

TITLE V: PUBLIC WORKS

Chapter

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CHAPTER 50: GENERAL UTILITIES

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§ 50.01 AUTHORITY TO ESTABLISH SERVICE.

A town may furnish or regulate the furnishing of utility service to the public.

(`87 Code, § 9-1)

Statutory reference:

Utility service to the public, see I.C. 36-9-2-15

§ 50.02 AUTHORITY TO ESTABLISH WATER WORKS.

A town may regulate the furnishing of water to the public and may establish, maintain and operate waterworks.

(`87 Code, § 9-2)

Statutory reference:

Water works, see I.C. 36-9-2-14

§ 50.03 AUTHORITY TO REGULATE THE DISPOSAL OF SANITARY SEWAGE.

(A) A town may regulate the furnishing of the service of collecting, processing and disposing of waste substances and domestic or sanitary sewage, which includes the power to fix the price to be charged for that service.

(B) A town may collect, process and dispose of waste substances and domestic or sanitary sewage and may establish, maintain and operate sewers, sewage disposal systems and systems to collect and dispose of waste substances.

(`87 Code, § 9-3)

Statutory reference:

The disposal of waste substances and domestic or sanitary sewage, see I.C. 36-9-2-16 and 36-9-2-17

§ 50.04 CONTRACT ADDRESSING COLLECTING AND DISPOSING OF GARBAGE.

The Town Council may enter into a contract or contracts, now and hereafter, as necessity demands, with such responsible persons as may be capable of collecting and disposing of the garbage and other waste generated in the Town of Fortville and agree to pay such persons for such collecting and disposing of such garbage and other waste.

(`87 Code, § 6-41) (Ord. passed 11-1-50)

Statutory reference:

Authorizing a town to regulate the furnishing of the service of collecting, processing and disposing of waste substances and domestic or sanitary sewage, including the power to fix the price to be charged for the service, see I.C. 36-9-2-16

§ 50.05 SUMMER SPRINKLING CREDIT OF NEW HOMEOWNERS.

(A) If no usage history is available for new home customers, a summer sprinkling credit will be provided based on the average EDU sewer rates established for sewer only customers.

(B) Summer sprinkling credits will be provided to those new home customers in the same cycle as current customers.

(C) Summer sprinkling credits are provided during the months of July, August and September of each year.

(D) New home customers must contact the utility office and request a summer sprinkling credit prior to the due date on the bill for the credit months state in division (C).

(Ord. 2001- , passed - -02)

§ 50.06 COLLECTION OF CAPACITY AND CONNECTION FEES.

(A) All existing homeowners as of May 1, 2002 wishing to connect to the town utility infrastructure will be provided time to pay connection and capacity fees to the town.

(B) Homeowners wishing to connect to the town utility infrastructure will enter into a contract with the town to provide for payment of the fees associated with the purchase of utilities, including an administrative fee for handling the contract.

(C) These fees will be added to the monthly user bill received by the customer in the manner that has been contracted with the town.

(D) A maximum time frame for the repayment of the contracted capacity and connection fees shall not exceed 36 months.

(E) A minimum third initial payment of \$582 is required from the homeowner at the start of this agreement.

(F) This service shall be provided to all homeowners wishing to connect to both the water works and/or the sewage works.

(Ord. 2002-4A, passed 4-23-02)

CHAPTER 51: WATER SERVICE

Section

- 51.01 Water works rates and charges established
- 51.02 Connection charges
- 51.03 Water meter deposits
- 51.04 Charges for specific services
- 51.05 Water and sewage bills

§ 51.01 WATER WORKS RATES AND CHARGES ESTABLISHED.

There shall be and there is established for the use of and the service rendered by the Water Works System of the Town of Fortville, Indiana, rates and charges based upon the amount of water supplied during each monthly billing period which shall be as determined by the Town Council from time to time. (⁸⁷ Code, § 9-49) (Ord. 1980-6B, passed 6-18-80)

§ 51.02 CONNECTION CHARGES.

The connection charges for a service requiring a 5/8 inch meter shall be as determined by the Town Council from time to time. The connection charge for a service requiring a meter which is larger than 5/8 inch shall be as determined by the Town Council from time to time. (⁸⁷ Code, § 9-50) (Ord. 1980-6B, passed 6-18-80; Am. Ord. 1993-8A, passed 8-10-93)

§ 51.03 WATER METER DEPOSITS.

The water meter deposit shall be as determined by the Town Council from time to time. (⁸⁷ Code, § 9-51) (Ord. 1968-10A, passed 10-22-68)

§ 51.04 CHARGES FOR SPECIFIC SERVICES.

(A) Charges are set to cover expenses incurred and will not render or generate a profit and will be determined by the Town Council from time to time.

(B) All meter or meter valves damaged by a customer which require replacement shall be assessed the cost of labor and material and charged to the customer.

(`87 Code, § 9-61)

§ 51.05 WATER AND SEWAGE BILLS.

(A) It is the policy of the town to discontinue utility service to customers by reason of nonpayment of bills only after notice and a meaningful opportunity to be heard on disputed bills. The town's form for application for utility service and all bills shall contain, in addition to the title, address, room number, and telephone number of the official in charge of billing, clearly visible and easily readable provisions to the effect:

(1) That all bills are due and payable on or before the date set forth on the bill; and

(2) That if any bill is not paid by or before that date, service will be discontinued for nonpayment in accordance with the procedures set forth in this section; and

(3) That any customer disputing the correctness of the bill shall have a right to a hearing at which time the customer may be represented in person and by counsel or any other person of the customer's choosing and may present orally or in writing his complaint and contentions to the town official in charge of utility billing. This official shall be authorized to order that the customer's service not be discontinued and shall have the authority to make a final determination of the customer's complaint.

(B) (1) Bills will be mailed to be received on or before the first day of the month, and will be due in full on or before the seventeenth day of the billing month.

(2) Bills paid after the seventeenth will be charged a late payment penalty on both the water and sewage at rates in accordance with applicable ordinances.

(3) Accounts not paid by the twentieth will be issued a letter requesting payment in full, advising of the payment policy and of the potential loss of service within 20 days. In the case of rentals a copy of this letter will also be sent to the property owner.

(4) The past due amount with late charges will be added to the following months bill. This bill will be rubber stamped in red ink on the face of the bill "Must be paid in full by the seventeenth or service will be discontinued on the eighteenth."

(5) On the eighteenth shut off water services to these unpaid accounts and charge the current months bill a late charge.

(6) Water service will be resumed only after the total bill with late charges has been paid in full. Services will not be resumed on partial bill payment.

(7) Accounts unpaid after the first day of the following month (third month) will be added to the owner's property tax.

(`87 Code, § 9-62)

Statutory reference:

Termination of water service for unpaid sewage charges, see I.C. 8-1.5-3-4

Cross reference:

Sewer service, see Chapter 52

CHAPTER 52: SEWER SERVICE

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GENERAL PROVISIONS

§ 52.001 PURPOSE AND POLICY.

(A) This chapter sets forth uniform requirements for users of the publicly owned treatment works for the Town of Fortville and enables the town to comply with all applicable state and federal laws, including the Clean Water Act (33 USC 1251 *et seq.*) and the General Pretreatment Regulations (40 CFR 403). The objectives of this chapter are:

- (1) To prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operation;
- (2) To prevent the introduction of pollutants into the publicly owned treatment works that will pass through the publicly owned treatment works, inadequately treated, into receiving waters or otherwise be incompatible with the publicly owned treatment works;
- (3) To protect both publicly owned treatment works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- (4) To promote reuse and recycling of industrial wastewater and sludge from the publicly owned treatment works;
- (5) To provide for fees for the equitable distribution of the costs of operation, maintenance and improvement of the publicly owned treatment works; and
- (6) To enable the town to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements and any other federal or state laws to which the publicly owned treatment works is subject.

(B) This chapter shall apply to all direct and indirect users of the publicly owned treatment works, including persons outside the town who are, by contract or agreement with the town, users of the publicly owned treatment works. This chapter authorizes the issuance of wastewater discharge permits;

provides for monitoring, compliance and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein and for fines and other remedies for violation of this chapter.

(Ord. 2000-11B, passed 11-28-00)

§ 52.002 ADMINISTRATION.

(A) Except as otherwise provided herein, the Superintendent shall administer, implement and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the Superintendent may be delegated by the Superintendent to other town personnel.

(B) The town will maintain sufficient resources and qualified personnel to carry out the hybrid pretreatment program in accordance with 327 I.A.C. 5-13-4(f)(c).

(C) If any provision of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

(Ord. 2000-11B, passed 11-28-00)

§ 52.003 ABBREVIATIONS.

The following abbreviations, when used in this chapter, shall have the designated meanings:

AAS	-	Alkyl Aerial Sulfonate
ABS	-	Alkyl Benzene Sulfonate
BOD ₅	-	Biochemical Oxygen Demand - Five Day
CFR	-	Code of Federal Regulations
COD ₅	-	Chemical Oxygen Demand - Five Day
EPA	-	U.S. Environmental Protection Agency - Washington D.C.
EPA Region V	-	U.S. Environmental Protection Agency, Region V - Chicago, Illinois
FOG	-	Fats, Oil and Grease
gpd	-	gallons per day
I.A.C.	-	Indiana Administrative Code
I.C.	-	Indiana Code
I/I	-	Inflow and Infiltration (Clear Water Flow)
IDEM	-	Indiana Department of Environmental Management
IWP	-	Industrial Wastewater Discharge Permit
MGD	-	Million Gallons per Day
mg/l	-	milligrams per liter
MSDS	-	Material Safety Data Sheet
NPDES	-	National Pollutant Discharge Elimination System
O & G	-	Oil and Grease
POTW	-	Publicly Owned Treatment Works

PUWWS	-	IDEM's Pretreatment and Urban Wet Weather Section
RCRA	-	Resource Conservation and Recovery Act
SIC	-	Standard Industrial Classification
SNC	-	Significant Noncompliance
SIU	-	Significant Industrial User
TSS	-	Total Suspended Solids
USC	-	United States Code
WDP	-	Wastewater Discharge Permit

(Ord. 2000-11B, passed 11-28-00)

§ 52.004 DEFINITIONS.

For the purpose of this chapter, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

ACT or **THE ACT**. The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 USC 1251 *et seq.*

APPLICABLE PRETREATMENT STANDARD. Any pretreatment limit or prohibitive standard (federal, state or local) contained in this chapter and considered to be the most restrictive with which nondomestic users will be required to comply.

APPROVAL AUTHORITY. The Regional Administrator of EPA Region V. IDEM will automatically be designated as the Approval Authority if its pretreatment program is approved by the EPA and EPA delegates its pretreatment program authority to IDEM.

AUTHORIZED REPRESENTATIVE OF THE USER.

(1) If the user is a corporation:

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

(b) The manager of one or more manufacturing, production or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding 25 million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

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

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

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

BIOCHEMICAL OXYGEN DEMAND or **BOD₅**. The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20°C, usually expressed as a concentration (for example, mg/l).

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

CATEGORICAL PRETREATMENT STANDARD or **CATEGORICAL STANDARD**. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307(b) and (c) of the Act (33 USC 1317) which apply to a specific category of users and which appear in 40 CFR Chapter 1, Subchapter N, Parts 405-471.

CLEAR WATER FLOW. Groundwater or precipitation related water which enters the sanitary sewer collection system through pipe defects (infiltration) or conduits (inflow).

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

COMBINED SEWER. Sewer which carries both sanitary and stormwater flow by design.

COOLING WATER. The water discharged from any use such as air conditioning, cooling or refrigeration or to which the only pollutant added is heat.

COUNCIL. The Town Council of Fortville, Indiana, or any duly authorized official acting on its behalf.

DAILY DISCHARGE. Discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar day for sampling purposes.

ENVIRONMENTAL PROTECTION AGENCY or **EPA**. The U.S. Environmental Protection Agency or, where appropriate, the Region V Water Management Division Director or other duly authorized official of the agency.

EXISTING SOURCE. Any source of discharge, the construction or operation of which commenced prior to the publication by the EPA of proposed categorical pretreatment standards, which will be

applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

FATS, OILS AND GREASE. A group of substances, including hydrocarbons, fatty acids, soaps, fats, waxes, oils or any other material that is extracted by a solvent from an acidified sample and that is not volatilized during the laboratory test procedures.

FLOW PROPORTIONAL SAMPLING or **TIME PROPORTIONAL SAMPLING.** A 24-hour composite sample that consists of at least three grab samples collected over equal time intervals during the period of operator attendance. The grab samples for the composite shall be proportioned to flow. If a user does not utilize an automatic sampler, a flow proportioned composite sample may be obtained by:

- (1) Recording the discharge flow rate at the time each individual sample is taken;
- (2) Adding together the discharge flow rates recorded from each individual sampling time to formulate the “total flow value;”
- (3) Dividing the discharge flow rate of each individual sampling time by the total flow value to determine its percentage of the total flow value;
- (4) Multiplying the volume of the total composite sample by each individual sample’s percentage to determine the volume of that individual sample that will be included in the total composite sample.

GRAB SAMPLE. A sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed 15 minutes.

HAZARDOUS WASTE. Any waste defined as a hazardous waste under 40 CFR 261.

INDIRECT DISCHARGE or **DISCHARGE.** The introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), (c) or (d) of the Act.

INDUSTRIAL USER. Any person who introduces or has the potential to introduce pollutants into a POTW from any manufacturing, noncommercial or nondomestic source regulated under the Act, state law or local regulation.

INSTANTANEOUS MAXIMUM ALLOWABLE DISCHARGE LIMIT. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

INTERFERENCE. A discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the town’s NPDES permit 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 any more stringent state or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II, commonly referred to as the Resource Conservation and Recovery Act (RCRA); any state regulations contained in any state sludge management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

MAXIMUM DAILY DISCHARGE LIMITATIONS. Highest allowable daily discharge.

MEDICAL WASTE. Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes and dialysis wastes.

NEW SOURCE.

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

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

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

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

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

(3) Construction of a new source as defined under this subsection 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 buildings, structures or facilities which are 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 subsection.

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

PASS THROUGH. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the town's NPDES permit (IN0020958), including an increase in the magnitude or duration of a violation.

PERSON. Any individual, partnership, copartnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity or their legal representatives, agents or assigns. This definition includes all federal, state and local governmental entities.

pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.

POLLUTANT. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes and certain characteristics of wastewater (for example, pH, temperature, TSS, turbidity, color, BOD₅, COD₅, toxicity and odor).

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

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

PRETREATMENT STANDARD OR STANDARDS. Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards and local limits.

PROHIBITED DISCHARGE STANDARDS or **PROHIBITED DISCHARGES.** Absolute prohibitions against the discharge of certain substances; these prohibitions appear in § 52.020.

PUBLICLY OWNED TREATMENT WORKS or POTW. A treatment works, as defined by Section 212 of the Act (33 USC 1292) which is owned by the town. This definition includes any devices or systems used in the collection, storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

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

SEWAGE. Human excrement and gray water (household showers, dishwashing operations and the like).

SIGNIFICANT INDUSTRIAL/COMMERCIAL USER (SIU).

(1) A user subject to categorical pretreatment standards; or

(2) A user that:

(a) Discharges an average of 25,000 gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater);

(b) Contributes a process wastestream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(c) Is designated as such by the town on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.

(3) Upon a finding that a user meeting the criteria in subsection (2) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the town may, at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

SIGNIFICANT NONCOMPLIANCE (SNC). For compliance provisions of this chapter, this term is defined as follows:

(1) Violations of wastewater discharge limits:

(a) *Chronic violations.* 66% or more of the measurements exceed the same daily maximum limit or the same average limit in a six month period;

(b) *Technical review criteria (TRC).* 33% or more of the measurements exceed the same daily maximum limit or the same average limit by more than the TRC in a six month period. There are two groups of TRCs:

1. Group I for conventional pollutants
(BOD₅, COD, TSS, fats, oil and grease) TRC = 1.4 (40%);
2. Group II for all other pollutants TRC = 1.2 (20%);

(c) Any other violation(s) of an effluent limit (average or daily maximum) that the Superintendent believes has caused, alone or in combination with other discharges, interference (for example, slug loads) or pass through or endangered the health of the sewage treatment personnel or the public;

(d) Any discharge of a pollutant which has caused imminent endangerment to human health/welfare or to the environment and resulted in the POTW's exercise of its emergency authority to halt or prevent such a discharge.

(2) Violation of compliance schedule milestones, contained in a local control mechanism or enforcement order, for starting construction, completing construction or attaining final compliance by 90 days or more after the schedule date.

(3) Failure to provide reports for compliance schedules, self-monitoring data or categorical standards (baseline monitoring reports, 90-day compliance reports and periodic reports) within 30 days from due date.

(4) Failure to accurately report noncompliance.

(5) Any other violation or group of violations which the Superintendent considers to be significant.

SLUDGE. Any solid, semi-solid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility or any other waste having similar characteristics and effects.

SLUG DISCHARGE or SLUG LOAD. Any discharge of a nonroutine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge that may cause interference to a POTW or any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in § 52.020.

STANDARD INDUSTRIAL CLASSIFICATION (SIC) CODE. A classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

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

SUPERINTENDENT. The person designated by the Town of Fortville who is charged with certain duties and responsibilities by this chapter or a duly authorized representative.

SUSPENDED SOLIDS. The total suspended matter that floats on the surface of or is suspended in water, wastewater or other liquid and which is removable by laboratory filtering.

TOWN. The Town of Fortville, Indiana, acting by and through its Town Council.

USER or INDUSTRIAL USER. A source of indirect discharge.

WASTEWATER. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities and institutions, whether treated or untreated, which are contributed to the POTW.

WASTEWATER CONSTITUENTS AND CHARACTERISTICS. The individual chemical, physical, bacteriological and radiological parameters, including volume, flow rate and other parameters that serve to define, classify or measure the contents, quality, quantity and strength of wastewater.

WASTEWATER DISCHARGE PERMIT. A permit issued by the town to a user of the wastewater utility which establishes specific conditions and requirements.

WASTEWATER TREATMENT PLANT or TREATMENT PLANT. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.
(Ord. 2000-11B, passed 11-28-00)

§ 52.005 CONFIDENTIAL INFORMATION.

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits and monitoring programs and from the Superintendent's inspection and sampling activities shall be available to the public without restriction, unless the user specifically requests and is able to demonstrate to the satisfaction of the Superintendent that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.
(Ord. 2000-11B, passed 11-28-00)

§ 52.006 PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE.

The Superintendent shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements.
(Ord. 2000-11B, passed 11-28-00)

§ 52.007 PRETREATMENT CHARGES AND FEES.

The Superintendent and the Council may adopt reasonable fees for reimbursement of costs of setting up and operating the town's pretreatment program which may include:

(A) Fees for wastewater discharge permit applications, including the cost of processing such applications;

(B) Fees for the issuance of permits;

(C) Fees for monitoring, inspection and surveillance procedures, including the cost of collection of and analyzing a user's discharge, the collection and analyzing samples, reviewing monitoring reports submitted by users and conducting site visits;

(D) Fees for reviewing and responding to accidental discharge procedures and construction;

(E) Fees for filing appeals; and

(F) Other fees as the Superintendent or Council may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this chapter and are separate from all other fees, fines and penalties chargeable by the town.
(Ord. 2000-11B, passed 11-28-00)

GENERAL SEWER USE REQUIREMENTS**§ 52.020 PROHIBITED DISCHARGE STANDARDS.**

(A) *General prohibitions.* No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW, whether or not they are subject to categorical pretreatment standards or any other national, state or local pretreatment standards or requirements.

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

Fortville - Public Works

(1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;

(2) Wastewater having a pH less than 6.0 or more than 9.0, or otherwise causing corrosive structural damage to the POTW or equipment;

(3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference, but in no case solids greater than 200 mg/l daily average. TSS levels in excess of 200 mg/l daily average may be subject to a surcharge per § 52.021. TSS levels in excess of 200 mg/l daily average shall result in the imposition of a fine per § 52.130;

(4) Pollutants, including oxygen-demanding pollutants (BOD and the like), released in a discharge at a flow rate and/or pollutant concentration that, either singly or by interaction with other pollutants, will cause interference with the POTW. BOD levels in excess of 200 mg/l daily average may be subject to a surcharge per § 52.021. BOD levels in excess of 400 mg/l daily average shall result in the imposition of a fine per § 52.130;

(5) Wastewater having a temperature greater than 140°F (60°C) or that will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C);

(6) Ammonia levels in excess of 20 mg/l daily average may be subject to a surcharge per § 52.021. Ammonia levels in excess of 30 mg/l daily average may result in the imposition of a fine per § 52.130;

(7) Fat, oil and grease levels in excess of 100 mg/l daily average may be subject to a surcharge per § 52.021. Fat, oil and grease levels in excess of 200 mg/l daily average may result in the imposition of a fine per § 52.130;

(8) Petroleum oil, nonbiodegradable cutting oil or products of mineral oil origin in amounts that will cause interference or pass through;

(9) Pollutants which result in the presence of toxic gases, vapors or fumes within the POTW sewers, including in a quantity that may cause acute worker health and safety problems;

(10) Trucked or hauled pollutants, except at discharge points designated by the Superintendent in accordance with § 52.038;

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

(12) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the town's NPDES permit (No. IN0020958);

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

(14) Stormwater, surface water, groundwater, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water and unpolluted wastewater, unless specifically authorized by the Superintendent;

(15) Sludges, screenings or other residues from the pretreatment of industrial wastes;

(16) Medical wastes, except as specifically authorized by the Superintendent in a wastewater discharge permit;

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

(18) Detergents, surface-active agents or other substances which may cause excessive foaming in the POTW, including AAS and AES; and

(19) Instantaneous flows and loadings which are in excess of the POTW's functional and treatment capacities or are likely to cause overflow conditions.

(20) Pollutants, substances or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to the POTW.
(Ord. 2000-11B, passed 11-28-00)

§ 52.021 ABNORMAL WASTE SURCHARGE.

(A) The costs of treatment for each pound of BOD, suspended solids or grease removed by each treatment works shall be reviewed by the town at the end of each fiscal year. If a discrepancy exists between the actual costs as found by the town and the estimated costs, the town shall increase or decrease the surcharge rates sufficiently to cover only the projected actual costs for the ensuing year. The surcharge rates are contained in the town's separate rate ordinances.

(B) No reduction in sewerage service charges, fees or taxes will be permitted because of the fact that certain industrial wastes discharged to the public sanitary sewerage system contain less than the surcharge based limitations.
(Ord. 2000-11B, passed 11-28-00)

§ 52.022 NATIONAL CATEGORICAL PRETREATMENT STANDARDS.

The categorical pretreatment standards found at 40 CFR Chapter 1, Subchapter N, Parts 405-471 are hereby incorporated.

(A) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Superintendent may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).

(B) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Superintendent shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

(C) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.

(D) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

(Ord. 2000-11B, passed 11-28-00)

§ 52.023 LOCAL LIMITS.

(A) The following pollutant limitations are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following daily maximum concentrations based upon a flow proportional sampling or time proportional sampling. Additionally, no person shall discharge wastewater containing in excess of the following maximum concentrations times a multiplier of 1.5 based upon a grab sample. The 1.5 grab sample multiplier does not apply to Hex. Chromium, Cyanide and Phenols in that analytical procedures do not allow for composite techniques to be applied to these parameters. For Hex. Chromium, Cyanide and Phenols, three grab sample results shall be analyzed with results not to exceed the following noted limitations:

- | | |
|----------------|--------------------|
| (1) 30 mg/l: | Ammonia; |
| (2) 0.04 mg/l: | Arsenic (total); |
| (3) 200 mg/l: | BOD ₅ ; |
| (4) 0.20 mg/l: | Cadmium (total); |
| (5) 900 mg/l: | COD ₅ ; |
| (6) 4.0 mg/l: | Total Chromium; |

- (7) 0.6 mg/l: Copper;
- (8) 0.025 mg/l: Cyanide (total);
- (9) 0.113 mg/l: Lead (total);
- (10) 0.0002 mg/l: Mercury (total);
- (11) 0.3 mg/l: Nickel;
- (12) 200 mg/l: Fats, Oils & Grease;
- (13) 0.5 mg/l: Silver;
- (14) 200 mg/l: TSS (Total Suspended Solids);
- (15) 2.0 mg/l: TTO (Total Toxic Organics);
- (16) 2.0 mg/l: Zinc (total);

(B) The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise. The Superintendent may impose mass limitations in addition to, or in place of, the concentration-based limitations above.

(C) Upon the promulgation of the National Categorical Pretreatment Standard (NCPS) for a particular user, the said standard, if more stringent than the limitations imposed under this chapter for sources in that category, shall, when effective, immediately supersede the limitations and conditions imposed under this chapter. The Superintendent shall notify all known affected users of the applicable permitting and reporting requirements under 40 CFR 403.12.
(Ord. 2000-11B, passed 11-28-00)

§ 52.024 TOWN'S RIGHT OF REVISION AND MODIFICATIONS.

(A) The town reserves the right to establish, by ordinance or in wastewater discharge permits, different or more stringent standards or requirements on discharges to the POTW.

(B) Any significant modifications the town intends to make will be submitted to PUWWS for approval in accordance with 327 I.A.C. 5-13-4(g) prior to being enacted. Significant modifications include the following:

- (1) A major modification in the town's administrative procedures;
- (2) A significant reduction in the monitoring procedures;

- (3) A significant change in the financial or revenue limitations contained in this chapter;
- (4) A change in the industrial survey;
- (5) A change in federal or state regulations or requirements;
- (6) An increase in pollutant limits.

(Ord. 2000-11B, passed 11-28-00)

§ 52.025 DILUTION.

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Superintendent may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate.

(Ord. 2000-11B, passed 11-28-00)

PRETREATMENT OF WASTEWATER

§ 52.035 PRETREATMENT FACILITIES.

Users shall provide wastewater treatment as necessary to comply with this chapter and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set out in § 52.021 within the time limitations specified by EPA, the state or the Superintendent, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Superintendent for review and shall be acceptable to the Superintendent before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the town under the provisions of this chapter.

(Ord. 2000-11B, passed 11-28-00)

§ 52.036 ADDITIONAL PRETREATMENT MEASURES.

(A) Whenever deemed necessary, the Superintendent may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial

wastestreams and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this chapter.

(B) The Superintendent may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

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

(D) Grease, oil and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil or sand, except that such interceptors shall not be required for residential use. All interception units shall be of the type and capacity approved by the Superintendent and shall be located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned and repaired regularly, as needed, by the user at their expense.

(E) Users which operate vehicular wash facilities shall provide, operate and maintain pretreatment facilities approved by the Superintendent to control solids and preclude the discharge of toxics to the POTW.

(F) Users which operate food preparation facilities shall provide, operate and maintain pretreatment facilities approved by the Superintendent to control the discharge of greases, fats, oils and food solids to the POTW.

(Ord. 2000-11B, passed 11-28-00)

§ 52.037 ACCIDENTAL DISCHARGE/SLUG CONTROL PLANS.

(A) At least once every two years, the Superintendent shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The Superintendent may require any user to develop, submit for approval and implement such a plan. Alternatively, the Superintendent may develop such a plan for any user and require the user to comply with the plan.

(B) An accidental discharge/slug control plan shall address, at a minimum, the following:

(1) Description of discharge practices, including nonroutine batch discharges;

(2) Description of stored chemicals;

(3) Procedures for immediately notifying the Superintendent of any accidental or slug discharge, as required by § 52.090; and

(4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment and measures for containing toxic organic pollutants, including solvents and/or measures and equipment for emergency response.
(Ord. 2000-11B, passed 11-28-00)

§ 52.038 HAULED WASTEWATER.

(A) Wastewater haulers are prohibited except under the express and specific written permission of the Superintendent.

(B) Industrial or septic waste haulers who receive the express and specific written permission of the Superintendent to introduce industrial or septic waste into the POTW must comply with the following conditions:

(1) Industrial or septic waste haulers may discharge loads only at locations designated by the Superintendent. No load may be discharged without prior consent of the Superintendent. The Superintendent may collect samples of each hauled load to ensure compliance with applicable standards. The Superintendent may require the industrial waste hauler to provide a waste analysis of any load prior to discharge;

(2) Industrial or septic waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents and whether any wastes are RCRA hazardous wastes.
(Ord. 2000-11B, passed 11-28-00)

WASTEWATER DISCHARGE PERMIT APPLICATION

§ 52.050 WASTEWATER ANALYSIS.

When requested by the Superintendent, a user must submit information on the nature and characteristics of its wastewater within 14 days of the request. The Superintendent is authorized to prepare a form for this purpose and may periodically require users to update this information.
(Ord. 2000-11B, passed 11-28-00)

§ 52.051 WASTEWATER DISCHARGE PERMIT REQUIREMENT.

(A) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Superintendent, except that a significant industrial user that has filed a timely application pursuant to § 52.052 may continue to discharge for the time period specified therein.

(B) The Superintendent may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this chapter.

(C) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this chapter and subjects the wastewater discharge permittee to the sanctions set out in §§ 52.125 *et seq.* Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards or requirements or with any other requirements of federal, state and local law.

(Ord. 2000-11B, passed 11-28-00)

§ 52.052 WASTEWATER DISCHARGE PERMITTING.

(A) *Existing connections.* Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this chapter and who wishes to continue such discharges in the future shall, within 30 days after said date, apply to the Superintendent for a wastewater discharge permit in accordance with § 52.053 and shall not cause or allow discharges to the POTW to continue after 30 days of the effective date of this chapter except in accordance with a wastewater discharge permit issued by the Superintendent.

(B) *New connections.* Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with § 52.053, must be filed at least 30 days prior to the date upon which any discharge will begin or recommence.

(Ord. 2000-11B, passed 11-28-00)

§ 52.053 WASTEWATER DISCHARGE PERMIT APPLICATION CONTENTS.

(A) All users required to obtain a wastewater discharge permit must submit a permit application. The Superintendent may require all users to submit as part of an application the following information:

(1) All information required by § 52.085(B);

(2) Description of activities, facilities and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or

intentionally be, discharged to the POTW and MSDS sheets for all chemicals used which are subject to potential discharge;

(3) Number and type of employees, hours of operation and proposed or actual hours of operation;

(4) Each product produced by type, amount, process or processes and rate of production;

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

(6) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, floor drains and appurtenances by size, location and elevation and all points of discharge;

(7) Time and duration of discharges; and

(8) Any other information as may be deemed necessary by the Superintendent to evaluate the wastewater discharge permit application.

(B) Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

(Ord. 2000-11B, passed 11-28-00)

§ 52.054 APPLICATION SIGNATORIES AND CERTIFICATION.

All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

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

(Ord. 2000-11B, passed 11-28-00)

§ 52.055 WASTEWATER DISCHARGE PERMIT DECISIONS.

The Superintendent will evaluate the data furnished by the user and may require additional information. Any new SIU industry proposing to discharge process wastewater must acquire an IWP before it can commence discharging into the POTW. Within 15 days of receipt of a complete wastewater

discharge permit application, the Superintendent will determine whether or not to issue a wastewater discharge permit. The Superintendent may deny any application for a wastewater discharge permit. (Ord. 2000-11B, passed 11-28-00)

WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS

§ 52.065 PERMIT DURATION.

A wastewater discharge permit shall be issued for a specified time period, not to exceed five years from the effective date of the permit, unless administratively extended by the Superintendent in writing. A wastewater discharge permit may be issued for a period less than five years, at the discretion of the Superintendent. Each wastewater discharge permit will indicate a specific date upon which it will expire. (Ord. 2000-11B, passed 11-28-00)

§ 52.066 PERMIT CONTENTS.

(A) A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Superintendent to prevent pass through or interference, protect the quality of the waterbody receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, protect against damage to the POTW and ensure the town is in compliance with its NPDES permit.

(B) Wastewater discharge permits must contain:

(1) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five years;

(2) A statement that the wastewater discharge permit is nontransferable without prior notification to and approval of the Superintendent in accordance with § 52.069 and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

(3) Effluent limits based on applicable pretreatment standards and as identified in § 52.023;

(4) Self monitoring, sampling, reporting, notification and recordkeeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency and sample type based on federal, state and local law; and

(5) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable federal, state or local law.

(C) Wastewater discharge permits may contain, but need not be limited to, the following conditions:

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

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

(3) Requirements for the development and implementation of spill control plans or other special conditions, including management practices necessary to adequately prevent accidental, unanticipated or nonroutine discharges;

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

(5) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;

(6) Requirements for the installation and maintenance of inspection and sampling facilities and equipment;

(7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable federal and state pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and

(8) Other conditions as deemed appropriate by the Superintendent to ensure compliance with this chapter and state and federal laws, rules and regulations.
(Ord. 2000-11B, passed 11-28-00)

§ 52.067 PERMIT APPEALS.

(A) The Superintendent shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the user, may petition the Superintendent to reconsider the terms of a wastewater discharge permit within 15 days of notice of its issuance.

(1) Failure to submit a timely petition for reconsideration shall be deemed to be a waiver of the administrative appeal.

(2) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for each objection and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

(B) The effectiveness of the wastewater discharge permit shall not be stayed pending the request for reconsideration.

(C) If the Superintendent fails to act within 30 days of the mailing of the request for reconsideration, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

(D) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the Hancock County Circuit Court within 30 days of the final administrative wastewater discharge permit decision.

(Ord. 2000-11B, passed 11-28-00)

§ 52.068 PERMIT MODIFICATION.

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

(A) To incorporate any new or revised federal, state or local pretreatment standards or requirements;

(B) To address significant alterations or additions to the user's operation, processes or wastewater volume or character since the time of wastewater discharge permit issuance;

(C) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

(D) Information indicating that the permitted discharge poses a threat to the town's POTW, town personnel or the receiving waters;

(E) Violation of any terms or conditions of the wastewater discharge permit;

(F) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;

(G) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;

(H) To correct typographical or other errors in the wastewater discharge permit; or

(I) To reflect a transfer of the facility ownership or operation to a new owner or operator.
(Ord. 2000-11B, passed 11-28-00)

§ 52.069 PERMIT TRANSFER.

(A) Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least 30 days advance notice to the Superintendent and the Superintendent approves the wastewater discharge permit transfer. The notice to the Superintendent must include a written certification by the new owner or operator which:

(1) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;

(2) Identifies the specific date on which the transfer is to occur; and

(3) Acknowledges full responsibility for complying with the existing wastewater discharge permit.

(B) Failure to provide 30 days advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

(Ord. 2000-11B, passed 11-28-00)

§ 52.070 PERMIT REVOCATION.

(A) The Superintendent may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

(1) Failure to notify the Superintendent of significant changes to the wastewater prior to the changed discharge;

(2) Failure to provide prior notification to the Superintendent of changed conditions pursuant to § 52.089;

(3) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

(4) Falsifying self-monitoring reports;

(5) Tampering with monitoring equipment;

(6) Refusing to allow the Superintendent or his or her agent timely access to the facility premises and records as would be reasonable under the circumstances;

(7) Failure to meet effluent limitations;

(8) Failure to pay fines;

(9) Failure to pay sewer charges;

(10) Failure to meet compliance schedules;

(11) Failure to complete a wastewater survey or the wastewater discharge permit application;

(12) Failure to provide 30 days advance notice of the transfer of business ownership of a permitted facility; or

(13) Violation of any pretreatment standard or requirement or any terms of the wastewater discharge permit or this chapter.

(B) Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

(Ord. 2000-11B, passed 11-28-00)

§ 52.071 PERMIT REISSUANCE.

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with § 52.053, a minimum of 180 days prior to the expiration of the user's existing wastewater discharge permit.

(Ord. 2000-11B, passed 11-28-00)

§ 52.072 REGULATION OF WASTE RECEIVED FROM OTHER JURISDICTIONS.

(A) If another municipality or sewer district contributes wastewater to the POTW, the Superintendent shall enter into an intermunicipal or interdistrict agreement with the contributing entity.

(B) Prior to entering into an agreement required by division (A) of this section, the Superintendent shall request the following information from the contributing entity:

(1) A description of the quality and volume of wastewater discharged to the POTW by the contributing entity;

(2) An inventory of all users located within the contributing entity that are discharging to the POTW; and

(3) Such other information as the Superintendent may deem necessary.

(C) An intermunicipal agreement, as required by division (A) of this section, shall contain the following conditions:

(1) A requirement for the contributing entity to adopt a sewer use ordinance which is at least as stringent as this chapter and local limits which are at least as stringent as those set out in § 52.023. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the town's ordinance or local limits;

(2) A requirement for the contributing entity to submit a revised user inventory on at least an annual basis;

(3) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Superintendent; and which of these activities will be conducted jointly by the contributing municipality and the Superintendent;

(4) A requirement for the contributing entity to provide the Superintendent with access to all information that the contributing entity obtains as part of its pretreatment activities;

(5) Limits on the nature, quality and volume of the contributing entity's wastewater at the point where it discharges to the POTW;

(6) Requirements for monitoring the contributing entity's discharge;

(7) A provision ensuring the Superintendent access to the facilities of users located within the contributing entity's jurisdictional boundaries for the purpose of inspection, sampling and any other duties deemed necessary by the Superintendent; and

(8) A provision specifying remedies available for breach of the terms of the intermunicipal or interdistrict agreement.

(Ord. 2000-11B, passed 11-28-00)

REPORTING REQUIREMENTS

§ 52.085 BASELINE MONITORING REPORTS.

(A) Within either 180 days after the effective date of a categorical pretreatment standard or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Superintendent a report which contains the information listed in division (B). At least 90 days prior to commencement of their discharge, new sources and sources that become categorical users subsequent to the promulgation of an applicable categorical standard shall submit to the Superintendent a report which contains the information listed in division (B) of this section. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

(B) Users described above shall submit the information set forth below:

(1) *Identifying information.* The name and address of the facility, including the name of the operator and the owner.

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

(3) *Description of operations.* A brief description of the nature, average rate of production and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

(4) *Flow measurement.* Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).

(5) *Measurement of pollutants.*

(a) The categorical pretreatment standards applicable to each regulated process.

(b) The results of sampling and analysis identifying the nature and concentration and/or mass, where required by the standard or by the Superintendent, of regulated pollutants in the discharge from each 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 analyzed in accordance with procedures set out in § 52.094.

(c) Sampling must be performed in accordance with procedures set out in § 52.095.

(d) MSDS sheets for all chemicals used which are subject to potential discharge.

(6) *Certification.* A statement, reviewed by the user's authorized representative 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 (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(7) *Compliance schedule.* If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 52.086.

(8) *Signature and certification.* All baseline monitoring reports must be signed and certified in accordance with § 52.054.

(Ord. 2000-11B, passed 11-28-00)

§ 52.086 COMPLIANCE SCHEDULE PROGRESS REPORTS.

The following conditions shall apply to the compliance schedule required by § 52.085(B)(7):

(A) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, project status reports, beginning operation and attaining compliance);

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

(C) The user shall submit a progress report to the Superintendent no later than 14 days following each date in the schedule and the final date of compliance which shall include, at 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; and

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

(Ord. 2000-11B, passed 11-28-00)

§ 52.087 REPORTS ON COMPLIANCE WITH CATEGORICAL PRETREATMENT STANDARD DEADLINE.

Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Superintendent a report containing the information described in § 52.085(B)(4)-(6). 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 user's 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 § 52.054.

(Ord. 2000-11B, passed 11-28-00)

§ 52.088 PERIODIC COMPLIANCE REPORTS.

(A) All significant industrial users shall, at a frequency determined by the Superintendent but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the

measured or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with § 52.054.

(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 sample results are unrepresentative of its discharge.

(C) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Superintendent, using the procedures prescribed in § 52.095, the results of this monitoring shall be included in the report.

(Ord. 2000-11B, passed 11-28-00)

§ 52.089 REPORTS OF CHANGED CONDITIONS.

Each user must notify the Superintendent of any planned significant changes to the user's operations or system which might alter the nature, quality or volume of its wastewater at least 30 days before the change.

(A) The Superintendent may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 52.053.

(B) The Superintendent may issue a wastewater discharge permit under § 52.055 or modify an existing wastewater discharge permit under § 52.068 in response to changed conditions or anticipated changed conditions.

(C) For purposes of this requirement, significant changes include, but are not limited to, flow increases of 10% or greater and the discharge of any previously unreported pollutants.

(Ord. 2000-11B, passed 11-28-00)

§ 52.090 REPORTS OF POTENTIAL PROBLEMS; POTW REPORTS TO IDEM; INVESTIGATIONS.

(A) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the Superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

(B) Within five days following such discharge, the user shall, unless waived in writing by the Superintendent, submit a detailed written report describing the cause(s) 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 expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, natural resources or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties or other liability which may be imposed pursuant to this chapter.

(C) 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 division (A) of this section. Employers shall ensure that all employees who may cause such a discharge to occur are advised of the emergency notification procedure.

(D) The Superintendent will document and notify IDEM, Office of Water Management's Compliance Evaluation, of any major violations of any discharge permit.

(E) The Superintendent will investigate violations through the collection and analysis of samples and other information in a manner designed to produce evidence that will be admissible in an enforcement proceeding or judicial action.

(Ord. 2000-11B, passed 11-28-00)

§ 52.091 REPORTS FROM UNPERMITTED USERS.

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Superintendent as the Superintendent may require.

(Ord. 2000-11B, passed 11-28-00)

§ 52.092 NOTICE OF VIOLATION; REPEAT SAMPLING AND REPORTING.

If sampling performed by a user indicates a violation of this chapter, a wastewater discharge permit, federal, state or local law, the user must notify the Superintendent within two 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 Superintendent within 30 days after becoming aware of the violation. The user is not required to resample if the Superintendent monitors at the user's facility at least once a month or if the Superintendent samples between the user's initial sampling and when the user receives the results of this sampling.

(Ord. 2000-11B, passed 11-28-00)

§ 52.093 NOTIFICATION OF THE DISCHARGE OF HAZARDOUS WASTE.

(A) Any user who commences the discharge of hazardous waste shall notify the Superintendent, the EPA Region V Waste Management Division Director and the IDEM Office of Solid and Hazardous Waste, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR 261, the EPA hazardous waste number and the type of discharge (continuous, batch or other). If the user discharges more than 100 kilograms of such waste per calendar

month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this division need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under § 52.089. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of §§ 52.085, 52.087 and 52.088.

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

(C) In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the user must notify the Superintendent, the EPA Region V Waste Management Division Director and IDEM of the discharge of such substance within 90 days of the effective date of such regulations.

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

(E) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued thereunder or any applicable federal or state law.
(Ord. 2000-11B, passed 11-28-00)

§ 52.094 ANALYTICAL REQUIREMENTS.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.
(Ord. 2000-11B, passed 11-28-00)

§ 52.095 SAMPLE COLLECTION.

(A) Except as indicated in division (B) of this section, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the Superintendent may authorize the use of time, proportional sampling or a minimum of three grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

(B) Samples for O&G, temperature, pH, cyanide, phenols, sulfides and volatile organic compounds must be obtained using grab collection techniques.
(Ord. 2000-11B, passed 11-28-00)

§ 52.096 TIMING.

Written reports will be deemed to have been submitted on the date postmarked. For reports which are not deposited, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.
(Ord. 2000-11B, passed 11-28-00)

§ 52.097 RECORDKEEPING.

(A) Users subject to the reporting requirements of this chapter shall retain and make available for inspection and copying all records of information obtained pursuant to any monitoring activities required by this chapter and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method and time of sampling and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the town or where the user has been specifically notified of a longer retention period by the Superintendent.

(B) The town will retain pretreatment reports from industrial users for a minimum of three years. These records will be available for IDEM or EPA to copy in accordance with 327 I.A.C. 5-11-7(d). This period will be extended during the course of any unresolved litigation, including appeals periods, regarding the discharge of pollutants by the industrial user or the operation of the hybrid pretreatment program or upon the request of IDEM or EPA.
(Ord. 2000-11B, passed 11-28-00)

COMPLIANCE MONITORING**§ 52.110 INDUSTRIAL MONITORING.**

(A) The town will inspect, sample and analyze industrial discharges in the following manner:

(1) The sample types will be the same type as required in the IWP issued by the controlling legal authority;

(2) The samples will be collected at the sample location specified in the IWP issued by the controlling legal authority;

(3) A sampling and inspection program shall be inspected for, at a minimum, all IWP facilities. IWP facilities will be inspected at least annually;

(4) Samples will be collected at least quarterly;

(5) The analytical results of the samples will be submitted to the town and IDEM PUWWS by the twenty-eighth day of the month following the month in which the samples were taken;

(6) The town will keep a record of each industrial inspection it performs. A copy of each inspection report will be sent to the PUWWS within 15 days of its completion.

(B) The town will immediately sample and analyze the POTW influent and effluent for suspected pollutant(s) when the POTW operation is upset. The town will immediately contact PUWWS and the Compliance Evaluation Section by telephone at the time of the occurrence. The results of each analysis conducted as a result of an upset will be submitted to PUWWS.
(Ord. 2000-11B, passed 11-28-00)

§ 52.111 INDUSTRIAL SURVEY.

(A) The Superintendent will maintain an industrial survey that contains information about each industrial user that discharges into the POTW.

(B) Information concerning any industrial user commencing or ceasing discharge shall be updated on the industrial survey immediately. The Superintendent will notify the PUWWS of any new industrial user commencing discharge into the POTW within five days.
(Ord. 2000-11B, passed 11-28-00)

§ 52.112 RIGHT OF ENTRY; INSPECTION AND SAMPLING.

The Superintendent shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this chapter and any wastewater discharge permit or order issued hereunder. Users shall allow the Superintendent 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, as would be reasonable under the circumstances.

(A) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Superintendent or his or her agent will be permitted to enter without delay for the purposes of performing specific responsibilities.

(B) The Superintendent or his or her agent shall have the right to set up on the user's property or require installation of such devices as are necessary to conduct sampling and/or metering of the user's operations.

(C) The Superintendent 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 its own expense. All devices used to measure wastewater flow and quality shall be calibrated at least annually, and more often if appropriate for the equipment, to ensure their accuracy.

(D) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Superintendent and shall not be replaced. The costs of clearing such access shall be borne by the user.

(E) Unreasonable delays under the circumstances in allowing the Superintendent or his or her agent access to the user's premises shall be a violation of this chapter.
(Ord. 2000-11B, passed 11-28-00)

§ 52.113 SEARCH WARRANTS.

If the Superintendent has been refused access to a building, structure or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the town designed to verify compliance with this chapter or any permit or order issued hereunder or to protect the overall public health, safety and welfare of the community, then the Superintendent may seek issuance of a search warrant from the Hancock County Circuit Court in Greenfield, Indiana.
(Ord. 2000-11B, passed 11-28-00)

ADMINISTRATION AND ENFORCEMENT**§ 52.125 NOTIFICATION OF VIOLATIONS.**

When the Superintendent finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Superintendent may serve upon that user a written notice of violation. Within 30 days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Superintendent. Submission of this plan in no way relieves 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 Superintendent or the Council to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

(Ord. 2000-11B, passed 11-28-00)

§ 52.126 AGREED ORDERS.

The Council may enter into agreed orders, assurances of voluntary compliance or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. The documents shall have the same force and effect as the administrative orders issued pursuant to §§ 52.128 and 52.129 and shall be judicially enforceable.

(Ord. 2000-11B, passed 11-28-00)

§ 52.127 SHOW CAUSE HEARING.

The Superintendent may order a user which has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement to appear before the Council and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least 15 days prior to the hearing. The notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Ord. 2000-11B, passed 11-28-00)

§ 52.128 COMPLIANCE ORDERS.

When the Superintendent finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the Superintendent may issue an order to the user responsible for the discharge directing

that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Ord. 2000-11B, passed 11-28-00)

§ 52.129 CEASE AND DESIST ORDERS.

(A) When the Superintendent finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Superintendent may issue an order to the user directing it to cease and desist all such violations and directing the user to:

(1) Immediately comply with all requirements; and

(2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

(B) Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Ord. 2000-11B, passed 11-28-00)

§ 52.130 ADMINISTRATIVE FINES.

(A) When the Superintendent or the Council finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Superintendent or the Council may fine such user in an amount not to exceed \$2,500 as provided by I.C. 36-1-3-8. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.

(B) When the Superintendent or the Council finds that a user has falsified any information provided to the Superintendent, the town, IDEM or the EPA, the Superintendent or the Council may fine such user in an amount not to exceed \$2,500 as provided by I.C. 36-1-3-8. Such fines shall be assessed on a per violation, per day basis.

(C) Unpaid charges, fines and penalties shall, after 60 calendar days, be assessed an additional penalty of 10% of the unpaid balance, and interest shall accrue thereafter at a rate of 1.8% per month. A lien against the user's property may be sought for unpaid charges, fines and penalties.

(D) Users desiring to dispute such fines must file a written request with the Superintendent and the Council requesting the reconsideration of the fine along with full payment of the fine amount within 30 days of being notified of the fine. Where a request has merit, the Council may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The Superintendent or the Council may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

(E) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

(Ord. 2000-11B, passed 11-28-00)

§ 52.131 EMERGENCY SUSPENSIONS.

(A) The Superintendent may immediately suspend a user's discharge, after formal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge which reasonably appears to present or cause an imminent or substantial endangerment to the health or welfare of persons. The Superintendent may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW or which presents, or may present, an endangerment to the environment.

(1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Superintendent may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream or endangerment to any individuals. The Superintendent may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Superintendent that the period of endangerment has passed, unless the termination proceedings in § 52.132 are initiated against the user.

(2) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence to the Superintendent prior to the date of any show cause or termination hearing under §§ 52.127 and 52.132.

(B) Nothing in this section shall be interpreted as requiring a hearing prior to any emergency suspension under this section.

(Ord. 2000-11B, passed 11-28-00)

§ 52.132 TERMINATION OF DISCHARGE.

(A) In addition to the provisions in § 52.070, any user who violates the following conditions is subject to discharge termination:

- (1) Violation of wastewater discharge permit conditions;
- (2) Failure to accurately report the wastewater constituents and characteristics of its discharge;
- (3) Failure to report significant changes in operations or wastewater volume, constituents and characteristics prior to discharge;
- (4) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring or sampling; or
- (5) Violation of the pretreatment standards in §§ 52.020 *et seq.*

(B) Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under why the proposed action should not be taken. Exercise of this option by the Superintendent shall not be a bar to, or a prerequisite for, taking any other action against the user. (Ord. 2000-11B, passed 11-28-00)

§ 52.133 PERFORMANCE BONDS.

The Superintendent may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this chapter, a previous wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to the town, in a sum not to exceed a value determined by the Superintendent to be necessary to achieve consistent compliance. (Ord. 2000-11B, passed 11-28-00)

§ 52.134 LIABILITY INSURANCE.

The Superintendent may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this chapter, a previous wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge. (Ord. 2000-11B, passed 11-28-00)

§ 52.135 WATER SUPPLY SEVERANCE.

Whenever a user has violated or continues to violate any provision of this chapter, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply with the foregoing.

(Ord. 2000-11B, passed 11-28-00)

§ 52.136 PUBLIC NUISANCES.

A violation of any provision of this chapter, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement is declared a public nuisance and shall be corrected or abated as directed by the Superintendent. Any person(s) creating a public nuisance shall be subject to the provisions of this chapter governing such nuisances, including reimbursing the town for any costs incurred in removing, abating or remedying the nuisance.

(Ord. 2000-11B, passed 11-28-00)

§ 52.137 INFORMANT REWARDS.

The Superintendent may pay up to \$250 for information leading to the discovery of noncompliance by a user. In the event that the information provided results in a civil penalty or an administrative fine levied against the user, the Superintendent may disperse up to 10% of the collected fine or penalty to the informant. However, a single reward payment may not exceed \$250.

(Ord. 2000-11B, passed 11-28-00)

§ 52.138 CONTRACTOR LISTING.

Users which have not achieved compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the town. Existing contracts for the sale of goods or services to the town held by a user found to be in significant noncompliance with pretreatment standards or requirements may be terminated at the discretion of the Council.

(Ord. 2000-11B, passed 11-28-00)

§ 52.139 AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS.

(A) *Upset.*

(1) For the purposes of this section, *UPSET* means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the 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 categorical pretreatment standards if the requirements of subsection (3) below 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 provided the Superintendent with a verbal notification of the upset within two hours of becoming aware of the upset; and

(d) The user submitted the following information to the Superintendent within 24 hours of becoming aware of the upset:

1. A description of the indirect discharge and cause of noncompliance;

2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

3. 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.

(5) Users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

(6) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

(B) *Prohibited discharge standards.* A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in § 52.020(A) or the specific prohibitions in § 52.020(B)(3) through (16) if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

(1) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or

(2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the town was regularly in compliance with its NPDES permit (No. IN0020958), and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

(C) *Bypass.*

(1) For the purpose of this section, the following definitions shall apply unless the context clearly indicates or requires a different meaning.

BYPASS. The intentional diversion of wastestreams from any portion of a user's treatment facility.

SEVERE PROPERTY DAMAGE. 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.

(2) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of subsections (3) and (4) of this section.

(3) (a) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Superintendent at least ten days before the date of the bypass, if possible.

(b) A user shall submit oral notice to the Superintendent of an unanticipated bypass that exceeds applicable pretreatment standards within two hours from the time it becomes aware of the bypass. A written submission also shall be provided to the Superintendent within five days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass. The Superintendent may waive the written report on a case-by-case basis if the oral report has been received within two hours.

(4) (a) Bypass is prohibited, and the Superintendent may take an enforcement action against a user for a bypass, unless:

1. Bypass was unavoidable to prevent loss of life, personal injury or severe property damage;

2. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes or maintenance during normal periods of equipment

downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and

3. The user submitted notices as required under subsection (3) of this section.

(b) The Superintendent may approve an anticipated bypass, after considering its adverse effects, if the Superintendent determines that it will meet the three conditions listed in subsection (4)(a) of this section.

(Ord. 2000-11B, passed 11-28-00)

§ 52.140 PUBLIC NOTICING OF SNC DISCHARGES.

The Superintendent shall, on a yearly basis, publish a listing of individual SIUs found to be in SNC during the previous 12 month period. The notice shall be placed in the legal notice section of the newspaper of largest circulation within the Town of Fortville. This listing shall include the name of the SIU and the basis for SNC determination.

(Ord. 2000-11B, passed 11-28-00)

§ 52.999 PENALTY.

(A) *Injunctive relief.* When the Superintendent finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement, the Superintendent may petition the Hancock County Circuit Court through the Town Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order or other requirement imposed by this chapter on the activities of the user. The Superintendent also may seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

(B) *Civil penalties.*

(1) A user who has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder or any other pretreatment standard or requirement shall be liable to the town for a maximum civil penalty of \$2,500 per violation, per day. In the case of a monthly or other long-term average discharge limit violation, penalties shall accrue for each day during the period of the violation.

(2) The Superintendent may recover reasonable attorneys' fees, court costs and other expenses associated with enforcement activities, including sampling and monitoring expenses and the cost of any actual damages incurred by the town.

(3) In determining the amount of civil 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 of the violation, any economic benefit gained through the user's violation, corrective actions taken by the user, the compliance history of the user and any other factor as justice requires.

(4) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

(C) *Remedies nonexclusive.* The remedies provided for in this chapter are not exclusive. The Superintendent and the Council may take any, all or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations generally will be in accordance with the town's enforcement response plan. However, the Superintendent and the Council may take other action against any user when the circumstances warrant. Further, the Superintendent and the Council are empowered to take more than one enforcement action against any noncompliant user.
(Ord. 2000-11B, passed 11-28-00)

CHAPTER 53: STORM WATER MANAGEMENT

Section

53.01 Adopted by reference

§ 53.01 ADOPTED BY REFERENCE.

The Town of Fortville hereby adopts the stormwater management provisions as if fully set out herein.

(Ord. 2006-8A, passed 4-27-04)

