

ARLINGTON COUNTY CODE

Chapter 26.1

WASTEWATER PRETREATMENT*

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Wastewater Pretreatment

Division 1. General Provisions

- § 26.1-1. Definitions.
- § 26.1-2. Abbreviations.
- § 26.1-3. Purpose and Policy.
- § 26.1-4. Administration.

Division 2. General Sewer Use Requirements

- § 26.1-5. Prohibited Discharge Standards.
- § 26.1-6. National Categorical Pretreatment Standards.
- § 26.1-7. State Requirements.
- § 26.1-8. Local Limits.
- § 26.1-9. Control Documents.
- § 26.1-10. Dilution.
- § 26.1-11. Right of Revision.
- §§ 26.1-12--26.1-14. Reserved.

Division 3. Pretreatment of Wastewater

- § 26.1-15. Pretreatment Facilities.
- § 26.1-16. Additional Pretreatment Measures.
- § 26.1-17. Accidental Discharge/Slug Discharge Control Plans.
- § 26.1-18. Hauled Wastewater.
- §§ 26.1-19--26.1-24. Reserved.

Division 4. Surcharge for Certain Industrial Wastes

- § 26.1-25. Surcharge Levied.
- § 26.1-26. Sampling.
- § 26.1-27. Monitoring Charges.
- § 26.1-28. Total Suspended Solids Concentration.
- § 26.1-29. BOD Concentration.
- §§ 26.1-30--26.1-34. Reserved.

Division 5. Individual Wastewater Discharge Permits and General Permits

- § 26.1-35. Wastewater Analysis (Industrial User Survey).
- § 26.1-36. Individual Wastewater Discharge Permit and General Permit Requirements.
- § 26.1-37. Individual Wastewater Discharge and General Permitting: Existing Connections.
- § 26.1-38. Individual Wastewater Discharge and General Permitting: New Connections.
- § 26.1-39. Individual Wastewater Discharge and General Permit Application Contents.
- § 26.1-40. Wastewater Discharge Permitting: General Permits.
- § 26.1-41. Application Signatories and Certification.
- § 26.1-42. Individual Wastewater Discharge and General Permit Decisions.
- § 26.1-43. Regulation of Waste Received from Other Jurisdictions.
- § 26.1-44. Special Agreements.
- §§ 26.1-45--26.1-49. Reserved.

Division 6. Individual Wastewater Discharge and General Permit Issuance

- § 26.1-50. Individual Wastewater Discharge and General Permit Duration.
- § 26.1-51. Individual Wastewater Discharge Permit and General Permit Contents.
- § 26.1-52. Wastewater Permit Appeals.
- § 26.1-53. Permit Modification (Reopener).
- § 26.1-54. Permit Transfer.
- § 26.1-55. Permit Revocation.
- § 26.1-56. Permit Reissuance.
- §§ 26.1-57--26.1-59. Reserved.

Division 7. Reporting Requirements

- § 26.1-60. Baseline Monitoring Reports.
- § 26.1-61. Compliance Schedule Progress Reports.
- § 26.1-62. Reports on Compliance with Categorical Pretreatment Standard Deadline.
- § 26.1-63. Periodic Compliance Reports.
- § 26.1-64. Reports of Changed Conditions.
- § 26.1-65. Reports of Potential Problems.
- § 26.1-66. Reports from Unpermitted Industrial Users.
- § 26.1-67. Notice of Violation/Repeat Sampling and Reporting.
- § 26.1-68. Notification of the Discharge of Hazardous Waste.
- § 26.1-69. Analytical Requirements.
- § 26.1-70. Sample Collection.
- § 26.1-71. Date of Receipt of Reports.
- § 26.1-72. Recordkeeping.
- § 26.1-73. Certification Statements.
- §§ 26.1-74--26.1-79. Reserved.

Division 8. Compliance Monitoring

- § 26.1-80. Right of Entry: Inspection and Sampling.
- §§ 26.1-81--26.1-84. Reserved.

Division 9. Confidential Information

- § 26.1-85. Confidential Information.
- §§ 26.1-86--26.1-89. Reserved.

**Division 10. Publication of Industrial Users
in Significant Noncompliance (SNC)**

- § 26.1-90. Publication of Industrial Users in Significant Noncompliance.
- §§ 26.1-91--26.1-94. Reserved.

Division 11. Administrative Enforcement Remedies

- § 26.1-95. Notification of Violation.
- § 26.1-96. Consent Orders.
- § 26.1-97. Show Cause Hearings.
- § 26.1-98. Compliance Orders.
- § 26.1-99. Cease and Desist Orders.
- § 26.1-100. Administrative Civil Penalties.
- § 26.1-101. Emergency Suspensions.
- § 26.1-102. Termination of Discharge.
- § 26.1-103. Review of Administrative Enforcement Actions.
- § 26.1-104. Judicial Review of Administrative Actions.
- §§ 26.1-105--26.1-109. Reserved.

Division 12. Judicial Enforcement Remedies

- § 26.1-110. Injunctive Relief.
- § 26.1-111. Civil Penalties.
- § 26.1-112. Criminal Prosecution.
- § 26.1-113. Remedies Non-exclusive.
- §§ 26.1-114--26.1-119. Reserved.

Division 13. Supplemental Enforcement Action

- § 26.1-120. Penalties for Late Reports.
- § 26.1-121. Performance Bonds.
- § 26.1-122. Liability Insurance.
- § 26.1-123. Payment of Outstanding Fees and Penalties.
- § 26.1-124. Water Supply Suspension.
- § 26.1-125. Public Nuisance.
- §§ 26.1-126--26.1-129. Reserved.

Division 14. Affirmative Defenses to Discharge Violations

- § 26.1-130. Upset.
- § 26.1-131. Prohibited Discharge Standards.
- § 26.1-132. Bypass.
- §§ 26.1-133--26.1-134. Reserved.

Division 15. Miscellaneous Provisions

- § 26.1-135. Pretreatment Charges and Fees.
- § 26.1-136. Severability.
- § 26.1-137. Conflicts.
- §§ 26.1-138--26.1-139. Reserved.

DIVISION 1.

GENERAL PROVISIONS

§ 26.1-1. Definitions.

The following words and terms, when used in this chapter, shall have the following meanings unless the context clearly indicates otherwise:

“Abnormal Industrial Wastes” means any industrial waste having a total suspended solids concentration or a five-day biochemical oxygen demand in excess of that normally found in municipal sewage. For the purposes of this Code chapter, any industrial waste containing more than 275 milligrams per liter (mg/l) of total suspended solids and/or five-day biochemical oxygen demand more than 250 mg/l shall be considered an abnormal industrial waste regardless of whether or not it contains other substances in concentrations differing appreciably from those normally found in municipal sewage.

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

“Approval Authority” means the Director of the Virginia Department of Environmental Quality.

“Approved” means material, equipment, workmanship, process, or method that has been accepted by the County as suitable for the proposed purpose.

“Authorized Agent” means the person or agency of the County government designated by the County Board or the County Manager to act on their behalf in the enforcement of this chapter.

“Authorized Representative”

(1) If the Industrial User is a corporation:

(a) The president, secretary, treasurer, or a vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(b) The manager of one or more manufacturing, production, or operating facilities, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit or general permit requirements; and where authority to sign documents has been delegated to the manager in accordance with corporate procedures.

(2) If the Industrial User is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(3) If the Industrial User is federal, state, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or his or her designee.

(4) The individuals described in paragraphs (1) through (3) above may designate another authorized representative if the authorization is in writing; the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company; and the written authorization has been submitted to the County.

“Best Management Practices” (BMPs) means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in §26.1-5, and to prevent or reduce the pollution of surface waters. 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 material storage.

“Biochemical Oxygen Demand” (BOD) means the quantity of oxygen utilized in the biochemical oxidation of organic matter under Standard Methods, (five (5) days at twenty (20) degrees Celsius) expressed in terms of weight and concentration (milligrams per liter (mg/l)).

"Biosolids" means a sewage sludge that has received an established treatment and is managed in a manner to meet the required pathogen control and vector attraction reduction, and contains concentrations of regulated pollutants below the ceiling limits established in 40 CFR Part 503 and [9VAC25-31-540](#), such that it meets the standards established for use of biosolids for land application, marketing, or distribution.

"Bypass" means the intentional diversion of wastestreams from any portion of an Industrial User’s treatment facility.

“Categorical Industrial User (CIU)” means an Industrial User subject to a Categorical Pretreatment Standard or Categorical Standard.

“Categorical Pretreatment Standard” or “Categorical Standard” means any regulation containing pollutant discharge limits promulgated by the U.S. EPA in accordance with § 307(b) and (c) of the Act (3334 U.S.C. 1317) which applies to a specific category of Industrial User and which appears in 40 CFR Chapter 1, Subchapter N, Parts 405 through 471 or any successor provision, incorporated herein by reference.

“Code” means the latest revision of the Arlington County, Virginia Code.

“Composite Sample” means a sample that is collected over time, formed either by continuous sampling or by mixing discrete samples. The sample may be composited either as a time composite sample: composed of discrete sample aliquots collected in one container at constant time intervals providing representative samples irrespective of stream flow; or as a flow proportional composite sample: collected either as a constant sample volume at time intervals proportional to stream flow, or collected by increasing the volume of each aliquot as the flow increases while maintaining a constant time interval between the aliquots.

“Control Authority” means the Bureau Chief of the Water Pollution Control Bureau of the Department of Environmental Services for Arlington County, Virginia, or his or her authorized agent.

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

“County” means the County of Arlington, Virginia, or the County Board of Arlington County, or their authorized agent.

“County Manager” means the County Manager of Arlington County, Virginia, or his or her authorized agent.

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

“Daily Maximum Limit” means the maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

“Domestic Sewage,” or “Sewage” means human excrement, septage, and gray water from household uses, to include but not be limited to showers, toilets, dishwashing, and laundry.

“Domestic User” means persons contributing only domestic sewage to the POTW.

“Enforcement Response Plan (ERP) outlines, in a step-by-step fashion, the procedures to be followed by Control Authority staff to identify, document, and respond to pretreatment violations.

“Environmental Protection Agency” or “U.S.E.P.A.” means the U.S. Environmental Protection Agency.

“Existing Source” means any source which is not “New Source” or a new discharger.

“Fats, Oils, & Grease (FOG) Discharge Policy” means a policy adopted by the Control Authority to control fats, oils, and grease discharges into the public sewerage collection system and wastewater treatment plant that may interfere with the operations of the system; cause blockage and plugging of pipelines; interfere with normal operation of pumps and their controls; and contribute waste of a strength or form that either causes treatment difficulties or is beyond the treatment capability of the wastewater treatment plant.

“Food Service Establishment” means any commercial, institutional, or food processing facility that discharges kitchen or food preparation wastewaters that have the potential to produce fats, oils, or grease (FOG). Food service establishments include, but are not limited to: food courts; food manufacturers; food packagers; restaurants; catering services; bars/taverns; breweries; clubs; cafeterias; theaters; institutions, both public and private; mobile food vehicles (terrestrial and aquatic); wing trailers; diners; grocery stores; delicatessens; convenience stores; bakeries; coffee shops;

ice cream shops; lounges; hospitals; hotels; motels; nursing homes; assisted living facilities; churches; schools; daycare centers; butcher shops; and all other food service establishments not listed above, either fixed (permanent or temporary) or mobile. Typical preparation activities include, but are not limited to: cooking by frying (all methods); baking (all methods); grilling; sautéing; rotisserie cooking; broiling (all methods); boiling; blanching; roasting; toasting; poaching; infrared heating; searing; barbecuing; and any other food preparation activity that produces a hot, non-drinkable food product in or on a receptacle that requires washing.

“Grab Sample” means an individual sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

“Indirect Discharge” means the introduction of pollutants into a POTW from any non-domestic source regulated under §307(b), (c), or (d) of the Act and the law.

“Industrial User” means a source of indirect discharge, a non-domestic user that has the potential to discharge non-domestic wastewater to the POTW, or a non-domestic user that has a sewer connection for domestic wastewater discharge only. This definition includes food service establishments (FSEs).

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

“Interference” means an indirect discharge which, alone or in conjunction with an indirect discharge or discharges from other sources, both: (i) inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and (ii) therefore is a cause of a violation of any requirement of the POTW's VPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of biosolids use or sewage sludge disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA) (42 USC §6901 et seq.), and including state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA) the Clean Air Act (42 USC §701 et seq.), the Toxic Substances Control Act (15 USC §2601 et seq.), and the Marine Protection, Research and Sanctuaries Act (33 USC §1401 et seq.).

“Local Limit” means the specific discharge limits developed and enforced by the County upon Industrial Users to implement the general and specific discharge prohibitions listed in §26.1-5.

“Medical Waste” means isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

“Monitoring Point” means a point at which a representative sample of the users' wastewater may be collected, as specified in the wastewater permit.

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

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

"National Categorical Pretreatment Standard," "Pretreatment Standard," or "Standard," means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with §307(b) and (c) of the CWA, which applies to Industrial Users. This term includes prohibitive discharge limits established pursuant to §26.1-5 of this Code chapter.

“New Source” means any building, structure, facility or installation from which there is or may be a discharge of pollutants, the construction or operations of which commenced after the publication of proposed Categorical Pretreatment Standards under §307(c) (33 U.S.C. 1317(c)) of the Act which will be applicable to such source if the Standard is thereafter promulgated in accordance with §307(c), provided that:

(1)(a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or

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

(c) The production of 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.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of paragraphs (1)(b) or (c) of this section, but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a new source as defined under this subdivision has commenced if the owner or operator has:

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

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

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

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

“Non-domestic” means any substances other than human excrement and household gray water (from showers, dishwashing operations, etc.).

“Non-Significant Categorical Industrial User” means a finding by the Control Authority that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:

(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 §26.1-41 and §26.1-73 of this Code chapter, together with any additional information necessary to support the certification statement; and,

(3) The Industrial User never discharges any untreated concentrated wastewater.

“Pass-through” means a discharge which exits the POTW into state waters in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW’s VPDES permit (including an increase in the magnitude or duration of a violation).

“Person” means any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents, or assigns. This definition includes, without limitation, all federal, state or local government entities.

“pH” means a measure of the acidity or alkalinity of a substance, expressed in Standard Units (S.U.).

“Pollutant” means dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials (except those regulated under the Atomic Energy Act of 1954, as amended (42 USC §2011 et seq.)), heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water. It does not mean:

- (1) Sewage from vessels; or
- (2) Water, gas, or other material that is injected into a well to facilitate production of oil or gas, or water derived in association with oil and gas production and disposed of in a well, if the well is used either to facilitate production or for disposal purposes, and is approved by the board, and if the board determines that the injection or disposal will not result in the degradation of ground or surface water resources.

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

“Pretreatment Requirement” means any substantive or procedural requirement related to pretreatment imposed on an Industrial User, other than a Pretreatment Standard.

“Pretreatment Standards” or “Standards.” means Prohibited Discharge Standards, Categorical Pretreatment Standards, and Local Limits.

“Process Wastewater” or “Process Wastestream” means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, byproduct, or waste product.

“Prohibited Discharge Standards” or “Prohibited Discharges” means absolute prohibitions against the discharge of certain substances; these prohibitions appear in §26.1-5 of this Code chapter.

“Publicly Owned Treatment Works (POTW)” means a treatment works as defined by §212 of the CWA, which is owned by a state or municipality (as defined by §502(4) of the CWA). This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes sewers, pipes, and other conveyances only if they convey wastewater to a POTW treatment plant. The term also means the municipality as defined in §502(4) of the CWA, which has jurisdiction over the indirect discharges to and the discharges from such a treatment works.

“Receiving Stream, or Waters” means the stream into which the POTW treatment plant discharges its effluent.

“Severe property damage” means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

“Significant Industrial User (SIU),” except as provided in paragraph (3) and (4) below, means:

(1) All Industrial Users subject to Categorical Pretreatment Standards under §26.1-6 of this Code chapter and incorporated by reference in 9VAC25-31-30; 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 wastestream which makes up five percent (5.0%) 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)).

(3) The Control Authority may determine that an Industrial User subject to Categorical Pretreatment Standards under §26.1-6 of this Code chapter is a Non-Significant Categorical 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, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:

(a) The Industrial User, prior to the Control Authority's finding, has consistently complied with all applicable Categorical Pretreatment Standards and Requirements;

(b) The Industrial User annually submits the certification statement required in §26.1-41 and §26.1-73 of this Code chapter, together with any additional information necessary to support the certification statement; and,

(c) The Industrial User never discharges any untreated concentrated wastewater.

(4) Upon a finding that an Industrial User meeting the criteria in paragraph (2) of this definition has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the Control Authority may at any time, on its own initiative or in response to a petition received from an Industrial User, and in accordance with 40 CFR 403.8(f)(6), determine that such Industrial User is not a Significant Industrial User.

“Slug Discharge” means any discharge at a flow rate or concentration, which could cause a violation of the Prohibited Discharge Standards in §26.1-5 of this Code chapter. A slug discharge is any discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass-through, or in any other way violate the POTW's regulations, Local Limits or permit conditions.

“Standard Methods” means the latest edition of Standard Methods for the Examination of Water and Wastewater, published by the American Public Health Association, Water Environment Federation and American Water Works Association.

“State Waters” means all waters defined as "Surface Waters" in 9 VAC 25-31-10 et seq., or its successor.

“Total Suspended Solids (TSS)” means the total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, as determined by "Standard Methods," and which is removable by laboratory filtering.

“Treatment Plant” means that portion of the POTW which is designed to provide treatment, (including recycling and reclamation) of municipal sewage and industrial waste.

“Upset” means an exceptional incident in which there is unintentional and temporary noncompliance with Categorical Pretreatment Standards because of factors beyond the reasonable control of the Industrial User. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

“User” means a source of indirect discharge.

“Virginia Pollutant Discharge Elimination System Permit” or “VPDES Permit” means a document issued by the Commonwealth of Virginia authorizing, under prescribed conditions, the potential or actual discharge of pollutants from a point source to surface waters and the use of biosolids or disposal of sewage sludge. Under the approved state program, a VPDES permit is equivalent to a National Pollutant Discharge Elimination System (NPDES) permit.

“Wastewater” means liquid and water carried industrial wastes and domestic sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities and institutions, whether treated or untreated, which are contributed to the POTW.

“Water Pollution Control Bureau (WPCB) Chief” means the general plant manager for the Water Pollution Control Bureau and designated by the County to manage the operation of the POTW, and who is charged with certain duties and responsibilities by this Code Chapter, or his or her authorized agent.

(Ord. No. 92-25, 6-16-92; Ord. No. 92-38, 8-8-92; Ord. No. 93-5, 5-20-93; Ord. No. 95-10, 4-29-95; Ord. No. 95-11, 4-29-95; Ord. No. 98-3, 2-7-98; Ord. No. 01-15, 7-28-01; Ord. No. 04-25, 10-2-04; Ord. No. 08-13, 6-17-08, Ord. No. 08-11, 4-19-08, effective 1-1-08)

§ 26.1-2. Abbreviations.

The following abbreviations shall have the indicated meanings:

BOD -- Biochemical Oxygen Demand

CIU – Categorical Industrial User

CFR -- Code of Federal Regulations

COD -- Chemical Oxygen Demand

CWA – Clean Water Act

DEQ – Virginia Department of Environmental Quality

EPA -- U.S. Environmental Protection Agency

FOG – Fats, Oil, Grease

FSE – Food Service Establishment

gpd -- Gallons Per Day

mg/l -- Milligrams per liter

NAICS – North American Industry Classification System

O&M -- Operation and Maintenance

POTW -- Publicly-Owned Treatment Works

RCRA -- Resource Conservation and Recovery Act

SIC – Standard Industrial Classification

SIU – Significant Industrial User

SNC – Significant Non-Compliance

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

TSS -- Total Suspended Solids

USC -- United States Code

VELAP – Virginia Environmental Laboratory Accreditation Program

VPDES – Virginia Pollutant Discharge Elimination System

WPCB -- Water Pollution Control Bureau

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

§ 26.1-3. Purpose and Policy.

This Code chapter sets forth uniform requirements for direct and indirect dischargers of pollutants from any sources into the POTW for the County of Arlington and enables the County to comply with all applicable state and federal laws. The objectives of this Code chapter are:

- A. To prevent the introduction into the POTW of pollutants which will interfere with the operation of the system;
- B. To prevent the introduction into the POTW of pollutants which will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;
- C. To ensure that the quality of the POTW's biosolids is maintained at a level which allows its marketability or safe disposal;
- D. To protect persons who may come into contact with sewage, sludge and effluent in the course of their employment as well as to protect the general public;
- E. To preserve the hydraulic capacity of the POTW;
- F. To improve the opportunity to recycle and reclaim wastewater and sludge from the system;
- G. To provide for equitable distribution of the cost of operations, maintenance and improvement of the POTW; and
- H. To enable the County to comply with its VPDES permit conditions, sludge use and disposal requirements and any other federal or state laws to which the POTW is subject.

This Code chapter provides for the regulation of discharge to the POTW through the issuance of permits to certain Industrial Users and through enforcement of general requirements for other users, authorizes monitoring 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.

This Code chapter shall apply to persons within the County and to persons outside of the County who, by contract with the County, are included as users of the POTW.

It shall be unlawful for any person not specifically authorized by the County Manager to make any connection with or any opening into, use, alter, disturb or otherwise interfere with any manhole, main or pipe, building, tank or any other structure which is a part of the POTW.

Any facilities or measures called for in this Code chapter shall be provided, operated, and maintained at the Industrial User's expense.
(Ord. No. 92-25, 6-16-92; Ord. No. 95-10, 4-29-95; Ord. No. 95-11, 4-29-95)

§ 26.1-4. Administration.

Except as otherwise provided herein, the WPCB Chief shall administer and enforce the provisions of this Code chapter. Any powers granted to or duties imposed upon the WPCB Chief may be delegated by the WPCB Chief to other County personnel.

To comply with the provisions of this Code chapter, the County may enter into agreements with service areas outside of Arlington County, or with Industrial Users as necessary.
(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

DIVISION 2.

GENERAL SEWER USE REQUIREMENTS

§ 26.1-5. Prohibited Discharge Standards.

A. *General prohibitions.* A user may not introduce into the POTW any pollutant or pollutants which cause pass-through, interference or violation of water quality standards. These general prohibitions and the specific prohibitions in subsection B. of this section apply to each user introducing pollutants into the POTW, whether or not the user is subject to Categorical Pretreatment Standards or any federal, state, or local Pretreatment Standards or Requirements.

B. *Specific prohibitions.* No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

(1) Pollutants which create a fire or explosion hazard in the POTW, including, but not limited to, wastestreams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Celsius) using the test methods specified in 40 C.F.R. 261.21;

(2) Pollutants which will cause corrosive structural damage to the POTW or equipment, but in no case discharges with pH less than 5.0 or greater than 12.4 standard units;

(3) Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in interference, but in no case solids greater than one-half (1/2") inch (1.27 centimeters) in any dimension;

(4) Any pollutant, including oxygen demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which will cause interference with the POTW;

(5) Heat in amounts which will inhibit biological activity in the POTW resulting in interference, but in no case heat in such quantities that the temperature at the POTW treatment plant exceeds 104 degrees Fahrenheit (40 degrees Celsius);

(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 Control Authority;

(9) Any water or waste containing toxic or poisonous solids, liquids or gases in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, to constitute a hazard to humans or animals, to create a public nuisance or to create any hazard in the POTW, including but not limited to, wastewater from food service establishments (FSEs) containing free or floating oil and grease, or any discharge containing animal fat or grease by-product in excess of two hundred milligrams per liter (200 mg/l). This threshold will not apply if the FSE has installed and is operating and maintaining a properly-sized grease interceptor; and is implementing all required BMPs as specified in the County's *Fats, Oils, and Grease Discharge Policy*;

(10) Wastewater containing any radioactive wastes or isotopes, except in compliance with applicable state and federal regulations;

(11) Any noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into sewers for maintenance or repair;

(12) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent;

(13) Any substance from a septic tank, a truck or a portable vessel or device without prior written permission from the Control Authority;

(14) Used motor oil in any amount;

(15) Any product containing used or otherwise contaminated antifreeze (ethylene glycol);

(16) Medical wastes, except as authorized by the Control Authority;

(17) Any hazardous waste, as defined in the Resource Conservation and Recovery Act, which is not covered by the domestic sewage exemption contained in 40 C.F.R. 261.4(a)(1)(ii);

(18) Any substance, material, water or waste which contains a pollutant which will pass through or cause interference with the operation or performance of the POTW or will contaminate the resulting sludge (biosolids);

(19) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges or scums, to be unsuitable for reclamations and reuse or to interfere with the reclamation process where the POTW is pursuing a reuse and reclamation program. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines, or regulations developed under Section 405 of the Act; any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used;

(20) Any discharge of groundwater, stormwater, surface water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted wastewater into the POTW unless specifically authorized by the Control Authority.

(21) Any sludges, screenings, or other residues from the pretreatment of industrial wastes;

(22) Wastewater causing, alone, or in conjunction with other sources, the treatment plant's effluent to fail toxicity tests;

(23) Bulk, expired, outdated or concentrated prescription or non-prescription pharmaceuticals;

(24) Discharge of Nonylphenol from the use of bulk or concentrated Nonylphenol-containing detergents as employed by some industrial or commercial laundries, car washes or asphalt manufacturers, or other Industrial Users;

(25) Discharge of any wastewater containing perchloroethylene (PCE) (also known as tetrachloroethene and tetrachloroethylene);

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

C. Substances, pollutants, waters, or wastes prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.

(Ord. No. 92-25, 6-16-92; Ord. No. 98-3, 2-7-98; Ord. No. 04-25, 10-2-04)

§ 26.1-6. National Categorical Pretreatment Standards.

A. This Code chapter incorporates by reference the Categorical Pretreatment Standards set out in 40 CFR Chapter I, Subchapter N, Parts 405-471, as amended.

B. Upon promulgation of the National Categorical Pretreatment Standards for an industrial subcategory, the Categorical Standard, if more stringent than the limitations imposed by the County and/or by the State for such subcategory, shall immediately supersede the County and/or State limitations.

C. Where a Categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Control Authority may impose equivalent concentration or mass limits in accordance with federal and state pretreatment regulations.

D. When the limits in a Categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Control Authority may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users in accordance with federal and state pretreatment regulations.

E. When wastewater subject to a Categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the Control Authority shall impose an alternate limit in accordance with federal and state pretreatment regulations.

F. An Industrial User may obtain a variance from DEQ for a Categorical Pretreatment Standard if it can prove, pursuant to the procedural and substantive provisions of 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by the E.P.A. when developing the Categorical Pretreatment Standard.

G. An Industrial User may obtain a net/gross adjustment from the Control Authority for a Categorical Pretreatment Standard in accordance with 40 CFR 403.15.

(Ord. No. 92-25, 6-16-92)

§ 26.1-7. State Requirements.

Industrial Users are required to comply with applicable state Pretreatment Standards and Requirements as set out in 9 VAC 25-31-730 to 25-31-900 or successor provisions. These Standards and Requirements are incorporated herein.

(Ord. No. 92-25, 6-16-92; Ord. No. 98-3, 2-7-98)

§ 26.1-8. Local Limits.

A. The Control Authority is authorized to establish Local Limits pursuant to 40 CFR 403.5(c). Industrial Users shall not discharge wastewater into the POTW containing pollutants that exceed the daily maximum limits (mg/l) for the listed pollutants of concern. The current list of the pollutants of concern and their associated daily maximum limits are posted on the Arlington County Public Website: <https://water.arlingtonva.us/sewer/water-pretreatment-program/>.

B. Local Limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise. The Control Authority may impose mass limitations in addition to the concentration-based limitations.

C. The Control Authority may develop Best Management Practices (BMPs), by Code or in individual wastewater discharge permits, or general permits, to implement Pretreatment Standards and Requirements.

(Ord. No. 92-25, 6-16-92; Ord. No. 95-10, 4-29-95; Ord. No. 95-11, 4-29-95; Ord. No. 04-25, 10-2-04; Ord. No. 08-13, 6-17-08)

§ 26.1-9. Control Documents.

A. The County utilizes two (2) types of documents to control discharges from Industrial Users: Individual Wastewater Discharge Permits and General Permits. Fees for each type of permit are addressed in section §26.1-135 of this Code chapter.

(1) *Individual Wastewater Discharge Permits (IWDPs)*. These permits are used to control the discharges of Industrial Users that have been classified as Significant Industrial Users (SIUs).

(2) *General Permits (GPs)*. The primary use of these permits is to control the discharges of Industrial Users that share a common industrial or commercial sector. Examples of Industrial Users that may be issued a General Permit include, but are not limited to: food service establishments; Industrial Users with extra-strength wastewater; dental offices; groundwater remediation sites; and demolition sites.

§ 26.1-10. Dilution.

No Industrial User shall ever increase the use of process water, or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation, unless expressly authorized by an applicable Pretreatment Standard or Requirement. The Control Authority may impose mass limitations on Industrial Users who are using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases when the imposition of mass limitations is appropriate.

(Ord. No. 92-25, 6-16-92)

§ 26.1-11. Right of Revision.

The County reserves the right to establish by Code or in individual wastewater discharge permits or in general permits, more stringent Pretreatment Standards or Requirements on discharges to the POTW consistent with the purpose of this Code chapter.

§§ 26.1-12--26.1-14. Reserved.

DIVISION 3.

PRETREATMENT OF WASTEWATER

§ 26.1-15. Pretreatment Facilities.

Industrial Users shall provide wastewater treatment as is necessary to comply with this Code chapter, and shall comply with all Categorical Pretreatment Standards, Local Limits, and with the prohibitions set out in §26.1-5 of this Code chapter, within the time limitations specified by federal, state, or the County, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the Industrial User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the County for review, and shall be acceptable to the County before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the Industrial User from the responsibility for modifying any such facility to produce a discharge acceptable to the County under the provisions of this Code chapter. The County may require an Industrial User to have a certified operator on staff to ensure proper operation and maintenance of the pretreatment facility. All records relating to compliance with Pretreatment Standards shall be made available to officials of the County and/or the Approval Authority upon request.

(Ord. No. 92-25, 6-16-92)

§ 26.1-16. Additional Pretreatment Measures.

A. Whenever deemed necessary, the Control Authority may require Industrial Users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW, and to determine the Industrial User's compliance with the Requirements of this Code chapter.

B. The Control Authority may require any person discharging into the POTW to install and maintain on their property, and at their expense, a suitable storage and flow control facility to ensure equalization of flow. An individual wastewater discharge permit, or a general permit may be issued solely for flow equalization.

C. Grease, oil and sand interceptors shall be provided when, in the opinion of the Control Authority, they are necessary for the proper handling of wastewater containing excessive amounts of grease, oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of a type and capacity approved by the County; shall comply with the County's *Fats, Oils, and Grease Discharge Policy*; and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired in accordance with the County's *Fats, Oils, and Grease Discharge Policy* by the Industrial Users at their expense.

D. Industrial Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

§ 26.1-17. Accidental Discharge/Slug Discharge Control Plans.

The Control Authority shall evaluate whether an Industrial User needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges. The Control Authority may require any Industrial User to develop, submit for approval, and implement such a plan or take such other action that may be necessary to control slug discharges. Alternatively, the Control Authority may develop such a plan for any Industrial User. An accidental discharge/slug discharge control plan shall address, at a minimum, the following:

A. Description of discharge practices, including non-routine batch discharges;

B. Description of stored chemicals;

C. Procedures for immediately notifying the Control Authority of any accidental or slug discharges, as required by section §26.1-65 of this Code chapter; and

D. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of pollutants, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

§ 26.1-18. Hauled Wastewater.

A. Septic tank waste may be introduced into the POTW only at locations designated by the Control Authority, and at such times as are established by the Control Authority. Such waste shall not violate §26.1-5 of this Code chapter, or any other Requirements established by the County. The Control Authority may require septic tank waste haulers to obtain a general permit.

B. The Control Authority may require haulers of industrial waste to obtain a general permit. The Control Authority may require generators of hauled industrial waste to obtain an individual wastewater discharge permit or a general permit. The Control Authority also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other Requirements of this Code chapter.

C. Industrial waste haulers may discharge loads only at locations designated by the Control Authority. No load may be discharged without prior consent of the Control Authority. The Control Authority may collect samples of each hauled load to ensure compliance with applicable Standards. The Control Authority may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

D. Industrial waste haulers shall provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

E. Fees for discharging hauled wastewater will be established as part of the General Permit fee system as authorized in §26.1-135 of this Code chapter.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

§§ 26.1-19--26.1-24. Reserved.

DIVISION 4.

SURCHARGE FOR CERTAIN INDUSTRIAL WASTES

§ 26.1-25. Surcharge Levied.

A. Although the POTW can treat certain abnormal industrial wastes, the actual treatment of such wastes may increase the cost of operating and maintaining the County’s POTW. Therefore, the County may levy and assess against each Industrial User discharging more than 250 mg/l of BOD and/or 275 mg/l of TSS into the POTW, a surcharge or surcharges for Abnormal Industrial Waste, which are intended to cover such additional cost to the County. Such surcharges shall be in addition to the regular sewerage service charge set forth in §26-9 of the Utilities Code. They shall be integrated into the regularly established sewer billing cycle, and shall be subject to the same penalty as set forth in §26-10 of the Utilities Code for delayed payment fee.

(1) *Calculation of Charges.* Extra-strength charges are based on the following:

- a. The concentration of pollutants in excess of thresholds set forth in section A. above.
- b. *The total metered water supplied to the premises.* The extra-strength charge may be reduced where commercial or industrial wastewater is discharged separately from domestic sanitary wastes or cooling waters, and the Industrial User provides a meter or other measurement method acceptable to the Control Authority. For multiple tenant buildings with shared water service, extra-strength charges will be apportioned by class of individual tenant with an estimated volume as a portion of the total sewer bill.
- c. *Surcharge factor.* This represents the calculated cost of treating one pound of BOD and TSS, respectively. These factors are derived from the most recent cost of service study, and posted on the Arlington County Public Website: <https://water.arlingtonva.us/sewer/water-pretreatment-program/>.

Surcharge Parameter	Avg Daily Concentration (mg/L)	Surcharge Factor (\$/Lb)
Biochemical Oxygen Demand (BOD)	> 250	See above hyperlink
Total Suspended Solids (TSS)	> 275	See above hyperlink

The formula to calculate the Monthly Surcharge amount is:
(BOD Conc. - 250) x Monthly Sewer Flow (MG) x 8.34 x Surcharge Factor = Monthly Charge
(TSS Conc. - 275) x Monthly Sewer Flow (MG) x 8.34 x Surcharge Factor = Monthly Charge

(2) *Methodologies for calculating extra-strength charges.*

- a. *Measured Rolling Average.* This method bases an Industrial User’s rate on the average concentration of the ten most recent composite sampling events. Rolling averages are initiated with samples taken over a 4-day period unless otherwise specified by the Control Authority. Samples must be taken at an approved sampling manhole or other representative location as determined by the Control Authority.
 - i. *Self-monitoring.* An Industrial User may be authorized to submit monitoring data as a basis for rate calculations. Wastewater samples must be representative of the discharge.

a) *Reports.* Self-monitoring reports must include sufficient information to calculate the extra-strength rolling average.

b) All analytical data submitted for rate calculations must be in accordance with procedures approved in Guidelines Establishing Test Procedures for the Analysis of Pollutants, contained in 40 CFR 136 and amendments thereto as published in the Federal Register. A copy of the laboratory's Certification of Analyses, QA/QC, and complete Chain of Custody shall be submitted to the County.

b. *Extra-strength class averages.* The County may establish a rate structure for Industrial Users to be billed extra-strength charges based on the average discharge concentration of their business class. Businesses subject to class-average extra-strength charges may be eligible for rate reductions based on the verifiable implementation of approved Best Management Practices (BMPs).

c. *Other charge computations.* If unusual effluent conditions make calculation by the measured rolling average or the extra-strength class-average method difficult or impossible, the Control Authority may implement another method of sampling and computation. The County may establish custom rates based on site-specific conditions.

(3) *Minimal charges/suspension.* The County may establish a minimum revenue threshold for periodic extra-strength charges using the rolling average method. The billing for all accounts with periodic extra-strength sewage charges below this minimum revenue threshold will be suspended or changed to the class average method until they increase beyond the revenue threshold again.

(4) *Adjustments.* The County may adjust an Industrial User's charges where applicable at any time in accordance with the most recent monitoring analysis.

§ 26.1-26. Sampling.

The strength of any industrial waste, the discharge of which is to be subject to surcharge, shall be determined based upon the frequency of their billing cycle (monthly or quarterly), from samples taken at the mutually-agreed upon monitoring site between the County and the Industrial User. Representative samples of the wastewater discharge shall be collected by a representative of the County, in proportion to the flow of waste (if feasible), exclusive of stormwater runoff, and composited for analysis in accordance with the current revision of 40 CFR 136. Upon request by the Industrial User, the County may split samples with the Industrial User for their own analysis. Except as hereinafter provided, the strength of the waste, so found by analysis, shall be used for establishing the surcharge or surcharges. However, the County may, if it so elects, accept the results of routine sampling and analyses by the Industrial User in lieu of, or in addition to, making its own samplings and analyses – provided that the User's sample(s) conform to proper quality assurance and quality control (QA/QC) protocols; comply with 40 CFR 136; and are analyzed by a VELAP-certified laboratory.

§ 26.1-27. Monitoring Charges.

The Control Authority may recover the County's expenses incurred in collecting and analyzing samples of the Industrial User's discharge by adding the costs to the Industrial User's sewer charges.
(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

§ 26.1-28. Total Suspended Solids Concentration.

Total suspended solids (TSS) sampling, analyses, and reporting requirements shall be included within an Industrial User's individual wastewater discharge permit or general permit as deemed necessary.

§ 26.1-29. BOD Concentration.

BOD sampling, analyses, and reporting requirements shall be included within an Industrial User's individual wastewater discharge permit or general permit as deemed necessary.

§§ 26.1-30--26.1-34. Reserved.

DIVISION 5

INDIVIDUAL WASTEWATER DISCHARGE PERMITS and GENERAL PERMITS

§ 26.1-35. Wastewater Analysis (Industrial User Survey).

When requested by the Control Authority, an Industrial User shall submit information on the nature and characteristics of its wastewater within ten (10) days of the request. The Control Authority is authorized to prepare a form for this purpose and may periodically require Industrial Users to update this information. Should the Control Authority determine that the Industrial User qualifies as a Significant Industrial User, the Control Authority will so notify the Industrial User of that determination, and advise the Industrial User of all requirements applicable to it as a result of such status.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

§ 26.1-36. Individual Wastewater Discharge Permit and General Permit Requirements.

A. No Significant Industrial User shall discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit from the Control Authority, except that a Significant Industrial User that has filed a timely application pursuant to §26.1-56 of this Code chapter may continue to discharge for the time period specified therein.

B. The Control Authority may require other Industrial Users to obtain general permits as necessary to carry out the purposes of this Code chapter.

C. Any violation of the terms and conditions of an individual wastewater discharge permit or a general permit shall be deemed a violation of this Code chapter, and subjects the permittee to the sanctions set out in Divisions 10. through 13. of this Code chapter. Obtaining an individual wastewater discharge permit or a general permit does not relieve a permittee of its obligation to comply with all federal and state Pretreatment Standards or Requirements or with any other requirements of federal, state, or local law.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

§ 26.1-37. Individual Wastewater Discharge and General Permitting: Existing Connections.

Any Industrial User required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this Code chapter, and who wishes to continue such discharges in the future, shall, within sixty (60) days after notification by the County, apply to the Control Authority for a wastewater discharge permit in accordance with §26.1-39 of this Code chapter, and shall not cause or allow discharges to the POTW to continue after one hundred twenty (120) days after notification by the County, except in accordance with a wastewater discharge permit issued by the County or one of its jurisdictions. Any existing permits for discharge to the POTW will remain in full force and effect until said permit expires or is modified by the County. Industrial Users that wish to renew their permit shall comply with the requirements found in §26.1-56.

§ 26.1-38. Individual Wastewater Discharge and General Permitting: New Connections.

Any Industrial User required to obtain a wastewater discharge permit who proposes to begin or recommence discharging to the POTW shall obtain such permit prior to beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with §26.1-39 of this Code chapter, shall be filed at least sixty (60) days prior to the date upon which any discharge will begin or recommence.

(Ord. No. 92-25, 6-16-92)

§ 26.1-39. Individual Wastewater Discharge and General Permit Application Contents.

A. All Industrial Users required to obtain an individual wastewater discharge permit or a general permit shall submit a permit application. The Control Authority may require all Industrial Users to submit, as part of an application, the following information:

- (1) *Identifying Information.*

- a. The name and address of the facility, including the name of the operator and owner; and
- b. Contact information, description of activities, facilities, and plant production processes on the premises.

(2) *Environmental Permits.* A list of any environmental control permits held by or for the facility.

(3) *Description of Operations.*

a. A brief description of the nature, average rate of production (including each product produced by type, amount, process, and rate of production), and SIC or NAICS code of the operation(s) carried out by such Industrial User. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes;

b. Types of waste generated, and list of all raw materials and chemicals, used or stored at the facility, which are, or could accidentally or intentionally, be discharged to the POTW;

c. Number and type of employees, hours of operation, and proposed or actual hours of operation;

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

e. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.

(4) *Time and Duration of Discharges.*

(5) *The monitoring location for all wastes covered by the Permit.*

(6) *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 wastestream formula set out in 40 CFR 403.6 (e).

(7) *Measurement of Pollutants.*

a. The Categorical Pretreatment Standards applicable to each regulated process and any new Categorically-regulated processes for existing sources;

b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the Control Authority, of regulated pollutants in the discharge from each regulated process;

c. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported;

d. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in §26.1-69 of this Code chapter. Where the Standard requires compliance with a BMP or pollution prevention alternative, the Industrial User shall submit documentation as required by the Control Authority or the applicable Standards to determine compliance with the Standard; and,

e. Sampling must be performed in accordance with procedures set out in Section §26.1-70 of this Code chapter.

(8) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on §26.1-63 (40 CFR 403.12 (e) (2)).

- (9) Any request to be covered by a general permit based on §26.1-40 of this Code chapter.
 - (10) Any other information as may be deemed necessary by the Control Authority to evaluate the permit application.
- B. Incomplete or inaccurate applications will not be processed, and will be returned to the Industrial User for revision.
(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

§ 26.1-40. Wastewater Discharge Permitting: General Permits.

- A. At the discretion of the Control Authority, he or she may use general permits to control Industrial User discharges to the POTW if the following conditions are met. All facilities to be covered by a general permit shall:
- (1) Involve the same or substantially similar types of operations;
 - (2) Discharge the same types of wastes;
 - (3) Require the same effluent limitations;
 - (4) Require the same or similar monitoring; and,
 - (5) In the opinion of the Control Authority, are more appropriately controlled under a general permit than under individual wastewater discharge permits.
- B. To be covered by the general permit, the Industrial User shall file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general permit, any requests in accordance with §26.1-63 of this Code chapter for a monitoring waiver for a pollutant neither present nor expected to be present in the discharge, and any other information the POTW deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general permit until after the Control Authority has provided written notice to the Industrial User that such a waiver request has been granted in accordance with §26.1-63 of this Code chapter.
- C. The Control Authority shall retain a copy of the general permit documentation to support the POTW's determination that a specific Industrial User meets the above criteria [A.(1)-(5)] and applicable state regulations, and a copy of the Industrial User's written request for coverage for three (3) years after the expiration of the general permit.
- D. The Control Authority may not control an Industrial User through a general permit where the facility is subject to production-based Categorical Pretreatment Standards or Categorical Pretreatment Standards expressed as mass of pollutant discharged per day or for Industrial Users whose limits are based on the combined wastestream formula (40 CFR 403.6(e)) or net/gross calculations (40 CFR 403.15).

§ 26.1-41. Application Signatories and Certification.

- A. All permit applications, Industrial User reports, and certification statements shall be signed by an Authorized Representative and contain the certification statement in §26.1-73 of this Code chapter.
- B. If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section shall be submitted to the Control Authority prior to or together with any reports to be signed by a new Authorized Representative.
- C. A facility determined to be a Non-Significant Categorical Industrial User by the Control Authority shall annually submit the signed certification statement as described in §26.1-73 of this Code chapter.

(Ord. No. 92-25, 6-16-92)

§ 26.1-42. Individual Wastewater Discharge and General Permit Decisions.

The Control Authority will evaluate the data furnished by the Industrial User and may require additional information. Within sixty (60) days of receipt of a complete permit application, the Control Authority will determine whether to issue an individual wastewater discharge permit or a general permit. The Control Authority may deny any application for an individual wastewater discharge permit or a general permit for cause.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

§ 26.1-43. Regulation of Waste Received from Other Jurisdictions.

A. If a municipality, or Industrial User located within another municipality, contributes wastewater to the POTW, the County shall enter into an interjurisdictional agreement with the contributing municipality.

B. Prior to entering into an agreement required by paragraph A. above, the Control Authority shall request the following information from the contributing municipality:

- (1) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
- (2) An inventory of Industrial Users located within the contributing municipality that are discharging to the POTW; and
- (3) Such other information as the Control Authority may deem necessary.

§ 26.1-44. Special Agreements.

The County reserves the right to enter into special agreements with Industrial Users setting out special terms under which the Industrial User may discharge to the system. In no case will a special agreement waive compliance with a Pretreatment Standard.

(Ord. No. 92-25, 6-16-92; Ord. No. 98-3, 2-7-98; Ord. No. 04-25, 10-2-04)

§§ 26.1-45--26.1-49. Reserved.

DIVISION 6.

INDIVIDUAL WASTEWATER DISCHARGE and GENERAL PERMIT ISSUANCE

§ 26.1-50. Individual Wastewater Discharge and General Permit Duration.

An individual wastewater discharge permit or a general permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. An individual wastewater discharge permit or a general permit may be issued for a period less than five (5) years, at the discretion of the Control Authority. Each individual wastewater discharge permit or a general permit will indicate a specific date upon which it will expire.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

§ 26.1-51. Individual Wastewater Discharge Permit and General Permit Contents.

An individual wastewater discharge permit or a general permit shall include such conditions as are deemed reasonably necessary by the Control Authority to prevent pass-through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

A. Individual wastewater discharge permits and general permits shall contain:

(1) A statement that indicates the wastewater discharge permit issuance date, expiration date, and effective date.

(2) A statement that the wastewater discharge permit is nontransferable without prior notification to and written approval from the Control Authority in accordance with §26.1-54 of this Code chapter, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.

(3) Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards.

(4) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants (or best management practices) to be monitored, sampling location, sampling frequency, and sample type based on federal, state, and local law.

(5) The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the discharge in accordance with §26.1-63 of this Code chapter.

(6) A statement of applicable administrative, civil, and/or criminal penalties for violation of Pretreatment Standards and Requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state, or local law.

(7) Requirements to control slug discharges, if determined by the Control Authority to be necessary. Determinations for need for a slug plan shall be evaluated every two (2) years at a minimum.

(8) Any grant of the monitoring waiver by the Control Authority (§26.1-63) must be included as a condition in the Industrial User's permit.

B. Individual wastewater discharge permits or general permits may contain, but need not be limited to, the following conditions:

(1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.

(2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the POTW.

(3) Requirements for the development and implementation of spill prevention & control plans or other special conditions including best management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges.

(4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW.

(5) The unit charge or schedule of Industrial User charges and fees for the management of the wastewater discharged to the POTW.

(6) Requirements for installation and maintenance of inspection and sampling facilities and equipment, including flow measurement devices.

(7) A statement that compliance with the individual wastewater discharge permit or the general 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 individual wastewater discharge permit or the general permit.

(8) Other conditions as deemed appropriate by the Control Authority to ensure compliance with this Code chapter, and state and federal laws, rules, and regulations.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04; Ord. No. 08-13, 6-17-08)

§ 26.1-52. Wastewater Permit Appeals.

The Industrial User may file a written petition with the County Manager to reconsider and change the terms of the permit within thirty (30) days after the notice that the permit is denied or awarded is mailed to the Industrial User.

- A. Failure to submit a timely petition of review shall be deemed to be a waiver of the right to appeal.
- B. In its petition, the appealing party must indicate which permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to have included in the permit.
- C. A permit and all conditions shall be effective pending the appeal.
- D. The County Manager shall render a decision within thirty (30) days. Decisions of the County Manager shall be considered final administrative action for purposes of judicial review.
- E. Aggrieved parties seeking judicial review of the final administrative action must do so by filing an action with the Arlington County Circuit Court.
(Ord. No. 92-25, 6-16-92)

§ 26.1-53. Permit Modification (Reopener).

The Control Authority may modify an individual wastewater discharge permit or general permit at any time for good cause, including, but not limited to, the following reasons:

- A. To incorporate any new or revised federal, state, or local Pretreatment Standard or Requirement.
- B. To address significant alterations or additions to the Industrial User's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit or general permit issuance.
- C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- D. Information indicating that the permitted discharge poses a threat to the County's POTW, County personnel, the receiving waters, or the beneficial reuse of the sludge (biosolids).
- E. Violation of any terms or conditions of the individual wastewater discharge permit or general permit.
- F. Misrepresentations or failure to fully disclose all relevant facts in the individual wastewater discharge permit or general permit application or in any required reporting.
- G. Revision of or a grant of variance from Categorical Pretreatment Standards pursuant to 40 CFR 403.13.
- H. To correct typographical or other errors in the individual wastewater discharge permit or general permit.
- I. To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with §26.1-54 of this Code chapter.
(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

§ 26.1-54. Permit Transfer.

Individual wastewater discharge permits or coverage under general permits may be transferred to a new owner or operator only if the permittee gives at least thirty (30) days advance notice to the Control Authority, and the Control Authority approves the individual wastewater discharge permit or the general permit coverage transfer. The notice to the Control Authority must include a written certification by the new owner or operator which:

- A. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes.
- B. Identifies the specific date on which the transfer is to occur.
- C. Acknowledges full responsibility for complying with the existing individual wastewater discharge permit or general permit.

Failure to provide advance notice of a transfer renders the individual wastewater permit or coverage under the general permit void as of the date of facility transfer.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

§ 26.1-55. Permit Revocation.

The Control Authority may revoke an individual wastewater discharge permit or coverage under a general permit for good cause, including, but not limited to, the following reasons:

- A. Failure to notify the Control Authority of significant changes to the wastewater prior to the changed discharge.
- B. Failure to provide prior notification to the Control Authority of changed conditions pursuant to §26.1-64 of this Code chapter.
- C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application.
- D. Falsifying self-monitoring reports and certification statements.
- E. Tampering with monitoring equipment.
- F. Refusing to allow the Control Authority timely access to the facility premises and records.
- G. Failure to meet effluent limitations.
- H. Failure to pay penalties.
- I. Failure to pay sewer charges.
- J. Failure to meet compliance schedules.
- K. Failure to complete a wastewater survey or the wastewater discharge permit application.
- L. Failure to provide advance notice of the transfer of business ownership of a permitted facility.
- M. Violation of any Pretreatment Standard or Requirement, or any terms of the individual wastewater discharge permit or the general permit or this Code chapter.

Individual wastewater discharge permits or coverage under general permits shall be voidable upon cessation of operations or transfer of business ownership. All individual wastewater discharge permits or general permits issued

to an Industrial User are void upon the issuance of the new individual wastewater discharge permit or a general permit to that Industrial User.

(Ord. No. 92-25, 6-16-92; Ord. No. 95-10, 4-29-95; Ord. No. 95-11, 4-29-95)

§ 26.1-56. Permit Reissuance.

An Industrial User with an expiring individual wastewater discharge permit or general permit shall apply for individual wastewater discharge permit or general permit reissuance by submitting a complete permit application, in accordance with §26.1-39 of this Code chapter, a minimum of sixty (60) days prior to expiration of the Industrial User's existing individual wastewater discharge permit or general permit.

(Ord. No. 92-25, 6-16-92)

§§ 26.1-57--26.1-59. Reserved.

DIVISION 7.

REPORTING REQUIREMENTS

§ 26.1-60. Baseline Monitoring Reports.

A. Within either one hundred eighty (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)(4), whichever is later, existing Categorical Industrial Users currently discharging to or scheduled to discharge to the POTW shall submit to the Control Authority a report which contains the information listed in paragraph B. below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable Categorical Standard, shall submit to the Control Authority a report which contains the information listed in paragraph B. below. A new source shall report the method of pretreatment it intends to use to meet applicable Pretreatment Standards. A new source shall also give estimates of its anticipated flow and quantity of pollutants to be discharged.

B. CIUs described above shall submit the information set forth below:

(1) All information required in §26.1-39A.(1) through A.(6) of this Code chapter.

(2) Measurement of pollutants.

a. The CIU shall provide the information required in §26.1-39A.(7) of this Code chapter.

b. The CIU shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.

c. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the CIU should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e), this adjusted limit along with supporting data shall be submitted to the Control Authority.

d. Sampling and analysis shall be performed in accordance with Sections §26.1-69 and §26.1-70 of this Code chapter.

e. The Control Authority may allow the submission of a Baseline Monitoring Report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

f. The Baseline Monitoring Report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.

(3) *Compliance Certification.* A certification statement, reviewed and signed by the CIU's Authorized Representative, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.

(4) *Compliance Schedule.* If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the CIU will provide such additional pretreatment and/or O&M must be provided. 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 Section must meet the requirements set out in §26.1-61 of this Code chapter.

(5) *Signature and Report Certification.* All Baseline Monitoring Reports must be certified in accordance with §26.1-73 of this Code chapter and signed by an Authorized Representative.

(Ord. No. 92-25, 6-16-92)

§ 26.1-61. Compliance Schedule Progress Reports.

A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the Industrial User to meet the applicable Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

B. No increment referred to above shall exceed nine (9) months;

C. The Industrial User shall submit a progress report to the Control Authority no later than fourteen (14) days following each milestone date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the Industrial User to return to the established schedule; and,

D. In no event shall more than nine (9) months elapse between such progress reports to the Control Authority.

§ 26.1-62. Reports on Compliance with Categorical Pretreatment Standard Deadline.

Within ninety (90) days following the date for final compliance with applicable Categorical Pretreatment Standards, or in the case of a new source, following commencement of the introduction of wastewater into the POTW, any CIU subject to such Pretreatment Standards and Requirements shall submit to the Control Authority a report containing the information described in §26.1-39 A.(6) and A.(7), and §26.1-60 B.(3) of this Code chapter. For CIUs subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the CIU's long-term production rate. For all other CIUs subject to Categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the CIU's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with §26.1-73 of this Code chapter. All sampling will be done in conformance with Section §26.1-70 of this Code chapter.

(Ord. No. 92-25, 6-16-92)

§ 26.1-63. Periodic Compliance Reports.

A. All Significant Industrial Users shall, at a frequency determined by the Control Authority, submit no less than twice per year (January and July) reports indicating the nature, concentration of pollutants in the discharge which are

limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the SIU shall submit documentation required by the Control Authority or the Pretreatment Standard necessary to determine the compliance status of the SIU.

B. The County may authorize a CIU subject to a Categorical Pretreatment Standard to forego sampling of a pollutant regulated by a Categorical Pretreatment Standard if the CIU 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 CIU. This authorization is subject to the following conditions:

(1) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable Categorical Standard and otherwise includes no process wastewater.

(2) The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than five (5) years. The CIU shall submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit.

(3) In making a demonstration that a pollutant is not present, the CIU 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 by an Authorized Representative, and include the certification statement specified in §26.1-73 of this Code chapter.

(5) Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.

(6) Any grant of the monitoring waiver by the Control Authority must be included as a condition in the CIU's permit. The reasons supporting the waiver and any information submitted by the CIU in its request for the waiver must be maintained by the Control Authority for three (3) years after expiration of the waiver.

(7) Upon approval of the monitoring waiver and revision of the CIU's permit by the Control Authority, the CIU must certify on each report with the statement in §26.1-73 of this Code chapter, that there has been no increase in the pollutant in its wastestream due to activities of the CIU.

(8) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the CIU's operations, the CIU must immediately notify the Control Authority and comply with the monitoring requirements of this section, or other more frequent monitoring requirements imposed by the Control Authority.

(9) This provision does not supersede certification processes and requirements established in Categorical Pretreatment Standards, except as otherwise specified in the Categorical Pretreatment Standard.

C. All periodic compliance reports must be signed and certified in accordance with §26.1-73 of this Code chapter.

D. All wastewater samples must be representative of the Industrial User's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of an Industrial User to keep its monitoring facility in good working order shall not be grounds for the Industrial User to claim that sample results are unrepresentative of its discharge.

E. If an Industrial User subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Control Authority, using the procedures prescribed in §26.1-69 and §26.1-70 of this Code chapter, the results of this monitoring shall be included in the report. (Ord. No. 92-25, 6-16-92; Ord. No. 95-10, 4-29-95; Ord. No. 95-11, 4-29-95; Ord. No. 04-25, 10-2-04; Ord. No. 08-13, 6-17-08)

§ 26.1-64. Report of Changed Conditions.

Each permitted Industrial User shall notify the Control Authority of any significant changes to the Industrial User's operations or system which might alter the nature, quality or volume of its wastewater at least sixty (60) days before the change.

A. The Control Authority may require the Industrial User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under §26.1-39 of this Code chapter.

B. The Control Authority may issue an individual wastewater discharge permit or a general permit under §26.1-42 of this Code chapter or modify an existing individual wastewater discharge permit or general permit under §26.1-53 of this Code chapter in response to changed conditions or anticipated changed conditions.

C. For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants. (Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04; Ord. No. 08-13, 6-17-08)

§ 26.1-65. Reports of Potential Problems.

A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or slug discharge that might cause potential problems for the POTW, the Industrial User shall immediately telephone (703-585-6851) and notify the Control Authority of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the Industrial User.

B. Within five (5) days following such discharge, the Industrial User shall, unless waived by the Control Authority, 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 might be incurred because 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, penalties, or other liability which may be imposed pursuant to this Code chapter.

C. A notice shall be permanently posted on the Industrial User's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph A above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

D. Significant Industrial Users are required to notify the Control Authority immediately of any changes at its facility affecting the potential for a slug discharge. (Ord. No. 92-25, 6-16-92)

§ 26.1-66. Reports from Unpermitted Industrial Users.

All Industrial Users not required to obtain an individual wastewater discharge permit or general permit shall provide appropriate reports to the County as the Control Authority may require.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

§ 26.1-67. Notice of Violation/Repeat Sampling and Reporting.

If sampling performed by an Industrial User indicates a violation, the Industrial User must notify the Control Authority within twenty-four (24) hours of becoming aware of the violation. The Industrial User shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Control Authority within thirty (30) days after becoming aware of the violation. Resampling by the Industrial User is not required if the County performs sampling at the Industrial User's facility at least once a month, or if the County performs sampling at the Industrial User's facility between the time when the initial sampling was conducted and the time when the Industrial User or the County receives the results of this sampling, or if the County has performed the sampling and analysis in lieu of the Industrial User.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

§ 26.1-68. Notification of the Discharge of Hazardous Waste.

A. Any Industrial User who commences the discharge of hazardous waste shall notify the Control Authority, the EPA Regional Waste Management Division Director, and state hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the Industrial User discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the Industrial User: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph needs to be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under §26.1-64 of this Code chapter. The notification requirement in this Section does not apply to pollutants already reported by Industrial Users under the self-monitoring requirements of §26.1-25, §26.1-60, §26.1-62, and §26.1-63 of this Code chapter.

B. Industrial Users are exempt from the requirements of paragraph A, above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the Industrial User discharges more than such quantities of any hazardous waste do not require additional notification.

C. In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the Industrial User must notify the Control Authority, the EPA Regional Waste Management Waste Division Director, and state hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

D. In the case of any notification made under this section, the Industrial User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.

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

§ 26.1-69. Analytical Requirements.

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

(Ord. No. 92-25, 6-16-92)

§ 26.1-70. Sample Collection.

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.

A. Except as indicated in Section B and C below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Control Authority. Where time-proportional composite sampling or grab sampling is authorized by the County, the samples must be representative of the discharge. Using protocols (appropriate preservation, etc.) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis. In addition, grab samples may be required to show compliance with instantaneous limits.

B. Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

C. For sampling required in support of Baseline Monitoring Reports and Reports on Compliance with the Categorical Pretreatment Standard Deadlines required in §26.1-60 and §26.1-62 of this Code chapter, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist. For facilities for which historical sampling data are available, the Control Authority may authorize a lower minimum. For the reports required by §26.1-63 of this Code chapter, the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

(Ord. No. 92-25, 6-16-92)

§ 26.1-71. Date of Receipt of Reports.

A. Written reports will be deemed to have been submitted on the date postmarked on the outer envelope. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, Federal Express, or the United Postal Service, the date of receipt of the report shall govern.

B. If complete, signed reports are transmitted electronically via fax, text message, or electronic mail (e-mail); and transmission receipt is confirmed, and the original signed written report is received within five (5) days thereafter, then the report will be deemed to have been submitted on the date of the electronic transmittal.

C. For FSE reporting purposes, the date of uploading the report to the online FOG management website determines the date of receipt, and follow-up written reporting is not required. For those FSEs that don't utilize the online FOG management website, then paragraphs A. and/or B. would apply.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

§ 26.1-72. Record-Keeping.

Industrial Users subject to the reporting requirements of this Code chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Code chapter, any additional records of information obtained pursuant to monitoring activities undertaken by the Industrial User independent of such requirements, and documentation associated with Best Management Practices established under §26.1-8. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years or a longer retention period if the Industrial User has been specifically notified by the Control Authority.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04; Ord. No. 08-13, 6-17-08)

§ 26.1-73. Certification Statements.

A. *Certification of Permit Applications, User Reports and Initial Monitoring Waiver.* The following certification statement is required to be signed by an Authorized Representative and submitted by Industrial Users for the following documents: permit applications; Baseline Monitoring Reports; Reports on Compliance with the Categorical Pretreatment Standard Deadlines; Periodic Compliance Reports; and an initial request to forego sampling of a pollutant on the basis of §26.1-63 of this Code chapter.

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

B. *Annual Certification for Non-Significant Categorical Industrial Users.* A facility determined to be a Non-Significant Categorical Industrial User by the Control Authority shall annually submit the following certification statement signed by an Authorized Representative. This certification must accompany an 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 _____, _____ to _____, _____ [months, days, year]:

(1) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in §26.1-1 of the Arlington County Code;

(2) The facility complied with all applicable Pretreatment Standards and Requirements during this reporting period; and

(3) The facility never discharged more than 100 gallons of total Categorical wastewater on any given day during this reporting period.”

This compliance certification is based on the following information:

C. *Certification of Pollutants Not Present*

Industrial Users that have an approved monitoring waiver based on §26.1-63 of this Code chapter shall certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the Industrial User.

“Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR _____ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under §26.1-63 of the Arlington County Code.”

§§ 26.1-74--26.1-79. Reserved.

DIVISION 8.

COMPLIANCE MONITORING

§ 26.1-80. Right of Entry: Inspection and Sampling.

Industrial Users shall allow the Control Authority ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and any other purposes related to the requirements of this Code chapter.

A. Where an Industrial User has security measures in force which require proper identification and clearance before entry into its premises, the Industrial User shall make necessary arrangements with its security personnel so that the Control Authority shall be permitted to enter without delay for the purposes of performing specific responsibilities.

B. The Control Authority shall have the right to take photographs during his or her facility inspection.

C. The Control Authority shall have the right to set up on the Industrial User's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the Industrial User's operations.

D. The Control Authority may require the Industrial User to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the Industrial User at its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least annually to ensure their accuracy, or more often at the discretion of the Control Authority.

E. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the Industrial User at the written or verbal request of the Control Authority and shall not be replaced. The costs of clearing such access shall be borne by the Industrial User.

F. Unreasonable delays in allowing the Control Authority access to the Industrial User's premises shall be a violation of this Code chapter.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-22, 10-2-04)

§§ 26.1-81--26.1-84. Reserved.

DIVISION 9.

CONFIDENTIAL INFORMATION

§ 26.1-85. Confidential Information.

Information and data on an Industrial User obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, general permits, and monitoring programs, and from the Control Authority's 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 Control Authority, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. 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 VPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

(Ord. No. 92-25, 6-16-92)

§§ 26.1-86--26.1-89. Reserved.

DIVISION 10.

PUBLICATION OF INDUSTRIAL USERS IN SIGNIFICANT NONCOMPLIANCE (SNC)

§ 26.1-90. Publication of Industrial Users in Significant Noncompliance.

The Control Authority shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the Industrial Users which, at any time during the previous twelve (12) months, were in significant noncompliance with applicable Pretreatment Standards and Requirements. The term significant noncompliance shall be applicable to all Significant Industrial Users (or any other Industrial User that violates paragraphs (C), (D) or (H) of this Section) and shall mean:

- A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six- (6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including instantaneous limits;
- B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including instantaneous limits, multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- C. Any other violation of a Pretreatment Standard or Requirement (daily maximum, monthly average, instantaneous limit, or narrative standard) that the Control Authority determines has caused, alone or in combination with other discharges, interference or pass-through, including endangering the health of POTW personnel or the general public;
- D. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Control Authority's exercise of its emergency authority to halt or prevent such a discharge;

- E. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or a general permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- F. Failure to provide within forty-five (45) days after the due date, any required reports, including, but not limited to, Baseline Monitoring Reports, Reports on Compliance with Categorical Pretreatment Standard Deadline, Periodic Compliance Reports, and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance; or
- H. Any other violation(s), which may include a violation of Best Management Practices, which the Control Authority determines will adversely affect the operation or implementation of the local pretreatment program.
(Ord. No. 92-25, 6-16-92; Ord. No. 98-3, 2-7-98; Ord. No. 08-13, 6-17-08)

§§ 26.1-91--26.1-94. Reserved.

DIVISION 11.

ADMINISTRATIVE ENFORCEMENT REMEDIES

§ 26.1-95. Notification of Violation.

When the Control Authority finds that an Industrial User has violated, or continues to violate, any provision of this Code chapter, an individual wastewater discharge permit, or a general permit or order issued hereunder, or FOG Discharge Policy, or any other Pretreatment Standard or Requirement, the Control Authority may serve upon that Industrial User a written Notice of Violation. Within ten (10) days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the Industrial User to the Control Authority. Submission of such a plan in no way relieves the Industrial User of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Control Authority to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

§ 26.1-96. Consent Orders.

The Control Authority may enter into consent orders, assurances of compliance, or other similar documents establishing an agreement with any Industrial User responsible for noncompliance. Such documents shall include specific action to be taken by the Industrial User to correct the noncompliance within a time period specified by the document. Consent orders shall have the same force and effect as the compliance orders and cease and desist orders issued pursuant to §26.1-98 and §26.1-99 of this Code chapter and shall be judicially enforceable. A consent order shall not be a bar against, or prerequisite for, taking any other action against the Industrial User.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

§ 26.1-97. Show Cause Hearings.

The Control Authority may order an Industrial User which has violated, or continues to violate, any provision of this Code chapter, an individual wastewater discharge permit, or a general permit or order issued hereunder, or FOG Discharge Policy, or any other Pretreatment Standard or Requirement, to appear before the Control Authority and show cause why the proposed enforcement action should not be taken. Notice shall be served on the Industrial User specifying the time and place for the hearing, the facts and legal requirements related to the alleged violation, the proposed enforcement action, and the amount of any proposed penalty. The notice of the show cause hearing shall be served personally, or by registered or certified mail on the Authorized Representative of the Industrial User at least thirty (30) days prior to the show cause hearing. At the show cause hearing the Industrial User may present evidence including witnesses regarding the occurrence of the alleged violation and the amount of the penalty. A verbatim record of the show cause hearing shall be made. Within thirty (30) days after the conclusion of the show cause hearing, the hearing officer shall make findings of facts and conclusion of law and issue the order.

A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the Industrial User.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

§ 26.1-98. Compliance Orders.

When the Control Authority finds that an Industrial User has violated, or continues to violate, any provision of this Code chapter, an individual wastewater discharge permit, or a general permit or order issued hereunder, or FOG Discharge Policy, or any other Pretreatment Standard or Requirement, the Control Authority may issue an order to the Industrial User responsible for the discharge directing that the Industrial User come into compliance within a specified time. If the Industrial User does not come into compliance within the time period provided, escalating enforcement measures may be initiated until adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and/or management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a Pretreatment Standard or Requirement, nor does a compliance order relieve the Industrial User of liability for any violation, including any continuing violations. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the Industrial User.

§ 26.1-99. Cease and Desist Orders.

When the Control Authority finds that an Industrial User has violated, or continues to violate, any provision of this Code chapter, an individual wastewater discharge permit, or a general permit or order issued hereunder, or FOG Discharge Policy, or any other Pretreatment Standard or Requirement, or that the Industrial User's past violations are likely to recur, the Control Authority may issue an order to the Industrial User directing it to cease and desist all industrial wastewater discharges and directing the Industrial User to:

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

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

§ 26.1-100. Administrative Civil Penalties.

- A. When the Control Authority finds that an Industrial User has violated, or continues to violate, any provision of this Code chapter, an individual wastewater discharge permit, or a general permit or order issued hereunder, or FOG Discharge Policy, or any other Pretreatment Standard or Requirement, the Control Authority may assess an administrative civil penalty by order up to \$32,500 per violation not to exceed \$100,000 per order.
- B. In addition, the Control Authority may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the County.
- C. In determining the amount of the administrative civil penalty, the Control Authority shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the Industrial User's violation, corrective actions by the Industrial User, the compliance history of the Industrial User, and/or the Industrial User's ability to pay.
- D. No order assessing an administrative civil penalty shall be issued until after the Industrial User has been provided the opportunity for a show cause hearing, except with consent of the Industrial User.
- E. Issuance of an administrative civil penalty shall not be a bar against, or a prerequisite for, taking any other action against the Industrial User.

§ 26.1-101. Emergency Suspensions.

The Control Authority may immediately suspend an Industrial User's discharge, after informal notice to the Industrial User, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons. The Control Authority may also immediately suspend an Industrial User's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

A. Any Industrial User notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of an Industrial User's failure to immediately comply voluntarily with the suspension order, the Control Authority may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Control Authority may allow the Industrial User to recommence its discharge when the Industrial User has demonstrated to the satisfaction of the Control Authority that the period of endangerment has passed, unless the termination proceedings in §26.1-102 of this Code chapter are initiated against the Industrial User.

B. An Industrial User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Control Authority prior to the date of any show cause hearing under §26.1-97 or §26.1-102 of this Code chapter.

Nothing in this Section shall be interpreted as requiring a hearing prior to any Emergency Suspension.
(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

§ 26-102. Termination of Discharge.

In addition to those provisions in § 26.1-55 of this Code chapter, any Industrial User which violates the following conditions is subject to discharge termination:

- A. Violation of individual wastewater discharge permit or general permit conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- C. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- D. Refusal of reasonable access to the Industrial User's premises for the purpose of inspection, monitoring, or sampling; or
- E. Violation of the Pretreatment Standards in Division 2 of this Code chapter.

Such an Industrial User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under §26.1-97 of this Code chapter as to why the proposed action should not be taken. Exercise of this option by the Control Authority shall not be a bar to, or a prerequisite for, taking any other action against the Industrial User.

(Ord. No. 92-25, 6-16-92)

§ 26.1-103. Review of Administrative Enforcement Actions.

A. The Industrial User may file a written petition with the County Manager to reconsider and/or change the terms of any administrative enforcement action within fifteen (15) days after said enforcement decision has been rendered.

B. Failure to submit a timely petition of review shall be deemed to be a waiver of the right to review.

C. In its petition, the Industrial User must indicate which enforcement actions are objected to; the reasons for this objection, and the suggested alternative remedies.

D. All enforcement actions shall be effective pending the review.

E. The County Manager shall render a decision within thirty (30) days. Decisions of the County Manager shall be considered final administrative action for purposes of judicial review.

§ 26.1-104. Judicial Review of Administrative Enforcement Actions.

Aggrieved parties seeking judicial review of any final administrative enforcement action must do so by filing an action with the Arlington County Circuit Court.

§§ 26.1-105--26.1-109. Reserved.

DIVISION 12.

**JUDICIAL ENFORCEMENT
REMEDIES**

§ 26.1-110. Injunctive Relief.

When the Control Authority finds that an Industrial User has violated, or continues to violate, any provision of this Code chapter, an individual wastewater discharge permit, or a general permit or order issued hereunder, or FOG Discharge Policy, or any other Pretreatment Standard or Requirement, the Control Authority may petition the Arlington County Circuit Court through the County's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, the general permit, order, FOG Discharge Policy, or other requirement imposed by this Code chapter on activities of the Industrial User. The Control Authority may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the Industrial User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against an Industrial User.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

§ 26.1-111. Civil Penalties.

A. An Industrial User who has violated, or continues to violate, any provision of this Code chapter, an individual wastewater discharge permit, or a general permit or order issued hereunder, or FOG Discharge Policy, or any other Pretreatment Standard or Requirement shall be subject to a civil penalty not to exceed \$32,500 for each violation. Each day of violation shall be considered a separate offense.

B. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against an Industrial User.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

§ 26.1-112. Criminal Prosecution.

A. An Industrial User who willfully or negligently violates any provision of this Code chapter, an individual wastewater discharge permit, or a general permit or order issued hereunder, or FOG Discharge Policy, or any other Pretreatment Standard or Requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine up to \$32,500 per violation, per day, or imprisonment for not more than twelve (12) months, or both.

B. An Industrial User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this Code

chapter, individual wastewater discharge permit, or general permit or order issued hereunder, or FOG Discharge Policy, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Code chapter shall, upon conviction, be guilty of a felony punishable by imprisonment of not less than one (1) year nor more than three (3) years or in the discretion of the jury or the Court, imprisonment for not more than twelve (12) months and a fine of not less than \$5,000 nor more than \$50,000 for each violation.

C. An Industrial User who knowingly violates any provision of this Code chapter and who knows at that time he or she thereby places another person in imminent danger or death or serious bodily harm, shall, upon conviction be guilty of a felony punishable by a term of imprisonment of not less than two (2) years nor more than fifteen (15) years and a fine of not more than \$250,000, or both.

§ 26.1-113. Remedies Non-exclusive.

The remedies provided for in this Code chapter are not exclusive. The Control Authority may take any, all, or any combination of these actions against a noncompliant Industrial User. Enforcement of pretreatment violations shall be in accordance with the latest revision of the County's Pretreatment Program Enforcement Response Plan (ERP). Further, the Control Authority is empowered to take more than one enforcement action against any non-compliant Industrial User.

§§ 26.1-114--26.1-119. Reserved.

DIVISION 13.

SUPPLEMENTAL ENFORCEMENT ACTIONS

§ 26.1-120. Penalties for Late Reports.

A penalty of \$100.00 shall be assessed to any Industrial User for each day that a report required by this Code chapter, a permit or order issued hereunder is late, beginning five days after the date the report is due. Reports more than 45 days late would result in the industrial user being in Significant Noncompliance (SNC). Actions taken by the Control Authority to collect late reporting penalties shall not limit the Control Authority's authority to initiate other enforcement actions that may include penalties for late reporting violations.

§ 26.1-121. Performance Bonds.

The Control Authority may decline to issue or reissue an individual wastewater discharge permit or a general permit to any Industrial User who has failed to comply with any provision of this Code chapter, a previous individual wastewater discharge permit, or a previous general permit or order issued hereunder, or FOG Discharge Policy, or any other Pretreatment Standard or Requirement, unless such Industrial User first files a satisfactory bond, payable to the County, in a sum not to exceed a value determined by the Control Authority to be necessary to achieve consistent compliance.

§ 26.1-122. Liability Insurance.

The Control Authority may decline to issue or reissue an individual wastewater discharge or a general permit to any Industrial User who has failed to comply with any provision of this Code chapter, a previous individual wastewater discharge permit, or a previous general permit or order issued hereunder, or FOG Discharge Policy, or any other Pretreatment Standard or Requirement, unless the Industrial User first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

§ 26.1-123. Payment of Outstanding Fees and Penalties.

The Control Authority may decline to issue or reissue an individual wastewater discharge permit or a general permit to any Industrial User who has failed to pay any outstanding fees or penalties incurred as a result of any provision of this Code chapter, a previous individual wastewater discharge permit, or a previous general permit or order issued hereunder.

§ 26.1-124. Water Supply Suspension.

Whenever an Industrial User has violated or continues to violate any provision of this Code chapter, an individual wastewater discharge permit, a general permit, or order issued hereunder, or FOG Discharge Policy, or any other Pretreatment Standard or Requirement, water service to the Industrial User may be suspended. Service will recommence, at the Industrial User's expense, only after the Industrial User has satisfactorily demonstrated its ability to comply.

§ 26.1-125. Public Nuisance.

A violation of any provision of this Code chapter, an individual wastewater discharge permit, a general permit, or order issued hereunder, or FOG Discharge Policy, or any other Pretreatment Standard or Requirement may be declared a public nuisance and shall be corrected or abated as directed by the Control Authority. Any person(s) creating a public nuisance shall be subject to the enforcement provisions of Arlington County Code §3-14. Unsafe Buildings, including reimbursing the County for any costs incurred in removing, abating, or remedying said nuisance.

§§ 26.1-126-26.1-129. Reserved.**DIVISION 14.****AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS****§ 26.1-130. Upset.**

A. *Effect of an upset.* An upset shall constitute an affirmative defense to an action brought for noncompliance with Categorical Pretreatment Standards if the requirements of paragraph B. are met.

B. *Conditions necessary for a demonstration of upset.* An Industrial User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

- (1) An upset occurred and the Industrial User can identify the cause(s) of the upset;
- (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures;
- (3) The Industrial User has submitted the following information to the POTW and Control Authority within 24 hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five days):
 - (a) A description of the indirect discharge and cause of noncompliance;
 - (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;
 - (c) Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.

C. *Burden of proof.* In any enforcement proceeding the Industrial User seeking to establish the occurrence of an upset shall have the burden of proof.

D. *Reviewability of County consideration of claims of upset.* In the usual exercise of prosecutorial discretion, County enforcement personnel should review any claims that noncompliance was caused by an upset. No determinations made in the course of the review constitute final County action subject to judicial review.

E. *Industrial User responsibility in case of upset.* The Industrial User shall control production or all discharges to the extent necessary to maintain compliance with Categorical Pretreatment Standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(Ord. No. 92-25, 6-16-92; Ord. No. 98-3, 2-7-98)

§ 26.1-131. Prohibited Discharge Standards.

An Industrial User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general and/or specific prohibitions in §26.1-5 of this Code chapter, if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass-through or interference and that either:

A. A Local Limit exists for each pollutant discharged and the Industrial User was in compliance with each limit directly prior to, and during, the pass-through or interference; or

B. No Local Limit exists, but the discharge did not change substantially in nature or constituents from the Industrial User's prior discharge when the County was regularly in compliance with its VPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(Ord. No. 92-25, 6-16-92; Ord. No. 04-25, 10-2-04)

§ 26.1-132. Bypass.

A. *Bypass not violating applicable Pretreatment Standards or Requirements.* An Industrial User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs B. and C. of this section.

B. *Notice.* (1) If an Industrial User knows in advance of the need for a bypass, it shall submit prior notice to the Control Authority, if possible at least ten (10) days before the date of the bypass.

(2) An Industrial User shall submit oral notice of an unanticipated bypass that exceeds applicable Pretreatment Standards to the Control Authority within twenty-four (24) hours from the time the Industrial User becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the Industrial User becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Control Authority may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

C. *Prohibition of bypass.* (1) Bypass is prohibited, and the Control Authority may take enforcement action against an Industrial User for a bypass, unless:

(a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage, or;

(b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and,

(c) The Industrial User submitted notices as required under paragraph B. of this section.

(2) The Control Authority may approve an anticipated bypass, after considering its adverse effects, if the Control Authority determines that it will meet the three conditions listed in paragraph C.(1) of this section.
(Ord. No. 92-25, 6-16-92; Ord. No. 98-3, 2-7-98; Ord. No. 04-25, 10-2-04)

§§ 26.1-133--26.1-134. Reserved.

DIVISION 15.

MISCELLANEOUS PROVISIONS

§ 26.1-135. Pretreatment Charges and Fees.

A. Each Significant Industrial User holding a valid Industrial Wastewater Discharge Permit shall pay an initial and annual (thereafter) fee of four hundred eighty dollars (\$480.00), plus one hundred twenty dollars (\$120.00) for each additional monitoring point specified by the Significant Industrial User's permit. There are no permit fees for General Permit holders. However, General Permit holders are still responsible for sewer use charge payments.

B. A late charge of six percent (6%) per year shall be imposed on the outstanding balance of pretreatment fees unpaid thirty (30) days after the date payment of the bill is due. In addition to all other enforcement procedures permitted by law, if any pretreatment fees charged by Arlington County are not paid within thirty (30) days, and the person who incurred the debt is an occupant of such premises, the water and/or sewer service to the premises may be suspended. The County may proceed to recover the amount of any such delinquent rates, fees, or charges, with interest.

C. Initial and annual fees shall be payable for each Arlington County fiscal year, or any part thereof, for which the Industrial User has been in operation. Initial and annual fees are due and payable to the County on or before May 30th of each Arlington County fiscal year for which the fees are assessed.
(Ord. No. 92-25, 6-16-92; Ord. No. 93-5, 5-20-93; Ord. No. 95-10, 4-29-95; Ord. No. 95-11, 4-29-95; Ord. No. 99-13, 5-22-99; Ord. No. 04-25, 10-2-04)

§ 26.1-136. Severability.

If any provision of this Code chapter is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.
(Ord. No. 92-25, 6-16-92)

§ 26.1-137. Conflicts.

In any case where a provision of this Code chapter is found to be in conflict with any other provision of the Arlington County Code existing on the effective date of this Code chapter, the provision which establishes the more stringent standard for the promotion and protection of the health and safety of the people shall prevail.
(Ord. No. 92-25, 6-16-92)

§§ 26.1-138--26.1-139. Reserved.