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SEWER USE ORDINANCE

CHAPTER THREE - Utilities
Art. 933. Sewer Regulations and Charges.
Art. 941. Disposal of Hauled Septage Wastes.

EDITOR'S NOTE: Article 933 was revised and reenacted by an Article passed March 10, 1997. Subsequent amendments to Article 933 will be indicated by legislative histories at the end of the affected sections.

ARTICLE 933
Sewer Regulations and Charges

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GENERAL PROVISIONS

933.01 PURPOSE AND POLICY

This article sets forth uniform requirement for Users of the Publicly Owned Treatment Works for the City of Huntington and enables the City to comply with all applicable State and Federal laws required by the Clean Water Act (33 United States Code [U.S.C.] section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the Code of Federal Regulations [CFR] Part 403).

The objectives of this article are:

(a) To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation;

(b) 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;

(c) 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;

(d) To promote reuse and recycling of industrial wastewater and sludge from the Publicly Owned Treatment Works;

(e) To provide for fees for equitable distribution of the cost of the operation, maintenance, and improvement of the Publicly Owned Treatment Works; and

(f) To enable the City of Huntington to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and the disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.

This article applies to all Users of the Publicly Owned Treatment Works. The article authorizes the issuance of individual waste discharge permits or general 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.

This article shall apply to the City and to persons outside the City who are, by contract or agreement with the City, users of Huntington's Publicly Owned Treatment Works. Except as otherwise provided herein, the Huntington Sanitary Board shall administer, implement and enforce the provisions of this article.

933.02 DEFINITIONS AND ABBREVIATIONS.

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this article, shall have the meaning hereinafter designated.

(1) The following abbreviations shall have the designated meanings:

BOD	Biochemical Oxygen Demand
Board	Huntington Sanitary Board
BMP	Best Management Practice
BMR	Baseline Monitoring Report
CFR	Code of Federal Regulations
CIU	Categorical Industrial User
COD	Chemical Oxygen Demand
EPA	U.S. Environmental Protection Agency
FDF	Fundamentally Different From
FOG	Fats Oils Greases
FSE	Food Service Establishment
gpd	gallons per day
IU	Industrial User
L	Liter
mg	Milligrams
mg/L	Milligrams per liter
NPDES	National Pollutant Discharge Elimination System
NSCIU	Non-Significant Categorical Industrial User
POTW	Publicly Owned Treatment Works
RCRA	Resource Conservation and Recovery Act
SIC	Standard Industrial Classification
SIU	Significant Industrial User
SNC	Significant Noncompliance
U.S.C.	United States Code
SWDA	Solid Waste Disposal Act, 42 U.S.C. 6901, et seq.
USC	United States Code
TSS	Total Suspended Solids
WVDEP	West Virginia Department of Environmental Protection

(2) Abnormal industrial waste. Any industrial waste having a suspended solids concentration, a five-day biochemical oxygen demand or a chlorine requirement appreciably in excess of that normally found in Municipal sewage. For the purposes of this article, any industrial waste containing more than 350 or 300 parts per million of total suspended solids or five-day biochemical oxygen demand respectively, or having a chlorine requirement in excess of twenty-five parts per million, shall be considered an abnormal industrial waste regardless of whether or not it contains other substances in concentrations differing appreciably from those normally found in Municipal sewage.

(3) Act or "the Act." The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.

(4) "Approval authority" means the West Virginia Department of Environmental Protection.

(5) Authorized or Duly 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, provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge permit or general permit requirements; and where authority to sign documents has been 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 paragraphs 1 through 3, above, may designate a Duly 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 Board.

(6) Best Management Practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 933.11 [40 CFR 403.5(a)(1) and (b)]. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

(7) Biochemical oxygen demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days , at 20 degrees Centigrade, expressed in terms of concentration, milligrams per liter (mg/L).

(8) Board means the Huntington Sanitary Board or their duly authorized representative.

(9) Building sewer. A sewer conveying wastewater from the premises of a user to the POTW.

(10) Categorical Pretreatment Standard or Categorical Standard. Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of Users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

(11) Categorical Industrial User. An Industrial user subject to a categorical Pretreatment Standard or Categorical Standard.

(12) Chlorine requirement of sewage or industrial waste. The parts per million of chlorine required to be added as chlorine solution to produce a residual chlorine content of 0.1 parts per million after fifteen minutes of contact of the chlorine with the sewage or industrial waste. It shall be determined by one of the acceptable methods described in the current edition of "Standard Methods for the Examination of Water and Wastewater" published by the American Public Health Association or other alternate methods as approved by the Board or its duly authorized representative.

(13) City means the City of Huntington or City Council of Huntington.

(14) Chemical Oxygen Demand or COD. A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

(15) Combined sewer. A sewer designed to receive both sewage and storm water runoff.

(16) Compatible pollutant. Biochemical oxygen demand, suspended solids, pH, fecal

coliform bacteria, oil and grease, plus any additional pollutants identified in the publicly-owned treatment work's NPDES permit, where the publicly-owned treatment work is designed to treat such pollutants and, in fact, does treat such pollutants to the degree required by the POTW's NPDES permit.

(17) Control Authority. The Huntington Sanitary Board.

(18) Cooling water or non-contact cooling water. The water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product or finished product.

(19) Current edition of the "Standard Methods for the Examination of Water and Wastewater" published by the American Public Health Association. The latest edition adopted by the State of West Virginia at the time the determination of any analysis required is to be made.

(20) Daily Maximum. The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

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

(22) Direct discharge. The discharge of treated or untreated wastewater directly to the waters of the State.

(23) Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.

(24) Executive Director. The person designated by the Sanitary Board to supervise the operation of the publicly-owned treatment works and who is charged with certain duties and responsibilities by this article. The term also means a Duly Authorized Representative of the Executive Director.

(25) Existing Source. Any source of discharge that is not a "New Source."

(26) Expansion. An increase in hydraulic capacity.

(27) Garbage. Solid or viscous wastes containing particles or solids greater than one quarter (1/4) inch(es) in any dimension from such sources as but not limited to the preparation, cooking and dispensing of food and from the handling, storage and sale of produce.

(28) Grab sample. A sample which is taken from a waste stream on a one-time basis without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.

(29) Holding tank waste. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks and vacuum-pump tank trucks.

(30) Huntington Sanitary Board. The Board created under the authority of West Virginia Code 16-13-1 et seq. and the subsequent article adopted by council on March 11, 1935.

(31) Incompatible pollutant. All pollutants other than compatible pollutants.

(32) Indirect Discharge or Discharge. The introduction of pollutants into the POTW from any nondomestic source.

(33) Industrial Waste Discharge Permit. The document as set forth in Sections 933.33 to 933.46 of this article.

(34) Industrial wastes. Any liquid, gaseous or waterborne wastes from industrial processes or commercial establishments as distinct from sanitary sewage.

(35) Infiltration. The water entering a sewer system, including sewer service connections, from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections or manhole walls. Infiltration does not include, and is distinguished from, inflow.

(36) Inflow. The water discharged into a sewer system, including service connections from such source as, but not limited to, roof leaders, cellar, yard and area drains, foundation drains, cooling water discharges, drains from springs and swampy areas, manhole covers, cross connections from storm sewers and combined sewers, catch basins, storm waters, surface run-off, street wash waters or drainage. Inflow does not include, and is distinguished from, infiltration.

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

(38) Interference. A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations of its sludge processes, use or disposal; and therefore, is a cause of a violation of the Board'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.

(39) Local Limit. Specific discharge limits developed and enforced by the Board upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a) (1) and (b).

(40) 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.

(41) Monthly Average. The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

(42) Monthly Average Limit. The highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

(43) National Pollutant Discharge Elimination System or "NPDES permit" means a permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

(44) "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 Section 933.01(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 paragraph has commenced if the owner or operator has:

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

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

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

(b) Entered into a binding contractual obligation for the purchase of facilities or equipment which is intended to be used in its operation within a reasonable time.

Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

(45) Noncontact Cooling Water. Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product

(46) Occupied building. Any structure erected and intended for continuous or periodic habitation, occupancy or use by human beings or animals, and from which structure sanitary sewage and industrial wastes, or either thereof, is or may be discharged.

(47) 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 Board's NPDES permit, including an increase in the magnitude or duration of a violation.

(48) Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.

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

(50) 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 (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

(51) Pollution. The man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water.

(52) POTW Treatment plant. That portion of the POTW designed to provide treatment to wastewater.

(53) Premises accessible to the sanitary sewerage system. Any real estate which adjoins, abuts or is adjacent to the public sanitary sewerage system, or any real estate which might be connected to that system by construction of a private sewer of not more than 100 feet in length.

(54) 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 a POTW. This reduction or alteration can be obtained by physical, chemical or biological processes, or process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable Pretreatment Standard.

(55) Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment, imposed on a User, other than a Pretreatment Standard.

(56) Pretreatment Standard or Standards. Pretreatment Standards shall mean prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.

(57) Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 933.11 of this article.

(58) Publicly Owned Treatment Works or POTW. A treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292), which is owned by the City of Huntington. 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

(59) Sanitary Sewage. The normal water-carried household and toilet wastes from residences, business buildings, institutions, industries and commercial establishments, exclusive of storm water runoff, surface water, groundwater and industrial waste.

(60) Sanitary Sewer. A sewer intended to carry only sanitary, or sanitary and

industrial wastewaters from residences, commercial buildings, industrial plants and institutions and to which storm, surface and groundwater are not intentionally admitted.

(62) Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

(63) Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).

(64) Sewer. A pipe or conduit for carrying sewage or other waste liquids.

(65) Shall is mandatory; May is permissive.

(66) Significant Industrial User (SIU). Except as provided in paragraphs (3) and (4) of this Section, a Significant Industrial User is:

(1) An Industrial User subject to categorical Pretreatment Standards; or

(2) An Industrial User that:

(a) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, non-contact cooling, and boiler blowdown wastewater);
(b) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
(c) Is designated as such by the Board that the user has a reasonable potential for adversely affecting the POTW's operation, or for violating any Pretreatment Standard or Requirement.

(3) The Board may determine that an Industrial User subject to categorical Pretreatment Standards is a Non-Significant Categorical Industrial User rather than a Significant Industrial User on a finding that the Industrial User never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are met:

(a) The Industrial User, prior to Board's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
(b) The Industrial User annually submits the certification statement required in Section 933.41 (n) (2) G [see 40 CFR 403.12(q)], together with any additional information necessary to support the certification statement; and
(c) The Industrial User never discharges any untreated concentrated wastewater.

(4) Upon a finding that a user meeting the criteria in Subsection (2) of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or requirement, the Board may at any time, on its own initiative or in response to a petition received from an Industrial 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.

(67) Slug Load or Slug Discharge. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 933.11 of this article. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.

(68) Standard Industrial Classification (SIC). A classification pursuant to the "Standard Industrial Classification Manual" issued by the Executive Office of the President, Office of Management and Budget, 1972.

(69) State means the State of West Virginia.

(70) Storm Sewer. A sewer which is intended to carry storm water runoff, surface waters, groundwater drainage, etc., but which is not intended to carry any sanitary sewage or industrial waste.

(72) Storm Water. Any flow occurring during or following any form of natural precipitation and resulting from such precipitation, including snowmelt.

(73) Storm Water Runoff. That portion of the rainfall which reaches a drain.

(74) Total Suspended Solids or Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in water, wastewater, or other liquids, and that is removable by laboratory filtering.

(75) Toxic Pollutant. Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of the Clean Water Act 307(a).

(76) Unpolluted Water. Any water or waste containing none of the following: free or emulsified grease or oil; acid or alkali; phenols; or other substances imparting taste and odor to receiving water; toxic or poisonous substances in suspension, colloidal state or solution; obnoxious or odorous gases. It shall contain no more than 10,000 parts per million by weight of dissolved solids of which not more than 2500 parts per million shall be as chloride and not more than ten parts per million each of suspended solids and biochemical oxygen demand. The color shall not exceed fifty parts per million. Analyses for any of the above-mentioned substances shall be made in accordance with the current revision of Title 40 Code of Federal Regulations.

(77) Upgrading. An increase in the level of treatment provided to improve the quality of the effluent water.

(78) Upset. Any exceptional incident in which there is unintentional and temporary noncompliance with Federal categorical Pretreatment Standards or local standards adopted pursuant to this article because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

(79) User or Industrial User. A source of indirect discharge.

(80) 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.

(81) Wastewater Treatment Plant or Treatment Plant. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

(82) Waters of the State. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

(83) West Virginia Division of Environmental Protection" (WVDEP) means the State Division of Environmental Protection, or, where appropriate, the Director or other duly authorized official of such agency.

(84) This Article or this Article means the article passed March 10, 1997, as amended.

The definition of any terms that are not specified herein shall be that definition specified in 40 CFR 403.

DISCHARGE OF SANITARY SEWAGE TO PUBLIC SANITARY SEWERAGE SYSTEM REQUIRED

933.03 REQUIRED CONNECTIONS.

All persons owning any occupied building now erected within the City upon premises accessible to the public sanitary sewerage system shall, if not already connected, at their own expense, make connection with the sanitary sewerage system within three months after the effective date of this article.

All persons owning any premises within the City accessible to the public sanitary sewerage system upon which a building is hereinafter erected shall, at the time of the erection of such building, and at their own expense, make the connection with the public sanitary sewerage system.

All persons owning any occupied building within the City upon premises which hereinafter become accessible to the public sanitary sewerage system shall, at their own expense, make the connection with the public sanitary sewerage system within three months after notice to do so from the Sanitary Board or its authorized representative.

Any industrial user with an approved NPDES permitted treatment facility capable of adequately treating sanitary sewage in accordance with the requirements of the State DEP may be exempted from the mandatory connection provisions of Sections 933.03 to 933.05.

No person, property owner or occupant shall connect into a City sanitary or combination sewer, either directly or indirectly, without first having obtained a permit from the City Plumbing Inspector and the Sanitary Board in accordance with the City Plumbing Code.

933.04 PROHIBITED FACILITIES.

No owner or occupant of any occupied building within the City, on premises accessible to the public sanitary sewerage system, shall erect, construct, use or maintain, or cause to be erected, constructed, used or maintained any privy, cesspool, sinkhole, septic tank, or other receptacle on such premises for receiving sanitary sewage.

Any owner or occupant, who erects, constructs or maintains a privy, cesspool, sinkhole, septic tank, or other receptacle for receiving sanitary sewage on any property within the City accessible to the public sewerage system in violation of this article shall be punished by fine or imprisonment. The erection, construction or maintenance of any such privy, cesspool, sinkhole or septic tank or other receptacle for receiving sanitary sewage on any such property within the City shall be deemed and is hereby declared to be a nuisance, which nuisance may be abated in the manner provided by law.

933.05 BUILDING SEWER CONNECTIONS

No person shall establish, repair, or discontinue any sewer or drain connection to the public sanitary sewerage system without first obtaining a permit in accordance with the City Plumbing Code.

All building sewer permits for residential and commercial service shall be obtained by filing an application with the City Plumbing Inspector in accordance with the procedures and fees set forth in the City Plumbing Code and this Article. The Board shall provide, where and when possible, access to the Public sewerage system in the form of a pipe, of adequate size and slope. This shall be furnished by the Board, in accordance with the fees set forth in this article, at that point adjoining the property to be serviced which is closest to the Board's existing facilities. The property owner shall be responsible for all plumbing, connections, and repairs on his/her property. No person shall establish, repair, or disconnect any sewer or drain connection the public sanitary sewerage system except as shall be performed on his/her property as provided in this article..

All building sewer connections shall be subject to inspection and testing by the City Plumbing Inspector in accordance with the provisions and fees established by the City Plumbing Code.

All costs and expenses incidental to the installation and connection of the building sewer to the public sewerage system shall be the responsibility of the property owner(s). The property owner(s) shall indemnify the City from any loss or damages that may directly or indirectly be occasioned by the installation of the building sewer connection.

A separate and independent building sewer connection shall be provided for every building.

An old building sewer may be used in connection with a new building only if the old building sewer has been inspected and approved by the City Plumbing Inspector.

The size, slope, alignment, materials of construction, and the methods to be used in excavating, placing the pipe, jointing, testing and backfilling the trench, and the connection of the building sewer to the public sewerage system, shall all conform to the requirements and specifications of the City Plumbing Code and other applicable rules and regulations. Any deviation from the prescribed procedures and materials shall be approved by the City Plumbing Inspector before installation.

All excavations for building sewer installation shall be adequately guarded with barricades and lights so as to protect the public from hazard. No person shall make any opening or excavation in any public street or alley for any purpose without first obtaining a permit from the City Plumbing Inspector and providing the City with a surety bond in accordance with the requirements of the City Plumbing Code. Any street, sidewalk, parkway, or other public property disturbed in the course of the building sewer installation shall be permanently restored in a manner satisfactory to the City.

EXCLUSION OF STORM WATER RUNOFF

933.06 SANITARY SEWERS.

The discharge of storm water runoff to sanitary sewers is hereby prohibited and persons presently discharging storm water runoff to sanitary sewers shall cease and desist such practice within three months after the effective date of this article. All persons connecting to the public sanitary sewerage system shall provide adequate means for excluding storm runoff in the event connection is made to sanitary sewers.

Where it has been established by smoke testing, dye testing, or on-site inspection that rain or surface water is being introduced into the sanitary sewer, and the customer has had thirty (30) days to divert this discharge from the sanitary sewer, the volume of the resulting rain and/or surface water shall be measured or estimated from the total monthly rainfall times the total drainage area in square feet. The customer shall pay a surcharge for the resulting volume of discharge at the current base service rate.

933.07 COMBINED SEWERS.

(a) The provisions of this article do not prohibit the present or future discharge of storm water runoff to combined sewers.

(b) No person shall permit storm water runoff to be discharged into sanitary sewers of the City. In situations where persons now direct storm water into combination sewers that are also used for sanitation, nothing in this article shall be construed to require these persons to cease directing storm water to the combined sewer until such time as deemed necessary by the Sanitary Board. Structures built prior to 1980 shall be exempt from the stormwater runoff combined system separation requirements until such time as is required by federal law regulation or State law, and modified in fact by City Council.

(Ord. 5-24-04)

ADMISSION OF INDUSTRIAL WASTES INTO THE POTW

933.08 GENERAL WASTES.

In general, any and all industrial wastes may be discharged to the public sanitary sewerage system except those which are deemed harmful to the system or are specifically prohibited by this article. However, it is also recognized that the treatment of abnormal industrial wastes may add to the cost of operating and maintaining the public sanitary sewerage system. Such additional cost shall be borne by the persons receiving benefit there from.

933.09 DELETERIOUS WASTES

The Sanitary Board reserves the right to refuse connection to its public sanitary sewerage system, or to compel discontinuance of the use of such system for deleterious industrial wastes or to require pretreatment of such wastes in order to prevent a harmful or adverse effect upon the system.

In general, any industrial waste shall be considered harmful to the public sanitary sewerage system if the waste is a prohibited waste as defined in Sections 933.10 to 933.11.

PROHIBITED WASTES

933.10 UNPOLLUTED WATER

The discharge of excessive amounts of unpolluted water or waste to a sanitary sewer is expressly prohibited. However, such discharges to combined sewers or storm sewers shall be permitted wherever such sewers are of adequate capacity. The Sanitary Board reserves the right to define the amount it deems excessive in each particular instance. Discharges to combined sewers shall be subject to the service charges hereinafter set forth in Sections 933.20 to 933.27.

933.11 PROHIBITED DISCHARGE STANDARDS

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 such Users of the POTW whether or not they are subject to categorical Pretreatment Standards or other National, State or local Pretreatment Standards or Requirements.

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

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

(b) Any solid or viscous substances which may cause obstruction to the flow in a sewer, or which cause mechanical action which will destroy the sewer structures or cause other interference with the operation of the POTW such as, but not limited to: grease, garbage with particles greater than one-half inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, wastepaper, wood, plastics, gas, tar, asphalt residues, residues from the refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

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

(d) Any noxious or malodorous liquids, gases or solids which either singly or by interaction with other wastes are, in the opinion of the Board, sufficient to create a public nuisance or hazard to life, or are sufficient to prevent entry into the sewers for their maintenance and repair.

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

(f) Any substance which causes the POTW to violate its NPDES and/or State Disposal System Permit or the receiving water quality standards.

(g) Wastewater which imparts color which cannot be removed by the Board's then current treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, so as to violate the Board's NPDES permit;

(h) Any wastewater having a temperature which inhibits biological activity in the POTW treatment plant resulting in Interference, but in no case wastewater that causes the temperature at the introduction into the POTW treatment plant to exceed 40 degrees Centigrade (104 Fahrenheit).

(i) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Board in compliance with applicable State or Federal regulation.

(j) Any wastewater having a pH lower than 5.0 or higher than 10.0, or having any other corrosive property capable of causing damage or hazards to structures, equipment, or personnel of the POTW. Where the Sanitary Board deems it advisable, it may require any person discharging industrial wastes to install and maintain, in approved manner, a suitable device to continuously measure and record the pH of the wastes so discharged.

(k) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;

(l) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, fats, oils or greases of animal or vegetable origin in concentrations that will cause Interference or Pass Through;

(m) Trucked or hauled pollutants, except at discharge points designated by the Board in accordance with Article 941;

(n) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, Non-Contact Cooling Water, and unpolluted wastewater, unless specifically authorized by the Board;

(o) Sludges, screenings, or other residues from the pretreatment of industrial wastes, including but not limited to any solid, semi-solid, residue or precipitate, separated from or created by a municipal, commercial or industrial waste treatment plant, water supply treatment plant, or air pollution control facility, or any other such waste having similar origin;

(p) Medical Wastes, except as specifically authorized by the Board in an individual wastewater discharge permit or a general permit;

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

(r) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;

(s) Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than five percent (5%) or any single reading over ten percent (10%) of the Lower Explosive Limit of the meter.

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.

NATIONAL CATEGORICAL PRETREATMENT STANDARDS

933.12 FEDERAL CATEGORICAL PRETREATMENT STANDARDS REQUIRED. Users must comply with the categorical Pretreatment Standards.
Upon the promulgation of the Federal categorical pretreatment standard for a particular industrial subcategory, the Federal standards, if more stringent than limitations imposed under this article for sources in that subcategory shall immediately supersede the limitations imposed under this article. The Board shall notify all affected users of the applicable Federal standards and the applicable reporting requirements under 40 CFR, Section 403.12, such as the Baseline Monitoring Report.

The categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated. 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(FDF) the factors considered by EPA when developing the categorical pretreatment standard. The Board maintains the authority to incorporate or recognize a revised Standard if the User has obtained an FDF variance from EPA on the basis of 40 CFR 403.13. That CIU's Standards would be replaced by the revised FDF variance Standard.

(a) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Board may impose equivalent concentration or mass limits in accordance with Section 933.12(e) and (f). See 40 CFR 403.6(c).

(b) When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Board may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users in accordance with **40 CFR 403.6(c)(2).**

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

(d) A CIU may obtain a net gross adjustment to a categorical standard in accordance with the following paragraphs of this Section and in accordance with 40 CFR 403.15.

(1) Categorical Pretreatment Standards may be adjusted to reflect the presence of pollutants in the Industrial User's intake water in accordance with this Section. Any Industrial User wishing to obtain credit for intake pollutants must make application to the Board. Upon request of the Industrial User, the applicable Standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the requirements of paragraph (2) of this Section are met.

(2) Criteria.

A. Either (i) The applicable categorical Pretreatment Standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or (ii) The Industrial User demonstrates that the control system it proposes or uses to meet applicable categorical Pretreatment Standards would, if properly installed and operated, meet the Standards in the absence of pollutants in the intake waters.

B. Credit for generic pollutants such as biochemical oxygen demand (BOD), total suspended solids (TSS), and oil and grease should not be granted unless the Industrial User demonstrates that the constituents of the generic measure in the User's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.

C. Credit shall be granted only to the extent necessary to meet the applicable categorical Pretreatment Standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with Standard(s) adjusted under this Section.

D. Credit shall be granted only if the User demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The Board may waive this requirement if it finds that no environmental degradation will result.

(e) When a categorical Pretreatment Standard is expressed only in terms of pollutant concentrations, an Industrial User may request that the Board convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the Board. The Board may establish equivalent mass limits

only if the Industrial User meets all the conditions set forth in Sections 933.12 (e)(1)(A) through 933.12 (e)(1)(E) below.

(1) To be eligible for equivalent mass limits, the Industrial User must:

A. Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its individual wastewater discharge permit;

B. Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical Pretreatment Standard, and not have used dilution as a substitute for treatment;

C. Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;

D. Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the Discharge; and

E. Have consistently complied with all applicable categorical Pretreatment Standards during the period prior to the Industrial User's request for equivalent mass limits.

(2) An Industrial User subject to equivalent mass limits must:

A. Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;

B. Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;

C. Continue to record the facility's production rates and notify the Board whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in Section 933.12(e)(1)(C). Upon notification of a revised production rate, the Board will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and

D. Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to paragraphs 933.12(e)(1)(A) of this Section so long as it discharges under an equivalent mass limit.

(3) When developing equivalent mass limits, the Board:

A. Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the Industrial User by the concentration-based Daily Maximum and Monthly Average Standard for the applicable categorical Pretreatment Standard and the appropriate unit conversion factor;

B. Upon notification of a revised production rate, will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and

C. May retain the same equivalent mass limit in subsequent individual wastewater discharge permit terms if the Industrial User's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to Section 933.16. The Industrial User must also be in compliance with Section 933.502 regarding the prohibition of bypass.]

(f) The Board may convert the mass limits of the categorical Pretreatment Standards of 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual Industrial Users. The conversion is at the discretion of the Board.

(g) Once included in its permit, the Industrial User must comply with the equivalent limitations developed in this Section 933.12 in lieu of the promulgated categorical Standards from which the equivalent limitations were derived in accordance with **40 CFR 403.6(c)(7).**

(h) Many categorical Pretreatment Standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum Monthly Average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitation in accordance with **40 CFR 403.6(c)(8).**

(i) Any Industrial User operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based Standard shall notify the Board within two (2) business days after the User has a reasonable basis to know that the production level will significantly change within the next calendar month. Any User not notifying the Board of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate in accordance with **40 CFR 403.6(c)(9).**

933.13 SPECIFIC POLLUTANT LIMITATIONS

No person shall discharge wastewater containing heavy metals and similar objectionable or toxic substances to such a degree that the concentration measured in the composite discharge to the POTW for any one day, the normal operating period, exceeds the following daily maximum allowable discharge limits, as assessed utilizing composite samples, grab samples, or a series of grab samples, at the discretion of the Board.

(a) The Board is authorized to establish Local Limits pursuant to 40 CFR 403.5(c).
(b) The following pollutant limits are established to protect against Pass Through and Interference. No person shall discharge wastewater containing in excess of the following Daily Maximum Limits:

Individual mass limits for Total Mercury (Total amount available is .0023 lbs/day and 0.0005mg/L)
Individual mass limits for Total Zinc (Total amount available is 30 lbs/day)
160 mg/L Total Oil and Grease
2.13[1] mg/L Total Toxic Organics (TTO) = Summation of all priority organic pollutant concentrations which are greater than 0.010 mg/L.

or any other element or compound which will, in the opinion of the Board, result in a condition of Pass Through or Interference, damage collection facilities, or be detrimental to the treatment processes. The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metals unless indicated otherwise. The Board may impose mass limitations in addition to the concentration-based limitations above. The limits and pollutants set forth above may be amended, either in the Article or in a Significant Industrial Users permit, from time to time as deemed necessary by the Board to protect the facilities and ensure the POTW's compliance with applicable NPDES Permit conditions and water quality standards.

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[1] The TTO limit of 2.13 mg/L remains in effect unless a specific Industrial User can more technically evaluate a limit for each and every TTO constituent. The Industrial User must be able to demonstrate that the proposed limit will comply with ALL of the requirements of Title 40 CFR 403.5. The Industrial User must be able to demonstrate that concentrations of an individual pollutant(s) above 2.13 mg/L will not cause pass through or interference and will not result in the presence of toxic gases, vapors, and fumes in the POTW in amounts that may cause acute worker health and safety problems. All proposals shall be subject to the Board's approval. The Board also reserves the right to impose limits on individual compounds more stringent than 2.13 mg/L in order to fulfill the requirements contained in 40 CFR 403.5.

(c) The Board may develop Best Management Practices (BMPs), by article or in individual wastewater discharge permits or general permits, to implement Local Limits and the requirements of Section 933.11.

933.14 STATE REQUIREMENTS.

State requirements and limitations (WV 47 CSR) on discharges shall apply in any case where they are more stringent than Federal requirements and limitations or those in this article.

933.15 RIGHT OF REVISION.

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

933.16 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 Board reserves the right to 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.

933.17 ACCIDENTAL DISCHARGE/SLUG DISCHARGE CONTROL PLAN

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

(a) Description of discharge practices, including non-routine batch discharges;

(b) Description of stored chemicals;

(c) Procedures for immediately notifying the Board of any accidental or Slug Discharge, as required by Section 933.41(f) of this article; and

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

Review and acceptance of such plans and operations procedures shall not relieve the Industrial User form the responsibility to modify the user's facility as necessary to meet the requirements of this article. In the case of an accidental discharge, it is the responsibility of the User to immediately telephone and notify the POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

933.18 WRITTEN NOTICE.

Within five days following an accidental discharge, the user shall submit to the Board a detailed written report describing the cause of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage or other liability which may be incurred as a result of damage to the POTW, fish kills or any other damage to person or property; nor shall such notification relieve the user of any fines, civil penalties or other liability which may be imposed by this article or other applicable law.

933.19 NOTICE TO EMPLOYEES.

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 dangerous discharge. Employers shall ensure that all employees who may cause or suffer such a dangerous discharge to occur are advised of the emergency notification procedure.

FEES AND CHARGES

933.20 CHARGES AND FEES; PURPOSE.

It is the purpose of Sections 933.20 to 933.27 to provide for the recovery of costs from users of the wastewater disposal system. The applicable charges or fees shall be set forth in the Sanitary Board's schedule of charges and fees.

933.21 CHARGES AND FEES; ADOPTION.

The Sanitary Board may adopt charges and fees which may include;

(a) Fees for reimbursement of costs of operating the City's pretreatment program;
(1) Fees for monitoring, inspections and surveillance procedures including the cost of collection and analyzing a User's discharge, and reviewing monitoring reports and certification statements submitted by Users;
(2) Fees for reviewing and responding to accidental discharge procedures and construction;
(3) Fees for permit applications;
(4) Fees for filing appeals;
(5) Fees to recover administrative and legal costs (not included in 933.21(a) 1) associated with the enforcement activity taken by the Board to address Users noncompliance; and
(6) Fees for consistent removal, by the POTW, of pollutants otherwise subject to Federal Pretreatment Standards.

(b) "TAP" fees for connection of privately owned sewer lines to the Board's existing collection system;

(c) Other fees as the Board may deem necessary to carry out the requirements contained herein.

These fees shall be based on the actual cost to the Board for such services as are rendered and will be assessed using the average actual cost of providing such services during the previous fiscal year. These fees relate solely to the matters covered by this article and are separate from all other fees chargeable by the Board.

933.22 SERVICE CHARGE.

There is hereby levied and assessed against all persons, firms or corporations having any active connection with the City's POTW or otherwise discharging sewage, industrial wastes, water or other liquids either directly or indirectly into such POTW or any part thereof, a service charge payable as hereinafter provided and in the amount hereinafter provided.

The service charge for any person, firm or corporation situated within or outside the corporate limits of the City of Huntington having any connection with the City's POTW and discharging sewage, industrial wastes, water or other liquids into such POTW, shall be based upon the quantity of water used on or in the premises as the same is measured by the West Virginia-American Water Company meter or meters there in use. The following schedule of sewer rates, disconnection charge, reconnection charge and late

payment penalty are hereby fixed and determined as the sewer rates, disconnection charge, reconnection charge and late payment penalty available for general domestic, commercial and industrial service and shall be charged per quarter year or monthly at the following rates:

SCHEDULE 1

PHASE 1
(Effective January 1, 2025 Pursuant to Ordinance Enacted by City Council on December 12, 2022, Phase 3, Except for Surcharge Applicable to Route 10 Project Customers)

APPLICABILITY
Applicable within the entire territory served.

AVAILABILITY OF SERVICE
Available for residential, commercial, industrial sewer service (except unusual industrial waste).

RATES

First	2,000	gallons used per month	$17.50 per 1,000 gallons
Next	1,998,000	gallons used per month	$11.75 per 1,000 gallons
All Over	2,000,000	gallons used per month	$7.80 per 1,000 gallons

FLAT RATE CHARGE (non-metered water supply)
Equivalent of 4,500 gallons of water usage $64.38 per month

MINIMUM CHARGE
No bill will be rendered for less than $35.00 per month which is the equivalent of 2,000 gallons of usage.

SURCHARGE – APPLICABLE TO ROUTE 10 PROJECT CUSTOMERS

Surcharge per customer, per month	$21.00
Surcharge per 1,000 gallons used per month	$7.00

RETURNED CHECK CHARGE
A service charge equal to the actual bank fee assessed to the sewer utility or $25.00, whichever is greater, will be imposed upon any customer whose check for payment of charges is returned by the bank for any reason.

WATER DISCONNECT/RECONNECT FEES/ADMINISTRATIVE FEE
Whenever water service has been disconnected for non-payment of sewer bills, in conjunction with a water service termination agreement with West Virginia-American Water Company, a disconnection fee of $25.00 shall be charged; or in the event the delinquent sewer bill is collected by the water company, an administrative fee of $25.00 will be charged.

Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a water service termination agreement with the West Virginia-American Water Company, is reconnected, a reconnection fee of $25.00 shall be charged.

Any increase in West Virginia-American Water Company's disconnection, reconnection and administrative fees charged to the Sanitary Board will be billed by the Sanitary Board under the same terms set forth above.

DELAYED PAYMENT PENALTY

On all current usage billings not paid in full by the latest pay date, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

TAP FEE

A tap fee of $900.00, or the actual cost of the connection (solely determined by the Sanitary Board), whichever is greater, will be charged to all customers who apply for service for each new tap to the system.

LEAK ADJUSTMENT

$4.60 per 1,000 gallons shall be charged for usage if the leak is eligible under the (i) Public Service Commission's rules for leaks on the customer's side of the meter, and (ii) the utility's leak adjustment policy.

SECURITY DEPOSIT

Not to exceed fifty dollars ($50.00) or two-twelfths (2/12) of the average annual usage of the applicant's specific customer class, whichever is greater.

INDUSTRIAL SURCHARGE RATES

Rate applicable to Biological Oxygen Demand (BOD)
Concentration in excess of 300 mg/l $0.156/pound

Rate applicable to Total Suspended Solids (TSS)
Concentration in excess of 350 mg/l $0.138/pound

EFT, CREDIT CARD, ACH AND DROP BOX PAYMENTS

A service charge will be imposed on EFT, Credit Card, ACH or Drop Box payments. The amount shall be equal to the actual charges to the Utility from the financial institution for processing payment.

PHASE 2
(Effective January 1, 2026 Pursuant to Ordinance Enacted by City Council on December 12, 2022, Phase 4, Except for Surcharge Applicable to Route 10 Project Customers)

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY OF SERVICE

Available for residential, commercial, industrial sewer service (except unusual industrial waste).

RATES

First	2,000	gallons used per month	$24.00 per 1,000 gallons
Next	1,998,000	gallons used per month	$12.25 per 1,000 gallons
All Over	2,000,000	gallons used per month	$8.00 per 1,000 gallons

FLAT RATE CHARGE (non-metered water supply)

Equivalent of 4,500 gallons of water usage $78.63 per month.

MINIMUM CHARGE

No bill will be rendered for less than $48.00 per month which is the equivalent of 2,000 gallons of usage.

SURCHARGE – APPLICABLE TO ROUTE 10 PROJECT CUSTOMERS

Surcharge per customer, per month	$21.00
Surcharge per 1,000 gallons used per month	$7.00

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility or $25.00, whichever is greater, will be imposed upon any customer whose check for payment of charges is returned by the bank for any reason.

WATER DISCONNECT/RECONNECT FEES/ADMINISTRATIVE FEE

Whenever water service has been disconnected for non-payment of sewer bills, in conjunction with a water service termination agreement with West Virginia-American Water Company, a disconnection fee of $25.00 shall be charged; or in the event the delinquent sewer bill is collected by the water company, an administrative fee of $25.00 will be charged.

Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a water service termination agreement with the West Virginia-American Water Company, is reconnected, a reconnection fee of $25.00 shall be charged.

Any increase in West Virginia-American Water Company's disconnection, reconnection and administrative fees charged to the Sanitary Board will be billed by the Sanitary Board under the same terms set forth above.

DELAYED PAYMENT PENALTY

On all current usage billings not paid in full by the latest pay date, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

TAP FEE

A tap fee of $900.00, or the actual cost of the connection (solely determined by the Sanitary Board), whichever is greater, will be charged to all customers who apply for service for each new tap to the system.

LEAK ADJUSTMENT

$4.75 per 1,000 gallons shall be charged for usage if the leak is eligible under the (i) Public Service Commission's rules for leaks on the customer's side of the meter, and (ii) the utility's leak adjustment policy.

SECURITY DEPOSIT

Not to exceed fifty dollars ($50.00) or two-twelfths (2/12) of the average annual usage of the applicant's specific customer class, whichever is greater.

INDUSTRIAL SURCHARGE RATES

Rate applicable to Biological Oxygen Demand (BOD)	
Concentration in excess of 300 mg/l	$0.156/pound
Rate applicable to Total Suspended Solids (TSS)	
Concentration in excess of 350 mg/l	$0.138/pound

EFT, CREDIT CARD, ACH AND DROP BOX PAYMENTS

A service charge will be imposed on EFT, Credit Card, ACH or Drop Box payments. The amount shall be equal to the actual charges to the Utility from the financial institution for processing payment.

PHASE 3
(Effective January 1, 2027)

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY OF SERVICE

Available for residential, commercial, industrial sewer service (except unusual industrial waste).

RATES

First	2,000	gallons used per month	$25.20 per 1,000 gallons
Next	1,998,000	gallons used per month	$12.85 per 1,000 gallons
All Over	2,000,000	gallons used per month	$8.35 per 1,000 gallons

FLAT RATE CHARGE (non-metered water supply)

Equivalent of 4,500 gallons of water usage $82.53 per month.

MINIMUM CHARGE

No bill will be rendered for less than $50.40 per month which is the equivalent of 2,000 gallons of usage.

SURCHARGE – APPLICABLE TO ROUTE 10 PROJECT CUSTOMERS

Surcharge per customer, per month	$21.00
Surcharge per 1,000 gallons used per month	$7.00

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility or $25.00, whichever is greater, will be imposed upon any customer whose check for payment of charges is returned by the bank for any reason.

WATER DISCONNECT/RECONNECT FEES/ADMINISTRATIVE FEE

Whenever water service has been disconnected for non-payment of sewer bills, in conjunction with a water service termination agreement with West Virginia-American Water Company, a disconnection fee of $25.00 shall be charged; or in the event the delinquent sewer bill is collected by the water company, an administrative fee of $25.00 will be charged.

Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a water service termination agreement with the West Virginia-American Water Company, is reconnected, a reconnection fee of $25.00 shall be charged.

Any increase in West Virginia-American Water Company's disconnection, reconnection and administrative fees charged to the Sanitary Board will be billed by the Sanitary Board under the same terms set forth above.

DELAYED PAYMENT PENALTY

On all current usage billings not paid in full by the latest pay date, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

TAP FEE

A tap fee of $900.00, or the actual cost of the connection (solely determined by the Sanitary Board), whichever is greater, will be charged to all customers who apply for service for each new tap to the system.

LEAK ADJUSTMENT

$4.75 per 1,000 gallons shall be charged for usage if the leak is eligible under the (i) Public Service Commission's rules for leaks on the customer's side of the meter, and (ii) the utility's leak adjustment policy.

SECURITY DEPOSIT

Not to exceed fifty dollars ($50.00) or two-twelfths (2/12) of the average annual usage of the applicant's specific customer class, whichever is greater.

INDUSTRIAL SURCHARGE RATES

Rate applicable to Biological Oxygen Demand (BOD)	
Concentration in excess of 300 mg/l	$0.158/pound
Rate applicable to Total Suspended Solids (TSS)	
Concentration in excess of 350 mg/l	$0.139/pound

EFT, CREDIT CARD, ACH AND DROP BOX PAYMENTS

A service charge will be imposed on EFT, Credit Card, ACH or Drop Box payments. The amount shall be equal to the actual charges to the Utility from the financial institution for processing payment.

PHASE 4
(Effective January 1, 2028)

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY OF SERVICE

Available for residential, commercial, industrial sewer service (except unusual industrial waste).

RATES

First	2,000	gallons used per month	$26.50 per 1,000 gallons
Next	1,998,000	gallons used per month	$13.40 per 1,000 gallons
All Over	2,000,000	gallons used per month	$8.75 per 1,000 gallons

FLAT RATE CHARGE (non-metered water supply)

Equivalent of 4,500 gallons of water usage $86.50 per month.

MINIMUM CHARGE

No bill will be rendered for less than $53.00 per month which is the equivalent of 2,000 gallons of usage.

SURCHARGE – APPLICABLE TO ROUTE 10 PROJECT CUSTOMERS

Surcharge per customer, per month	$21.00
Surcharge per 1,000 gallons used per month	$7.00

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility or $25.00, whichever is greater, will be imposed upon any customer whose check for payment of charges is returned by the bank for any reason.

WATER DISCONNECT/RECONNECT FEES/ADMINISTRATIVE FEE

Whenever water service has been disconnected for non-payment of sewer bills, in conjunction with a water service termination agreement with West Virginia-American Water Company, a disconnection fee of $25.00 shall be charged; or in the event the delinquent sewer bill is collected by the water company, an administrative fee of $25.00 will be charged.

Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a water service termination agreement with the West Virginia-American Water Company, is reconnected, a reconnection fee of $25.00 shall be charged.

Any increase in West Virginia-American Water Company's disconnection, reconnection and administrative fees charged to the Sanitary Board will be billed by the Sanitary Board under the same terms set forth above.

DELAYED PAYMENT PENALTY

On all current usage billings not paid in full by the latest pay date, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

TAP FEE

A tap fee of $900.00, or the actual cost of the connection (solely determined by the Sanitary Board), whichever is greater, will be charged to all customers who apply for service for each new tap to the system.

LEAK ADJUSTMENT

$4.75 per 1,000 gallons shall be charged for usage if the leak is eligible under the (i) Public Service

Commission's rules for leaks on the customer's side of the meter, and (ii) the utility's leak adjustment policy.

SECURITY DEPOSIT

Not to exceed fifty dollars ($50.00) or two-twelfths (2/12) of the average annual usage of the applicant's specific customer class, whichever is greater.

INDUSTRIAL SURCHARGE RATES

Rate applicable to Biological Oxygen Demand (BOD)
Concentration in excess of 300 mg/l $0.159/pound

Rate applicable to Total Suspended Solids (TSS)
Concentration in excess of 350 mg/l $0.141/pound

EFT, CREDIT CARD, ACH AND DROP BOX PAYMENTS

A service charge will be imposed on EFT, Credit Card, ACH or Drop Box payments. The amount shall be equal to the actual charges to the Utility from the financial institution for processing payment.

PHASE 5
(Effective January 1, 2029)

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY OF SERVICE

Available for residential, commercial, industrial sewer service (except unusual industrial waste).

RATES

First	2,000	gallons used per month	$28.00 per 1,000 gallons
Next	1,998,000	gallons used per month	$13.80 per 1,000 gallons
All Over	2,000,000	gallons used per month	$9.00 per 1,000 gallons

FLAT RATE CHARGE (non-metered water supply)

Equivalent of 4,500 gallons of water usage $90.50 per month.

MINIMUM CHARGE

No bill will be rendered for less than $56.00 per month which is the equivalent of 2,000 gallons of usage.

SURCHARGE – APPLICABLE TO ROUTE 10 PROJECT CUSTOMERS

Surcharge per customer, per month	$21.00
Surcharge per 1,000 gallons used per month	$7.00

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility or $25.00, whichever is greater, will be imposed upon any customer whose check for payment of charges is returned by the bank for any reason.

WATER DISCONNECT/RECONNECT FEES/ADMINISTRATIVE FEE

Whenever water service has been disconnected for non-payment of sewer bills, in conjunction with a water service termination agreement with West Virginia-American Water Company, a disconnection fee of $25.00 shall be charged; or in the event the delinquent sewer bill is collected by the water company, an administrative fee of $25.00 will be charged.

Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a water service termination agreement with the West Virginia-American Water Company, is reconnected, a reconnection fee of $25.00 shall be charged.

Any increase in West Virginia-American Water Company's disconnection, reconnection and administrative fees charged to the Sanitary Board will be billed by the Sanitary Board under the same terms set forth above.

DELAYED PAYMENT PENALTY

On all current usage billings not paid in full by the latest pay date, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

TAP FEE

A tap fee of $900.00, or the actual cost of the connection (solely determined by the Sanitary Board), whichever is greater, will be charged to all customers who apply for service for each new tap to the system.

LEAK ADJUSTMENT

$4.75 per 1,000 gallons shall be charged for usage if the leak is eligible under the (i) Public Service Commission's rules for leaks on the customer's side of the meter, and (ii) the utility's leak adjustment policy.

SECURITY DEPOSIT

Not to exceed fifty dollars ($50.00) or two-twelfths (2/12) of the average annual usage of the applicant's specific customer class, whichever is greater.

INDUSTRIAL SURCHARGE RATES

Rate applicable to Biological Oxygen Demand (BOD)
Concentration in excess of 300 mg/l $0.161/pound

Rate applicable to Total Suspended Solids (TSS)
Concentration in excess of 350 mg/l $0.142/pound

EFT, CREDIT CARD, ACH AND DROP BOX PAYMENTS

A service charge will be imposed on EFT, Credit Card, ACH or Drop Box payments. The amount shall be equal to the actual charges to the Utility from the financial institution for processing payment.

PHASE 6
(Effective January 1, 2030)

APPLICABILITY

Applicable within the entire territory served.

AVAILABILITY OF SERVICE

Available for residential, commercial, industrial sewer service (except unusual industrial waste).

RATES

First	2,000	gallons used per month	$29.00 per 1,000 gallons
Next	1,998,000	gallons used per month	$14.50 per 1,000 gallons
All Over	2,000,000	gallons used per month	$9.25 per 1,000 gallons

FLAT RATE CHARGE (non-metered water supply)

Equivalent of 4,500 gallons of water usage $94.25 per month.

MINIMUM CHARGE

No bill will be rendered for less than $58.00 per month which is the equivalent of 2,000 gallons of usage.

SURCHARGE – APPLICABLE TO ROUTE 10 PROJECT CUSTOMERS

Surcharge per customer, per month	$21.00
Surcharge per 1,000 gallons used per month	$7.00

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility or $25.00, whichever is greater, will be imposed upon any customer whose check for payment of charges is returned by the bank for any reason.

WATER DISCONNECT/RECONNECT FEES/ADMINISTRATIVE FEE

Whenever water service has been disconnected for non-payment of sewer bills, in conjunction with a water service termination agreement with West Virginia-American Water Company, a disconnection fee of $25.00 shall be charged; or in the event the delinquent sewer bill is collected by the water company, an administrative fee of $25.00 will be charged.

Whenever water service, which has been previously disconnected or otherwise withheld for non-payment of a sewer bill in conjunction with a water service termination agreement with the West Virginia-American Water Company, is reconnected, a reconnection fee of $25.00 shall be charged.

Any increase in West Virginia-American Water Company's disconnection, reconnection and administrative fees charged to the Sanitary Board will be billed by the Sanitary Board under the same terms set forth above.

DELAYED PAYMENT PENALTY

On all current usage billings not paid in full by the latest pay date, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

TAP FEE

A tap fee of $900.00, or the actual cost of the connection (solely determined by the Sanitary Board), whichever is greater, will be charged to all customers who apply for service for each new tap to the system.

LEAK ADJUSTMENT

$4.75 per 1,000 gallons shall be charged for usage if the leak is eligible under the (i) Public Service Commission's rules for leaks on the customer's side of the meter, and (ii) the utility's leak adjustment policy.

SECURITY DEPOSIT

Not to exceed fifty dollars ($50.00) or two-twelfths (2/12) of the average annual usage of the applicant's specific customer class, whichever is greater.

INDUSTRIAL SURCHARGE RATES

Rate applicable to Biological Oxygen Demand (BOD)
Concentration in excess of 300 mg/l $0.162/pound

Rate applicable to Total Suspended Solids (TSS)
Concentration in excess of 350 mg/l $0.144/pound

EFT, CREDIT CARD, ACH AND DROP BOX PAYMENTS

A service charge will be imposed on EFT, Credit Card, ACH or Drop Box payments. The amount shall be equal to the actual charges to the Utility from the financial institution for processing payment.

SCHEDULE 2

PHASE 1
(Effective January 1, 2025 Pursuant to Ordinance Enacted by City Council on December 12, 2022, Phase 3)

APPLICABILITY

Applicable in entire territory served.

AVAILABILITY OF SERVICE

Available for resale customers.

RESALE RATES

Based on flow of sewage from flow meter reading	$4.75	per 1,000 gallons
Based on water usage	$5.88	per 1,000 gallons

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility or $25.00, whichever is greater, will be imposed upon any customer whose check for payment of charges is returned by the bank for any reason.

DELAYED PAYMENT PENALTY

On all current usage billings not paid in full by the latest pay date, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

EFT, CREDIT CARD, ACH AND DROP BOX PAYMENTS

A service charge will be imposed on EFT, Credit Card, ACH or Drop Box payments. The amount shall be equal to the actual charges to the Utility from the financial institution for processing payment.

PHASE 2

(Effective January 1, 2026 Pursuant to Ordinance Enacted by City Council on December 12, 2022, Phase 4)

APPLICABILITY

Applicable in entire territory served.

AVAILABILITY OF SERVICE

Available for resale customers.

RESALE RATES

Based on flow of sewage from flow meter reading	$5.25	per 1,000 gallons
Based on water usage	$6.50	per 1,000 gallons

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility or $25.00, whichever is greater, will be imposed upon any customer whose check for payment of charges is returned by the bank for any reason.

DELAYED PAYMENT PENALTY

On all current usage billings not paid in full by the latest pay date, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

EFT, CREDIT CARD, ACH AND DROP BOX PAYMENTS

A service charge will be imposed on EFT, Credit Card, ACH or Drop Box payments. The amount shall be equal to the actual charges to the Utility from the financial institution for processing payment.

PHASE 3

(Effective January 1, 2027)

APPLICABILITY

Applicable in entire territory served.

AVAILABILITY OF SERVICE

Available for resale customers.

RESALE RATES

Based on flow of sewage from flow meter reading	$5.45	per 1,000 gallons
Based on water usage	$6.75	per 1,000 gallons

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility or $25.00, whichever is greater, will be imposed upon any customer whose check for payment of charges is returned by the bank for any reason.

DELAYED PAYMENT PENALTY

On all current usage billings not paid in full by the latest pay date, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

EFT, CREDIT CARD, ACH AND DROP BOX PAYMENTS

A service charge will be imposed on EFT, Credit Card, ACH or Drop Box payments. The amount shall be equal to the actual charges to the Utility from the financial institution for processing payment.

PHASE 4
(Effective January 1, 2028)

APPLICABILITY

Applicable in entire territory served.

AVAILABILITY OF SERVICE

Available for resale customers.

RESALE RATES

Based on flow of sewage from flow meter reading	$5.66	per 1,000 gallons
Based on water usage	$7.01	per 1,000 gallons

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility or $25.00, whichever is greater, will be imposed upon any customer whose check for payment of charges is returned by the bank for any reason.

DELAYED PAYMENT PENALTY

On all current usage billings not paid in full by the latest pay date, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

EFT, CREDIT CARD, ACH AND DROP BOX PAYMENTS

A service charge will be imposed on EFT, Credit Card, ACH or Drop Box payments. The amount shall be equal to the actual charges to the Utility from the financial institution for processing payment.

PHASE 5
(Effective January 1, 2029)

APPLICABILITY

Applicable in entire territory served.

AVAILABILITY OF SERVICE

Available for resale customers.

RESALE RATES

Based on flow of sewage from flow meter reading	$5.83	per 1,000 gallons
Based on water usage	$7.22	per 1,000 gallons

gallons

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility or $25.00, whichever is greater, will be imposed upon any customer whose check for payment of charges is returned by the bank for any reason.

DELAYED PAYMENT PENALTY

On all current usage billings not paid in full by the latest pay date, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

EFT, CREDIT CARD, ACH AND DROP BOX PAYMENTS

A service charge will be imposed on EFT, Credit Card, ACH or Drop Box payments. The amount shall be equal to the actual charges to the Utility from the financial institution for processing payment.

PHASE 6
(Effective January 1, 2030)

APPLICABILITY

Applicable in entire territory served.

AVAILABILITY OF SERVICE

Available for resale customers.

RESALE RATES

Based on flow of sewage from flow meter reading	$6.00	per 1,000 gallons
Based on water usage	$7.43	per 1,000 gallons

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility or $25.00, whichever is greater, will be imposed upon any customer whose check for payment of charges is returned by the bank for any reason.

DELAYED PAYMENT PENALTY

On all current usage billings not paid in full by the latest pay date, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

EFT, CREDIT CARD, ACH AND DROP BOX PAYMENTS

A service charge will be imposed on EFT, Credit Card, ACH or Drop Box payments. The amount shall be equal to the actual charges to the Utility from the financial institution for processing payment.

SCHEDULE 3

PHASE 1
(Effective January 1, 2025 Pursuant to Ordinance Enacted by City Council on December 12, 2022, Phase 3)

APPLICABILITY

Applicable in entire territory served.

AVAILABILITY OF SERVICE

Available for Steel of West Virginia, Inc. and Special Metals Corporation.

RATE

$6.50 per 1,000 gallons.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility or $25.00, whichever is greater, will be imposed upon any customer whose check for payment of charges is returned by the bank for any reason.

DELAYED PAYMENT PENALTY

On all current usage billings not paid in full by the latest pay date, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

SECURITY DEPOSIT

Not to exceed fifty dollars ($50.00) or two-twelfths (2/12) of the average annual usage of the applicant's specific customer class, whichever is greater.

EFT, CREDIT CARD, ACH AND DROP BOX PAYMENTS

A service charge will be imposed on EFT, Credit Card, ACH or Drop Box payments. The amount shall be equal to the actual charges to the Utility from the financial institution for processing payment.

PHASE 2
(Effective January 1, 2026 Pursuant to Ordinance Enacted by City Council on December 12, 2022, Phase 4)

APPLICABILITY

Applicable in entire territory served.

AVAILABILITY OF SERVICE

Available for Steel of West Virginia, Inc. and Special Metals Corporation.

RATE

$7.00 per 1,000 gallons.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility or $25.00, whichever is greater, will be imposed upon any customer whose check for payment of charges is returned by the bank for any reason.

DELAYED PAYMENT PENALTY

On all current usage billings not paid in full by the latest pay date, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

SECURITY DEPOSIT

Not to exceed fifty dollars ($50.00) or two-twelfths (2/12) of the average annual usage of the applicant's specific customer class, whichever is greater.

EFT, CREDIT CARD, ACH AND DROP BOX PAYMENTS

A service charge will be imposed on EFT, Credit Card, ACH or Drop Box payments. The amount shall be equal to the actual charges to the Utility from the financial institution for processing payment.

PHASE 3
(Effective January 1, 2027)

APPLICABILITY

Applicable in entire territory served.

AVAILABILITY OF SERVICE

Available for Steel of West Virginia, Inc. and Special Metals Corporation.

RATE

$7.27 per 1,000 gallons.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility or $25.00, whichever is greater, will be imposed upon any customer whose check for payment of charges is returned by the bank for any reason.

DELAYED PAYMENT PENALTY

On all current usage billings not paid in full by the latest pay date, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

SECURITY DEPOSIT

Not to exceed fifty dollars ($50.00) or two-twelfths (2/12) of the average annual usage of the applicant's specific customer class, whichever is greater.

EFT, CREDIT CARD, ACH AND DROP BOX PAYMENTS

A service charge will be imposed on EFT, Credit Card, ACH or Drop Box payments. The amount shall be equal to the actual charges to the Utility from the financial institution for processing payment.

PHASE 4
(Effective January 1, 2028)

APPLICABILITY

Applicable in entire territory served.

AVAILABILITY OF SERVICE

Available for Steel of West Virginia, Inc. and Special Metals Corporation.

RATE

$7.55 per 1,000 gallons.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility or $25.00, whichever is greater, will be imposed upon any customer whose check for payment of charges is returned by the bank for any reason.

DELAYED PAYMENT PENALTY

On all current usage billings not paid in full by the latest pay date, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

SECURITY DEPOSIT

Not to exceed fifty dollars ($50.00) or two-twelfths (2/12) of the average annual usage of the applicant's specific customer class, whichever is greater.

EFT, CREDIT CARD, ACH AND DROP BOX PAYMENTS

A service charge will be imposed on EFT, Credit Card, ACH or Drop Box payments. The amount shall be equal to the actual charges to the Utility from the financial institution for processing payment.

PHASE 5
(Effective January 1, 2029)

APPLICABILITY

Applicable in entire territory served.

AVAILABILITY OF SERVICE

Available for Steel of West Virginia, Inc. and Special Metals Corporation.

RATE
$7.78 per 1,000 gallons.

RETURNED CHECK CHARGE
A service charge equal to the actual bank fee assessed to the sewer utility or $25.00, whichever is greater, will be imposed upon any customer whose check for payment of charges is returned by the bank for any reason.

DELAYED PAYMENT PENALTY
On all current usage billings not paid in full by the latest pay date, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

SECURITY DEPOSIT
Not to exceed fifty dollars ($50.00) or two-twelfths (2/12) of the average annual usage of the applicant's specific customer class, whichever is greater.

EFT, CREDIT CARD, ACH AND DROP BOX PAYMENTS
A service charge will be imposed on EFT, Credit Card, ACH or Drop Box payments. The amount shall be equal to the actual charges to the Utility from the financial institution for processing payment.

PHASE 6
(Effective January 1, 2030)

APPLICABILITY
Applicable in entire territory served.

AVAILABILITY OF SERVICE
Available for Steel of West Virginia, Inc. and Special Metals Corporation.

RATE
$8.00 per 1,000 gallons.

RETURNED CHECK CHARGE
A service charge equal to the actual bank fee assessed to the sewer utility or $25.00, whichever is greater, will be imposed upon any customer whose check for payment of charges is returned by the bank for any reason.

DELAYED PAYMENT PENALTY
On all current usage billings not paid in full by the latest pay date, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

SECURITY DEPOSIT
Not to exceed fifty dollars ($50.00) or two-twelfths (2/12) of the average annual usage of the applicant's specific customer class, whichever is greater.

EFT, CREDIT CARD, ACH AND DROP BOX PAYMENTS
A service charge will be imposed on EFT, Credit Card, ACH or Drop Box payments. The amount shall be equal to the actual charges to the Utility from the financial institution for processing payment.

SCHEDULE 4

PHASE 1
(Effective January 1, 2025 Pursuant to Ordinance Enacted by City Council on December 12, 2022, Phase 3)

APPLICABILITY
Applicable in entire territory served.

AVAILABILITY OF SERVICE

Available for wastewater and leachate haulers.

RATES

Metered Haulers – Each hauler delivering through metered means shall be charged $48.00 per thousand gallons.

Non-Metered Haulers – Commodity Charge: Each hauler shall pay a commodity charge of $48.00 per 1,000 gallons per load. Load will be the actual capacity of the truck or other transport method delivering wastewater and leachate. Actual capacity shall be determined or verified solely by the Sanitary Board.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility or $25.00, whichever is greater, will be imposed upon any customer whose check for payment of charges is returned by the bank for any reason.

DELAYED PAYMENT PENALTY

On all current usage billings not paid in full by the latest pay date, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

EFT, CREDIT CARD, ACH AND DROP BOX PAYMENTS

A service charge will be imposed on EFT, Credit Card, ACH or Drop Box payments. The amount shall be equal to the actual charges to the Utility from the financial institution for processing payment.

PHASE 2
(Effective January 1, 2026 Pursuant to Ordinance Enacted by City Council on December 12, 2022, Phase 4)

APPLICABILITY

Applicable in entire territory served.

AVAILABILITY OF SERVICE

Available for wastewater and leachate haulers.

RATES

Metered Haulers – Each hauler delivering through metered means shall be charged $50.00 per thousand gallons.

Non-Metered Haulers – Commodity Charge: Each hauler shall pay a commodity charge of $50.00 per 1,000 gallons per load. Load will be the actual capacity of the truck or other transport method delivering wastewater and leachate. Actual capacity shall be determined or verified solely by the Sanitary Board.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility or $25.00, whichever is greater, will be imposed upon any customer whose check for payment of charges is returned by the bank for any reason.

DELAYED PAYMENT PENALTY

On all current usage billings not paid in full by the latest pay date, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

EFT, CREDIT CARD, ACH AND DROP BOX PAYMENTS

A service charge will be imposed on EFT, Credit Card, ACH or Drop Box payments. The amount shall

be equal to the actual charges to the Utility from the financial institution for processing payment.

PHASE 3
(Effective January 1, 2027)

APPLICABILITY
Applicable in entire territory served.

AVAILABILITY OF SERVICE
Available for wastewater and leachate haulers.

RATES
Metered Haulers – Each hauler delivering through metered means shall be charged $51.00 per thousand gallons.

Non-Metered Haulers – Commodity Charge: Each hauler shall pay a commodity charge of $51.00 per 1,000 gallons per load. Load will be the actual capacity of the truck or other transport method delivering wastewater and leachate. Actual capacity shall be determined or verified solely by the Sanitary Board.

RETURNED CHECK CHARGE
A service charge equal to the actual bank fee assessed to the sewer utility or $25.00, whichever is greater, will be imposed upon any customer whose check for payment of charges is returned by the bank for any reason.

DELAYED PAYMENT PENALTY
On all current usage billings not paid in full by the latest pay date, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

EFT, CREDIT CARD, ACH AND DROP BOX PAYMENTS
A service charge will be imposed on EFT, Credit Card, ACH or Drop Box payments. The amount shall be equal to the actual charges to the Utility from the financial institution for processing payment.

PHASE 4
(Effective January 1, 2028)

APPLICABILITY
Applicable in entire territory served.

AVAILABILITY OF SERVICE
Available for wastewater and leachate haulers.

RATES
Metered Haulers – Each hauler delivering through metered means shall be charged $52.00 per thousand gallons.

Non-Metered Haulers – Commodity Charge: Each hauler shall pay a commodity charge of $52.00 per 1,000 gallons per load. Load will be the actual capacity of the truck or other transport method delivering wastewater and leachate. Actual capacity shall be determined or verified solely by the Sanitary Board.

RETURNED CHECK CHARGE
A service charge equal to the actual bank fee assessed to the sewer utility or $25.00, whichever is greater, will be imposed upon any customer whose check for payment of charges is returned by the bank for any reason.

DELAYED PAYMENT PENALTY
On all current usage billings not paid in full by the latest pay date, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected

Ordinance 2025-O-08 re: SEWER USE ORDINANCE
Adopted: April 14, 2025

only once for each bill where it is appropriate.

EFT, CREDIT CARD, ACH AND DROP BOX PAYMENTS

A service charge will be imposed on EFT, Credit Card, ACH or Drop Box payments. The amount shall be equal to the actual charges to the Utility from the financial institution for processing payment.

PHASE 5
(Effective January 1, 2029)

APPLICABILITY

Applicable in entire territory served.

AVAILABILITY OF SERVICE

Available for wastewater and leachate haulers.

RATES

Metered Haulers – Each hauler delivering through metered means shall be charged $53.00 per thousand gallons.

Non-Metered Haulers – Commodity Charge: Each hauler shall pay a commodity charge of $53.00 per 1,000 gallons per load. Load will be the actual capacity of the truck or other transport method delivering wastewater and leachate. Actual capacity shall be determined or verified solely by the Sanitary Board.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility or $25.00, whichever is greater, will be imposed upon any customer whose check for payment of charges is returned by the bank for any reason.

DELAYED PAYMENT PENALTY

On all current usage billings not paid in full by the latest pay date, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

EFT, CREDIT CARD, ACH AND DROP BOX PAYMENTS

A service charge will be imposed on EFT, Credit Card, ACH or Drop Box payments. The amount shall be equal to the actual charges to the Utility from the financial institution for processing payment.

PHASE 6
(Effective January 1, 2030)

APPLICABILITY

Applicable in entire territory served.

AVAILABILITY OF SERVICE

Available for wastewater and leachate haulers.

RATES

Metered Haulers – Each hauler delivering through metered means shall be charged $54.00 per thousand gallons.

Non-Metered Haulers – Commodity Charge: Each hauler shall pay a commodity charge of $54.00 per 1,000 gallons per load. Load will be the actual capacity of the truck or other transport method delivering wastewater and leachate. Actual capacity shall be determined or verified solely by the Sanitary Board.

RETURNED CHECK CHARGE

A service charge equal to the actual bank fee assessed to the sewer utility or $25.00, whichever is greater, will be imposed upon any customer whose check for payment of charges is returned by the bank for any reason.

DELAYED PAYMENT PENALTY

On all current usage billings not paid in full by the latest pay date, ten percent (10%) will be added to the net current amount unpaid. This delayed payment penalty is not interest and is to be collected only once for each bill where it is appropriate.

EFT, CREDIT CARD, ACH AND DROP BOX PAYMENTS

A service charge will be imposed on EFT, Credit Card, ACH or Drop Box payments. The amount shall be equal to the actual charges to the Utility from the financial institution for processing payment.

SCHEDULE 5

MUNICIPAL EXCISE TAX SURCHARGE

The municipality listed below, having imposed public utility tax computed on the basis of two percent of revenues from sewer service sales by the sewer utility within the corporate limits of such municipalities, shall be billed as a "surcharge" to the customers receiving service within said corporate limits.

The sewer utility is required to collect the utility tax pursuant to West Virginia Code Section 8-13-5a.

Customers receiving sewer service within the corporate limits of the specified municipality shall pay a surcharge on the following surcharge rates.

Utility Excise Tax

Municipality	Local Tax Rate	Surcharge Rate
Huntington	2%	2%

SCHEDULE 6 – All Customers

SURCHARGE FORMULA FOR USERS PRODUCING UNUSUAL WASTE

The charge for the treatment of unusual waste will be calculated on the basis of the following formula:

$$Ci = VoVi + BoBi + SoSi$$

Ci = Charge to unusual users per year.

Vo = Average unit cost of transport and treatment chargeable to volume, in dollars per gallon.

Vi = Volume of wastewater from unusual users in gallons per year.

Bo = Average unit cost of treatment, chargeable to Biochemical Oxygen Demand (BOD) in dollars per pound.

Bi = Weight of BOD from unusual users in pounds per year.

So = Average unit cost of treatment (including sludge treatment) chargeable to total solids in dollars per pound.

Si = Weight of total solids from unusual users in pounds per year.

When an unusual user is to be served, a preliminary study of its wastes, and the cost of transport and

treatment thereof, will be made. Waste containing materials which, in the judgment of the Board, should not be introduced into the sewer system, need not be handled by it. The results of this preliminary study will be used to determine the feasibility of the proposed sewer service and the charge therefore, based upon the formula set out above.

Thereafter, unusual sewage service will be monitored on a regular basis and at the conclusion of each fiscal year, based on the investigation aforesaid and audit of the Board's records, new cost figures will be calculated for use in the above formula. The cost of establishing the monitoring facilities shall be paid by the unusual user. Based on these audited figures, additional billings covering the past fiscal year will be made for payment by each unusual user, or refund given by the Board, as the case may be. Such audited figures will then be used for the preliminary billing for the next fiscal year, at the end of which an adjustment will be made as aforesaid.

SCHEDULE 7 – All Customers

APPLICABLE INSIDE AND OUTSIDE THE CORPORATE LIMITS OF THE SANITARY BOARD OF THE CITY OF HUNTINGTON

Where the amount of sanitary sewage discharged into the Board's wastewater collection and/or transmission and/or treatment system by certain industrial plant or plants cannot be accurately determined by the use of the Board's meter or meters, and said plant cannot install a flow meter to measure such waste, a special formula will be used whereby such plant or plants will pay to the Board a sewer charge calculated at fifty (50) gallons of water per each employee at the plant each working day.

933.23 RESERVED

933.24 WATER METERS.

Each meter shall be considered a separate billing unit in applying the rates. The registrations of water on two or more meters shall be combined and billed to each user as though registered on one meter in the event that the meters are located in only one facility with one sanitary sewer connections subject to the approval of the Sanitary Board.

In the event any person, form or corporation discharging sanitary sewage, industrial waste, water or other liquid in the City's POTW, either directly or indirectly, obtains part or all of the water used by him from sources other than the West Virginia-American Water Company, such user of other water shall, at his own expenses, install and maintain water usage other than that obtained from the West Virginia-American Water Company, and the quantity of water used to determine the sewerage service charge, as above set forth, shall be the sum of the quantity measured by all such meters plus the quantity of water obtained from the West Virginia-American Water Company.

933.25 Reserved

933.26 Reserved

933.27 SERVICE CHARGE REVIEW

The Board reserves the right to revise by article the service charges levied and assessed against all persons using the City's POTW. On at least a biennial basis, the Board shall review all service charges and revise the charges accordingly to reflect the actual sewage collection and treatment costs and any applicable debt service costs.

The Board shall notify all persons using the City's POTW of the applicable service charges on at least an annual basis by publishing the service charge rate schedule in the City's largest daily

newspaper.

SURCHARGE FOR CERTAIN INDUSTRIAL WASTES

933.28 SURCHARGE LEVIED.

Although the sewage treatment works will be capable of treating certain abnormal industrial wastes as heretofore defined in Sections 933.01 and 933.02, the actual treatment of such wastes may increase the cost of operating and maintaining the City's POTW. Therefore, there is hereby levied and assessed against each person, industry or corporation discharging more than 40,000 cubic feet per month of such abnormal industrial waste into the POTW, a surcharge or surcharges, which are intended to cover such additional cost to the Board. Such surcharges shall be in addition to the regular sewerage service charge set forth in Sections 933.20 to 933.27, and shall be payable as hereinafter provided in the amount hereinafter provided. No industrial user will be subject to both BOD and chlorine requirement surcharges. This will prevent double charging for chlorine. The surcharges provided for in Sections 933.28 to 933.32 shall be added to the normal sewerage service charge set forth in Sections 933.20 to 933.27. They shall be billed monthly and shall be subject to the same penalty as set forth in Section 933.22 for delayed payment fee.

933.29 SAMPLING.

The strength of any industrial waste, the discharge of which is to be subject to surcharge, shall be determined monthly, or more frequently, from samples taken at the manhole described in Section 933.42 or at any other sampling point mutually agreed to by the Board and the producer of such waste. The frequency and duration of the sampling period shall be as such, in the opinion of the Board, will permit a reasonably reliable determination of the average composition of the wastes, exclusive of storm water runoff. Representative samples of the wastewater discharge shall be collected by a representative of the Board, in proportion to the flow of waste, exclusive of storm water runoff, and composited for analysis in accordance with the current revision of 40 CFR 136. Upon request by the industrial user, the Board may split samples with the industrial user for their own analysis. Except as hereinafter provided, the strength of the waste, so found by analysis, shall be used for establishing the surcharge or surcharges. However, the Board may, if it so elects, accept the results of routine sampling and analyses by the producer of such wastes in lieu of, or in addition to, making its own samplings and analyses.

933.30 CHLORINE REQUIREMENT.

In the event any industrial waste, the average volume of which exceeds 40,000 cubic feet per month, is found by the Board to have a chlorine requirement in excess of twenty-five parts per million, or 25 ppm, the producer of such waste shall be surcharged an amount equal to the product of the actual volume of wastes in hundred cubic feet per billing period, exclusive of storm water runoff, discharged to the POTW and the "chlorine requirement surcharge rate". The "chlorine requirement surcharge rate" shall be determined by the following formula:

$$Rc = 0.00626\ Pc\ (C - 25)$$

Where Rc = the chlorine requirement surcharge rate in cents per 100 cubic feet of waste discharged

Pc = the average cost of chlorine to the City in cents per pound

C = the average chlorine requirement of the industrial waste expressed in parts per million (ppm) as determined in accordance with Sections 933.29 or 933.31.

The figure 25 appearing in the above formula corresponds to the maximum chlorine requirement permissible without surcharge. The figure 0.00626 is the factor to convert parts per million to pounds per 100 cubic feet. No discount shall be permitted for sewage or industrial wastes having a chlorine requirement of less than twenty-five parts per million.

It is recognized that the chlorine requirement of certain undiluted chemical wastes may

be difficult to determine because of excessive concentrations of interfering substances. In such instances the waste may first be diluted with Municipal sewage. Portions of the diluted waste and the sewage used in making the dilution shall then be allowed to stand at room temperature, approximately 68 degrees F, for a period of not less than two hours, or more than eight hours. The chlorine requirement of each shall then be determined and the chlorine requirement of the undiluted waste computed by the following formula:

$C = M(V1 + V2) - SV2$

Where C = the chlorine requirement of the waste to be used in the formula of Section 933.30

M = the chlorine requirement of the mixed sewage and waste in parts per million

S = the chlorine requirement of the sewage used for dilution in parts per million
V1 = the volume of waste used in the mixture
V2 = the volume of sewage used in the mixture

In the application of this procedure, the volumes of waste and diluting sewage used shall be such that the ratio of V1 to (V1 + V2) is approximately equal to the ratio of the average daily flow of wastes in question to the average daily flow of sewage entering the treatment works. This procedure shall be used only in those instances where the Board believes its use to be necessary or desirable in order to determine the equitable chlorine requirement surcharge rate.

Since the above stipulated surcharge is only intended to compensate the Board for the additional cost of chlorinating abnormal industrial wastes, it shall only be applied during those periods when the Board is actually using chlorine. In the event the Board uses chlorine for only a portion of some given billing period, then the surcharge for that particular period, as computed in accordance with Section 933.30, shall be reduced by the percentage of such period during which no chlorine is used.

933.31 SUSPENDED SOLIDS CONCENTRATION.
Suspended solids surcharging will be included within a Significant Industrial User's permit when deemed necessary.

933.32 BOD CONCENTRATION
BOD surcharging will be included within a Significant Industrial User's permit as deemed necessary.

ADMINISTRATION OF INDUSTRIAL WASTE PERMITS

INDIVIDUAL WASTEWATER DISCHARGE PERMITS AND GENERAL PERMITS

Wastewater Analysis

When requested by the Board, a User must submit information on the nature and characteristics of its wastewater within ninety (90) days of the request. The Board is

authorized to prepare a form for this purpose and may periodically require Users to update this information.

933.33 INDIVIDUAL WASTEWATER DISCHARGE PERMIT AND GENERAL PERMIT REQUIREMENTS

(a) No Significant Industrial User shall discharge wastewater in any area under the direct jurisdiction of the City, or any public service district served by the Board's POTW without first obtaining an individual wastewater discharge permit or a general permit from the Board, except that a Significant Industrial User that has filed a timely application pursuant to Section 933.34 of this article may continue to discharge for the time period specified therein.

(b) The Board may require other Users to obtain individual wastewater discharge permits or general permits as necessary to carry out the purposes of this article.

(c) Any violation of the terms and conditions of an individual wastewater discharge permit or a general permit shall be deemed a violation of this article and subjects the wastewater discharge permittee to the sanctions set out in Sections 933.48 through 933.49 of this article. Obtaining an individual wastewater discharge permit or a general permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or Requirements or with any other requirements of Federal, State, and local law.

933.3PERMIT APPLICATION

1. Individual Wastewater Discharge and General Permitting: New Connections

Any User required to obtain an individual wastewater discharge permit, or a general 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 individual wastewater discharge permit or general permit, in accordance with this article, must be filed at least one hundred eighty (180) days prior to the date upon which any discharge will begin or recommence.

2. Individual Wastewater Discharge and General Permit Application Contents

A. All Users required to obtain an individual wastewater discharge permit must submit a permit application. Users that are eligible may request a general permit under Section 933.34(3). The Board may require Users to submit all or some of the following information as part of a permit application:

(a) Identifying Information.

1.The name and address of the facility, including the name of the operator and owner.

2. Contact information, description of activities, facilities, and plant production processes on the premises;

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

(c) Description of Operations.

1. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and

rate of production), and standard industrial classifications (SIC) 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.

2. Types of wastes generated as determined by a reliable analytical laboratory; licensed and certified by the WVDEP; sampling and analysis shall be performed in accordance with the procedures established by the EPA pursuant to Section 304 of the Act and contained in 40 CFR, Part 136 as amended; and 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;
3. Number and type of employees, hours of operation, and proposed or actual hours of operation;
4. Type and amount of raw materials processed (average and maximum per day);
5. 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;

(d) Time and duration of discharges;

(e) The location for monitoring all wastes covered by the permit;

(f) 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 Section 933.12(c) (40 CFR 403.6(e)).

(g) Measurement of Pollutants.

1. The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
2. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the Board, of regulated pollutants in the discharge from each regulated process.
3. Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.
4. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 933.41 of this article. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Board or the applicable Standards to determine compliance with the Standard.
5. Sampling must be performed in accordance with procedures set out in Section 933.41(k) of this article.

(h) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on Section 933.41(d)(2) [40 CFR 403.12(e)(2)].

(i) Any request to be covered by a general permit based on Section 933.34(3).

(j) Any other information as may be deemed necessary by the Board to evaluate the permit application.

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

3. Wastewater Discharge Permitting: General Permits

A. At the discretion of the Board, the Board may use general permits to control SIU discharges to the POTW if the following conditions are met. All facilities to be covered by a general permit must:
(1) Involve the same or substantially similar types of operations;
(2) Discharge the same types of wastes;
(3) Require the same effluent limitations;
(4) Require the same or similar monitoring; and
(5) In the opinion of the Board, are more appropriately controlled under a general permit than under individual wastewater discharge permits.

B. To be covered by the general permit, the SIU must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general permit, any requests in accordance with Section 933.41(d)(2) for a monitoring waiver for a pollutant neither present nor expected to be present in the Discharge, and any other information the POTW deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general permit until after the Board has provided written notice to the SIU that such a waiver request has been granted in accordance with Section 933.41(d)(2).

C. The Board will retain a copy of the general permit, documentation to support the POTW's determination that a specific SIU meets the criteria in Section 933.34 (3)(A)(1-5) and applicable State regulations, and a copy of the User's written request for coverage for three (3) years after the expiration of the general permit. [See 40 CFR 403.8(f)(1)(iii)(A)(1) through (5).]

D. The Board may not control an SIU through a general permit where the facility is subject to production-based categorical Pretreatment Standards or categorical Pretreatment Standards expressed as mass of pollutant discharged per day or for IUs whose limits are based on the Combined Wastestream Formula (Section 933.12(c)) or Net/Gross calculations (Section 933.12(d)). [See 40 CFR 403.6(e) and 40 CFR 403.15]

4. Application Signatories and Certifications

A. All wastewater discharge permit applications, User reports and certification statements must be signed by an Authorized Representative of the User and contain the certification statement in Section 933.41(n).

B. If the designation of an Authorized Representative is no longer accurate because a different

individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the Board prior to or together with any reports to be signed by an Authorized Representative.

C. A facility determined to be a Non-Significant Categorical Industrial User by the Board pursuant to Section 933.02(66)(3) must annually submit the signed certification statement in Section 933.41(n). [See 40 CFR 403.3(v)(2)]

5. Individual Wastewater Discharge and General Permit Decisions

The Board will evaluate the data furnished by the User and may require additional information. Within ninety (90) days of receipt of a complete permit application, the Board will determine whether to issue an individual wastewater discharge permit or a general permit. The Board may deny any application for an individual wastewater discharge permit or a general permit.

933.35 PERMIT MODIFICATIONS.

1. The Board may modify an individual 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 the individual 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 Board's POTW, Board's personnel, beneficial sludge use or the receiving waters;

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

(i) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with Section 933.39.

2. The Board may modify a general 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) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

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

(d) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with Section 933.39.

INDIVIDUAL WASTEWATER DISCHARGE AND GENERAL PERMIT ISSUANCE

933.36 INDIVIDUAL WASTEWATER DISCHARGE PERMIT AND GENERAL PERMIT CONTENTS

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

a. Individual wastewater discharge permits and general permits must contain:

(1) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date; **[Note: See Section 933.37.]**

(2) A statement that the wastewater discharge permit is nontransferable without prior notification to the Board in accordance with Section 933.39 of this article, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;

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

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

(5) The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the Discharge in accordance with Section 933.41(d)(2). **See 40 CFR 403.12(e)(2).]**

(6) 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.

(7) Requirements to control Slug Discharge, if determined by the Board to be necessary

(8) Any grant of the monitoring waiver by the Board (Section 933.41(d)(2)) must be included as a condition in the User's permit.

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

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

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

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

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

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

(7) A statement that compliance with the individual wastewater discharge permit or the general permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the individual wastewater discharge permit or the general permit; and

(8) Other conditions as deemed appropriate by the Board to ensure compliance with this article, and State and Federal laws, rules, and regulations.

933.37 INDIVIDUAL WASTEWATER DISCHARGE AND GENERAL PERMIT DURATION

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

933.38 INDIVIDUAL WASTEWATER DISCHARGE AND GENERAL PERMIT REISSUANCE

A User with an expiring individual wastewater discharge permit or general permit shall apply for individual wastewater discharge permit or general permit reissuance by submitting a complete permit application, in accordance with Section 933.34 of this article, a minimum of one hundred eighty (180) days prior to the expiration of the User's existing individual wastewater discharge permit or general permit.

933.39 INDIVIDUAL WASTEWATER DISCHARGE AND GENERAL PERMIT TRANSFER

Individual wastewater discharge permits or coverage under general permits may be transferred to a new owner or operator only if the permittee gives at least sixty (60) days advance notice to the Board and the Board approves the individual wastewater discharge permit or the general permit coverage transfer. The notice to the Board must include a written certification by the new owner or operator which:

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

b. Identifies the specific date on which the transfer is to occur; and

c. Acknowledges full responsibility for complying with the existing individual wastewater discharge permit or general permit.

Failure to provide advance notice of a transfer renders the individual wastewater

discharge permit or coverage under the general permit void as of the date of facility transfer.

933.40 SPECIAL AGREEMENTS

No statement contained in this article shall be construed as prohibiting any special agreement between the Board and any person or industrial user located outside the City limits, whereby an industrial waste may be discharged by the user to the public sanitary sewerage system, provided that the objectives of the general pretreatment regulations and the provisions of this article are fulfilled. Similar to any other limitations imposed under this article, the provisions of any such special agreement will be superseded by more stringent requirements of any applicable Federal categorical Pretreatment Standard.

933.401 REGULATION OF WASTE RECEIVED FROM OTHER JURISDICTIONS

(a) If another public service district, or User located within another public service district, contributes wastewater to the POTW, the Executive Director shall enter into an interjurisdictional agreement with the contributing public service district.

(b) Prior to entering into an agreement required by paragraph (a) above, the Executive Director shall request the following information from the contributing public service district:

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

(2) An inventory of all Users located within the contributing public service district that are discharging to the POTW; and

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

(c) An interjurisdictional agreement, as required by paragraph (a), above, shall contain the following conditions:

(1) A requirement for the contributing public service district to adopt a sewer use ordinance which is at least as stringent as this ordinance and Local Limits, including required Baseline Monitoring Reports (BMRs) which are at least as stringent as those set out in Section 933.13 of this ordinance. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the City's ordinance or Local Limits;

(2) A requirement for the contributing public service district to submit a revised User inventory on at least an annual basis;

(3) A provision specifying pretreatment implementation activities, including individual wastewater discharge permit or general permit issuance, inspection and sampling, and enforcement, activities to be conducted by the Executive Director;

(4) A requirement for the contributing public service district to provide the Executive Director with access to all information that the contributing public service district obtains pertinent to the pretreatment program;

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

(6) Requirements for monitoring the contributing public service district's discharge;

(7) A provision ensuring the Executive Director access to the facilities of Users located

within the contributing public service district's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Executive Director; and

(8) A provision specifying remedies available for breach of the terms of the interjurisdictional agreement.

933.41 REPORTING REQUIREMENTS

(a). Baseline Monitoring Reports

(1). Within either one hundred eighty (180) days after the effective date of a categorical Pretreatment Standard, or the final administrative decision on a category determination under 40 CFR 403.6(a) (4), whichever is later, existing Categorical Industrial Users currently discharging to or scheduled to discharge to the POTW shall submit to the Board a report which contains the information listed in paragraph (2) below. At least ninety (90) days prior to commencement of their discharge, New Sources, and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable categorical Standard, shall submit to the Board a report which contains the information listed in paragraph (2) below. 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.

(2). Users described above shall submit the information set forth below.

A. All information required in Section 933.34 (2) (A)(a), Section 933.34 (2)(A) (b), Section 933.34 (2)(A)(c), and Section 933.34(2)(A)(f). (See 40 CFR 403.12(b) (1)-(7).

B. Measurement of pollutants.

1. The User shall provide the information required in Section 933.34 (2)(A)(g) (1) through (4).
2. The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
3. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority;
4. Sampling and analysis shall be performed in accordance with subsection j and k;
5. The Board may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;

6. The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.

C. Compliance Certification. A statement, reviewed by the User's Authorized Representative as defined in Section 933.01 (5) 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.

D. 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 must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A compliance schedule pursuant to this Section must meet the requirements set out in Section 933.41(b) of this article.

E. Signature and Report Certification. All baseline monitoring reports must be certified in accordance with Section 933.41(n) of this article and signed by an Authorized Representative as defined in Section 933.02(5).

(b) Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by Section 933.41(a)(2)(D) of this article:

(1). 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, and beginning and conducting routine operation);

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

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

(4). In no event shall more than nine (9) months elapse between such progress reports to the Board.

(c) Reports on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable categorical Pretreatment Standards, or in the case of a New Source following commencement of the introduction of wastewater into the POTW, any User subject to such Pretreatment Standards and Requirements shall submit to the Board a report containing the information described in Section 933.34 (2)(A)(f) and (g) and 933.41(a)(2) (B) of this article. For Users subject to equivalent mass or concentration

limits established in accordance with the procedures in Section 933.12 **[Note: See 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 Section 933..41(n)(1) of this article. All sampling will be done in conformance with Section 933.41(k).

(d) Periodic Compliance Reports

All SIUs are required to submit periodic compliance reports even if they have been designated a Non-Significant Categorical Industrial User under the provisions of Section 933.41(d)(3).

1. Except as specified in Section 933.41(d)(3), all Significant Industrial Users must, at a frequency determined by the Board submit no less than twice per year, June and December, or on dates specified, reports indicating the nature, concentration of pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by the Board or the Pretreatment Standard necessary to determine the compliance status of the User
2. The Board may authorize an Industrial User subject to a categorical Pretreatment Standard to forego sampling of a pollutant regulated by a categorical Pretreatment Standard if the Industrial User has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Industrial User. [See 40 CFR 403.12(e)(2)] This authorization is subject to the following conditions:

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

(B) The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than 5 years. The User must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit. See Section 933.34(2)(A)(h).

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

(D) The request for a monitoring waiver must be signed in accordance with Section

933.02 (5), and include the certification statement in 933.41(n)(1) (40 CFR 403.6(a)(2)(ii)).

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

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

(G) Upon approval of the monitoring waiver and revision of the User's permit by the Board, the Industrial User must certify on each report with the statement in Section 933.41(n)(1) below, that there has been no increase in the pollutant in its wastestream due to activities of the Industrial User.

(H) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the User's operations, the User must immediately: Comply with the monitoring requirements of Section 933.41(d)(1) or other more frequent monitoring requirements imposed by the Board, and notify the Board.

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

3. The Board may reduce the requirement for periodic compliance reports [see Section 933.41(d)(1) (40 CFR 403.12(e)(1))] to a requirement to report no less frequently than once a year, unless required more frequently in the Pretreatment Standard or by the WVDEP or EPA where the Industrial User's total categorical wastewater flow does not exceed any of the following:

(1) 0.01 percent of the Board's POTW's design dry-weather hydraulic capacity or five thousand (5,000) gallons per day, whichever is smaller, as measured by a continuous effluent flow monitoring device unless the Industrial User discharges in batches

(2) 0.01 percent of the design dry-weather *organic treatment capacity* of the Board's POTW; and

(3) 0.01 percent of the maximum allowable headworks loading for any pollutant regulated by the applicable categorical Pretreatment Standard for which approved Local Limits were developed in accordance with Section 933.11 of this article.

Reduced reporting is not available to Industrial Users that have in the last two (2) years been in Significant Noncompliance, as defined in Section 933.44 of this article. In addition, reduced reporting is not available to an Industrial User with daily flow rates, production levels, or pollutant levels that vary so significantly that, in the opinion of the Board, decreasing the reporting requirement for this Industrial User would result in data that are not representative of conditions occurring during the reporting period.

4. All periodic compliance reports must be signed and certified in accordance with Section 933.41(n)(1) of this article.

5. 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.

6. If a User subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Board, using the procedures prescribed in Section 933.41(k) of this article, the results of this monitoring shall be included in the report. [See 40 CFR 403.12(g)(6)]

(e) Reports of Changed Conditions

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

1.. The Board 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 Section 933.34 of this article.

2. The Board may issue an individual wastewater discharge permit or a general permit under Section 933.38 of this article or modify an existing wastewater discharge permit or a general permit under Section 933.35 of this article in response to changed conditions or anticipated changed conditions.

(f) Reports of Potential Problems

1. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the User shall immediately telephone and notify the Board 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.

2. Within five (5) days following such discharge, the User shall, unless waived by the Board, 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 might 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 article.

3. A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph 1, above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.

4. Significant Industrial Users are required to notify the Board immediately of any changes at its facility affecting the potential for a Slug Discharge.

(g) Reports from Unpermitted Users

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

(h) Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a User indicates a violation, the User must notify the Board within

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

If the Board performed the sampling and analysis in lieu of the Industrial User, the Board will perform the repeat sampling and analysis unless it notifies the User of the violation and requires the User to perform the repeat sampling and analysis. See 40 CFR 403.12(g) (2).]

(i) Notification of the Discharge of Hazardous Waste

1. Any User who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the User discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the User: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 933.41(e) of this article. 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 Sections 933.41(a),(c),(d) of this article.

2. Dischargers are exempt from the requirements of paragraph 1, above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the User discharges more than such quantities of any hazardous waste do not require additional notification.

3. 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 Board, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

4. 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.

5. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this article, a permit issued thereunder, or any applicable Federal or State law.

(j) 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 Part 136 and amendments thereto, unless otherwise specified in an applicable categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Board or other parties approved by EPA.

(k) Sample Collection

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

1. Except as indicated in Section 2 and 3 below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Board. Where time-proportional composite sampling or grab sampling is authorized by the Board, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Board, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits. [See 40 CFR 403.12(g)(3)]

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

3. For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 933.41(a) and 933.41(c) [40 CFR 403.12(b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Board may authorize a lower minimum. For the reports required by paragraphs Section 933.41(d) (40 CFR 403.12(e) and 403.12(h)), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements. [See 40 CFR 403.12(g)(4).]

(l) Date of Receipt of Reports

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

(m) Recordkeeping

Users subject to the reporting requirements of this article shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this article, any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with Best Management Practices established under Section 933.13(c). Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available

for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the User or the Board, or where the User has been specifically notified of a longer retention period by the Board.

(n) Certification Statements

1. Certification of Permit Applications, User Reports and Initial Monitoring Waiver—The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Section 933.34(4); Users submitting baseline monitoring reports under Section 933.41(a)(2)(E) [See 40 CFR 403.12 (l)]; Users submitting reports on compliance with the categorical Pretreatment Standard deadlines under Section 933.41(c) **[Note: See 40 CFR 403.12(d)]**; Users submitting periodic compliance reports required by Section 933.41(d)(1-4) **[Note: See 40 CFR 403.12(e) and (h)]**, and Users submitting an initial request to forego sampling of a pollutant on the basis of Section 933.41(d)(2)(D)**[Note: See 40 CFR 403.12(e)(2)(iii)]**. The following certification statement must be signed by an Authorized Representative as defined in Section 933.02(5):

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.

2. Annual Certification for Non-Significant Categorical Industrial Users—A facility determined to be a Non-Significant Categorical Industrial User by the Board pursuant to 933.02(66)(3) and 933.34(4) **[Note: See 40 CFR 403.3(v)(2)]** must annually submit the following certification statement signed in accordance with the signatory requirements in 933.02(5) **[Note: See 40 CFR 403.120(l)]**. This certification must accompany an alternative report required by the Board:

Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR ____, I certify that, to the best of my knowledge and belief that during the period from _____, _____ to _____, _____ [months, days, year]:

(a) The facility described as _____ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in 933.02(66)(3) **[See 40 CFR 403.3(v)(2)]**

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

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

This compliance certification is based on the following information.

_____

_____

3. Certification of Pollutants Not Present

Users that have an approved monitoring waiver based on Section 933.41(d)(2) must certify on each report with the following statement that there has been no increase in the pollutant in its wastestream due to activities of the User. **[Note: See 40 CFR 403.12(e)(2)(v)]**

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR _____ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under Section 933.41(d)(1).

COMPLIANCE MONITORING

933.42 MONITORING FACILITIES

When required by the Board, any person discharging to the public sanitary sewerage system industrial wastes, or industrial wastes and sanitary sewage together in excess of 40,000 cubic feet per month, or 120,000 cubic feet per quarter, shall install a suitable manhole or manholes on his connecting sewer or sewers to facilitate observation, sampling and measurement of the combined flow of wastes from his premises. Alternate monitoring facilities or arrangements may be acceptable to the Board under certain conditions and shall be considered on a case-by-case basis. Such monitoring facilities shall be accessible and safely located and shall be constructed in accordance with plans acceptable to the Board. The monitoring facilities shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible to the Board or its authorized representative at all times.

There shall be ample room in or near such sampling manhole or monitoring facility to allow accurate sampling and preparation of samples for analysis. The monitoring facilities which the user is required to install shall be maintained at all times in a safe and proper operating condition at the expense of the user.

Whether constructed on public or private property , the sampling and monitoring facilities shall be provided in accordance with the Board's requirements and all applicable local construction standards and specifications. Construction shall be completed within 180 days following written notification by the Board.

933.43 INSPECTION AND SAMPLING

(a) Right of Entry: The Board shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this article and any individual wastewater discharge permit or general permit or order issued hereunder. Users shall allow the Board 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.

1. 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 Board shall be permitted to enter without delay for the purposes of performing specific responsibilities.

2. The Board 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.

3. The Board 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 no less than yearly or per the manufacturer's recommendation to ensure their accuracy.

4. 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 Board and shall not be replaced. The costs of clearing such access shall be borne by the User.

5. Unreasonable delays in allowing the Board access to the User's premises shall be a violation of this article.

6. When the monitoring facility is constructed in the public right-of-way or easement, it must be located in an unobstructed location. The location of the monitoring facility shall provide ample room in or near the monitoring facility to allow accurate sampling and preparation of samples and analysis whether constructed on public or private property. The monitoring

facilities shall be provided in accordance with the Board's requirements and all applicable local construction standards and specifications, and such facilities shall be constructed and maintained in such manner so as to enable the Board to perform independent monitoring activities.

(b) **Search Warrants** If the Board 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 article, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Board designed to verify compliance with this article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, The Board may seek issuance of a search warrant from the "Circuit Court of Cabell County, West Virginia".

933.44—PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

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

(a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six- (6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Section 933.11 through 933.13; See 40 CFR 403.3(l)

(b). Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6-) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by Section 933.11 through 933.13 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH); See 40 CFR 403.3(l)

(c). Any other violation of a Pretreatment Standard or Requirement as defined by Section 933.11 through 933.13 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Board determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public; See 40 CFR 403.3(l)

(d) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Board's exercise of its emergency authority to halt or prevent such a discharge;

(e) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in an individual wastewater discharge permit or a general permit or enforcement order for starting construction, completing construction, or attaining final compliance;

(f) Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self monitoring reports, and reports on compliance with compliance schedules;

(g) Failure to accurately report noncompliance; or

(h) Any other violation(s), which may include a violation of Best Management Practices, which the Board determines will adversely affect the operation or implementation of the local pretreatment program.

933.45 PRETREATMENT

Users shall provide wastewater treatment as necessary to comply with this article and shall achieve compliance with all categorical Pretreatment Standards, Local Limits, and the prohibitions set out in Section 933.11 of this article within the time limitations specified by EPA, the State, or the Board, 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 Board for review, and shall be acceptable to the Board 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 Board under the provisions of this article.

All records relating to compliance with Pretreatment Standards shall be made available to officials of approval authority upon request.

Additional Pretreatment Measures

(a) Whenever deemed necessary, the Board 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 article.

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

(c) Grease, oil, and sand interceptors shall be provided when, in the opinion of the Board 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 users. All interception units shall be of a type and capacity approved by the Board and, shall comply with the Oil and Grease Management article 933.56, and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired in accordance with the Oil and Grease Management article 933.56 by the User at their expense.

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

933.46 CONFIDENTIAL INFORMATION

Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, general permits, and monitoring programs, and from the Board'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 Board, 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 at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

Enforcement

933.465 APPLICATION.

The conditions and requirements of this article are applicable to all industrial users. The user has a duty to comply with all of the conditions of this article. Any noncompliance constitutes a violation of the article and is subject to appropriate enforcement action including, but not limited to, permit revocation or denial of a permit renewal application.

The Pretreatment Program Enforcement Response Plan provides guidance to the Sanitary Board and the Board's pretreatment staff relative to the procedures to be followed in enforcing the Board's industrial waste pretreatment program. It is anticipated that general adherence to the plan will assist overall administration and enforcement of the Board's program. It defines the roles and responsibilities of the individuals assigned to administering the enforcement program, and identifies and describes available enforcement responses. The plan also presents a guide to assist in the selection of appropriate enforcement responses to a range of possible violations. (See Appendix A)

933.47 NOTIFICATION OF VIOLATION

When the Board finds that a User has violated, or continues to violate, any provision of this article, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other Pretreatment Standard or Requirement, the Board may serve upon that User a written Notice of Violation. Within thirty (30) days of the receipt of such notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the User to the Board. Submission of such a 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 Board to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

933.48 ENFORCEMENT REMEDIES

ADMINISTRATIVE ENFORCEMENT REMEDIES

(a) Consent Orders

The Board may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents shall include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to Sections 933.48(b) and (c) of this article and shall be judicially enforceable.

(b) Compliance Orders

When the Board finds that a User has violated, or continues to violate, any provision of this article, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other Pretreatment Standard or Requirement, the Board 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.

(c) Cease and Desist Orders

When the Board finds that a User has violated, or continues to violate, any provision of this article, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, the Board 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. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the User.

(d) Emergency Suspensions.

The Board may immediately suspend a user's discharge, after informal 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 Board 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 Board 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 Board may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Board that the period of endangerment has passed, unless the termination proceedings in subsection (e) of this article 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 Board prior to the date of any show cause or termination hearing under subsections (e) or (g) of this article.

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

(e) Termination of Discharge.

In addition to the provisions in Section 933.49, any User who violates the following conditions is subject to discharge termination:

(1)Violation of individual wastewater discharge permit or general 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 Sections 933.10 to 933.19 of this article.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under subsection (g) of this article why the proposed action should not be taken. Exercise of this option by the Board shall not be a bar to, or a prerequisite for, taking any other action against the user.

(f) Notification of Enforcement Action.

Except in the case of emergency situations subject to the provisions of Section 933.48, whenever the Board deems it necessary to take enforcement action, including revocation of the user's permit, under the provisions of this article, the Board may issue the affected User a formal written notification of the proposed enforcement action by certified mail. Such notice shall state the basis for the proposed action and the reasons for the Board's tentative action.

The Industrial User may comment on the proposed action and to submit to the Board a written request for a meeting with the Board to appeal the proposed action. All requests for an appeal meeting shall clearly state the specific action or provision(s) of the proposed action that is relevant to the appeal shall also be submitted with the request for appeal. The Board may deny the appeal request on the basis of insufficient grounds, or may schedule a meeting for the User to present the appeal to the Board. As soon as practicable after the conclusion of the review period or the appeal meeting, the Board shall issue to the User a formal written notification of the intended enforcement action and their conclusions. A Notification of Enforcement Action shall not be a bar against, or prerequisite for, taking any other action against the user.

(g) Show Cause Hearing

The Board may order a User which has violated, or continues to violate, any provision of this article, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before the Board 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 ten (10) days prior to the hearing. Such notice may be served on any Authorized Representative of the User as defined in Section 933.02(5) and required by Section 933.34(4)(A). A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

The Board may itself conduct the hearing and take evidence, or may designate any of its members, to:

(1) Issue in the name of the Board notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
(2) Take the evidence;
(3) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Board for action thereon.

At any hearing held pursuant to this article, testimony taken shall be under oath and recorded stenographically. The transcript, so recorded shall be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.

After the Board has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances are installed on existing treatment facilities, devices or other related appurtenances and are properly operated. Further orders and directives as are necessary and appropriate may be issued.

Judicial Enforcement Remedies

(h) Injunctive Relief.

When the Board finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or general permit, or order issued hereunder, or any other pretreatment standard or requirement, the Board may petition the "Circuit Court of Cabell County, West Virginia" through the Board's Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, general permit, order, or other requirement imposed by this article on activities of the user. The Board may also 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.

(i) Civil Penalties.

(1) A user who has violated, or continues to violate, any provision of this article, an individual wastewater discharge permit, or a general permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the Board for a maximum civil penalty of $25,000 per violation per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
(2) The Board 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 Board.
(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 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.

(j) Criminal Prosecution.

(1) A user who willfully or negligently violates any provision of this article, an individual wastewater discharge permit, or a general permit, or an order issued hereunder, or any other Pretreatment Standard or Requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than twenty- five thousand ($25,000) dollars per violation, per day, or imprisonment for not more than thirty (30) days, or both.

(2) A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of twenty- five thousand dollars ($25,000), or be subject to imprisonment for not more than thirty (30) years, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

(3) A User who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this article, individual wastewater discharge permit, or general permit or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction, be punished by a fine of not more than $25,000.00 per violation, per day, or imprisonment for not more than thirty (30) days, or both.

(4) In the event of a second conviction, a User shall be punished by a fine of not more than $25,000.00 per violation, per day or imprisonment for not more than thirty (30) years, or both.

(k) Remedies Nonexclusive

The remedies provided for in this article are not exclusive. The Board may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the Board's enforcement response plan. However, the Board may take other action against any User when the circumstances warrant. Further, The Board is empowered to take more than one enforcement action against any noncompliant User.

Administrative Fines

(l) When the Board finds that a User has violated, or continues to violate any provision of this article, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other Pretreatment Standards or Requirement, the Board may fine such User in an amount not to exceed $10,000.00. 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.

(m) Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of ten percent (10%)] of the unpaid balance, and interest shall accrue thereafter at a rate of ten percent (10 %) per month. A lien against the User's property shall be sought for unpaid charges, fines, and penalties.

(n) Users desiring to dispute such fines must file a written request for the Board to reconsider the fine along with full payment of the fine amount within sixty (60) days of being notified of the fine. Where a request has merit, the Board 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 Board may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

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

SUPPLEMENTAL ENFORCEMENT ACTION

(p) Performance Bonds

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

(q) Liability Insurance

The Board may decline to issue or reissue an individual wastewater discharge or a general permit to any User who has failed to comply with any provision of this article, a previous individual wastewater discharge permit, or a previous general 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.

(r) Payment of Outstanding Fees and Penalties

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

(s) Water Supply Severance

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

(t) Public Nuisances

A violation of any provision of this article, an individual wastewater discharge permit, a general permit, or order issued hereunder, or any other Pretreatment Standard or Requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the Board]. Any person(s) creating a public nuisance shall be subject to the provisions of Article 933.11 governing such nuisances, including reimbursing the Board for any costs incurred in removing, abating, or remedying said nuisance.

(u) 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 City. Existing contracts for the sale of goods or services to the Board held by a User found to be in Significant Noncompliance with Pretreatment Standards or Requirements may be terminated at the discretion of the Board.

AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

933.49 REVOCATION OF PERMIT.

The conditions and requirements of this article are applicable to all permitted industrial users and shall be incorporated into the user's permit either expressly or by reference. The permittee has a duty to comply with all of the conditions of this article. Any noncompliance constitutes a violation of the article and is subject to appropriate enforcement action including, but not limited to, permit revocation or denial of a permit renewal application.

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

(a) Failure to notify the Board of significant changes to the wastewater prior to the changed discharge;
(b) Failure to provide prior notification to the Board of changed conditions pursuant to Section 933.41(e);
(c) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
(d) Falsifying self-monitoring reports;
(e) Tampering with monitoring equipment;
(f) Refusing to allow the Board timely access to the facility premises and records;
(g) Failure to meet effluent limitations;
(h) Failure to pay fines;
(i) Failure to pay sewer charges;
(j) Failure to meet compliance schedules;
(k) Failure to complete a wastewater survey or the wastewater discharge permit application;
(l) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
(m) Violation of any Pretreatment Standard or Requirement, or any terms of the wastewater discharge permit or this article.

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.

933.50 UPSET PROVISIONS

Under the conditions specified in 40 CFR 403, an upset shall constitute an affirmative defense to an enforcement action for noncompliance with Federal categorical standards. Any Industrial User seeking to establish the occurrence of an upset shall have the burden of proof to demonstrate that the conditions necessary for an upset according to the general pretreatment regulations have been met.

(a). 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.

(b). An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards if the requirements of paragraph (c), below, are met.

(c). A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) An upset occurred and the User can identify the cause(s) of the upset;

(2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and

(3) The User has submitted the following information to the Board within twenty-four (24)

hours of becoming aware of the upset if this information is provided orally, a written submission must be provided within five (5) days:

(A) A description of the indirect discharge and cause of noncompliance;

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

(C) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

(d). In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof.

(e). 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.

(f). 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.

933.501 PROHIBITED DISCHARGE STANDARDS

User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 933.11 of this article or the specific prohibitions in Sections 933.11(b-s) except (j) and (m) of this article if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause Pass Through or Interference and that either:

(a) A Local Limit exists for each pollutant discharged and the User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or

(b) No Local Limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when the Board was regularly in compliance with its NPDES permit, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements.**[Note: 40 CFR 403.5(a)(2)]**

933.502 BYPASS

(a) For the purposes of this Section,

(1) Bypass means the intentional diversion of wastestreams from any portion of a User's treatment facility.

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

(b) 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 paragraphs (c) and (d) of this Section.

(c) Bypass Notifications

(1) If a User knows in advance of the need for a bypass, it shall submit prior notice to the Board, at least ten (10) days before the date of the bypass, if possible.

(2)A User shall submit oral notice to the Board of an unanticipated bypass that exceeds applicable Pretreatment Standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) 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 Board may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(d) Bypass

(1) Bypass is prohibited, and the Board may take an enforcement action against a User for a bypass, unless

(A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
(B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
(C) The User submitted notices as required under paragraph (c) of this section.

(2) The Board may approve an anticipated bypass, after considering its adverse effects, if the Board determines that it will meet the three conditions listed in paragraph (d)(1) of this Section.

933.51 BILLING PRACTICE; COLLECTION OF SERVICE CHARGES.

The sewerage service charge and the surcharges, where applicable and provided for in this article, shall be payable in four quarterly payments each year, or in twelve monthly payments each year in accordance with the billing practices of the West Virginia-American Water Company, provided that the amount of sewerage service charge payable from any person at the first payment period after the passage date of this article, shall be determined on the basis of a per diem pro rata amount of the established minimum charge per quarter or per month, or shall be based upon the water consumed at the above established rates, whichever is the larger. Whenever the sewer service charge payable hereunder becomes due after the first day or terminates before the last day of a billing period, the service charge so payable shall be apportioned in the same manner and in the same way that water charges are apportioned.

The sewerage service charges, surcharges and fees, levied by or pursuant to this article, shall be billed by the Sanitary Board; or, at the discretion of the Board, by the West Virginia-American Water Company, to all firms, persons and corporations liable therefore pursuant to such terms, arrangements, agreements and compensation as may be determined by contract between the Board and the West Virginia-American Water Company. The collection of such service charges, surcharges and fees shall be by the Board, or by its designated and authorized agent, and all moneys so collected shall be deposited to its credit at any State or national bank within the State, and investments in such bank certificates of deposit, savings accounts, and the like, any State agency investment funds or pools, any Federal Government securities, or with the Executive Director of the Board, who shall maintain the same in a special fund and remit same periodically to the State Sinking Fund in a manner approved by the State Sinking Fund Commissioner. The moneys maintained in this special fund by the State Sinking Fund Commission shall be paid out on order of the Board for such purpose as may be allowed by law, with regard to and incidental to the acquisition, construction, maintenance, operation,

management, extension and repair of the Board's POTW and for the enlargement and replacement of the same, and for the purpose of construction and improvements to the Board's POTW system.

REGULATION BY SANITARY BOARD

933.52 POTW RULES AND REGULATIONS.

In addition to the specific authority granted by this article the Board shall make and enforce such other rules and regulations for the safe, economical and efficient management, control and protection of the Board's POTW for the construction and use of house sewers and connections to the POTW, for the construction and use of all other connections thereto, and for the regulation, collection, rebating and refunding of such sewerage service charges as may be needful or necessary from time to time, provided that Council shall have the right to alter, supplement or revoke such rules and regulations.
No person shall violate any of the rules or regulations made and promulgated by the Board as aforesaid, and any such person shall be subject to the provisions of Section 933.48.

NOTICE AND HEARING

933.53 REQUIREMENTS.

All statutory requirements of this section shall be compiled with in regard to proper notice to all of the users of the services afforded by such sanitary sewerage system and the owners of property served or to be served thereby and others interested, concerning the proposed rates and charges and an opportunity to be heard thereon by such users and property owners.

UTILITY INTERFERENCE; TAMPERING

933.54 INTERFERENCE WITH SEWERS BY TELEPHONE LINES OR CONDUITS, GAS OR WATER MAINS.

No person or public utility shall erect any telephone, telegraph or high tension line or conduit, or lay or construct any gas or water mains or any other construction of whatsoever nature in any street, alley or other public place, which will now or at any future time, interfere with the present or any future sewers or sewerage system of the Board. When it is found that any such telephone, telegraph or high tension line, or any telephone, telegraph or high tension conduits, or any gas or water mains do or shall interfere with the present sewers or sewerage system or any future sewers or sewerage system, then the same shall be immediately removed or altered, as the case may be, by the person or public utility maintaining the same, so as not to interfere with the sewer or sewerage system, upon ten days' notice from the Board, and unless the same are so removed or altered, as the case may require, then the Board shall have the right to remove or alter the same and the cost thereof may be charged to the owner thereof, and if the same is not immediately paid, the Board may collect the same in any action at law, or serve upon any public utility violating the provisions of this section a notice to show cause why its franchise should not be revoked.

933.55 CUTTING OR BREAKING SANITARY OR COMBINATION SEWER.

No person shall cut, break or pierce any Board sanitary or combination sewer or appurtenance thereof, or place, introduce or connect any tube, pipe, trough or conduit into any sanitary or combination sewer or appurtenance thereof, without having first obtained a consent, in writing, from the Board to do so.

933.56 GREASE. The following paragraphs are specific for managing Fats, Oils and Greases generated from cooking establishments discharging to the Board's collection system.

Permitting, inspections, enforcement and fees for the following Articles are administered through Sections 933.01 through 933.51.

(1) Definitions.

a) Board- means the Huntington Sanitary Board or their duly authorized representative.

b) Fats, oils and grease (FOG) - means groups of substances with similar physical characteristics that are detectable quantitatively on the basis of their common solubility in an organic solvent, usually originating from animals or vegetables. These substances are measurable using analytical test procedures established in 40 CFR 136, as amended from time to time. All are sometimes referred to herein as grease or greases.

c) Food Service Establishments (FSE)- means those establishments that engage in activities of preparing, serving, or otherwise making available for consumption foodstuffs and that use one or more of the following preparation activities: cooking by frying (all methods); baking (all methods); boiling; blanching; roasting; toasting; or poaching. Also included are infrared heating, searing, barbecuing, and any other food preparation activity that produces a hot, non-drinkable food product in or on a receptacle that requires washing.

d) Executive Director- The person designated by the Sanitary Board to supervise the operation of the publicly-owned treatment works and who is charged with certain duties and responsibilities by this article. The term also means a Duly Authorized Representative of the Executive Director.

e) Non-cooking establishments- means those establishments primarily engaged in the preparation of precooked foodstuffs that do not include any form of cooking. These include cold dairy and frozen foodstuffs preparation and serving establishments.

f) User- means any person who contributes causes or permits the contribution or discharge of wastewater into the POTW, including persons who contribute such wastewater from mobile sources, such as those who discharge hauled wastewater.

g) Operator- means the person responsible for the overall operation of the commercial establishment.

h) Person- means any individual, partnership, co-partnership, firm, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns, or employee thereof.

i) Grease trap or interceptor- means a device for separating and retaining fats, oils and grease from the wastewater prior to entering the sanitary sewer collection and treatment system. All are sometimes referred to herein as grease interceptors.

j) Minimum design capability- means the design features of a grease interceptor and its ability or volume required to effectively intercept and retain greases from grease-laden wastewaters discharged to the public sanitary sewer.

k) Prewash sink- means a sink generally located prior to the dishwasher. This sink is usually equipped with a sprayer to remove food particles from dishes, prior to entering the dishwasher.

l) Authorized Hauler-A sanitary hauler approved by the Huntington Sanitary Board in accordance with this article who is authorized to perform inspection, cleaning, and grease disposal for food service establishments (FSE).

m) Digital Manifest-Software provided by the Huntington Sanitary Board to track grease trap maintenance and pumpouts.

2) Prohibitions.

a) No person shall discharge any wastewater into the sewer system of the Board that contains fats, oil or grease in excess of 160 milligrams per liter of wastewater. Oil and grease shall be determined by collecting four grab samples evenly spaced throughout normal business hours and analyzing separately. The average of all four results shall be less than 160 milligrams per liter.

b) No person shall discharge any wastewater to the grease interceptor during the cleaning process, including, but not limited to, the decanting of water from the truck of a third party contracted to clean the grease interceptor. Tap water may be used to aid in

cleaning the grease interceptor.

3) Grease Interceptors.

a) Requiremtents. All FSE's are required to have a grease interceptor or trap properly installed in accordance with and all applicable requirements of the West Virginia Building Code-Plumbing (current edition)

b) Grease traps/interceptors shall be required to receive the drainage from fixtures and equipment from grease-laden waste located in food preparation areas, such as in restaurants, hotel kitchens, hospitals, school kitchens, bars, factory cafeterias, clubs, and other institutions. Grease traps/interceptors shall receive waste only from fixtures that allow fats, oils, or other grease to be discharged. Fixtures and equipment shall include, but are not limited to: pot sink, soup kettles or similar devices, work stations, floor drains or sinks in which kettles are drained, automatic hood wash units, and dishwashers without pre-rinse sinks. Dishwashers shall only be included, when necessary, in order to capture grease that cannot otherwise be contained.

c) The location of the grease trap shall be within 30 feet of the fixtures served. When physical limitations disallow a grease trap/interceptor installation within 30 feet, requests for approval will be reviewed on an individual basis.

d) Where food waste grinders connect to a grease trap/interceptor, a solids interceptor shall separate the solids from the discharge before connecting to the grease trap/interceptor. The solids interceptor shall be sized and rated for the discharge of the food waste grinder. Emulsifiers, chemicals, enzymes, and bacteria shall not discharge into the food waste grinder.

e) The external grease trap/interceptor shall be a minimum of one hundred fifty (150) gallons capacity; however, the minimum recommended size is one thousand (1000) gallons. Larger grease traps/interceptors may be a requirement depending upon the loading. The size of the external grease trap/interceptor shall be determined by using the sizing formula found at the West Virginia Department of Health and Human Resources website.

f) In the event an internal grease trap/interceptor is approved for use, the largest capacity grease trap/interceptor which can be properly installed to allow for maintenance and cleaning shall be used. Internal grease traps/interceptors shall not be approved for new construction.

g) Modified septic tanks are commonly used for external grease traps/interceptors; however, the influent structure (inlet baffle) must be at least four feet from the effluent structure, and the tank must have at least 30" of liquid depth. The effluent baffle or tee must be submerged by

at least 75 percent but no more than 85 percent of liquid depth. Metal septic tanks are not allowed for use as a grease trap/interceptor.

h) Access covers must be provided over both the influent structure and the effluent structure Access covers shall be at least 18" in diameter. If inlet and outlet access openings are less than 18", a larger center access opening must be available, and accessible at the surface, to allow for grease management, servicing, and cleaning. Sealed risers with tamper-resistant lids must be provided to the surface over all required points.

i) The requirements in the policy do not apply to those facilities currently utilizing a grease interceptor or a new or extensively remodeled facility whose plans and specifications have received prior written approval by the Board or their designee prior to the effective date of this policy.

j) A grease interceptor shall be installed, at no cost to the Board, in any establishment where the quantity of fats, oil, and grease in its wastewater is likely to exceed 160 milligrams per liter at any time. Said establishments include, but are not limited to, all restaurants, cafeterias, bakeries, meat processing operations, schools, universities, churches, daycares, jails, hospitals, service stations and/or other facilities that prepare food for resale, patients, or club members.

k) In any establishment that is required to install a grease interceptor, the owner and/or operator of the facility shall properly operate and maintain the grease interceptor, so that the wastewater discharged from the facility does not contain fats, oil or grease at or above prohibited levels at any time.

l) In any establishment that is required to install a grease interceptor, the owner/operator of the facility shall not:
   i. Discharge any quantities of fats, oil or grease into the sewer system not associated with the normal cleaning of cooking utensils and/or containers in which food is cooked, prepared, served or stored;

   ii. Allow the grease interceptor to accumulate grease/ solids constituting more than twenty-five percent (25%) of the total liquid depth;
   iii. Introduce any additives, bacteria or enzymes for the purpose of emulsifying the grease;
   iv. Alter the grease interceptor in any manner that reduces the efficiency;
   v. Connect plumbing fixtures into which fats, oils and grease are not discharged to the grease interceptor;
   vi. Install the grease interceptor in such a manner as to make inspection and maintenance of the grease interceptor difficult.

m) Any establishment that has a prewash sink shall connect the sink to a grease interceptor. If it is not possible to connect the prewash sink to an existing grease interceptor, then a separate trap shall be installed for the prewash sink. Prewash sinks shall have a screening device to remove solids from the wastewater. A garbage disposal at this point is prohibited.

(4) Grease Interceptor Size.

(a) Grease interceptor size shall be in accordance with West Virginia Department of Health and Human Resources sizing data sheet (form SS-195).

(b) All grease interceptors shall be of a type, design, and capacity approved by the Board or appointed designee and shall be readily and easily accessible for user cleaning and Board inspection. All such grease interceptors shall be serviced and emptied of waste content to maintain Minimum Design Capacity or effective volume of the grease interceptors, but not less often than every thirty days, unless the Board determines an alternate frequency.

(c) The user shall remove any accumulated grease and sludge as required, but at intervals of not longer than thirty (30) days at the use's expense. Grease interceptors shall be kept free of inorganic solid materials such as grit, rocks, gravel, sand, eating utensils, cigarettes, shells, towels, rags, etc., which could settle and thereby reduce the effective volume of the grease interceptor.

(d) The Board may exempt an otherwise covered facility from the requirements of this article if the owner/operator of the facility demonstrates to the satisfaction of the Board that its wastewater will not contain fats, oil or grease in excess of 160 milligrams per liter. A request shall be made in writing to the Board along with a copy of the menu, and a list of kitchen equipment (number of sinks, dishwasher, fryer, etc.);

(e) The Board reserves the right to re-evaluate the facility at its discretion if changes in the menu or other business operations, or problems in the sewer system, will warrant the installation of a grease interceptor.

(f) The use of automatic grease removal systems is conditionally permissible, upon prior written approval by the Board. Any establishment using this equipment shall operate the system in such a manner that the discharge limit for grease, as measured from the unit's outlet is consistently achieved.

5) New Construction.

(a) New Facilities. FSE's which are newly proposed or constructed, or existing food service facilities which will be expanded or renovated to include a food service facility, where such a food service facility did not previously exist, shall be required to install a grease interceptor or trap according to the requirements of the West Virginia Building Code-Plumbing (current edition)

(b) No non-grease laden sources will be connected to those lines intended for grease interceptor service.

(c) Prior to construction, the contractor and/or operator of the new facility shall submit the following to the Board:

i. Plans and specifications for the grease interceptor proposed to be installed.
ii. Site plan showing grease interceptor location and fixture(s) to be served.
iii. Seating capacity of the facility; and
iv. Calculation of the required size of the grease interceptor. Restaurants, cafeterias, or any other facility that prepares food for resale, patients or club members shall calculate the required size as set forth in subsection (d)(1) hereof, but in no case shall the grease interceptor be smaller than 250 gallons. The installation and/or construction of the grease interceptor may not occur until written approval of the plans or specifications, site plan, and size is received from the Board.

6) Existing facilities. FSE's existing prior to the date of the Boards Ordinance shall be permitted to operate and maintain existing grease interceptors or traps provided their grease interceptors or traps are in good operating condition. The Board may require an existing facility to install a new grease interceptor or trap that complies with the requirements of the West Virginia Building Code-Plumbing (current edition) or to modify or repair any noncompliant plumbing or existing grease interceptor or trap when any one or more of the following conditions exist:

(a) The facility is found to be contributing grease in quantities sufficient to cause line stoppages or necessitate increased maintenance on the wastewater collection system.

(b) Grease concentrations exceed 160mg/l on wastewater effluent as determined by sampling performed by the inspector.
(c) The facility has an irreparable or defective grease interceptor or trap.
(d) Remodeling of the food preparation or kitchen waste plumbing system is performed which required a plumbing permit to be issued by the City of Huntington.
(e) The facility is sold or undergoes a change of ownership.
(f) The facility does not have plumbing connections to a grease interceptor or trap in compliance with the requirement.

7) Permits.

(a) No establishment shall operate a grease interceptor without a grease interceptor permit. In order to obtain a grease interceptor permit, the owner and/or operator of an establishment that is required to have a grease interceptor permit by this article shall submit a complete permit application, including plans and specifications, site plan, seating capacity of the facility, appropriate fee as detailed in the Board's Schedule of Rates, and the calculation of the required size of the grease interceptor to the Board at least sixty (60) days prior to the date the facility begins operation. The Board shall approve or reject the application in writing within ninety (90) days of its submission.

i) In the event the application is approved, the owner and/or operator shall install the grease interceptor, or modify an existing grease interceptor, in accordance with the plans and specifications and shall notify the Board when said installation/modification is completed. The notification shall occur at least ten (10) days prior to the date the facility begins operations. A grease interceptor permit shall not be issued until the Board has inspected the grease interceptor.

b) Permits shall be issued for a specified time period not to exceed three years. A permit may be issued for a period less than three (3) years at the discretion of the Board.

c) Permits may be re-assigned or transferred to a new owner and/or operator only with written prior approval of the Board.
Permits may be terminated for the following reasons:
i. Failing to properly install, operate or maintain the grease interceptor.
ii. Refusing to allow timely access to the facility premises, the grease interceptor, and the grease interceptor records.
iii. Failing to pay the permit fee.
iv. Failing to meet effluent limitations; and
v. Failing to maintain accurate grease interceptor records.

d) The owner and/or operator shall apply for permit renewal by submitting a completed permit application including the appropriate fees as determined by the Board per Section 933.21 sixty (60) days prior to expiration of the existing permit. An expired permit will continue to be effective and enforceable until the permit is reissued if the application has been submitted in a timely manner and the failure to reissue the permit prior to the permit expiration of the previous permit is not due to any act or failure to act on the part of the owner and/or operator.

e) Existing facilities that are required to obtain a grease interceptor permit by this article shall submit a completed permit application within sixty (60) days of the date of the passage of this article. The Board shall review each application and, if necessary, inspect each facility, to determine whether it is in compliance with the provisions of this article. If the facility is in compliance, the Board shall issue the owner and/or operator a grease interceptor permit. In the event the facility is not in compliance, the Board will issue a Notice of Violation, pursuant to subsection (h) hereof. The initial permit application will be accepted as an approved permit for the purposes of this article until such time as the Board has completed its review of the application; if the completed application has been submitted in a timely manner and the failure to issue the permit is not due to any act or failure to act on the part of the owner and/or operator.

8) Disposal.

(a) Facilities that clean their grease interceptors and dispose of the grease themselves must maintain, and have available for inspection by the Board, a log for the previous three (3) years which contains the following information:
i. The date and time the grease interceptor was cleaned;
ii. The volume, in gallons, of fats, oils and grease removed;
ii. The method of disposal.
iii. The place of disposal.

(b) Facilities that employ third parties to clean their grease must maintain, and have available for inspection by the Board, receipts for the previous three (3) years from said third parties reflecting the date and time of the removal, the volume removed, and the amount paid for services, as well as receipts from the facility where the third party disposed of the grease. A representative of the facility must be present when a third party cleans a grease interceptor.

(c) Interceptor pumping frequency. Each FSE shall have its grease interceptor pumped by a **authorized hauler** in accordance with section 9 Grease Haulers.

(d) Failure to keep said log or receipts shall be sufficient grounds for the termination of the facility's grease interceptor permit.

(e) Failure to use an authorized hauler will be sufficient grounds for the termination of the facility's grease interceptor permit.

9) Grease Haulers (Authorized Haulers)

(a) Grease hauler registration. Any person, firm, or business desirous of collecting, pumping, or hauling grease interceptor or trap wastes from businesses located within the City limits shall be required to register with the Board. It shall be unlawful for any grease hauler to clean or pump out grease interceptors or traps within the City limits without being registered. Registration shall be effective for a period of three years. The registration required by the Board shall be in addition to any other permits, registrations, or occupational licenses required by federal, state and local agencies having lawful jurisdiction. The registration is not transferable.

(b) Application. To register with the Board, a grease hauler shall submit a completed application form to the Director. The Director shall approve, deny or approve with conditions all applications by written notice within forty-five (45) calendar days of the Board's receipt of the completed application form. The grease hauler shall be registered prior to providing grease hauling services within the City limits. The application shall require, but not limited to the following information:

(c) List of all trucks or vehicles used to clean interceptors or traps, which include vehicle make, model, year, identification number, color, tank capacity, proof of insurance, and tag number.

(d) List of all drivers or personnel used to clean interceptors or traps, including proof of valid driver's licenses.

(e) List of all disposal sites.

(f) Registration renewal. An application for registration renewal shall be submitted on the appropriate renewal form at least forty-five (45) calendar days prior to the expiration date

of the existing registration by each applicant wishing to provide grease hauling services in the City limits.

(g) Spill reporting. Any accident, spill, or other discharge of grease, solids, or gray water, which occurs within the City, shall be reported to the Board's Wastewater Treatment Plant by the grease hauler as soon as possible but not longer than twenty-four (24) hours after the incident. The grease hauler shall comply with all procedures and reporting requirements contained in federal, state, and local regulations. The grease hauler shall be responsible for all clean-up procedures and costs.

(h) Reporting. Haulers shall submit at time of pump out a completed log form via the Board's digital manifest program completed reports that include the following.

i. Hauler name
ii. Hauler permit number
iii. FSE name, address
iv. Date of service
v. The volume of fats, oil and grease removed
vi. disposal site name, address
vii. date of disposal
viii. disposer permit number

10) Record keeping. Grease haulers shall retain and make available for inspection and copying, all records related to grease interceptor or trap pumping and grease disposal. A Huntington Sanitary Board paper manifest or digital pump out report shall be required to be signed by the grease hauler certifying the accuracy of the information on the manifest. The manifest shall include, but not be limited to, name, location, date, and time of the facility serviced, estimated gallonage removed from interceptor or trap, disposal times, dates, locations, and amounts. These records shall remain available for a period of at least three (3) years. The failure to provide information to the Board within ten (10) days of a written request is a violation of this article.

11) Vehicle inspection. Grease haulers shall permit the Board to inspect grease haulers' registered vehicles and records.

12) Disposal. Waste removed from each grease interceptor or trap shall be disposed of at a grease disposal facility permitted to receive such wastes. Grease, solid material, gray water removed from interceptors or traps shall not be returned to any grease interceptor, trap, private sewer line, or to any portion of the Board's treatment works, except for food service facilities that use a two-compartment pump truck where the compartments are fully separate with their own valve system, so there is no cross contamination between the gray water with the solids and grease. With this type of equipment, gray water may be re-introduced back into the interceptor if the wastewater effluent grease concentrations do not exceed 160 mg/l.

13) It is the responsibility of the preferred hauler to ensure that the vehicle used to transport waste is permitted with the Huntington Sanitary Board and is in compliance. A digital manifest, and log system, is used to control the transporting and disposal of all applicable liquid waste generated in the City of Huntington. It is the responsibility of the preferred hauler to ensure that each manifest is properly filled out and that all documents are properly submitted to the Huntington Sanitary Board's digital manifest system and the waste collected is properly documented.

14) All authorized haulers must also follow and comply with local, state, and federal guidelines and laws.

15) Inspection.

(a) The Board shall have the right to enter any facility covered by this article without prior notice to inspect and test the grease interceptor and related fixtures and plumbing and inspect the facility's log or third party receipts. Any violations found during inspection shall be noted on an inspection form. A subsequent Notice of Violation will be sent to the owner and/or operator of the facility by First Class mail, which will give said owner and/or operator fourteen days to correct the violation. Extensions of the fourteen-day period may be granted for good cause shown. Failure to correct the violation may result in the termination of the facility's grease interceptor permit. Nothing in this article, however, shall limit the Board's right to pursue the remedies set forth in the City of Huntington's Sewer Use Article, in addition to the remedies set forth herein.

(b) It shall be the responsibility of the grease hauler to inspect an interceptor during, or immediately after pumping procedure to ensure that the interceptor is clean and that all fittings and fixtures inside the interceptor are in working condition and functioning properly. If the interceptor is not functioning properly, the grease hauler shall notify the owner in writing and in the notes section of the HSB digital reporting system. The notice shall include a sufficient description of the malfunction.

16) Enforcement.

(a) Grease interceptor and trap enforcement

1. Food Service Establishments: Whenever the Board's inspector determines that a grease interceptor or trap needs pumping, repairs, maintenance, or replacement, enforcement shall be as follows:

Notice of Violation (NOV). The inspector conducting the inspection shall immediately notify the FSE owner that a violation exists and issue the owner a NOV stating the nature of violation.

Inspection and Re-inspection. If a grease interceptor or trap must be re-inspected because of deficiencies found during a previous inspection, and all of the deficiencies have been corrected, a re-inspection fee shall be charged to the food service facility.

(b) When the Board finds that provisions of this article have been violated, and issues a Notice of Violation, as set forth in subsection (h) hereof, the operator may file a written objection to the Notice of Violation with the Board within ten days of the date of said Notice. Said written objections must set forth with specificity the reasons for said objection.

(c) Upon receipt of the operator's written objection to the Notice of Violation, the Board shall determine whether said objection raises an issue of disputed fact material to the alleged violation. If the Board determines that a material issue of disputed fact has been raised, the Board shall schedule the matter for a hearing.

(d) After review of the evidence, if the Board concludes that this article has been violated, it may issue an Order revoking the operator's grease interceptor permit and establishing conditions which the operator must meet in order to receive a new grease interceptor permit, terminating sewer service to the facility, or such other remedy as justice requires.

(e) If any person violates a provision of this article, any Order of the Huntington Sanitary Board issued under subsection (h) hereof, or any term or condition of a permit issued under this article, the Board's attorney may commence an action for appropriate legal and/or equitable relief in Court, including, but not limited to, enjoining further commercial activity at the facility until the operator has complied with the requirements

of this article. The Board may also recover reasonable attorney's fees, court costs, court reporter fees and other expenses of litigation in said action.

(f) If an obstruction of a Board sewer main(s) occurs that causes sewer overflow to the extent that an impact on the environment is realized and that said overflow or failure of the sanitary sewer collection system to convey sewage can be attributed in part or in whole to an accumulation of grease in the Board's sewer main(s), the Board will take appropriate enforcement actions, as stipulated in the Board use articles, against the generator or contributor of such grease.

2. Authorized Hauler. The items below are required to be accurate and completed on the manifest ticket. It is the responsibility of the Authorized Hauler to ensure that all employees are aware of these requirements. Falsification or failure to comply will result in revocation of preferred hauler status and will not be able to conduct business in the City of Huntington as well as other Federal, State, and Local enforcement.

    a. Generator's business name, address, and telephone number
    b. Wate tank and trap compacity
    c. Generator/Representative name
    d. Date producer was serviced
    e. Transporter business name, address and telephone number
    f. Huntington Sanitary Board permit number
    g. Gallons removed from grease trap
    h. Driver name and signature
    i. Date and time waste were collected/transported
    j. Disposal business name, address, and telephone number
    k. Date and time Waste were received by disposer

NOTE: ALL DATA SUPPLIED BY Authorized HAULERS IS PROPRITARY AND WILL BE CONFIDENTIAL.

SEVERABILITY

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

EFFECTIVE DATE

This article shall be in full force and effect immediately following its passage, approval, and publication, as provided by law.

ARTICLE 941
Disposal of Hauled Septage Wastes

EDITOR'S NOTE: Article 941 was revised and reenacted by an Article passed March 10, 1997. Subsequent amendments to Article 941 will be indicated by legislative histories at the end of the affected section.

941.01 Where disposal permitted; permit required.
941.02 Application for, issuance and term of permit.
941.03 Information required upon

application for permit.
941.04 Suspension or revocation of permit.
941.05 Amount and payment of service charge.
941.06 Septage waste hauler permit.
941.07 General conditions for discharge of non-domestic waste.
941.08 Permit modifications.
941.09 Permit transfer.
941.10 Wastewater discharge permit revocation.
941.11 Non-domestic waste generators.
941.12 Analytical requirements.
941.13 Penalty
941.99 Reserved

Hauled industrial or non-domestic waste is subject to Article 933 through 933.51 of this Ordinance.

The following paragraphs are specific for managing septage haulers discharging to the Board's wastewater treatment plant. Permitting, inspections, enforcement and fees for the following Articles are administered through Articles 933.01 through 933.51.

941.01 WHERE DISPOSAL PERMITTED; PERMIT REQUIRED

(a) Septage wastes, or hauled domestic waste, means putrid or offensive matter collected from privies, septic tanks, portable toilets, and cesspools. Septage waste may be introduced into the POTW only at locations designated by the Board and at such times as are established by the Board. Such waste shall not violate Section 933.11 or 933.13 of this article or any other requirements established by the Board.

(b) The Board requires haulers of septage waste to obtain individual wastewater discharge permits. The Board also may prohibit the disposal of hauled septage. The discharge of hauled septage is subject to all other requirements of articles 933 and 941.

(c) Septage waste haulers may discharge loads only at locations designated by the Board. No load may be discharged without prior consent of the Board. The Board may collect samples of each hauled load to ensure compliance with applicable standards. The Board may require the septage haulers to provide a waste analysis of any load prior to discharge.

(d) Septage waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of sources of septage, waste hauler permit number, truck identification, and volume and characteristics of waste. The form shall identify the waste as domestic septage and not to contain any characteristic hazardous waste as defined by 40 CFR 261 Subpart C, any listed hazardous waste as defined by 40 CFR 261 Subpart D, or hazardous constituents as defined by 40 CFR 261 Appendix VIII.

941.02 APPLICATION FOR, ISSUANCE AND TERM OF SEPTAGE PERMIT.

The applicant shall be the owner or lessee of the vehicle for which a permit is applied. Any false, untruthful or misleading statements in any application for a permit or any paper submitted in support of such application shall invalidate the permit. All permits issued by the Board shall be for not more than five (5) years.

941.03 INFORMATION REQUIRED UPON APPLICATION FOR SEPTAGE PERMIT.

All applicants for a permit to discharge septage into the wastewater treatment plant shall furnish the following information with each application:

(a) Name of firm or individual and address.
(b) Volume of septage removed each year for the last three years. New applicants shall estimate the volume for the first year.
(c) Number and identification of scavenger vehicles in collection service.
(d) Copies of appropriate permits as required by the WVDEP.
(e) Such other information as the Board may from time to time require.

941.04 SUSPENSION OR REVOCATION OF PERMIT.

Such a permit may be suspended or revoked at any time by the Board for willful, continued or persistent violation of these rules and regulations.

941.05 AMOUNT AND PAYMENT OF SERVICE CHARGE.

The service charge for disposition of such domestic wastes into the sewer system or treatment facilities shall be listed in Section 933.22.

941.06 SEPTAGE WASTE HAULER PERMIT

All haulers shall be required to obtain a septage waste discharge permit as per Section 941.03, prior to the discharge of any waste. Interested haulers shall complete and file with the Board a permit application, signed by a duly authorized representative of the company, in the form prescribed by the Board, and accompanied by an application fee according to the fee schedule adopted by the Board.

941.07 GENERAL CONDITIONS FOR DISCHARGE OF SEPTAGE

(a) All hauled discharges must meet the applicable Federal, State, and local Pretreatment Standards.

(b) Waste haulers shall only discharge at locations specifically designated by the Board.

(c) Hauled wastes are subject to sampling by the Board at all times. The hauler may be required to suspend the discharge of wastes until the analysis is complete. The Board reserves the right to refuse permission to discharge any load.

(d) All hauled wastes are subject to the prohibited discharge standards of the General Pretreatment Regulations as contained in 40 CFR 403.5(b) and the local prohibited discharge requirements contained in Section 933.10 through 933.13.

(e) Haulers shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this article 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 (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the Board, or where the user has been specifically notified of a longer retention period by the Board.

(f) The Board may require haulers to obtain and provide proof of financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

941.08 PERMIT MODIFICATIONS

The Board 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 Board's POTW, Board 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. Modification for this purpose may not be allowed unless the permit is transferable as provided in Section 941.09.

941.09 PERMIT TRANSFER.

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

(a) States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
(b) Identifies the specific date on which the transfer is to occur; and
(c) Acknowledges full responsibility for complying with the existing wastewater discharge permit.
(d) Appropriate permits have been obtained from the WVDEP.

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

941.10 WASTEWATER DISCHARGE PERMIT REVOCATION

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

(a) Failure to notify the Board of significant changes to the wastewater prior to the changed discharge;
(b) Failure to provide prior notification to the Board of changed conditions pursuant to Section 933.41(e);
(c) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
(d) Falsifying self-monitoring reports;
(e) Tampering with monitoring equipment;
(f) Refusing to allow the Board timely access to the facility premises and records;
(g) Failure to meet effluent limitations;
(h) Failure to pay fines;
(i) Failure to pay sewer charges;
(j) Failure to meet compliance schedules;
(k) Failure to complete a wastewater survey or the wastewater discharge permit application;
(l) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
(m) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this article.

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.

941.11 NON-DOMESTIC WASTE GENERATORS

All facilities interested in discharging non-domestic waste to the Huntington POTW via truck shall obtain a discharge permit as required by Section(s) 933.33 through 933.46.

941.12 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 Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA. Alternative methods may be approved by the Board in such cases as the Board deems necessary.

941.13 PENALTY.

(a) Civil Penalties.

(1) The Board may seek civil penalties of upto twenty-five thousand dollars ($25,000) per violation, per day, if a user violates, or continues to violate, any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

(2) The Board 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 Board.

(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 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.

(b) Criminal Prosecution.

(1) A user who willfully or negligently violates any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than twenty-five thousand ($25,000) dollars per violation, per day, or imprisonment for not more than thirty (30) days, or both.

(2) A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least twenty-five thousand dollars ($25,000), or be subject to imprisonment for not more than thirty (30) days, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

(3) A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this article, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction, be punished by a fine of not more than twenty-five thousand dollars ($25,000) per violation, per day, or imprisonment for not more than thirty (30) days, or both.

Remedies Nonexclusive

The remedies provided for in this article are not exclusive. The Board may take any, all, or any combination of these actions against a noncompliant User. Enforcement of pretreatment violations will generally be in accordance with the Board's enforcement response plan. However, the Board may take other action against any User when the circumstances warrant. Further, The Board is empowered to take more than one enforcement action against any noncompliant User.

Administrative Fines

(c) When the Board finds that a User has violated, or continues to violate any provision of this article, an individual wastewater discharge permit, or a general permit or order issued hereunder, or any other Pretreatment Standards or Requirement, the Board may fine such User in an amount not to exceed $10,000.00. 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.

(d) Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of ten percent (10%)] of the unpaid balance, and interest shall accrue thereafter at a rate of ten percent (10 %) per month. A lien against the User's property shall be sought for unpaid charges, fines, and penalties.

(e) Users desiring to dispute such fines must file a written request for the Board to reconsider the fine along with full payment of the fine amount within sixty (60) days of being notified of the fine. Where a request has merit, the Board 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 Board may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.

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

SUPPLEMENTAL ENFORCEMENT ACTION

(g) Performance Bonds

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

(h) Liability Insurance. The Board may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this article, 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.

(i) Payment of Outstanding Fees and Penalties

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

SEVERABILITY

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

EFFECTIVE DATE

This article shall be in full force and effect immediately following its passage, approval, and publication, as provided by law.

941.99 Reserved

APPENDIX A

GENERAL

This section provides guidance relative to how the Board will respond to the various types of violations which could arise. This enforcement response guide serves two primary functions:

- It defines the range of appropriate enforcement actions based on the nature and severity of the violation and other relevant factors.
- It promotes consistent and timely use of enforcement remedies. In addition to eliminating uncertainty and confusion concerning enforcement, this consistency lessens the likelihood of successful legal challenge based on charges of "selective enforcement" or harassment.

LEVELS OF RESPONSE

There are two possible levels of response to all violations available to the Board: an informal response, or formal response. For any violation, the Pretreatment Coordinator and Operations Superintendent must review the violation and determine the appropriate response. For some violations, an informal response such as inspection, telephone call, informal meeting or a notice of violation may be appropriate. A formal enforcement response may include one or more of the following actions: (See articles 933.47-933.48)

- Notice of Violations
- Notice of Enforcement Action
- Order to Show Cause
- Compliance Order
- Termination of Service

- Injunction
- Civil/Criminal, Penalties/Fines/Prosecution
- Recovery of Damage and/or Costs

The terms major and minor violations are used in the Enforcement Response Guide to describe violations of effluent limits, sampling, monitoring and reporting requirements. Major violations are those that exceed the limits frequently and/or by a large quantity, impede the determination of compliance status, have the potential to cause or may have actually caused adverse environmental effects, health problems, or interfered with the POTW treatment capability. Any violation that meets the definition of Significant Noncompliance shall be considered a major violation. (See Article 933.44)

FACTORS IN SELECTING THE APPROPRIATE RESPONSE

The enforcement response selected must be appropriate to the nature and effects of the violation. The Board will evaluate appropriate enforcement responses in the context of the user's record of prior violations. The following criteria shall be evaluated by the Board when formulating enforcement responses:

- Magnitude of the violation
- Duration of the violation
- Effect of the violation on the receiving water, sludge quality and/or operations of the POTW
- Compliance history of the industrial user
- Good faith of the industrial user

▪ MAGNITUDE OF THE VIOLATION

Generally, an isolated instance of noncompliance can be met with an informal response and/or notice of violation. However, even an isolated violation could threaten public health and the environment, damage public and private property, or threaten the integrity of the Board's pretreatment program (e.g. falsifying a self-monitoring report). The Board will respond to any Significant Noncompliance with an enforceable order that requires a return to compliance by a specific deadline. The Board shall pursue criminal investigation and prosecution in response to any noncompliance situation involving willful violations. Examples of willful violations include but are not limited to the following:

a) Repeated failure to report spills
b) Entry denial
c) Recurring failure to report additional monitoring
d) Recurring use of dilution in lieu of treatment
e) Failure to mitigate noncompliance
f) Recurring failure to monitor permitted pollutants

- DURATIONS OF THE VIOLATION

Violations (regardless of severity) which continue over prolonged periods of time shall subject the industrial user to escalated enforcement actions. For example, an effluent violation which occurs in two of three samples over a 6-month period or a report which is more than 45 days overdue is considered significant, while a report which is <45 days late would not be deemed significant.

The Boards response to short duration violations is intended to prevent extended periods of noncompliance from recurring. An administrative compliance order shall be issued for chronic violations. If the industrial user fails to comply with the compliance order, the Board will escalate the enforcement response to some form of appropriate action.

- EFFECT ON THE RECEIVING WATER

One of the primary objectives of the National Pretreatment Program is to prevent pollutants from passing through the POTW and entering the receiving stream. Consequently, any violation which results in environmental harm shall be met with a severe response. Environmental harm occurs whenever an industry discharges a pollutant into the sewerage system which:

- Passes through the POTW
- Cause a violation of the POTW's National Pollutant Discharge Elimination System (NPDES) permit (including water quality standards); or
- Has a toxic effect on the receiving waters (i.e. fish kill)

At minimum, responses to these circumstances shall include an administrative compliance order and recovery of any damages including any NPDES fines and penalties paid by the Board as a result of noncompliance. The Board may also impose monetary penalties for violations that affect the receiving waters. If an industrial user's discharges cause repeated harmful effects, the Board has the option of terminating service of the industrial user.

- EFFECT ON THE POTW OPERATION

Some violations can have adverse impacts on the POTW itself. Examples of such include:

- Increase in treatment costs
- Danger or harm to POTW personnel
- Interference with or damage to equipment, process, and operations; or
- Sludge contamination resulting in increased disposal costs.

Violations producing these types of effects shall be met with compliance orders and recovery of costs incurred. For example, if an industrial user's discharge upsets the treatment plant, damages the collection system, causes an obstruction or explosion or causes additional expenses (e.g. to trace a spill

back to its source), the Board may include cost recovery in its response as well as requirements to correct the condition which caused the violation, or may impose monetary penalties for violations that affect the POTW.

- COMPLIANCE HISTORY OF USER

A pattern of recurring violations (even of different program requirements) may indicate either that the user's treatment system is inadequate or that the user has taken a casual approach to operating and maintaining its facility and/or treatment system. These indications should alert the Board to the likelihood of future significant violations. Accordingly, the users exhibiting recurring compliance problems shall be strongly dealt with to ensure that consistent compliance is achieved. Compliance history is an important factor for deciding the appropriate remedies to apply to a particular violator. For example, if the violator has a good compliance history, the Board may decide to use a less severe option.

- GOOD FAITH OF THE USER

The user's "good faith" in correcting its noncompliance is a factor in determining which enforcement response to invoke for non-significant violations. "Good Faith" may be defined as the user's honest intention to remedy its noncompliance coupled with actions which give support to this intention. Generally, a user's demonstrated willingness to comply shall predispose the Board to select a less stringent enforcement response. However, good faith does not eliminate the necessity of an enforcement action. For example, if the Board experiences a treatment upset, it will recover its cost regardless of prior good faith. Good faith is typically demonstrated by cooperation and completion of corrective measures in a timely manner (although compliance with previous enforcement orders is not necessarily good faith).

ENFORCEMENT RESPONSE GUIDE MATRIX

The enforcement response guide is used as follows:

1) Locate the type of noncompliance in the first column and identify the most accurate description of the violation.
2) Assess the appropriateness of the recommended response(s) in column two. First offenders or I.U.'s demonstrating good faith efforts may merit a more lenient response. Similarly, repeat offenders or those demonstrating negligence may require a more stringent response.
3) When an Administrative Order is specified as the appropriate enforcement action to be taken, the Pretreatment Coordinator and Operations Superintendent may decide to utilize any of the following: a Consent Order, a Show Cause Order, or a Cease-and-Desist Order.
4) Apply the enforcement response to the industrial user. Specify corrective action or other responses required of the user, if any. Column three indicates personnel to take each response. The time frame in which that response should be taken is detailed at the end of table.

5) Follow-up with escalated enforcement action if the industrial user's response is not received or violation continues.
6) When two or more individuals are specified as responsible for taking an enforcement action, it represents a chain of command that will be followed for taking the action. Documents are drafted by the Pretreatment Coordinator after conferring with the Operations Superintendent.

- DESCRIPTIONOF TERMS

AO = Administrative Order

IU = Industrial User

NOV = Notice of Violation

PC = Pretreatment Coordinator

OS = Operations Superintendent

SNC = Significant Noncompliance

HUNTINGTON SANITARY BOARD
ENFORCEMENT RESPONSE PLAN

OS - Operations Superintendent PC - Pretreatment Coordinator ATTY - HSB Attorney

NONCOMPLIANCE	NATURE OF VIOLATION	ENFORCEMENT RESPONSE	PERSONNEL
Unpermitted discharge	No harm to POTW, personnel or environment	Phone call and send application form with due date of 30 days	PC
	Minor interference to POTW. No harm to personnel or environment	Inspect facility. Send letter explaining 1. Best Management Practices (BMP's) 2. Failure to initiate BMPs will result in Discharge Permit	OS, PC
	Potential for Major interference to POTW or harm to HSB employees or environment	Give Cease Order to stop discharge and Send Permit Application with due date of 30 days.	OS, PC
	Failure to submit Permit Application after notice by the POTW	Termination of sewer service	OS, PC, ATTY
Nonpermitted discharge (failure to renew)	IU has not submitted an application within 45 days of due date.	Phone call with NOV	PC

DISCHARGE LIMIT VIOLATION	NATURE OF VIOLATION	ENFORCEMENT RESPONSE	PERSONNEL
Exceedance of local or Federal Standard (permit limit)	Isolated no harm to POTW	Phone call with NOV	OS, PC
	Recurring no harm to POTW	AO requiring Plan of Action to prevent future violations	OS, PC
	Recurring after developing Plan of Action; no harm to POTW	AO with fine from SNC Matrix Table	OS, PC
	Recurring with 66% of measurements taken in a six month period exceeding the permitted limit.	AO with fine from SNC Matrix Table; published in newspaper as SNC User	OS, PC
	Recurring with 33% of measurements taken in a six month period exceeding the Technical Review Criteria of the permitted limit.	AO from SNC Matrix Table, published in newspaper as SNC User	OS, PC

	Isolated Interfering with POTW or causing pass-through	AO requiring: 1. Cease of discharge causing interference or pass-through 2. Fine based on SNC Matrix Table 3. Plan of Action to prevent future violations 4. Publish in newspaper as SNC User	OS, PC, ATTY
	Failure to mitigate non-compliance or halt production: No harm to POTW Harm to POTW	NOV AO with fine from SNC Matrix Table, and/or Civil Action	OS, PC, ATTY
	Failure to properly operate and maintain pretreatment facility. No harm to POTW Harm to POTW	NOV AO with fine from SNC Matrix Table, and/or Civil Action	OS, PC, ATTY
	Inadequate record keeping First offense Recurring	NOV AO with fine from SNC Matrix Table	OS, PC, ATTY
	Diluting wastestreams in lieu of treatment	AO with fine from SNC Matrix Table	OS, PC, ATTY

MONITORING AND REPORTING VIOLATION	NATURE OF VIOLATION	ENFORCEMENT RESPONSE	PERSONNEL
Reporting	Report not signed or certified	Phone call	
	Second offense	NOV	OS, PC
	>2 offenses	AO with Plan of Action and fine based on SNC Matrix Table	OS, PC
	Late report <45 days	NOV	OS, PC
	Report over 45 days (SNC)	AO with fine based on SNC Matrix Table and Publish Name in Newspaper	OS, PC
	Failure to report spill or changed discharge no harm to POTW	NOV	OS, PC

	Failure to report spill or changed discharge with harm to POTW	AO with 1. Request Plan of Action may include developing/reviewing Slug Plan 2. Fine based on SNC Matrix Table 3. Publish Name in Newspaper if POTW experienced pass-through or interference	OS, PC
	Repeated failure to report spills	Show cause hearing; possible termination of service	OS, PC, ATTY
	Falsification of report	Criminal investigation	OS, PC, ATTY
	Failure to report additional sampling	AO	OS, PC
Monitoring	Failure to install monitoring equipment <45 days	NOV	OS, PC
	Failure to install monitoring equipment >45 days	AO	OS, PC
	AO ignored	Show cause hearing; possible termination of service	OS, PC, ATTY
	Failure to monitor pollutants as required by the Discharge Permit	NOV	OS, PC
	Recurring failure to monitor as required	AO requiring a Plan of Action to ensure proper monitoring of pollutants	OS, PC
	AO ignored	AO with fines based on SNC Matrix Table possible Show Cause Hearing	OS, PC, ATTY
Sampling	Failure to sample as required by the Discharge Permit	NOV	OS, PC
	Failure to sample as required by the Discharge Permit to cover non-compliance with Discharge Permit Limits	Show Cause Hearing possible criminal investigation	OS, PC, ATTY
Compliance Schedules	Missed milestone by less than 90 days	NOV	OS, PC
	Missed milestone by more than 90 days	Show Cause Hearing Fine based on SNC Matrix Table per day, Publish name in paper	OS, PC, ATTY
Other Violations			
Entry to facility	Denied entry to facility	Obtain warrant and return	OS, PC, ATTY

TIMEFRAME FOR RESPONSES

A. All violations will be identified and documented within fifteen days of receiving compliance information.
B. Initial enforcement responses [involving contact with the Industrial User and requesting information on corrective or preventative action(s)] will occur within thirty days of violation detection.
C. Follow up actions for continuing or reoccurring violations will be taken within sixty days of the initial enforcement response. For all continuing violations, the response will include a compliance schedule and increased compliance assessment activities.
D. Violations which threaten health, property or environmental quality are considered emergencies and will receive immediate responses such as halting the discharge or terminating service.
E. All violations meeting the criteria for significant noncompliance will be addressed with an enforceable order within thirty days of the determination of significant noncompliance.

Significant Non-Compliance Matrix Table

SIGNIFICANCE OF IMPACT	Major	Moderate	Minor
Major	$10,000.00	$7,000.00	$4,000.00
Moderate	$7,000.00	$5,000.00	$3,000.00
Minor	$4,000.00	$3,000.00	$2,000.00

Significance of Impact

Major Violation = Any discharge that causes pass-through or interferes with the Treatment Plant or cause imminent danger to POTW employees.

Moderate Violation = Any discharge not considered major but does interfere with the collection system. Any repeat enforcement action that resulted in a previous fine.

Minor Violation = Violation of any Plan of Action developed through previous NOV or AO

- Any instance of Significant Non-Compliance (SNC) during a rolling six-month SNC period will result in a minimum $2,000.00 dollar fine.

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SPONSORED BY: COUNCILMAN JASON ARTHUR

APPROVED AS TO FORM BY: SD

FIRST READING: 3/24/2025 - ORDERED ADVERTISED

SECOND READING: April 14, 2025 - ADOPTED (8 yeas, 0 nay, 3 absent- Layman, Mount and Sweeney)

DATE: April 14, 2025

Barbara Miller

BARBARA MILLER, CITY CLERK

DATE: April 14, 2025

Patrick J Farrell

PATRICK J. FARRELL, MAYOR

✓

APPROVE

DATE: 4/15/25

VETO

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