access to Town, New Hampshire Department of Environmental Services (NHDES), and EPA personnel for the purposes of investigating and sampling discharges from the industrial users. Each industrial user will be billed directly for costs incurred for analysis of its wastewater.

**§ 158-66 Investigations.**

The Town shall investigate instances of noncompliance with industrial pretreatment standards and requirements.

**§ 158-67 Public information.**

Information and data submitted to the Town under this article relating to wastewater discharge characteristics shall be available to the public without restriction. Other such information shall be available to the public at least to the extent provided by 40 CFR 2.302.

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[<sup>1</sup> Any waters or wastes having pH lower than 5.0 or higher than 9.5 or having any other corrosive property capable of causing damage or hazard to structures, equipment, and personnel of the wastewater works are specifically prohibited from discharge. ]

**§ 158-68 Public participation.**

The Town shall comply with the public participation requirements of 40 CFR Part 25 in the enforcement of industrial pretreatment standards and requirements. A list of significant violators shall be published in the local daily newspaper at least annually.

**§ 158-69 Confidential information.**

Information and data on an industrial user obtained from reports, surveys, wastewater discharge applications, wastewater discharge permits, and monitoring programs, and from Town inspection and sampling activities, shall be available to the public without restriction, unless the industrial user specifically requests, and is able to demonstrate to the satisfaction of the Town, that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. When requested and demonstrated by the industrial user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available immediately upon request to governmental agencies for uses related to the National Pollutant Discharge Elimination System (NPDES) program or pretreatment program and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

**Article IX  
Powers and Authority of Inspectors**

**§ 158-70 Right of entry.**

The Town or other duly authorized employees and agents of the Town bearing proper credentials and identification shall be permitted to enter all properties for the purpose of inspection, observation, measurement, sampling, inspection and copying of records and testing pertinent to discharge to the wastewater facilities, in accordance with the provision of this chapter.

**§ 158-71 Information regarding industrial processes.**

The Town or other duly authorized employees and agents are authorized to obtain information concerning industrial processes which have a bearing on the kind and source of discharge to the wastewater collection system. The industrial user may request that the information in question not be made available to the public if it can establish that revelation to the public might result in an advantage to competitors. (The information in question shall be made available upon written request to governmental agencies for uses related to this chapter, the National Pollutant Discharge Elimination System (NPDES) permit, or the pretreatment program.) The burden of proof that information should be held confidential rests with the industrial user. However, information about wastewater discharged by the industrial user (flow, constituents, concentrations and characteristics) shall be available to the public without restriction.

**§ 158-72 Owner to be held harmless.**

While performing the necessary work on private properties referred to in § 158-70, duly

authorized employees of the Town shall observe all safety rules applicable to the premises, and the owner(s) shall be held harmless for injury or death to the Town employees, and the Town shall indemnify the owner(s) against loss or damage to its property by Town employees and against liability claims and demands for personal injury or property damage asserted against the owner(s) and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the owner(s) to maintain safe conditions as required in Article VII, § 158-44.

**§ 158-73 Entry on easements.**

Duly authorized employees and agents of the Town bearing proper credentials and identification shall be permitted to enter all private properties through which the Town holds a duly negotiated easement for the purposes of, but not limited to, inspection, observation, measurement, sampling, repair, and maintenance of any portion of the wastewater facilities lying within said easement. All entry and subsequent work, if any, on said easement shall be done in full accordance with the terms of the duly negotiated easement pertaining to the private property involved.

## **Article X Charges for Sewer Service**

**§ 158-74 Connection charges.**

The owner(s) of existing houses, buildings, or other properties used for human occupancy, employment, recreation or other purposes situated within the Town and abutting on any street, alley, or right-of-way in which a public sewer has been installed shall be required to connect to the Town sewer and shall be required to pay to the Town a connection charge, provided that said ~~[building] property line~~ or its existing individual on-site sanitary disposal system is within 200 feet of said public sewer. In cases where the ~~[building] property line~~ is beyond 200 feet of said public sewer, the owner(s) shall pay to the Town a connection charge when, and if, such structure or its individual on site sanitary disposal system is connected to the public sewer system. The amounts of the connection charges shall be established by the Town Council from time to time.

**§ 158-75 Sewer user charges.**

Each user connected to the sewerage system shall pay a sewer user charge (sewer rental charge), unless the property owner has received a waiver per Article IV, § 158-11B, of this chapter. The sewer user charge shall be as established by the Town Council from time to time to cover the annual operating, maintenance and capital expenses of the municipal sewerage system. The normal sewer user charges shall be based on water use wherever possible. If records of metered use are not available or do not properly reflect the quantity of waste discharged, the sewer user charge shall be based upon estimated water use or an actual measurement of the volume of waste discharged into the sewerage system. Sewer surcharges shall be levied by the Public Works Department/Wastewater Division. The surcharge shall be based on total monthly flow and a flow-weighted monthly average for biochemical oxygen demand (BOD) and total suspended solids (TSS) to users whose waste characteristics are above normal strength [biochemical oxygen

demand (BOD) 250 mg/l; total suspended solids (TSS) 300 mg/l], unless a special agreement as stated in Article VII, § 158-47, has been approved and granted by the Town.

## **Article XI User Fees**

### **§ 158-76 Schedule of payment.**

All affected property owners will be charged customary sewer user fees [(sewer rental charge)] commencing 180 days after notice that the public sewer is available to them or upon connection to the public sewer, whichever occurs earlier. Any prior notice, including the first sewer billing from the Public Works Department/Wastewater Division, given to property owners shall be used in the calculation of the one-hundred-eighty-day notice requirement, unless the property owner has received a waiver per Article IV, § 158-11B, of this chapter.

### **§ 158-77 Payment not to remove obligation to connect.**

Payment of the sewer user fee will not relieve a property owner of his obligation to connect to the public sewer as required by this chapter.

## **Article XII Conflict of Ordinances**

### **§ 158-78 Most restrictive requirements to govern.**

When, in any specific case, different provisions of this chapter shall conflict with other ordinances or state or federal laws, the most restrictive requirements shall govern.

## **Article XIII Violations and Enforcement**

### **§ 158-79 Continuing violations.**

Any person, firm, partnership or corporation found to be violating, or in violation of, any provision of this chapter may be served by the Town of Merrimack with a written notice stating the nature of the violation as determined by the Town, for the satisfactory correction thereof. Follow-up actions for continuing or reoccurring violations will be taken within 60 days of the initial enforcement response. For all continuing violations, the response will include a compliance schedule. Additional enforcement responses available to the Town are consent orders, show cause hearing, compliance order, cease and desist order and, administrative fines, [and civil or criminal prosecution.]

### **§ 158-80 Notice to Department of Environmental Services.**

In accordance with RSA 149-I:6, the Public Works Department/Wastewater Division, Town Manager or duly authorized agent shall give notice of the alleged violation to the New Hampshire Department of Environmental Services (NHDES) within 10 days of commencement

of any action under this article.

**§ 158-81 Responsibility for enforcement.**

The Town Council or its agent shall be responsible for the enforcement of this chapter.

**Article XIV  
Administrative Actions and Fines**

**§ 158-82 Notice of violation.**

Any person found to be violating any provision of this chapter may be served by the Town with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations. The Town may, after informal notice to the person discharging wastewater to the POTW, immediately halt or prevent any such discharge reasonably appearing to present an imminent endangerment to the health and welfare of the public or any discharge presenting, or which may present, an endangerment to the environment or which threatens to interfere with the operation of the public sewer or wastewater treatment facilities. Actions which may be taken by the Town in response to violations of this chapter include ex parte judicial injunctive relief, entry on private property to halt such discharge, blockage of a public sewer to halt such discharge, or demand of specific action by the person.

**§ 158-83 Violations and penalties.**

Any person found to be violating any provisions of this chapter shall ~~shall~~ **[may]** be fined in the amount not to exceed \$10,000 per day of such violation. Each day in which any such violation shall continue shall be deemed a separate offense. **[In addition civil and criminal penalties, and injunctive relief, for noncompliance with pretreatment conditions by Industrial Users may consist of a fine of up to \$10,000 per day of such violations, or by imprisonment, or both. The permittee may also be subject to additional enforcement actions under State and/or Federal law.]**

**§ 158-84 Enforcement Response Guide.**

Violations of this chapter shall be enforced as outlined in the Enforcement Response Guide (Attachment A). As required, the Enforcement Response Guide may be revised in accordance with EPA or New Hampshire Department of Environmental Services (NHDES) regulation modification or guidance policy.

**Article XV  
Liability**

**§ 158-85 Liability for expense, loss or damage.**

Any person, firm, partnership or corporation violating any of the provisions of this chapter shall become liable to the Town of Merrimack for any expense, loss, or damage occasioned by the Town by reason of such violation, including reasonable attorneys' fees and costs.

**§ 158-86 Public participation.**

The Town, pursuant to [Code of Federal Regulations Title]40 CFR 403.8(f)(2)(viii), shall comply with the public participation requirements of [Code of Federal Regulations Title]40 CFR Part 25, including provision for at least annually providing public notification of industrial users which, during the previous 12 months, were in significant noncompliance (SNC) with applicable pretreatment standards or other pretreatment requirements. For the purpose of this section, a significant noncompliance violation (SNC) is described in Article VII, § 158-39M.

**Article XVI  
Date of Enactment**

**§ 158-87 When effective.**

This chapter shall be in full force and effect from and after its passage, approval, recording and publication as provided by law.

Attachments:

[158a Attach A Wastewater Treat Fac](#) – [Enforcement Response Guide]





**Town of Merrimack  
Sewer Use Ordinance  
Proposed Enforcement Response Guide  
October 3, 2017**

***I. PURPOSE AND LEGAL AUTHORITY***

In accordance with 40 CFR§403.8(f)(5), the Town of Merrimack developed and submitted an Environmental Response Plan to the United States Environmental Protection Agency (EPA) and New Hampshire Department of Environmental Services (DES). The plan was officially approved by the EPA on October 3, 2017. The purpose of the plan was to clearly establish anticipated reactions of the agency to specific violations of the relevant environmental laws and regulations. The plan explains the enforcement tools and mechanisms available and employed by the Town and its Pretreatment Program. The plan suggests timetables for the initiation of enforcement actions that would be followed as soon as practicable after Town staff becomes aware of any non-complying event. These timetables serve two goals. The timetables avoid continued user non-compliance for extended periods of time by requiring quick enforcement response by the Town.

***II. Responsibilities within the Town of Merrimack***

The Pretreatment Program is responsible for issuing Industrial Wastewater Discharge Permits to facilities to control and reduce toxic discharges to the sewer system. Each wastewater discharge permit specifies site specific discharge conditions, permitted and prohibited discharges, sampling, monitoring and reporting requirements. The Pretreatment Manager performs compliance inspections of industries, inspecting industries to ensure compliance with permits and regulations, inspecting new industries to determine which industries are discharging wastewater into the Town's facilities, escalating matters to the Assistant DPW Director, DPW Director, Town Manager, and legal counsel for appropriate enforcement action when users are not complying with permits or regulations. Any issues that are not under the jurisdiction of the Town such as criminal prosecution or situations where the Town requests additional assistance are referred to EPA, DES, and the State of NH Attorney General's (AG) office.

Monthly enforcement meetings are held with ADPW and DPW Directors to discuss issues and possible future enforcement actions on an as needed basis. The following table describes the primary enforcement responsibilities of various personnel involved in the inspection process, collection and screening of data, organization of enforcement actions, review of actions taken, and general management of the enforcement response procedures.

| <b>Job Title</b>  | <b>Responsibilities</b>  |
|---|--|
| Pretreatment Manager  | Oversees all aspects of the Pretreatment Program including permitting, investigations, and enforcement. Signatory for permits. Prepares and reviews all enforcement actions and AO requests and forwards to the ADPW Director. |
| Assistant Director Department of Public Works Director/Wastewater | Has oversight of the Pretreatment Program. Reviews Administrative  |

| Job Title                           | Responsibilities   |
|-------------------------------------|--|
| Department of Public Works Director | Order requests. Negotiates with firms, prepares and issues Consent Orders, assists with enforcement meetings. Escalates issues to the DPW Director as necessary.   |
| Town Manager                        | Oversees all aspects of the Public Works Department. Communicates to Town Manager and legal counsel as necessary to escalate non-compliance issues.<br>Oversees all aspects of the Town of Merrimack Operations. |

**III. User Survey Methods**

The Pretreatment Program utilizes many methods to identify and locate new and previously unknown users of the sewer system. These methods have been very successful at maintaining an accurate inventory of non-domestic regulated users and at ensuring that modifications to existing user facilities are quickly discovered. The following is a summary of the Pretreatment Program user survey methods:

- A. *Intra-Governmental Agency, Building and Sewer Connection Permit Referrals* - The Pretreatment Section becomes aware of many new facilities through the building permit issuance process. New facilities under construction in the Town must obtain a sewer connection permit and a discharge permit if necessary prior to beginning construction and/or process operations.
- B. *Bi-weekly Building Department Meetings* – these meetings include the Planning Board, Building Department, Health Department, Fire Marshall, Sewer Systems Manager, and the Pretreatment Manager. The goal of the meetings is to communicate new activities to all Town officials.
- C. *Newspaper Reviews* - The local newspapers are routinely reviewed to identify and locate new or previously unknown and unpermitted users. Review of the classified, business and new corporation sections of the local newspapers have allowed the Town to successfully identify many new sewer users over the years. Routine reviews of the bankruptcy and auction sections of the newspaper alert the pretreatment staff to firms which may be in financial trouble or ceasing operations. This allows the Pretreatment Manager to be proactive at preventing illegal discharges from financially troubled firms. Such firms are promptly inspected, inventoried and required to comply with a rigid facility shutdown procedure. The Town can seal the sewer connections at these firms once operations have ceased to ensure that hazardous waste and chemicals are not illegally discharged into the sewer system.

**IV. Pretreatment Industrial User Inspection Programs**

One of the main objectives of the Pretreatment Program is to protect the Towns wastewater treatment plant from toxic discharges which could result in pass through to the receiving waters or interference with their proper operation, as outlined in 40 CFR §403.5. In addition, the Pretreatment Manager ensures that federal, state and local pretreatment regulations pertaining to the Clean Water

Act are met. The strategy the Town adopted and implemented to satisfy these objectives include developing local discharge limitations to protect the treatment facilities and public health, permitting of industrial and commercial facilities to control the discharge of toxics, inspecting and sampling non-domestic facilities to ensure user compliance, and the development and implementation of extensive user education programs.

The extensive user education efforts implemented by the Town as part of routine inspections have been very effective at improving user compliance rates. The Town's Pollution Prevention Program educates users of the many P2 alternatives available instead of discharging toxics into the sewer system, technical review of options available to bring a non-compliant discharge into compliance, and review of regulations. The Pretreatment Manager tries to incorporate user education into every regulatory inspection.

The Town conducts six types of inspections of non-domestic users. The following is a summary of the inspection types utilized by the Town:

- Initial Inspection* – The initial pretreatment inspection can be an announced or unannounced inspection and is performed to determine if the user is regulated under pretreatment regulations and to inform the user of pretreatment requirements;
- Annual Inspection IU and Semi Annual Inspection of SIU* – An annual inspection is a thorough inspection of the facility and the user's records to determine if the firm is complying with all Town permit requirements. This inspection is done once per 12 month period for Industrial Users (IU) and twice a year for Significant Industrial Users (SIU). The inspection may be an announced inspection which consists of an extensive review of paperwork, processes, pretreatment systems, treatment procedures, sampling procedures, spill containment measures, and chemical/waste storage areas;
- Follow-up Inspection* – This inspection may be an announced or unannounced inspection to determine if specific items noted in an annual inspection were completed as required. Follow-up inspections may be conducted to view work in progress, work completed or discuss problems that the firm may be having in complying with or understanding Pretreatment Program requirements;
- Facility Shutdown Inspection* – This may be an announced or unannounced inspection to conduct an inventory of all chemicals and solutions on-site, to observe facility decontamination procedures, to seal sewer connections to prevent illegal discharges to the sewer, and to install prohibited discharge stickers on all tanks;
- Sampling Inspection* – The sampling inspection is an unannounced inspection which must be conducted of every Significant Industrial User (SIU) at least once every 12 months, as required by EPA regulation. The Town typically conducts sampling of each SIU twice every 12 months;

□ *Emergency Response or Special Investigation Inspection* – This is an immediate unannounced inspection initiated in response to a complaint or spill to determine the source of problems occurring in the sewer system. These problems or complaints are typically reported by Town employees, local authorities or by residents.

## V. *Town Enforcement Actions*

The Town will initiate some type of enforcement action against 100% of those persons and companies who violate the Town Rules and Regulations. A wide range of enforcement actions is used to bring industrial and commercial users into compliance with Town requirements and effluent limitations. The action can be as routine as a telephone call or as serious as an administrative order and assessment of penalty. The following is a description of the most common types of enforcement actions initiated by the Town over the past year:

- *Telephone calls* to users are made daily to discuss violations and problems. These calls are often sufficient to bring the user into compliance. A telephone discussion sheet documenting the conversation is prepared and placed in the user's file or in some cases a letter may be sent to the user summarizing the discussion.
- *Notices of Violation* are issued by the Town to inform a user of its noncompliance with Town Rules and Regulations and warn the user that escalated enforcement action may result for continued noncompliance. These letters are computer generated and may be tailored as appropriate. A Notice of Violation specifically states that its issuance does not prohibit other enforcement action. The most typical Notices of Violation are described below.
  - ~ *Letters of Deficiency/Inspection Deficiency* are Notice of Violation letters issued to notify the industrial user of deficiencies observed during a facility inspection. The Letter of Deficiency is prepared and issued by the engineer or technician that conducted the inspection or observed the violation, is sent to the user via Certified Mail, and requires the user to correct the noted deficiency within a specific time period.
  - ~ *Notices for Failure to Meet Standards* are issued by the Pretreatment Staff each time a user self-monitoring results indicate a violation of Town or EPA discharge limitations, including violations of the monthly average limits.
  - ~ *Notices of pH Violations* are issued by the Pretreatment Staff each time a user submits a monthly pH self-monitoring report that reveals violations of Town pH discharge limitations.
  - ~ *Notices of Failure to Submit Monitoring Reports* are Notice of Violation letters issued to users for failure to submit a Self-Monitoring Compliance Report, pH Monitoring Report or Zero Discharge Certification Report on time. A similar letter is issued for failure to properly complete or sign a Self-Monitoring Compliance Report or pH Monitoring Report. A similar Notice of Violation is issued for Failure to Analyze for all required parameters.

~ *Notice of Failure to Satisfy Town Requirements* are issued by the Town when a user exceeds a specified deadline for submission of any of a number of various types of documents or for exceeding the completion date specified for tasks required. Examples of such tasks may include failure to installation of spill control facilities, pretreatment equipment, flow meters, pH monitoring, etc.

- *Increase in frequency of self-monitoring* is required of any user that violates Town discharge limitations. The Notice of Failure to Meet Standards violation letters require the user to sample their wastewater weekly, or even daily, to demonstrate progress toward meeting effluent limitations. Once the user violates discharge limitations, the Failure to Meet Standards Notice of Violation letter is automatically issued. This Notice of Violation requires a corrective action plan to be submitted and follow-up sampling within 30 days. .
- *Meetings with the user* are held to discuss problems or violations the firm may be experiencing. Before initiating an administrative action and/or assessing an administrative penalty, the parties may meet in an attempt to reach a resolution of the issues without further enforcement action. At these meetings, the user is informed of their potential financial liability should their non-compliance status continue, often resulting in prompt compliance.
- *Annual publication* of the user's name in the state's largest daily paper will result if a violator meets the criteria for Significant Non-Compliance (SNC) as defined in 40 CFR 403.8(f)(2)(vii). All Notices of Violation issued contain language warning the industrial user that the name of their firm would be published in the SNC Public Notice if their outstanding violation was not quickly corrected. The Town annually bills the prorated cost of the Public Notice to the firms listed as being in Significant Non-Compliance.
- *Letters of Wastewater Discharge Permit Suspension/Termination* are issued to Significant Industrial Users and Industrial who have not discharged process wastewater to the Town sewer system for at least 30 days or are planning to discontinue wastewater discharge activities. These letters require the user to permanently disconnect the final process discharge line from the Town sewer line due to their potential to adversely impact the Town should illegal or unpermitted discharges occur. The suspension/termination of a user's permit relieves the user from having to submit monitoring reports. Inspections of these users' by the Pretreatment Manager are still conducted since they still have the potential to impact the Town's sewer system.

- *Civil Suits* are filed against users for nonpayment of pretreatment fees. Depending on the amount owed, the collection suits are filed either in District or Superior Court. These suits are filed only after all other collection avenues have been attempted and were unsuccessful. Firms may pay in full, establish a payment schedule, or negotiate a settlement as a result of these suits.
- *Administrative Orders* (“AO”) and *Administrative Orders by Consent* are Orders issued by the Town to address repeated or serious instances of noncompliance. Administrative Orders are classified into one of four general types (Compliance Orders, Cease and Desist Orders, Consent Orders and Termination/Suspension of Permit/Service Orders). The Administrative Order may or may not assess an administrative penalty. Administrative penalties are assessed according to the penalty matrix detailed in Town of Merrimack Code §158. Depending on the type of Administrative Order issued, the user may be required to immediately cease discharging or achieve compliance with Town rules and regulations within a specified time frame.

## ***VI. Town Enforcement Time Frames***

The following outlines the various time frames the Town uses for enforcement.

- *Data Screening* – All data is screened within 5 business days of receipt. The data is typically entered into the computer system within 10 business days from receipt of the monitoring report. Reports in violation of discharge standards are given top priority for data entry and response to ensure that the user is quickly notified that resampling of the waste stream in violation will be necessary. This helps to minimize the chances that the user will be in Significant Non-Compliance.
- *Initial and Follow Up Compliance Activities* - Violations observed based upon a user submittal are typically responded to within 14 days of receipt by issuing Notices of Violation. Notice of Violation letters are generated and mailed to the IU/SIU within this time frame.
- *Escalating Enforcement Actions* – Pretreatment staff routinely track the compliance status of users and to cite users in violation of Town requirements. Escalated enforcement may range from more frequent compliance inspections to attending a mandatory enforcement meeting to the issuance of an Administrative Order and assessment of penalty. Enforcement action priority is given to IU/SIU classified as Significant Industrial Users since these firms have the potential to impact operations at the Town wastewater treatment facility.
- *Immediate Harm to Human Health or the Environment* - The Town will immediately issue Cease and Desist Orders for violations that cause pass-through or interference at the Town facilities, threaten human health, property or the environment.

### ***VII. Applying Enforcement Responses***

This comprehensive enforcement response guide designates several alternative enforcement options for each type or pattern of noncompliance. Pretreatment staff who detects noncompliance will select appropriate responses from the short list of enforcement options indicated by the matrix. There are a number of factors to consider when selecting a response from among these enforcement response options, including:

- Good faith of the user
- Compliance history of the user
- Previous success of enforcement actions taken against the particular user (e.g., if NOV's have not previously succeeded in returning the user to compliance, an administrative order is the more appropriate response)
- Violation's effect on the receiving waters
- Violation's effect on the POTW.
- It should be noted; in some cases multiple responses may be selected. For example, a facility may receive a NOV and technical assistance under the P2 program. Another example would include scheduling an enforcement meeting prior to the issuance of an administrative order or NOV.

Since the remedies designated in the matrix are all considered appropriate, the Town must weigh each of the above factors in deciding whether to use a more or less stringent response. The Town will consistently follow the response guide. To do otherwise sends a signal to industrial users and the public that the Town is not acting in a predictable manner and may subject the Town to charges of arbitrary enforcement decision making, thereby jeopardizing future enforcement.

### ***VIII. Resolution of Administrative Orders and Administrative Orders by Consent***

AOs and AOCs can be resolved in several ways. The most straightforward way to resolve an AO would be to comply with the terms of the Order. This could include achieving compliance with effluent limits by a specified deadline, immediately ceasing a discharge to the sewer system, installing pretreatment equipment by a specified deadline, and/or paying the original penalty assessed. Most cases are resolved in this manner. AOs can also be resolved through an informal process of status conferences between the Town and the violator.

**Enforcement Response Plan**

Abbreviations

|            |  |        |   |
|------------|--|--------|---|
| AG         | New Hampshire Attorney General's Office  | AO/AOC | Administrative Order/Administrative Order By Consent  |
| ADPW       | Assistant Department of Public Works Director/Wastewater   | DES    | Department of Environmental Services  |
| DPW        | Department of Public Works Director  | TM     | Town Manager  |
| EPA        | Environmental Protection Agency  | LC     | Legal Counsel   |
| IU         | Industrial User  | PM     | Pretreatment Manager  |
| NOV        | Notice of Violation  | POTW   | Publicly Owned Treatment Works – Town of Merrimack Wastewater Treatment Facility  |
| SNC        | Significant Non-Compliance   | P2     | Pollution Prevention Technical Assistance – Pollution prevention (P2) is any practice that reduces, eliminates, or prevents pollution at its source, also known as "source reduction." The P2 referral is designed to assist the IU with P2 options that will bring the facility into compliance with wastewater regulations. The referral may require the IU to seek assistance with a consultant or other agency. The P2 referral will consist of a written agreement in which the IU will have a schedule and reporting requirements. Upon completion of the P2 plan the IU is expected to come into compliance with the regulatory issue identified. If compliance is not achieved the IU may be subject to additional enforcement actions. |
| Phone Call | All compliance phone calls are followed up with either a letter or email documenting the issue. The compliance phone call is not considered an NOV but an attempt to provide engineering/compliance assistance. If compliance is not achieved the IU may be subject to additional enforcement actions. |        |   |



| Non-Compliance   | Nature of Violation  | Enforcement Responses  | Personnel (LC, TM are optional participants based on issue severity)  |
|--|--|--|---|
| <b>UNAUTHORIZED DISCHARGES (NO PERMIT)</b>   |  |  |   |
| Unpermitted Discharge  | User has not submitted application; no harm to POTW / environment  | <input type="checkbox"/> Phone Call<br><input type="checkbox"/> NOV w/ application<br><input type="checkbox"/> P2 Referral<br><input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance   | PM<br>PM, ADPW<br>P2<br>PM, ADPW, DPW, LC<br>PM, ADPW, DPW, LC  |
|  | User unaware of requirements; harm to POTW                         | <input type="checkbox"/> Phone Call<br><input type="checkbox"/> NOV w/ application<br><input type="checkbox"/> P2 Referral<br><input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO issuance   | PM<br>PM, ADPW<br>P2<br>PM, ADPW, DPW, LC<br>PM, ADPW, DPW, LC  |
|  | User aware of requirements; harm or no harm to POTW or environment | <input type="checkbox"/> NOV w/ application<br><input type="checkbox"/> P2 Referral<br><input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance<br><input type="checkbox"/> Criminal prosecution<br><input type="checkbox"/> Terminate Service | PM, ADPW<br>P2<br>PM, ADPW, DPW, LC<br>PM, ADPW, DPW, LC<br>Referral to DES, EPA, AG<br>TM, LC, DPW, ADPW, PM |
|  | Failure to apply continues 90 days after notice by POTW            | <input type="checkbox"/> AO/AOC issuance<br><input type="checkbox"/> Criminal prosecution<br><input type="checkbox"/> Terminate Service  | PM, ADPW, DPW, LC<br>Referral to DES, EPA, AG<br>TM, LC, DPW, ADPW, PM  |
| <b>DISCHARGE LIMIT VIOLATION OR DISCHARGE OF A PROHIBITED SUBSTANCE (Town of Merrimack Code Chapter §158-38)</b> |  |  |   |
| Exceedance of local limit or Permit Requirement or Federal Standard (permit limit)                               | Isolated exceedance, not significant                               | <input type="checkbox"/> Phone Call<br><input type="checkbox"/> NOV<br><input type="checkbox"/> P2 Referral  | PM<br>PM, ADPW<br>P2  |
|  | Isolated exceedance, significant (no harm)                         | <input type="checkbox"/> NOV<br><input type="checkbox"/> P2 Referral<br><input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance   | PM, ADPW<br>P2<br>PM, ADPW, DPW, LC<br>PM, ADPW, DPW, LC  |
|  | Isolated exceedance, harm to POTW or environment                   | <input type="checkbox"/> NOV<br><input type="checkbox"/> P2 Referral<br><input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance   | PM, ADPW<br>P2<br>PM, ADPW, DPW, LC<br>PM, ADPW, DPW, LC  |

| Non-Compliance   | Nature of Violation                                   | Enforcement Responses   | Personnel (LC, TM are optional participants based on issue severity)  |
|--|---|---|---|
| <b>UNAUTHORIZED DISCHARGES (NO PERMIT)</b>             |   |   |   |
| Exceedance of local or Federal Standard (permit limit) | Recurring exceedance, no harm to POTW or environment  | <input type="checkbox"/> NOV<br><input type="checkbox"/> P2 Referral<br><input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance  | PM, ADPW<br>P2<br>PM, ADPW, DPW, LC<br>PM, ADPW, DPW, LC  |
|  | Recurring exceedance, significant (harm)              | <input type="checkbox"/> NOV<br><input type="checkbox"/> P2 Referral<br><input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance<br><input type="checkbox"/> Criminal prosecution<br><input type="checkbox"/> Terminate Service | PM, ADPW<br>P2<br>PM, ADPW, DPW, LC<br>PM, ADPW, DPW, LC<br>Referral to DES, EPA, AG<br>TM, LC, DPW, ADPW, PM |
|  | Non-compliant manhole monitoring results              | <input type="checkbox"/> AO/AOC issuance<br><input type="checkbox"/> Criminal prosecution<br><input type="checkbox"/> Terminate Service   | PM, ADPW, DPW, LC,<br>Referral to DES, EPA, AG<br>TM, LC, DPW, ADPW, PM                                       |
| <b>MONITORING AND REPORTING VIOLATIONS</b>             |   |   |   |
| Reporting Violation                                    | Report is improperly signed or certified              | <input type="checkbox"/> Phone Call stating report must be signed and resubmitted within five (5) days  | PM  |
|  | Report is improperly signed or certified after notice | <input type="checkbox"/> NOV issued if not received within five (5) days after notice   | PM, ADPW  |
|  | Isolated, not significant (e.g., report 5 days late)  | <input type="checkbox"/> NOV<br><input type="checkbox"/> P2 Referral  | PM, ADPW<br>P2  |
|  | Significant (e.g., report 30 days or more late)       | <input type="checkbox"/> NOV<br><input type="checkbox"/> P2 Referral<br><input type="checkbox"/> List IU in SNC   | PM, ADPW<br>P2<br>PM, ADPW, DPW   |
|  | Significant, report 90 – 120 days late                | <input type="checkbox"/> NOV from Legal<br><input type="checkbox"/> Enforcement meeting   | LC<br>PM, ADPW, DPW, LC   |
|  | Significant, report 120 days or more late             | <input type="checkbox"/> NOV<br><input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance  | PM, ADPW<br>PM, ADPW, DPW, LC<br>PM, ADPW, DPW, LC<br>PM, ADPW, DPW, LC                                       |

| Non-Compliance                                     | Nature of Violation   | Enforcement Responses   | Personnel (LC, TM are optional participants based on issue severity)   |
|--|---|---|--|
| <b>MONITORING AND REPORTING VIOLATIONS (cont.)</b> |   |   |  |
| Reporting Violation                                | Reports are chronically late or no reports at all                                 | <input type="checkbox"/> List IU in SNC<br><input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance<br><input type="checkbox"/> Criminal Prosecution<br><input type="checkbox"/> Civil Action         | PM<br>PM, ADPW, DPW, LC<br>PM, ADPW, DPW, LC<br>Referral to DES, EPA, AG<br>PM, ADPW, DPW, TM, LC ; Referral to DES, EPA, AG |
|  | Failure to report violation within 24 hours of becoming aware of the violation    | <input type="checkbox"/> Terminate Service<br><input type="checkbox"/> NOV<br><input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance  | TM, LC, DPW, ADPW, PM<br>PM, ADPW<br>PM, ADPW, DPW, LC<br>PM, ADPW, DPW,   |
|  | Failure to report spill, slug, or changed discharge (no harm)                     | <input type="checkbox"/> NOV<br><input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance  | PM, ADPW<br>PM, ADPW, DPW, LC<br>PM, ADPW, DPW, LC   |
|  | Failure to report spill, slug, or changed discharge (harm to environment or POTW) | <input type="checkbox"/> NOV<br><input type="checkbox"/> P2 Referral<br><input type="checkbox"/> Enforcement meeting  | PM, ADPW<br>P2<br>PM, ADPW, DPW, LC  |
|  | Repeated failure to report spill, slug, or changed discharge                      | <input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance<br><input type="checkbox"/> Criminal Prosecution<br><input type="checkbox"/> Civil Action  | PM, ADPW, DPW, LC<br>PM, ADPW, DPW, LC<br>Referral to DES, EPA, AG<br>PM, ADPW, DPW, TM, LC, Referral to DES, EPA, AG        |
|  | Falsification   | <input type="checkbox"/> Terminate Service<br><input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance<br><input type="checkbox"/> Criminal Prosecution<br><input type="checkbox"/> Terminate Service | TM, LC, DPW, ADPW, PM<br>PM, ADPW, DPW, LC<br>PM, ADPW, DPW, LC<br>Referral to DES, EPA, AG<br>TM, LC, DPW, ADPW, PM         |
| Failure to monitor correctly                       | Failure to monitor all pollutants as required by permit                           | <input type="checkbox"/> NOV<br><input type="checkbox"/> P2 referral  | PM, ADPW<br>P2   |
|  | Recurring failure to monitor  | <input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance<br><input type="checkbox"/> Terminate Service  | PM, ADPW, DPW, LC<br>PM, ADPW, DPW, LC<br>TM, LC, DPW, ADPW, PM  |

| Non-Compliance                                       | Nature of Violation   | Enforcement Responses  | Personnel (LC, TM are optional participants based on issue severity)  |
|--|---|--|---|
| <b>MONITORING AND REPORTING VIOLATIONS (cont.)</b>   |   |  |   |
| Improper Sampling                                    | No evidence of intent   | <input type="checkbox"/> NOV<br><input type="checkbox"/> P2 referral<br><input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance   | PM, ADPW<br>P2<br>PM, ADPW, DPW, LC<br>PM, ADPW, DPW, LC  |
|  | Evidence of intent  | <input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance<br><input type="checkbox"/> Criminal Prosecution<br><input type="checkbox"/> Terminate Service                        | PM, ADPW, DPW, LC<br>PM, ADPW, DPW, LC<br>Referral to DES, EPA, AG<br>TM, LC, DPW, ADPW, PM                         |
| Failure to install monitoring equipment              | Delay of less than 90 days  | <input type="checkbox"/> NOV<br><input type="checkbox"/> P2 referral   | PM, ADPW<br>P2  |
|  | Delay of 90 to 120 days   | <input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance   | PM, ADPW, DPW, LC<br>PM, ADPW, DPW, LC  |
|  | Delay of 120 days or more   | <input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance<br><input type="checkbox"/> Criminal Prosecution<br><input type="checkbox"/> Civil Action                             | PM, ADPW, DPW, LC<br>PM, ADPW, DPW, LC<br>Referral to DES, EPA, AG<br>PM,ADPW,DPW, TM, LC, Referral to DES, EPA, AG |
| Compliance Schedules (in Compliance Order or permit) | Missed milestone by less than 30 days, or will affect milestone                                 | <input type="checkbox"/> NOV<br><input type="checkbox"/> P2 referral   | PM, ADPW<br>P2  |
|  | Missed milestone by more than 30 days, or will affect final milestone (good cause for delay)    | <input type="checkbox"/> NOV<br><input type="checkbox"/> P2 referral   | PM, ADPW<br>P2  |
|  | Missed milestone by more than 30 days, or will affect final milestone (no good cause for delay) | <input type="checkbox"/> NOV<br><input type="checkbox"/> P2 referral<br><input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance<br><input type="checkbox"/> Terminate Service | PM, ADPW<br>P2<br>PM, ADPW, DPW, LC<br>PM, ADPW, DPW, LC<br>TM, LC, DPW, ADPW, PM                                   |

| Non-Compliance  | Nature of Violation  | Enforcement Responses   | Personnel (LC, TM are optional participants based on issue severity)  |
|---|--|---|---|
| <b>MONITORING AND REPORTING VIOLATIONS (cont.)</b>            |  |   |   |
| Compliance Schedules (in Compliance Order or permit)          | Missed milestone by 90 to 120 days, or will affect final milestone (no good cause for delay) | <input type="checkbox"/> NOV<br><input type="checkbox"/> NOV from Legal Office<br><input type="checkbox"/> P2 referral<br><input type="checkbox"/> List IU in SNC<br><input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance<br><input type="checkbox"/> Terminate Service | PM, ADPW<br>LC<br>P2<br>PM<br>PM, ADPW, DPW, LC<br>PM, ADPW, DPW, LC<br>TM, LC, DPW, ADPW, PM                                     |
|   | Missed milestone by more than 120 days   | <input type="checkbox"/> NOV<br><input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance<br><input type="checkbox"/> Criminal Prosecution<br><input type="checkbox"/> Civil Action  | PM, ADPW<br>PM, ADPW, DPW, LC<br>PM, ADPW, DPW, LC<br>Referral to DES, EPA, AG<br>PM, ADPW, DPW, LC, TM; Referral to DES, EPA, AG |
|   | Recurring violation or violation of schedule in AO/AOC                                       | <input type="checkbox"/> Terminate Service<br><input type="checkbox"/> Criminal prosecution<br><input type="checkbox"/> Civil Action  | TM, LC, DPW, ADPW, PM<br>Referral to DES, EPA, AG<br>PM, ADPW, DPW, LC; Referral to DES, EPA, AG                                  |
| <b>OTHER PERMIT VIOLATIONS</b>                                |  |   |   |
| Waste streams are diluted in lieu of treatment without intent | Initial violation  | <input type="checkbox"/> NOV<br><input type="checkbox"/> P2 referral<br><input type="checkbox"/> Enforcement meeting  | PM, ADPW<br>P2<br>PM, ADPW, DPW, LC   |
|   | Recurring  | <input type="checkbox"/> NOV<br><input type="checkbox"/> P2 referral<br><input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance<br><input type="checkbox"/> Terminate Service  | PM, ADPW<br>P2<br>PM, ADPW, DPW, LC<br>PM, ADPW, DPW, LC<br>TM, LC, DPW, ADPW, PM   |

| Non-Compliance   | Nature of Violation                                  | Enforcement Responses  | Personnel (LC, TM are optional participants based on issue severity)   |
|--|--|--|--|
| <b>OTHER PERMIT VIOLATIONS</b>                             |  |  |  |
| Waste streams are diluted in lieu of treatment with intent | Initial violation                                    | <input type="checkbox"/> NOV<br><input type="checkbox"/> P2 referral<br><input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance<br><input type="checkbox"/> Criminal Prosecution<br><input type="checkbox"/> Terminate Service  | PM, ADPW<br>P2<br>PM, ADPW, DPW, LC<br>PM, ADPW, DPW, LC,<br>Referral to DES, EPA, AG<br>TM, LC, DPW, ADPW, PM   |
|  | Recurring  | <input type="checkbox"/> NOV<br><input type="checkbox"/> P2 referral<br><input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance<br><input type="checkbox"/> Criminal Prosecution<br><input type="checkbox"/> Terminate Service  | PM, ADPW<br>P2<br>PM, ADPW, DPW, LC<br>PM, ADPW, DPW, LC<br>Referral to DES, EPA, AG<br>TM, LC, DPW, ADPW, PM  |
| Illegal or unpermitted discharge                           | In compliance, no harm to POTW or environment        | <input type="checkbox"/> NOV<br><input type="checkbox"/> P2 referral<br><input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance   | PM, ADPW<br>P2<br>PM, ADPW, DPW, LC<br>PM, ADPW, DPW, LC   |
|  | Exceeds standards or harm to the POTW or environment | <input type="checkbox"/> NOV<br><input type="checkbox"/> P2 referral<br><input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance<br><input type="checkbox"/> Criminal Prosecution<br><input type="checkbox"/> Civil Action<br><input type="checkbox"/> Terminate Service | PM, ADPW<br>P2<br>PM, ADPW, DPW, LC<br>PM, LC<br>Referral to DES, EPA, AG<br>PM, ADPW, DPW, LC, TM; Referral to<br>DES, EPA, AG<br>TM, LC, DPW, ADPW, PM |

| Non-Compliance   | Nature of Violation     | Enforcement Responses  | Personnel (LC, TM are optional participants based on issue severity)   |
|--|-------------------------|--|--|
| <b>OTHER PERMIT VIOLATIONS</b>                                 |                         |  |  |
| Failure to mitigate noncompliance or halt production           | Does not result in harm | <input type="checkbox"/> NOV<br><input type="checkbox"/> P2 referral<br><input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance   | PM, ADPW<br>P2<br>PM, ADPW, DPW, LC<br>PM, ADPW, DPW, LC   |
|  | Does result in harm     | <input type="checkbox"/> NOV<br><input type="checkbox"/> P2 referral<br><input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance<br><input type="checkbox"/> Criminal prosecution<br><input type="checkbox"/> Civil Action<br><input type="checkbox"/> Terminate Service | PM, ADPW<br>P2<br>PM, ADPW, DPW, LC<br>PM, ADPW, DPW, LC<br>Referral to DES, EPA, AG<br>PM, ADPW, DPW, LC, TM; Referral to DES, EPA, AG<br>TM, LC, DPW, ADPW, PM |
| Failure to properly operate and maintain pretreatment facility | Does not result in harm | <input type="checkbox"/> NOV<br><input type="checkbox"/> P2 referral<br><input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance   | PM, ADPW<br>P2<br>PM, ADPW, DPW, LC<br>PM, ADPW, DPW, LC   |
|  | Does result in harm     | <input type="checkbox"/> NOV<br><input type="checkbox"/> P2 referral<br><input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance<br><input type="checkbox"/> Criminal prosecution<br><input type="checkbox"/> Civil Action<br><input type="checkbox"/> Terminate Service | PM, ADPW<br>P2<br>PM, ADPW, DPW, LC<br>PM, ADPW, DPW, LC<br>Referral to DES, EPA, AG<br>PM, ADPW, DPW, LC, TM; Referral to DES, EPA, AG<br>TM, LC, DPW, ADPW, PM |

| Non-Compliance                                | Nature of Violation                                      | Enforcement Responses  | Personnel (LC, TM are optional participants based on issue severity)   |
|---|--|--|--|
| <b>VIOLATIONS DETECTED DURING SITE VISITS</b> |  |  |  |
| Entry Denial                                  | Entry denied or consent withdrawn                        | <input type="checkbox"/> Provide copy of Inspection Powers<br><input type="checkbox"/> Call to company<br><input type="checkbox"/> NOV<br><input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance<br><input type="checkbox"/> Criminal prosecution<br><input type="checkbox"/> Civil Action<br><input type="checkbox"/> Terminate Service | PM<br>PM, ADPW, LC<br>PM, ADPW<br>PM, ADPW, DPW, LC<br>PM, ADPW, DPW, LC,<br>PM, ADPW, DPW, LC<br>Referral to DES, EPA, AG<br>PM, ADPW, DPW, LC, TM; Referral to DES, EPA, AG<br>TM, LC, DPW, ADPW, PM |
|   | Copies of records denied                                 | <input type="checkbox"/> NOV<br><input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance<br><input type="checkbox"/> Criminal prosecution<br><input type="checkbox"/> Civil Action<br><input type="checkbox"/> Terminate Service   | PE, PT, PM, ADPW<br>PM, ADPW, DPW, LC,<br>PM, ADPW, DPW, LC<br>Referral to DES, EPA, AG<br>PM, ADPW, DPW, LC, TM; Referral to DES, EPA, AG<br>TM, LC, DPW, ADPW, PM                                    |
| Illegal or Unpermitted Discharge              | No harm to POTW of environment                           | <input type="checkbox"/> NOV<br><input type="checkbox"/> P2 referral<br><input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance<br><input type="checkbox"/> Criminal prosecution<br><input type="checkbox"/> Civil Action<br><input type="checkbox"/> Terminate Service   | PM, ADPW<br>P2<br>PM, ADPW, LC<br>PM, ADPW, DPW, LC<br>Referral to DES, EPA, AG<br>PM, ADPW, DPW, LC, TM; Referral to DES, EPA, AG<br>TM, LC, DPW, ADPW, PM  |
|   | Discharges causes harm or evidence of intent/ negligence | <input type="checkbox"/> NOV<br><input type="checkbox"/> P2 referral<br><input type="checkbox"/> AO/AOC<br><input type="checkbox"/> Criminal prosecution<br><input type="checkbox"/> Civil Action<br><input type="checkbox"/> Terminate Service  | PM, ADPW<br>P2<br>PM, ADPW, DPW, LC,<br>Referral to DES, EPA, AG<br>PM, ADPW, DPW, LC, TM; Referral to DES, EPA, AG<br>TM, LC, DPW, ADPW, PM   |



| Non-Compliance                                | Nature of Violation   | Enforcement Responses  | Personnel (LC, TM are optional participants based on issue severity)   |
|---|---|--|--|
| <b>VIOLATIONS DETECTED DURING SITE VISITS</b> |   |  |  |
| Illegal or Unpermitted Discharge (cont.)      | Recurring illegal discharges harm and no harm   | <input type="checkbox"/> NOV<br><input type="checkbox"/> P2 referral<br><input type="checkbox"/> AO/AOC<br><input type="checkbox"/> Criminal prosecution<br><input type="checkbox"/> Civil Action<br><input type="checkbox"/> Terminate Service  | PM, ADPW<br>P2<br>PM, ADPW, DPW, LC<br>Referral to DES, EPA, AG<br>PM, ADPW, DPW, LC, TM; Referral to DES, EPA, AG<br>TM, LC, DPW, ADPW, PM  |
| Improper Sampling                             | Unintentional sampling at incorrect location<br>Unintentionally using incorrect sample type<br>Unintentionally using incorrect sampling techniques<br>Intentionally sampling incorrectly (wrong methods, location, etc.)  | <input type="checkbox"/> NOV<br><input type="checkbox"/> P2 referral<br><input type="checkbox"/> NOV<br><input type="checkbox"/> P2 referral<br><input type="checkbox"/> NOV<br><input type="checkbox"/> P2 referral<br><input type="checkbox"/> NOV<br><input type="checkbox"/> P2 referral<br><input type="checkbox"/> NOV<br><input type="checkbox"/> P2 referral<br><input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance<br><input type="checkbox"/> Criminal Prosecution<br><input type="checkbox"/> Civil Action<br><input type="checkbox"/> Terminate Service | PM, ADPW<br>P2<br>PM, ADPW<br>P2<br>PM, ADPW<br>P2<br>PM, ADPW<br>P2<br>PM, ADPW, DPW, LC<br>PM, ADPW, DPW, LC<br>Referral to DES, EPA, AG<br>PM, ADPW, DPW, LC, TM; Referral to DES, EPA, AG<br>TM, LC, DPW, ADPW, PM<br>PM, ADPW<br>P2<br>PM, ADPW<br>P2<br>PM, ADPW, LC,<br>PM, ADPW, DPW, LC<br>Referral to DES, EPA, AG<br>PM, ADPW, DPW, LC, TM; Referral to DES, EPA, AG<br>TM, LC, DPW, ADPW, PM |
| Inadequate record keeping                     | Inspector finds files incomplete or missing (no evidence of intent)<br>Recurring after notice or intentionally withholding records<br>– Immediately if the request is based on compliance issue;<br>-Within 5 business days of an inspection for routine wastewater effluent monitoring | <input type="checkbox"/> NOV<br><input type="checkbox"/> P2 referral<br><input type="checkbox"/> NOV<br><input type="checkbox"/> P2 referral<br><input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance<br><input type="checkbox"/> Criminal prosecution<br><input type="checkbox"/> Civil Action<br><input type="checkbox"/> Terminate Service   | PM, ADPW<br>P2<br>PM, ADPW<br>P2<br>PM, ADPW<br>P2<br>PM, ADPW, LC,<br>PM, ADPW, DPW, LC<br>Referral to DES, EPA, AG<br>PM, ADPW, DPW, LC, TM; Referral to DES, EPA, AG<br>TM, LC, DPW, ADPW, PM<br>PM, ADPW<br>P2<br>PM, ADPW<br>P2<br>PM, ADPW, LC,<br>PM, ADPW, DPW, LC<br>Referral to DES, EPA, AG<br>PM, ADPW, DPW, LC, TM; Referral to DES, EPA, AG<br>TM, LC, DPW, ADPW, PM                       |

| Non-Compliance  | Nature of Violation   | Enforcement Responses  | Personnel (LC, TM are optional participants based on issue severity)  |
|---|---|--|---|
| <b>VIOLATIONS DETECTED DURING SITE VISITS (cont.)</b> |   |  |   |
| Failure to report additional monitoring               | Inspector finds additional files or reports not submitted                       | <input type="checkbox"/> NOV<br><input type="checkbox"/> P2 referral<br><input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance<br><input type="checkbox"/> Criminal prosecution<br><input type="checkbox"/> Civil Action<br><br><input type="checkbox"/> Terminate Service | PM, ADPW<br>P2<br>PM, ADPW, LC,<br>PM, ADPW, DPW, LC<br>Referral to DES, EPA, AG<br>PM, ADPW, DPW, LC, TM; Referral to<br>DES, EPA, AG<br>TM, LC, DPW, ADPW, PM |
|   | Recurring   | <input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance<br><input type="checkbox"/> Criminal prosecution<br><input type="checkbox"/> Civil Action<br><br><input type="checkbox"/> Terminate Service   | PM, ADPW, DPW, LC,<br>PM, ADPW, DPW, LC<br>Referral to DES, EPA, AG<br>PM, ADPW, DPW, LC, TM; Referral to<br>DES, EPA, AG<br>TM, LC, DPW, ADPW, PM              |
|   | Intentionally interfering with the proper operation of the Pretreatment Program | <input type="checkbox"/> List IU in SNC<br><input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance<br><input type="checkbox"/> Criminal prosecution<br><input type="checkbox"/> Civil Action<br><br><input type="checkbox"/> Terminate Service                              | PM<br>PM, ADPW, DPW, LC<br>PM, ADPW, DPW, LC<br>Referral to DES, EPA, AG<br>PM, ADPW, DPW, LC, TM; Referral to<br>DES, EPA, AG<br>TM, LC, DPW, ADPW, PM         |
|   | Failure to pay annual permit fee  | <input type="checkbox"/> NOV<br><input type="checkbox"/> Enforcement meeting<br><input type="checkbox"/> AO/AOC issuance<br><input type="checkbox"/> Civil Action<br><br><input type="checkbox"/> Terminate Service  | PM, ADPW<br>PM, ADPW, DPW, LC,<br>ADPW, DPW, LC<br>PM, ADPW, DPW, LC, TM; Referral to<br>DES, EPA, AG<br>TM, LC, DPW, ADPW, PM                                  |