

**SCOTT COUNTY REGIONAL SEWER DISTRICT**

**ORDINANCE NO. 2011-1**

**SEWER USE ORDINANCE**

## SECTION 1 – GENERAL PROVISIONS

### 1.1 Purpose and Policy

This ordinance sets forth uniform requirements for users of a Publicly Owned Treatment Works for the Scott County Regional Sewer District and enables the Scott County Regional Sewer District to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code 1251 et seq.) and the General Pretreatment Regulations (40 Code of Federal Regulations Part 403). The objectives of this ordinance are:

- (1) To prevent the introduction of pollutants into a Publicly Owned Treatment Works that will interfere with its operation;
- (2) To prevent the introduction of pollutants into a Publicly Owned Treatment Works that will pass through a Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with a Publicly Owned Treatment Works;
- (3) To protect Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
- (4) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of a Publicly Owned Treatment Works; and
- (5) To enable the Scott County Regional Sewer District to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which a Publicly Owned Treatment Works is subject.

This ordinance shall apply to all users of a Publicly Owned Treatment Works. The ordinance authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

### 1.2 Administration

The Scott County Regional Sewer District shall administer, implement, and enforce the provisions of this ordinance except as otherwise provided herein. Any powers granted to or duties imposed upon the Scott County Regional Sewer District may be delegated by the Scott County Regional Sewer District to other Scott County Regional Sewer District personnel or representatives.

### 1.3 Abbreviations

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

ASTM	American Society for Testing Materials
BOD	Biochemical Oxygen Demand
CFR	Code of Federal Regulations
COD	Chemical Oxygen Demand
EPA	U.S. Environmental Protection Agency
gpd	gallons per day
ISBH	Indiana State Board of Health
IWEA	Indiana Wastewater Environmental Association
L	Liter
Mg/l	milligrams per liter
NPDES	National Pollutant Discharge Elimination System
O&M	Operation and Maintenance
POTW	Publicly Owned Treatment Works
RCRA	Resource Conservation and Recovery Act
SCRSD	Scott County Regional Sewer District
SIC	Standard Industrial Classification
SWDA	Solid Waste Disposal Act 42 U.S.C. 6901, et. seq.
TSS	Total Suspended Solids
USC	United States Code

### 1.4 Definitions

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

- (1) Act or “the Act” – The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251 et seq.
- (2) Approval Authority – The Approval Authority shall mean the Regional Administrator of the US EPA
- (3) Authorized Representative of the User
  - A. If the user is a corporation:

- i. The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or
  - ii. The manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five (25) million dollars (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- B. If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
- C. If the user is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

The individuals described in paragraphs above may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company and the written authorization is submitted to the Scott County Regional Sewer District.

- (4) Biochemical Oxygen Demand or BOD – The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g., Mg/l).
- (5) Building (or House) Drain – The lowest horizontal piping of building drainage system which receives the discharge from waste and other drainage pipes inside the walls of the building and conveys it to a point approximately five (5) feet outside the foundation wall of the building.
- (6) Building (or House) Lateral Sewer – The extension from the building drain to the sewage system or other place of disposal.
- (7) Categorical Pretreatment Standard or Categorical Standard – Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
- (8) Compatible Pollutants – Biochemical oxygen demand, suspended solids, pH, and fecal coliform bacteria, plus additional pollutants identified in the Scott County Regional Sewer District's National Pollutant Discharge Elimination Systems (NPDES) permit, if the treatment works was designed to treat such pollutants, and in fact does remove such pollutants to a "substantial degree". The term "substantial degree" is not subject to

precise definition, but generally contemplates removals in the order of 80 percent or greater. Minor incidental removals in the order of 10 to 30 percent are not considered substantial.

(9) Examples of the additional pollutants which may be compatible include:

- Chemical oxygen demand
- Total organic carbon
- Phosphorous and phosphorous compounds
- Nitrogen and nitrogen compounds
- Fats, oils and greases of animal or vegetable origin (except as prohibited where these materials would interfere with the operation of the treatment works).

(10) Composite Sample – A composite sample should contain a minimum of eight discrete samples taken at equal time intervals or volume of flow proportional to the flow rate over the composting period. More than the minimum number of discrete samples will be required where the wastewater loading is highly variable.

(11) Daily Discharge – Discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the calendar for purposes of sampling.

(12) Domestic Sewage – Wastewater from typical residential Users and having pollutant characteristics of not greater than 200 mg/l BOD and 200 mg/l suspended solids.

(13) Easement – An acquired legal right of the specific use of land owned by others.

(14) Effluent – Water, together with any wastes that may be present, flowing out of a drain, sewer, receptacle or outlet.

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

(16) Existing Source – Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

(17) Fecal Coliform – Any of a number of organisms common to the intestinal tract of man and animals, whose presence in sanitary sewage is an indicator of pollution.

(18) Floatable Oil – Oil, fat or grease in a physical state, such that will separate by gravity from wastewater by treatment in an approved pretreatment facility.

(19) Garbage – Solid waste from the domestic and commercial preparation, cooking, and dispensing of food, and from the handling, storage, and sale of produce.

- (20) Grab Sample – A sample which is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to be exceed fifteen (15) minutes.
- (21) Grease and Oil – A group of substances including hydrocarbons, fatty acids, soaps, fats, waxes, oils or any other material that is extracted by a solvent from an acidified sample and that is not volatilized during the laboratory test procedures. Greases and oils are defined by the method of the determination in accordance with “Standard Methods”.
- A. Grease and Oil of Animal and Vegetable Origin – Substances of biodegradable nature such as are discharged by meatpacking, vegetable oil and fat industries, food processors, canneries and restaurants.
  - B. Grease and Oil of Mineral Origin – Substances that are less readily biodegradable than grease and oil of animal or vegetable origin, and are derived from a petroleum source. Such substances include machinery lubricating oils, gasoline station wastes, petroleum refinery wastes and storage depot wastes.
- (22) Holding Tank Waste – Any waste from holding tanks, such as campers, trailers, septic tanks, vacuum pump trucks and the like.
- (23) IDEM – The Indiana Department of Environmental Management.
- (24) Indirect Discharge or Discharge – The introduction of pollutants into a POTW from any nondomestic source regulated under Section 307 (b), (c), or (d) of the Act.
- (25) Industrial Wastes – Any solid, liquid, or gaseous substance or form of energy discharged, permitted to flow or escape from an industrial, manufacturing, commercial or business process or from the development, recovery or processing of any natural resource carried on by a person and shall further mean any waste from an industrial User.
- (26) Infiltration – The water entering the sewer system including building drains and sewers, from the ground, through such means as, but not limited to, defective pipes, pipe joints, connections, or manhole walls.
- (27) Inflow – The water discharge into a sewer system, including building drains and sewers, from such sources as, but not limited to, roof drains, cellars, yard and area drains, foundations drains, unpolluted cooling water discharges, drains from springs and swampy areas, manhole covers, cross connections from storm sewers, and combined sewers, catch basins, storm sewers, surface run-off, street wash waters or drainage.
- (28) Influent – The water, together with any wastes that may be present, flowing into a drain, sewer, receptacle or outlet.
- (29) Inspector – A person authorized by the Scott County Regional Sewer District.

- (30) Instantaneous Maximum Allowable Discharge Limit – The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.
- (31) Interference. A discharge that, alone or in conjunction with a discharge or discharges from other sources, does one (1) of the following:
- A. Inhibits or disrupts a POTW, its treatment processes or operations, its sludge processes, or its selected sludge use or disposal methods.
  - B. Causes a violation of any requirement of a POTW's NPDES permit, including an increase in the magnitude or duration of a violation.
  - C. Prevents the use of POTW's sewage sludge or its sludge disposal method selected in compliance with the following statutory provisions, regulations, or permits issued there under or more stringent state or local regulations:
    - i. Section 405 of the Clean Water Act (33 U.S.C. 1345)
    - ii. The Solid Waste Disposal Act (SWDA) 42 U.S.C. 6901), including:
      - a. Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA); and
      - b. The rules contained in any state sludge management plan prepared pursuant to Subtitle D of the SWDA (42 U.S.C. 6941).
  - D. The Clean Air Act (42 U.S.C. 7401).
  - E. The Toxic Substances Control Act (15 U.S.C. 2601).
- (32) Medical Waste – Isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.
- (33) Natural Outlet – Any outlet into a watercourse, pond, lake or other body of surface or ground water.
- (34) New Source - Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants. Noncontact Cooling Water – Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- (35) NPDES Permit – A permit issued under the National Pollutant Discharge Elimination System for discharge of wastewaters to navigable waters of the United States.

- (36) Nuisance – Anything which is injurious to health or offensive to the senses or an obstruction of the free use of property so as to interfere with the comfort or enjoyment of life or property.
- (37) Pass Through – A discharge which exits a POTW into waters of the United States in quantities or concentrations which, along or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Scott County Regional Sewer District's NPDES permit, including an increase in the magnitude or duration of a violation.
- (38) Person – Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.
- (39) PH – A measure of the acidity or alkalinity of a solution, expressed in standard units.
- (40) Pollution – An alteration of the quality of the waters of the State by waste to a degree which unreasonably affects such waters for beneficial uses or facilities which serve such beneficial uses. The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.
- (41) Pollutant – Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).
- (42) Premises – A parcel of real estate including any single improvement there on which is determined by the Scott County Sewer District to be a single User for purposed of receiving, using and payment for service.
- (43) Pretreatment – The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into a POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.
- (44) Pretreatment Requirements – Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.
- (45) Pretreatment Standards or Standards – Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

- (46) Prohibited Discharge Standards or Prohibited Discharges – Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 2.1 of this ordinance.
- (47) Proper Operation and Maintenance – Procedures executed in a prudent, cost-effective and workmanlike manner which achieve the highest and/or required effluent quality of industrial discharge attainable in conformance with the best available technology and practices. Proper operation and maintenance requirements include avoidance of operational error, adherence to manual instructions, preventive maintenance, avoidance of careless or improper operation, neat accurate sampling, analysis and records retention, storage of process chemicals, lubricants, solvents, etc., in a safe and organized manner, avoidance of accidental spillage, keeping operating logs and other activities which produce the desired effluent quality.
- (48) Publicly Owned Treatment Works or POTW – A “treatment works,” as defined by Section 212 of the Act (33 U.S.C. 1292) which is owned by the Scott County Regional Sewer District, City of Scottsburg or City of Austin. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.
- (49) Receiving Stream – The watercourse, stream or body of water receiving the waters finally discharged from the wastewater treatment plant.
- (50) Scott County Regional Sewer District or SCRSD – The Scott County Regional Sewer District of Scott County Indiana.
- (51) Septic Tank Waste – Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- (52) Sewage – Human excrement and gray water (household showers, dishwashing operations, etc.).
- (53) Sewer – A pipe or conduit laid for carrying wastewater or other liquids.
- A. Combined Sewer – A sewer which carries storm, surface, ground water runoff and wastewater.
  - B. Public Sewer – A sewer in which all owners of abutting property have equal rights and which is controlled by public authority, including the following elements:
  - C. Collection Sewer – A sewer whose primary purpose is to collect wastewaters from individual point source discharges.
  - D. Interceptor sewer – a sewer whose primary purpose is to transport wastewater from collector sewers to a treatment facility.

- E. Force main - A pipe in which wastewater is carried under pressure.
- F. Pumping station – A station positioned in the public sewerage system at which wastewater is pumped to a higher level.
- G. Sanitary Sewer – A sewer which carries wastewater and to which storm, surface and ground waters and unpolluted industrial wastewater are not intentionally admitted.
- H. Storm Sewer – A sewer which carries storm, surface and ground water drainage but excludes wastewater.

(54) Significant Industrial User

- A. A User subject to categorical pretreatment standards; or
- B. A user that:
  - i. Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to a POTW (excluding sanitary, noncontact cooling, and boiler blow down wastewater);
  - ii. Contributes a process waste stream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of a POTW treatment plant; or
  - iii. Is designated as such by the Scott County Regional Sewer District on the basis that it has a reasonable potential for adversely affecting a POTW's operation or for violating any pretreatment standard or requirement.
- C. Upon a finding that a user meeting the criteria in Subsection (2) has no reasonable potential for adversely affecting a POTW's operation or for violating any pretreatment standard or requirement, the Scott County Regional Sewer District may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8 (f) (6), determine that such user should not be considered a significant industrial user.

(55) Sludge – Any solid, semi-solid or liquid waste generated from a municipal, commercial or industrial wastewater treatment plant, water supply treatment plant or air pollution control facility or any other waste having similar characteristics and effects as defined in standards issued under Section 402, 405 of the Federal Act and in the applicable requirements under Sections 3001, 3004, and 4004 of the Solid Waste Disposal Act PL 94-580.

- (56) Slug Load or Slug – Any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in Section 2.1 of this ordinance.
- (57) Standard Industrial Classification (SIC) Code - A classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.
- (58) Standard Methods – Shall mean the laboratory procedures set forth in the latest edition, at the time of analysis, of “Standard Methods for the Examination of Water and Wastewater” prepared and published jointly by the American Public Health Association, the American Water Works Association, and the Water Pollution Control Federation.
- (59) Storm Water – Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.
- (60) SCRSD – The person designated by the Scott County Regional Sewer District to supervise the operation of a POTW, and who is charged with certain duties and responsibilities by this ordinance, or a duly authorized representative.
- (61) Suspended Solids – The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.
- (62) Surcharge – A charge for services in addition to the basic service charge.
- (63) Total Solids – The sum of suspended and dissolved solids.
- (64) Unpolluted Water – Water of quality equal to or better than the effluent criteria in effect, or water that would not cause violation of receiving water quality standards and would not be benefited by discharge to sanitary sewers and wastewater treatment facilities provided.
- (65) User or Industrial User – A source of indirect discharge.
- (66) Wastewater – Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to a POTW.
- (67) Wastewater Treatment Plant or Treatment Plant – That portion of a POTW which is designed to provide treatment of municipal sewage and industrial waste.
- (68) Waters of the State – Any water, surface or underground, within the boundaries of Indiana, except confined waters in sewers, tanks and the like.

NOTE – The use of the word “shall” indicates a mandatory condition. The use of the word “may” indicates a discretionary condition.

## 1.5 Discharge to SCRSD Sewers

- (1) The owner of any house, building or property used for human occupancy, employment, recreation or other purpose, and abutting on any street, alley, easement or right-of-way in which there is now located a public sanitary sewer of the Scott County Regional Sewer District, is hereby required at his expense to install suitable toilet facilities therein, and to connect such facilities directly with the proper public sewer in accordance with the provisions of this Ordinance.
- (2) No person shall discharge or cause to be discharged to any sanitary sewer, whether directly or indirectly, storm water, surface water, ground water, roof run-off, subsurface drainage, cooling water, unpolluted water or unpolluted industrial process water. The Scott County Regional District may require the removal of unpolluted water from any wastewater collection or treatment facility.
- (3) No person shall place, deposit, or permit to be deposited in any unsanitary manner on public or private property within the jurisdiction of the Scott County Regional Sewer District, any wastewater or other polluted waters except where suitable treatment has been provided.
- (4) It shall be unlawful to discharge to any natural outlet within the jurisdiction of the Scott County Regional Sewer District, sewage or other polluted waters, except where suitable treatment has been provided in accordance with provisions of this ordinance.
- (5) Except as hereinafter provided, it shall be unlawful to construct or maintain any privy, privy vault, septic tank, cesspool or other facility intended or used for the disposal of sewage.
- (6) It is unlawful for the owner, tenant, occupant, or any person in a building or place where cooking is done, to discharge any grease into the Scott County Regional Sewer District sewer system. Any commercial cooking facility shall install a grease trap interceptor of the size and type approved by the Scott County Regional Sewer District and shall provide the Scott County Regional Sewer District with proof of proper cleaning and disposal of said interceptor upon request. Grease-trap interceptors are not required for private living quarters or residential dwellings.

## **SECTION 2 – GENERAL SEWER USE REQUIREMENTS**

### 2.1 Prohibited Discharge Standards

- (1) General Prohibitions. No user shall introduce or cause to be introduced into a POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of a POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.

- (2) Specific Prohibitions. No user shall introduce or cause to be introduced into a POTW the following pollutants, substances, or wastewater.
- A. Pollutants which create a fire or explosive hazard in a POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;
  - B. Wastewater having a pH less than 5.5 or more than 10.5, or otherwise causing corrosive structural damage to a POTW or equipment;
  - C. Solid or viscous substances in amounts which will cause obstruction of the flow in a POTW resulting in interference;
  - D. Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with a POTW;
  - E. Wastewater having a temperature greater than 150°F (65°C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104°F (40°C);
  - F. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
  - G. Pollutants which result in the presence of toxic gases, vapors, or fumes within a POTW in a quantity that may cause acute worker health and safety problems.
  - H. Trucked or hauled pollutants.
  - I. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair;
  - J. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent.
  - K. Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;
  - L. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, de-ionized water, noncontact cooling water, and unpolluted wastewater.
  - M. Sludge, screenings, or other residues from the pretreatment of industrial wastes;

- N. Medical wastes.
- O. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test;
- P. Detergents, surface-active agents, or other substances which may cause excessive foaming in a POTW;
- Q. Fats, oils, or greases of animal or vegetable origin in concentrations greater than 100 mg/l; and

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

Pollutants, substances, or wastewater prohibited by this section shall not be processed or stored in such a manner that they could be discharged to a POTW.

## 2.2 Local Limits

The following pollutants shall not be discharged to SCRSD sewers without the user first acquiring a discharge permit from the applicable local, State and/or Federal agency.

- Arsenic
- Cadmium
- Chromium (Total)
- Copper
- Cyanide
- Lead
- Nickel
- Oil and Grease
- Silver
- Zinc

## 2.3 Scott County Regional Sewer District's Right of Revision

The Scott County Regional Sewer District reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to a POTW than established by other local, State, or Federal agencies.

## 2.4 Dilution

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement.

## **SECTION 3 – PRETREATMENT OF WASTEWATER**

### 3.1 Pretreatment Facilities

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

### 3.2 Additional Pretreatment Measures

- (1) Whenever deemed necessary, the SCRSD may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect a POTW and determine the user's compliance with the requirements of this ordinance.
- (2) The SCRSD may require any person discharging into a POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow or a control manhole for monitoring purposes.
- (3) Grease, oil, and sand interceptors shall be provided when, in the opinion of the SCRSD, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the SCRSD and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense. The user shall maintain records of cleaning and maintenance of the interceptor on site for a minimum of three years. These records may be reviewed by the SCRSD during routine inspections.
- (4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

### 3.3 Accidental Discharge/Slug Control Plans

At least once every two (2) years, the SCRSD may evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The SCRSD may require any user to develop, submit for approval, and implement such a plan. An accidental discharge/slug control plan shall address, at a minimum, the following:

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

- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the SCRSD of any accidental or slug discharge, as required by Section 6.6 of this ordinance; and
- (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

3.4 Hauled Wastewater: Septic tank waste shall not be introduced into a POTW.

#### **SECTION 4 – WASTEWATER DISCHARGE PERMIT APPLICATION**

##### 4.1 Wastewater Analysis

When requested by the SCRSD, a user must submit information on the nature and characteristics of its wastewater within ten (10) days of the request.

##### 4.2 Wastewater Discharge Permit Requirement

- (1) No significant industrial user shall discharge wastewater into a POTW without first obtaining a wastewater discharge permit from the Indiana Department of Environmental Management.
- (2) The SCRSD may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this ordinance.
- (3) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this ordinance and subjects the wastewater discharge permittee to the sanctions set out in this ordinance. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, and local law.

##### 4.3 Wastewater Discharge Permitting: Existing Connections

Any user required to obtain a wastewater discharge permit who was discharging wastewater into a POTW prior to the effective date of this ordinance and who wishes to continue such discharges in the future, shall, within ten (10) days after said date, apply to IDEM for a wastewater discharge permit.

##### 4.4 Wastewater Discharge Permitting: New Connections

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into a POTW must apply for such permit from IDEM prior to the beginning or recommencing of such discharge. The user must also have prior approval from the SCRSD before discharging to a POTW.

## **SECTION 5 – CONTRIBUTING JURISDICTIONS**

### 5.1 Regulation of Waste Received from Other Jurisdictions

- (1) If another municipality, or user located within another sanitary sewer service provider (“service”), contributes wastewater to a POTW, the Scott County Regional Sewer District shall enter into an inter-municipal agreement with the contributing municipality.
- (2) Prior to entering into an agreement, the Scott County Regional Sewer District shall request the following information from the contributing municipality:
  - A. A description of the quality and volume of wastewater discharged to a POTW by the contributing municipality;
  - B. An inventory of all users located within the contributing municipality that are discharging to a POTW; and
  - C. Such other information as the Scott County Regional Sewer District may deem necessary.
- (3) An inter-municipal agreement shall contain the following conditions:
  - A. A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as this ordinance and local limits which are at least as stringent as those set out in this ordinance. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the Scott County Regional Sewer District’s ordinance or local limits;
  - B. A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;
  - C. A provision specifying which pretreatment implementation activities, including inspections, sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Scott County Regional Sewer District; and which of these activities will be conducted jointly by the contributing municipality and the Scott County Regional Sewer District.
  - D. A requirement for the contributing municipality to provide the Scott County Regional Sewer District with access to all information that the contributing municipality obtains as part of its pretreatment activities.
  - E. Limits on the nature, quality, and volume of the contributing municipality’s wastewater at the point where it discharges to a POTW;
  - F. Requirements for monitoring the contributing municipality’s discharge;
  - G. A provision ensuring the Scott County Regional Sewer District access to the facilities of users located within the contributing municipality’s jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Scott County Regional Sewer District; and

- H. A provision specifying remedies available for breach of the terms of the inter-municipal agreement.

## **SECTIONAL 6 – REPORTING REQUIREMENTS**

### 6.1 Compliance Schedule Progress Reports

The following conditions shall apply to a compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in this Section.

- (1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
- (2) No increment referred to above shall exceed nine (9) months;
- (3) The user shall submit a progress report to the SCRSD no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
- (4) In no event shall more than nine (9) months elapse between such progress reports to the SCRSD.

### 6.2 Reports on Compliance with Categorical Pretreatment Standard Deadline

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into a POTW, any user subject to such pretreatment standards and requirements shall submit to the SCRSD a report containing the information described above. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified by an authorized representative.

### 6.3 Periodic Compliance Reports

- (1) All significant industrial users shall, at a frequency determined by the SCRSD but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. All compliance reports must be signed and certified by an authorized representative.
- (2) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- (3) If a user subject to the reporting requirement in this section monitors any pollutant more frequently than required by the SCRSD, using the procedures prescribed in this ordinance, the results of this monitoring shall be included in the report.

### 6.4 Reports of Changed Conditions

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

- (1) The SCRSD may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application to both the Scott County Regional Sewer District and IDEM.
- (2) For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants.

### 6.5 Reports of Potential Problems

- (1) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for a POTW, the user shall immediately telephone and notify the SCRSD of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- (2) Within five (5) days following such discharge, the user shall, unless waived by the SCRSD, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to a POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this ordinance.

- (3) A notice shall be permanently posted on the user's bulletin Scott County Regional Sewer District or other prominent place advising employees who to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.

#### 6.6 Reports from Unpermitted Users

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

#### 6.7 Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a user indicates a violation, the user must notify the SCRSD within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the SCRSD within thirty (30) days after becoming aware of the violation. The user is not required to resample if the SCRSD monitors at the user's facility at least once a month, or if the SCRSD samples between the user's initial sampling and when the user receives the results of this sampling.

#### 6.8 Analytical Requirements

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

#### 6.9 Sample Collection

- (1) Except as indicated in Section B, below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the SCRSD may authorize the use of time proportional sampling or a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
- (2) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.

#### 6.10 Timing

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

## 6.11 Record Keeping

Users subject to the reporting requirements of this ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the Scott County Regional Sewer District, or where the user has been specifically notified of a longer retention period by the SCRSD.

## **SECTION 7 – COMPLIANCE MONITORING**

### 7.1 Right of Entry: Inspection and Sampling

The SCRSD or authorized representative shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow the SCRSD ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- (1) Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the SCRSD will be permitted to enter without delay for the purposes of performing specific responsibilities.
- (2) The SCRSD shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
- (3) The SCRSD may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually to ensure their accuracy.
- (4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the SCRSD and shall not be replaced. The costs of clearing such access shall be borne by the user.
- (5) Unreasonable delays in allowing the SCRSD access to the user's premises shall be a violation of this ordinance.

## 7.2 Search Warrants

If the SCRSD has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Scott County Regional Sewer District designed to verify compliance with this ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the SCRSD may seek issuance of a search warrant from the Court of the appropriate jurisdiction.

### **SECTION 8 – CONFIDENTIAL INFORMATION**

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

### **SECTION 9 – PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE**

The SCRSD may publish annually, in the largest daily newspaper published in the municipality where a POTW is located, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six (6) month period exceed the daily maximum limit or average limit for the same pollutant parameter by any amount;
- (2) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- (3) Any other discharge violation that the SCRSD believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;

- (4) Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the SCRSD's exercise of its emergency authority to halt or prevent such a discharge;
- (5) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance; or
- (8) Any other violation(s) which the SCRSD determines will adversely affect the operation or implementation of the local pretreatment program.

## **SECTION 10 – ADMINISTRATIVE ENFORCEMENT REMEDIES**

### 10.1 Notification of Violation

When the SCRSD finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the SCRSD may serve upon that user a written Notice of Violation. Within thirty (30) days of the receipt of this notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the SCRSD. Submissions of this plan in no way relieve the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this section shall limit the authority of the SCRSD to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

### 10.2 Consent Orders

The Scott County Regional Sewer District may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to this ordinance and shall be judicially enforceable.

### 10.3 Show Cause Hearing

The Scott County Regional Sewer District may order a user which has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Scott County Regional Sewer District and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed

enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least thirty (30) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

#### 10.4 Compliance Orders

When the Scott County Regional Sewer District finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Scott County Regional Sewer District may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.

#### 10.5 Cease and Desist Orders

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

- (1) Immediately comply with all requirements; and
- (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

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

#### 10.6 Administrative Fines

- (1) When the Scott County Regional Sewer District finds that a user has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Scott County Regional Sewer District may fine such user in an amount not to exceed \$2,500. Such fines shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, fines shall be assessed for each day during the period of violation.

- (2) Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of ten percent (10%) of the unpaid balance, and interest shall accrue thereafter at a rate of ten percent (10%) per month. A lien against the user's property will be sought for unpaid charges, fines, and penalties.
- (3) Users desiring to dispute such fines must file a written request for the Scott County Regional Sewer District to reconsider the fine along with full payment of the fine amount within fifteen (15) days of being notified of the fine. Where a request has merit, the SCRSD may convene a hearing on the matter. In the event the user's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the user. The Scott County Regional Sewer District may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
- (4) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

### 10.7 Emergency Suspensions

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

- (1) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the SCRSD may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to a POTW, its receiving stream, or endangerment to any individuals. The SCRSD may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the SCRSD that the period of endangerment has passed, unless the termination proceedings in this ordinance are initiated against the user.
- (2) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the SCRSD prior to the date of any show cause or termination hearing under Sections 10.3 or 10.8 of this ordinance.

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

### 10.8 Termination of Discharge

In addition to the provisions in this ordinance, any user who violates the following conditions is subject to discharge termination:

- (1) Violation of wastewater discharge permit conditions;

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

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under this ordinance why the proposed action should not be taken. Exercise of this option by the Scott County Regional Sewer District shall not be a bar to, or a prerequisite for, taking any other action against the user.

## **SECTION 11 – JUDICIAL ENFORCEMENT REMEDIES**

### 11.1 Injunctive Relief

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

### 11.2 Civil Penalties

- (1) A user who has violated, or continues to violate, any provision of this ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the Scott County Regional Sewer District for a maximum civil penalty of \$2,500 per violation, per day (or the maximum amount allowed by State law). In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
- (2) The Scott County Regional Sewer District may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the SCRSD.
- (3) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained

through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

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

### 11.3 Remedies Nonexclusive

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

## **SECTION 12 – AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS**

### 12.1 Upset

- (1) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (2) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (C), below, are met.
- (3) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - A. An upset occurred and the user can identify the cause(s) of the upset;
  - B. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
  - C. The user has submitted the following information to the SCRSD within twenty-four (24) hours of becoming aware of the upset (if this information is provided orally, a written submission must be provided within five (5) days):
    - i. A description of the indirect discharge and cause of noncompliance;
    - ii. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

- iii. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- D. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- E. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- F. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

## 12.2 Prohibited Discharge Standards

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 2.1(A) of this ordinance or the specific prohibitions in Sections 2.1 (B) (3) through (18) of this ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- (1) A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or
- (2) No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the Scott County Regional Sewer District was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

## 12.3 Bypass

- (1) For the purposes of this section,
  - A. "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.
  - B. "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (2) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this section.

- (3) If a user knows in advance of the need for a bypass, it shall submit prior notice to the SCRSD, at least ten (10) days before the date of the bypass, if possible.
- (4) A user shall submit written notice to the SCRSD of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass.
- (5) Bypass is prohibited, and the SCRSD may take an enforcement action against a user for a bypass, unless
  - A. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - B. There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
  - C. The user submitted notices as required under paragraph (C) of this section.
- (6) The SCRSD may approve an anticipated bypass, after considering its adverse effects, if the SCRSD determines that it will meet the three conditions listed herein.

## **SECTION 13 – MISCELLANEOUS PROVISIONS**

### 13.1 Pretreatment Charges and Fees

The Scott County Regional Sewer District may adopt reasonable fees for reimbursement of costs of setting up and operating the Scott County Regional Sewer District's Pretreatment Program which may include:

- (1) Fees for wastewater discharge permit applications including the cost of processing such applications;
- (2) Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users;
- (3) Fees for reviewing and responding to accidental discharge procedures and construction;
- (4) Fees for filing appeals; and
- (5) Other fees as the Scott County Regional Sewer District may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered

by this ordinance and are separate from all other fees, fines, and penalties chargeable by the Scott County Regional Sewer District.

13.2 Severability

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

**SECTION 14 – EFFECTIVE DATE**

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

**Scott County Regional Sewer District Board of Trustees**

AYES

NAYS

<u>Joe Gibson</u>	Joe Gibson	_____
<u>Randy Moffett</u>	Randy Moffett	_____
<u>Jennifer Hamelman</u>	Jennifer Hamelman	_____
<u>Clara L. Adkins</u>	Clara Adkins	_____
<u>Sharon Maady Schmittler</u>	Sharon Schmittler	_____

Passed by the Scott County Regional Sewer District on the 15<sup>th</sup> day of Feb., 2012.