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Title 21

Chapter XXX

NIAGARA FALLS WATER BOARD

REGULATIONS

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PART 1950

WATER REGULATIONS

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1950.1 **Definitions.**

(a) Unless the context specifically indicates otherwise, the meaning of terms used in this part shall be as follows:

(1) *Acceptable backflow prevention device* means an air gap, reduced pressure zone device or double-check valve assembly, as used to contain potential contamination within a facility, acceptable to the director.

(2) *Act or water board act* means the Niagara Falls water authority act, codified as section 1230-a *et seq.* of Titles 10-B and 10-C of Article 5 of the New York State Public Authorities Law.

(3) *Aesthetically objectionable facility* means a facility in which substances are present which, if introduced into the public water supply system, could be a nuisance to other water customers but, would not adversely affect human health. Typical examples of such substances are: food grade dyes, hot water, stagnant water from fire lines in which no chemical additives are used, and similar substances as the director may determine from time to time.

(4) *Air gap separation* means a physical separation between the discharge end of a potable water supply and an open or nonpressure receiving vessel. An accepted air gap separation shall be at least double the diameter of the supply pipe measured vertically above the flood rim of the vessel, in no case less than one (1) inch.

(5) *Approved water supply* means any water supply approved by a public health agency of the state or its political subdivisions where the property serviced by such supply is located.

(6) *Backflow* means the flow of water or other liquids, mixtures, or substances into the distributing pipes of a potable supply of water from any source or sources other than its intended source. Back-siphonage is one type of backflow.

(7) *Back-siphonage* means backflow resulting from negative pressure in the distributing pipes of a potable water supply.

(8) *Board or water board* means the Niagara Falls water board established pursuant to section 1231-b of the water board act, and its directors, employees, agents, together with any authorized contractor or any other person acting with written authority on behalf of the board.

(9) *Board schedule of rates* means a schedule of rates, fees and other charges established at least annually and as modified from time to time by the water board.

(10) *Certified backflow prevention device tester* means a person who is examined annually by Niagara County health department and found competent for the testing of backflow prevention devices. He or she shall be provided with an appropriate identification card to be

renewed annually. Failure to perform his or her duty competently will result in withdrawal of such certification.

(11) *Check valve* means a self-closing device which is designed to permit the flow of fluids in one direction and to close if there is a reversal of flow.

(12) *City* means the city of Niagara Falls, New York, its employees and agents, together with any authorized contractor and any other person acting with written authority on behalf of the city.

(13) *Containment* means cross-connection control which isolates the user's entire facility from the public water system so as to provide the protection necessary to prevent contamination of the public water supply in the event of backflow from the user's facility.

(14) *Contamination* means the presence of any foreign substance (organic, inorganic, radiological, or biological) in water that tends to degrade its quality so as to constitute a hazard or impair the usefulness of the water.

(15) *Cross-connection* means any physical connection between a potable water supply and any waste pipe, soil pipe, sewer, drain, or any unapproved source or system. It includes any potable water supply outlet which is submerged or can be submerged in wastewater and/or any other source of contamination.

(16) *Director* and *department* mean, without other designation, the executive director of the water board, or other person or persons designated by the director to act in his or her stead, and the department of water facilities of the water board, respectively.

(17) *Double-check valve assembly* means an assembly of at least two independently acting acceptable check valves, including tightly closing shutoff valves located at each end of the assembly with suitable connections for testing the water tightness of each check valve.

(18) *Fine or penalty* means a sum of money or other thing of value imposed as a penalty for violation of these regulations.

(19) *Health hazard* means any conditions, devices, or practices in the water supply system and its operation which create or, in the judgment of the director may create a danger to the health and well-being of the user. An example of a health hazard is a structural defect in the water supply system whether of location, design, or construction that regularly or occasionally may prevent satisfactory purification of the water supply or cause it to be polluted from extraneous sources.

(20) *Person* means any natural person, firm, trustee, executor, personal representative, partnership, association, limited partnership, limited liability company, limited liability partnership, joint venture or corporation, or other legal entity whatsoever. The masculine gender shall include the feminine, and the singular shall include the plural where indicated by the context.

(21) *Publicly owned treatment works or (P.O.T.W.)* means treatment works as defined by section 212 of the Clean Water Act (33 U.S.C. § 1292) which are owned or operated by the water board. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature and any sewers, pipes, conveyances and appurtenances that transport wastewater to or from the water board's treatment plant. For the purposes of these regulations, P.O.T.W. shall also include any sewers that transport wastewater to the P.O.T.W. from persons outside the water board's service area who are, by contract or agreement with the water board, users of the water board's publicly-owned treatment works.

(22) *Real cost* means total direct and indirect costs of labor, material, equipment and handling, including overhead costs.

(23) *Reduced pressure zone device or RPZ device* means a device containing a minimum of two independently acting check valves, together with an automatically operated pressure differential relief valve located between the two check valves. During normal flow and at the cessation of normal flow the pressure between these two checks shall be less than the upstream (supply) pressure. In case of leakage of either check valve, the differential relief valve, by discharging to the atmosphere, shall operate to maintain the pressure between the checks at less than the supply pressure. The unit must include tightly closing shutoff valves located at each end of the device, and each device shall be fitted with properly located test cocks.

(24) *Significant industrial user* means any person who:

- i) discharges wastewater subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter 1, Subchapter N; or
- ii) discharges an average of 25,000 gallons per day, or more of process wastewater to the water board's publicly owned treatment works (POTW) (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the water board's POTW treatment plant; or is designated as such by the control authority as defined in 40 CFR 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the water board's POTW operation or for violating any pretreatment standard or requirement

(25) *State* means the state of New York.

(26) *Surge tank* means the receiving, nonpressure vessel forming part of the air gap separation between a potable and a supplemental supply.

(27) *User* means any person or property that receives or uses water from water facilities of the water board.

(28) *Water facility or water facilities or water supply system* means any plants, structures and other property, real, personal or mixed, acquired, rehabilitated, constructed or planned for the purpose of accumulating, storing, supplying, transmitting, treating or distributing water, including, but not limited to, surface or groundwater reservoirs, basins, dams, canals, aqueducts, aqueduct taps, standpipes, conduits, pipelines, interceptors, mains, pumping stations, pumps, water distribution systems, compensating reservoirs, intake stations, waterworks or sources of water supply, wells, purification or filtration plants or other treatment plants and works, contract rights, franchises, approaches, connections, permits, water meters, rights of flowage or diversion and other plants, structures, equipment, vehicles, conveyances, real or personal property or rights therein and appurtenances thereto necessary or useful and convenient for the accumulation, supply, transmission, storage, treatment or distribution of water.

(29) *Water - potable* means water free from impurities in amounts sufficient to cause disease or harmful physiological effects. Its bacteriological and chemical quality shall conform to the requirements of the Niagara County health department and the state health department.

(30) *Water - supplemental* means any water source or system other than the public water supply that may be available in the building or premises.

(b) Federal Statutes and Regulations.

The following federal statutes and regulations have been referenced in this part:

(1) *40 CFR* means title 40 of the *Code of Federal Regulations* (Protection of the Environment), effective July 1, 2001.

(2) *FR* means *Federal Register*.

(3) *Clean Water Act* means the Federal Water Pollution Control Act or Clean Water Act, 33 USC 1251 *et seq.*, as amended.

(4) All United States publications referenced in this part are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

(5) All material referenced in this part is available for copying and inspection at the water board's offices located at the Michael C. O'Laughlin Water Treatment Plant, 5815 Buffalo Avenue, Niagara Falls, New York 14304.

1950.2 **General Provisions.**

(a) The purpose of this part is to provide for the beneficial use of the water board's water facilities through the regulation of connection and water use, as well as to provide for the equitable recovery of the costs of the water facilities. This part shall apply within the corporate limits of the city and to persons outside the city who are, by contract or agreement with the water board, users of the water board's water facilities. The property within the city boundaries, and

persons or properties located outside the city who are users shall constitute the service area of the water board.

(b) The water board maintains its principal office at the Michael C. O’Laughlin Water Treatment Plant located at 5815 Buffalo Avenue, Niagara Falls, New York 14304. Unless otherwise provided or directed, all payments and communications to the water board shall be delivered to such office address.

(c) The headings and table of contents used herein are for convenience and reference only and shall not define, describe, limit or control the scope or meaning of the provisions of these regulations.

(d) The confidentiality of user information and data submitted as necessary for any application, record, report, plan, or other document required by these regulations shall be governed by the New York State Freedom of Information Law (sections 84 through 90 of the Public Officers Law of the State of New York) and by other applicable state or federal statutes and regulations. Any requests by a user to keep specific data and information confidential must be made in writing at the time of submission.

(e) If any provision, paragraph, word, section or article of these regulations is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

1950.3 Use Of Division Mains Mandatory.

(a) Every dwelling, house, or other building requiring the use of water must be supplied from the water mains of the water board through a separate service, provided that there is a permanent water main immediately in front, rear, or on-either side of the premises.

(b) If no water main is existent in the manner described, a temporary service may be laid from and connected to the nearest available water main until a permanent water main is installed, when such service must be disconnected from the temporary source and reconnected to the permanent water main within thirty (30) days from the date that water is available in the permanent main. Such disconnection and reconnection shall be made by and at the expense of the owner of the premises supplied, and under the supervision and subject to the written approval of the director.

1950.4 Conditions Of Use.

The supply of water to any person for any purpose whatsoever is subject to the following conditions:

(a) The water board does not guarantee to the user any fixed or constant pressure, nor a continuous supply, these being subject to the various conditions which may arise in the operation and maintenance of the water facilities.

(b) In case of failure of mains, service, pumping machinery, reservoirs or other equipment or through the cessation of operation of any pumps by virtue of the electric power being temporarily cut off or discontinued, or for the purpose of testing, extending, repairing or cleaning water mains, services, or pump and filter station equipment, the water may be shut off as found necessary by the director, without notice to users and no claim will be considered and the water board will not be liable for damage to service branches, boilers, machinery, plumbing or other fixtures, property or persons arising therefrom.

(c) The director shall have the right, upon reasonable notice, to enter and inspect any premises or any part of all premises using water provided by the water board, at any time that it may so desire. For this purpose, any water board employee or authorized contractor who may be designated by the director, upon exhibition of proper credentials or badges of the water board, at reasonable hours, shall have free access to such premises. When such access is refused, the water may be turned off at the option of the director, and not turned on again until a reactivation fee as identified in the board schedule of rates has been paid to water board.

1950.5 **Application For Water Service.**

(a) Applicants for water service shall make such deposits or payments and obtain permits as may be required according to the service rendered before the application will be granted. No work or improvements to supply water shall be performed prior to obtaining permits from the water board.

(b) Payment of the applicant for water service of any or all deposits, fees, or charges that are required by the water board and which are prerequisite to the granting of such applications shall be considered as sufficient evidence of agreement on the part of said applicant to conform and comply with each and every rule and regulation that has been or may in the future be enacted and which governs the granting of such application or the consequent sale of water by the water board.

(c) All applications for the use of water outside of the corporate limits of the city of shall be made to the director in writing. Such application shall state the name of the owner of the property for which supply is requested, and shall be accompanied by either the original or copies thereof of any granted permits that may be required by the state, county or township in which such property is situated. All such applications shall be reported by such director to the water board for such action as the water board deems proper. If the water board grants any such applications, they shall be subject to the provisions of this part and the water board may impose such additional conditions as it deems in the best interest of the water board.

(d) No water shall be supplied to any premises, the owner of which is indebted to the water board for services supplied, work completed or material furnished or in any other manner, until such indebtedness has been paid, whether that indebtedness was incurred at the premises for which service is supplied, or contracted at any other place within or without the city.

1950.6 **Service Branches.**

(a) Property owners desiring water service branches laid to their premises shall make written application for such branches at the water board. Such application when fully executed constitutes an agreement that the property to be supplied is to be held liable for all charges for water consumed and any other indebtedness.

(b) Applications for service branches shall be made by a plumber licensed by the city or by the owner of the premises. In the latter case, the name of the licensed plumber who will do the work must be specified. All applications for new service shall be accompanied by the payment in full of all service line material to be furnished by the water board.

(c) Service branches less than two (2) inches in size shall be attached to the water mains by means of a corporation cock(s) and tailpiece(s) supplied by the water board to the person making the application.

(d) The main water supply or water service from the water board water main to a point inside of the street curb shall be of type "K" annealed copper tubing.

(e) Service connections to the water board's water main are normally to be tapped on the top of the main and an arm running parallel with the main installed and blocked up with brick or stone. The copper service must be placed in a deep shelf on the side of the trench so that the copper pipe can be covered with at least six (6) inches of earth. The copper service from the main to the curb cock is to be made with a minimum number of flared connections, except the 1-1/2" and 2" sizes may have one 90-degree elbow and one coupling with soldered joints.

(f) All service branches larger than two (2) inches shall be of cast or ductile iron.

(g) Every service branch must be provided with a curb cock or valve protected by a curb box or valve box set just inside the curb line for the purpose of turning water either on or off.

(h) Whenever possible, service branches shall be laid in a direct line from the street main to the curb box and at right angles to the curb. They shall be laid at a minimum depth of four (4) feet. Any exception must be approved by the director.

(i) Service branches may be laid in the same trench as the sewer lateral, provided they are placed upon a trench shelf and above the sewer line.

(j) All service branches from the main to the building must be laid by a licensed plumber or a competent employee under the supervision of a licensed plumber. The water board shall do no work except insertion of a corporation cock or the installation of a tapping sleeve and valve with the necessary valve box.

(k) All water service pipes are considered the property of the property owner and as such, said owner shall be responsible for any leakage which may occur between the curb cock

and the building supplied, and it shall be the responsibility of such property owner to maintain such service pipe in a non-leaking condition at all times and at his own expense.

(l) The water board, at its own expense, shall repair, replace and otherwise maintain, except for thawing, that part of the water service pipe located between the water main in the street and the curb cock, otherwise known as the curb stop, including such curb cock and the protecting curb box whenever, in its judgment, such repair, replacement or other maintenance is necessary, provided that such service pipe is not more than two (2) inches in diameter and that the property supplied is situated within the corporate limits of the city.

(m) The thawing of all frozen water services is the responsibility of the property owner.

(n) When a leak is discovered in a service branch between the curb box and the building supplied, a written notice shall be mailed or delivered to the property owner informing him or her of the existence of such leak. Failure of the property owner to repair such leak within five (5) days of the date that such notice is mailed, shall be deemed sufficient cause for the water board to discontinue the supply of water through such service until such leak is repaired. Services temporarily discontinued in this manner shall not be restored until the leak is repaired and a reactivation fee as identified in the board schedule of rates is paid to the water board.

(o) The cost of removal and capping at the corporation cock when discontinuing service shall be paid for by the owner, whether done at his request or by order of the director, at real cost.

(p) Any service line where water service has been terminated at the request of the owner shall be considered inactive if service is not restored within two years from the removal of the water meter. After two years, the service line shall be deemed abandoned and the director may require replacement of the service line to re-establish water service.

1950.7 **Water Meters.**

(a) Water shall be furnished to all users through metered services only, except as otherwise provided in this part.

(b) The supply of water through separate service must be recorded by one meter only. If additional meters are desired for recording the subdivision of such supply, they must be furnished and set by the owners or users at their own expense. Furthermore, the water board shall not be required to read such meters nor to subdivide water bills in view of the existence of such subdividing meters.

(c) All water meters installed after August 1, 1988, including remote reading devices, shall be purchased by the water board and shall remain the property of the water board. All costs of inspection, testing and installation, where applicable, shall be borne by the water board and shall be recovered through the establishment of equitable rates and charges for water service.

(d) Water meters shall not be removed from one service to another except by the water board. The water board reserves the right to remove and replace any meter at the director's determination. Meters shall be tested and repaired as necessary by the water board.

(e) Water meters less than two (2) inches in size shall be placed inside the basement wall or indoors whenever possible. When it is necessary to install a water meter in any other location, a water control structure of such size and construction as is approved by the director must be provided and paid for by the owner of the property served thereby.

(f) Water meters less than two (2) inches in size shall be installed by the water board only, and the cost of such installation shall be borne by the water board. A place must be provided by the owner where such meters and remote reading devices will be protected from frost and other damage and in readily accessible locations for reading, examination, repair and removal. A brass "stop and waste" type valve must be provided just ahead of, and on the supply side of the meter.

(g) Unless otherwise permitted by the director, meters of two-inch (2") size or larger must be placed inside a building or in a water control structure of such design and dimensions, and at such a location, as is approved by the director. Meter assemblies must be protected from frost and other damage, and be readily accessible for reading, examination, testing, repair and removal. The property owner is responsible for the construction or modification of all required structures, piping, and appurtenances, including the provision of approved backflow prevention, required by the water board. The water meter shall be provided by the water board and shall remain the property of the water board.

(h) Installation or replacement of water meters two (2) inches in size or larger shall be performed at the water board's option, either by the water board at real cost to the property owner, or by the property owner or his contractor subject to all requirements of the water board.

(i) All water meters two (2) inches in size or larger must be provided with a suitable by-pass of such size as will provide a continuous supply of water during such time as the water meter is undergoing repairs, testing or replacement. The property owner shall be billed for meter testing with the first water bill rendered after the date of such test.

(j) A suitable check and relief valve may be required by the director in the service pipe after the meter, at the property owner's expense, when there is a possibility of hot water backing up into the water meter.

(k) Each application for a water or fire service which is two (2) inches in size or larger must be accompanied by five (5) copies of a detailed dimensional plan, drawn to scale, and acceptable to the director, which must show the exact manner of installation of the service, including an acceptable backflow prevention device, and the water meter, if applicable.

(l) The director is hereby authorized to make such determinations or interpretations of these regulations and specifications regarding the installation of water meters as are deemed

necessary by the director. Prints of the standard type of water control structure installations and by-passes acceptable to the water board are available upon request.

(m) Whenever a service is to interconnect in any manner with any other supply of water, a separate detail of such interconnection must be clearly shown. Such interconnection must comply with requirements of the state Department of Health Sanitary Code. The application for any interconnected service as heretofore described shall not be granted nor any connection made to any water main until the plan of installation has been approved by the director, the Niagara County Health Department, and the state Department of Health.

(n) All water meters and by-pass valves shall be sealed by the water board when they are placed in service. Such seals shall not be removed except by the water board unless permission is first obtained in writing from the director. If a broken seal is discovered by the water board, for which permission was not obtained, a violation of this part will be presumed, resulting in appropriate enforcement action by the water board in accordance with this part.

(o) It shall be the duty of the property owner to report to the water board any broken or missing seals, including meter seals. If the director determines that the seal was broken accidentally, then the water board shall set a new seal, without charge or other enforcement action.

(p) The water board reserves the right to enter, at any reasonable time, and with reasonable notice, any premises where a water meter is installed, for the purpose of testing, examining, repairing, removing, replacing or modifying such meter and its appurtenances when, in the opinion of the director, such action is necessary.

(q) The water board shall repair, without cost to the property owner, any water board-owned water meter located on a water service within the city corporate limits, provided that such meter has not been damaged by freezing, hot water or other act or omission by the property owner. If the property owner or his agent, employees, or tenants are determined to be responsible for damages by the director, then the real cost of repairing or replacing the water meter and/or remote reading device shall be borne by said property owner.

(r) Water meters may be tested by the water board periodically. The costs of all such testing shall be borne by the water board.

(s) A meter may be tested at the request of a property owner without charge if the test reveals that the meter is not within the limits of accuracy as determined by the director. The director may rely upon the standards of the American Water Works Association or such other similar standards as he or she deems appropriate. For a water meter less than two (2) inches in size, a small meter testing fee as identified in the board schedule of rates will be charged if the meter is found to be within the limits of accuracy. For meters two (2) inches in size or larger, the real cost of requested testing shall be paid by the property owner.

1950.8 **Water Rates And Bills.**

(a) All users shall pay and shall be liable to pay the water board such fees, rates and other charges as the water board may establish from time to time in accordance with and pursuant to the authority in the water board act. A schedule of such fees, rates and charges are set forth in section 1950.20 herein.

(b) For the purpose of billing users for the consumption shown by the water meter, the demand charges, and for the delivery of water bills, the following districts shall be established and shall be known as meter districts:

(1) District 1. Beginning at the Niagara River and the East line of Hyde Park Boulevard to the Northeast corner of Hyde Park Boulevard and Pine Avenue (Niagara Falls Boulevard), thence East along the North side of Pine Avenue (Niagara Falls Boulevard) to the Easterly city line (56th St. Extended), thence North along the Easterly city line (56th St. Extended), to the South side of Pierce Avenue produced Easterly to said city line; thence West along the South side of Pierce Avenue but not to include any portion of Pierce Avenue to the top of the high bank of the Niagara River, thence along the contour of such South and East to the point of beginning.

(2) District 2. Beginning at the Niagara River and the East side of Hyde Park Boulevard to the northeast corner of Hyde Park Boulevard and Pine Avenue (Niagara Falls Boulevard), thence East along the North side of Pine Avenue (Niagara Falls Boulevard) to Fifty-sixth (56th) Street, thence Easterly along said North city line to the Easterly city line; thence in a Southerly direction along said Easterly city line; thence in a Westerly direction along the contour of the bank of such river to the point of beginning.

(3) District 3. Beginning at the Niagara River and at the South side of Pierce Avenue; thence North and East along the top of the high bank of said river to the North city line; thence East along the said North city line to the Northeast corner of Garfield Avenue and Hyde Park Boulevard; thence South along the East side of Hyde Park Boulevard to the Northeast corner of the Lockport Road; thence East along the said East city line to the South line of Pierce Avenue; thence East along the prolongation of the South line of Pierce Avenue to the point of beginning.

(c) Bills for the consumption of water in the various districts shall become due on the first day of the following months and in accordance with the following schedule:

District 1.	January, April, July, October
District 2.	February, May, August, November
District 3.	March, June, September, December
Nonresident	February, May, August, November

(1) Charges for the consumption of water by those consumers classified as a significant industrial user shall be billed on a monthly basis by the water board. The first and second monthly billings in each quarter shall be estimated and shall be one-third (1/3) of the total

billing in the immediately preceding quarter. The third monthly bill in each quarter shall be based upon actual metered readings of water consumption for that quarter and shall reflect adjustments for the estimated billings in that quarter.

(2) The owner of the premises or user, as the case may be, supplied through the water meter shall be held responsible for all water registered by it and no reduction in bills rendered shall be allowed for leakage or when part of the water has been used by a contractor, or by any other person.

(d) All water bills shall be payable when due. They shall be mailed or delivered to the property owner or user, as the case may be, as a matter of convenience. Failure of a property owner or user, as the case may be, to receive a water bill shall not release the property owner from the payment of such bill together with any fee or penalty which may accrue or become existent by virtue of non-receipt of bill.

(e) Such water bills shall constitute a lien upon the real property upon which or in connection with which the water is used, which lien shall be prior and superior to every other lien or claim except the lien of an existing tax, assessment or other charge imposed by or for the state or a political subdivision or district thereof.

(f) Upon written notice of a property owner, the water board shall mail or deliver, as it may elect, water bills to the tenant or user of the premises. However, in doing so, the water board shall not be responsible for the failure of the tenant or user to receive such bill.

(g) Bills due the water board for water consumption, demand charges, or any other service, if not paid within twenty (20) days from the date of issue, shall be subject to a penalty of six percent (6%) per quarter on the unpaid balance such penalty to be collected together with the amount of the bill.

(h) Whenever a property is receiving water from the water board and is without a water meter, the water board shall bill the property owner or user, as the case may be, for an estimated reasonable amount of water during the time that the property has been occupied without a meter.

(i) When a water meter is found to be not registering or is stopped, the consumption shall be estimated according to the consumption for similar occupancies and a bill rendered for such estimated consumption. The fact that the bill has been estimated shall be indicated on the bill.

(j) When it is impossible or impractical to obtain a regular quarterly reading of any meter for any reason, the consumption shall be estimated according to the consumption for similar occupancies and a bill rendered for such estimated consumption. The fact that the bill has been estimated shall be indicated on the bill.

(k) Any water account of any nature remaining unpaid on September 30th of each year, shall be placed upon the first general city tax roll made up after such date, should the water

board be unable to make collection in any manner other than civil action. If placed upon the tax roll, a water account shall become a part of said tax roll and shall become due with the same and shall be subject to the same penalties and interest as such taxes imposed or levied by the city.

(l) Complaints of overcharge on water bills must be made on or before the 16th day of the month in which such bills are rendered and all water bills against which no claim has been made within such time set forth above shall be considered correct and must be paid in the amount rendered.

(m) When property becomes vacant, upon receipt of written notice from the owner of the same, the water board shall, at its option, remove the water meter and/or seal the service in a manner that will prevent any possibility of water usage without charge. An availability charge will be applied as set forth in the board schedule of rates to the account on a quarterly basis during the time the property remains vacant and the foregoing provisions are in effect. A meter so removed will be replaced by the water board upon payment of an account re-establishment fee as set forth in the board schedule of rates, when the property is reoccupied. the foregoing provisions are fully complied with.

(n) The billing charge on any building permanently demolished shall be discontinued when conclusive proof of demolition is presented to the water board and upon payment of any existing bills up to the date of such demolition including the cost of capping at the corporation cock. Any account wherein the building is demolished and the service not properly removed from the main shall continue to receive a regular billing charge until the service is capped at the corporation stop.

(o) Water bills shall not be rendered otherwise than quarterly, and in the full amount due for all of the water consumed for the full quarter as registered by the water meter except as otherwise provided herein.

(p) Persons purchasing or otherwise acquiring property shall make arrangements with the seller or transferor of such property regarding any settlement for the partial payment for water consumed during any portion of any quarter.

(q) Persons requesting a meter reading and bill at any time other than when scheduled by the water board shall pay a final read fee as set forth in the board schedule of rates, which fee will be added to the water bill.

(r) In the event that a property owner or user fails to pay his or her water charges, after they become due and payable, the water board may discontinue or disconnect the supply of water for non-payment of such water charges after the water board gives written notice of its intention to do so, upon fifteen (15) days in advance, to the owner of the premises or user thereby affected, or in lieu thereof, to the person to whom or which the last preceding bill has been rendered, and from whom or which the water board has received payment therefor, and to the superintendent or other person, if any, in charge of the building or premises thereby affected, if it can be readily ascertained that there is such superintendent or other person in charge. Such

notice in every case shall be served either personally on the person to whom or which it is directed, or by mailing such notice in a postpaid wrapper to the address of such person.

(s) The water board shall not effect the discontinuance of water service to a residential user for non-payment of bills rendered for water service on Friday after twelve noon, Saturday, Sunday, public holiday, or a day on which the main business office of the water board is not open for business. The term public holiday refers to those holidays enumerated in the state general construction law.

(t) Discontinuance for non-payment of bills rendered for water service of residential services can only take place between Monday and Thursday between the hours of eight a.m. and six p.m. and Fridays, before twelve noon.

1950.9 **Free Water.**

(a) There will be no free water furnished to any user or person, including but not limited to a local hospital, the city or any other municipality, district, state agency or any division thereof.

1950.10 **Temporary Use Of Water and Water For Construction.**

(a) A tapping application shall be required for erecting, construction, altering or maintaining any building or structure or for any purpose whatsoever that requires the temporary use of water. Such application shall be obtained with the building permit and with full payment of all tapping fees as set forth in the board schedule of rates.

(b) Water for construction purposes may be obtained from any metered service in lieu of payment required by subdivision (a) of this section, provided that permission of the owner of such services is first obtained. Such owner shall be held liable for all water obtained in this manner. If water is to be obtained from a metered service, it must be so stated on the application for a building permit, together with the street address of such metered service.

(c) Water for construction purposes must be paid for at regular rates set forth in the board schedule of rates, regardless of whether it is used on city public works or private works.

1950.11 **Water Taps And Charges.**

(a) Application for taps must be made twenty-four (24) hours in advance of the time that such tap is required. The time that the excavation will be ready must be stated in the tap application.

(b) Taps in water mains within the city limits will be made at the real cost determined by the director. Taps in water mains outside the city limits will be made at twice the inside-city real cost determined by the director. At least once each year the director shall advise the water board as to the real cost of making various sizes of taps.

(c) All excavations made for the insertion of corporation stops in the water main must be large enough to permit proper operation of the tapping machine. The required size shall be determined by the director under whose direction the tap will be made.

(d) Upon request, the director shall furnish an estimate of the real cost of making a connection two (2) inches in diameter or above to any of its mains. Such estimate shall include only those real costs which would be incurred by the water board.

1950.12 **Excavation Permits.**

Permits must be obtained from the city engineer's office before any excavation is undertaken in any city street or margin to install or repair service branches. Such permission shall not be given to any person, other than a person who is properly bonded to protect persons and property against any injury liable to be caused by reason of such excavation.

1950.13 **Tampering With Mains, Pipes, Hydrants Or Meter Installations.**

(a) No person, other than an employee or authorized contractor of the water board shall open, close or interfere in any manner with any valve, or gate in any water main or street pipe belonging to the water board without special written permission of the director.

(b) No person, except as authorized by the water board or the director may operate a fire hydrant or attempt to modify a water meter, installation.

1950.14 **Use Of Fire Hydrants.**

(a) No person shall open, carry from or tamper in any manner with a fire hydrant connected to water board mains, unless a written permit is obtained from the director. However, this does not apply to employees of the city's fire department engaged in the pursuit of regular duties.

(b) The director shall be notified within twenty-four (24) hours of the use of any hydrant by the city fire department.

(c) Wrenches, other than hydrant wrenches acceptable to the director, must not be used for the operation of fire hydrants. The use of any other type of wrench shall be considered sufficient cause for cancellation of any permit issued and for the imposition of a fine equal to the real cost to cover repairs or replacement.

(d) The general use of hydrants for construction purposes will be restricted when a service line to a building or structure will eventually be required. All hydrant use other than fire fighting purposes requires a valid hydrant permit and the use of a water board certified meter-backflow hydrant assembly. When a hydrant is being used under permit, regular reducing couplings attached to the nozzle of the hydrant and equipped with an independent valve for regulating flow shall be used. The main valve of such hydrant must be opened fully at the beginning of each workday and remain open until the finish of work on that day, when it shall be completely closed.

(e) A hydrant flow test service charge as identified in the board schedule of rates, payable in advance to the water board, shall be assessed for hydrant flow tests performed by the water board.

(f) In obtaining water from a fire hydrant in conformity with the foregoing subdivisions, no leakage will be tolerated. The hydrant permit shall be rescinded for any violation and appropriate fees for damage will be assessed.

(g) No person shall obstruct access to any fire hydrant in any manner whatsoever, without the written approval of the director.

1950.15 **Charges For Fire Protection.**

(a) Except where fire flows are metered together with normal water service to a water customer, no charge shall be made for the actual use of water for fire protection purposes. Availability charges for fire protection shall be as hereinafter set forth.

(b) The availability charge for each public fire hydrant inside the city boundary shall be twenty-five dollars (\$25.00) per year, payable by the city fire department to the water board.

(c) The availability charge for each public fire hydrant located outside the city boundary shall be one hundred fifty dollars (\$150) per year, payable in advance to the water board.

(d) The availability charge for service to private fire protection services inside the city boundary shall be the annual amounts as identified in the board schedule of rates, payable in advance, based on the nominal diameter of each service at its point of connection to the water board main.

(e) The availability charge for service to private fire protection services located outside the city boundary shall be 200 percent of the fee chargeable for similar service inside the city boundary.

(f) The requirement that meters shall be installed on all service branches shall be waived in the case of service branches intended for fire protection only. However, a detector check valve is required on fire protection lines.

(g) Water may not be used from service that has a detector check valve, except for fire protection.

(h) A detector check valve to indicate when water has been used shall be installed on all fire services in a building with ten (10) or more rooms rented or hired out to be occupied for sleeping purposes.

(i) Plans for fire protection installations in multiple dwellings must be approved by the city building inspector and the city fire department before approval by the director.

(j) All fire protection branches must be provided with a valve between the street main and the building or private fire line supplied with water.

(k) The water board shall place its seal upon any opening or valve connected with or to any fire protection service branch to seal such valve either open or closed.

(l) When a water board seal is broken, either accidentally or in order to obtain water for fire protection, the director must be notified immediately by the person breaking the seal or by any employee of the water board having knowledge thereof. A new seal will then be set and so recorded.

1950.16 **Requirements For Plumbers.**

(a) No person other than a duly licensed plumber shall do any plumbing in connection with any attachment to the mains of the water board without the written permission of the director, except as otherwise provided in this part.

(b) Any attachments to the water board main shall comply with the rules and regulations of the water board and the plumbing code of the city.

(c) Curb boxes and valve boxes on services shall be kept uncovered and readily accessible during construction or repair work.

(d) When plumbing work is completed in any new building, a space suitable for the installation of a water meter shall be provided and water shut off.

(e) The installation of nipples and a union in order that water may be obtained to test the plumbing will be allowed. Such nipples and unions shall be removed after such tests are completed and the director is notified.

(f) No person shall break a water board seal nor disconnect or remove a water meter without obtaining the approval of the director.

(g) No licensed plumber nor any other person shall make any attachment to any pipe or other fixture until written approval has been obtained from the director.

(h) No plumber or other person shall alter in any way the service branch pipes attached to the waterworks mains without written approval of the director.

(i) No plumber or other person shall make an attachment to any service branch or other pipe in such a manner that the water passing through such an attachment is not registered by the water meter.

(j) No person shall, by means of false keys or other means, cause or suffer any premises to be supplied with water after the water supply has been disconnected by the water board.

(k) All cast or ductile iron water services, after pressure testing to 150 pounds per square inch, shall be chlorinated by the water board with reference to time and place of such chlorination. Points for the application of chlorine and subsequent drainage shall be determined by the director and provided by the plumber or contractor. No water shall be provided through such service until results of chlorination have been approved by the director.

(l) Bills shall be rendered to the plumber or contractor at the real cost to the water board.

1950.17 **Cross-Connection Prevention Program.**

(a) The water board policy is to protect the public water supply against actual or potential cross-connections by isolating within the premises contamination that may occur because of some undiscovered, or unauthorized cross-connection of the premises. This policy incorporates the elimination of existing connections between drinking water systems and other sources of water that are not approved as safe and potable for human consumption. The policy also encompasses the elimination of cross-connections between drinking water supply. The policy extends to the prevention of the making of cross-connections in the future. The policy encourages the exclusive use of public sources of water supply.

(b) Except when the water board determines that no significant hazard is posed by the premises served, the water board shall take such actions as it deems necessary and appropriate to protect the public water system from existing or potential contamination by containing within or limiting the existing or potential contamination to the premises or the user including, but not limited to:

(1) By requiring an acceptable air gap, reduced pressure zone device, double-check valve assembly or equivalent protective device acceptable to the director consistent with the degree of hazard posed by the premises served by the connection;

(2) By requiring the users of such connections to submit plans for the installation of protective devices, to the supplier of water and the state for approval. Such submission shall be accompanied with a plan review fee as identified in the board schedule of rates; and

(3) By assuring that all protective devices be inspected and tested at least annually by the user. The records of such inspections and tests shall be made available to and maintained by the water board.

(c) The water board shall not allow a user to establish a separate source of water. However, if the user justifies the need for a separate source of water, the water board shall take such action as it deems necessary and appropriate to protect the public water system from a user

who has a separate source of water and does not pose a hazard as provided in this subdivision, including, but not limited to:

(1) By requiring the user to regularly examine the separate water source as to its quality;

(2) By reviewing and approving the use of only those separate water sources which are properly developed, constructed, protected, and found to meet the requirements of the state health code. Applicants shall submit plans for construction thereof to the director together with an a plan review fee as identified in the board schedule of rates; and

(3) By filing such approvals with the water board annually.

(d) All users of public water system shall prevent cross-connections between the potable water piping system and any other piping system within the premises.

(e) The user on any premises where backflow protective devices are installed shall conduct competent inspections at least once a year, or more often in those instances where successive inspections indicate repeated failure, and the director has established a more frequent schedule. These devices shall be repaired, overhauled or replaced at the expense of the user whenever they are found to be defective. These tests shall be performed in the presence of a certified backflow prevention device tester, and all test results shall be forwarded within twenty-five (25) days to the director and the Niagara County Health Department. In the event that the test report is not received by the director within twenty-five (25) days of the appropriate schedule, an order to comply will be issued. The city or water board will make its certified backflow prevention device tester available for inspections and testing on schedules established by the city in conjunction with the water board, and at the expense of the user. The director shall have access to any test being conducted.

(f) Inspection requests shall be as follows:

(1) Upon request of any property owner or his or her agent, the cross-connection inspector shall make an inspection of water connections to determine compliance or non-compliance with this part and the state Plumbing Code. A property owner or his agent shall submit with any inspection request an inspection fee as identified in the board schedule of rates to cover the cost of such inspections; provided, however, that if the inspection fee has been paid and an inspection reveals any non-compliance with this part or the state Plumbing Code, a request for re-inspection made within one hundred twenty (120) days of the last inspection may be made and will be provided without payment of any additional fee.

(2) Upon completion of any inspection or re-inspection, the cross-connection inspector shall issue or cause to be issued a letter stating compliance or non-compliance with this part and the state Plumbing Code.

1950.18 **Administrative Powers Of The Director.**

(a) In addition to the powers set forth elsewhere in this part, the director may take any or all of the following actions with respect to property owners or users receiving water service from the water board whenever, in his or her sole discretion, any provision of this part is violated or the standards of care contravened:

- (1) Terminate water service.
- (2) Require correction of violations within a set time frame.
- (3) Require connection, disconnection, modification and/or construction of appropriate devices or structures.
- (4) Require the payment of a surcharge or fee to be determined by the director based on reasonable assessment of the degree of violation and/or real costs resulting from the violation.
- (5) Correct the violation with water board personnel and charge the property owner or user for the real cost of such correction.

Except in the event of an emergency, reasonable advance notice of the action to be taken will be given by the director. Once notice is given, and if the property owner or user contests the action imposed, the property owner or user will have ten (10) business days to respond in writing to the notice of violation.

(b) If a response contesting the action is entered, then, prior to setting the matter down for a formal hearing, the property owner or user may, at the discretion of the director, be afforded the opportunity to meet with the director to resolve the matter by mutual consent. If settlement cannot be reached, then, upon written request of the property owner or user, the director shall refer the matter to the water board for a formal hearing. The water board may appoint and refer the dispute or enforcement proceeding to a hearing officer who shall conduct the hearing of the alleged violation and contest thereof. The hearing officer shall promptly conduct the hearing and provide a written report to the water board with a recommendation, based on the evidence presented, for a final determination by the water board. A written decision of the water board based upon evidence and argument presented, shall be made within thirty (30) days following the conclusion of the hearing or receipt of the hearing officer's report. The decision of the water board shall be only subject to review pursuant to Article 78 of the state CPLR. Following such decision of the water board, the water board may commence an action, in any court having jurisdiction, seeking appropriate legal and/or equitable relief, including injunctions against the violative activity, from property owners or users violating any of the provision of this part.

(c) The director may promulgate administrative procedures, technical specifications, or guidances to implement any and all sections of this part. These procedures, specifications and guidances shall have the same force and effect as if they were fully set forth in this part.

1950.19 **Penalties And Damages.**

(a) Any person found to be violating any provision of this part, or any procedure, specification or guidances as may be established by the director, shall be served by the director with written notice stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such notice, permanently cease all violations.

(b) Any person who shall continue any violation beyond the time provided for in (a) above, shall be subject to a penalty not less than one hundred dollars (\$100.00) nor more than two hundred fifty dollars (\$250.00) as determined by the water board, after an opportunity for a hearing with respect to such violation, for each violation, except that a significant industrial user shall be subject to a penalty in the amount of five thousand dollars (\$5,000.00) for each violation. Each day in which any such violation shall continue, shall be deemed a separate violation.

(c) Any person violating any of the provisions of this part shall become liable to the water board for any expense, loss, or damage occasioned the water board by reason of such violation. The expense, loss or damage shall be taken to be to the extent determined by the director.

(d) Any person who tampers with, or knowingly renders inaccurate, any metering device, shall, be subject to a penalty of not more than Five Thousand Dollars (\$5,000) as determined by the water board, after an opportunity for a hearing with respect to such violation(s).

1950.20 **Schedule of Rates, Fees and Charges.**

(a) This schedule sets forth the rates, fees and other charges applicable to the provision of water supply, wastewater and related services by the Niagara Falls Water Board to all property owners, users and other persons during the period January 1, 2007 through December 31, 2007. All property owners, users and other persons who receive services from the water board shall pay to the water board the rates, fees and charges set forth in this schedule.

(b) The following rates shall be charged and collected for the use of water within the city, supplied by the water board as hereby fixed and established:

First 20,000 cu. ft. per quarter, \$2.66 per 100 cu. ft.

Next succeeding 60,000 cu. ft. per quarter, \$2.31 per 100 cu. ft.

Next succeeding 120,000 cu. ft. per quarter, \$1.96 per 100 cu. ft.

Over 200,000 cu. ft. per quarter, \$1.62 per 100 cu. ft.

The minimum charge for water consumed in any premises within the city for any quarter or portion thereof shall not be less than \$34.58.

(c) The following rates shall be charged and collected for the use of water outside the city for residential and commercial purposes supplied by the water board as hereby fixed and established:

First 20,000 cu. ft. per quarter, \$7.62 per 100 cu. ft.

Next 60,000 cu. ft. per quarter, \$6.65 per 100 cu. ft.

Next succeeding 120,000 cu. ft. per quarter, \$5.54 per 100 cu. ft.

Over 200,000 cu. ft. per quarter, \$4.66 per 100 cu. ft.

The minimum charge for water consumed in any premises located outside the city for domestic purposes for any quarter or portion thereof shall not be less than \$99.06

(d) Water used for testing fire hoses, filling tanks, swimming pools, testing sprinkler systems, and like use shall be billed at \$2.66 per 100 cu. ft. in the city. The amount used may be either estimated in accordance with the size of the pipe through which taken at the pressure furnished, or determined by the use of a temporary meter rented to the user by the water board. The use of the latter method shall be at the discretion of the director and may require a refundable deposit.

(e) Use of hydrant for any purpose whatsoever shall be subject to a rental charge of one dollar and 50 cents (\$1.50) per day or partial day.

(f) The cost of hydrant use will include a fee of thirty-five (\$35.00) for backflow device certification, payable at the time of hydrant use application. In addition, daily hydrant and meter rental rates and security deposit amounts shall be established by the director based upon the real cost to the water board.

(g) In addition to the above schedule of rates for water consumed there shall be assessed a demand charge for each user's meter as set forth below.

<u>Size and Type</u>	<u>Charge Per Quarter</u>
Under 1" Disc	\$2.80
1" Disc	\$6.99
2" Disc	\$10.07
2" Compound	\$16.79
3" Compound	\$32.17
4" Compound	\$47.56
6" Compound	\$78.61
8" Compound	\$94.00
10" Compound	\$109.38
12" Compound	\$126.17

(h) The rates set forth in section 2 herein, however, shall not apply to any user of water with whom there is now outstanding a valid and binding contract with the city and/or water board to supply water at a rate different than the rates stated in this Schedule, or to users obtaining water service from the Village of LaSalle prior to May 4, 1927.

(i) In the event the water board or the director terminates water supply service to any property owner or user, such property owner, user or users located at such property shall pay a reactivation fee in the amount of seventy-five dollars (\$75.00) to the water board prior to the supply of water.

(j) There shall be small meter testing charge of one hundred dollars (\$100.00) for the bench testing of any meter less than two inches in size.

(k) An account reactivation charge of one hundred dollars (\$100.00) shall be applied whenever a meter is re-installed and an account reactivated.

(l) The water board shall charge a twenty-five dollar (\$25.00) final read fee for all owner requested meter reads.

(m) A hydrant flow test charge shall be applied whenever an owner, user or his agent requests a hydrant flow test.

(n) The annual availability charge for private fire protection service shall be:

Diameter of <u>Service Connection</u>	<u>Annual Fee</u>
2" or less	\$63.00
3"	\$89.00
4"	\$160.00
6"	\$362.00
8"	\$640.00
10"	\$1000.00
12"	\$1440

(o) A backflow submittal fee of twenty-five dollars (\$25.00) shall be charged for all backflow plans submitted to the water board for approval and forwarding to the state health department.

(p) There shall be a fifty dollar (\$50.00) inspection fee for each request for a cross-connection inspection.

(q) There shall be a thirty dollar (\$30.00) availability charge applied on a quarterly basis to all accounts inactivated pursuant to water board 21 N.Y.C.R.R. Part 1950.8 paragraph (m).

(r) In addition to the above rates, fees and charges, the following rates shall apply to all users with respect to sewer or wastewater services prescribed in the water board's wastewater regulations 21 N.Y.C.R.R. Part 1960. There shall be two (2) user classes as provided in Part 1960, to wit:

Commercial/Small Industrial/Residential Users (CSIRU) and Significant Industrial Users (SIU).

(a) CSIRU

Sewer rates for the CSIRU class are determined by total metered water consumption in each quarter.

The schedule of quarterly charges for the CSIRU class shall be as follows:

SCHEDULE I

Minimum charge per quarter	\$43.50 with a usage allowance of up to 1,300 cubic feet
Additional usage in excess of 1,300 cubic feet	\$3.55 per 100 cubic feet

(b) SIU

1. CONVENTIONAL POLLUTANT PARAMETER CHARGES.

Sewer rates for the SIU class each quarter are based on measured quantities of the actual discharge parameters: flow, suspended solids and soluble organic carbon. Such determination shall be made by the water board and shall be based upon five (5) representative 24-hour composite samples taken quarterly, at such locations as are adequate to provide proper representation.

The schedule of charges for conventional pollutant parameters shall be as follows:

SCHEDULE II

<u>POLLUTANT PARAMETERS</u>	<u>RATE</u>
Flow	\$2506.00 per million gallons
Suspended Solids	\$0.83 per pound
Soluble Organic Carbon	\$1.41 per pound

2. SUBSTANCES OF CONCERN PARAMETER CHARGES.

SIU's, who have wastewater discharge permits which limit any substance of concern listed in Schedule III below, will be billed for discharge of these substances based on the unit rates shown in Schedule III. Discharge loading for billing purposes shall be determined by arithmetic average of the last six acceptable self-monitoring results. At the option of the SIU, increased self-monitoring can be performed. For billing purposes, when six (6) or more acceptable results are obtained over the three (3) month billing period, all such results shall be used in the computation of the arithmetic average, with a requirement that there be at least two (2) sample results for each month. Average discharge loadings will then be multiplied by the corresponding unit rates from Schedule III to obtain total charges per quarter for each substance of concern listed in the SIU's wastewater discharge permit. All substances of concern charges will be added to the charges for conventional parameters, as specified above, to compute the total quarterly sewer rate.

SCHEDULE III

SUBSTANCES OF CONCERN UNIT CHARGES

<u>PARAMETERS</u>	<u>UNIT RATE</u>
Benzene	\$284.00 per pound
Chloroform	\$50.55 per pound
Dichloroethylenes	\$309.00 per pound
Toluene	\$13.67 per pound
Trichloroethanes	\$64.20 per pound
Trichloroethylene	\$81.97 per pound
Vinyl Chloride	\$41.00 per pound
Monochlorotoluenes	\$2.74 per pound
Tetrachloroethylene	\$38.25 per pound
Total Phenols	\$6.22 per pound

3. BILLING.

SIU charges shall be billed on a monthly basis by the water board. The first and second monthly billings in each quarter shall be estimated and shall be one-third (1/3) of the total billing in the immediately preceding quarter. The third monthly bill in each quarter shall be based upon actual discharge quantities for that quarter and shall reflect adjustments for the estimated billings in that quarter.

(s) Unless the context specifically indicates otherwise, all terms contained herein shall have the meanings set forth in the regulations adopted by the water board 21 N.Y.C.R.R. Part 1950 and 1960, as applicable.

PART 1960

WASTEWATER REGULATIONS

SECTION

- 1960.1** **Definitions**
- 1960.2** **General Provisions**
- 1960.3** **Building Sewers and Connection**
- 1960.4** **Use of Water Board POTW - Exclusions**
- 1960.5** **Conditions to the Use of the Water Board POTW -
Prohibitions, Local Limits**

1960.6 Significant Industrial Users (SIUs)

1960.7 Pretreatment - Standards

1960.8 Wastewater Service Charges

1960.9 Administrative

1960.1 Definitions

- (a) Unless the context specifically indicates otherwise, the following words and terms, without regard to capitalization, shall be construed or defined as follows:
1. *Acceptable limits* means those amounts or concentrations of pollutants that will allow consistent compliance with all SPDES permit limits, residuals disposal regulations for non-hazardous wastes, and satisfactory operation and maintenance of the entire water board POTW as determined by the director.
 2. *Act or water board act* means the Niagara Falls water authority act, codified as section 1230-a *et seq.* of Title 10-B and 10-C of Article 5 of the New York Public Authorities Law.
 3. *Clean water act* means the Federal Water Pollution Control Act, (PL92-500), as amended by the Clean Water Act of 1977 (P.L. 95-217) *et seq.* as amended.
 4. *Administrative order* means an order issued by the director to a water board POTW user and binding on the user to the extent that the director is acting within his purview.
 5. *Approval authority* means USEPA, or NYSDEC, as the case may be.
 6. *“Authorized representative of industrial user* means
 - a) A principal executive officer of at least the level of vice president, if the industrial user is a corporation.
 - b) A general partner or proprietor if the industrial user is a partnership or proprietorship, respectively.
 - c) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the discharge originates (e.g., plant manager).
 7. *Board or water board* means the Niagara Falls water board, established pursuant to section 1231-b of the water board act, and its directors, employees, agents, together with any authorized contractor, or any other person acting with written authority on behalf of the board.

8. *Board schedule of rates* means a schedule of rates, fees and other charges established at least annually and as modified from time to time by the water board.
9. *Building drain* means that part of the lowest horizontal piping of a drainage system which receives the discharge from soil, waste, and other drainage pipes inside the walls of the building and conveys it to the building sewer. The building drain begins three (3) feet from the outside face of the building wall.
10. *Categorical pretreatment standard or categorical standard* mean any regulation containing pollutant discharge limits promulgated by the USEPA in accordance with Section 307(b) and (c) of the Clean Water Act which applies to a specific category of industrial user.
11. *Chlorine demand* means the difference between the amount of chlorine added to water or wastewater and the amount of residual chlorine remaining at the end of a 20-minute contact period at room temperature.
12. *City* shall mean the city of Niagara Falls, New York, its employees and agents, together with any authorized contractor or other person acting with written authority on behalf of the city.
13. *CIU or Categorical industrial user* means any user which is regulated by USEPA in accordance with Sections 307(b) and (c) of the Clean Water Act which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405 - 471.
14. *Combined sewer* means a sewer intended to receive both wastewater and storm or surface water.
15. *Compliance* means conformance with SIU or ICU discharge permit limits, and/or conformance with all the terms of this part. Compliance shall be determined by periodic monitoring by the water board and/or self-monitoring, as applicable.
16. *Connection* means and refers to the pipeline from the sewer main to the building drain, control manhole or monitoring station.
17. *Contamination or contaminated* means waters or wastewaters which contain polluting substances, or toxic substances, as may be limited by section 1960.5 of this part and/or applicable water quality standards.
18. *Control authority* means the water board.
19. *Control manhole* means a structure maintained by the owner and approved by the director that is continuously and immediately accessible and adequate for the insertion of a flow metering device and the collection of samples and suitable for inspection, observation, sampling, testing and measuring of plant discharges.
20. *Cooling Water* means the water discharge from any system of condensation, air conditioning, cooling or refrigeration.

21. *CSIRU (commercial/small industrial/residential user)* shall include any person not within the definition of a SIU, transporter or generator who discharges wastewater to the water board POTW.
22. *de minimus* means a quantity which in the opinion of the director is too small to have a significant adverse effect upon the water board POTW and/or its state SPDES discharge permit.
23. *Design flow* means the daily flow for which the water board POTW treatment plant was designed (i.e., 48 million gallons per day).
24. *Design loading* means the daily loading of parameters (that is, Total Suspended Solids, Chemical Oxygen Demand and Phenols) utilized in the design of the water board POTW as follows:

Total Suspended Solids - 100,000 pounds/day
Chemical Oxygen Demand - 145,000 pounds/day
Phenols - 275 pounds/day
25. *Director or department* mean, without other designation, the executive director of the water board, or other person or persons designated by the director to act in his or her stead, and the department of wastewater facilities of the water board, respectively.
26. *Diversion sewer* means exclusively a gravity conduit extending generally from a shaft of the Adams Tailrace Tunnel, easterly in Buffalo Avenue, Packard Road, A Street and 47th Street, into which the plants of the Buffalo Avenue industrial area discharge such waters as are allowed under individual plant NPDES/SPDES permits.
27. *Easement* means an acquired legal right for the specific use of land owned by others.
28. *Excessive infiltration* means infiltration in excess of 4,000 gallons/day/inch/mile for existing combined or sanitary sewers, and 200 gallons/day/inch/mile for new combined or sanitary sewers, or greater as otherwise designated by the director.
29. *Garbage* means the solid wastes from the domestic or commercial handling, storage, dispensing, preparation, cooking and serving of produce.
30. *Generator* means any person, by site, whose act or process produces hauled waste.
31. *Groundwater* means water within the earth.
32. *Hauled waste* means all waste lawfully introduced to the water board POTW by means other than through the water board sewer system.
33. *ICU (industrial commercial user)* means any person within the definition of CSIRU who has the potential to discharge other than sanitary wastewater.

34. *ICU permit* means and shall be the wastewater discharge permit that may be required for ICUs for discharge of wastewater into the water board POTW and issued pursuant to these regulations and may contain discharge restrictions as deemed appropriate by the director.
35. *Immediately* means, as it pertains to any abnormal discharge or spill, as soon as the spillage has been controlled or within 30 minutes of discovery, whichever is sooner.
36. *ILC (industrial liaison committee)* means a committee of the Niagara Falls Area Chamber of Commerce established as an advisory group to the water board and the city for the purposes of observing and consulting on the operation, maintenance, costs, budgets, revenues and financial reports and for liaison work with all SIUs in order to assure adequate water board POTW service to industrial users.
37. *Industrial user* means any non-residential source of indirect discharge regulated under Sections 307(b), (c), or (d) of the Clean Water Act.
38. *Industrial wastes or industrial wastewater* means the liquid wastes, other than sanitary wastewater, uncontaminated non-contact cooling water and boiler blowdown, resulting from manufacturing, industrial or other processes and discharged by an industrial user.
39. *Infiltration* means the water entering a sewer system 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.
40. *Infiltration/inflow* means the total quantity of water from both infiltration and inflow without distinguishing the source.
41. *Inflow* means the water discharged into a sewer system and service connections from such sources 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, stormwater, surface run-off, street wash water, or drainage. It does not include, and is distinguished from, infiltration.
42. *Interference* means a discharge which, alone or in conjunction with a discharge or discharges from other sources, both:
- a) inhibits or disrupts the water board POTW, its treatment process or operations, or its sludge processes, use or disposal of sludge, and,
 - b) therefore, is a cause of a violation of any requirement of the water board's state SPDES discharge permit (including an increase in the magnitude or duration of a violation) or of the prevention of a wastewater sludge use or disposal in compliance with all applicable federal and state laws and regulations.
43. *Monitoring station* means a permanent structure constructed, maintained and operated by and at the owner's expense and approved by the director as to design and construction for

the express purpose of providing an accessible point out of the traveled way for metering and sampling waste discharges continuously into the water board POTW in a safe and accurate manner.

44. *Natural outlet* means any outlet into a watercourse, pond, ditch, lake or other body of surface or groundwater.
45. *New source* means a facility from which there is, or may be, a discharge of pollutants, construction of which began after the publication of the proposed pretreatment standards pursuant to Section 307 (c) of the Clean Water Act, which will apply to the facility if the standards are promulgated, provided certain location and construction criteria are applicable.
46. *Non-compliance* means non-conformance with established limits as defined under compliance.
47. *NYSDEC* means New York State Department of Environmental Conservation.
48. *Occupied building* means and refers to any structure erected and intended for habitation, occupancy or use by human beings or animals and from which structure wastewater is or may be discharged.
49. *Operation and maintenance* means the process and act of keeping all facilities for collecting, pumping, treating and disposing of wastewater, in a state of good repair and functioning properly including the replacement of said facilities when necessary.
50. *Other wastes* means solid wastes such as garbage, refuse, wood, egg shells, coffee grounds, sawdust, shavings, bark, sand, lime, cinder, ashes and all other discarded matter not normally present in wastewaters.
51. *Owner* means the person or persons who legally own, lease, or occupy private property with wastewater facilities, which discharge, or will discharge, to the water board's POTW.
52. *Pass through* means a discharge containing pollutant(s) which exits the water board POTW into the 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 water board's SPDES discharge permit (including an increase in the magnitude or duration of a violation).
53. *Person* means any natural person, firm, trustee, executor, personal representative, partnership, association, limited partnership, limited liability company, limited liability partnership, joint venture or corporation, or other legal entity whatsoever. The masculine gender shall include the feminine, and the singular shall include the plural where indicated by the context.
54. *pH* means the negative logarithm of the concentration of hydrogen ions in moles per liter of solution.

55. *Publicly owned treatment works or (P.O.T.W.)* means treatment works as defined by section 212 of the Clean Water Act (33 U.S.C. § 1292) which are owned or operated by the water board. This definition includes any devices and systems used in the storage, treatment, recycling and reclamation of sewage or industrial wastes of a liquid nature and any sewers, pipes, conveyances and appurtenances that transport wastewater to or from the water board's treatment plant. For the purposes of these regulations, P.O.T.W. shall also include any sewers that transport wastewater to the P.O.T.W. from persons outside the water board's service area who are, by contract or agreement with the water board, users of the water board's publicly-owned treatment works.
56. *Premises accessible to the sewer system* means and refers to real estate which adjoins, abuts, is adjacent to or has access (within 100 feet) to the water board POTW.
57. *Pretreatment* means the reduction of the amount of, or alteration of, pollutant properties in wastewater prior to, or in lieu of, discharging or otherwise introducing such pollutants into the water board POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, production process changes or by other means, except as prohibited by 40 CFR 403.6 General Pretreatment Regulations for Existing and New Sources of Pollution.
58. *Pretreatment requirements* means any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.
59. *Pretreatment standards national pretreatment standard or standards* means prohibited discharge standards, categorical pretreatment standards, local limits, and any regulation containing pollutant discharge limits promulgated by USEPA under Sections 307(b) and (c) of the Clean Water Act applicable to industrial users, including general and specific prohibitions found in 40 CFR 403.5.
60. *Priority pollutant* means a toxic pollutant as defined under 307(a)(1) of the Clean Water Act requiring the USEPA to publish a list of toxic pollutants after weighing the importance of each of the following factors:
- 1) Toxicity
 - 2) Persistence
 - 3) Degradability
 - 4) Effect on organisms
61. *Right-of-way* means a strip of land designated for travel by the public (pedestrian and vehicular) and includes pavement, curbs, margin areas, sidewalks, driveway approaches, etc.
62. *Sanitary sewer* means a sewer that carries liquid water-carried wastes from residences, commercial buildings, industrial plants and institutions, together with minor quantities of ground, storm, and surface waters that are not admitted intentionally.

63. *Sanitary wastewater* means sewage discharging from sanitary conveniences including but not limited to toilets, washrooms, urinals, sinks, showers, drinking fountains, laundries, kitchens, cafeterias, essentially free of industrial wastes or toxic material.
64. *Sewer lateral* means the extension from the building drain to the water board POTW.
65. *Shredded* means at least 30 percent on a dry basis passes a No. 40 U.S. Standard Sieve.
66. *SIU (significant industrial user)* means any person who:
- a) discharges wastewater subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; or
 - b) discharges an average of 25,000 gallons per day or more of process wastewater to the water board POTW (excluding sanitary, non-contact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the water board POTW treatment plant; or is designated as such by the Control Authority as defined in 40 CFR 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the water board's POTW operation or for violating any pretreatment standard or requirement.
67. *SIU permit* means and be the wastewater discharge permit that shall be required for SIUs for discharge of wastewater into the water board POTW and issued pursuant to these regulations and may contain discharge restrictions as deemed appropriate by the director.
68. *Slug or slug load* means any wastewater discharge at a flow rate, concentration or load which could result it any prohibited discharge listed in section 1960.5 of this part.
69. *SNC (Significant Non-Compliance)* means an industrial user is in significant noncompliance if its violation meets one or more of the following criteria:
- a) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken during a six month period exceed (by any magnitude) the daily maximum limit or the average limit for the same pollutant parameter;
 - b) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all of the measurements for each pollutant parameter taken during a six month period equal or exceed the product of the daily maximum limit or the average limit multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease; and 1.2 for all other pollutants except pH.);
 - c) Any other violation of a pretreatment effluent limit (daily limit or longer term average) that the water 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);

- d) Any discharge of a pollutant that as caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under paragraph (f)(1)(vi)(B) of section 40 CFR 403.8 to halt or prevent such a discharge;
 - e) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
 - f) Failure to provide, within 30 days after the due date, required report such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
 - g) Failure to accurately report noncompliance,
 - h) Any other violation or group of violations which the water board determines will adversely affect the operation or implementation of the local pretreatment program.
70. *SOC (soluble organic carbon)* shall mean the measure of organic material as TOC in that portion of a water or waste that has passed through a standard glass fiber filter. The glass fiber filter shall be equivalent to that described in the procedure for residue determination and the measurement of TOC shall be as set forth in the latest USEPA-approved edition of *Standard Methods for the Examination of Water and Wastewater*.
71. *SOC amenable to carbon treatment* means that portion of the soluble organic carbon that is removed by granular activated carbon treatment.
72. *Spill* means to allow or to cause, either inadvertently or intentionally, a substance to escape from its normal container or containment system and enter the water board POTW.
73. *State* means the state of New York.
74. *Storm sewer* means a sewer which is intended to carry solely storm and surface waters and drainage directly to waters of the state, but excludes wastewaters other than cooling waters and/or other unpolluted waters.
75. *Storm water* means water that is deposited on the earth from such phenomena as rain, snow, hail or sleet.
76. *TOC (total organic carbon)* shall mean a measure of the amount of organic material in a water or waste expressed in milligrams of carbon per liter of solution. Measurement shall be as set forth in the latest USEPA-approved edition of *Standard Methods for the Examination of Water and Wastewater*.
77. *Transporter* means any person who delivers hauled waste via tank truck or rail car.

78. *TSS (total suspended solids)* means solids that are in suspension in water or wastewater, and which are removable by filtration. Measurement shall be as set forth in the latest USEPA-approved edition of *Standard Methods for the Examination of Water and Wastewater*.
79. *Toxic pollutants* means those substances as defined and referred to in the Act or as designated by the commissioner of the NYSDEC.
80. *Uncontaminated* means waters (or wastewaters) which are not contaminated.
81. *USEPA* means the United States Environmental Protection Agency.
82. *User* means and refers to any person whose premises are connected to the water board POTW, or effluent source that directly or indirectly contributes, causes or permits the contribution of waste into or through the Water Board sewer system.
83. *Wastewater* means a combination of liquid and water-carried wastes from residences, commercial buildings, industries, and institutions, together with any groundwater, surface water, or stormwater that may be present.
84. *Water board sewer system* means all sewer pipes and other appurtenances which are used or useful in whole or in part in connection with the collection, treatment or disposal of wastewater, industrial waste and other properly shredded wastes and which are owned, operated and maintained by the water board, including wastewater pumping stations and wastewater treatment and disposal facilities, but excluding separate storm sewers and the diversion sewer. Preferred current terminology water board POTW shall be used throughout the text of this part.
85. *Water board's SPDES discharge permit* means the current state or National Pollutant Discharge Elimination System Permit, as issued by the NYSDEC or the USEPA, to the water board.

1960.2 General Provisions

(a) The purpose of this part is to provide for the maximum possible beneficial public use of the water board's POTW through regulation of sewer construction, sewer use, and wastewater discharge; to provide criteria for equitable distribution of the costs of the water board's POTW; to prevent the introduction of pollutants which would interfere with the operation of the water board POTW, pass through the treatment works to waters of the State or contaminate the water board's POTW sludge; and to provide procedures for complying with the requirements contained herein.

(b) This part shall apply to persons within the city and to persons outside the city who are, by contract or agreement with the water board, users of the water board's POTW. The provisions of this part shall apply to the discharge of all wastewater to the water board's POTW. This part provides for use of the water board's POTW, regulation of sewer connections, control of the quantity and quality of wastewater discharged, wastewater pretreatment, criteria for distribution of costs, criteria for use of water board POTW capacity, issuance of SIU or ICU

Permits, minimum sewer connection standards and conditions, and penalties and other procedures in cases of violation of this part.

(c) The water board maintains its principal office at the Michael C. O’Laughlin Water Treatment Plant located at 5815 Buffalo Avenue, Niagara Falls, New York 14304. Unless otherwise provided or directed, all payments and communications to the water board shall be delivered to such office address.

(d) The headings and table of contents used herein are for convenience and reference only and shall not define, describe, limit or control the scope or meaning of the provisions of these regulations.

(e) The confidentiality of user information and data submitted as necessary for any application, record, report, plan, or other document required by these regulations shall be governed by the New York State Freedom of Information Law (sections 84 through 90 of the Public Officers Law of the State of New York) and by other applicable state or federal statutes and regulations. Any requests by a user to keep specific data and information confidential must be made in writing at the time of submission.

1960.3 Building Sewers And Connections

(a) Connection of Accessible Premises to the water board POTW.

(1) All persons owning any occupied building now erected upon premises accessible to the water board POTW shall, at their own expense, connect to the water board POTW.

(2) All persons owning any premises accessible to the water board POTW upon which a building is hereafter erected, shall, at the time of the erection of such building and at their own expense, connect to the water board POTW.

(3) All persons owning any occupied premises which hereafter becomes accessible to the water board POTW shall, at their own expense, connect to the water board POTW within three (3) months after written notice to do so from the director.

(b) Plumbing Code Requirements.

(1) No connection shall be made to the water board POTW except by a plumber duly registered and licensed by the city and the water board, and in a manner and of such materials as are approved by the city and the director.

(2) Where the buildings to be connected to the water board POTW are used, in whole or in part, for the preparation or serving of food or for any other processing where grease or oil may be produced, including but not limited to eating houses, restaurants, hotels, drug stores, bars and saloons, there shall be installed in each connection a grease interceptor or trap of design and make as approved by the director and the city.

(3) All industrial and commercial storage or repair garages, gasoline stations with grease racks, grease pits or wash racks; all motor vehicle cleaning facilities and all facilities which have oily and/or flammable wastes as a result of manufacturing, storage, maintenance, repair or testing processes, shall provide sand interceptors, catch basins and oil interceptors as are approved by the director and the city.

(4) Interceptors and separators shall be maintained in efficient operating condition by removal of accumulated grease, scum, oil or other floating substances and solids deposited in the interceptor or separator so as to preclude these substances from entering the water board's POTW, or at scheduled intervals as directed by the director.

(c) Separate Connections Required.

Except for industrial users, and except where there is a separate dwelling house of the same owner upon the rear part of a lot, each separate building shall be provided with an independent connection to the water board POTW. A separate dwelling house of the same owner on the rear part of a lot may be connected to the water board POTW through the same building connection as that serving the main house. Two (2) or more properties (or parcels of property) shall not be permitted to discharge in the same building connection to the water board POTW, except by specific authorization in writing from the director.

(d) Connection Permit.

Whenever any connection pipe, or other facility is to be connected to the water board POTW, the owner of such building shall make written application to the director and the city director of Inspections in person or through a plumber duly licensed and registered by the city, acting as agent for such property owner, upon a form to be supplied by the city and the water board. The application shall set forth the nature and character of the connection to be made and the time within which the same is to be completed. Upon the approval of such application, a permit to make such connection shall be issued to the applicant. The fee for such permit shall be established by and payable, in advance, to the city director of inspections. In the case of an SIU defined herein, the applicant shall also be required to obtain the approval of the director in order to validate the connection permit approved and issued by the city director of Inspections. Approval of the director shall also be required for those making application for connection to the diversion sewer.

Whenever said connection involves work in a publicly owned right-of-way, a city Engineering Department Permit Application for Work Within the city's Right-of-Way must be filed in the Office of the city Engineer, or if such Right-of-Way is owned by the water board, then an application for a water board Permit must be filed with the director. Such application must be filed by a plumber duly licensed and registered by the city, 24 hours in advance of starting work. All provisions of said Engineering Permit or water board Permit, as the case may be, shall be strictly adhered to.

(e) Water Board's Right to do Work.

The water board reserves the right and may elect to do all or any part of the work incident to making connections and shall so endorse the permit. The costs of such part of the work shall be charged to and paid by the property owner and shall be due and payable immediately upon the completion of the work. If not so paid, costs may be collected by the water board in such manner as may be permitted by law.

(f) Permit Invalid for Non-Compliance.

(1) Each permit issued to a property owner pursuant to the provisions of subdivision (d) of this section, for the making of the connection with the water board POTW, shall be invalid unless work is commenced and completed in accordance with the terms thereof, and no work shall be done after any permit has expired unless and until a new permit shall have been obtained from the city Director of Inspections, or the director, as the case may be.

(2) The water board reserves the right to revoke any permit so issued upon violation of any of the provisions of this part. The property owner whose permit shall be so revoked shall thereupon be required to secure a new permit for the making of a connection to the water board POTW upon such terms as the director may prescribe.

(g) Inspection Requests.

(1) Upon request of any property owner or his agent, the director shall make an inspection of sewer connections or building sewers to determine compliance or non-compliance with this part and Sections 501 and 502 of the state Plumbing Code. A property owner or his agent shall submit with any inspection request a fee of \$50.00 to cover the cost of such inspections; provided, however, that if the \$50.00 inspection fee has been paid and an inspection reveals any non-compliance with this part or the state Plumbing Code, a request for reinspection, made within 120 days of the last inspection may be made and will be provided without payment of any additional fee.

(2) Upon completion of any inspection or reinspection, the director shall issue or cause to be issued a letter stating compliance or non-compliance with this part and the State Plumbing Code.

1960.4 Use Of Water Board POTW

(a) Disposal Prohibited to Other Than Water Board POTW.

(1) The disposal of sanitary wastewater and industrial wastewater shall be prohibited to other than the water board POTW from premises required to connect thereto under section 1960.3, except that certain industrial wastes may be discharged after suitable treatment to the diversion sewer, storm sewers, or to watercourses, under provisions of the clean water act, as amended, provided that a valid SPDES discharge permit for such discharge is in effect.

(2) Any person who erects, constructs or maintains a privy, cesspool or septic tank on any property accessible to the water board POTW shall be deemed and shall be declared

to be erecting, constructing and maintaining a nuisance, which nuisance the water board is authorized to abate in the manner provided by law.

(3) The disposal of hauled wastes, including sanitary waste from septic tanks or portable toilets into the water board POTW shall be prohibited except as permitted in writing by the director and for a fee as established in section 1960.8

(4) Notwithstanding any of the provisions above, nothing herein contained shall prohibit a user to dispose of wastes by any other legally prescribed methods.

(b) Exclusions from water board POTW.

(1) No person shall discharge or allow to be discharged any sanitary or contaminated wastewater to any storm sewer.

(2) No person shall discharge or allow to be discharged uncontaminated storm water runoff, uncontaminated surface runoff or uncontaminated cooling water to any sanitary sewer.

(3) No person shall allow excessive amounts of infiltration to any sanitary or combined sewer.

(4) No person shall discharge or allow to be discharged inflow to any sanitary sewer.

(5) Users for whom no water board storm sewers are presently provided or whose premises are not located within 100 feet of the diversion sewer or water courses suitable to receive uncontaminated cooling water, storm water runoff, or pretreated industrial wastewaters meeting the water board's SPDES discharge permit limits may, upon receiving written permission from the director, discharge such waters to the combined sewers. When suitable storm sewers are constructed and made available by the water board to receive such waters, the yard piping shall be modified, within such time period as prescribed by the director, to separate these waters from industrial and/or sanitary wastewaters. Appropriate separate connections shall be made to the sanitary sewer and storm sewer. However, users located near watercourses or the diversion sewer into which such waters may be discharged shall modify as necessary their yard piping, within such time period as prescribed by the director, to discharge only industrial process wastewater and/or sanitary wastewater to the sanitary or combined sewer. Such users may discharge uncontaminated cooling water and such pretreated industrial wastewater to the watercourses, the diversion sewer or to the storm sewers. Such cooling waters and pretreated industrial wastewaters shall require individual SPDES discharge permits.

(6) Industrial plants or others taking water from any source other than the water board POTW for use in cooling or as process water or for any other purpose shall report such quantities and their ultimate disposal, whether to sanitary sewers, storm sewers, or diversion sewer, to the director in writing as requested.

(7) Any user, whether an SIU or not, discharging to the diversion sewer shall provide a continuously and immediately accessible control manhole suitable for inspection, observation, sampling, testing and measurement of discharge.

1960.5 Conditions To The Use Of The Water Board's POTW

(a) Prohibited Wastewater Discharges and Certain Notifications to Water Board.

(1) No person shall discharge, allow to be discharged, or otherwise allow to enter any of the following proscribed waters or wastes to the water board POTW, any sanitary sewer, storm sewer, combined sewer, or to the diversion sewer:

(i) Any pollutant which creates a fire or explosion hazard in the water board POTW, including but not limited to, waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit (60 degrees Centigrade) as determined by using the test methods specified in 40 CFR Part 262.21.

(ii) Any waters or wastes containing solids, liquids or gases in sufficient quantity, acting either singly or by interaction with other properly shredded wastes, which may create damage to the water board's POTW, cause Pass Through or Interference, be a hazard to the water board POTW personnel, create a public nuisance, create a hazard to life, or after treatment cause a violation of the water board's SPDES discharge permit.

(iii) Any water or wastes which will cause corrosive structural damage to the water board's POTW, but in no case those discharged with the following properties:

- (a) Having a pH less than 5.0.
- (b) Having a pH greater than 12.0 for any period exceeding 30 minutes.
- (c) Having a pH greater than 10.0 for more than five (5) hours daily or 70 hours monthly.

(d) Having by itself or by interaction with a discharge or discharges from other sources, properties which would cause the pH of the effluent of the water board POTW to be outside the range of 6.0-9.0 for greater than 60 minutes.

(e) Having by itself or by interaction with a discharge or discharges from other sources, any other aggressive property in a quantity or quality capable of causing damage or hazard to any structure or equipment of the water board POTW.

(iv) Any solid or viscous substance, including but not limited to fats, waxes, greases, petroleum oil, non-biodegradable cutting oils, or products of mineral oil origin, of such quantity or size discharged, or by interaction with other substances, which cause obstruction of flow in the POTW, interference of the POTW, or pass through.

(v) Any liquid or vapor having a temperature higher than 150 degrees Fahrenheit (65 degrees Centigrade) at the discharge to the water board POTW. In addition, any liquid or vapor which causes, either singly or in combination with other wastewater discharges, the combined influent to the water board POTW to exceed 104 degrees Fahrenheit (40 degrees Centigrade) is also prohibited.

(vi) Any materials containing radioactivity of such half-life, concentration or other property as may exceed limits established by applicable state or federal laws, regulations, guidelines or limitations, or that may cause the water board POTW's effluent or sludge to exceed such laws, regulations, guidelines or limitations, or to be classified as a hazardous substance under the Federal Comprehensive Environmental Response, Compensation and Liability Act.

(vii) Slug or batch discharges which, in the opinion of the director, could cause or substantially contribute to an upset of the POTW treatment process, or result in a violation of the water board's SPDES discharge permit.

(viii) Any waters or wastes containing substances which, either singly or in combination with other properly shredded wastes, are not amenable to treatment or reduction by the wastewater treatment processes employed, or are amenable to treatment only at excessive cost or amenable to treatment only to such degree that the water board's POTW effluent cannot meet the requirements of the water board's SPDES discharge permit.

(ix) Any waters or wastes from a motor vehicle, tank truck or any other mobile conveyance without prior written authorization by the director, specifying the nature, volume, manner, time and place of discharge except for such mobile conveyance discharges from within an SIU facility to sewers carrying water through a monitoring station.

(x) Any substance which may cause the water board's POTW effluent or any other product of the water board POTW such as residues, sludge, furnace solids, or scum, to be unsuitable for discharge, disposal, reclamation or reuse. In no case shall a substance discharged to the water board's POTW cause the water board POTW to be in non-compliance with sludge use or disposal criteria, air emissions permit, guidelines or regulations affecting sludge use or disposal pursuant to the Solid Waste Disposal Act (including Title II, more commonly referred to as the Resource Conservation and Recovery Act), the Clean Air Act, the Clean Water Act, the Toxic Substance Control Act, the Marine Protection, Research and Sanctuaries Act or state criteria applicable to the sludge management method being used.

(xi) Any pollutant, including oxygen demanding pollutants, released in a discharge at a flow rate and/or pollutant concentration which will cause Interference with the water board's POTW.

(xii) Any discharge of pollutants which result in the presence of toxic gases, vapors or fumes within the water board POTW in a quantity that may cause acute worker health and safety problems.

(2) The occurrence of discharge of wastewater under emergency conditions and the spillage of wastewaters in quantity or quality not in accord with the provisions of this

Section shall be reported by telephone to the water board POTW treatment plant duty operator immediately. Such occurrence or spillage shall be confirmed by letter to the director within five (5) working days when requested by the director at the time of the telephone report or later by written request (SIUs must report according to Section 1960.6). Persons responsible for the discharge shall take all available means to reduce the volume and rate of discharge and shall cooperate with water board personnel to reduce potential damaging effects.

(b) Local Limits.

(1) In accordance with the provisions in 40 CFR 403, specific local limits shall be developed, adopted and enforced. A user may not introduce into the POTW any pollutant(s) which can cause pass through or interference. These general prohibitions and the specific prohibitions listed in Section 1960.5 of this part apply to each user introducing pollutants into the water board POTW whether or not the user is subject to other national pretreatment standards or any other national, state, or local pretreatment requirements.

(2) No user shall discharge, allow to be discharged, or otherwise allow to enter the water board POTW any substances, materials, waters, or wastes in quantities greater than those listed in Wastewater Facilities Administrative Procedure No.6. "Determination and Use of Local Limits," unless the user has been granted permission via a valid discharge permit. In no circumstances, can less stringent limitations violate any applicable pretreatment standard or requirement. These limitations are deemed pretreatment standards for the purposes of section 307(d) of the Clean Water Act.

(3) The water board shall continue to develop these limits as necessary and effectively enforce these limits.

(c) Required Notice of Change In Volume or Character of Wastes.

(1) All users must obtain prior approval from the director to discharge new or significantly increased wasteloads.

(2) Any user discharging to the water board POTW who plans to change the volume or character of said discharge significantly, shall notify the director no less than 15 working days prior to the commencement of any alteration or construction that will result in a significant change in the volume or character of its discharge.

(3) All users must notify the director or his or her designee no less than 15 working days prior to initiating maintenance work, tank cleaning or demolition, internal sewer plumbing cleaning or repair or any other activity which will temporarily change the volume or character of the wastewater discharge to the water board POTW.

(d) Measuring, Recording and Sampling Devices.

(1) The water board is authorized, pursuant to 40 CFR Section 403.8(f)(1) of the pretreatment standards, to require any user to install monitoring equipment in a suitable

location so that the water board POTW can monitor the user's discharge, and require the user to conduct self monitoring and reporting.

(2) All meters and all other measuring and sampling devices installed or required to be used under the provisions of this part shall be readily accessible to the director. The owner of the property upon which any such measuring, recording or sampling device is installed shall pay for and shall remain responsible for its maintenance and accuracy. All repairs and calibrations thereto shall be made at the owner's cost, whether such repairs are made necessary by ordinary wear and tear or by other causes. These repairs shall be made within such time period as prescribed by the director. After proper notification, the water board can undertake such repairs, and the costs for said repairs shall be due and payable at that time, shall be collected in the same manner and shall be subject to the same penalties as are the costs for repairs of water meters. Energy for continuous operation, as required, shall be provided and paid for by the property owner. Flow record charts shall be changed by the user as required, shall be marked to show time and totalizer register reading at time of change, and shall be available to the director upon request.

(3) All industrial users shall keep records on file for a minimum of three (3) years of all records, flow charts, laboratory calculations or any other pertinent data on their discharge to the water board POTW. This retention period may be extended during litigation or notice from the water board.

(e) Information Requirements.

(1) All users shall file, with the water board, wastewater information deemed necessary by the director for determination of compliance with this part, the water board's SPDES discharge permit conditions, and state and federal law. Such information shall be provided by completion of a questionnaire supplied by the director and by supplements thereto as may be necessary. Information requested in the questionnaire and designated by the discharger as confidential is subject to the conditions of confidentiality as set out in this subdivision

(2) Where a person owns, operates or occupies properties at more than one (1) location, separate information submittals shall be made for each location as required by the director.

(3) Information and data obtained through the water board's Pretreatment Program from reports, questionnaires, permit applications, permits, monitoring programs and from inspections shall be available to the public without restriction unless the user specifically requests and is able to demonstrate to the satisfaction of the water board that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. The water board shall implement measures to insure the confidentiality of information provided by a user pursuant to this part. In no event shall any claimed confidential information be disclosed to the public without prior notice in writing to the user, and without providing the user with the opportunity to seek judicial relief.

(4) In accordance with Section 308 of the Clean Water Act, all information as described in this subdivision shall be immediately available to the USEPA Administrator or authorized representative(s) of the USEPA Administrator without limitation.

(5) In no case shall effluent data be considered proprietary or restricted data. Any and all such effluent data shall be made available to the public on request through Freedom of Information Law provisions.

(6) Any industrial user now or in the future discharging to the diversion sewer, upon and after the effective date of this part shall provide a copy of the applicable state SPDES application and any subsequent permit to the director for such discharge or continuation of such discharge.

(f) Water Board's Right of Revision.

The water board reserves the right to establish more or less stringent limitations or requirements on discharges to the water board POTW to be consistent with the objectives presented in Section 1960.2 of this part. However, in no circumstance can less stringent limitations violate any applicable pretreatment standard or requirement.

(g) Right of Entry, Inspection and Collateral Activities.

(1) Personnel as designated by the director shall be permitted at any time to enter upon all properties served by the water board POTW for the purpose of, and to carry out, inspection of premises, observation, measurement, sampling and testing, in accordance with the provisions of this part to determine compliance or non-compliance with applicable pretreatment standards and requirements. Personnel shall also be permitted to inspect and copy any and all documentation pertaining to discharge monitoring and analysis.

(2) To the extent allowed under their respective laws and regulations, designated representatives of USEPA, NYSDEC and Niagara County Health Department shall be permitted at any time to enter upon all properties served by the water board POTW for the purpose of, and to carry out, inspection of premises, observation, measurement, sampling and testing, in accordance with the provisions of this part to determine compliance or non-compliance with applicable pretreatment standards and requirements.

1960.6 Significant Industrial Users

(a) Required Control Manhole and/or Monitoring Station.

(1) Each SIU shall install either a suitable control manhole or monitoring station, in each industrial plant connection to the water board POTW or any other connections deemed necessary by the director. Control manholes shall be suitable for inspection, observation, sampling, testing and measurement of plant discharges. Monitoring stations shall provide safe adequate space and equipment for continuous flow rate measurement and recording, and for the taking of 24-hour composite samples proportional to rate of flow, with refrigeration

of samples. Such equipment shall include an event marker to indicate the time and frequency of sample collection.

(2) Each such control manhole and/or monitoring station shall be readily accessible and shall be located and constructed in accordance with plans approved by the director. The control manhole and/or monitoring station with equipment shall be installed by the owner at his expense and shall be maintained by him so as to be safe and accessible at all times to designated water board personnel. If continuous and immediate access to the monitoring station is not available, a control manhole to which there is such access shall be provided by the SIU in addition to the monitoring station. There shall be no more than two (2) monitoring stations for any industrial plant unless specifically authorized by the director.

(3) Any SIU may be required to provide, install and maintain monitoring and other equipment as deemed necessary and appropriate upon determination by the director.

(b) Determination of Wastewater Characteristics.

(1) Samples shall be collected on a continuous basis unless otherwise specified by the director. Composite samples shall be collected by automatic sample collection equipment over a 24-hour period. In the event of an equipment malfunction a manual composite sample, consisting of a minimum of eight (8) discrete grab samples, shall be collected at equal time intervals over the 24-hour compositing period. The grab samples shall be composited proportional to the flow rate over the 24-hour compositing period. More than the minimum number of discrete samples may be required in instances where pollutant loading and/or flow rate is highly variable.

(2) Samples shall be collected and preserved in accordance with 40 CFR Part 403.12 including, but not limited to, cooling samples to four (4) degrees Centigrade during the compositing period.

(3) Unless waived by the director, all SIUs are required to collect samples seven (7) days per week. The director may waive weekend sampling if past performance and process characteristics indicate such action is warranted. When a weekend composite sample is required, it shall be a flow-proportioned composite of each discrete daily composite sample. The 72-hour composite sample shall include Friday AM through Monday AM. Records of daily integrator numbers and the percent of flow each day's sample represents shall be recorded and made available upon request.

(4) Each SIU, unless waived by the director, is required to retain a minimum of three (3) samples on rotation at all times. The first sample shall be the current sample undergoing compositing. The second sample is the completed composite sample which represents the discharge from the preceding 24 hours. The third sample is a completed composite sample from the next preceding 24 hours. These samples shall not be split or otherwise altered without prior authorization from the director.

(5) A log shall be maintained in each monitoring station and shall contain the date, time and flow integrator number at the time each daily sample is removed, the gallons

conversion factor, and daily flow in million gallons per day. Comments detailing unusual events, equipment malfunctions, etc. shall also be recorded.

(6) Upon demonstration by a person that the characteristics of the wastewater discharged by that person are consistent, the director may reduce the frequency of monitoring except as may be required by authority other than this part, except in no case shall the frequency of monitoring be less than semi-annually for the determination of compliance with pretreatment or local standards.

(7) All required periodic compliance reports shall be signed by an authorized representative of the industrial user.

(8) Laboratory and field measurements, tests, and analyses of the characteristics of wastewater required by this part shall be performed in accordance with 40 CFR Part 403.12. Any report submitted pursuant to this part shall specify the standard practices used.

(9) The Department must be notified by telephone within 24 hours when the monitoring or sampling equipment is inoperative for more than one (1) working day.

(c) Slug Discharges.

(1) Each SIU shall provide protection from a slug discharge of prohibited materials or substances regulated by this part. Facilities to prevent slug discharge(s) of prohibited materials shall be provided for and maintained at the owner's or user's own expense, as determined by the director.

(2) Each existing SIU shall be evaluated at least once every two (2) years as to whether or not the SIU needs a plan to control slug discharge(s). In addition, any new SIU shall be reviewed for the need of a plan at the time of application for an SIU permit. The director may require any user to develop, submit for approval, and implement such a plan. Alternatively, the director may develop such a plan for any user. In the event a plan is required, the user shall submit this plan to the Department for review and approval within 90 calendar days of notification.

(3) Review and approval of such plans and operating procedures shall not relieve the user from the responsibility to modify the user's facility as necessary to meet the requirements of this part. In the case of a slug discharge, it is the responsibility of the user to immediately upon becoming aware of the violation, telephone and notify the water board POTW of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

(4) In the event of a violation of any applicable pretreatment limit, the user must resample and submit the analytical results of this resampling to the POTW within thirty (30) days.

(5) Within five (5) business days following a slug discharge, the user shall submit to the director a detailed written report describing the cause of the discharge and the corrective action to be taken by the user to prevent similar future occurrences. Such report shall

not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the water board POTW, fish kills, or any other damage to person or property. Such report shall be considered in imposing any fines, civil penalties, or other liability which may be imposed by this part.

(6) A notice shall be permanently posted on the user's bulletin board or other prominent place advising the user's employees whom to notify in the event of a Slug discharge. users and/or employers shall ensure that all employees who may cause or suffer such a discharge to occur are advised of the emergency notification procedure.

(7) A slug discharge control plan shall address, at a minimum, the following:

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

(ii) Description of stored chemicals;

(iii) Procedures to immediately notify the water board POTW of any slug discharge, as required by section 1960.5 of this part; and

(iv) Procedures to prevent adverse impact from any slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading areas, 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.

(d) Permit Application, Approval, Fee.

(1) All proposed new industrial users shall complete and submit to the director application for approval to discharge at least thirty (30) calendar days prior to connecting to, or contributing to, the water board's POTW. Upon receipt of all required information, the application will be processed and the determination of user status shall be made. In the event the industrial user is classified as an SIU, a discharge permit will be issued. The fee for such permit and each subsequent renewal shall be \$250.00 which is payable in advance to the water board.

(2) A user wastewater discharge permit shall include at a minimum: (i) a statement of duration; (ii) a statement of non-transferability; (iii) applicable federal, state and local effluent limits; (iv) self-monitoring, sampling, reporting, notification and record keeping requirements; and (v) a statement of applicable civil penalties.

(3) In the event that the application noted in paragraph (d)(1) results in the industrial user not being classified as an SIU, but does indicate pollutants, which in the opinion of the director are in sufficient quantity or quality to warrant monitoring, the industrial user will be issued an ICU wastewater discharge permit. The maximum duration of such permit will not exceed five (5) years. The fee for such permit, and each renewal thereafter, shall be \$100.00 which is payable to the water board.

(4) Any existing SIU must have a valid current SIU permit from the water board in order to lawfully discharge to the water board POTW.

(5) The director shall not issue an SIU permit for any connection to the water board's POTW unless there is sufficient capacity, not committed to other users, in the wastewater sewers and treatment facilities to convey and adequately treat the quantity of wastewater which the requested connection will add to the system.

(e) Permit Modifications.

(1) User permits shall be revised and issued as soon as possible (e.g., within ninety (90) days) subsequent to a change of or promulgation of a categorical pretreatment standard to require compliance with such standard within the time frame prescribed by such standard. Where an SIU, subject to a categorical pretreatment standard, has not previously submitted an application for an SIU permit as required by subdivision (d) of this section, the user shall apply for an SIU permit within 180 calendar days after the promulgation of the applicable categorical pretreatment standard. In addition, the user with an existing SIU permit shall submit application for permit modification to the director within 180 calendar days after the promulgation of an applicable categorical pretreatment standard.

(2) An SIU shall notify the director in writing not less than sixty (60) calendar days prior to initiating the discharge of industrial wastes from a new plant, or from a plant which has been out of operation or purchased from another user.

(3) SIUs must obtain prior approval from the director to discharge new or significantly increased wasteloads. The approval may require modification to the SIU permit.

(4) Any request for modification to a current SIU wastewater discharge permit shall be made in writing to the water board. Such request shall contain a description of the change including but not limited to the changes in pollutant character, if any. The fee for such application for modification shall be \$250.00 payable at the time of request to the water board.

(f) Permit Duration.

Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year, or may be stated to expire on a specific date. The user shall apply for permit reissuance a minimum of ninety (90) calendar days prior to the expiration of the user's existing permit. The terms and conditions of the permit may be subject to modification by the water board, during the term of the permit, as limitations or requirements are modified or other just cause exists. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(g) Permit Transfer.

Permits are issued to a specific user. A permit shall not be reassigned or transferred without the approval of the director. Any succeeding owner or user to which a permit has been transferred shall also comply with all terms and conditions of the existing permit.

1960.7 Pretreatment

(a) Categorical Pretreatment Standards.

(1) No person shall discharge or cause to be discharged to any wastewater facilities, wastewaters containing substances subject to an applicable categorical pretreatment standard promulgated by USEPA in excess of the quantity prescribed in such applicable pretreatment standards, except as otherwise provided in this section. Categorical pretreatment standards found in 40 CFR Parts 405 - 471 are hereby incorporated by reference, as enforceable conditions of this part.

(2) Pursuant to 40 CFR Part 403.12 within 180 days after the effective date of a categorical pretreatment standard or within 180 days after a final category determination submission under 40 CFR Part 403.6(a)(4), whichever is later, existing industrial users subject to such categorical pretreatment standards and currently discharging or scheduled to discharge to the water board POTW shall be required to submit to the water board a baseline monitoring report (BMR). The BMR shall contain at a minimum: identification of the facility, indicate the permits held, describe operations, and contain flow and pollutant measurements, compliance certification by a qualified professional, and the signature of an authorized representative of the industrial user.

(3) Pursuant to 40 CFR Part 403.12(b) at least ninety (90) days prior to commencement of a new source, and sources that become industrial users subsequent to the promulgation of an applicable categorical pretreatment standard, shall be required to submit a BMR which contains at a minimum: identification of the facility, indicate the permits held, describe operations and contain flow and pollutant measurements.

(4) As required by 40 CFR Part 403.12(d), a CIU must submit a report within ninety (90) days after the final compliance date, or for a new source, following the commencement of its discharge, which contains: flow and pollutant measurements, a certification by a qualified individual indicating whether pretreatment standards are being consistently met, and if not whether additional operation and maintenance and/or additional pretreatment is required.

(5) Upon application by an SIU, the director may, subsequent to being granted such authority by the approval authority, revise any limitations on substances specified in the applicable pretreatment standards to reflect removal of the substances by the water board's POTW to the extent that such revision is allowable under applicable federal and state regulations, and that such revision would not cause an unacceptable decline in the quality of the water board's POTW sludge.

(6) Upon application by an SIU, the director may, subsequent to being granted such authority by the approval authority, revise any limitation on substances specified in the applicable pretreatment standards to consider factors relating to that SIU which are fundamentally different from the factors considered by USEPA during the development of the pretreatment standard to the extent that such adjustment is allowable under applicable federal

and state regulations. Requests for and determinations of a fundamentally different adjustment shall be in accordance with all applicable federal and state regulations.

(7) The director shall notify any SIU affected by the provisions of this section and shall establish a reasonable and enforceable compliance schedule for each. However, industrial users are required to comply with the provisions of this section regardless of whether the water board has notified the industrial user of such categorical pretreatment standards.

(b) Reporting and Compliance with Pretreatment Regulations.

(1) All SIUs, including significant non-categorical users, and CIUs shall submit to the water board, at least once every six months (February and August), a report describing the nature, concentration, mass (lbs/day), and flow of pollutants discharged from the user's property or facilities. These periodic compliance reports shall be based on sampling and analysis performed in the period covered by the report, and performed in accordance with the analysis procedures as noted in 40 CFR Part 403.12(h).

(2) All reports, including BMRs, compliance reports regarding categorical standards, ninety (90) day compliance reports, periodic compliance reports and any compliance schedule progress reports shall contain a certification statement which shall read:

“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.”

and shall be signed by an Authorized Representative of industrial user pursuant to 40 CFR Part 403.12(i).

(3) Compliance schedules issued to require industrial users to comply with pretreatment standards or categorical pretreatment standards shall contain milestone dates for implementing necessary pretreatment required to meet the applicable standard. No later than fourteen (14) days following each date in the schedule and the final date of compliance, the industrial user shall submit a progress report to the water board, including, at a minimum, whether it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress; the reason for the delay; and the

steps being taken to return to the schedule. In no event shall more than nine (9) months elapse between such progress reports to the water board.

(4) Pursuant to 40 CFR Part 403.12(j), all industrial users shall notify the water board, the state and USEPA, in writing, of any discharge which would be considered hazardous waste, including the listed or characteristic hazardous wastes, which if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261.

(5) The director may impose mass limitations on industrial users as, in his judgment, may be required to meet applicable pretreatment standards or requirements. In such cases, the report required by Section 1960.7(a) above shall indicate the mass of pollutants regulated by pretreatment standards in the effluent. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested by the director, of pollutants contained therein which are limited by the applicable pretreatment standards. All analyses shall be performed in accordance with procedure established and contained in 40 CFR, Part 403.12.

(6) When pretreatment regulations are adopted by USEPA or NYSDEC for any industry, that industry shall conform to the USEPA or NYSDEC time-table for adherence to federal or state pretreatment requirements and any other applicable requirements promulgated by USEPA or NYSDEC in accordance with Section 307 of the Clean Water Act. Additionally, such industries shall comply with any more stringent standards necessitated by local conditions as determined by the water board.

(7) If pretreatment or equalization of wastewater flows is permitted or directed by the director, the design of such pretreatment process or equipment for wastewater flow equalization shall be subject to the review and approval of the director prior to installation. Such pretreatment or wastewater flow equalization facilities, where permitted or directed, shall be maintained continuously in satisfactory and effective operations by the owner or user at his own expense.

(8) No user shall 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 the limitations contained in the pretreatment standards, or in any other pollutant specific limitation developed by the water board or state.

(c) Effect of Federal Law.

In the event that the Federal government promulgates a regulation for a given new or existing user in a specific industrial subcategory that establishes Categorical Pretreatment Standards or establishes that such a user is exempt from Categorical Pretreatment Standards, such Federal regulations shall immediately supersede this Section.

1960.8 Wastewater Service Charges

(a) Development of user Charges For All users.

(1) All users shall pay and shall be liable to pay to the water board such fees, rates and other charges as the water board may establish from time to time in accordance with and pursuant to the authority of the water board act. A schedule of such fees, rates and charges are set forth in section 1950.20. These rates shall recover all of the costs associated with the water board's POTW for the fiscal year stated in such schedule. The user rates shall be developed using an equitable user charge structure which complies with all state and federal regulations.

(2) As part of the user charge structure, process accounts shall be developed. Process accounts can be considered as cost centers into which all capital, operations, maintenance and other costs of the water board POTW can be allocated.

(3) Water board POTW users shall be divided into three (3) classes:

- (i) SIU,
- (ii) CSIRU,
- (iii) Hauled Waste.

(4) The costs assigned to process accounts shall be divided between user classes using allocating parameters which reasonably reflect the actual usage of the particular process by each user class as determined by the water board.

(b) User Charge for Commercial/Small Industrial/ Residential Users (CSIRU)

(1) Any person owning premises accessible to the water board POTW who is classified as a CSIRU as defined hereinbefore, shall pay a user charge in accordance with a schedule to be adopted annually by the water board. This schedule will be developed to fully meet the need for income to pay the proportionate share of the costs, including without limitation, cost of operation, maintenance, insurance, renewals, and replacement of all wastewater collection, treatment and disposal services provided by the water board for this class of users, and payment of the proportionate share of interest on and amortization of, or payments of indebtedness for the capital costs of all facilities built to serve as part of the water board POTW. The amount of the billing shall be based upon the water consumption on each premises covered by this section determined by the water board, except as provided below. For the purposes of this section, it shall be deemed that a cubic foot of water consumed shall constitute a cubic foot of wastewater discharged. In the event that consumptive use precludes the use of water meter readings for determination of user charges, alternate metering may be substituted on a case by case basis pursuant to water board review and approval.

(2) For the purpose of billing, the owners of premises covered by this section for the user charges established in subdivision (a) of this section, the water board's service area shall be divided into sewer districts which shall have the same geographic boundaries as those established in section 1950.8(b) of this chapter, and the billing dates for the three (3) geographic districts shall be as established in such section, duly adopted by the water board, from time to time.

(3) The owners of the premises covered by this section shall be responsible for the payment of the user charge as determined in accordance with subdivision (a) of this Section and no reduction in bills rendered shall be allowed for leakage.

(4) All user charge bills shall be payable when due. They shall be mailed or delivered by the water board, as a matter of convenience to the property owner or user, as the case may be. Failure of a property owner or user, as the case may be, to receive a user charge bill shall not release the property owner or user, as the case may be, from the payment of such bill together with any fee or penalty which may accrue or become existent by virtue of non-receipt of such bill.

(5) Whenever a property discharging wastewater into the water board POTW is without a meter, the water board will arrange for installation of a water meter. The water board will then bill the property owner or user, as the case may be, for an estimated reasonable amount of wastewater discharged during the time that the property has been occupied without a meter.

(6) When it is impossible to obtain a regular quarterly reading of any meter for any reason, including a meter found to be registering inaccurately or found to be stopped, the amount of wastewater discharged shall be estimated according to the amount of water consumed for the same or similar occupancies and a bill rendered for such estimated amount of wastewater discharged. The fact that the amount of the bill has been estimated shall be indicated on the bill.

(7) Any user charge account of any nature remaining unpaid on September 30 of each year shall be placed upon the next general city tax roll made up after such date, should the water board be unable to make collection in any manner other than by civil action. If placed upon the tax roll, a user charge account shall become a part of said tax roll and shall become due with the same and shall be subject to the same penalties and interest as such city taxes. User charges shall be liens against real property within the city to the extent set forth in the water board act and General Municipal Law of the State.

(8) Complaints of incorrect charges on user charge bills must be made prior to the due date of such bill and all user charge bills against which no claim has been made within the time set forth above shall be considered correct and must be paid in the amount rendered.

(9) When property becomes vacant, upon receipt of written notice from the owner of same, the water board shall remove the water meter and seal the service in a manner that will prevent any possibility of usage without charge. When the water board is notified that the property is reoccupied, a meter will be reinstalled, the shutoff seal removed and the water supply restored. No charge shall be made for sewer use during the time that the property remains vacant provided that the foregoing provisions are fully complied with.

(10) The billing charge on any building permanently demolished shall be discontinued when conclusive proof of demolition is presented to the water board, when the water meter is removed by the water board, a licensed plumbing contractor certifies to the water board that the water and sewer service has been properly sealed, and upon payment of any existing bills up to the date such certification is provided to the water board.

(11) User charge bills shall not be rendered, otherwise than quarterly and in the full amount due for all of the wastewater discharged for the full quarter as provided in this section. Persons purchasing property shall make arrangements with the seller or transferor of the same regarding any settlement for the partial payment for the user charge during any portion of any quarter.

(12) For purposes of the initial billing pursuant to this section, in any case where the bill for user charge shall cover a period less than a full quarter, there shall be an estimated proration of the user charge and the bill shall be forwarded based upon such estimate and shall be described on the face of the bill as an estimated billing.

(13) The director shall charge a person discharging waters or water from a motor vehicle, tank truck or any other mobile conveyance an amount which adequately represents the cost of testing and treatment.

(c) User Charge For SIUs.

(1) Any person owning premises accessible to the water board POTW and being an SIU defined hereinbefore, shall pay a user charge, in accordance with a schedule to be adopted annually by the water board. This schedule will be developed to fully meet the need for income to pay the proportionate share of costs including without limitation, cost of operation maintenance, insurance, renewals, and replacements of all wastewater collection, treatment and disposal services provided by the water board for this class of users, and payment of the proportionate share of interest on and amortization of, or payments of indebtedness for the capital costs of all facilities built to serve as part of the water board's POTW.

(2) Each SIU shall provide facilities for continuous metering of wastewater flow quantities and for sampling and monitoring for determination by the water board of character and quality of discharge to the water board POTW in accordance with the SIU permit, and as required in section 1960.6 hereinbefore except that, at the option of the SIU, flows and loadings of TSS and SOC of wastewater from office buildings and washrooms of factory spaces may be estimated upon a per capita basis if connected separately to the water board POTW. Such flow and loading quantities shall be and loading quantities in determining the which user charges are computed.

(3) The user charges for SIUs shall be at the rates as established by the water board, by resolution duly adopted from time to time, and shall be payable when due and in accordance with the provisions of such resolution(s). Failure of an SIU to receive a user charge bill shall not release the SIU from the payment of such bill together with any fee or penalty which may accrue or become existent by virtue of non-receipt of bill.

(4) Any user charge account of any nature remaining unpaid on September 30 shall be placed upon the next general city tax roll made up after such date, should the water board be unable to make collection in any other manner than by civil action. If placed upon the tax roll, a user charge account shall become a part of said tax roll and shall become due with the same and shall be subject to the same penalties and interest as such taxes. user charges shall be liens against real property within the city to the extent set forth in the water board Act and the General Municipal Law of the State.

(5) For determination of quantity, character and quality of wastewaters, complaints of incorrect charges on user charge bills must be submitted in writing to the director no later than sixty (60) days from the date on which such bills are rendered and all user charge bills against which no claim has been made within the time set forth above shall be considered correct and must be paid in the amount rendered.

(d) User Charge for Hauled Waste.

(1) Any person, whether a transporter or generator, shall pay a charge in accordance with paragraph 4 of this subdivision to fully meet the need for income to pay the proportionate share of costs including without limitation, cost for operation, maintenance, insurance, renewals, replacements of all wastewater receiving and conveyance facilities, treatment, and disposal services provided by the water board for this class of user, and payment of the proportionate share of interest on an amortization of, or payments of indebtedness for the capital cost of all facilities built to serve as part of the water board POTW.

Each person who desires to discharge hauled waste, including the transporter and the generator, to the water board POTW shall apply for a discharge permit to do so. Such application will supply information pertaining to the pollutant characterization and volume of waste. No hauled waste shall be accepted without formal application and issuance of a permit.

(2) The user charges for hauled waste shall be billed and payable on a monthly basis.

(3) The amount of billing shall be based upon the pollutant content and volume of the waste. In addition, administrative and analytical costs shall be billed to and payable by the user.

(4) Bills due the water board for sewer use, or any other service, if not paid within twenty-five (25) days from the date of issue, shall be subject to a fee of ten percent (10%) penalty and one and one-half percent (1.5%) of the current billing amount due in interest for each month overdue, such fee to be collected together with the amount of the bill.

(5) Any user charge account of any nature remaining unpaid on February 1st of the year following rendition, shall be collected through any and all available legal remedies.

(6) Complaints of incorrect user charge bills must be made within the month in which such bills are rendered and all user charge bills against which no claim has been made within the time set forth above shall be considered correct and must be paid in the amount rendered.

(e) User Fees.

The water board may adopt fees which may include:

(1) Fees for reimbursement of costs of establishing, operating and maintaining the water board's pretreatment program.

- (2) Fees for monitoring, inspections and surveillance procedures.
- (3) Fees for reviewing slug discharge control procedures and corrective action plans.
- (4) Fees for permit applications.
- (5) Fees for consistent removal (by the water board) of pollutants otherwise subject to categorical pretreatment standards.
- (6) Other fees as the water board may deem necessary or appropriate to carry out the requirements contained herein.

These fees relate solely to the matters covered by this part and are separate from all other fees chargeable by the city or the water board.

1960.9 Administrative

- (a) Powers of the director.
 - (1) The director shall be empowered to issue permits in accordance with this part allowing discharge of wastes to the water board POTW and to validate connection permits.
 - (2) The director is empowered by this part to initiate any of the following courses of action with respect to users whenever, in his sole discretion, any section of this part dealing with the standards of care is violated:
 - (i) Reject the waste.
 - (ii) Require pretreatment.
 - (iii) Require a control over quantities and rate of discharge.
 - (iv) Require a payment of a surcharge to be determined by the director based on reasonable assessment of the degree of violation and/or additional costs of treatment resulting from the violation.
 - (v) Require surveillance and/or monitoring of discharges and attendant reporting.
 - (vi) Require the development of compliance schedules and submission of attendant reports necessary to assure compliance.
 - (vii) Modify or revoke the wastewater discharge permit.
 - (viii) Terminate sewer service.

(3) Except in the event of an emergency, reasonable advance notice of the action to be taken shall be given by the director but, unless negotiated upon initiation by the user, shall in no case exceed sixty (60) calendar days. Once notice of action is given, the user shall have ten (10) business days to respond to the charges contained therein.

(4) If a response contesting the action is entered, prior to scheduling a formal hearing, the user may at the discretion of the director be afforded the opportunity to meet with the director to resolve the matter by mutual consent. If settlement cannot be reached, then, upon request of the user, the director shall refer the matter to the governing body of the water board for a formal hearing. The governing body of the water board may appoint and refer the dispute or enforcement proceeding to a hearing officer who shall conduct the hearing of the alleged violation and contest thereof. The hearing officer shall promptly conduct the hearing and provide a written report to the governing body of the water board with a recommendation, based on the evidence presented, for a final determination by the governing body of the water board. Reasonable notice shall be given to the user who shall be allowed to present relevant evidence and argument at the hearing. A written decision by the governing body of the water board based upon evidence and argument presented shall be made within thirty (30) days following the conclusion of the hearing or receipt of the hearing officer's report. The decision of the governing body of the water board shall be only subject to review pursuant to Article 78 of the Civil Practice Law and Rules of the state. Following such hearing, the water board may commence an action, in any court having jurisdiction, seeking appropriate legal and/or equitable relief, including injunctions against the violative activity, from users not in compliance with any of the provisions of this part, or any pretreatment standards and requirements.

The director reserves the right to terminate or prevent a discharge after informal notice to the discharger to immediately halt a discharge which reasonably appears to present imminent endangerment to the health or welfare of persons, property of the water board POTW, or to the environment. Informal notice shall be followed as soon as practicable by action as provided by this section.

(5) Actions to be taken by the director shall be documented in the form of a letter, an administrative order, or other document as the director may reasonably determine.

(6) The director may promulgate administrative procedures, technical specifications or guidances to implement any and all sections of this part. These procedures, specifications and guidances shall have the same force and effect as if they were fully set forth in this part.

(b) Fines and Damages.

(1) If any person discharges wastewater into the water board POTW to the provisions of this part or any applicable pretreatment standards, the water board may:

(i) Serve the user with written notice which may be in the form of an administrative order, stating the nature of the violation and providing a reasonable time limit for the satisfactory correction thereof. The offender shall, within the period of time stated in such

notice, cease such violations. Any person who shall continue any violation beyond the time limit provided shall be assessed a penalty in accordance with this subdivision.

(ii) Commence an action for appropriate legal and/or equitable relief including injunctions against the violative activity in any court having jurisdiction.

(2) Any person determined to have violated any of the provisions of this part shall be assessed a penalty in an amount not exceeding \$10,000.00 per violation per day. This amount is available for each violation, and each day of a violation is a separate violation for which penalties may be sought.

(3) The person violating any of the provisions of this part shall become liable to the water board for any expense, loss, or damage occasioned by the water board by reason of such violation. The expense, loss or damage shall be taken to be to the extent determined by the director. Any contested claim for loss or damage shall be reviewable by the water board.

(4) Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this part, or SIU permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this part shall be assessed a penalty in an amount not to exceed \$10,000.00 per violation per day.

(5) In determining the amount of any penalty for violation of this part, the water board shall consider the seriousness of the violation or violations, any history of such violations, any good faith efforts to comply with applicable requirements, and such other matters as justice may require.

(6) The water board POTW shall publish annually in the largest local newspaper the names of users which have been in SNC with applicable pretreatment standards as proscribed in this part during the past 12 months.

(c) Special Arrangements For Wastewater Collection and Treatment.

(1) Except as subject to the provisions of the Clean Water Act and of the water board's SPDES discharge permit, and section 1960.5 of this part, no statement contained in this part shall be construed as preventing any special arrangement or agreement between the water board and any person requesting a waiver of any of the provisions of this part. A request for any waiver of any of the provisions of this part must be in writing and directed to the director who may, subject to the provision above, allow or deny such request by written order as soon as practicable. Any special agreements between the water board and the user shall be expressly stated in the user's wastewater discharge permit.

(2) An industrial facility lying outside the corporate limits of the city and which discharges wastewater of such quantity or characteristics as would cause into be classified as an SIU shall be so classified.

(3) In order that an SIU lying outside the corporate limits of the city, being served by the water board POTW, shall bear its share of the cost of such system, the charge made

for such property shall be determined by the water board upon any basis authorized by water board, such charge to be collected and the collection enforced as herein provided for of per user charges.

(d) Federal Statutes and Regulations.

The following federal statutes and regulations have been referenced in this part:

(1) *40 CFR* means title 40 of the *Code of Federal Regulations* (Protection of the Environment), effective July 1, 2001.

(2) *FR* means *Federal Register*.

(3) *Clean Air Act* means the Air Pollution Prevention and Control Act, 42 U.S.C. §7401 *et seq.*, as amended.

(4) *Clean Water Act* means the Federal Water Pollution Control Act or Clean Water Act, 33 USC 1251 *et seq.*, as amended.

(5) *Marine Protection, Research and Sanctuaries Act* is located at 33 U.S.C. §1401 *et seq.*, as amended.

(6) *Solid Waste Disposal Act* means the Solid Waste Disposal Act and Resource Conservation and Recovery Act, 42 U.S.C. §6901 *et seq.*, as amended.

(7) *Toxic Substances Control Act* is located at 15 U.S.C. §2601 *et seq.*, as amended.

(8) All United States publications referenced above are available from the Superintendent of Documents, U.S. Government Printing Office, Washington, DC 20402.

(9) All material referenced in this part is available for copying and inspection at the water board's offices located at the Michael C. O'Laughlin Water Treatment Plant, 5815 Buffalo Avenue, Niagara Falls, New York 14304.

(e) Severability.

If any clause, sentence, paragraph, section or article of this part shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, section, or part thereof directly involved in the controversy in which such judgment shall have been rendered.