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ARTICLE 1-PURPOSE

In order to insure the proper collection, treatment and disposal of wastewater and sewage sludge and adequate treatment of industrial wastewater within the Narragansett Bay Water Quality Management District (District); to encourage the recovery and recycling of wastes and the proper operation and maintenance of interceptors and the treatment facilities within said District; to comply with the requirements of the United States Environmental Protection Agency and the Rhode Island Department of Environmental Management and to provide for the keeping of records of the Narragansett Bay Water Quality Management District Commission Wastewater Facilities (Facilities) the following Rules and Regulations governing the use of wastewater facilities within the Narragansett Bay Water Quality Management District Commission (Commission) are adopted by the Commission as provided by Title 46, Chapter 25, as amended, of the General Laws of 1980 of the State of Rhode Island creating and organizing said Commission. In the event of future wastewater facility acquisitions and/or annexations to the Commission, these Rules and Regulations shall become incorporated by reference and binding thereon, and all previous Rules and Regulations of said facility/facilities shall be abolished. Upon acquisition and/or annexation, any and all site specific facility limitations necessary and/or appropriate to remain in full force and effect shall be incorporated by reference and retained by way of appendices to the Commission's current Rules and Regulations. All such modifications shall be subject to the necessary public notice and hearing requirements for major modifications as mandated by 40 CFR 403.18, prior to incorporation.

ARTICLE 2-DEFINITIONS

ACT or THE ACT shall refer to the Narragansett Bay Water Quality Management District Commission Act, Title 46, Chapter 25 & 25.1, et seq., as amended.

APPURTENANCE shall mean auxiliary structures attached to a sewer which shall include, but not be limited to, pump stations, slots, regulators, outfalls, force mains, manholes, catch basins, tide gates, monitoring devices and metering chambers.

AUTHORIZED EMPLOYEES or AGENTS OF THE COMMISSION shall mean a person who by reason of his or her general position, contract or job description with the Commission has specific duties and responsibilities to perform on behalf of the Commission.

AUTHORIZED REPRESENTATIVE OF USER:

A. If the user is a corporation, authorized representative shall mean:

- 1)** the president, a vice-president, secretary, or treasurer of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or
- 2)** the manager of one or more manufacturing, production or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

B. If the user is a partnership, association, or sole proprietorship an authorized representative shall mean a general partner or the proprietor.

C. If the user is representing Federal, state or local governments, or an agent thereof, an authorized representative shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility.

D. The individuals described in paragraphs 1-3 above may designate another authorized representative if said authorization is submitted to the Commission in writing and 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 of the company.

BATCH DISCHARGE shall mean a discharge that does not flow on a continuous basis or the discharge of all or part of the contents of a tank that occurs intermittently or over a short period of time. A holding tank or equalization tank which receives concentrated batch discharges which are then discharged or "bled" into the sewer system over an extended period of time shall be considered a batch discharge.

BIOCHEMICAL OXYGEN DEMAND (BOD) shall mean the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) consecutive days at 20 degrees centigrade expressed in terms of weight and concentration (milligrams per liter (mg/l)).

BIOLOGICALS shall mean preparations made from living organisms and their products, including vaccines, cultures, etc., intended for use in diagnosing, immunizing or treating humans or animals or in research pertaining thereto.

BLOOD PRODUCTS shall mean any products derived from human blood, including, but not limited to, whole blood, blood plasma, platelets, red or white blood corpuscles, and other derived licensed products, such as interferon, etc.

BOARD OF COMMISSIONERS shall mean the Narragansett Bay Water Quality Management District Commission sitting as a governing body at a duly authorized meeting with a quorum being present.

BODY FLUIDS shall mean liquids emanating or derived from humans including blood, blood products, cerebrospinal, pleural, peritoneal and pericardial fluids, and amniotic fluids, and semen and vaginal secretions but excluding feces, urine, nasal secretions, sputum, sweat, tears, saliva, and breast milk, unless any such excluded substance contains visible blood or is isolation waste.

BUILDING DRAIN shall mean that part of the lowest horizontal piping within a building that carries water, wastewater or stormwater to a building sewer.

BUILDING SEWER shall mean the extension from the building drain to the public sewer, or other place of disposal. Also referred to as "house connection".

BYPASS shall mean the intentional diversion of waste streams from any portion of a user's treatment facility.

CATEGORICAL PRETREATMENT STANDARD OR CATEGORICAL STANDARD shall refer to any regulation containing pollutant discharge limits promulgated by the U.S. E.P.A. in accordance with Section 307 (b) and (c) of the Federal Water Pollution Control Act which applies to a specific category of users and which appears in 40 CFR Chapter 1, Subchapter N, parts 405-471, incorporated herein by reference.

CHEMICAL OXYGEN DEMAND (COD) A measure of the amount of oxygen required to oxidize organic and oxidizable inorganic compounds in water.

CLEAN WATER ACT shall refer to the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 334 USC 1251 et seq.

COLOR shall refer to the optical density at the visual wave length of maximum absorption, relative to distilled water, one hundred percent (100%) transmittance is equivalent to zero (0.0) optical density.

COMBINED SEWER shall mean a sewer intended to receive and convey both wastewater and surface runoff from storms.

COMMISSION for the purposes of these Rules and Regulations shall be construed to mean the Narragansett Bay Water Quality Management District Commission in its capacity as a public corporation or acting through its authorized employees and agents. (See BOARD OF COMMISSIONERS definition.)

COMPOSITE SAMPLE shall refer to the sample collection technique resulting from the combination of individual wastewater grab samples taken at selected intervals based on either an increment of flow or time.

CONCENTRATED DISCHARGE shall mean either a batch or continuous discharge with a mass load exceeding one hundred percent (100%) of the daily maximum allowable mass load, as calculated for each individual user for any parameter regulated under Article 5 of these Rules and Regulations. The concentrated discharge mass load shall be calculated as follows:

$$\text{Percentage (\%)} = \frac{V \times C_2}{Q \times C_1} \times 100$$

Where:

V = total volume of the concentrated discharge(s) in gallons.

C₂ = concentration of the concentrated discharge in mg/l for any parameter regulated under Article 5.

Q = average daily flow of regulated process water in gallons as determined by the Commission for the individual user.
C₁ = daily maximum allowable concentration in mg/l for any parameter regulated under Article 5.

CONTACT COOLING WATER shall mean any water used for cooling purposes which comes into direct contact with the object being cooled such as any raw material, intermediate product, waste product or finished product.

DILUTION shall mean the addition of water or wastewater to another wastewater stream in order to change the concentration of certain pollutants or pollution causing agents.

DISCHARGE shall mean the introduction of water, wastewater and/or pollutants into the Commission's facilities from any source.

DISTRICT OR NARRAGANSETT BAY WATER QUALITY MANAGEMENT DISTRICT shall be defined by Title 46, Chapter 25, as amended, of the Rhode Island General Laws.

DIRECT CONNECTION shall mean the connection of a building sewer directly to a sewer owned by the Commission.

EASEMENT shall mean the acquired legal right to use land owned by others for a specific purpose.

ENVIRONMENTAL PROTECTION AGENCY (EPA) shall refer to the U.S. Environmental Protection Agency or, where appropriate, the term may also be used as a designation for the Regional Water Management Division Director or other duly authorized official of said agency.

EXECUTIVE DIRECTOR shall mean the Executive Director of the Narragansett Bay Water Quality Management District Commission or his or her designee.

EXISTING SOURCE shall include, but not be limited to, any source of discharge, the construction or operation of which commenced prior to the publication of proposed categorical pretreatment standards under section 307(b) and (c) (33 U.S.C. 1317) of the Federal Water Pollution Control Act, which will be applicable to such source if the standard is thereafter promulgated in accordance with section 307 of the Federal Water Pollution Control Act.

FACILITY OR FACILITIES (See WASTEWATER FACILITIES definition)

GARBAGE shall include, but not be limited to, the wastes resulting from the handling, preparation, cooking and serving of food, and from the handling, storage, and sale of produce.

GARBAGE DISPOSAL UNIT or GARBAGE GRINDER shall mean a mechanical device used for grinding, shredding or macerating garbage to a small particle size before discharge to the sewer.

GRAB SAMPLE shall mean a sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

GREASE shall mean volatile and non-volatile residual fats, oils, fatty acids, soaps, waxes, mineral oils and other materials of similar composition.

GREASE REMOVAL DEVICE shall mean a device for removal of grease and/or oil from a wastewater discharge.

INDIRECT CONNECTION shall mean a building sewer connection that is not a direct connection; and whose wastewater discharge shall, notwithstanding the passage in its normal course through other sewers or conduits, ultimately discharge in whole or in part through Commission sewers.

INDUSTRIAL WASTES shall refer to wastewater from industrial processes, trade or business as distinct from domestic or sanitary wastes.

INFECTIOUS WASTES shall refer to wastewater contaminated by or containing any agent or organism, such as a virus or a bacteria, capable of being communicated by invasion and multiplication in body tissues and capable of causing disease or adverse health impacts in humans.

INTERFERENCE shall mean a discharge which, alone or in conjunction with a discharge or discharges from other sources, both: (1) inhibits or disrupts the Commission's facilities, treatment processes or operations, or sludge processes, use or disposal; and (2) therefore is a cause of a violation of any requirement of the Commission's RIPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions 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 commonly referred to as the Resource Conservation and Recovery Act (RCRA);

and State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of SWDA; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

ISOLATION WASTE shall mean biological waste and discarded materials contaminated with blood, excretion, exudates, or secretions from humans who are isolated to protect others from certain highly communicable diseases, or isolated animals known to be infected with highly communicable diseases. and specified by the Center for Disease Controls (CDC) as classification 4.

MAY is permissive.

MEDICAL WASTE means any solid waste which is generated in the diagnosis, treatment (e.g., provision of medical services), or immunization of human beings or animals, in research pertaining thereto, or in the production or testing of biologicals.

MUNICIPALITY shall mean any city, town, state authority or sewer district that discharges wastewater into the sewers owned by the Commission.

NATIONAL PRETREATMENT STANDARD shall mean any regulation containing pollutant discharge limits promulgated by EPA in accordance with section 307 (b) and (c) of the Federal Water Pollution Control Act, which applies to a specific category of Industrial Users.

NEW SOURCE shall mean any source of a discharge, the construction or operations of which commenced after the publication of proposed Categorical Pretreatment Standards under Section 307 (c) of the Federal Water Pollution Control Act which will be applicable to such source if the standards are thereafter promulgated in accordance with section 307 (c), provided that:

- A. No other source is located at that site; or
- B. The source completely replaces the process or production equipment that causes the discharge of pollutants of an existing source at that site; or
- C. The new wastewater generating process of the source is substantially independent of an existing source at that site; and the construction of the source creates a new facility rather than modifying an existing source at that site.

For purposes of this definition, construction or operation has commenced if the owner or operator has:

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

1) Any placement, assembly, or installation of facilities or equipment; or

2) Significant site preparation work including clearing, excavation, or removal of existing 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 definition.

NONCONTACT COOLING WATER shall mean water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product or finished product.

OUTFALL shall mean the mouth of a sewer, drain or conduit where an effluent is discharged into the receiving waters.

OWNER or OPERATOR shall mean any person who owns, leases, operates, controls or supervises a source.

PASS THROUGH shall mean a discharge which exits the Commission's facilities into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, causes a violation of any requirement of the Commission's RIPDES permit, (including an increase in the magnitude or duration of a violation).

PERSON shall mean any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, municipality, any local, state or Federal agency or any other legal entity, or their legal representatives, agents or assigns.

pH shall mean the logarithm (to the base 10) of the reciprocal of the hydrogen ion concentration in moles per liter (m/l) of solution. Neutral waste waters are numerically equal to 7, the number increases to show increasing basicity and decreases to show acidity.

POLLUTANT shall mean any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes,

industrial wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and agricultural and industrial waste which affect the characteristics of wastewater (i.e., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, odor).

POLLUTION shall mean the man-made, or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

PRETREATMENT or TREATMENT shall mean the reduction or elimination of pollutant properties in wastewater or their alteration to a less harmful state thereby rendering them less harmful to the facilities prior to or in lieu of discharging or introducing such pollutants into the Commission's facilities. The elimination, reduction or alteration can be accomplished by physical, chemical or biological processes, process changes or by other means, except as prohibited by 40 CFR chapter 403.6(d).

PRETREATMENT STANDARDS AND REQUIREMENTS shall mean any substantive or procedural requirement related to pretreatment, including National pretreatment categorical standards and prohibitive discharge standards imposed on a user.

PUBLICLY OWNED TREATMENT WORKS (POTW) shall mean the facility defined by Section 212 of the Federal Water Pollution Control Act owned by the Commission including any devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage and industrial waste. The systems include sewers, pipes and equipment used to carry wastewater to the treatment facility.

RECEIVING STREAM or WATER OF THE STATE shall mean all streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow or border upon the State of Rhode Island or any portion thereof.

REGULATED MEDICAL WASTE shall mean a special category of solid waste that includes specific types of medical waste that includes solid, semisolid, or liquid materials, but does not include domestic sewage materials. This waste is subject to the handling and tracking requirements of Rhode Island DEM. Categories of regulated medical waste are defined as blood, blood products, body fluids, contaminated sharps, discarded cultures and stocks of infectious agents and associated biologicals, isolation wastes, pathological waste and oncological waste.

RESIDENTIAL USERS shall mean persons only contributing sanitary wastewater to the municipal wastewater system.

RHODE ISLAND POLLUTION DISCHARGE ELIMINATION SYSTEM (RIPDES) PERMIT shall mean a permit issued pursuant to Section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342).

SANITARY SEWER shall mean a sewer that is designed to carry liquid and water-carried wastes from residences, commercial buildings, industrial plants, and institutions together with minor quantities of ground, storm, and surface wastes that are not discharged intentionally.

SEWAGE shall mean human excrement and gray water (household showers, dish washing operations, etc.).

SEPTAGE shall mean the liquid, solid and gaseous contents of a septic tank.

SEPTIC TANK shall mean an underground tank used for the disposal of domestic wastes.

SEWER shall mean a pipe or conduit, and other appurtenance provided to carry wastewater or stormwater.

SEWER USER FEE shall mean a charge levied on users for use of the wastewater treatment and collection system.

SHALL is mandatory.

SIGNIFICANT INDUSTRIAL USER shall mean any industrial user that is classified under any of the following:

- A. Industrial user subject to categorical pretreatment standards;
- B. Any other industrial user that:
 - 1) discharges an average of 5,000 gpd or more of process wastewater; or
 - 2) contributes a process waste stream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the Commission's treatment plant; or
 - 3) is designated as significant by the Commission on the basis that the user has a reasonable potential for adversely affecting the

POTW's operation or for violating any pretreatment standard or requirement.

SIGNIFICANT NONCOMPLIANCE shall mean:

- A. Chronic violations of wastewater discharge limits, defined here as those in which 66% or more of all of the measurements taken during a six month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;
- B. Technical Review Criteria (TRC) violations, defined here as those in which 33% or more of all of the measurements for each pollutant parameter taken during a six month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil, and grease and 1.2 for all other pollutants except pH);
- C. Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the Commission determines has caused, alone or in combination with other discharges, Interference or Pass Through (including endangering the health of Commission personnel or the general public);
- D. Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the Commission's exercise of its emergency authority to halt or prevent such a discharge;
- E. Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a Commission notification, permit or enforcement order, for starting construction, completing construction or attaining final compliance;
- F. Failure to provide, within 30 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, self-monitoring compliance reports and reports on compliance with compliance schedules;
- G. Failure to accurately report noncompliance;

- H. Any other violation or group of violations which the Commission determines has adversely effected the operation or implementation of the Industrial Pretreatment Program.

SLUDGE shall mean the solids, residues, and precipitate separated from or created in wastewater by the unit processes of a publicly owned treatment works or industrial pretreatment systems.

SLUG shall mean any discharge of a non-routine, episodic nature, including but not limited to, an accidental spill or a non customary batch discharge.

SOURCE shall mean any building, structure, facility or installation from which there is or may be the discharge of pollutants.

STANDARD METHODS shall mean methods for the examination of water and wastewater published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.

STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODE shall mean a classification pursuant to the Standard Industrial Classification Manual issued by the U.S. Office of Management and Budget.

STORM SEWER shall mean a sewer that carries stormwater and other wash waters or drainage, but excludes domestic, sanitary, commercial, and industrial wastes. Also called a "storm drain".

STORMWATER shall mean surface water and any other source of run-off. It is normally collected in sewers separate from the sanitary sewers and receives minimal, if any, treatment prior to discharge to receiving waters.

SUBDIVISION shall mean the division or re-division of a lot, tract or parcel of land into two (2) or more lots, tracts, parcels. Any adjustment to existing lot lines of a recorded lot by any means shall be considered a subdivision. The division of property for purposes of financing constitutes a subdivision.

SURFACE WATER POLLUTANT shall mean stormwater or other wash water or drainage carrying any pollutants which affect the characteristics of wastewater.

SUSPENDED SOLIDS shall mean (1) insoluble solids that either float on the surface or, are suspended in water, wastewater or other liquids; (2) solid organic or inorganic particles (colloidal, dispersed, coagulated, flocculated) physically held in suspension by agitation or flow or; (3) the quantity of material removed

from wastewater in a laboratory test, as prescribed in "Standard Methods for the Examination of Water and Wastewater" and referred to as nonfilterable residue.

TOXIC POLLUTANTS shall mean any substance listed as toxic under section 307 (a)(1) of the Federal Water Pollution Control Act, and listed under the Hazardous Substances Right-to-Know Act, R.I.G.L. §28-21-1 et seq., and as may otherwise be designated by the Commission.

TREATMENT PLANT EFFLUENT shall mean any discharge of pollutants from the Commission's facilities into waters of the State.

TURBIDITY shall mean a condition in water or wastewater caused by the presence of suspended matter, resulting in the scattering and absorption of light rays and determined by measurement of light diffraction, usually reported in arbitrary turbidity units.

USER means any person, firm, corporation, government or other entity that discharges, causes or permits the discharge of wastewater into the Commission's facilities.

WASTEWATER shall mean all the spent water of a community. It may include, but not be limited to, a combination of the liquid and water-carried wastes from residences, commercial buildings, industrial plants, institutions and governmental facilities whether treated or untreated together with any groundwater, surface water, and stormwater that may be present which are contributing to the Commission's facilities.

WASTEWATER FACILITIES (FACILITIES) as used herein, shall mean the structures, equipment, and processes required for the collection, treatment, and disposal of wastewater and sewage sludge which are owned and operated by the Commission.

WASTEWATER TREATMENT PLANT or TREATMENT PLANT shall mean an arrangement of devices and structures for treating wastewater and sludge. Sometimes used as synonymous with waste treatment plant, sewage treatment plant, or wastewater treatment works.

ZERO DISCHARGE WASTEWATER PRETREATMENT SYSTEM shall mean a wastewater pretreatment system with no discharge to the sewer system.

ABBREVIATIONS

The following abbreviations shall have the designated meanings:

ASTM	- American Society of Testing and Materials
BOD	- Biochemical Oxygen Demand
COD	- Chemical Oxygen Demand
CFR	- Code of Federal Regulations
DEM	- Department of Environmental Management
EPA	- Environmental Protection Agency
gpd	- gallons per day
l	- liter
mg/l	- milligrams per liter
m/l	- moles per liter
POTW	- Publicly Owned Treatment Works
NBC	- Narragansett Bay Water Quality District Commission
NPDES	- National Pollution Discharge Elimination System
RIDEM	- Rhode Island Department of Environmental Management
RIGL	- Rhode Island General Laws, as amended.
RIPDES	- Rhode Island Pollution Discharge Elimination System
SIC	- Standard Industrial Classification Code
TRC	- Technical Review Criteria
TSS	- Total Suspended Solids
TTO	- Total Toxic Organics (as defined in 40 CFR 433.11(e))
WEF	- Water Environment Federation

ARTICLE 3-MUNICIPAL SEWER CONNECTION PERMITS

3.1 Municipal Permit Applications

Each municipality shall obtain a permit from the Commission for all existing sewers connected to the Commission's facilities. Application for this permit shall be made on a form provided by the Commission. The permit application is to be prepared by the municipality at its own expense and submitted when requested by the Commission.

3.2 Application Review

Each municipality shall furnish all necessary information and data in accordance with any guidelines established by the Commission.

The Commission shall evaluate the adequacy of data furnished with the permit application. If insufficient data has been furnished the Commission shall require the municipality to provide additional data within a specified time. After reviewing the data, the Commission may issue the permit. The Commission may stipulate special conditions and terms upon which the permit will be issued.

3.3. Amendments by the Commission

The Commission may change the conditions of a permit from time to time as circumstances, including law or regulations enacted or promulgated by the state or Federal Government or its agencies, may require. A municipality may request a hearing on proposed amendments to its permit in accordance with the provisions of Article 10.

3.4 Municipal Applications to Amend Permit

Any municipality proposing a new connection or the elimination of an existing connection to the Commission's facilities shall apply for an amendment to its permit prior to constructing or eliminating the connection. The municipality shall furnish all necessary data in accordance with any guidelines established by the Commission. After reviewing the data, the Commission may issue or deny an amendment to the permit for the proposed connection or for the elimination of an existing connection. No new connection or elimination of an existing connection may be made without first being granted such an amendment.

ARTICLE 4-BUILDING SEWER CONNECTION PERMITS AND REQUIREMENTS

4.1 Mandatory Connections

The owner of any building or property generating sanitary or industrial wastewater situated within the District and abutting on any street, alley, or right-of-way in which a public sewer is located, is required, at his or her own expense, to construct a building sewer and connect it to the public sewer.

4.2 Direct Connections

No person(s) shall uncover, make any direct connection with or opening into, use, alter, disturb, tamper with or increase flow by more than twenty percent (20%) to any Commission owned sewer or appurtenance thereof without first being granted a written permit from the Commission. The Commission may require the owner at his or her own expense to perform appropriate testing of any of the materials and/or integrity of the sewer connection.

4.3 Indirect Connections

The requirements of this Section 4.3 shall not apply to single or multifamily residences containing less than three (3) dwelling units per structure, unless such dwelling is part of a subdivision.

No person(s) shall make any indirect connection or increase the flow from any structure by more than twenty percent (20%) to any Commission owned sewer or appurtenance thereof without first being granted a written permit from the Commission. Structures requiring such permits shall include but not be limited to, industrial and commercial facilities, residences or multifamily residences containing three (3) or more dwelling units per structure, all subdivisions, publicly owned buildings, and non-profit institutions. The Commission may require the owner, at his or her own expense, to perform appropriate testing of any of the materials and/or the integrity of the sewer connection.

4.4 Municipal User Lists

Upon request, each municipality shall furnish the Commission with a list of all users within the municipality. Each municipality that has authority over building permits, shall require all persons proposing to connect to the facilities and who are required to obtain a permit from the Commission to do so prior to the municipality's issuing a building permit. Each municipality shall notify the

Commission of all applications for building permits for structures subject to the provisions of Sections 4.2 and 4.3 above.

4.5 Building Sewer Connection Permits Required

The owner(s) of any property subject to the provisions of Sections 4.2 and 4.3 above must obtain a building sewer connection permit for any direct or indirect connection to the Commission's facilities. Such permit shall be effective for six (6) months from the effective date of the permit and shall be renewable at the Commission's option for one additional six (6) month period. Said renewal shall be requested by the owner at least two (2) weeks prior to the expiration date.

4.6 Transfer of Permits Not Allowed

Building sewer connection permits are issued to a specific applicant for a specific use and connection. A building sewer connection permit shall not be reassigned, transferred or sold to a new owner, new user, different premises, or a new or changed operation without written Commission approval.

4.7 Building Sewer Connection Permit Application

Persons seeking a building sewer connection permit must complete and file an application with the Commission, together with any applicable permit fee. In support of this application, the applicant shall submit the following information:

- A. Name of applicant and address of premise(s) which applicant wishes to connect to the Commission's facilities;
- B. Overall site plan and plot plan;
- C. Detailed plans of the proposed sewer connection;
- D. Any other pertinent features, specifications or information which the Commission may require to assist in its evaluation of the application.

The Commission may require that any and all designs and/or drawing plans which include mechanical or plumbing components be stamped by a licensed Rhode Island Professional Engineer. All applications for building sewer connection permits must be signed by the owner of the premises and the licensed plumber or licensed drain layer who is constructing the sewer connection. The Executive Director shall evaluate the data furnished by the owner and may require additional information pertinent to the application. Based on the

application, the Executive Director may issue a building sewer connection permit, subject to the terms and conditions enumerated in the permit.

The Executive Director may deny a request for a permit when the information supplied indicates the user will be unable to reasonably meet the Commission's standards. Any person denied a permit may request a hearing in accordance with the provisions of Article 10 herein.

4.8 Expedited Permit Process

Application for an expedited permit must be made in accordance with the Expedited Permit Process, R.I.G.L. §42-117-1 et seq. which requires that the potential permittee file a Certificate of Critical Economic Concern at the time of filing any necessary permit application with the Commission. Upon receipt of said Certificate and in accordance with R.I.G.L. §42-117-1 et seq., the Commission shall give priority to the handling and processing of the permittee's application.

4.9 Permit Conditions

Persons seeking building sewer connection permits shall be expressly subject to specific permit provisions contained therein as well as to provisions of these Rules and Regulations and all other regulations, user charges and fees established by the Commission. Permit conditions may include, but are not limited to, the following:

- A. Compliance with Federal, state, and other governmental laws, rules and regulations;
- B. Requirement for the submittal of "as-built" plans within sixty (60) days after the final inspection by the Commission, indicating pipe and joint materials and applicable ASTM specifications on the plans;
- C. Requirements for use of water-conserving fixtures in the proposed structure or dwelling;
- D. Requirement for obtaining necessary town or city permit and compliance with any applicable town or city requirements;
- E. Provisions for authorized Commission personnel and agents to enter and inspect the premises;

- F. Requirement for posting of performance bonds for materials and/or labor costs associated with such permitted sewer connection; and
- G. Any other reasonable conditions necessary to ensure compliance with the provisions of R.I.G.L. §46-25-1 et seq.

4.10 Building Sewer Connection Plans

Persons seeking a building sewer connection permit must submit plans in accordance with the requirements set out in Section 4.7 above. In addition, such plans must meet the following specifications:

- A. All plans must show a "North" arrow and shall be oriented so the "North" arrow points upward or to the right-hand side of the plan; and
- B. All plans must be identified by titles which describe the nature of the project or the work encompassed on the plan; and
- C. All plans submitted for sub-division developments must bear the stamp, seal and signature of a licensed Rhode Island Professional Engineer responsible for the design.

Such plans and specifications shall be in conformance with applicable and appropriate standards of the ASTM and WEF or other standards the Commission may require or deem appropriate. Review by the Commission does not constitute any form of guarantee or insurance with respect to performance of the sewers or other wastewater facilities proposed. The Commission does not assume responsibility for means, methods or techniques used, or for the safety of construction work on the site or for compliance with applicable laws and regulations other than those found herein.

4.11 Flow Monitoring/Impact Analysis

Persons seeking a building sewer connection permit who anticipate the flow into the sewer from their proposed structure or dwelling to exceed 2,000 gallons per day must demonstrate to the Commission through flow monitoring that the Commission sewer line to which the person proposes to connect has the capacity to accept the proposed additional flow.

4.12 Discharge From Swimming Pools

The Commission shall be notified by the owner of the proposed discharge of water from a swimming pool to a public sewer. The Commission shall have the right to approve or deny the request, designate the time and rate of flow permitted, and to enter upon the premises to inspect the project prior to and during that operation. If an owner fails to provide such notification or disregards instructions, whether accidentally or intentionally, the owner will be held responsible for any damage that may be caused from such discharge subject to the enforcement powers contained in these Rules and Regulations, and the Commission shall not be held liable for said violation.

4.13 Stormwater Connections

No person(s) shall make direct or indirect connections or shed stormwater from roof down spouts, foundation drains, areaway drains, or other sources of stormwater which in turn are connected to any public sewer unless the Commission determines that a combined sewer is the only reasonable means available for disposal and such connection receives Commission approval. It shall be the responsibility of the user to execute, and bear the cost of, any and all studies and/or evaluations required by the Commission in this regard. In making this determination, the Commission shall consider the following factors: (Not in any order of priority)

- A. The present condition of areaway basin at the point of the proposed storm connection;
- B. The potential impact of the proposed connection on the existing downstream connection;
- C. The economic impact of the proposed connection on the Commission and the applicant;
- D. The mitigating measures taken by the applicant to eliminate storm flow from the project;
- E. The alternative options available to the applicant to discharge into natural waterways; and
- F. Any measures taken by the applicant to separate present and future flows from the project.

4.14 Grease Removal Systems

Grease removal systems must be installed at all connections to the Commission's facilities from users conducting food preparation or food processing operations including, but not limited to, restaurants, nursing homes, schools, hospitals, or other connections which discharge or have the potential to discharge quantities of grease to the Commission's facilities in excess of allowable standards. Installation of a grease removal systems shall be required when the Commission determines that such discharge could result in obstruction to flow in the sewer or accumulations of grease which could result in obstruction to flow in the sewer. Grease removal systems must be installed according to the following specifications:

- A. No wastewater, other than from kitchen fixtures or food processing equipment, shall discharge into the grease removal system unless approved by the Commission in writing.
- B. Any user required to install a grease removal system must install either (1) an outdoor passive in-ground grease interceptor, or (2) and automatic electrical/mechanical grease removal unit.
- C. In-ground grease removal systems shall have a minimum depth of four (4) feet and a minimum capacity of five hundred (500) gallons, and shall have sufficient capacity to provide at least twenty four (24) hour detention period for the process flow. The minimum process flow shall be based on fifteen (15) gallons per seat or chair per day or based upon actual water usage for existing facilities.
- D. A suitable sampling location shall be provided for sampling of the discharges from grease removal systems. Any plans for such grease removal systems as required in this Section shall be submitted for Commission review and approval prior to installation. The Commission must be notified seventy-two (72) hours prior to installation of any grease removal device in order to inspect and oversee the installation. All automatic electrical/mechanical grease removal systems must have a sampling valve installed on the discharge piping with a minimum clearance of eight (8) inches for the installation of sampling bottles.
- E. The owner(s) shall be responsible for cleaning and maintaining the grease removal systems and shall maintain records of the dates of cleaning and means of disposal, subject to review by the Commission. Any removal and hauling of the collected materials not performed by the owner(s) must be performed by licensed waste disposal firms.

- F. All dishwasher wastewater from the pre-rinse station must discharge to the grease removal device. All other dishwasher wastewater must bypass the grease removal device and be discharged directly into the sewer system.
- G. Garbage disposal units may only be installed in facilities with properly sized and operational in-ground passive type grease interceptors which have been properly designed for retention of settleable solids. Garbage disposal units are prohibited in all other commercial or industrial facilities. Garbage disposal waste shall not be discharged into automatic electrical/mechanical type grease removal systems.

4.15 Connection Costs

All costs and expenses incidental to the installation and connection of the building sewer shall be borne by the owner(s). The owner(s) shall indemnify and hold harmless the Commission from any loss or damage that may result from the installation of the building sewer.

4.16 Building Sewers

A separate and independent building sewer shall be provided for every building; except where one building stands at the rear of another or on an interior lot and no private sewer is available or can be constructed to the rear building through an adjoining alley, court, yard, or driveway, then the building sewer from the front building may be extended to the rear building and the whole may be considered as one building sewer.

4.17 Existing Building Sewers

Existing building sewers may not be used for direct or indirect connections for a new building unless a permit has first been granted in accordance with Sections 4.2 and 4.3 of this Article.

4.18 Building Sewer Construction

The size, slope, alignment, materials of construction of a building sewer, and the methods to be used in excavating, placing the pipe, jointing, testing, and back filling the trench, shall all conform to the requirements of applicable governmental codes or other Rules and Regulations of the Commission. In the absence of code provisions or in accordance with, the materials and procedures

set forth in appropriate specifications of the ASTM and WEF Manual of Practice No. 9 shall apply.

4.19 Building Sewer Elevation

If the elevation at which the building sewer enters the building is lower than the elevation of the crown of the public sewer at the point of connection, at least one check valve shall be installed in the building sewer or building drain in an accessible location to prevent backflow. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted to the public sewer by a pump and a check valve shall be installed in an accessible location to prevent backflow. Whenever a check valve has to be installed in accordance with the provisions of this paragraph, it shall be installed and maintained at the owner's expense.

4.20 Disconnection

In the event that an owner desires to disconnect the building sewer connection from the Commission's sewer, the owner shall not be permitted to remove that portion of the service line between the Commission sewer and the property line, but at the owner's expense the service line shall be capped at said property line, and the service line shall be removed from the property line to the structure. New service lines to replace existing service lines shall not be approved by the Commission until old service lines are removed and properly capped. Such cap shall be installed to prevent the escape of wastewater gases or groundwater.

4.21 Clean Outs

Clean outs shall be installed where the distance from the building to the main sewer is greater than one hundred (100) feet or where bends greater than forty-five (45) degrees are used in the building sewer. Clean outs shall be made by installing a "Y" and one-eighth (1/8) bends of the same diameter as the building sewer, or a maximum of 4 inches. The clean outs shall ordinarily be installed at the point of connection between the building sewer and the outside part of the house plumbing system at curves on the building sewer to the main sewer. The clean out shall be brought up from the building sewer to four (4) inches below ground level and be properly capped. Locations of all clean outs shall be recorded and turned over to the Commission.

4.22 Safety Requirements

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

4.23 Interference with Traffic Flow

No contractor shall block any driveway, street, road or railroad at any time without the permission of any controlling agencies. Every effort shall be made to permit the movement of vehicular traffic at all times. Whenever it becomes necessary to cross or interfere with roads, walks, or drives, whether public or private, the contractor shall maintain, at his or her expense, safe bridges or other means of ingress and egress.

4.24 Notice to the Commission

After a permit has been issued, the Commission shall be given forty-eight (48) hours notice before any construction or excavation work is begun on any direct or indirect connection. All work shall be performed by a licensed plumber or drain layer. If the Commission has not been properly notified, it may require the completed work to be uncovered for examination, at the owner's expense. (See Article 10)

4.25 Sewer Alterations (Permits)

Any person(s) planning to initiate road construction which will modify or expose structures such as, but not limited to, manholes, catch basins, and service connections owned by the Commission must obtain a sewer alteration permit before performing any alterations to the Commission's facilities. Any person desiring to apply for this permit shall obtain a form provided by the Commission and shall submit, together with the permit fee, an application containing the following information:

- A. Name, company name, address and phone number.
- B. Description of the project along with a sketch or map identifying the location of the project and a drawing which indicates at least two points of reference with distance measurements corresponding to each structure or connection to be altered.

- C. Method(s) which will be utilized to prevent debris from entering NBC sewers.

ARTICLE 5-DISCHARGE REQUIREMENTS, LIMITATIONS, AND PROHIBITIONS

5.1 Authority

The Commission may limit, reject or prohibit any direct or indirect discharge of pollutants or combination of pollutants, as defined by applicable Federal or state law or as described below, into the facilities. The Commission may, in its discretion, affix labels to those tanks which contain substances which are prohibited from being discharged to the facilities or which may not be discharged to the facilities without adequate pretreatment.

5.2 General Discharge Limitations

In addition to those limitations in paragraphs 5.3, 5.4 and 5.5 below, no person shall discharge or cause or allow to be discharged directly or indirectly into the facilities any other substances, water or wastewater that either singly or by interaction with other substances will or is likely to:

- A. Interfere with the operation of the facilities by:
 - 1) harming either the sewerage system or wastewater treatment process;
 - 2) being otherwise incompatible with the treatment process; or
 - 3) contaminating the sludge or contributing to sludge disposal problems; or
- B. Violate applicable Federal or State law, including Federal or State hazardous waste regulations, or the terms of the facility's Federal and State permits, including but not limited to, the Commission's Rhode Island Pollution Discharge Elimination System (RIPDES) Permits; or
- C. Endanger the environment by adversely affecting receiving waters or otherwise; or
- D. Endanger the health or welfare of persons.

5.31 Specific Discharge Limitations:

No person shall discharge or cause or allow to be discharged either directly or indirectly into the facilities any substance, water, or wastewater which has:

- A. Heat in amounts which will inhibit biological activity in the Commission's facilities resulting in Interference, but in no case heat in such quantities that the temperature at the Commission's Wastewater Treatment Plant exceeds 40 degrees Centigrade (104 degrees Fahrenheit).
- B. Pollutants which result in the presence of toxic gases, vapors, or fumes within the Commission's facilities in a quantity that may cause acute worker health and safety problems.
- C. Any water or waste which by itself or by interaction with other materials, emits chemical contaminants into the atmosphere of any confined area of the wastewater system at levels in excess of short term exposure limit Threshold Limit Value (TLV-STEL) established for air borne contaminants by the American Conference of Governmental Industrial Hygienists (ACGIH) or the National Institute for Occupational Safety and Health.
- D. Concentrations of BOD or TSS which exceed specific threshold values without payment of a surcharge to cover the additional costs of treatment as determined by rates set and approved by the Public Utilities Commission. For the Field's Point Treatment Facility the current threshold value for BOD is 350 mg/l and for TSS is 350 mg/l. For the Bucklin Point Treatment Facility the current threshold value for BOD is 378 mg/l and for TSS is 228 mg/l. (Note: All values subject to change upon subsequent Public Utilities Commission rate filings.) Payment of a surcharge does not prevent the Commission from initiating any actions available under Section 5.8 below, when the Commission determines that the General Discharge Limitations in Section 5.2 above are violated. Furthermore, payment of a surcharge shall not constitute an affirmative defense to any action taken pursuant to Section 5.8 below.
- E. Unusual concentrations of dissolved solids such as, but not limited to, sodium sulfate.

- F. A discharge effluent with a pH lower than 5.0 or higher than 10.0 or having any other corrosive properties capable of causing damage or hazard to facility equipment or structures or which may be injurious to Commission personnel.
- G. Any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by state or Federal laws or regulations.

- H. Color or turbidity in such an amount that it will prevent the Commission from discharging a treated effluent in compliance with any state or Federal rules, regulations or permit requirements.
- I. Petroleum oil, non-biodegradable cutting oils, waste oils, or products of mineral oil origin in amounts greater than 25 mg/l.
- J. Fats, wax, grease, or oils of vegetable or animal origin as measured by Freon extraction in excess of one hundred (100) mg/l or containing other substances which may solidify or become viscous at temperatures between 0 degrees Centigrade (32 degrees Fahrenheit) and 40 degrees Centigrade (104 degrees Fahrenheit). Waters or wastes containing such substances, excluding normal household waste, shall exclude all visible floating oils, fats and greases. The use of chemical or physical means (such as temperature variation, emulsifying agents, mechanical mixers) to bypass or release fats, oils and greases into the wastewater facilities is prohibited.
- K. Total oil and grease of mineral, animal, vegetable and other origins is not to exceed 125 mg/l.
- L. Any garbage that has not been properly shredded to at least particles less than one half inch (1/2") in any dimension. Garbage grinders may be connected to public sewers from homes, hotels, institutions, restaurants, hospitals, catering establishments, or similar places where garbage originates from the preparation of food in kitchens for the purpose of consumption on the premises or when served by caterers, providing that all requirements of Section 4.14 are satisfied. The installation and operation of any garbage grinder equipped with a motor of three-fourths (3/4) horsepower (0.76 hp metric) or greater shall be subject to the review and approval of the Commission.
- M. Chlorine demand in such quantities as to constitute a significant load on the wastewater facilities or which may cause the effluent from the Commission's wastewater treatment facilities to violate any state or Federal rules, regulations or permit requirements, including, but not limited to, National Pollutant Discharge Elimination System (NPDES) and R.I. Pollutant Discharge Elimination System (RIPDES) permits.

5.32 Specific Facility Limitations:

No person shall discharge or cause or allow to be discharged either directly or indirectly into the facilities, any substance, water or wastewater which has concentrations of the substances listed below in excess of the assigned discharge limitations. There will be no waivers or exceptions granted with respect to compliance with any of the limits listed below.

* All Parameters are for total metals, organics and cyanide.

A. Field's Point Discharge Limitations:

Parameter*	Daily Maximum (Composite Sample for 1 day) (mg/l)	Average (10 day) (mg/l)
Cadmium (Cd)	0.11	0.07
Chromium (Cr)	2.77	1.71
Copper (Cu)	1.20	1.20
Cyanide (CN)	0.58	0.58
Lead (Pb)	0.60	0.40
Mercury (Hg)	0.005	0.005
Nickel (Ni)	1.62	1.62
pH	5.0 -10.0 std. units	
Silver (Ag)	0.43	0.24
TTO	2.13	2.13
Zinc (Zn)	2.61	1.48

B. Bucklin Point Discharge Limitations:

Parameter*	Daily Maximum Concentration Limit (mg/l)	Monthly Average (mg/l)
Arsenic (As)	0.20	0.10
Cadmium (Cd)	0.11	0.07
Chromium (Cr)	2.77	1.63
Copper (Cu)	1.20	1.20
Cyanide (CN)	0.50	0.50
Lead (Pb)	0.69	0.29
Mercury (Hg)	0.06	0.03
Nickel (Ni)	1.62	1.62
pH	5.5-9.5 std. units	
Selenium (Se)	0.40	0.20
Silver (Ag)	0.40	0.20
Tin (Sn)	4.00	2.00
TTO	2.13	2.13
Zinc (Zn)	1.67	1.39

5.4 General Discharge Prohibitions:

No person shall discharge or cause or allow to be discharged either directly or indirectly into the Commission's facilities, any substance, water or wastewater which may cause Pass Through or Interference.

5.5 Specific Discharge Prohibitions:

Certain substances are specifically prohibited from being discharged into the Commission's facilities. These prohibited substances include, but are not limited to, the following:

- A. Groundwater, stormwater, and surface waters, roof runoff, tidewater, subsurface drainage, noncontact cooling water, and uncontaminated industrial process waters, unless approved by the Commission. (See Article 4)
- B. Slugs as defined in Article 2.
- C. Sludge or deposited solids of any type including those generated from an industrial or commercial pretreatment process (e.g., hydroxide or degreaser sludge).
- D. Concentrated discharges as defined in Article 2.
- E. Batch discharges as defined in Article 2 unless prior written approval is granted from the Commission.
- F. Any material identified as hazardous waste according to 40 CFR Part 261 except as may be specifically authorized by the Commission.
- G. Any wastewater having a lethal concentration of fifty percent (LC50) as determined by a toxicity test of 96 hours or less using 100% of the industrial user's discharge and aquatic test species chosen by the Commission.
- H. Gasoline, benzene, naphtha, fuel oil, or other flammable or explosive liquids, solids, or gases.
- I. Any substances which by reason of their nature or quantity may create a fire or explosion hazard in the Commission's facilities or be

injurious to Commission personnel or to the operation of the Commission's facilities including, but not limited to, waste streams with a closed cup flash point of less than 60 degrees Centigrade (140 degrees Fahrenheit) using the test methods specified in 40 CFR 261.21.

- J. Any solid or viscous pollutants in amounts which may cause obstruction to the flow in a sewer or may result in Interference with the operation of the waste treatment facilities such as, but not limited to: grease, garbage with particles greater than one-half inch (1/2") in any dimension, or any material which can be disposed of as trash, ashes, bones, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, underground garbage, whole blood, hair and fleshings, entrails, paper dishes, cups, milk containers, lime slurries, and grease from deep-frying operations.
- K. Any trucked or hauled pollutants except at discharge points designated by the Commission.
- L. Black boils, pickling solutions, acids etches, acid activators, and Brite dip acids.
- M. Solvents including, but not limited to, trichloroethylene, trichloroethane, xylene, Freon, paint thinners and strippers.
- N. Cyanide, acid, or solvent-based stripping solutions.
- O. Concentrated plating baths or solutions.
- P. Waste oils.
- Q. Isolation Wastes or Regulated Medical Waste (See definitions under Article 2).
- R. Any substance which may cause a public nuisance, cause hazard to life or prevent entry into the sewers for maintenance or repair.

5.6 Federal Categorical Pretreatment Standards

Users subject to categorical pretreatment standards are required to comply with applicable standards as set out in 40 CFR Chapter I, Subchapter N, as amended.

5.7 Dilution Prohibition

No user shall, by increasing the use of wastewater or water, in any way, attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the Federal Categorical Pretreatment Standards, 40 CFR, or in any other pollutant specific limitation developed by the Commission. The Commission shall, in its sole discretion, use EPA formulas or any other reasonable method for determining discharge levels where dilution is reasonably suspected.

5.8 Remedies

If any wastewater is discharged or is proposed to be discharged to the wastewater facilities in violation of the limitations or prohibitions described in Article 5, the Commission may in its sole discretion:

- A. Reject the wastes;
- B. Require a discharger to demonstrate and implement those in-plant modifications which will reduce or eliminate the discharge of such substances to conform with these Rules and Regulations;
- C. Require pretreatment, including storage facilities or flow equalization necessary to reduce or eliminate the objectionable characteristics or substances, so that the discharge will not violate these Rules and Regulations;
- D. Require controls to be installed which will regulate the quantities and rates of discharge;
- E. Require surcharge payments to be made to the Commission to cover its added cost of handling, monitoring, and treating the wastes which exceed threshold values in accordance with rates set and approved by the Public Utilities Commission;
- F. Revoke a discharger's permit; and
- G. Take any other administrative sanctions, enforcement actions, and remedial actions as may be desirable, necessary, or permitted to achieve the purpose of these Rules and Regulations.

ARTICLE 6-INTERFERENCE WITH COMMISSION PROPERTY

No person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any Commission owned structure, appurtenance or equipment. No person shall dump garbage, fill, refuse, or other materials on land easements, rights-of-way, or other structures, including manholes, which are part of the wastewater facilities. Persons initiating construction activities that may alter Commission structures must be permitted pursuant to the requirements outlined in Article 4 above. Persons causing such Interference shall be billed by the Commission for any actual damages, the cost of correcting the Interference and may be subject to civil and/or criminal penalties pursuant to R.I.G.L §46-25-25.2, and Article 10.

ARTICLE 7-INSPECTION POWERS

7.1 General Powers

Inspections shall be conducted at the discretion of the Commission. Duly authorized employees and agents of the Commission, upon presenting identification and appropriate credentials, are authorized:

- A. To enter without delay and at reasonable times those premises (public or private) of any person or class of user either receiving services from the Commission or applying for services from the Commission in which a discharge source or treatment system is located or which records required to be maintained pursuant to R.I.G.L. §46-25-25 are kept;
- B. During regular working hours and at other reasonable times, and within reasonable limits and in a reasonable manner, to have access to and to copy any records, inspect any monitoring equipment or method required pursuant to R.I.G.L. §46-25-25 and sample and/or analyze any effluents which the owner or operator of such discharge source is required to sample and/or analyze under R.I.G.L. §46-25-25 and any rules and regulations adopted pursuant thereto; and
- C. During such on site inspections, to carry out all inspections, surveillance, and monitoring procedures necessary to determine, independent of information supplied by any person discharging into the facilities, compliance or noncompliance with Commission pretreatment requirements.

7.2 User Documentation

The Commission may, by regulation, order, permit, or otherwise, require any person who discharges into the facilities to:

- A. establish and maintain records;
- B. make reports;

- C. install, calibrate, use and maintain monitoring equipment or methods (including where appropriate, biological monitoring methods);
- D. sample and/or analyze discharges and effluents (in accordance with the method, at the locations, at the intervals, and in the manner as the Commission shall prescribe); and/or
- E. provide other information relating to discharges into the facilities of the project as the Commission may reasonably require to ensure compliance with prescribed pretreatment. Such information shall include, but not be limited to, those records, reports and procedures required by applicable State and Federal law.

ARTICLE 8-WASTEWATER DISCHARGE PERMIT SYSTEM

8.1 Wastewater Discharge Permits Required

A. Existing Sources:

All users connected to the Commission's wastewater facilities must obtain a wastewater discharge permit. All users proposing to connect to or discharge into any part of the Commission's wastewater facilities must obtain a wastewater discharge permit before connecting to or discharging to the facilities.

B. New Sources:

New sources must obtain a wastewater discharge permit before connecting to or discharging to the facilities. The user must be in compliance with effluent limitations upon start-up of operation. Any required pretreatment must be installed and operational in accordance with plans and approved by the Commission. The pretreatment system shall be inspected and approved by Commission personnel before a wastewater discharge permit will be issued.

8.2 Compliance Required

No permit holder shall discharge industrial wastewater in excess of the quantity, rate of discharge, concentrations or any other limits specified in the permit. Any person desiring to modify his or her permit must first apply for an amended permit.

8.3 Expedited Permit Process

Application for an expedited permit must be made in accordance with the Expedited Permit Process, R.I.G.L. §42-117-1 et seq. which requires that the potential permittee file a Certificate of Critical Economic Concern at the time of filing any necessary permit application with the Commission. Upon receipt of said Certificate and in accordance with said Act, the Commission shall give priority to the handling and processing of the permittee's application.

8.4 Wastewater Discharge Permit Application

Industrial users seeking a wastewater discharge permit must have completed and filed with the Commission an application on the prescribed form, together

with any applicable fee. In support of this application, the user shall submit the following information:

- A. Name, business address, name of owner or business, name of building owner, location of the facility (if different from business address) and Standard Industrial Classification (SIC) number of the applicant;
- B. Total water consumption from all sources and supporting documentation when appropriate;
- C. Type, frequency, volume of discharge, and amount of raw materials processed (average and maximum per day);
- D. Average daily and 30 minute peak wastewater flow rates, including daily, monthly, and seasonal variations, if any;
- E. Site plan, floor plans, mechanical and plumbing plans, pretreatment plans and details to show all building connections and appurtenance by size, location and elevation;
- F. Description of activities, pretreatment facilities and plant processes conducted on the premises including all materials and types of material which could be discharged;
- G. Type of product produced;
- H. Number of employees, number of shifts, and hours of work;
- I. The name and concentration of any pollutants in the discharge, for a minimum of four consecutive operating days, as required under Article 9, which are regulated by the Commission, the state, or the Federal government; and a written statement as to whether or not applicable pretreatment standards are being met, and if not, whether additional in-plant modification and additional pretreatment is required for the user to meet such applicable pretreatment standards;
- J. If additional pretreatment or in-plant modification will be required to meet the pretreatment standards, the user will provide a schedule by which to achieve the standards in the shortest possible time. This schedule will be reported as the Pretreatment

Compliance Schedule. The following conditions shall apply to this schedule:

- 1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (e.g. hiring an engineer, completing preliminary plans, executing contracts for major components, commencing construction, completing construction). No increment shall exceed nine (9) months.
- 2) Not later than 14 days following each completion date in the schedule, the user shall submit a progress report to the Commission including at a minimum, whether or not, he or she complied with the increments of progress. If such increment of progress was not completed on time, the user shall also report the date on which he or she expects to complete the increment of progress, the reason for the delay, and the steps being taken by the user to return to the schedule established. In no event shall completion dates be more than 9 months apart;

K. Signatory requirements; and

L. Any other pertinent information as may be needed to evaluate the permit application.

The Commission shall evaluate the data furnished by the user and may require additional information. Based on the application, the Executive Director may issue a wastewater discharge permit subject to the terms and conditions enumerated in the permit. A fact sheet explaining the basis of the permit shall be on file at the Pretreatment Office for inspection upon request.

The Executive Director may deny a request for a permit when the information supplied indicates the user will be unable to reasonably meet the Commission's standards. Any person denied a permit may request a hearing in accordance with the provisions of Article 10.

8.5 Permit Conditions

Wastewater discharge permits shall be expressly subject to specific permit provisions contained therein as well as to provisions of these Rules and

Regulations and all other regulations, user charges and fees established by the Commission. Wastewater discharge permits may include such conditions as are reasonably deemed necessary by the Commission 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, protect ambient air quality, and protect against damage to the Commission's facilities. Such conditions may include, but are not limited to, the following:

- A. The average and maximum wastewater constituents and characteristics permitted in the process water discharges;
- B. Limits on rate and time of discharge or requirements for flow regulation and equalization;
- C. Requirements for installation of inspection and sampling facilities and specifications for self-monitoring;
- D. Requirements for the submission of periodic self-monitoring compliance reports which shall include, but not be limited to, volume or rates of flow, concentrations of controlled pollutants or other information which relates to the generation of waste;
- E. Requirements for maintaining and submitting technical reports and plant records relating to wastewater discharges;
- F. Daily average and daily maximum discharge rates, or other appropriate conditions when pollutants subject to limitations and prohibitions are proposed or present in the user's wastewater discharge permit;
- G. Compliance schedules;
- H. Requirements for installation of pretreatment systems, spill and slug-prevention control plans and solvent-management plans;
- I. Provisions for authorized Commission employees and agents to enter and inspect the premises, including provisions for copying records, inspecting monitoring equipment and sampling effluent;
- J. Compliance with Federal, state and other governmental laws, rules and regulations;

- K. Fees and costs including supplemental fees assessed because of the special nature of the user's effluent in accordance with the provisions of Article 5 and additional costs and fees based on the costs of enforcing these regulations or the permit, as in accordance with R.I.G.L. §46-25-5 (j);
- L. Signatory requirements; and
- M. Any other reasonable conditions necessary to ensure compliance with the provisions of R.I.G.L. §46-25-1 et seq., or any state and Federal laws, rules and regulations.

8.6 General Pretreatment Requirements:

Users shall provide wastewater treatment as required to comply with these Rules and Regulations, and shall achieve compliance with all Federal, state, and Commission pretreatment standards within the time limitations specified by the Federal, State, and Commission pretreatment regulations. Any equipment or systems required to pretreat wastewater to a level acceptable to the Commission shall be provided, operated and maintained at the user's expense. The user is responsible for following all equipment instructions provided by the manufacturer. Detailed plans showing the pretreatment equipment, systems and operating procedures shall be submitted to the Commission for review and shall be acceptable to the Commission prior to construction and operation of the facilities. The design of industrial process wastewater treatment systems must be executed in accordance with the general laws of the State of Rhode Island (1956, as amended) Title 5, Chapter 8. The following paragraphs set out the minimum requirements for pretreatment and water using process plans. The Commission may require additional documentation and/or detail of plans whenever it determines that such information is necessary to evaluate the pretreatment system or process operations.

Any review and inspection conducted by the Commission is for the sole purpose of determining compliance with the technical provisions of these Regulations. The Commission does not assume responsibility for means, methods or techniques used, or for the safety of construction work, the site, or for compliance by users with applicable laws and regulations other than this Regulation.

Review by the Commission does not constitute any form of guarantee or insurance with respect to the performance of the equipment and processes. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the equipment as necessary to produce an effluent acceptable to the Commission under the provisions of this section. Any

subsequent significant changes in the pretreatment equipment or method of operation shall be reported to and be acceptable to the Commission prior to the user's initiation of the changes.

A. Pretreatment Plans:

The plans of pretreatment systems and process operations must be of professional quality. The Commission may require that said plans be stamped by a Professional Engineer registered in the state of Rhode Island. The Commission may require that said plans/drawings include, but not be limited to, the following:

- 1) All treatment tanks, their size, material of construction, and the projected daily flow(s) to each treatment tank;
- 2) All pumps, piping, valves, mixers, controls, probes, etc.;
- 3) A description of the treatment procedure for each treatment process;
- 4) A process schematic of the pretreatment system;
- 5) A plant layout showing the pretreatment system, water using process tanks and location of each tank in the facility;
- 6) All sumps, pumps or effluent transfer stations;
- 7) The wastewater sampling location;
- 8) Side view or elevation drawings of all interconnected pretreatment tanks showing inlet and outlet connections; and
- 9) An original stamp and signature of a registered and licensed Rhode Island Professional Engineer.

B. Water Using Process Plans:

The Commission may require that water using process plans/drawings include, but not be limited to, the following:

- 1) All tanks, their contents and volume;
- 2) Identification and quantification of the wastewater discharge from each process tank or process operation, including:
 - a) continuous discharges - flowrate (gpm or gpd)
 - b) batch discharges - volume and frequency;
- 3) Where the tank discharges (if the discharge is to pretreatment, the specific pretreatment tank must be indicated);
- 4) All floor drains, trenches and sumps, including their point of discharge and discharge destination;
- 5) The location of all sewer connections;
- 6) Original stamp and signature of a registered and licensed Rhode Island Professional Engineer.

All process tanks with a batch or continuous discharge must be hard piped to the point of discharge.

8.7 Installation of Zero Discharge Pretreatment Systems

Prior to installation of a Zero Discharge Pretreatment System, the user must submit a Zero Discharge Pretreatment System design plan for Commission acceptance. Said plan must be executed in accordance with the R.I.G.L. §5-8-1 et seq. In order to obtain Commission acceptance, the user must demonstrate that he or she will provide full pretreatment of all wastewater and will cease to discharge process wastewater to the facilities by an effective date prescribed by the Commission, and the user must obtain a Zero Discharge permit from the Commission.

The Zero Discharge permit may require, among other things, that:

- A. The zero discharge system be installed as proposed and be fully operational;
- B. All sewer drain lines in the facility to be capped off and sealed;
- C. The user notify the Commission in writing, and obtain a revised Wastewater Discharge Permit from the Commission before resuming discharge if he/she wishes to re-connect to the sewer; and/or
- D. Commission personnel be authorized to enter such premises without delay and at reasonable times for the purpose of inspection and as otherwise authorized under R.I.G.L. §46-25-25.1.

8.8 Compliance Certification

Any user who discharges or proposes to discharge process wastewater into the Commission's facilities without pretreatment shall submit a certification to the Commission stating that all discharge limitations will be met, and explaining in detail how discharge limitations will be met without pretreatment. Such certification must be prepared, certified, and stamped by a registered Rhode Island Professional Engineer.

8.9 Spill and Slug Prevention Control and Countermeasures Plan

- A. Users that store hazardous substances shall not contribute to the Commission's facilities after the effective date of this ordinance unless a spill prevention plan has been approved by the

Commission. Approval of such plans shall not relieve the user from complying with all other laws and regulations governing the use, storage, and transportation of hazardous substances.

1) The Commission may evaluate each significant user at least once every two years, and other users as necessary, to determine whether such user needs a plan to control slug discharges. If the Commission decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

- a) Description of discharge practices, including non-routine batch discharges;
- b) Description of stored chemicals;
- c) Procedures for immediately notifying the Commission of slug discharges, including any discharge that would violate a prohibition under Section 5.4 or 5.5, with procedures for follow up written notification within five days;
- d) If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

B. Each user shall provide protection from accidental discharge of prohibited materials or other substances regulated by these Rules and Regulations which may interfere with the Commission's facilities by developing spill prevention plans. Equipment necessary to implement these plans shall be provided and maintained at the owner's or user's own cost and expense. Detailed plans showing equipment and operating procedures to provide this protection shall be submitted to the Commission for review, and shall be approved by the Commission before construction. It is understood that any review and inspection conducted by the Commission is for the sole purpose of determining compliance with the technical provisions of these Regulations. Review by the

Commission does not constitute any form of guarantee or insurance with respect to the performance of the equipment and processes.

All existing users shall also complete such a plan as required by a compliance schedule or permit. No new user proposing to discharge into the facilities shall be permitted to introduce pollutants into the facilities until accidental discharge procedures have been approved by the Commission. Review and approval of such plans and operating procedures shall not relieve the user from the responsibility of modifying the user's equipment as necessary to meet the requirements of these Rules and Regulations.

8.10 Duration of Permits/Reissuance of Permits

Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period of less than one year, or may be stated to expire on a specific date. The user shall apply for permit reissuance at least one hundred and eighty (180) days prior to the expiration of the user's existing permit.

8.11 Modification of Permits

A user may apply for modification of a discharge permit by filing a new application form showing substantial, significant and material changes that have been proposed since filing the original application. No application for modification will be considered unless it demonstrates such changes.

After review of the application and inspection of the facility, the Commission may, at its discretion, modify the original permit. If such application is rejected, the existing permit shall remain in full force and effect.

The terms and conditions of the permit may be subject to modification and changed by the Commission during the life of the permit. The Commission may, in its sole discretion, place further restrictions, limitations and conditions in a permit to carry out the provisions of R.I.G.L. §46-25-1 et seq. The user shall be informed of any proposed changes in his or her permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a hearing on modifications to his or her permit in accordance with the provisions of Article 10.

8.12 Transfer of Permits

Wastewater discharge permits may be reassigned or transferred to a new owner and/or operator only if the permittee gives at least ninety (90) days advance notice to the Commission and the Commission approves the wastewater discharge permit transfer. The notice to the Commission must include a written certification by the new owner and/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 wastewater discharge permit.

Failure to provide advance notice of a transfer renders the wastewater discharge permit void on the date of facility transfer.

8.13 Wastewater Discharge Permit Revocation

Wastewater discharge permits may be revoked for the following reasons:

- A. Failure to notify the Commission of significant changes in the quantity and quality of wastewater discharged prior to implementing such changes.
- B. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application.
- C. Falsifying self-monitoring reports.
- D. Tampering with monitoring equipment.
- E. Refusing to allow the Commission timely access to the facility premises and records.
- F. Failure to meet effluent limitations.
- G. Failure to pay fines.
- H. Failure to pay user fees.
- I. Failure to meet compliance schedules.
- J. Failure to complete a wastewater survey or the wastewater discharge permit application.
- K. Failure to provide advance notice of the transfer of a permitted facility.
- L. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or the ordinance.

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

8.14 Suspension of Permit

The Executive Director may suspend the wastewater discharge permit of any user who ceases operations for any period exceeding one (1) month. The suspension will not act as a revocation of the permit, but rather as a temporary suspension of the user's rights under the permit while operations have ceased. During such suspension, the user's connection to the facilities shall be plugged. The user shall still be required to pay the permit fee, since the permit itself will not be revoked. During such suspension, the user shall be disconnected from the facility. The Commission shall have the authority to make periodic inspections during this time to determine whether the user is continuing to discharge regulated wastewater. Such discharge may be considered grounds for revocation of the wastewater discharge permit.

The user shall give Commission personnel written notice five (5) working days prior to reactivating operations. The user shall not reactivate operations until after receiving written approval from the Commission following a Commission inspection.

8.15 Reinstatement of Permit

Before any further discharge of industrial wastewater may be made by a user whose permit has been revoked, the user must apply for, and be granted, a reinstatement of the terminated permit, or a new permit, as the Executive Director may require, and pay any delinquent fees and all fines, charges, and other costs occasioned by the violation. Costs shall include, but not be limited to: inspection, monitoring, sampling and related expenses; restitution to other affected parties; reasonable attorney's fees incurred by the Commission in enforcing the permit; disconnecting and reconnecting the user to the facility; and other actual damages incurred due to the violation. Any such fines, fees, charges and costs shall be paid for by the user before any new permit will be issued. When all costs cannot be readily determined the Commission may require and accept a bond or irrevocable letter of credit which it considers sufficient and which will be subject to appropriate adjustment after all costs have been determined.

ARTICLE 9-WASTEWATER MONITORING AND REPORTING

9.1 Records and Monitoring

- A. All users who discharge or propose to discharge wastewater directly or indirectly to the facilities shall maintain records which substantiate any information supplied in permit applications. Such records shall include, but not be limited to, pH tapes, chemical usage data, log sheets, hazardous waste manifests, water meter readings, effluent monitoring reports, self-monitoring compliance reports and any other informational requirements of these Rules and Regulations or required by a user's Wastewater Discharge Permit or any applicable state and Federal laws and regulations. These records are to be kept for a period of three (3) years unless there is pending a dispute of litigation involving the subject of these records, in which case these records are to be kept for a period of three (3) years following resolution of such litigation or dispute.
- B. **Access to Information/Confidential Information**
- 1) All such records described in Section 9.1 (A) above shall be available in accordance with R.I.G.L. §46-25-25.1 upon request, to the Commission.
 - 2) Information and data (other than effluent data) about a user obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public unless the user specifically requests and is able to demonstrate to the satisfaction of the Commission that the release of such information would divulge processes or methods of production entitled to protection as trade secrets of the user. Any such request must be asserted at the time of submission of the information or data. When such a confidentiality claim is asserted, the information shall be treated as such until a determination is made by the Commission. Effluent data shall be available to the public without restriction.
 - 3) If the Commission determines that the information is entitled to protection as a trade secret, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection except by the State or EPA for uses related to this ordinance, the permit or the pretreatment

program. Confidential portions of a report shall be available for use by the state or EPA in judicial review or enforcement proceedings involving the person furnishing the report. Effluent data will not be recognized as confidential information.

- C. The Commission may require a user to install, at his or her own cost, suitable monitoring or metering equipment to facilitate the accurate observation, sampling, and measurement of the wastewater discharge. Such equipment shall be maintained in proper working order by the user and shall be kept safe and accessible at all times. The monitoring and metering equipment shall be located and maintained on the user's premises. When such a location would be impractical or cause undue hardship to the user, the Commission may allow such facility to be constructed in the public street or sidewalk area, with the approval of the public agency having jurisdiction over such street or sidewalk, and located so the discharge will not be obstructed by public utilities, landscaping or parked vehicles.
- D. When more than one user discharges into a common sewer, the Commission may require installation of separate monitoring and metering equipment for each user. When there is a significant difference in wastewater constituents and characteristics produced by different operations of a single user, the Commission may require that separate monitoring and metering facilities be installed for each separate discharge.
- E. Whether constructed on public or private property, the monitoring facilities shall be constructed in accordance with these Rules and Regulations and any applicable construction standards required by the Commission or by local, state or Federal law.

9.2 Inspection and Sampling

The Commission shall have the right to enter the facilities of any user to ascertain whether the purpose of these Rules and Regulations are being met and all requirements are being complied with. Users shall allow the Commission ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- A. Where a user has security measures in force which require proper identification and clearance before entry into their premises, the

user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, personnel from the Commission, state, and/or United States EPA (U.S. EPA) will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

- B. The Commission, state and U.S. EPA shall have the right to set up or require installation of, on the user's property, such devices as are necessary to conduct sampling and/or metering of the user's operations.
- C. The Commission may require the 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 user at the user's expense. All devices used to measure wastewater flow and quality shall be calibrated periodically to ensure their accuracy.
- D. Safe and easy access must be provided for Commission personnel. Any temporary or permanent obstruction to safe and easy access in and around the facility to be inspected and/or sampled shall be promptly removed and/or repaired by the user at the written or verbal request of the Commission. The costs associated with said removal and/or repair shall be borne by the user.
- E. Unreasonable delays in allowing Commission personnel access to the user's premises shall be a violation of these Rules and Regulations.

9.3 Monitoring And Analysis of Process Wastewater

Sampling and analysis of industrial wastewater for the purpose of compliance determinations with respect to Article 5 prohibitions and limitations shall be done through industry self-monitoring and through monitoring done by the Commission. All analyses, including sampling results submitted in support of any application reports, evidence or required by any permit or order shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto or, if 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, in accordance with procedures approved by EPA. The Commission may, at its discretion, require an independent laboratory to conduct the sampling and analysis at the user's own cost.

A. Self-Monitoring Requirements:

- 1) Self-monitoring results must be accompanied by a certified laboratory analysis sheet, indicating the EPA approved test procedure for each parameter analyzed. The user must also submit a self-monitoring report with the results on a form prescribed by the Commission.
- 2) All Self-Monitoring Reports must be signed and certified in accordance with Section 9.10 below.
- 3) If any sampling performed by a user indicates any violation(s) of discharge limitations, the user shall notify the Commission within twenty-four (24) hours of becoming aware of the violation(s). The user shall repeat the analysis immediately for the parameters determined to be in violation and submit the resampling results to the Commission within thirty (30) days after becoming aware of the violation(s).

B. Sample Collection:

- 1) Except as indicated in (3) below, wastewater samples collected for purposes of determining user compliance with pretreatment standards and requirements must be obtained using flow proportional composite sample collection techniques. In the event that flow proportional sampling is not feasible, the Commission may authorize the use of a time proportional sampling.
- 2) For automatic samplers, the intake line hose must be at least 1/4 in. (0.6 cm) internal diameter and the velocity in the intake line must be maintained at least at 2 feet per second.
- 3) Samples for oil and grease, temperature, pH, cyanide, phenols, toxicity, sulfides, and volatile organic chemicals must be obtained using a grab sample.

C. Analysis of Wastewater Samples:

- 1) Laboratory analysis and sample preservation of industrial wastewater samples for user self-monitoring and compliance monitoring by the Commission shall be performed in accordance with EPA approved methods. Where applicable, the laboratory must be certified by the state in which it is located.

9.4 Baseline Monitoring Report

Within one hundred and 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 significant industrial users subject to such categorical pretreatment standards, and currently discharging to or scheduled to discharge to the Commission's facilities shall be required to submit to the Commission a report which contains the information listed below. At least ninety (90) days prior to commencement of their discharge, new sources, sources that become users subsequent to the promulgation of an applicable categorical standard including existing users who have changed their operation or processes so as to become new sources, shall be required to submit to the Commission a report which contains the information listed below. A new source shall also be required to report the method of pretreatment it intends to use to meet applicable pretreatment standards, estimates of its anticipated flow and estimates of the quantity of pollutants to be discharged.

The information required by this section includes:

- 1) Identifying Information:
The name and address of the facility including the name of the operator and owners;
- 2) Wastewater Discharge Permits:
A list of any environmental control wastewater discharge permits held by or for the facility;
- 3) Description of Operations:
A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the Commission's sewer system from the regulated processes;
- 4) Flow Measurement:
Information showing the measured average daily and maximum daily flow, in gallons per day, to the Commission's sewer system from regulated process streams and other streams as necessary to allow use of the combined waste stream formula set out in 40 CFR 403.6(e);
- 5) Measurements of Pollutants:
 - a) Identify the categorical pretreatment standards applicable to each regulated process;

- b) Submit the results of sampling and analysis identifying the nature and concentration (and/or mass, where required by the standard or Commission) of regulated process. Instantaneous daily maximum and long term average concentrations (or mass, where required) shall be reported. The sample shall be representative of daily operations and shall be performed in accordance with procedures set out in 40 CFR Part 136;
- 6) Certification:
A statement reviewed by an authorized representative of the user and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and if not, whether additional operation and maintenance and/or additional pretreatment is required in order to meet the pretreatment standards and requirements;
- 7) Compliance Schedule:
If additional pretreatment and/or operations and maintenance will be required to meet the pretreatment standards; the shortest schedule by which the user will provide such additional pretreatment and/or operations and maintenance shall be applied. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard; and
- 8) Signatory Certification
All baseline monitoring reports must be signed and certified in accordance with Section 9.10 below.

9.5 Compliance Schedule Progress Report

The following conditions shall apply to the schedule required by Section 9.4 (7) above. 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 user to meet the applicable pretreatment standards (such events include hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, beginning and conducting routine operation). No increment referred to above shall exceed nine (9) months. The user shall submit a progress report to the Commission no later than fourteen (14) days following each 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 user to return to the established schedule. In no event shall

more than nine (9) months elapse between such progress reports to the Commission.

9.6 Report 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 Commission's facilities, any user subject to such pretreatment standards and requirements shall submit to the Commission a report containing the information described in Section 9.4 above. For users 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 users long term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 9.10 below.

9.7 Periodic Compliance Reports

- A. Any significant industrial user subject to a pretreatment standard shall, at a frequency determined by the Commission but in no case less than twice per year, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by such pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 9.10 below.
- B. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that analytical results are not representative of its discharge.
- C. If a user subject to the reporting requirement in and of this Section monitors any pollutant more frequently than required by the Commission, using the procedures prescribed in Section 9.3 (B) of these Rules and Regulations, the results of this monitoring shall be included in the report.

9.8 Notification/Reporting Requirements

A. Report of Changed Conditions

Users are required to submit written notification to the Commission in advance of any substantial change to the user's pretreatment operations or system which might alter the nature, quality or volume of its wastewater at least thirty (30) days prior to instituting any such change, including the listed or characteristic hazardous wastes for which the user has submitted initial notification under 40 CFR 403.12 (p).

B. Sampling Violations

If sampling performed by an user indicates a violation of discharge limitations, the user must notify the Commission within twenty-four hours (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Commission within thirty (30) days after becoming aware of the violation.

C. Potential Problems

1) Notification of Accidental Spills

In the case of an accidental discharge into the facility, it is the responsibility of the user to immediately telephone and notify the Commission of the incident at its 24 Hour Emergency Hotline number. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions. Within five (5) days following an accidental discharge into the facilities, the user shall submit a detailed written report describing the nature and cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expenses, loss, damage or other liability resulting from the discharge. Notification will not exempt the user from any fines, civil or criminal penalties, or any other liability which may be imposed by these Rules and Regulations or other applicable state or Federal law.

2) In the case of any discharge, including but not limited to, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load which may cause potential problems for the Commission (including a violation of the prohibited discharge standards in Article 5), it is the responsibility of the user to immediately telephone and notify

the Commission of the incident at its 24 Hour Emergency Hotline number. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions. Within five (5) days following an accidental discharge into the facilities, the user shall submit a detailed written report describing the nature and cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expenses, loss, damage or other liability resulting from the discharge. Notification will not exempt the user from any fines, civil or criminal penalties or any other liability which may be imposed by these Rules and Regulations or other applicable state or Federal law.

- 3) Failure to notify the Commission of potential problem discharges shall be deemed a separate violation of these Rules and Regulations.
- 4) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in this Section. Employers shall ensure that all employees, who may cause or suffer such discharge to occur, are advised of the emergency notification procedure.

D. Selling, Closing or Moving a Business

Any user who will be selling, closing or moving a business from its present location must notify the Commission in writing thirty (30) days before disposing of any process waste associated with the move or the cessation of business. The Commission has a shutdown facility procedure which must be adhered to upon selling, closing or moving a business or operation. Failure to notify the Commission prior to discharging such waste into the facilities may subject the user to civil or criminal penalties in accordance with R.I.G.L. §46-25-25.2 and §46-25-25.3.

The facility shutdown procedure includes, but is not limited to, the following:

- 1) An inventory specifying the amount of each chemical and each solution on the premises, whether in storage drums or in process tanks;
- 2) A written plan detailing how each chemical and solution is to be disposed of (i.e., discharged to sewer with or without pretreatment, sold, returned to the supplier or hauled off as hazardous waste);

- 3) The information required in items D 1. and 2. above must be reviewed and approved by the Commission prior to any solutions or chemicals being disposed of. Only those solutions approved by the Commission may be discharged to the sewer system. The NBC must be informed at least 48 hours in advance of when chemicals are to be shipped off site or discharged to the sewer. A copy of each hazardous waste manifest form for any chemicals or solutions disposed of off site must be submitted to the Commission as soon as they are completed. A copy of each sales receipt, credit slip, etc. for any chemicals or solutions that are sold or returned to the supplier must be submitted to the Commission as soon as they are completed.

9.9 Hazardous Waste Notification

- A. Any user, except as specified in subpart E. below, which discharges to the Commission's facilities any substance which, if disposed of, would be listed or characterized as hazardous waste under 40 CFR part 261, shall notify the Commission in writing of such discharge.
- B. **All hazardous waste notifications shall include:**
 - 1) The name of the hazardous waste as set forth in 40 CFR part 261;
 - 2) The EPA hazardous waste number;
 - 3) The type of discharge (continuous, batch, or other); and
 - 4) A certification that the user has a program in place to reduce the volume and toxicity of hazardous waste generated to the degree it has determined to be economically practical.
- C. In addition to the information submitted in sub-section B above, users discharging more than 100 kg of hazardous waste per calendar month to the Commission's facilities shall include the following information to the extent such information is known and readily available to the user:
 - 1) An identification of the hazardous constituents contained in the waste;
 - 2) An estimation of the mass and concentration of such constituents in the wastes stream discharged during that calendar month; and
 - 3) An estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months.
- D. Discharge of more than 15 kg 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.
- E. Dischargers are exempt from the requirements of paragraphs A-C of this Section 9.9 during a calendar month in which they discharge no more than 15 kg of hazardous waste unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30 (d) and 261.33(e).

9.10 Signatories and Certification

All wastewater discharge permit applications and user's reports shall contain a certification statement as outlined in 40 CFR §403.6(a)(2)(ii) and shall be signed by an authorized representative of the user.

ARTICLE 10-ENFORCEMENT

10.1 Administrative Enforcement Remedies

The Commission may implement any combination of the following administrative and/or judicial responses if a user is in violation of any provision of state or Federal requirements, the Rhode Island General Laws Title 46 Chapter 25 (the Act), these Rules and Regulations, a permit or an order issued by the Commission.

A. Notice of Violations

Whenever the Commission finds that any user has violated or is violating these Rules and Regulations, the Act, a permit or order issued by the Commission, the Commission may serve upon said user written notice of the violation. The Notice is a warning to the user that the noncompliance must be corrected within a reasonable time. The issuance of a Notice of Violation does not preclude the Commission from taking any additional enforcement action as it deems necessary and appropriate. The Notice may direct the user to submit written proposals for achieving compliance, it may direct the user to increase the frequency of self-monitoring or it may require the user to comply with any other requirements which the Commission feels are necessary and appropriate to address noncompliance. Submission of any plan to achieve compliance shall in no way relieve the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the Commission to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

B. Compliance Orders

When the Commission finds that a user has violated or continues to violate these Rules and Regulations, the Act, a permit or order issued by the Commission, or any other pretreatment standard or requirement, the Commission may issue an order to the user responsible for the discharge, directing that the user come into compliance within a reasonable time period established by the Commission. Compliance Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including, but not limited to, the installation of pretreatment technology and/or additional self-monitoring and management practices designed to minimize the

amount of pollutants discharged to the sewer. A Compliance Order does not relieve the user of liability for any violation, including any continuing violation. Issuance of a Compliance Order shall not be a prerequisite to taking any other action against the user, including, but not limited to, assessment of an Administrative Fine.

C. Cease and Desist Orders

When the Commission finds that a user is violating the Rules and Regulations, the Act, a permit, or any order issued by the Commission, or any other pretreatment standard or requirement, or that the user's violations are likely to reoccur and/or continue, the Commission may issue an order to the user directing the user to halt all illegal or unauthorized discharges to the Commission's facilities immediately.

- 1) If the Commission determines that an emergency exists the Cease and Desist Order may be given verbally and/or telephonically.
- 2) Issuance of a Cease and Desist Order shall not be a prerequisite to taking any other action against the user, including but not limited to, assessment of an Administrative Fine.

D. Consent Orders

When the Commission is able to reach an agreement with the user responsible for the noncompliance, the Commission and the user may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing the agreement with the user. Such orders typically include; specific actions to be taken by the user within a particular time frame, a schedule for payment of the fines and enforcement costs, and stipulated penalties. Consent Orders shall have the same force and effect as Administrative Orders and shall be judicially enforceable.

E. Suspension of Permit or Service

The Commission may suspend wastewater treatment service and/or a permit to effectively halt or prevent any actual or threatened illegal or unauthorized discharge of pollutants into the Commission's facilities. The Commission shall notify the user of the suspension, by certified and regular mail, at which time the user may utilize the hearing procedures included herein.

F. Emergency Suspensions:

- 1) Whenever the Commission determines that suspension of wastewater treatment service or of a permit is necessary to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of persons, the POTW, or the environment, the Commission may give the user informal notice of the suspension. Informal notice shall consist of a telephone call to the discharging facility's owner or any agent or officer of a corporation. The Order to suspend discharging shall become effective notwithstanding the inability to contact the user. A registered or certified letter, return receipt requested, which states the existence of the violation and the action deemed necessary will be sent within five (5) days to the user. No request for a hearing prior to the issuance of this Emergency Order to suspend discharging may be made.
- 2) Any user notified of an emergency suspension of their wastewater treatment service and/or suspension of their wastewater discharge permit shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the Suspension Order, the Commission shall take such steps as deemed necessary, including immediate severance from the sewer facilities to prevent or minimize damage to the Commission, its receiving stream, or any individuals. The Commission shall allow the user to recommence its discharge when the endangerment has passed, unless proceedings are initiated to terminate the user's permit.
- 3) A user which is responsible, in whole or in part, for imminent endangerment to the health and welfare of persons shall submit a detailed written statement describing the causes of the harmful contribution and the measures taken to prevent any further occurrence to the Commission within five (5) days of the occurrence that lead to the emergency suspension.

G. Termination of Permit and/or Wastewater Treatment Service:

Grounds for termination of a permit and/or wastewater treatment service, include but are not limited to, the following:

- 1) Failure to apply for and/or obtain a required permit from the Commission prior to discharge into the Commission's facilities.
- 2) Violation of any of the conditions outlined in the user's permit.
- 3) Violation of any of the provisions of these Rules and Regulations, the Act, or any permit or order issued by the Commission, or any applicable state or Federal law.

Any user issued an Administrative Order terminating their permit and/or their wastewater treatment service shall be entitled to a hearing pursuant to Section 10.4.

H. Security Requirements

- 1) **Performance Bonds.** The Commission may decline to reissue a permit to any user which has failed to comply with the provisions of the Rules and Regulations, the Act, any order or previous permit issued hereunder unless such user first files with it a satisfactory bond, payable to the Commission, in a sum not to exceed a value determined by the Commission to be necessary to achieve consistent compliance.
- 2) **Liability Insurance.** The Commission may decline to reissue a permit to any user which has failed to comply with the provisions of these Rules and Regulations, the Act or any previous permit issued hereunder, unless the user first submits proof that it has obtained financial assurance sufficient to restore or repair Commission damage caused by its discharge.

I. Administrative Fines/Penalties

Notwithstanding any other section of these Rules and Regulations, any user who is found to have violated any provision of these Rules and Regulations, or permits and orders issued hereunder, shall be fined in an amount not to exceed Twenty-Five Thousand Dollars (\$25,000.) per day per violation. Each day during which noncompliance occurs or continues shall be deemed a separate and distinct violation.

- 1) Such assessments may be added to the user's next scheduled sewer service charge.
- 2) Unpaid charges, fines and penalties shall constitute a lien against the individual user's property.

- 3) Interest on the unpaid balance of charges, fines and penalties shall accrue at a rate established by the Commission and approved by the Public Utilities Commission.
- 4) Users desiring to dispute fines assessed by the Commission must file a written request for hearing within ten (10) days of receipt of the order assessing the fine, in accordance with the hearing procedure outlined below.
- 5) The Commission may impose escalating fines in instances of repeated violations.
- 6) The Commission may calculate the fine in accordance with the penalty matrix outlined below.
- 7) Nothing in this section shall limit the authority of the Commission to impose the maximum Administrative Penalty for violation of any provision of Federal or State laws or regulations, these Rules and Regulations, or any permit or order issued pursuant thereto.

10.2 Calculation of Administrative Penalty

Penalties may be calculated according to the following penalty matrix for violations of R.I.G.L. §46-25-25 et seq. of the Rhode Island General Laws and all Rules and Regulations, permits and orders issued pursuant thereto. In accordance with R.I.G.L. §46-25-25.2, penalties are assessed for each day of noncompliance.

	TYPE OF VIOLATION		
Deviation from Standard	I	II	III
Major	\$25,000. to \$10,000.	\$10,000. to \$5000.	\$5000. to \$1000.
Moderate	\$10,000. to \$5000.	\$5000. to \$1000.	\$1000. to \$500.
Minor	\$5000. to \$1000.	\$1000. to \$500.	\$500. to \$100.

A. Type of Violation

Refers to the nature of the legal requirement allegedly violated.
“Type” includes, but is not limited to, the following examples:

Type I

- 1) Violations of legal requirements identified by the Commission as directly related to the protection of the public health, safety, welfare, or environment.
- 2) Violation of wastewater discharge limits.
- 3) Violations of compliance schedule milestones.
- 4) Failure to provide reports (compliance schedules, self monitoring data, BMR & FCMR)
- 5) Failure to accurately report noncompliance.
- 6) Failure to obtain required permit from the Commission.
- 7) Failure to take remedial action to mitigate a known harm.
- 8) Any other violation or group of violations that the Commission considers to be significant including a pattern of Type II and Type III violations.

Type II

- 1) Violation of legal requirements indirectly related to public or environmental protection, e.g., late reports, (but with notification of the Commission that sampling has been performed.)
- 2) Failure to comply with an equipment or design specification or any other operational methods or procedure required by the Commission or specified in the Rules and Regulations, which is indirectly related to protection of the public health and welfare and/or the environment, e.g. the discharge of non-contact cooling water without approval.
- 3) A pattern of Type III violations.

Type III

- 1) Violation of legal requirements identified by the Executive Director as important but incidental to the protection of the plant workers and environment, e.g. late sampling.

B. Deviation from Standard

Refers to the degree to which the violation is out of compliance with the requirement allegedly violated. The Commission will evaluate the circumstances of each case to assess whether a violation is a minor, moderate or major deviation from the standard with reference to the following factors:

- 1) the extent to which the act or failure to act was out of compliance;
- 2) environmental conditions;
- 3) the amount, toxicity, and/or nature of the pollutant;
- 4) the duration of the violation;
- 5) the areal extent of the violation;
- 6) whether the user took reasonable and appropriate steps to prevent and/or mitigate the non-compliance;
- 7) the user's history of noncompliance;
- 8) the degree of willfulness or negligence, including but not limited to, how much control the violator had over the occurrence of the violation and whether the violation was foreseeable;
- 9) willingness to participate in supplemental environmental projects which are directly related to addressing compliance problems of the industry within which the violation took place. Such projects are subject to the approval and control of the Commission;
- 10) the economic benefit achieved by noncompliance;
- 11) any other factor(s) that may be relevant in determining the amount of a penalty, provided that, said other factor(s) shall be set forth in the Notice of Violation, order or other written notice of the Assessment of Penalty.

10.3 Administrative Hearings

A. Right to Hearing

Any Order or Assessment of Penalty shall inform the user that a written request for a hearing on the alleged violations, order, and/or penalty must be filed within ten (10) days after service of the notice to preserve the user's right to hearing. The notice will be deemed properly served upon the user if a copy is served upon him or her personally, or sent by registered or certified mail to his or her last known address, or if he or she is served with notice by any other method of service now or hereafter authorized in civil actions under the laws of the State. In an emergency situation, if written request for a hearing is not made by the user within ten (10) days of the service of notice, the user will be foreclosed from hearing regarding any penalty assessed. In a non-emergency situation if written request for a hearing is not made by the user within ten (10) days of the service of notice, the user will be foreclosed from hearing regarding both the order and any penalty assessed.

B. Hearing Request and Conference Option

As stated immediately above, a written request for hearing must be filed within ten (10) days from service to preserve the user's rights. At that time, the user may also request a conference with the Commission prior to the scheduling of an administrative hearing. Said conference will include appropriate members of the Commission from the pretreatment and enforcement staffs. Violations and penalties will be explained and discussed. Electing this option does not foreclose and/or affect the user's right to hearing provided that the written request for hearing was filed within ten (10) days of service as noted above. The purpose of this option is to provide the user with an informal forum within which to discuss the alleged violations and to expedite conclusion and/or resolution of outstanding enforcement actions. If resolution is not reached within ninety (90) days from the date of the scheduled conference the Commission shall schedule the matter for formal hearing. In any event, either party may request a formal hearing at any point during the conference proceedings.

C. Scheduling of Hearing/Appointment of Hearing Officers

If a user wishes to proceed directly to hearing, without exercising the conference option, the Executive Director shall appoint a Hearing Officer within ten (10) days of the receipt of said hearing request. If the user requests a conference prior to hearing, the appointment of a Hearing Officer shall be postponed until further request by Commission staff and/or the user. The Hearing Officer shall set the procedures and schedules for actual hearing.

D. Designation of Hearing Officers

Notwithstanding any other provisions of the bylaws or any other Rule and Regulation of the Commission, and in accordance with the criteria promulgated by the Commission, the Board of Commissioners shall designate certain persons to act as hearing officers in cases arising under these Rules and Regulations.

With the adoption of these Rules, the Executive Director is empowered to appoint persons who are duly designated by the Board of Commissioners and who are not involved in the enforcement action to act as hearing officers. A person designated as a hearing officer shall be a person who meets specific qualifications adopted by the Board of Commissioners.

The Hearing Officer shall:

- 1) Have the right to issue subpoenas in the name of the Commission to compel the appearance of witnesses and the production of any books, records or other documentation.
- 2) Take evidence.
- 3) Transmit in a timely manner a report of the evidence and hearing, including transcripts and other evidence, together with findings of fact and conclusions of law and recommendations of action to the Executive Director. The Hearing Officer may also issue findings as to the number of days during which the violation occurred and appropriate penalties. In establishing any penalty, the Hearing Officer and the Executive Director shall take into account the factors used to determine the severity of a violation outlined in Section 10.8 of this Article.

E. Other Hearings

All other provisions for public hearings not specifically described herein shall be in accordance with R.I.G.L. §42-35-9 et seq.

F. Orders by the Executive Director

After the Executive Director has reviewed the Administrative Decision of the Hearing Officer, he or she may issue an order to the violator to cease and desist committing such violations, assess fines, to remedy such violations, to revoke the violator's discharge permit, and to recover statutory enforcement costs. Such enforcement costs include, but are not limited to, the costs of implementing any action, as well as any administrative costs incurred therein, such as the reasonable expenses of the Hearing Officer, stenographer, staff, expert witnesses and reasonable attorney's fees. The decision may include a finding as to the number of days during which the violation occurred. Every day in which the violation occurred shall be deemed a separate offense. The Superior Court shall have jurisdiction to enforce such order and the Executive Director may institute civil or criminal proceedings in the name of the Commission.

10.4 Equal Access to Justice Application

Within thirty (30) days of the conclusion of any administrative hearing or within thirty (30) days of the informal disposition or termination of any hearing by the Commission, the prevailing party may apply to the Hearing Officer for the award of reasonable litigation expenses incurred by that party in connection with

the proceeding, in accordance with the provisions of R.I.G.L. §42-92-1 et seq. The Hearing Officer shall not award fees or expenses to the prevailing party if he or she finds that the Commission was substantially justified in the actions leading to the hearing and in the hearing itself. The Hearing Officer, may at his or her discretion, deny fees or expenses if special circumstances make an award unjust. The decision of the Hearing Officer shall be made part of the record and shall include written findings and conclusions. The Executive Director may not review the award. Any party dissatisfied with the fee determination by the Hearing Officer may appeal to the Superior Court. The terms "substantial justification" and "prevailing party" shall be defined in R.I.G.L. §42-92-1 et seq.

10.5 Petitions for Declaratory Rulings

Any person affected by any statutory provision administered by the Commission or affected by any rule or order of the Commission may, in accordance with R.I.G.L. §42-35-8 and these Regulations, petition the Executive Director for a declaratory ruling as to the applicability of such statute, rule or order. The petition shall clearly and concisely identify:

- A. The precise statute, rule or order under which a declaratory ruling is sought;
- B. How the petitioner is affected by the statute, rule or order;
- C. The petitioner's position on how the applicable statute, rule or order should be interpreted, including citations to any applicable documents or law that support the petitioner's position.

10.6 Judicial Remedies

If any person discharges sewage, industrial wastes, or other wastes into the wastewater disposal system contrary to the provisions of the Rules and Regulations, the Act, a permit or order issued by the Commission, or any other pretreatment requirements, the Commission may commence an action for appropriate legal and/or equitable relief in the Superior Court.

A. Injunctive Relief

Whenever a user has violated or continues to violate the provisions of the Rules and Regulations, the Act, a permit or order issued by the Commission, or any other pretreatment requirements, the Commission may petition the Court for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part of the user.

B. Civil Penalties

- 1) Any user who has violated or continues to violate the Rules and Regulations, the Act, a permit or order issued by the Commission, or any other pretreatment requirements shall be liable to the Commission for a civil penalty of not more than \$25,000 per violation per day for each day during which the violation occurs plus actual damages incurred by the Commission for as long as the violation occurs. In addition to the above described penalty and damages, the Commission may recover reasonable attorney's fees, court costs, and other expenses associated with the enforcement activities, including sampling, monitoring and analysis expenses.
- 2) The Commission shall petition the Court to impose, assess and recover such sums. In determining the amount of liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

C. Criminal Prosecution

Any user who willfully or negligently violates any provision of the Rules and Regulations, the Act, a permit or order issued by the Commission or any other pretreatment requirements, shall upon conviction, be guilty of a misdemeanor, punishable by a fine not to exceed \$25,000 per violation per day or imprisonment for not more than one year.

10.7 Costs

In addition to such administrative, civil, or criminal fines as may be imposed, any user who violates any provision of the Rules and Regulations or any condition of a permit, or plan approval related thereto, shall be financially responsible and liable to the Commission, in addition to normal service charges and surcharges for industrial investigation and monitoring of compliance with these Rules and Regulations, including, but not limited to, the following:

- A. Cost of mileage, labor and materials incurred in detecting and correcting the violation;

- B. Laboratory analysis costs associated with detecting and correcting the violation;
- C. Additional treatment costs caused by the violation or association with detecting and correcting the violation;
- D. Costs of any additional equipment acquired or expended by the Commission for detecting or correcting the violation.
- E. Repair and/or replacement of any part of the facility damaged by the violation;
- F. Any liability, damages, fines or penalties incurred by the Commission as a result of the violation;
- G. Costs incurred in enforcing compliance, including prosecution and/or settlement of outstanding violations;
- H. Other costs as are associated with the prosecution, negotiation and/or settlement of a violation.

10.8 Annual Publication of Users in Significant Noncompliance

The Commission shall publish annually in the largest daily newspaper circulated in the service area, a description of those users who are found to be in significant noncompliance, as defined in Article 2 of these Rules and Regulations, with any provisions during the period since the previous publication. Users found to be in significant noncompliance must reimburse the Commission for their pro-rata share of the cost of the public notice.

10.9 Denial of Access

If the Commission or its duly authorized employees and agents, upon presenting identification and appropriate credentials, are denied access to carry out inspection, surveillance, and monitoring procedures as described under R.I.G.L. §46-25-25.1 et seq., the Executive Director may immediately institute civil proceedings, including proceedings for necessary injunctive relief, or criminal proceedings in Superior Court.

10.10 Inspection of Connections

If any person shall construct, install, alter or repair any sewer or connect to any sewer in violation of the requirements of these Rules and Regulations, the

Commission may, in its discretion, order or direct such person to uncover and fully expose any or all portions of such sewer or connection and afford the Commission and its representatives adequate opportunity for examination and inspection of the work. If the connection and appurtenances thereto shall be found not to be in full accord with the requirements of these Rules and Regulations and the standards established under its provisions, then the Commission may serve the offender with a written notice as provided in Article 10.

10.11 Affirmative Defenses To Discharge Violations

A. Upset Provisions

- 1) For the purposes of this section, "Upset" means an exceptional incident in which there is unintentional and temporary noncompliance with Pretreatment Standards because of factors beyond the reasonable control of the user . An Upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- 2) An Upset shall constitute an affirmative defense to an action brought for noncompliance with Pretreatment Standards if the requirements of paragraph (3) are met.
- 3) A user who wishes to establish the affirmative defense of Upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - a) An Upset occurred and the user can identify the cause(s) of the Upset;
 - b) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures;
 - c) The user has submitted the following information to the Commission within 24 hours of becoming aware of the Upset (if this information is provided orally, a written submission must be provided within five (5) days);
 - i) A description of the discharge and cause of noncompliance;
 - ii) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue;
 - iii) Steps being taken and/or planned to reduce, eliminate and prevent recurrence of the noncompliance.
- 4) In any enforcement proceeding the user seeking to establish the occurrence of an Upset shall have the burden of proof; and
- 5) The user shall control production or all discharges to the extent necessary to maintain compliance with 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.

B. Bypass

- 1) "Bypass" means the intentional diversion of waste streams from any portion of the user's treatment facility.
- 2) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- 3) A user may allow Bypass to occur where it does not violate pretreatment standards or requirements, and only if it is necessary to assure efficient maintenance and/or operation. These bypasses are not subject to the provisions (4), (5) and (6) below.
- 4) If a user knows in advance of the need for a Bypass, it shall submit prior notice to the Commission, if possible at least ten days before the date of the Bypass.
- 5) A user shall orally notify the Commission of an unanticipated bypass that exceeds applicable pretreatment standards or requirements within 24 hours of becoming aware of the Bypass. A written submission shall also be provided within five days of becoming aware of the Bypass, including exact times and dates, 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 recurrence of the Bypass.
- 6) Bypass is prohibited and the Commission may take enforcement action against an individual user for a Bypass, unless:
 - a) Bypass was unavoidable to prevent loss of life, personal injury or severe property damage;
 - b) There are no feasible alternatives to Bypass, such as use of auxiliary treatment facilities, retention of wastes or maintenance during normal periods of downtime. This condition is not satisfied if adequate back-up equipment should have been installed to prevent Bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
 - c) The user submitted notices as required by paragraph (B) of this section.

The Commission may approve an anticipated Bypass, after considering its adverse effects, if the Commission determines that it will meet the three conditions listed in this section.

ARTICLE 11-INTERPRETATION OF REQUIREMENTS

11.1 Construction

The provisions of these Rules and Regulations with respect to the meaning of technical terms and phrases, the restrictions as to what wastes may be discharged into interceptors, the regulations with respect to making connections to interceptors and other technical matters shall be interpreted and administered by the Executive Director.

11.2 Captions

Captions and headings are for reference only and shall not limit or otherwise affect the meaning of the paragraphs thereunder.

11.3 Severability

If any provision of these Rules and Regulations or the application thereof to any person or circumstances is held invalid by a court of competent jurisdiction, the remainder of the Rules and Regulations shall not be affected thereby. The invalidity of any section or sections or parts of any section or sections shall not affect the validity of the remainder of these Rules and Regulations.

ARTICLE 12-AMENDMENT TO RULES AND REGULATIONS

The Rules and Regulations set down herein may be amended, from time to time, as may, in the opinion of the Commission, be necessary. Whenever the Commission shall amend any such Rules and Regulations, it shall do so and give notice of such amendment in accordance with the procedures outlined in R.I.G.L. §42-35-1 and §46-25-1 et seq.

ARTICLE 13-(Reserved)

ARTICLE 14-SEPTAGE DISCHARGE PERMIT SYSTEM

14.1 Septage Permitting System

Licensed septage haulers shall obtain a valid permit from the Commission and comply with all the conditions of this permit and these Rules and Regulations. The septage hauler permit shall be valid for one year with renewal July first of each fiscal year. The permit may be suspended or revoked according to the policies outlined in Article 8 of these Rules and Regulations. Haulers shall apply for this permit on forms provided by the Commission and shall submit, together with the permit fee, an application containing the following information:

- A. Name, company name, address, telephone number.
- B. Vehicle identification, make, and capacity.
- C. Copy of septage hauler's license from the Rhode Island Department of Environmental Management.
- D. Any additional information requested by the Commission.
- E. Signed and notarized statement certifying that the information presented in the application is correct.

14.2 Septage Sources

Septage discharged to the receiving facilities of the Commission must have been generated from residential septic systems, within the boundaries of the State of Rhode Island.

14.3 Septage Load Tickets

Septage haulers shall purchase load tickets from the Commission prior to arrival at the plant, and present tickets whose summed value is equivalent to the gallon capacity of the truck, regardless of whether the truck is full or partially full.

14.4 Septage disposal

- A. Septage shall only be discharged to one of the Commission's authorized septage receiving facilities, or other authorized location as the Commission may designate. The septage hauler shall be responsible for cleaning the area surrounding the discharge disposal location after discharge.
- B. Septage shall be discharged only within the hours specified by the Commission, and only under the supervision of the Commission. Gallonage and hours for delivery of waste may be reduced, extended, increased, or otherwise changed or altered by and at the discretion of the Commission. Commission personnel may require that the load be dumped over a period of a half-hour or more, depending upon the flow and characteristics of the incoming sewage at the Commission's treatment plant.
- C. Each septage hauler shall furnish the following items to the Commission personnel upon arrival at the septage receiving facility:
 - 1) Load manifest form (provided by the Commission) which states the hauling company, hauler name, vehicle license number, quantity and source (owner and address) of the septage, probable content of the septage, and a certification statement signed by the hauler and generator, attesting to the accuracy of the information provided on the load manifest form.
 - 2) Previously purchased load ticket(s) corresponding to the capacity of the truck.
 - 3) Four (4) grab samples of the septage taken by the septage hauler under supervision by the Commission. The Commission reserves the right to refuse to accept any load that is suspected of being or has been determined through sampling and analysis to be detrimental to the operations of the plant, the safety of its workers, or to the health or welfare of the public.
- D. The hauler shall keep a copy of his/her official permit in the truck, and display the Commission issued permit sticker on the windshield.
- E. If the Commission, plant, and/or sewerage system can accept some, but not all of the septage offered for disposal, priority will be given

to such waste which is generated within the geographic boundaries of the Narragansett Bay Water Quality Management District.

14.5 Septage Prohibitions

Septage haulers shall not discharge specifically prohibited waters, wastewaters, or substances to the Commission facilities in accordance with Article 5 herein.

14.6 Septage Records

Vehicles shall be maintained and records shall be kept in accordance with the Rhode Island DEM's Rules and Regulations for Hazardous Waste Generation, Transportation, Treatment, Storage and Disposal.

14.7 Compliance Required

No statement contained in this Article shall exempt the hauler from complying with all Federal, state or local requirements.