

Pretreatment Compliance Audit

Summary Report

Discharger: Kent County Regional Wastewater Treatment Plant
Kent County
NPDES No. DE0020338

Location: 139 Milford Neck Road, Milford, DE 19963

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Audit Dates: December 7-8, 2022

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Attachments

Attachment A Industrial User Site Visit Data Sheets

Attachment B Legal Authority Review Checklist

I. Audit Summary

Upon arrival, EPA contractors Chuck Durham, Yatasha Moore, and Spencer Gibson, and US EPA Region 3 representatives Ryan Shuart and Aron Possler (jointly referred to as Audit Team), met with the Kent County (County) contacts Jim Burk, Amanda Lockerman, and Colby Harrington (County representatives). The Audit Team discussed the purpose and format of the audit and interviewed the County representatives about the County's pretreatment program. The Audit Team also evaluated the County's procedures and legal authority.

As part of the audit, the Audit Team reviewed the following nondomestic discharger files:

- Perdue Foods, LLC (Perdue) (non-categorical significant industrial user [SIU])
- Kraft Food Groups, Inc. (Kraft) (non-categorical SIU)
- Sea Watch International, Ltd. (Sea Watch) (non-categorical SIU)
- Garrison Energy Center, LLC (Garrison Energy Center) (categorical industrial use [CIU]; subject to Title 40 of the *Code of Federal Regulations* [40 CFR] 423.17; Steam Electric Power Generating, Pretreatment Standards for New Sources [PSNS])

As part of the audit, the Audit Team also conducted site visits at Perdue and Kraft.

The last review of the County's pretreatment program was a Pretreatment Compliance Inspection performed on June 18-19, 2019.

II. WWTP Description

The County owns and operates a wastewater treatment plant (WWTP) in Kent County, Delaware that receives wastewater from Kent County, Milford, Delaware (which is partially in Sussex County), and Smyrna, Delaware (which is partially in New Castle County). The WWTP serves a population of approximately 130,000 throughout the entire service area.

The WWTP provides primary and secondary treatment using an activated sludge process. Solids are filter pressed, dried, and land applied.

III. Industrial User (IU) Characterization

IUs currently identified by the Control Authority (CA)	IU Type	
7	Discharging Significant Industrial Users (SIU)	
	5	Discharging Non-Categorical SIUs (as defined by the CA)
	2	Categorical Industrial Users (CIUs)
	Not applicable (N/A)	Middle Tier CIUs
0	Zero-Discharging CIUs	
0	Non-significant CIU (NSCIU)	
326	Other Regulated IUs (e.g. permitted IUs)	
114	Waste Haulers Describe: The County accepts hauled septage and portable toilet waste at the WWTP. See Section H.1 of this report for more information.	

IV. Findings Summary Table		
Part V Section Reference – Finding	Requirement(s)	Recommendation(s)
A.2 – The County’s agreements with contributing jurisdictions did not discuss pretreatment program implementation responsibilities.	1	
C.1. – The County failed to reissue the permit for Garrison Energy Center when the previous permit expired.	2	
C.4.a – The permits included limits that totaled more than the maximum allowable industrial loading (MAIL) in the SUO.	3	
C.4.b – The permits reviewed included an incomplete transfer provision.	4	
C.4.c – The permits reviewed did not include the sampling frequency for several parameters.		1
C.4.d – The permits reviewed did not include appropriate sampling requirements.	5	
C.4.e – The permits reviewed require reports to be emailed or faxed.	6	
C.4.f – The permits reviewed did not include a description of the monitoring location.	7	
C.4.g – The Perdue, Kraft, and Sea Watch permits contained a requirement for the County.		2
C.4.h – The permits reviewed did not include a statement of applicable civil and criminal penalties.	8	
C.4.i – The permits reviewed did not include requirements to notify the County of spills, bypasses, or upsets.	9	
C.4.j – The permits for Perdue and Sea Watch did not include a requirement to submit a slug discharge control plan.	10	
C.4.k – The permits reviewed included an incorrect timeframe for submitting resampling results after a violation.	11	
C.4.l – The permit for Garrison Energy Center contains conflicting expiration dates.	12	
D.2.a – The definition of “significant noncompliance (SNC)” does not mirror the federal regulations.		3
D.2.b - The definition for total toxic organics (TTO) may not be appropriate for all CIUs.		4
D.2.c – The SUO does not contain notification requirements for discharge of hazardous waste.	13	
D.2.d – The County SUO requires electronic submittal of compliance reports from industrial users but the POTW is not CROMERR-approved.	14	
D.2.e – Recordkeeping requirements do not include the	15	

requirement to maintain BMP documentation.		
D.2.f – The SUO does not specify that NSCIUs must submit the certification statement with annual certification of NSCIU designation.	16	
D.2.g – The SUO does not require the specific certification statement for pollutant not present waivers.	17	
D.2.h - The CFR citation for public notification procedures is incorrect.		5
D.2.i – The SUO does not specify when to claim confidential business information (CBI).	18	
D.2.j – The SUO does not discuss requirements for collecting flow-proportional composite samples.	19	
E.2 – The County did not document slug discharge control plan evaluations at each SIU.		6
F.1 – The County has not been conducting independent monitoring at Kraft.	20	
F.11 – The County has accepted electronic reports from SIUs.	21	
G.1 – The County did not take enforcement for all SIU noncompliance.	22	
G.2.a – The definition of “significant noncompliance (SNC)” does not mirror the federal definition.		7
G.2.b - The CFR citation for public notification procedures is incorrect.		8
Kraft Food Group, Inc. Site Visit Data Sheet - The facility was storing cleaning chemicals without secondary containment near a floor drain.		9
Kraft Food Group, Inc. Site Visit Data Sheet - The facility was collecting samples using time-proportional composites.		10
Kraft Food Group, Inc. Site Visit Data Sheet – The facility did not have a pH calibration log available during the site visit.		11
Perdue Farms, Inc. Site Visit Data Sheet - The Audit Team observed expired pH calibration buffers at the facility.		12

V. Evaluation
The Audit Team discussed the topics in subsections A-H regarding the County’s pretreatment program with the County representatives. The Audit Team also reviewed SIU files to assess the retention and maintenance of required program documents and to generally evaluate overall program implementation. The following sections describe program deficiencies and areas of concern identified during the audit process along with requirements, recommendations, and associated references to

40 CFR Part 403.

A. Control Authority (CA) Pretreatment Program Modification

1. When was the last program modification? Did the CA notify the EPA of program modifications? (40 CFR 403.18)

The County's Sewer Use Ordinance (SUO) was last revised in 2006 and the Enforcement Response Plan (ERP) was last revised in 2007. The County recalculated local limits and submitted the revised local limits to EPA Region 3 in 2022. EPA issued a letter of acceptance for the revised local limits on December 2, 2022.

2. Are there any contributing jurisdictions discharging wastewater to the POTW? Does the CA have an agreement in place that addresses pretreatment program responsibilities?

In addition to municipalities in Kent County, the County's WWTP receives waster from Milford (which is partially in Sussex County) and Smyrna (which is partially in New Castle County).

Finding A.2 – The County's agreements with contributing jurisdictions did not discuss pretreatment program implementation responsibilities.

According to the County representatives, Delaware state code gives the County legal authority to operate the pretreatment program in contributing jurisdictions. Additionally, the County has contract agreements with each contributing jurisdiction. However, the contract agreements provided for review do not discuss which entity is responsible for implementation of the pretreatment program. The County representatives stated that the County implements all pretreatment program responsibilities in these contributing jurisdictions.

Regulatory Requirement

The federal regulations at 40 CFR 403.8(f)(1) require that a POTW operate pursuant to its legal authority, enforceable in federal, state, and local courts, which authorizes or enables the POTW to apply and to enforce the requirements of 40 CFR 403. Such authority may be contained in statutes, ordinance, or series of contracts or joint powers agreements.

Requirement 1

The County is required to have agreements with its contributing jurisdictions that identify which entity is responsible for implementation of the pretreatment program, including activities such as updating the Industrial Waste Survey (IWS), notifying industrial users of requirements; issuance of control mechanisms, receiving and reviewing industrial user reports, conducting inspections; conducting compliance monitoring, and enforcement of the pretreatment program.

B. IU Characterization

1. Describe the CA's procedure for identifying and locating IUs that might be subject to the pretreatment program. Has the CA identified and located all applicable IUs (non-categorical SIUs, CIUs, NSCIUs, etc.)? (40 CFR 403.8(f)(2)(i))

The County representatives stated that engineering staff are notified of new facilities and new grease trap installations. The County's pretreatment staff periodically review these permit applications and any analytical results to determine if an industrial user may be subject to a categorical standard. Additionally, the County's pretreatment staff sent industrial waste survey forms to non-permitted industrial users last year. Based on the information received during the Audit, the County has identified and located all applicable industrial users.

2. Has the CA identified the character and volume of pollutants contributed to the publicly owned treatment works (POTW) by IUs subject to the pretreatment program?
(40 CFR 403.8(f)(2)(ii))

Yes, the County conducts inspections and compliance monitoring at each SIU at least annually.

3. Has the CA prepared and maintained a list of SIUs, as defined in 403.3(v)(1), along with the applicable SIU criteria? Does the list indicate whether the CA has made a determination that a SIU is a NSCIU, as defined in 403.3(v)(2), rather than a SIU? Have modifications to the list been submitted with annual reports?
(40 CFR 403.8(f)(6))

Yes, the County maintains a current list of SIUs, which it submits in the semi-annual reports to EPA Region 3.

C. Control Mechanism Evaluation

1. Has the CA issued individual or general control mechanisms to all SIUs?
(40 CFR 403.8(f)(1)(iii))

The County issues individual permits to SIUs. However, the permit for Garrison Energy Center was not reissued when the previous permit expired. The SIU did submit a permit application in the time required for permit renewal. The County had not issued any general permits at the time of the audit.

Finding C.1. – The County failed to reissue the permit for Garrison Energy Center when the previous permit expired.

Garrison Energy Center's current permit became effective on July 1, 2019. However, the County representatives stated that there was a six-month delay in reissuing the permit when the previous permit expired. Therefore, the SIU was operating and discharging without a valid permit.

Regulatory Requirement

The federal pretreatment regulations at 40 CFR 403.8(f)(1)(iii) require the County to control each SIU "through individual permits or equivalent individual control mechanisms."

Requirement 2

The County is required to ensure that all SIUs have an effective, current permit by reissuing permits immediately upon expiration, if not before.

2. Do the applications for general control mechanisms contain all of the following?
(40 CFR 403.8(f)(1)(iii)(A)(2))

- a. Contact info
- b. Production processes
- c. Types of wastes generated
- d. Location for monitoring
- e. Any request for waiver for pollutants not present per 40 CFR 403.12(e)(2)

N/A. The County does not issue general control mechanisms.

**3. Are general control mechanisms only issued for IUs where all of the following is true?
(40 CFR 403.8(f)(1)(iii)(A)(1))**

- a. Involve same/substantially similar types of operations
- b. Discharge the same type of waste
- c. Same effluent limitations
- d. Same or similar monitoring
- e. There are no CIU production-based standards, CIU mass limits, combined wastestream formula, or net/gross calculations

N/A. The County does not issue general control mechanisms.

**4. Do both individual and general control mechanisms include the following, where applicable?
(40 C.F.R. §403.8(f)(1)(iii)(B))**

- a. Statement of duration (5 years max)
- b. Statement of non-transferability
- c. Applicable effluent limits (local limits, categorical standards, best management practices (BMPs))
- d. Self-monitoring requirements
 - Identification of pollutants to be monitored
 - Sampling frequency
 - Sampling locations/discharge points
 - Appropriate sample types
 - Reporting requirements
 - Record-keeping requirements
- e. Statement of applicable civil and criminal penalties
- f. Compliance schedules
- g. Notice of slug loading or potential problems at POTW
- h. Notification of spills, bypasses, upsets, etc.
- i. Notification of significant change in discharge
- j. 24-hour notification of effluent violation
- k. Submit resampling results within 30-days
- l. Slug discharge control plan requirement, if required by POTW
- m. Certification statements
- n. Sampling/analysis requirements (Part 136 or alternative)
- o. Reporting of additional sampling
- p. 90-day compliance report

Findings regarding permit conditions are listed below.

Finding C.4.a – The permits included limits that totaled more than the maximum allowable industrial loading (MAIL) in the SUO.

Attachment 1 of the SUO contains the MAIL for 12 parameters. The permits reviewed included limits that were less than the MAIL for each of these parameters. However, the sum of the loadings issued to all SIUs was more than the MAIL in the SUO for arsenic, chromium, copper, cyanide, lead, mercury, nickel, and silver.

Regulatory Requirement

The federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(3) require permits to contain [e]ffluent limits, including Best Management Practices, based on applicable general Pretreatment Standards in [40 CFR Part 403], categorical Pretreatment Standards, and State and local law.”

The federal regulations at 40 CFR 403.5(c)(1) require the County to develop and enforce local limits. Additionally, 40 CFR 403.5(d) states that local limits are “deemed Pretreatment Standards.”

Requirement 3

The County is required to revise the SIU permits to ensure that the sum of the loadings allocated to its SIUs does not exceed the MAIL in the SUO.

Finding C.4.b – The permits reviewed included an incomplete transfer provision.

The permits reviewed indicated that if the facility has a new owner or operator, the permit is non-transferable unless certain conditions are met. However, the permits do not include a provision for the new owner or operator to receive a copy of the current permit.

Regulatory Requirement

The federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(2) require permits to include a “[s]tatement of non-transferability without, at a minimum, prior notification to the POTW and provision of a copy of the existing control mechanism to the new owner or operator.”

Requirement 4

The County is required to revise the SIU permits to ensure that non-transferability language includes a provision for the new or operator to receive a copy of the current permit.

Finding C.4.c – The permits reviewed did not include the sampling frequency for several parameters.

The permits reviewed listed the sampling frequency for total residual chlorine, 5-day carbonaceous biochemical oxygen demand (CDOB₅), total suspended solids (TSS), oil and grease, and ammonia as “Under Review.” However, the permits did not define this term.

Recommendation 1

It is recommended that the County either define “Under Review” to clarify the sampling requirement or remove these parameters from the SIU permits.

Finding C.4.d – The permits reviewed did not include appropriate sampling requirements.

The permits reviewed require 24-hr composite samples for several parameters, and the permit defines composite samples as collected using either time-proportional or flow-proportional techniques.

Regulatory Requirement

The federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(4) require permits to include “[s]elf-monitoring, sampling, reporting, notification, and record keeping requirements.”

Furthermore, the federal regulations at 40 CFR 403.12(g)(3) require grab samples for “pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the [County]. Where time-proportional composite sampling or grab sampling is authorized by the Control Authority, the samples must be representative of the Discharge and the decision to allow the alternative sampling must be documented in the Industrial User file for that facility or facilities.”

Requirement 5

The County is required to revise permits to include the correct sample type for all permit parameters.

Finding C.4.e – The permits reviewed require reports to be emailed or faxed.

The permits reviewed require SIU reports to be submitted via email or fax. As noted in Section F.11 below, the County must receive reports with original wet-ink signatures.

Regulatory Requirement

The federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(4) require permits to include “[s]elf-monitoring, sampling, reporting, notification, and record keeping requirements.”

Requirement 6

The County is required to revise the permits to require self-monitoring reports to be submitted in such a way that the County receives an original wet-ink signature.

Finding C.4.f – The permits reviewed did not include a description of the monitoring location.

The permits reviewed included a list of parameters for self-monitoring. However, the permits did not include a description of the monitoring location.

Regulatory Requirement.

The federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(4) require permits to include “[s]elf-monitoring, sampling, reporting, notification, and record keeping requirements.”

Requirement 7

The County is required to revise the permits to include a description of the location for self-monitoring. A diagram or photograph of the location may also be included, in addition to or in place of a narrative description, to clarify the location.

Finding C.4.g – The Perdue, Kraft, and Sea Watch permits contained a requirement for the County.

Part 7 of the Perdue, Kraft, and Sea Watch permits requires the County to public notice if the SIU is in significant noncompliance (SNC). Including a requirement for the County could cause the document to be misinterpreted as a contract.

Recommendation 2

It is recommended that the County revise the permits to remove any requirements for the County.

Finding C.4.h – The permits reviewed did not include a statement of applicable civil and criminal penalties.

Regulatory Requirement.

The federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(5) require permits to include a “[s]tatement of applicable civil and criminal penalties for violation of Pretreatment Standards and requirements, and any applicable compliance schedule.”

Requirement 8

The County is required to revise the permits to include a statement of applicable civil and criminal penalties.

Finding C.4.i – The permits reviewed did not include requirements to notify the County of spills, bypasses, or upsets.

Regulatory Requirement.

The federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(4) require permits to include “[s]elf-monitoring, sampling, report, notification, and record keeping requirements.”

Requirement 9

The County is required to revise the permits to include requirement for the SIUs to notify the County of spills or bypasses. The County is required to revise the permit for Garrison Energy Center to include a requirement for the CIU to notify the County of upsets.

Finding C.4.j – The permits for Perdue and Sea Watch did not include a requirement to submit a slug discharge control plan.

According to the County representatives, Perdue and Sea Watch are required to have a slug discharge control plan. However, the permits for these two SIUs did not include a requirement to submit and implement a plan.

Regulatory Requirement.

The federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(6) require permits to include “[R]equirements to control Slug Discharges, if determined by the POTW to be necessary.”

Requirement 10

The County is required to revise the Perdue and Sea Watch permits to include a requirement to submit and implement a slug discharge control plan.

Finding C.4.k – The permits reviewed included an incorrect timeframe for submitting resampling results after a violation.

If a violation is detected during self-monitoring, the permits reviewed require the SIU to resample for that parameter. However, the permits incorrectly require the submittal of the results within 45 days of becoming aware of the violation.

Regulatory Requirement.

The federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(4) require permits to include “[s]elf-monitoring, sampling, reporting, notification, and record keeping requirements.”

The federal regulations at 40 CFR 403.12.(g)(2) require an industrial user to notify the County within 24 hours of becoming aware of a violation that occurs during self-monitoring. Additionally, the industrial user “shall also repeat the sampling and analysis and submit the results of the repeat analysis to the [County] within 30 days after becoming aware of the violation.”

Requirement 11

The County is required to revise the permits to require the submittal of repeat sampling results after a self-monitoring violation within a time period that is at least as stringent as the federal regulations.

Finding C.4.l – The permit for Garrison Energy Center contains conflicting expiration dates.

The top of the cover page of the permit for Garrison Energy Center states that the permit is effective July 1, 2019 and expires June 30, 2024. However, the cover page also states, “This permit will expire at midnight on September 30, 2024.”

Regulatory Requirement.

The federal regulations at 40 CFR 403.8(f)(1)(iii)(B)(1) require permits to include a “[s]tatement of duration (in no case more than five years).”

Requirement 12

The County is required to revise the Garrison Energy Center permit to include a consistent expiration date.

D. Legal Authority

1. Has the CA amended its pretreatment program to include the streamlining provisions?

The County’s SUO includes the required streamlining provisions and some of the optional streamlining provisions.

2. Does the SUO provide the control authority adequate legal authority, consistent with 40 CFR 403.8(f)(1)?

As a component of this PCA, the Audit Team compared the SUO with the provisions of 40 CFR Part 403 (see Attachment B, Legal Authority Review Checklist). The following deficiencies and inconsistencies were observed within the SUO.

Finding D.2.a – The definition of “significant noncompliance (SNC)” does not mirror the federal regulations.

The definition of “SNC” in section 180-5 of the SUO is truncated and does not contain all detail in 40 CFR 403.8(f)(2)(viii)(A)-(C). The SUO is lacking the detail about what constitutes chronic, technical review criteria and other pretreatment standard violations. [This is also true for the definition of SNC in the ERP. See section G of this report.]

Recommendation 3

It is recommended that the County revise the definition of “SNC” in its SUO to reflect the federal definition or incorporate the SNC definition by at least referencing 40 CFR 403.8(f)(2)(viii)(A)-(C).

Finding D.2.b - The definition for total toxic organics (TTO) may not be appropriate for all CIUs.

Total Toxic organics (TTOs) are defined and listed. However, the list in the TTO definition may not be appropriate for all CIUs.

Recommendation 4

It is recommended that the County review the list of TTO to determine if the list of parameters is appropriate. Additionally, the County may choose to modify the SUO to state that the TTO list applies unless a CIU is subject a TTO limit in a categorical standard.

Finding D.2.c – The SUO does not contain notification requirements for discharge of hazardous waste.

Regulatory Requirement

The federal regulations at 40 CFR 403.12(p) require industrial users to notify the POTW of hazardous waste discharges.

Requirement 13

The County is required to revise its SUO to include the hazardous waste notification requirements at 40 CFR 403.12(p).

Finding D.2.d – The County requires electronic submittal of compliance reports from industrial users but the POTW is not CROMERR-approved.

Section 180-12 H(2) of the SUO allows industrial users to submit periodic reports via the County website. Additionally, Section 180-12 H(2) of the SUO requires an annual certification statement from an authorized representative who submits the compliance data to the website. However, the SUO does not specify whether the annual certification must be wet ink/hard copy to the County or if electronic submittal is allowed.

Regulatory Requirement

The federal regulations at 40 CFR Part 3 contain the Cross-Media Electronic Reporting Rule (CROMERR) which provides the legal framework for electronic reporting under all of EPA’s environmental regulations. The rule removes regulatory obstacles to e-reporting under Title 40 of the Code of Federal Regulations (CFR). States and local governments must apply for, and receive approval from EPA, before accepting electronic data and signatures. Pretreatment programs without CROMERR approval must receive reports in hard copy with original wet-ink signatures.

Requirement 14

The County is required to revise its SUO to require submittal of reports in paper format with original wet-ink signature until such time that the County has CROMERR approval.

Finding D.2.e – Recordkeeping requirements do not include the requirement to maintain BMP documentation.

The SUO contains the requirement that industrial users must retain records for a minimum of three years (section 180-12 H(2)(e)). However, the SUO does not mention that best management practices documentation must also be retained.

Regulatory Requirement

The federal regulations at 40 CFR 403.12(o)(2) require that “Any Industrial User or POTW subject to the reporting requirements established in this section (including documentation associated with Best Management Practices) shall be required to retain for a minimum of 3 years any records of monitoring activities and results...”

Requirement 15

The County is required to revise the SUO to include record retention requirements (at least three years) for best management practices documentation.

Finding D.2.f – The SUO does not specify that NSCIUs must submit the certification statement with annual certification of NSCIU designation.

The County’s SUO allows classification of nonsignificant categorical industrial users. Section 180-12 B (2)(g) of the SUO requires NSCIUs to submit annual certifications. The SUO does not contain the requirement that NSCIUs submit the required certification statement.

Regulatory Requirement

The federal regulations at 40 CFR 403.3(v)(2)(ii) require that NSCIUs submit the following annual certification statement at 40 CFR 403.12(q):

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

(a) The facility described as _____ [facility name] met the definition of a non-significant categorical Industrial User as described in § 403.3(v)(2); (b) the facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and (c) the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period. This compliance certification is based upon the following information.”

Requirement 16

The County must revise the SUO to specify that the annual certification statement at 40 CFR 403.12(q) must be submitted as part of the annual certifications for NSCIUs.

Finding D.2.g – The SUO does not require the specific certification statement for pollutant not present waivers.

Regulatory Requirement

The federal regulations at 40 CFR 403.12(e)(2)(v) require industrial users “Upon approval of the monitoring waiver and revision of the User’s control mechanism by the Control Authority, the Industrial User must certify on each report with the statement below, that there has been no increase in the pollutant in its wastestream due to activities of the Industrial User:

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under 40 CFR 403.12(e)(1).”

Requirement 17

The County must revise the SUO to specify that the pollutants not present certification statement at 40 CFR 403.12(e)(2)(v) must be submitted with each industrial user report.

Finding D.2.h - The CFR citation for public notification procedures is incorrect.**Recommendation 5**

The SUO has an incorrect citation for the requirement to provide public notification of SNC violations. The correct citation is 40 CFR 403.8(f)(2)(viii). The SUO erroneously cites 40 CFR 403.8(f)(2)(vii).

Finding D.2.i – The SUO does not specify when to claim confidential business information (CBI).

Section 180-12 J. of the SUO discusses how the County will handle CBI. However, the SUO does not require CBI assertion to be made during application or subsequently stamped as CBI.

Regulatory Requirement

The federal regulations at 40 CFR 403.14(a) require “In accordance with 40 CFR part 2, any information submitted to EPA pursuant to these regulations may be claimed as confidential by the submitter. Any such claim must be asserted at the time of submission in the manner prescribed on the application form or instructions, or, in the case of other submissions, by stamping the words "confidential business information" on each page containing such information.”

Requirement 18

The County must revise its SUO to include the requirements for asserting CBI as required at 40 CFR 403.14(a).

Finding D.2.j – The SUO does not discuss requirements for collecting flow-proportional composite samples.**Regulatory Requirement**

The federal regulations at 403.12(g)(3) require: “For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Control Authority.” The County’s SUO

does not contain this.

Requirement 19

The County is required to revise its SUO to include flow-proportional requirements and exceptions as required at 40 CFR 403.12(g)(3).

3. Are there any contributing jurisdictions discharging wastewater to the POTW? Does the CA have an agreement in place that addresses pretreatment program responsibilities?

Yes, the County receives wastewater from parts of Sussex and New Castle Counties. As noted in A.2 above, the County has contract agreements with the contributing jurisdictions. However, these agreements do not address pretreatment program responsibilities.

**4. What is the control authority's definition of SNC?
(40 CFR 403.8(f)(2)(viii))**

As noted in Finding D.2.a above, the definition of significant violation in Section 180-5 of the SUO is not consistent with the federal definition.

E. Application of Pretreatment Standards and Requirements

**1. Does the CA apply all applicable pretreatment standards?
(40 CFR 403.8(f)(1)(ii) and 403.8(5))**

Based on the files reviewed, the County has generally applied all applicable pretreatment standards to its SIUs. However, as noted in Finding C.4.a above, the County over-allocated the MAIL in the SIU permits for eight parameters (arsenic, chromium, copper, cyanide, lead, mercury, nickel, and silver).

**2. Has the CA evaluated the need for SIUs to develop slug discharge control plans?
(40 CFR 403.8(f)(2)(vi))**

Finding E.2 – The County did not document slug discharge control plan evaluations at each SIU.

According to the County representative, all SIUs have been evaluated for the need to develop a slug discharge control plan. Perdue and Sea Watch are required to have a slug discharge control plan. However, the County did not document the evaluations for any of the SIUs in writing.

Recommendation 6

It is recommended that the County revise its inspection form to include the slug discharge control plan evaluation so that evaluations are documented.

F. Compliance Monitoring

**1. Has the CA inspected and independently sampled each SIU at least once a year? Middle tier CIUs at least once every two years? Sample once during term of CIU control mechanism if CIU sampling waived for pollutants not present?
(40 CFR 403.8(f)(2)(v), 403.12(e)(2), 403.12(e)(2))**

Based on the files reviewed and the responses from the County representatives during the interview, all SIUs are sampled and inspected at least once a year.

Finding F.1 – The County has not been conducting independent monitoring at Kraft.

During the site visit at Kraft, both County and Kraft representatives stated that the County uses Kraft’s composite sampler to conduct compliance monitoring. However, the County does not place their own lock on the sampler. By not placing the County’s lock on the sampler, the County does not have control over the sampler, and this is not considered independent monitoring.

Regulatory Requirement

The federal regulations at 40 CFR 403.8(f)(2)(v) requires the County to “[r]andomly sample and analyze the effluent from Industrial Users and conduct surveillance activities in order to identify, independent of information supplied by Industrial Users, occasional and continuing noncompliance with Pretreatment Standards. Inspect and sample the effluent from each Significant Industrial User at least once a year.”

Requirement 20

The County is required to conduct independent monitoring at each SIU.

- 2. Has the CA used proper sampling and analysis procedures (40 CFR Part 136) and inspection procedures? Were the procedures done with sufficient care to produce evidence admissible in enforcement proceedings or in judicial actions?**
(40 CFR 403.8(f)(2)(v) and (vii), 40 CFR 403.12(g)(5))

Yes, according to the information reviewed during the inspection, the County uses proper inspection procedures. As noted in Finding F.1 above, the County failed to conduct independent compliance monitoring at all SIUs.

- 3. Has the CA kept records for three years including the following?**
- a. Period compliance reports and other reports/notices**
 - b. All monitoring records including: sample date, place, method, time, personnel; analysis date, personnel, method; results**
 - c. BMP compliance documentation**
 - d. Other monitoring records**
- (40 CFR 403.12(o))

Based on the files reviewed, the County maintains records for at least three years. The County representatives stated the County has pretreatment files since the beginning of the pretreatment program.

- 4. Has the CA evaluated, at least once per year, whether NSCIUs continue to meet the criteria of an NSCIU?**
(40 CFR 403.8(f)(2)(v)(b), 403.3(v)(2))

N/A. The County was not implementing the option to classify industries as NSCIUs at the time of the audit.

5. Has the CA required, received, and analyzed reports and other notices from SIUs? a. Self-monitoring reports b. BMRs and 90-day compliance reports c. Compliance schedules reports d. Notice of slug loading or potential problems at POTW e. Notification of spills, bypasses, upsets, etc. f. Notification of significant change in discharge g. 24-hour notification of effluent violation h. Resampling results within 30-days i. Other reports/notifications required by the CA (40 CFR 403.8(f)(2)(iv)) Based on the files reviewed during the inspection, the County has been adequately requiring, receiving, and analyzing required reports, with the exception of the receipt of electronic reports, as described in Finding F.11.
6. Have SIUs monitored to demonstrate continued compliance and re-sampled after violation(s)? (40 CFR 403.12(g)(1) & (2)) Yes, based on the files reviewed, SIUs have demonstrated continued compliance and re-sampled within 30 days after violations.
7. Has the CA ensured CIUs report on all regulated pollutants at least once every 6 months? (40 CFR 403.12(e)(1) & (g)(1)) Yes, based on the file reviewed, CIUs have reported on regulated pollutants at least once every 6 months.
8. Has the CA ensured non-categorical SIUs self-monitor and report at least once every 6 months with a description of the nature, concentration, and flow of the pollutants required to be reported by the Control Authority? (40 CFR 403.12(h) & (g)(1)) Based on the files reviewed, the County has ensured that SIUs self-monitor and report at least once every 6 months in accordance with their permit monitoring requirements.
9. Has the CA required self-monitoring reports from CIUs to be signed and certified? (40 CFR 403.12(b)(6), 403.12(l)) The CIU self-monitoring reports in the file reviewed were signed and certified.
10. Has the CA received notification of hazardous waste discharges? (40 CFR 403.12(j) & (p)) Based on the files reviewed during the audit and discussion with County representatives, no hazardous

waste discharge notifications were received, nor was there an indication that such notifications should have been received.

11. Does the CA accept electronic reporting?

(40 CFR 403.8(g) and 40 CFR Part 3)

Finding F.11 – The County has accepted electronic reports from SIUs.

According to the County representatives, the County has accepted PDF files of required reports from SIUs. The County does not have Cross-Media Electronic Reporting Rule (CROMERR) approval, and therefore, cannot accept required reports electronically. The County may receive electronic copies of reports in order to meet a reporting deadline; however, the SIU must follow up with a hard copy of the report. Furthermore, the files reviewed did not contain documentation that the County took enforcement for failure of SIUs to submit self-monitoring report (See Finding G.1).

Regulatory Requirement

The federal regulations at 40 CFR 403.8(f)(2)(iv) require the County to receive and analyze self-monitoring reports and other notices submitted by industrial users in accordance with self-monitoring requirements in 40 CFR 403.12.

Only control authorities that meet the requirements at 40 CFR Part 3, the CROMERR, are allowed to accept electronic reports.

Requirement 21

The County is required to cease accepting electronic-only reporting from its industrial users. The County is required to obtain hard copy reports with wet-ink signatures from its industrial users.

G. Enforcement

1. Has the CA implemented its enforcement response plan (ERP)?

(40 CFR 403.8(f)(5))

The County's ERP was last revised in 2007 in conjunction with revisions to the SUO. Based on the findings noted above, the County did not take enforcement as outline in the ERP in all instances of SIU noncompliance.

Finding G.1 – The County did not take enforcement for all SIU noncompliance.

As noted in Finding F.11 above, the County has not received signed self-monitoring reports with original wet-ink signatures from all SIUs and failed to take any enforcement action for this failure to submit the required reports.

Additionally, the permit for Kraft requires daily monitoring for pH and flow. However, the facility's pH and flow logs noted that the facility was not monitoring on weekends that the facility was operating. The County did not take any enforcement actions for the SIU not monitoring on these dates.

Regulatory Requirement

The federal regulations at 40 CFR 403.8(f)(5) require that the POTW develop and implement an ERP. This plan shall contain detailed procedures indicating how a POTW will investigate and respond to

instances of industrial user noncompliance.

Requirement 22

The County is required to ensure that it is properly implementing its ERP in response to industrial user noncompliance.

2. Does the County’s ERP contain the minimum elements required by 40 CFR 403.8(f)(5)?

As a component of this PCA, the Audit Team compared the ERP with the provisions of 40 CFR Part 403. The following deficiencies and inconsistencies were observed with the ERP.

Finding G.2.a – The definition of “significant noncompliance (SNC)” does not mirror the federal definition.

The definition of “SNC” in the ERP is truncated and does not contain all detail in 40 CFR 403.8(f)(2)(viii)(A)-(C). Like the SUO, the ERP is lacking the detail about what constitutes chronic, technical review criteria and other pretreatment standard violations.

Recommendation 7

It is recommended that the County revise the definition of “SNC” in its SUO to reflect the federal definition or incorporate the SNC definition by at least referencing 40 CFR 403.8(f)(2)(viii)(A)-(C).

Finding G.2.b - The CFR citation for public notification procedures is incorrect.

The ERP has an incorrect citation for the requirement to provide public notification of SNC violations. The correct citation is 40 CFR 403.8(f)(2)(viii). The ERP erroneously cites 40 CFR 403.8(f)(2)(vii).

Recommendation 8

It is recommended that the County correct the citation for public notification of SNC violations to 40 CFR 403.8(f)(2)(viii).

**3. Does the CA evaluate both numeric and narrative criteria for significant non-compliance (SNC) and annually publish a list of IUs in SNC?
(40 CFR 403.8(f)(2)(viii))**

Yes, the County evaluates numeric and narrative criteria for SNC. The County did not have to publish any users in SNC in 2021. However, the County would publish users in SNC annually in the *Delaware State News*.

3a. Were any SIUs in SNC in the past year? Include name of industry, type of SNC, and current compliance status.

The County did not have any SIUs in SNC in the past year.

**4. Has the CA developed IU compliance schedules?
(40 CFR 403.8(f)(1)(iv)(A))**

According to the County representatives, the County has the authority to issue compliance schedules.

However, the County has not issued a compliance schedule since 2018.
5. Has the CA ensured CIU compliance within 3 years of standards effective date (or less than 3 years where required by standard)? (40 CFR 403.6(b)) N/A. The County did not identify any new CIUs or CIUs subject to a new categorical standard since the current pretreatment staff started in 2018.
6. Has the CA ensured CIUs submit complete baseline monitoring reports and 90-day compliance reports within the required time frames? (40 CFR 403.12(b) & (d)) The Audit Team did not review baseline monitoring reports or 90-day compliance reports as part of the audit.
H. Additional Evaluations
1. Hauled Waste The County receives hauled septage and portable toilet waste at the Smyrna pump station and the WWTP. Both of these locations are gated and locked. Additionally, the WWTP is staffed. The Harrington pump station receives hauled wastewater from Dog Fish Head Brewery. The Harrington pump station is not gated, but there is a sign-in sheet on site. The County does not routinely sample hauled waste, but did perform sampling as part of the reevaluation of the County's local limits. The County permits each truck that discharges hauled waste, and trucks are required to sign in every time they discharge. 2. Dental Mercury Program At the time of the inspection, the County had identified 46 dentists that place or remove amalgam. The County had not inspected any dental facilities at the time of the audit. According to the County representatives, the County has received the required one-time compliance report for all dental facilities that were required to submit a report.

Attachment A

Industrial User Site Visit Data Sheets

SITE VISIT DATA SHEET

INSTRUCTIONS: Record observations made during the IU site visit. Provide as much detail as possible.					
Name of industry: Kraft Food Groups, Inc.					
Address of industry: 1250 West North Street, Dover, Delaware 19904					
Date of visit: 12/8/2022		Time of visit: 8:40 AM – 11:30 AM			
Name of inspector(s): Jim Burk and Amanda Lockerman (Kent County) Ryan Shuart and Aron Possler (EPA Region 3) Chuck Durham, Yatasha Moore, and Spencer Gibson (PG Environmental)					
Provide the name(s) and title(s) of industry representative(s)					
Name		Title		Phone/Email	
Marguerite Curd		Engineering Manager		302-734-6537 / marguerite.curd@kraftheinz.com	
Roger Moore		Operational Risk Manager		Not provided.	
Randy Puckett		Plant Manager		Not provided.	
Ray Laveriar		Utilities Supervisor		Not provided.	
IU Permit Number: 1		Exp. Date: June 30, 2026		IU Classification: non-categorical SIU	
Please provide the following documentation:					
1. Nature of operation: The facility produces meals (stuffing mix), desserts (gelatins, pudding, etc.), and powdered beverages.					
2. Number of employees	~630	Number of shifts:	3	Hours of operation:	24 hours per day
3. Wastestream flow(s) discharged to the POTW: Cleaning of the production area is performed using hot water and chemicals. Wastewater is generated from this wet cleaning and discharged to the wastewater system via floor drain.					
Sanitary:	Not provided	Process:	Not provided	Combined:	Approx. 90,000 gpd in 2022
4. Describe any current or planned significant changes in process or flow: The facility is transitioning from a continuous schedule for all areas except for the bakery. The bakery will still operate 24 hours per day. All other areas of the facility will operate 5-6 days per week.					
5. Type of pretreatment system (Describe treatment processes, condition of systems, and deficiencies observed): Wastewater treatment consists of pH adjustment with 25% sodium hydroxide using an automatic feed system.					
X	Continuous flow		Batch		Combined
6. Process area description (identify raw materials and processes used): The facility receives sugar and flour in bulk by rail or truck, and the ingredients are either pneumatically or screw conveyed to bins. The facility also receives ingredients that are used in smaller quantities (flavors and colorings) in bags and sacks. For dessert products, ingredients are weighed from each bin using an automated system and added to a mixer. Smaller amounts of some ingredients are added to the mixers by hand. The products are then sent to a smaller bin that continuously feeds a filler. Pouches of the mix are filled, boxed, and palletized for shipping. For beverage products, bulk sugar is received via railcar. Ingredients are added to a mixer before being added to a filler. Pouches of the mix are filled, boxed, and palletized for shipping.					

For the stuffing, bulk flour is received from a truck and placed in a silo. Flour is mixed with other ingredients to make dough. The dough is allowed to rise, and the dough is then baked in pans before being air cooled. The bread is diced, dried, baked, and hardened. The dried bread cubes are mixed with other dehydrated ingredients received from off-site, and then packaged for shipping.

7. Chemical storage area (identify the chemicals that are maintained on-site, housekeeping, and storage): Chemicals stored on site include cleaning chemicals (e.g., mild caustics, sanitizers) and sodium hydroxide. Chemicals are stored in 55-gallon drums.

Production ingredients are stored in various sizes including silos, bags, sacs, drums, and smaller containers.

Any floor drains?	Yes.	Any spill control measures?	Yes (berms and secondary containment around chemicals)
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8. Are hazardous wastes drummed and labeled? Yes. The facility generates oil/inks, batteries, and light bulbs. Hazardous waste is stored in 55-gallon drums in a hazardous waste shed.

9. Does the IU have hazardous waste manifests? Yes. Hazardous waste is picked up by Clean Harbors.

10. Solid waste production and disposal: Not observed.

11. Description of sample location and methods: Wastewater samples are collected by control lab, EnviroCorp, using a combination of time-proportional composite and grab samples. (see Finding 2 below)

Notes:

1. Finding – The facility was storing cleaning chemicals without secondary containment near a floor drain.

The Audit team observed drums of cleaning chemicals in the washroom without secondary containment. These drums were near a floor drain that industry representatives stated goes to the wastewater treatment area.

Recommendation 9

It is recommended that the County follow-up with the industry to ensure that chemicals are stored in secondary containment to prevent potential slug discharges.

2. Finding – The facility was collecting samples using time-proportional composites.

According to the facility representatives, the facility's contract lab collects samples using a combination of grab and time-proportional composite samples.

Recommendation 10

It is recommended that the County follow-up with the facility to ensure that the facility's contract lab is collecting samples using a combination of grab and flow-proportional composite samples, as appropriate for each parameter.

3. Finding – The facility did not have a pH calibration log available during the site visit.

The facility's permit requires daily monitoring for pH. According to the facility representatives, the facility's pH meter is calibrated daily. However, the facility did not have a pH calibration log available to review at the time of the site visit.

Recommendation 11

It is recommended that the County follow-up with the industry to ensure that the facility has a pH calibration log.

SITE VISIT DATA SHEET

INSTRUCTIONS: Record observations made during the IU site visit. Provide as much detail as possible.					
Name of industry: Perdue Farms Inc.					
Address of industry: 225 North Rehoboth Boulevard, Milford, DE 19963					
Date of visit: 12/08/2022			Time of visit: 1:05 PM – 3:45 PM		
Name of inspector(s): Jim Burk & Amanda Lockerman (Kent County) Ryan Shuart & Aron Possler (EPA Region 3) Chuck Durham, Yatasha Moore, & Spencer Gibson (PG Environmental)					
Provide the name(s) and title(s) of industry representative(s)					
Name		Title		Phone/Email	
Elizabeth Charleton		Environmental Manager		302-424-2313 Elizabeth.charleton@perdue.com	
IU Permit Number: 9		Exp. Date: June 30, 2026		IU Classification: Non-categorical SIU	
Please provide the following documentation:					
1. Nature of operation: The facility is a chicken processing plant that produces whole chicken, wings, drumsticks, and tenders. This facility does not produce ground chicken or chicken quarters.					
2. Number of employees	1,500	Number of shifts:	3	Hours of operation:	24-hours/day; 6 days/week (closed on Sundays)
3. Wastestream flow(s) discharged to the POTW: Wastewater originates from the defeathering process, the inside/outside wash, chilling process, and facility sanitation processes.					
Sanitary:	Not provided.	Process:	1.4 million gallons/day (MGD)	Combined:	1.5-1.6 MGD
4. Describe any current or planned significant changes in process or flow: Facility representatives specified that daily process wastewater can vary based on the amount of product processed on a particular day.					
5. Type of pretreatment system (Describe treatment processes, condition of systems, and deficiencies observed): All process wastewater is collected into a lift basin and is pumped to a 474,000-gallon equalization (EQ) tank. Two dissolved air flotation (DAF) units take water from the EQ tank and add anionic, cationic, and coagulate solutions. Solids from the DAF units go to a 20,000-gallon storage tank then run through a centrifuge. Wastewater collected from the centrifuge re-enters the lift basin to go through the treatment process. Solids are hauled to Rio Energy Facility in Seaford, DE approximately once per day.					
X	Continuous flow		Batch		Combined
6. Process area description (identify raw materials and processes used): Birds first enter the facility in crates and are placed into a carbon dioxide chamber to be put to sleep. The birds are then hung and harvested. The harvested birds go through a de-feathering process using water and peracetic acid (PAA) and are mechanically eviscerated. Organs are separated from the whole bird and go through a separate processing line. The birds then get washed inside and outside using water and PAA. The birds are then chilled for approximately two hours and sent to a grading area. Processing is both mechanical and by hand for additional trimming. Following processing, the birds are sent to packaging and shipping.					

7. Chemical storage area (identify the chemicals that are maintained on-site, housekeeping, and storage): The facility uses a sanitization solution, polyacrylamide emulsion, PAA, and sodium hydroxide. These chemicals are stored in the chemical storage area located on-site. Due to time constraints the inspection team was not able to visit the chemical storage area.			
Any floor drains?	Yes	Any spill control measures?	Yes
8. Are hazardous wastes drummed and labeled? Not inspected			
9. Does the IU have hazardous waste manifests? Yes			
10. Solid waste production and disposal: Dewatered wastewater solids from the DAF units are hauled off-site by Miller Environmental.			
11. Description of sample location and methods: The sample point is located in a locked room in front of the facility. The County brings their own sampling equipment to this facility and locks it during sample collection.			
Notes:			
1. <u>Finding – The Audit Team observed expired pH calibration buffers at the facility.</u> The Audit Team observed that buffers used for pH calibration were expired at the time of the inspection. While the pH 7 buffer was not expired, the pH 4 and pH 10 buffers expired in August 2022. <u>Recommendation 12</u> It is recommended that the County follow-up with the industry to ensure that buffers used to calibrate the facility's pH meter are not expired.			

Attachment B

Legal Authority Review Checklist

CHECKLIST – PRETREATMENT PROGRAM LEGAL AUTHORITY REVIEWS

NAME OF POTW: Kent County, DE
 DATE OF REVIEW: November 2022

Note: Several changes to the National Pretreatment Regulations made as a result of the Streamlining Rule are more stringent than the previous Federal requirements and therefore are considered required modifications for the POTW. Therefore, to the extent that existing POTW legal authorities are inconsistent with these required changes, they must be revised. Where local authorities are already consistent with these required provisions, further changes are not necessary.

NONE = No revision necessary

REQ = Require Revision

REC = Recommend Revision

	Part 403 Citation	Model SUO Section	REVISIONS			POTW Ordinance Section	Comments / Notes
			NONE	REQ	REC		
A. Definitions [403.3 & 403.8(f)(2)]							
1. Act, Clean Water Act	403.3(b)	§ 1.4 A	√			180-5	
2. Authorized or Duly Authorized Representative of the User	403.12(l)	§ 1.4 C	√			180-5	
3. Best Management Practices or BMPs	403.3(e)	§ 1.4 E	√			180-5	
4. Categorical Pretreatment Standard or Categorical Standard		§ 1.4 F	√			180-5	
5. Indirect Discharge or Discharge	403.3(i)	§ 1.4 M	√			180-5	
6. Industrial User (or equivalent)	403.3(j)	§ 1.4 LL	√			180-5	
7. Interference	403.3(k)	§ 1.4 O	√			180-5	
8. National Pretreatment Standard, Pretreatment Standard or Standard	403.3(l)	§ 1.4 BB	√			180-5	
9. New Source	403.3(m)	§ 1.4 T	√			180-5	
10. Pass Through	403.3(p)	§ 1.4 V	√			180-5	
11. Pretreatment Requirement	403.3(t)	§ 1.4 AA	√			180-5	
12. Publicly Owned Treatment Works or POTW	403.3(q)	§ 1.4 DD	√			180-5	
13. Significant Industrial User <i>[NOTE: §1.4 GG(3) is an optional streamlining provision for Non-Significant Categorical Industrial User classification.]</i>	403.3(v)	§ 1.4 GG	√			180-5	
14. Significant Noncompliance	403.8(f)(2)(vii)	§ 9 (A-H)			√	180-5	Finding D.2.a

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	Part 403 Citation	Model SUO Section	REVISIONS			POTW Ordinance Section	Comments / Notes
			NONE	REQ	REC		
15. Slug Load or Slug Discharge	403.8(f)(2)(vi)	§ 1.4 HH	√			180-5	
16. Other definitions based on terms used in the POTW Ordinance					√		Finding D.2.b
B. National Pretreatment Standards – Prohibited Discharges							
1. General Prohibitions							
a. Interference	403.5(a)	§ 2.1A	√			180-2 B(1) 180-10 B(1)(a)	
b. Pass Through	403.5(a)	§ 2.1A	√			180-2 B(2) 180-10 B(1)(a)	
2. Specific Prohibitions [403.5(b)]							
a. Fire/Explosion Hazard (60° C or 140° F flashpoint)	403.5(b)(1)	§ 2.1B(1)	√			180-10 B (1)(b)[4]	
b. pH/Corrosion	403.5(b)(2)	§ 2.1B(2)	√			180-10 B (1)(b) [8]	
c. Solid or Viscous/Obstruction	403.5(b)(3)	§ 2.1B(3)	√			180-10 B (1)(b) [1]	
d. Flow Rate/Concentration (BOD, etc.)	403.5(b)(4)	§ 2.1B(4)	√			180-10 B (1)(b) [17]	
e. Heat; exceeds 40° C (104°F)	403.5(b)(5)	§ 2.1B(5)	√			180-10 B (1)(b) [16]	
f. Petroleum/Nonbiodegradable Cutting/Mineral Oils	403.5(b)(6)	§ 2.1B(6)	√			180-10 B (1)(b)[3]	
g. Toxic Gases/Vapor/Fumes	403.5(b)(7)	§ 2.1B(7)	√			180-10 B	

						(1)(b)[4,5, 11 &19]	
h. Trucked/Hauled Waste	403.5(b)(8)	§ 2.1B(8)	√			180-10 B (1)(b)[20]	

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	Part 403 Citation	Model SUO Section	REVISIONS			POTW Ordinance Section	Comments / Notes
			NONE	REQ	REC		
3. National Categorical Standards	403.8(f)(1)(ii)	§ 2.2	√			180-10 B(2)	
4. Local Limits Development <i>[NOTE: POTWs may develop Best Management Practices (BMPs) to implement the prohibitions listed in 40 CFR 403.5(a)(1). Such BMPs shall be considered local limits and Pretreatment Standards.]</i>	403.5(c) & (d)	§ 2.4	√				
5. Prohibition Against Dilution as Treatment	403.6(d)	§ 2.6	√			180-10 B(6) 180-12.E (13)	
6. Best Management Practices Development <i>[NOTE: Optional streamlining provision.]</i>	403.5(c)(4)	§ 2.4C	√			180-12 E(12)	
C. Control Discharges to POTW System							
1. Deny/Condition New or Increased Contributions	403.8(f)(1)(i)	§§ 4.8 & 5.2	√			180-12 C(3)	
2. Individual Control Mechanism (e.g., permit) to ensure compliance - <i>Permit Content</i>	403.8(f)(1)(iii)	§ 4.2	√			180-12 B(2)(e)[1]	
a. Statement of Duration	403.8(f)(1)(B)(1)	§§ 5.1 & 5.2A(1)	√			180-12 B(2)(e)[2]	
b. Statement of Nontransferability	403.8(f)(1)(B)(2)	§5.2A(2)	√			180-12 B(2)(e)[3] 180-12 G	
c. Effluent Limits	403.8(f)(1)(B)(3)	§ 5.2A(3)	√			180-12 B(2)(e)[4]	

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	Part 403 Citation	Model SUO Section	REVISIONS			POTW Ordinance Section	Comments / Notes
			NONE	REQ	REC		
d. Best Management Practices <i>[Note: This is a required streamlining provision for CIUs with BMP requirements as part of its Categorical Standards. But if BMPs are being applied to other CIUs or noncategorical SIUs without categorical BMP requirements, then this provision would be optional and is only required if the POTW has incorporated the use of BMPs (§ 2.4 C).]</i>	403.8(f)(1)(B)(3)	§ 5.2A(3)	√			180-12 B(2)(e)[3]	
e. Self-Monitoring Requirements	403.8(f)(1)(B)(4)	§ 5.2A(4)	√			180-12 B(2)(e)[4]	
f. Reporting & Notification Requirements	403.8(f)(1)(B)(4)	§ 5.2A(4)	√			180-12 B(2)(e)[4]	
g. Recordkeeping Requirements	403.8(f)(1)(B)(4)	§ 5.2A(4)	√			180-12 B(2)(e)[4]	
h. Process for Seeking a Waiver for Pollutants Not Present or Expected to be Present <i>[NOTE: Optional streamlining provision. Required only if the POTW has incorporated § 6.4B of the Model SUO.]</i>	403.8(f)(1)(B)(4) & 403.12(e)(2)	§ 5.2A(5)	√			180-12 C (i) 180-12 E(14)	
i. Statement of Applicable Civil and Criminal Penalties	403.8(f)(1)(B)(5)	§ 5.2A(7)	√			180-12 B(2)(e)[5]	
j. Slug Discharge Requirements (if necessary) <i>[NOTE: Required streamlining change. Where the POTW has determined that slug controls are necessary, the ordinance must provide authority for the POTW to include such requirements in IU permits.]</i>	403.8(f)(1)(B)(6)	§ 5.2A(8)	√			180-12 B(2)(e)[6]	

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REQ = Require Revision

REC = Recommend Revision

	Part 403 Citation	Model SUO Section	REVISIONS			POTW Ordinance Section	Comments / Notes
			NONE	REQ	REC		
k. Specific waived pollutant <i>[NOTE: Optional streamlining provision. Required only if the POTW has incorporated § 6.4B of the Model SUO.]</i>	403.8(f)(1)(B)(4)	§ 5.2A(9)	√				
l. Permit Application/Reapplication Requirements <i>[Note: Optional permit provision]</i>		§§ 5.3 & 5.7	√			180-12 C	
m. Permit Modification <i>[Note: Optional permit provision]</i>		§ 5.4	√			180-12 D	
n. Permit Revocation/Termination <i>[Note: Optional permit provision]</i>		§§ 5.6 & 10.8	√			180-14 B	
o. Proper Operation and Maintenance <i>[Note: Optional permit provision]</i>		§ 3.1	√				
p. Duty of Halt/Reduce <i>[Note: Optional permit provision]</i>		§ 10.7	√				
q. Requirement to submit Chain-of-Custody forms with monitoring data <i>[Note: Optional permit provision]</i>			√			180-12 H(2)(b)	
3. General Control Mechanism to ensure compliance <i>[NOTE: Optional streamlining provision. Required only if the POTW has incorporated the use of General Permits (§ 4.6 of the Model SUO).]</i> - Permit Content	403.8(f)(1)(iii)(A)	§ 4.2 & 4.6	√			180-12 b(1)	
a. Statement of Duration	403.8(f)(1)(B)(1)	§§ 5.1 & 5.2A(1)	√			180-12 B(1)(e)[1]	
b. Statement of Nontransferability	403.8(f)(1)(B)(2)	§ 5.2A(2)	√			180-12 B(1)(e)[2]	

NONE = No revision necessary

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	Part 403 Citation	Model SUO Section	REVISIONS			POTW Ordinance Section	Comments / Notes
			NONE	REQ	REC		
c. Effluent Limits	403.8(f)(1)(B)(3)	§ 5.2A(3)	√			180-12 B(1)(e)[3]	
d. Best Management Practices <i>[Note: This is a required streamlining provision for CIUs with BMP requirements as part of its Categorical Standards. But if BMPs are being applied to other CIUs or noncategorical SIUs without categorical BMP requirements, then this provision would be optional and is only required if the POTW has incorporated the use of BMPs (§ 2.4C).]</i>	403.8(f)(1)(B)(3)	§ 5.2A(3)	√			180-12 B(1)(e)[3]	
e. Self-Monitoring Requirements	403.8(f)(1)(B)(4)	§ 5.2A(4)	√			180-12 B(1)(e)[4]	
f. Reporting & Notification Requirements	403.8(f)(1)(B)(4)	§ 5.2A(4)	√			180-12 B(1)(e)[4]	
g. Recordkeeping Requirements	403.8(f)(1)(B)(4)	§ 5.2A(4)	√			180-12 B(1)(e)[4]	
h. Process for Seeking a Waiver for Pollutants Not Present or Expected to be Present <i>[Note: Required only if POTW has incorporated the use of Pollutants Not Present and § 6.4 of the Model SUO.]</i>	403.8(f)(1)(B)(4) & 403.12(e)(2)	§ 5.2A(5)	√				
i. Statement of Applicable Civil and Criminal Penalties	403.8(f)(1)(B)(5)	§ 5.2A(7)	√			180-12 B(1)(e)[5]	

NONE = No revision necessary

REQ = Require Revision

REC = Recommend Revision

	Part 403 Citation	Model SUO Section	REVISIONS			POTW Ordinance Section	Comments / Notes
			NONE	REQ	REC		
j. Slug Discharge Requirements (if necessary) <i>[NOTE: Required streamlining change. The ordinance should indicate that a user is required to develop a slug discharge control plan if determined by the POTW to be necessary.]</i>	403.8(f)(1)(B)(6)	§ 5.2A(8)	√			180-12 B(1)(e)[6]	
k. Permit Application/Reapplication Requirements <i>[Note: Optional permit provision]</i>		§§ 5.3 & 5.7	√			180-12 C	
l. Permit Modification <i>[Note: Optional permit provision]</i>		§ 5.4	√			180-12 D	
m. Permit Revocation/Termination <i>[Note: Optional permit provision]</i>		§§ 5.6 & 10.8	√			180-14 B	
n. Proper Operation and Maintenance <i>[Note: Optional permit provision]</i>		§ 3.1	√				
o. Duty of Halt/Reduce <i>[Note: Optional permit provision]</i>		§ 10.7	√				
p. Requirement to submit Chain-of-Custody forms with monitoring data <i>[Note: Optional permit provision]</i>			√			180-12 H(2)(b)	
D. Required Reports							
1. Develop compliance schedule for installation of technology	403.8(f)(1)(iv)	§§ 5.2b(2) & 10.4	√			180-12.E	

NONE = No revision necessary

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REC = Recommend Revision

	Part 403 Citation	Model SUO Section	REVISIONS			POTW Ordinance Section	Comments / Notes
			NONE	REQ	REC		
2. Reporting Requirements [403.12] <i>Types of Reports</i>							
a. Baseline monitoring report	403.12(b)	§ 6.1	√			180-10 B(2)	
(i) Identifying Information	403.12(b)(1)	§ 6.1B(1) & § 4.5A(1)a	√			“	
(ii) Other Environmental Permits Held	403.12(b)(2)	§§ 6.1B(1) & 4.5A(2)	√			“	
(iii) Description of operations	403.12(b)(3)	§§ 6.1B(1) & 4.5A(3)a	√			“	
(iv) Flow measurements	403.12(b)(4)	§§ 6.1(b)(2) & 4.5A(6)	√			“	
(v) Measurement of pollutants	403.12(b)(5)	§ 6.1B(2)	√			“	
(vi) Certification	403.12(b)(6)	§ 6.1B(3)	√			“	
(vii) Compliance schedule	403.12(b)(7)	§ 6.1B(4)	√			“	
b. Compliance schedule progress report	403.12(c)	§ 6.2	√			180-12 C(1)(j)[1]	
c. Report on compliance with categorical Pretreatment Standard deadline	403.12(d)	§ 6.3	√			180-12 H(1)	
d. Periodic reports on continued compliance							
- From categorical users	403.12(e)	§ 6.4A		√		180-12 H (2)	Finding D.2.d
- From significant non-categorical users	403.12(h)	§ 6.4A		√			Finding D.2.d
e. Notice of potential problems to be reported immediately (including slug loads)	403.12(f)	§ 6.6	√			180-12 E (10)	

NONE = No revision necessary

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	Part 403 Citation	Model SUO Section	REVISIONS			POTW Ordinance Section	Comments / Notes
			NONE	REQ	REC		
f. Notification of changes affecting potential for a slug discharge <i>[NOTE: Required streamlining revision]</i>	403.8(f)(2)(vi)	§ § 6.5 & 6.6	√			180-12 E(10)	
g. Notice of violation/sampling requirement <i>[NOTE: Required streamlining revision.]</i>	403.12(g)(2)	§ 6.8	√			180-12 H(2)(b)[2]	
h. Requirement to conduct representative sampling	403.12(g)(3)	§ 6.4E	√			180-12 H(2)(f)[2]	
i. Notification of changed discharge	403.12(j)	§ 6.5	√			180-12 E(9)	
j. Notification of discharge of hazardous waste	403.12(p)	§ 6.9		√			Finding D.2.c
Other Reporting Requirements							
k. Data accuracy certification & authorized signatory	403.6(a)(2)(ii) & 403.12(l)	§§ 6.4D & 6.14	√			180-012 C(2)	
l. Recordkeeping Requirement (3 years or longer)	403.12(o)	§ 6.13	√			180-12 H(2)(e)	
- Including documentation associated with Best Management Practices <i>[NOTE: Required streamlining provision.]</i>	403.12(o)	§ 6.13			√		Finding D.2.e
m. Submission of all monitoring data <i>[NOTE: Required streamlining revision]</i>	403.12(g)(6)	§ 6.4F	√			180-12 H(2)(b)[1] 180-12 H 2(f)[2]	
n. Annual certification by Non-significant categorical Industrial Users <i>[Note: Optional provision, required only if the POTW has incorporated §1.4GG(3) of the Model SUO.]</i>	403.3(v)(2)	§§ 4.7C & 6.14B		√		180-12 B (2)(g)	Finding D.2.f

NONE = No revision necessary

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REC = Recommend Revision

	Part 403 Citation	Model SUO Section	REVISIONS			POTW Ordinance Section	Comments / Notes
			NONE	REQ	REC		
o. Certification of pollutant not present <i>[NOTE: Optional provision, required only if the POTW has incorporated § 6.4 B of the Model SUO]</i>	403.12(e)(2)(v)	§ 6.14C		√			Finding D.2.g
E. Test Procedures [40 CFR Part 136 & 403.12(g)]							
1. Analytical procedures (40 CFR Part 136) <i>[NOTE: Required streamlining provisions]</i>	403.12(g)	§ 6.10	√			180-12 H(2)(d)[1]	
2. Sample collection procedures <i>[NOTE: Required streamlining provisions]</i>	403.12(g)(3) & (4)	§ 6.11		√		180-12 H(2)(f) 180-12 O	Finding D.2.j
F. Inspection and Monitoring Procedures [403.8(f)]							
1. Right to enter all parts of the facility at reasonable times	403.8(f)(1)(v)	§ 7.1	√			180-12 M(1)	
2. Right to inspect generally for compliance	403.8(f)(1)(v)	§ 7.1	√			180-12 M(1)	
3. Right to take independent samples	403.8(f)(1)(v), 403.8(f)(2)(v) & 403.8(f)(2)(vii)	§ 7.1	√			180-12 M(1)	
4. Right to require installation of monitoring Equipment	403.8(f)(1)(iv)	§ 7.1	√			180-12 L 180-12 M(1)	
5. Right to inspect and copy records	403.12(o)(2)	§ 7.1	√			180-12 M(1) 180-12 H(2)(e)	
G. Remedies for Non-compliance (Enforcement) [403.8(f)(1)(vi)]							
1. Non-emergency response							
a. Injunctive relief	403.8(f)(1)(vi)	§ 11.1	√			180-14 E	
b. Civil/Criminal penalties	403.8(f)(1)(vi)	§§ 11.2 &	√			180-14 H	

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	Part 403 Citation	Model SUO Section	REVISIONS			POTW Ordinance Section	Comments / Notes
			NONE	REQ	REC		
2. Emergency response							
a. Immediately halt actual/threatened discharged	403.8(f)(1)(vi) (B)	§ 10.7	√			180-14 D3)	
3. Legal authority to enforce Enforcement Response Plan	403.8(f)(1)(vi)	§ 11.4	√			180-15	
H. Public Participation							
1. Publish list of Industrial Users in Significant Noncompliance [NOTE: Required streamlining revision]	403.8(f)(2)(viii)	§ 9	√			180-12 I(2)	
2. Access to data [403.8(f)(1)(vii) & 403.14]							
a. Government	403.14(a) & (c)	§ 8				180-12 J	Finding D.2.i
b. Public	403.14(b)	§ 8				180-12 J	
I. Optional Provisions							
1. Net/Gross adjustments [streamlining provision]	403.15	§ 2.2 D				180-12 E(15)	
2. Equivalent mass limits for concentration Limits [streamlining provision]	403.6(c)	§ 2.2 E				180-12 E(13)	
3. Equivalent concentration limits for mass limits [streamlining provision]	403.6(c)	§ 2.2 F				--	
4. Upset Notification	403.16	§ 13.1				--	
5. Waive monitoring for pollutant not present or expected to the present [streamlining provision]	403.12(e)(2)	§ 6.4B				180-12 C(1)(i) 180-12 E(14)	
6. Reduce periodic compliance reporting [streamlining provision]	403.12(e)(3)	§ 6.4C					
7. Other special agreement or waivers (excluding waiver of National Categorical Pretreatment Standards and Requirements)							

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	Part 403 Citation	Model SUO Section	REVISIONS			POTW Ordinance Section	Comments / Notes
			NONE	REQ	REC		
8. Hauled Waste Reporting/Requirements		§ 3.4				180-11	
9. Grease Interceptor Reporting/Requirements		§ 3.2 C					
10. Authority to issue Notice of Violations (NOVs)		§ 10.1					
11. Authority to issue Administrative Orders (AOs)							
12. Authority to issue Administrative Penalties		§ 10.6					
13. Authority to enforce again falsification or tempering						180-14 H(3)	
14. Any other supplemental enforcement actions as noted in the POTW's enforcement response plan							
15. Permit Appeals Procedures						--	
16. Penalty or Enforcement Appeals Procedures						--	
17. Bypass Notification	403.17	§ 13.3				--	

Document(s) submitted for review:

Kent County Chapter 180 Sanitary Standards
(2-11-2003)

Name of Reviewers

Lynn Kurth

