

## SECTION .0900 - LOCAL PRETREATMENT PROGRAMS

### 15A NCAC 02H .0901 PURPOSE

(a) The rules in this Section are designed to implement North Carolina General Statutes 143-215.3(a)(14) and 143-215.1 and provisions of the Federal Water Pollution Control Act (also known as the "Clean Water Act" or "CWA") regarding the discharge of non-domestic wastewater into publicly owned treatment works (POTWs). They establish responsibilities of state and local government, industry, and the public to implement pretreatment standards to control pollutants that pass through or interfere with treatment processes in POTWs, may contaminate sewage sludge, or otherwise have an adverse impact on the POTW, its workers, or the environment.

(b) Copies of rules and regulations referenced in this Section may be obtained from the Division of Water Resources, Water Quality Permitting Section, free of charge, at the following locations:

- (1) <http://deq.nc.gov/about/divisions/water-resources/water-resources-permits/percs/pretreatment-permits>; and
- (2) the North Carolina Department of Environmental Quality, Division of Water Resources Offices of the Pretreatment, Emergency Response, and Collection Systems (PERCS) Unit  
Physical Address: Archdale Building, 512 N. Salisbury St.  
Raleigh, N.C. 27604  
Mailing Address: 1617 Mail Service Center  
Raleigh, N.C. 27699-1617.

*History Note:* Authority G.S. 143-215.3(a)(14);  
Eff. March 28, 1980;  
Amended Eff. April 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984;  
Readopted Eff. July 1, 2019.

### 15A NCAC 02H .0902 SCOPE

The rules of this Section apply to:

- (1) Pollutants from non-domestic sources covered by pretreatment standards that are indirectly discharged into or transported by truck or rail or otherwise introduced into POTWs as defined in 40 CFR 403.3 and Rule .0903 of this Section;
- (2) POTWs and control authorities that receive wastewater from sources subject to pretreatment standards; and
- (3) Any new or existing source subject to pretreatment standards.

The rules of this Section do not apply to sources that discharge to a sewer that is not connected to a POTW treatment plant.

*History Note:* Authority G.S. 143-215.3(a)(14);  
Eff. March 28, 1980;  
Amended Eff. April 1, 2011; November 1, 1994; October 1, 1987;  
Readopted Eff. July 1, 2019.

### 15A NCAC 02H .0903 DEFINITION OF TERMS

(a) Unless otherwise stated in Paragraph (b) of this Rule, the definitions promulgated by the Environmental Protection Agency and codified as 40 CFR 403.3 are hereby incorporated by reference, including any subsequent amendments and editions. A copy of the reference material can be found at <https://www.ecfr.gov/current/title-40/chapter-1/subchapter-N/part-403?toc=1>, free of charge.

(b) For this Section, the following additional definitions shall apply:

- (1) "Approval Authority" means the Director of the Division of Water Resources of the North Carolina Department of Environmental Quality, or his or her designee;
- (2) "Average" means the value calculated by dividing the sum of the data values collected over a time period by the number of data points that comprise the sum;
- (3) "Bypass" is the intentional diversion of waste streams from any portion of a pretreatment facility. Also see Rule .0919 of this Section and 40 CFR 403.17 for additional requirements;
- (4) "Commission" means the Environmental Management Commission of the North Carolina Department of Environmental Quality;
- (5) "Control Authority" refers to the POTW if the POTW'S pretreatment program has been approved in accordance with Rules .0905, .0906, and .0907 of this Section, and that approval has not been subsequently withdrawn. Otherwise, the approval authority is the control authority;
- (6) "Division" refers to the North Carolina Department of Environmental Quality, Division of Water Resources;
- (7) "Enforcement Response Plan" or "ERP" means the control authority pretreatment program document describing the guidelines for identifying violations of and enforcing specific local limits and other pretreatment standards and requirements;
- (8) "EPA" means the United States Environmental Protection Agency;
- (9) "Fundamentally Different Factors" are factors upon which a variance from a categorical standard may be granted under Rule .0912 of this Section and 40 CFR 403.13;
- (10) "Headworks Analysis" or "HWA" is the analysis used to calculate the maximum allowable POTW influent loadings for flow and pollutants of concern based on design capacity, NPDES or non-discharge permit limits, pass through, interference, sludge, or worker safety and health considerations, as applicable. The headworks analysis is the technical basis for deriving local limits applied to industrial users;
- (11) "Indirect Discharge" or "Discharge" refers to the introduction of pollutants into a POTW from any non-domestic source regulated under Sections 307(b), (c), or (d) of the Clean Water Act;
- (12) "Industrial User" or "User" means a source of indirect discharge;
- (13) "Industrial Waste Survey" or "IWS" refers to the survey of the users of the POTW collection system or treatment plant performed by the control authority as required by 40 CFR 403.8 (f)(2)(i-iii) and Rule .0905 of this Section, including identification of all industrial users and the character and amount of pollutants contributed to the POTW by these industrial users and identification of those industrial users meeting the definition of significant industrial user. Where the control authority accepts wastewater from one or more satellite POTWs, the IWS for that control authority shall address all satellite POTW service areas, unless the pretreatment program in those satellite service areas is administered by a separate control authority;
- (14) "Interference" refers to inhibition or disruption of the: POTW collection system; treatment processes; operations; or its sludge process, use, or disposal that causes or contributes to a violation of any requirement of the control authority's (or the POTW's if different from the control authority) NPDES, collection system, or non-discharge permit, including an increase in the magnitude or duration of a violation, or prevents sewage sludge use or disposal in compliance with specified applicable State and Federal statutes, regulations, or permits;
- (15) "Medical Waste" refers to isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes;
- (16) "Monitoring Plan" refers to the monitoring plan designed to collect POTW site-specific data for use in the headworks analysis. Monitoring plans may be designated as Long Term (LTMP) or Short Term (STMP) as the Division Director determines to be necessary;
- (17) "National Pretreatment Standard," "Pretreatment Standard," or "Standard" means any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Sections 307(b) and (c) of the Clean Water Act that applies to industrial users. This term also includes any prohibitive discharge limits established pursuant to 40 CFR 403.5, categorical standards established under the appropriate subpart of 40 CFR Chapter I, Subpart N or local limit that applies to an industrial user. 40 CFR 403.5, Chapters I and N of Part 405 of Title 40 of the Code of Federal Regulations are hereby incorporated by reference, including any subsequent amendments and editions available free of charge ([https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40cfr403\\_main\\_02.tpl](https://www.ecfr.gov/cgi-bin/text-idx?tpl=/ecfrbrowse/Title40/40cfr403_main_02.tpl));
- (18) "Net/Gross Calculation" is an adjustment of a categorical standard to reflect the presence of pollutants in the industrial user's intake water that may be granted under Rule .0915 of this Section and 40 CFR 403.15;

- (19) "Noncontact Cooling Water" is water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product;
- (20) "Non-discharge Permit" is a permit issued by the State pursuant to G.S. 143-215.1(d) for a waste that is not discharged directly to surface waters of the State or for a wastewater treatment works that does not discharge directly to surface waters of the State;
- (21) "Pass Through" means a discharge that exits the POTW into waters of the State in quantities or concentrations which, alone or with discharges from other sources, causes a violation, including an increase in the magnitude or duration of a violation, of the control authority's (or the POTW's, if different from the control authority) NPDES, collection system, or non-discharge permit;
- (22) "Pollutant" includes any waste defined in G.S. 143-213(18); dredged spoil; solid waste; incinerator residue; garbage; sewage sludge; munitions; medical wastes; chemical waste; biological materials; radioactive materials; heat; wrecked or discarded equipment; rock; sand; cellar dirt; municipal and agricultural waste; and certain characteristics of wastewater, such as pH, temperature, TSS, turbidity, color, metals, BOD, COD, toxicity, and odor;
- (23) "Pollutant of Concern" or "POC" is a pollutant identified as being of concern to the control authority for purposes of the pretreatment program. A pollutant of concern may include a conventional wastewater pollutant, such as BOD, TSS, or ammonia; any of the priority pollutants; pH; and any pollutant that may be identified as a source of interference, pass through, whole effluent toxicity, or sludge contamination;
- (24) "POTW," or "Publicly Owned Treatment Works," means a treatment works as defined by Section 212 of the Clean Water Act, which is owned by a state or municipality. This definition includes any devices and systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature. It also includes the collection system, as defined in 15A NCAC 02T .0402, only if it conveys wastewater to a POTW treatment plant. The term also means the municipality, as defined in Section 502(4) of the CWA, that has jurisdiction over indirect discharges to and the discharges from such a treatment works. The municipality may be the owner of the POTW treatment plant or the owner of the collection system into which an indirect discharger discharges. This second type of municipality may be referred to as a "satellite municipality," a "satellite POTW," or a "satellite POTW organization";
- (25) "POTW Director" means the chief administrative officer of the control authority or his or her delegate;
- (26) "Pretreatment" refers to the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW collection system or treatment plant. The reduction or alteration may be obtained by physical, chemical, or biological processes, or process changes or other means, except as prohibited by 40 CFR 403.6(d). Where wastewater from a regulated process is mixed with unregulated wastewater or with wastewater from another regulated process, the pretreatment limit must be calculated in accordance with 40 CFR 403.6(e);
- (27) "Process Wastewater" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of any raw material, intermediate product, finished product, by-product, or waste product;
- (28) "Removal Credits" are credits that may be granted under Rule .0921 of this Section and 40 CFR Parts 403.7 and 403.11 to adjust categorical standards in such a way as to reflect POTW consistent removal of a particular pollutant;
- (29) "Sewer Use Ordinance" or "SUO" means the POTW or control authority organization ordinance providing the legal authority for administering the pretreatment program;
- (30) "Significant Industrial User" or "SIU" means an industrial user that discharges wastewater into a POTW and that:
- (A) Discharges an average of 25,000 gallons per day or more of process wastewater to the POTW excluding sanitary, noncontact cooling, and boiler blowdown wastewater;
  - (B) Contributes process wastewater that makes up five percent or more of the NPDES or non-discharge permitted flow limit or organic capacity of the POTW treatment plant. In this context, organic capacity refers to BOD, TSS, and ammonia;
  - (C) Is subject to categorical standards under 40 CFR 403.6 and 40 CFR Chapter I, Subpart N;
  - (D) is designated as such by the control authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation (including contributing to violations of the limitation and requirements of the NPDES or non-discharge permit or limiting the POTW's sludge

- disposal options) or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.3 (l) and (t);
- (E) Subject to approval under Rule .0907(b) of this Section, the control authority may determine that an industrial user meeting the criteria in Parts (A) or (B) of this Subparagraph has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the POTW's effluent limitations and conditions in its NPDES or non-discharge permit, or to limit the POTW's sludge disposal options, and thus is not a significant industrial user; or
  - (F) Subject to approval under Rule .0907(b) of this Section, the control authority may determine that an industrial user meeting the criteria in Part (C) of this Subparagraph meets the requirements of 40 CFR 403.3(v)(2) and thus is a non-significant categorical industrial user;
- (31) "Significant Noncompliance" or "SNC" is the status of noncompliance of a significant industrial user when one or more of the following criteria are met, or any industrial user that meets the criteria in Parts (C), (D), or (H) of this Subparagraph:
- (A) "Chronic violations" of wastewater discharge limits, defined here as those in which 66 percent or more of all the measurements taken for the same pollutant parameter (not including flow) during a six month period exceed (by any magnitude) a numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR 403.3(1);
  - (B) "Technical Review Criteria" (TRC) violations, defined here as those in which 33 percent or more of all the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement including instantaneous limits, as defined by 40 CFR 403.3(1) multiplied by the applicable TRC; (TRC = 1.4 for BOD, TSS, fats, oil, and grease, 1.2 for all other pollutants (except flow and pH));
  - (C) Any other violation of a pretreatment standard or requirement as defined by 40 CFR 403.3(1)(daily maximum, long-term average, instantaneous limit, or narrative standard) that the control authority (or POTW, if different from the control authority), determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
  - (D) Any discharge of a pollutant or wastewater that has caused imminent endangerment to human health or welfare or to the environment or has resulted in either the control authority's or the POTW's, if different from the control authority, exercise of its emergency authority under 40 CFR 403.3(f)(1)(vi)(B) to halt or prevent the discharge;
  - (E) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a pretreatment permit or enforcement order for starting construction, completing construction, or attaining final compliance;
  - (F) Failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, self-monitoring reports, and reports on compliance with compliance schedules;
  - (G) Failure to report noncompliance; or
  - (H)** Any other violation or group of violations that the control authority or POTW determines will adversely affect the operation or implementation of the local pretreatment program;
- (32) "Staff" means the staff of the Division of Water Resources, Department of Environmental Quality;
- (33) "Upset" means the same as set out in Rule .0914 of this Section and 40 Part 403.16;
- (34) "Wastewater" means the liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, mobile sources, treatment facilities, and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated, which are contributed to or permitted to enter the POTW; and
- (35) "Waters of the State" shall have the same meaning as the terms "waters" as defined in G.S. 143-212.

*History Note: Authority 143-215.3(a)(l); 143-215.3(a)(14);  
 Eff. March 28, 1980;  
 Amended Eff. April 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984;  
 Readopted Eff. July 1, 2019.*

**15A NCAC 02H .0904 REQUIRED PRETREATMENT PROGRAMS**

(a) The regulations regarding pretreatment program development by the control authority promulgated by the EPA and codified as 40 CFR 403.8(a) through 403.8(e) are hereby incorporated by reference, including any subsequent amendments and editions. A copy of the reference material can be found at <http://www.ecfr.gov/cgi-bin/text-idx?SID=002b8fe78be0d299d7289c36ef66652d&mc=true&tpl=/ecfrbrowse/Title40/40CisubchapN.tpl>, free of charge.

(b) The Division may allow a control authority having a combined permitted flow less than or equal to two million gallons per day and less than four significant industrial users to develop and implement a modified pretreatment program that encompasses a portion of the requirements in Rules .0905 and .0906 of this Section, as designated by the Division Director. In making the decision to allow modified pretreatment program development and implementation, the Division Director shall consider factors including percent industrial flow, industrial waste characteristics, compliance status of the facility, and the potential for industrial growth.

*History Note:* Authority G.S. 143-215.1(a); 143-215.1(b); 143-215.3(a)(14);  
Eff. March 28, 1980;  
Amended Eff. April 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984;  
Readopted Eff. July 1, 2019.

#### **ISA NCAC 02H .0905 POTW PRETREATMENT PROGRAM IMPLEMENTATION REQUIREMENTS**

(a) Except where specified differently in this Section, the POTW pretreatment program requirements promulgated by the EPA and codified as 40 CFR 403.8(f) and (g) are hereby incorporated by reference, including any subsequent amendments and editions. A copy of the reference material can be found at <http://www.ecfr.gov/cgi-bin/text-idx?SID=002b8fe78be0d299d7289c36ef66652d&mc=true&tpl=/ecfrbrowse/Title40/40CisubchapN.tpl>, free of charge.

(b) The implementation of a pretreatment program involves:

- (1) updating the SUO;
- (2) implementing IWS activities;
- (3) updating the HWA;
- (4) implementation of the LTMP or STMP;
- (5) implementation of compliance activities, including sampling and inspection of significant industrial users;
- (6) maintenance of control authority organization description, including staffing and funding information;
- (7) implementation of the ERP; and
- (8) reporting to the Division on pretreatment program activities.

*History Note:* Authority G.S. 143-215.1(a); 143-215.1(b); 143-215.3(a)(1); 143-215.3(a)(14);  
Eff. March 28, 1980;  
Amended Eff. April 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984;  
Readopted Eff. July 1, 2019.

#### **ISA NCAC 02H .0906 SUBMISSION FOR PRETREATMENT PROGRAM APPROVAL**

(a) Except where specified differently in any part of this Section, the regulations regarding the contents of pretreatment programs submitted for approval and the contents of a request to revise national categorical pretreatment standards, promulgated by the EPA and codified as 40 CFR 403.9 are hereby incorporated by reference, including any subsequent amendments and editions. A copy of the reference material can be found at <http://www.ecfr.gov/cgi-bin/text-idx?SID=002b8fe78be0d299d7289c36ef66652d&mc=true&tpl=/ecfrbrowse/Title40/40CisubchapN.tpl>, free of charge.

(b) In addition to the contents of a control authority pretreatment program submission described in Paragraph (a) of this Rule, the program submission shall contain:

- (1) a sewer use ordinance (SUO) providing the legal authority for implementing the pretreatment program, as required by 40 CFR 403.8 (f)(1) and Rule .0905 of this Section, along with the attorney's statement. Where the control authority accepts wastewater from one or more satellite POTWs and is the control authority within the satellite POTW's service area, the attorney's statement for that control authority shall document the interlocal agreements (ILAs) authorized by G.S. 153A-278 and 160A-460 and SUO sections that establish the control authority's authority for regulation within all satellite POTW services areas that are tributary to the control authority's POTW. Where a satellite POTW serves as the control authority within its service area, the attorney's statement for that control authority shall document the ILAs and SUO sections that establish the satellite POTW's authority for regulation within its service area and the requirements for the satellite POTW to implement its pretreatment program in accordance with the downstream POTW's SUO and the ILA. In either case, where the POTW organizations have other written procedures to outline

- responsibilities not covered by the ILA or SUO, the applicable attorney's statements shall also include documentation of these procedures and the source of their enforceability;
- (2) an industrial waste survey (IWS) as defined in Rule .0903 of this Section;
  - (3) a monitoring plan to provide POTW site-specific data for the HWA and subsequent technical evaluations of local limits to satisfy the requirements of 40 CFR 122.21(j). Modified pretreatment programs developed under Rule .0904(b) of this Section shall be allowed to implement a short term monitoring plan (STMP);
  - (4) a headworks analysis (HWA) and supporting documentation, including POTW site-specific and relevant literature data, upon which to base industrial user-specific effluent limits and other local limits for prohibited pollutants as defined in 40 CFR 403.5(a) and (b) and Rule .0909 of this Section;
  - (5) a compliance monitoring program, including inspection, sampling, equipment, and other compliance procedures, which will implement the requirements of 40 CFR 403.8(t) and 403.12, and Rules .0905 and .0908 of this Section;
  - (6) draft industrial user pretreatment permits for significant industrial users as required by 40 CFR 403.8(t)(1)(iii) and 403.9(b)(1)(ii) and Rule .0916 of this Section, and supporting documentation outlined in Rules .0916 and .0917 of this Section;
  - (7) procedures for approving the construction of pretreatment facilities by industrial users and for permitting industrial users for construction, operation, and discharge as required by G.S. 143-215.1; procedures for approving construction shall include issuance of authorization to construct, as appropriate;
  - (8) an enforcement response plan (ERP) as required by 40 CFR 403.8(t)(5) and 403.9(b)(1)(ii) for identifying violations of and enforcing specific local limits and other pretreatment requirements as required by and specified in 40 CFR 403.5 and 403.6 and Rules .0909 and .0910 of this Section;
  - (9) a description (including organization charts) of the control authority that will administer the pretreatment program. Where more than one POTW organization is involved in the POTW wastewater collections or treatment system, the description shall address all the agencies, including identification of which party will receive industrial user applications for new and changed discharges and how the parties will communicate on significant industrial user determinations;
  - (10) a description of funding levels and full- and part-time manpower available to implement the program;
  - (11) a description of data management procedures for compiling and managing compliance, LTMP/STMP, and any other pretreatment-related monitoring data, including documentation of approval of electronic reporting procedures as required under 40 CFR Part 3 if applicable; and
  - (12) a request for pretreatment program approval as required by 40 CFR 403.9 and this Section.

*History Note: Authority G.S. 143-215.1(a); 143-215.1(b); 143-215.J(a)(l); 143-215.3(a)(14); Eff. March 28, 1980; Amended Eff. April 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984; Redopted Eff. July 1, 2019.*

#### **15A NCAC 02H .0907 PROCEDURES FOR PRETREATMENT PROGRAM APPROVAL, REVISION AND WITHDRAWAL**

- (a) Procedures for approval of a control authority pretreatment program and for removal credit authorization are as follows:
- (1) Except where specified differently in part of this Section, the approval procedures for control authority pretreatment programs and applications for removal credit authorization promulgated by the EPA and codified as 40 CFR 403.11 are hereby incorporated by reference, including any subsequent amendments and editions. A copy of the reference material can be found at <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-N/part-403/section-403.11>, free of charge; and
  - (2) Upon program approval, a control authority is delegated, subject to the provisions of Rules .0916 and .0917 of this Section, the authority to issue the construction, operation, and discharge permits required by G.S. 143-215.1(a) for those significant industrial users discharging or proposing to discharge to the POTW.
- (b) Either the Division or the control authority may initiate program revisions. The control authority shall submit a request to the Division for approval of modifications to its approved pretreatment program, including its legal authority (SUO or ILA), HWA, LTMP or STMP, ERP, summary of IWS activities, and revisions to the list of SIUs. Revisions to an approved pretreatment program shall be accomplished as follows:
- (1) the control authority shall submit a modified program description, an attorney's statement if the legal authority of the program is being modified, and other documents as the Division Director determines to be

necessary under the circumstances. The attorney's statement may consist of verification that the North Carolina model pretreatment sewer use ordinance is proposed for adoption by the control authority, if that is the case;

- (2) whenever the Division Director determines that the proposed program modifications are substantial as defined in 40 CFR 403.1 S(b), the Division shall issue public notice and provide an opportunity for public comment as described in Rules .0109 and .0110 of this Subchapter. Public notices issued by the control authority are deemed sufficient notice;
- (3) the Division Director or his or her delegate shall approve or disapprove program revisions based on the requirements of this Section, G.S. 143-215.1, G.S. 143-215.3 and the National Pollutant Discharge Elimination System Memorandum of Agreement between the State of North Carolina and the United States Environmental Protection Agency Region 4; and
- (4) A pretreatment program revision shall become effective upon written approval of the Division Director, except as follows:
  - (A) Pretreatment permits shall become effective as set forth **in in** Rule .0917(d) of this Section; and
  - (B) The Division shall have 30 days from the receipt of a request for deletion of SIUs from the SIU list to make comments upon, objections to, or recommendations with respect to the request. Unless such an objection or request for more information is made, the request shall be final and binding.

(c) The Division Director may withdraw pretreatment program approval when a control authority no longer complies with requirements of this Section and the control authority fails to take corrective action. The following procedures apply when the Division Director determines that program withdrawal may be needed:

- (1) The Division Director shall give the control authority 180 days notice of the program withdrawal;
- (2) the control authority shall submit within 60 days of the notice a plan for the transfer of all relevant program information not in the possession of the Division (such as permit files, compliance files, reports, and permit applications) necessary for the Division to administer the pretreatment program;
- (3) within 60 days of the receipt of the control authority transfer plan, the Division Director shall evaluate the control authority plan and shall identify any additional information needed by the Division for program administration or identify any other deficiencies in the plan; and
- (4) at least 30 days before the program withdrawal, the Division Director shall publish public notice of the program transfer and shall mail notice to all pretreatment permit holders of the control authority.

(d) Applications for removal credit authorization shall be made in accordance with procedures established by this Rule. Approval shall become effective upon written approval of the Division Director.

(e) A pretreatment program shall be considered inactive by the Division when significant industrial users no longer discharge to the POTW, based on modifications of the control authority pretreatment program approved by the Division. Inactive approved pretreatment programs shall notify the Division when a significant industrial user proposes to discharge to the POTW. When required by the Division to return to active status, a control authority shall be required to update any or all of the requirements listed in Rule .0906 of this Section that no longer meet the standards of these Rules. The control authority shall obtain Division approval of the reactivation under this Rule prior to commencement of discharge of the significant industrial user.

*History Note:* Authority G.S. 143-215(a); 143-215.1(a); 143-215.1(c); 143-215.J(a)(J) 143-215.3(a)(14); 143-215.J(e);  
Eff. March 28, 1980;  
Amended Eff. April 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984;  
Readopted Eff. July 1, 2019.

#### **15A NCAC02H .0908 REPORTING/RECORD KEEPING REQUIREMENTS FOR POTWS/INDUSTRIAL USERS**

(a) Except where specified differently with any part of this Section, the regulations regarding the reporting requirements for control authorities and industrial users promulgated by the EPA and codified as 40 CFR 403.S(g) and 403.12 are hereby incorporated by reference, including any subsequent amendments and editions. A copy of the reference material can be found at <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-N/part-403?toc=1> free of charge.

(b) Control authorities with active approved pretreatment programs shall submit once per year a pretreatment report describing its pretreatment activities over the previous 12 months. Two copies of each pretreatment report shall be submitted

to the Division by March 1 of each year for activities conducted for two six-month periods, January 1 through June 30 and July 1 through December 31 of the previous year. This annual report shall contain the following information in accordance with forms provided by the Division:

- (1) a written summary of actions taken by the control authority to ensure compliance with pretreatment requirements;
- (2) a pretreatment program summary on forms or in a format provided by the Division;
- (3) a list of industrial users in significant noncompliance with pretreatment requirements, the nature of the violations, and actions taken or proposed to correct the violations on forms or in a format provided by the Division;
- (4) an allocation table as described in Rule .0916(c)(4) of this Section; and
- (5) other information the Division Director determines is needed to determine compliance with the implementation of the pretreatment program, including significant industrial user compliance schedules, public notice of industrial users in significant noncompliance, a summary of significant industrial user effluent monitoring data as described in Paragraphs (a) and (e) of this Rule, a summary of information related to significant non-compliance determination for industrial users that are not considered significant industrial users, and Long or Short Term Monitoring Plan data on forms or in a format provided by the Division.

(c) In lieu of submitting annual reports as described in Paragraph (b) of this Rule, the Division Director may allow modified pretreatment programs developed under Rule .0904(b) of this Section to submit only a partial annual report, or to meet with Division personnel as required to discuss enforcement of pretreatment requirements and other pretreatment implementation issues.

(d) Inactive pretreatment programs are not required to submit the report described in Paragraphs (b) and (c) of this Rule. Inactive approved pretreatment programs shall notify the Division when a significant industrial user proposes to discharge to the POTW and shall comply with Rule .0907 of this Section.

(e) Samples shall be collected and analyzed by the control authority independent of the industrial users for each significant industrial user as follows:

- (1) A minimum of once each year for all permit-limited parameters including flow, except as follows:
  - (A) Independent monitoring of the industrial user by the control authority is not required for pollutants that are limited by a categorical standard for which specific certification or other alternative procedures apply where the industrial user submits the required documentation for that certification or procedure, even if the industrial user chooses to monitor in addition to using certification or other alternative procedures;
  - (B) The minimum frequencies in this Subparagraph shall be reduced by half, as set forth in 403.8(f)(2)(v)(C), for all permit-limited parameters for a significant industrial user determined by the control authority, subject to approval under Rule .0907 of this Section, to fit the criteria of a middle tier categorical industrial user under 40 CFR 403.12(e)(3); and
  - (C) For categorical parameters with monitoring waived under 40 CFR 403.12(e)(2), a minimum of once during the term of the applicable significant industrial user pretreatment permit as set forth in 40 CFR 403.8(f)(2)(v)(A); and
- (2) If the control authority elects to sample and analyze in lieu of the industrial user, the control authority shall collect and analyze for the required parameters and, if applicable, in accordance with categorical standards.

(f) Records Retention:

- (1) Control authorities and industrial users shall retain for three years records of monitoring activities and results, along with supporting information including annual pretreatment reports, general records, water quality records, and records of industrial user impact on the POTW;
- (2) Other documents required by any rule of this Section (including supporting information) for other pretreatment program elements, such as pretreatment permits (IUPs), HWAs, SUOs, ERPs, etc., shall be retained for three years after the document has expired, been updated, or replaced;
- (3) A summary of all significant industrial user effluent monitoring data reported to the control authority by the industrial user or obtained by the control authority shall be maintained on forms or in a format provided by the Division for review by the Division; and
- (4) Laboratory records shall be maintained as set forth in Rule .0805 of this Subchapter.

(g) In the case where the receiving POTW treatment plant is not owned by the same local governmental organization as the control authority, all information required to be reported to the industrial user's control authority by this Section shall also be submitted to the POTW treatment plant governmental organization.



(h) In the case where the control authority accepts electronic reporting, the reporting shall comply with 40 CFR Part 3, and the control authority shall maintain documentation of approval as required under 40 CFR Part 3.

*History Note:* Authority G.S. 143-215.1(a); 143-215.1(b); 143-215.2; 143-215.3(a)(2); 143-215.3(a)(14); 143-215.6(a)(l);  
Eff. March 28, 1980;  
Amended Eff. April 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984;  
Readopted Eff. July 1, 2019.

#### **15A NCAC 02H .0909 NATIONAL PRETREATMENT STANDARDS: PROHIBITED DISCHARGES**

The regulations regarding national prohibited pretreatment standards and local limits development and enforcement promulgated by the EPA and codified as 40 CFR 403.5 are hereby incorporated by reference, including any subsequent amendments and editions. A copy of the reference material can be found at <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-N/part-403/section-403.5>, free of charge.

*History Note:* Authority G.S. 143-215.1(a)(7); 143-215.1(b); 143-215.3(a)(l); 143-215.3(a)(14);  
Eff. March 28, 1980;  
Amended Eff. March 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984;  
Readopted Eff. July 1, 2019.

#### **15A NCAC 02H .0910 NATIONAL PRETREATMENT STANDARDS: CATEGORICAL STANDARDS**

The regulations regarding national categorical pretreatment standards promulgated by the EPA and codified pursuant to 40 CFR 403.6 are hereby incorporated by reference, including any subsequent amendments and editions. A copy of the reference material can be found at <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-N/part-403/section-403.6> free of charge.

*History Note:* Authority G.S. 143-215.1(a)(7); 143-215.1(b); 143-215.3(a)(14);  
Eff. March 28, 1980;  
Amended Eff. March 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984;  
Readopted Eff. July 1, 2019.

#### **15A NCAC 02H .0911 REVISION TO REFLECT POTW REMOVAL OF POLLUTANT**

*History Note:* Authority G.S. 143-215.1(a),(b); 143-215.3(a)(14);  
Eff. March 28, 1980;  
Amended Eff. December 1, 1984;  
Repealed Eff. October 1, 1987.

#### **15A NCAC 02H .0912 ADJUSTMENTS FOR FUNDAMENTALLY DIFFERENT FACTORS**

The regulations regarding variances from national categorical pretreatment standards for fundamentally different factors promulgated by the EPA and codified as 40 CFR 403.13 are hereby incorporated by reference, including any subsequent amendments and editions. A copy of the reference material can be found at <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-N/part-403/section-403.13>, free of charge.

*History Note:* Authority G.S. 143-215(a); 143-215.1(a); 143-215.1(b); 143-215.3(a)(14); 143-215.3(e);  
Eff. March 28, 1980;  
Amended Eff. March 1, 2011; November 1, 1994; October 1, 1987; December 1, 1984;  
Readopted Eff. July 1, 2019.

#### **15A NCAC 02H .0913 PUBLIC ACCESS TO INFORMATION**

(a) Information and data provided by an industrial user to the POTW Director pursuant to this Section, identifying the nature and frequency of a discharge, shall be available to the public without restriction. All other information submitted by an industrial user to the POTW Director in connection with any required reports shall also be available to the public, unless the industrial user specifically identifies the information as confidential upon submission and is able to demonstrate that the

disclosure of such information or a particular part thereof to the general public would divulge methods or processes entitled to protection as trade secrets.

(b) Information and data provided by an industrial user to the Division Director shall be subject to the processes set forth in G.S. 143-215.3C.

(c) Information provided by an industrial user to a control authority that is determined to be entitled to confidential treatment shall be made available upon written request to the Division or any State agency for uses related to the pretreatment program, the NPDES permit, collection system permit, stormwater permit, or non-discharge permit, and for uses related to judicial review or enforcement proceedings involving the person furnishing the report.

(d) Information and data received by the Division or other State agency under Paragraph (c) of this Rule shall be subject to the processes set forth in G.S. 143-215.3C.

*History Note:* Authority G.S. 132-1.2; 132-6; 132-9; 143-215.1; 143-215.3; 143-215.3C;  
Eff. March 28, 1980;  
Amended Eff. April 1, 2011; October 1, 1987;  
Readopted Eff. July 1, 2019.

#### **ISA NCAC 02H .0914 UPSET PROVISION**

The upset provision promulgated by the EPA and codified as 40 CFR 403.16 is hereby incorporated by reference, including any subsequent amendments and editions. A copy of the reference material can be found at <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-N/part-403/section-403.16>, free of charge.

*History Note:* Authority G.S. 143-215.J(a)(l); 143-215.3(a)(14);  
Eff. December 1, 1984;  
Amended Eff. March 1, 2011; November 1, 1994; October 1, 1987;  
Readopted Eff. July 1, 2019.

#### **ISA NCAC 02H .0915 NET/GROSS CALCULATION**

The net/gross calculation provisions promulgated by the EPA and codified as 40 CFR 403.15 are hereby incorporated by reference, including any subsequent amendments and editions. A copy of the reference material can be found at <https://www.ecfr.gov/current/title-40/chapter-I/subchapter-N/part-403/section-403.15>, free of charge.

*History Note:* Authority G.S. 143-215.3(a)(l); 143-215.3(a)(14);  
Eff. December 1, 1984;  
Amended Eff. March 1, 2011; November 1, 1994; October 1, 1987;  
Readopted Eff. July 1, 2019.

#### **ISA NCAC 02H .0916 PRETREATMENT PERMITS**

(a) All significant industrial users who discharge waste into a POTW shall obtain a permit from the control authority.

(b) Where the Division is the control authority, permits shall be issued in accordance with Section .0100 of this Subchapter.

(c) Where the control authority is a POTW, significant industrial user permits shall be issued as follows:

- (1) Application: any significant industrial user required to obtain a permit in Paragraph (a) of this Rule shall be required to complete, sign, and submit to the control authority a permit application. Application fees and procedures may be prescribed by the control authority. All pretreatment permit applications shall include as a minimum:
  - (A) the name of industrial user;
  - (B) the address of industrial user;
  - (C) the standard industrial classification (SIC) code(s) or expected classification and industrial user category;
  - (D) the wastewater flow;
  - (E) the types and concentrations (or mass) of pollutants contained in the discharge;
  - (F) the products manufactured or services supplied;
  - (G) a description of existing on-site pretreatment facilities and practices;
  - (H) the locations of discharge points;
  - (I) the raw materials used or stored at the site;

- (J) a flow diagram or sewer map for the industrial user;
- (K) the number of employees; and
- (L) the operation and production schedules.

The application shall include a written description of current and projected waste reduction activities in accordance with G.S. 143-215.1(g). The written description shall not be considered part of the permit application and shall not serve as a basis for denial of a permit.

- (2) Renewals: Applications for pretreatment permit renewals shall be accomplished by filing an application form as listed in Subparagraph (c)(1) of this Rule prior to permit expiration. The number of days prior to expiration by which the application shall be filed shall be established by the control authority.
- (3) Review and Evaluation:
  - (A) The POTW Director is authorized to accept applications for the Commission and shall refer all applications to the control authority staff for review and evaluation;
  - (B) The POTW Director shall acknowledge receipt of a complete application, or if not complete, shall return the application to the applicant with a statement of what additional information is required;
  - (C) The control authority staff shall include documentation of the most recent on-site inspection of the industrial user and any existing wastewater pretreatment system as part of the permit record for new and renewed permits; and
  - (D) The control authority staff shall conduct an evaluation and make a tentative determination to issue or deny the permit. If the control authority staffs tentative determination is to issue the permit, it shall make the following additional determinations in writing and transmit them to the industrial user:
    - (i) proposed effluent limitations for those pollutants proposed to be limited;
    - (ii) a proposed schedule of compliance, including interim dates and requirements, for meeting the proposed effluent limitations; and
    - (iii) a description of any other proposed special conditions;

The control authority staff shall organize the determinations made into a pretreatment permit.

- (4) Permit supporting documentation. The control authority staff shall prepare the following documents for all significant industrial user permits:
  - (A) An allocation table (AT) listing permit information for all significant industrial users, including permit limits, permit effective and expiration dates, and a comparison of total permitted flows and loads with Division approved maximum allowable loadings of the POTW, including flow, on forms or in a format provided by the Division. The AT shall be updated as permits are issued or renewed, and as permits are modified where the permitted limits or other AT information is revised;
  - (B) The basis, or rationale, for the pretreatment limitations, including documentation of categorical determination, including documentation of any calculations used in applying categorical standards; and
  - (C) Documentation of the rationale of any parameters for which monitoring has been waived under 40 CFR Part 403.1(e)(2).
- (5) Final Action on Permit Applications:
  - (A) The POTW Director shall take final action on all applications by either issuing a pretreatment permit or by denying the discharge not later than 90 days following the receipt of a complete application. If, following the 30-day period required by Rules .0917(d) and .0922 of this Section, no written demand for hearing, objection, or request for more information under Rule .0917(g)(2) of this Section has been made, the permit shall become final and binding;
  - (B) The POTW Director is authorized to:
    - (i) issue a permit containing such conditions as are necessary to effectuate the purposes of G.S. 143-215.1;
    - (ii) issue a permit containing time schedules for achieving compliance with applicable pretreatment standards and limitations and other legally applicable requirements;
    - (iii) modify or revoke any permit pursuant to Subparagraph (c)(6) of this Rule;
    - (iv) deny a permit application; and
    - (v) issue permits to industrial users not identified as significant industrial users using procedures prescribed by the control authority;

- (C) Permits shall be issued or renewed for a period of time deemed reasonable by the POTW Director but in no case shall the period exceed five years; and
- (D) The POTW Director shall notify an applicant by certified or registered mail of the denial of his or her permit application. Notifications of denial shall specify the reasons for the denial and the proposed changes that in the opinion of the POTW Director will be required to obtain the permit.
- (6) Modification and Revocation of Permits:
  - (A) Any permit issued pursuant to this Rule is subject to revocation or modification in whole or part as outlined in the control authority's sewer use ordinance; and
  - (B) Modifications of permits may be initiated by the control authority or the significant industrial user and shall be subject to the same procedural requirements as the issuance of permits. Permit modification requests made by the significant industrial user must be made in writing and can be by letter or by application form as determined by the control authority.
- (7) Permit effective dates and modification effective dates shall not be retroactive.

*History Note: Authority G.S. 143-215(a); 143-215.1(a); 143-215.1(c); 143-215.1(g); 143-215.3(a)(3); 143-215.3(a)(14); 143-215.3(e); Eff. October 1, 1987; Amended Eff. April 1, 2011; November 1, 1994; Readopted Eff. July 1, 2019.*

#### **ISA NCAC 02H .0917 PRETREATMENT PERMIT SUBMISSION AND REVIEW**

- (a) Each control authority shall transmit to the Division copies of all significant industrial user pretreatment permits 30 days prior to the effective date.
- (b) Permits and permit renewal submissions to the Division for significant industrial users shall include the supporting information listed in this Paragraph. Permit modification submissions for significant industrial users shall include updated versions of this supporting information listed in this Paragraph, as applicable to that modification:
  - (1) the rationale for limits and allocation table required by Rule .0916(c)(4) of this Section;
  - (2) a copy of the completed application required in Rule .0916(c)(1) of this Section; and
  - (3) a copy of the record of the inspection required in Rule .0916(c)(3)(C) of this Section.
- (c) The Division Director may waive some or all of the requirements in Paragraphs (a) and (b) of this Rule. In making the decision to waive these requirements, the Division Director shall consider factors, including training levels of control authority staff, quality of previous pretreatment permit submissions, percent maximum allowable headworks loading capacity remaining, percent industrial user flow, industrial user waste characteristics, and compliance status of the POTW and its respective environmental permits.
- (d) The Division shall have 30 days from the receipt of pretreatment permits to make comments upon, objections to, or recommendations with respect to the permit. Unless such an objection or request for more information in accordance with Paragraph (g) of this Rule is made, the permit shall be final and binding.
- (e) Within 30 days of the receipt of a pretreatment permit the Division Director objected to, the Division staff shall set forth in writing and transmit to the control authority:
  - (1) a statement of the reasons for the objection, including the rules or regulations that support the objection; and
  - (2) the actions that shall be taken by the control authority to eliminate the objection, including the effluent limitations and conditions the permit would include if it were issued by the Division.
- (f) The Division Director's objection to the issuance of a pretreatment permit shall be based upon one or more of the following grounds:
  - (1) the permit fails to apply or to ensure compliance with any applicable requirement of this Section;
  - (2) the procedures followed in connection with formulation of the pretreatment permit failed to comply with the procedures required by State statute or by the control authority's approved pretreatment program;
  - (3) a finding made by the control authority in connection with the pretreatment permit misinterprets any categorical standard or pretreatment regulation or misapplies it to the facts; and
  - (4) the provisions of the pretreatment permit relating to the maintenance of records, monitoring or sampling by the control authority and the industrial user are, in the judgment of the Division Director, inadequate to assure compliance with permit conditions or applicable pretreatment standards;
- (g) Prior to notifying the control authority of an objection, the Division Director:
  - (1) shall consider all data transmitted pursuant to Rule .0916 of this Section and this Rule;

- (2) if more information is needed to determine whether the permit is adequate, may request the control authority to make available to the Division staff the complete record of permit proceedings, or any portions of the record that the Division Director determines are necessary for review. Requests shall be made within 30 days of the Division's receipt of the permit under Rule .0916 of this Section, and shall suspend the 30-day review period in Paragraph (d) of this Rule. When the Division staff has obtained the requested records or portions of the record, the Division staff shall have an additional 30 days for review; and
- (3) to the extent feasible within the period of time available, may afford interested persons the opportunity to comment on the basis for the objection.

(h) If within 60 days of the receipt of the Division Director's objection, the control authority does not resubmit a permit revised to meet the Division Director's objection, the Division Director may issue the permit in accordance with Section .0100 of this Subchapter. Exclusive authority to issue the permit required by G.S. 143-215.1(a) passes to the Division when this time expires.

*History Note:* Authority G.S. 143-215(a); 143-215.1(a); 143-215.1(c); 143-215.3(a)(3); 143-215.3(a)(14);  
Eff. October 1, 1987;  
Amended Eff. April 1, 2011; November 1, 1994;  
Readopted Eff. July 1, 2019.

#### **15A NCAC 02H .0918 LOCAL LAW**

Nothing in the rules of this Section is intended to affect any pretreatment requirements, including any standards or prohibitions, established by local law as long as the local requirements are not less stringent than any set forth in National Pretreatment Standards, or any other requirements or prohibitions established under the Clean Water Act, the North Carolina General Statutes, or the rules of this Section.

*History Note:* Authority G.S. 143-215.1(a); 143-215.1(b); 143-215.J(a)(l); 143-215.3(a)(14); 153A-274; 153A-275;  
160A-311; 160A-312;  
Eff. November 1, 1994;  
Readopted Eff. July 1, 2019.

#### **15A NCAC 02H .0919 BYPASS**

The regulations regarding the bypass provisions promulgated by the EPA and codified as 40 CFR 403.17 are hereby incorporated by reference. A copy of the reference material can be found at <https://www.ecfr.gov/current/title-40/chapter-1/subchapter-N/part-403/section-403.17>, free of charge.

*History Note:* Authority G.S. 143-215.1(a)(l); 143-215.3(a)(14);  
Eff. November 1, 1994;  
Amended Eff. March 1, 2011;  
Readopted Eff. July 1, 2019.

#### **15A NCAC 02H .0920 PRETREATMENT FACILITY OPERATION AND MAINTENANCE**

*History Note:* Authority G.S. 143-215.3;  
Eff. November 1, 1994;  
Amended Eff. April 1, 2011;  
Repealed Eff. July 1, 2019.

#### **15A NCAC 02H .0921 REVISION TO REFLECT POTW REMOVAL OF POLLUTANT**

The regulations regarding removal credits promulgated by the EPA and codified as 40 CFR 403.7 are hereby incorporated by reference, including any subsequent amendments and editions. A copy of the reference material can be found at <https://www.ecfr.gov/current/title-40/chapter-1/subchapter-N/part-403/section-403.7>, free of charge.

*History Note:* Authority G.S. 143-215.1(a); 143-215.1(b); 143-215.3(a)(14);  
Eff. November 1, 1994;  
Amended Eff. March 1, 2011;  
Readopted Eff. July 1, 2019.

## **15A NCAC 02H.0922 HEARINGS**

(a) The control authority sewer use ordinance (SUO) and attorney's statement required under Rule .0906(b)(1) shall provide for the enforcement and compliance with its pretreatment program in accordance with the provisions of G.S. 160A-175 for municipalities, G.S. 153A-123 for counties, G.S. 162A-9.1 for water and sewer authorities, and G.S. 162A-81 for metropolitan sewerage districts. This shall include:

- (1) providing industrial users assessed civil penalties by the control authority for violations of its pretreatment program with the opportunity to request review of the penalty in accordance with the provisions of G.S. 143-215.6A(k); and
- (2) providing industrial users the opportunity to request review of other actions taken by the control authority to administer and enforce its pretreatment program. Such control authority actions may include denial or termination of a pretreatment permit or other permission to discharge, issuance of a permit or other permission to discharge subject to conditions the industrial users deems unacceptable, and the issuance of an administrative order subject to conditions the industrial users deems unacceptable. The opportunity to request review may include the right to request a review of a control authority action with the local government as established in that local government's SUO, or to request a review by the superior court having local jurisdiction.

(b) If the control authority elects to provide industrial users with the opportunity for local government reviews under Subparagraphs (a)(1) and (a)(2) of this Rule, the control authority may establish procedures and requirements for the review process. These procedures may include the number of days after receipt of an action by which the industrial user must request the review, the contents or form of the request, and which party or parties will conduct local government hearings.

*History Note: Authority G.S. 143-215(a); 143-215.1(a); 143-215.1(c); 143-215.2(b); 143-215.3(a)(3); 143-215.3(a)(14); 143-215.6AO; 143-215.6A(k); Eff. April 1, 2011; Readopted Eff. July 1, 2019.*