

**ORDINANCE NO. 09-2017-613**

**BY THE BOARD OF COMMISSIONERS OF THE TOWNSHIP OF SALISBURY, LEHIGH COUNTY, PENNSYLVANIA, AMENDING CHAPTER 18, PART 4 OF THE SALISBURY TOWNSHIP CODE OF ORDINANCES, COMMONLY KNOWN AS THE "SALISBURY TOWNSHIP INDUSTRIAL WASTE DISPOSAL AND DISCHARGE ORDINANCE"**

*\*Deletions are Strikethrough  
\*Additions-Bold-Underlined language*

**WHEREAS**, the Township of Salisbury wishes to comply with EPA required changes as mandated by the National Pretreatment Program (40 CFR 403).

**BE IT ORDAINED AND ENACTED** by the Board of Commissioners of the Township of Salisbury, Lehigh County, Pennsylvania, after public notice given according to law, that Ordinance No. 08-2010-561 entitled the "Salisbury Township Industrial Waste Disposal and Discharge Ordinance", enacted in August 2010, as set forth in the Code of Ordinances of Salisbury Township, Chapter 18, Part 4, entitled "Industrial Waste Disposal and Discharge", shall be and is hereby amended to read as follows:

**§401. Short Title.**

The short title of this Part 4 shall be the "Salisbury Township Industrial Waste Disposal and Discharge Ordinance relating to the City of Allentown POTW."

**§402. Purpose and Policy**

1. This Ordinance sets forth uniform requirements for users located within the Township of Salisbury ("Township") of the Publicly Owned Treatment Works for the City of Allentown ("City") ~~the Township of Salisbury ("Township")~~ and enables the Township and City 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 (Title 40 of the Code of Federal Regulations [CFR] Part 403). The objectives of this Ordinance are:
  - A. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation;
  - B. To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;
  - C. To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and biosolids in the course of their employment and the general public;

D. To promote reuse and recycling of industrial wastewater and biosolids from the Publicly Owned Treatment Works;

E. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Publicly Owned Treatment Works; and

F. To enable the Township and Allentown the City to comply with National Pollutant Discharge Elimination System permit conditions, biosolids use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works and Township are subject.

2. This ordinance shall apply to all users of the 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.

#### **§403. Administration**

Except as otherwise provided herein, the Director of Public Works shall administer, implement, and enforce the provisions of this Ordinance except as specifically set forth herein, any powers granted to or duties imposed upon the Director of Public Works shall be delegated by the Director of Public Works to ~~other duly authorized Township and/or POTW employees~~ to the Lehigh County Authority as Concessionaire under the Concession Agreement.

#### **§404. Abbreviations**

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

BOD - Biochemical Oxygen Demand  
BMP - Best Management Practice  
BMR - Baseline Monitoring Report  
CFR - Code of Federal Regulations  
CIU - Categorical Industrial User  
COD - Chemical Oxygen Demand  
EPA - U.S. Environmental Protection Agency  
gpd - gallons per day  
IU - Industrial User  
mg/L - milligrams per liter  
NPDES - National Pollutant Discharge Elimination System  
NSCIU - Non-Significant Categorical Industrial User  
POTW - Publicly Owned Treatment Works  
RCRA - Resource Conservation and Recovery Act  
SIU - Significant Industrial User  
SNC - Significant Noncompliance  
SIC - Standard Industrial Classification  
TSS - Total Suspended Solids

**§405. Definitions**

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

A. 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.

B. Approval Authority. The Regional Administrator of EPA, Region III.

C. Authorized or Duly Authorized Representative of the User.

(1) If the user is a Corporation:

(a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or

(b) The manager of one (1) or more manufacturing, production, or operation facilities , provided the manager is authorized to make management decisions that govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for wastewater discharge permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.

(3) If the user is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.

(4) The individuals described in subsections 1 through 3 above, may designate a Duly Authorized Representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Township and City.

D. 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 twenty (20) degrees centigrade, usually expressed as a

concentration (e.g., mg/l).

E. Best Management Practices or BMPs. Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 406(1)(A) and (B) [40 CFR 403.5(a) (1) and (b) ]. BMPs include treatment requirements, operating procedures, management plans, and practices to control the discharge of pollutants.

F. 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.

G. Categorical Industrial User. An Industrial User subject to a categorical Pretreatment Standard or categorical Standard.

H. City. The City of Allentown or the City Council of Allentown.

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

J. Control Authority. The City of Allentown

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

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

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

N. Existing Source. Any source of discharge that is not a "New Source"

O. Grab Sample. A sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed fifteen (15) minutes.

P. Industrial Waste Manager. Means the Director of Public Works or a person designated by the Director of Public Works who is charged with certain duties and responsibilities by this Ordinance.

~~P.~~ Q. Indirect Discharge or Discharge. The introduction of pollutants into the POTW from any nondomestic source.

~~Q.~~ R. Instantaneous Limit. The maximum concentration of a pollutant allowed to be discharged at any time,

determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

R. S. Interference. A discharge which, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its biosolids processes, use or disposal; and therefore, is a cause of a violation of the Township and/or City's NPDES permits or of the prevention of sewage biosolids use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued there under, or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including Title II commonly referred to as the Resource Conservation and Recovery Act (RCRA) ; any State regulations contained in any State biosolids management plan prepared pursuant to Subtitle D of the Solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.

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

T. U. 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.

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

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

W. X. New Source.

(1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under Section 307(c) of the Act which will be applicable to such source if such standards are thereafter promulgated in accordance with that Section, provided that:

(a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or

(b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.

(2) Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1) (b) or (c) above but otherwise alters, replaces, or adds to existing process or production equipment.

(3) Construction of a new source as defined under this subsection has commenced if the owner or operator has:

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

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

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

(b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this subsection.

X. Y. 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.

Y. Z. Pass Through. A discharge which exits the POTW into waters of the United States in quantities of concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Township's and/or City's NPDES permit, including an increase in the magnitude or duration of a violation.

Z. AA. Person. Any individual, partnership, copartnership, 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.

AA. BB. pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.

BB. CC. Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage biosolids, 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 (including but not limited to pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

CC. DD. 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 the 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.

**DD. EE.** Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

**EE. FF.** Pretreatment Standard or Standards. Pretreatment standards shall mean prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.

**FF. GG.** Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 406 of this Ordinance.

**GG. HH.** 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 City or any municipality which contributes wastewater to the City's system. 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.

**HH. II.** Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

**II. JJ.** Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).

**JJ. KK.** Significant Industrial User (SIU)

Except as provided in § 405(JJ) (3) and (4), a Significant Industrial User is:

(1) An Industrial User subject to categorical pretreatment standards; or

(2) An Industrial User that:

(a) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater) ;

(b) Contributes a process wastestream which makes up five (5%) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or

(c) Is designated as such by the Township and/or City on the basis that it has a reasonable potential for adversely affecting the Township's and/or POTW's operation or for violating any pretreatment standard or requirement.

(3) The City may determine that an Industrial User subject to categorical Pretreatment Standards is a

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

- (a) The Industrial User, prior to City's finding, has consistently complied with all applicable categorical Pretreatment Standards and Requirements;
- (b) The Industrial User annually submits the certification statement required in §410.13 [see 40 CFR 403.12(q) ], together with any additional information necessary to support the certification statement; and
- (c) The Industrial User never discharges any untreated concentrated wastewater.

(4) Upon a finding that a user meeting the criteria in §405(JJ) (2) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Township or the City 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.

~~KK~~. LL. Slug Load or Slug Discharge. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in § 406 of this Ordinance. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the POTW's regulations, Local Limits or Permit conditions.

~~LL~~. MM. Storm Water. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

~~MM~~. NN. North American Industry Classification System (NAICS). A classification pursuant to the *North American Industry Classification System Manual* issued by the United States Office of Management and Budget.

~~NN~~. OO. Director of Public Works. The person designated by the City to supervise the operation of the POTW, and the person designated by the Township to administer this Ordinance and who is charged with certain duties and responsibilities by this Ordinance or any other ordinance. The term also means a duly authorized representative of the Director of Public Works.

~~OO~~. PP. Total Suspended Solids or 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.

~~PP~~. QQ. Total Kjeldahl Nitrogen or TKN. The sum of free-ammonia and of organic nitrogen compounds which are converted to ammonium sulfate  $(\text{NH}_4)_2\text{SO}_4$  under conditions specified by Standard Methods 20<sup>th</sup> Edition, Method 4500 or EPA Method 351.

~~QQ~~. RR. Township – the Township of Salisbury, Lehigh County, Pennsylvania, a municipal corporation.



RR. SS. User or Industrial User. A source of indirect discharge.

SS. TT. Wastewater. Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which are contributed to the POTW.

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

#### **§406. General Sewer Use Requirements.**

##### **1. Prohibited Discharge Standards**

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

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

- (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than one hundred forty (140) degrees F (sixty (60) degrees Centigrade) using the test methods specified in 40 CFR 261.21 or Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than five percent (5%) or any single reading over ten percent (10%) of the Lower Explosive Limit of the meter;
- (2) Wastewater having a pH less than five (5.0) or more than twelve and one-half (12.5), or otherwise causing corrosive structural damage to the POTW or equipment;
- (3) Solid or viscous substances in amounts which, alone or in combination with other substances, will cause obstruction of the flow in the POTW resulting in interference;
- (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;
- (5) Wastewater having a temperature that 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 one hundred four (104) degrees Fahrenheit (forty (40) degrees Centigrade) ;
- (6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through;

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

(8) Trucked or hauled pollutants, except at discharge points designated by the Director of Public Works in accordance with §407(4) of this Ordinance;

(9) 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;

(10) 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;

(11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations;

(12) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, significant quantities of condensate, deionized water, noncontact cooling water, and unpolluted water, unless specifically authorized by the Director of Public Works.

(13) Biosolids, screenings, or other residues from the pretreatment of industrial wastes;

(14) Medical wastes, except as specifically authorized by the Director of Public Works in a wastewater discharge permit;

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

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

(17) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 200 mg/l.

(18) Any substance which is a hazardous waste

(19) Under 40 CFR Part 261

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

## **2. National Categorical Pretreatment Standards**

Users must comply with the categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 Industrial Waste Disposal and Discharge Ordinance relating to the City of Allentown POTW

which are hereby incorporated.

A. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Director of Public Works may impose equivalent concentration or mass limits in accordance with §406(2)(D) and §406(2)(E).

B. When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Director of Public Works may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users.

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

D. When a categorical Pretreatment Standard is expressed only in terms of pollutant concentrations, an Industrial User may request that the City of Allentown convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the Director of Public Works. The City may establish equivalent mass limits only if the Industrial User meets all the conditions set forth in §406.(2)(D)(1)(a) through §406(2)(D)(1)(e) below.

- (1) To be eligible for equivalent mass limits, the Industrial User must:
  - a. Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its wastewater discharge permit;
  - b. Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical Pretreatment Standard, and not have used dilution as a substitute for treatment;
  - c. Provide sufficient information to establish the facility's actual average daily flow rate for all wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;
  - d. Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the Discharge; and
  - e. Have consistently complied with all applicable categorical Pretreatment Standards during the period prior to the Industrial User's request for equivalent mass limits.
- (2) An Industrial User subject to equivalent mass limits must:
  - a. Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;
  - b. Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;
  - c. Continue to record the facility's production rates and notify the Director of Public Works whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in §406(2)(D)(1)(c) of this Ordinance. Upon notification of a revised production rate, the Director of Public Works will reassess the equivalent mass limit and revise the limit as necessary to

reflect changed conditions at the facility; and

- d. Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to §406(2)(D)(1)(a) of this Ordinance so long as it discharges under an equivalent mass limit.

(3) When developing equivalent mass limits, the Director of Public Works:

- a. Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the Industrial User by the concentration-based Daily Maximum and Monthly Average Standard for the applicable categorical Pretreatment Standard and the appropriate unit conversion factor;
- b. Upon notification of a revised production rate, will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and
- c. May retain the same equivalent mass limit in subsequent wastewater discharger permit terms if the Industrial User's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to §406(6). The Industrial User must also be in compliance with §417(3) regarding the prohibition of bypass.]

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

[Note: When converting such limits to concentration limits, the Director of Public Works will use the concentrations listed in the applicable subparts of 40 CFR Parts 414, 419, and 455 and document that dilution is not being substituted for treatment as prohibited by Section §406(6) of this ordinance (see 40 CFR 403.6(d)). In addition, the Director of Public Works will document how the equivalent limits were derived for any changes from concentration to mass limits, or vice versa, and make this information publicly available (see 40 CFR 403.6(c)(7)).]

F. Once included in its permit, the Industrial User must comply with the equivalent limitations developed in §406(2) in lieu of the promulgated categorical Standards from which the equivalent limitations were derived. [Note: See 40 CFR 403.6(c)(7)]

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

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

403.6(c)(9)]

### **3 State Pretreatment Standards**

Reserved

### **4 Local Limits**

A. The Director of Public Works is authorized to establish Local Limits pursuant to 40 CFR 403.5(c).

B. Limits for discharging pollutants which are of concern to the Township and/or POTW will be made using headworks loading

analyses which has been reviewed and approved by the Approval Authority. Allocations for discharging such pollutants will be made to each significant industrial user. Limits may be in the form of monthly average concentration, daily maximum concentration, or instantaneous maximum concentration. Limits will be contained in the wastewater discharge permits issued and will be applied at the point where the wastewater is discharged to the POTW unless otherwise specified in the permit issued. All concentrations for metallic substances are for "total" metal unless indicated otherwise. The Director of Public Works may impose mass limitations in addition to, or in place of, the concentration-based limitations above.

C. The Director of Public Works may develop Best Management Practices (BMPs), by ordinance or in wastewater discharge permits, to implement Local Limits and the requirements of §406.(1)

### **5. Township's and City's Right of Revision**

The Township and City reserve the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW consistent with the purpose of this Ordinance.

### **6. Dilution**

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Director of Public Works may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate.

## **§407. Pretreatment of Wastewater**

### **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 §406(1) of this Ordinance within the time limitations specified by EPA, the State, or the Director of Public Works, 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 procedure shall be submitted to the Director of Public Works for review, and shall be acceptable to the Director of Public Works before such facilities are constructed. Review and acceptance of plans are not an endorsement of the effectiveness of any facilities set forth therein and the Township and the City shall not be held liable in any way for the performance of said facilities. 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 Township and the City under the provisions of this Ordinance.

## 2. Additional Pretreatment Measures

A. Whenever deemed necessary, the Director of Public Works may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the Township and/or POTW and determine the user's compliance with the requirements of this Part Ordinance.

B. The Director of Public Works may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.

C. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Director of Public Works, 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 Director of Public Works 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.

D. Users with the potential to discharge flammable substances may be required by the Director of Public Works to install and maintain an approved combustible gas detection meter.

## 3. Accidental Discharge/Slug Control Plans

The Director of Public Works shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan or other action to control slug discharge. The Director of Public Works may require any user to develop, submit for approval, and implement such a plan, or take such other action that may be necessary to control slug discharges. Alternatively, the Director of Public Works may develop such a plan for any user. An accidental discharge/slug control plan shall address, at a minimum, the following:

- A. Description of discharge practices, including non-routine batch discharges;
- B. Description of stored chemicals;

C. Procedures for immediately notifying the Director of Public Works of any accidental or slug discharge, as required by §410(6) of this Ordinance; and

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

#### 4. Hauled Wastewater

A. Any hauler, operator, person or persons cleaning cesspools, septic tanks, privies or any other container governed by this Section shall obtain a license from the City before cleaning such containers and hauling the material to the designated place of disposal within the City. **Such license cannot be transferred from one operator, owner, person or persons, to another without prior approval by the City.**

B. The sewage and wastes discharged into the POTW shall not contain industrial waste, chemicals or other matter, with or without pretreatment that does not conform to the requirements of §406(1) or any other requirements established by the City. The Director of Public Works may require the hauler to provide a waste analysis of any load prior to discharge. The Director of Public Works may require a hauler to obtain an industrial waste discharge permit.

C. Any waste to be discharged from tank trucks shall be disposed at the location designated by the Director of Public Works at the POTW at the time or times fixed by the Director of Public Works.

D. Haulers must provide a waste-tracking form, or forms, for every load. For each privy, cesspool, septic tank or container cleaned by a hauler, operator or any person, a cleaning permit shall first be obtained from the City by the person or persons intending to clean such a receptacle. This form is to be issued by the City before the beginning of said cleaning work.

The form shall contain the following:

- (1) Name and address of the property owner at the source of the waste;
- (2) Date of issue;
- (3) Name of hauler, operator or person contracted to clean this structure, etc.
- (4) Type of container, septic tank, privy, cesspool or any other, and volume;
- (5) Serial number of permit;
- (6) Signature of person completing the form.

E. Any tank truck or any equipment used or intended to be used for the removal, transportation and disposal of sewage and industrial wastes shall conform to the following requirements:

- (1) The container shall be watertight;
- (2) Tanks, containers or other equipment shall be so constructed that every portion of the interior and exterior can be easily cleaned and shall be kept in a clean and sanitary condition;

- (3) Piping, valves and permanent or flexible connections shall be accessible and easily disconnected for cleaning purposes.
- (4) The inlet opening, or opening to every container, shall be so constructed that the material will not spill outside during filling, transfer or transport.
- (5) The outlet connections shall be so constructed that no material will leak out, run out to other than the point of discharge and shall be of a design and type suitable for the material handled and capable of controlling the flow or discharge without spillage, undue spray or flooding immediate surroundings while in use.
- (6) No connection shall be made at any time between a tap or outlet furnishing potable water on any premises and any container or equipment holding material by any means other than an open connection.

F. The license fee for renewal of a current septage hauler's permit as required herein is to be established in accordance with the requirements of the Charter. No permits are to be issued to any new applicants. All permits to be issued will be to an individual, corporation or firm on file for the year preceding the permit renewal date. A new applicant may obtain a license by purchase of the business of a licensed hauler whose license is current and valid. The new license will be limited to that annual volume of waste previously disposed of at the plant under the license purchased. This assumption of the business by a new owner limits the area of collection to those townships, boroughs, villages, towns and other governmental boundaries which are serviced by the integrated sewer system served by the City of Allentown. The term of the license shall be from June 1 to May 31 of the succeeding year.

G. The fee for disposal into the City Sewage Treatment Plant, at the location designated, shall be established in accordance with the requirements of the Charter and shall be based on a rate per one thousand (1,000) gallons, or a portion thereof.

H. An application form shall be filled out by the hauler, operator, owner, person or persons, prior to the conducting of such a business within the City as governed in this Section. The application form shall contain the following information:

- (1) Name and address of owner, operator, hauler, person or persons.
- (2) Date of the license issued.
- (3) The fee for the license as required herein to be established in accordance with the requirements of the Ordinance.
- (4) Term of the license: From June 1 to May 31 of the succeeding year.
- (5) The size and make of truck, containers, etc., stated in gallons.
- (6) Place of storage, garage or parking of trucks, containers, etc., when not in use.
- (7) License cannot be transferred from one (1) operator, owner, person or persons, to another without approval by the City.
- (8) A statement to the effect that such trucks, containers, equipment, etc., will be available for inspection by the person designated to make inspection from the City at such time and place agreeable to both hauler and inspector.
- (9) Refusal of agreement to these conditions of inspection at a reasonable time can be cause for forfeiture of the license.
- (10) A higher fee per load, container or portion thereof can be charged, if the need for processing, extra analyses, etc., shall be necessary.
- (11) If a tank or container contains more than one thousand (1,000) gallons, an additional fee shall be charged



for each one thousand (1,000) gallons additional, or portion thereof. The additional fee, as required herein, is to be established in accordance with the requirements of the Ordinance.

- (12) It shall be understood by all applicants for a permit or those having a license that the septage haulers' permits are an extended courtesy by the City and upon sixty (60) days notification by the City can be terminated if there is reasonable cause for such type action or there is a necessity to reduce the volume of materials to allow the City to comply with its effluent limitations for discharge to the Lehigh River or for any other functional activity at the wastewater treatment plant operations, which would require a reduction in the septage volume being processed.

I. Failure to secure a license, permit or pay dumping fees, when required, as governed in this Section or operating after suspension or revocation of a license or permit by the City shall constitute a violation of this Section. When a written notice of a violation of any of the provisions of this Section has been served upon any hauler, owner, operator, person or persons in this business, such violation shall be discontinued immediately. In such cases when the violation is of immediate danger to the health of the public, and is in danger of damage to the sewage treatment plant system, such operation must cease at once, until the condition is remedied and abated.

#### **§408. Wastewater Discharge Permits**

##### **1. Wastewater Analysis**

When requested by the Director of Public Works, a user must submit information on the nature and characteristics of its wastewater within ninety (90) days of the request. The Director of Public Works is authorized to prepare a form for this purpose and may periodically require users to update this information.

##### **2. Wastewater Discharge Permit Requirement**

A. No significant industrial user shall discharge wastewater in the Township or into the POTW without first obtaining a wastewater discharge permit from the Director of Public Works, except that a significant industrial user that has filed a timely application pursuant to §408(3)3 of this Ordinance may continue to discharge for the time period specified therein.

B. The Director of Public Works may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this Ordinance.

C. 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 §414 and §416 of 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.

##### **3. Wastewater Discharge Permitting: Existing Connection**

Any user required to obtain a wastewater discharge permit who was discharging wastewater in the Township and/or into the POTW prior to the effective date of this Ordinance and who wishes to continue such discharges in the future, shall, within ninety (90) days after said date, apply to the Director of Public Works for a wastewater discharge permit in accordance with §408(5) of this Ordinance, and shall not cause or allow discharges in the Township and/or into the Industrial Waste Disposal and Discharge Ordinance relating to the City of Allentown POTW

POTW to continue after one hundred eighty (180) days of the effective date of this Ordinance except in accordance with a wastewater discharge permit issued by the Director of Public Works.

#### **4. Wastewater Discharge Permitting: New Connections**

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the Township or into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with §408(5) of this Ordinance, must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence.

#### **5. Wastewater Discharge Application Contents**

A. All users required to obtain a wastewater discharge permit must submit a permit application. The Director of Public Works may require all users to submit as part of an application the following information:

(1) Identifying Information.

- a. The name and address of the facility, including the name of the operator and owner.
- b. Contact information, description of activities, facilities, and plant production processes on the premises;

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

(3) Description of Operations.

- a. A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such User. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.
- b. Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
- c. Number and type of employees, hours of operation, and proposed or actual hours of operation;
- d. Type and amount of raw materials processed (average and maximum per day);
- e. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

(4) Time and duration of discharges;

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

(6) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in Section 2.2C (40 CFR 403.6(e)).

(7) Measurement of pollutants

- a. The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.
- b. The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the director of Public Works, of regulated pollutants in the discharge from each regulated process.
- c. Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.
- d. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in §410(9) of this ordinance. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Director of Public Works or the applicable Standards to determine compliance with the Standard.
- e. Sampling must be performed in accordance with procedures set out in §410(10) of this Ordinance.

(8) Any other information as may be deemed necessary by the Director of Public Works to evaluate the permit application.

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

**6. Application Signatories and Certification**

A. All wastewater discharge permit applications, User reports and certification statements must be signed by an Authorized Representative of the User and contain the certification statement in §410(13)(A).

B. If the designation of an Authorized Representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the Director of Public Works prior to or together with any reports to be signed by an Authorized Representative.

C. A facility determined to be a Non-Significant Categorical Industrial user by the Director of Public Works pursuant to Section 4.4405 ~~§~~ **KK**(3) must annually submit the signed certification statement in **§410(13)B**.

**7. Individual Wastewater Discharge Decisions**

The Director of Public Works will evaluate the data furnished by the user and may require additional information. Within sixty (60) days of receipt of a complete wastewater discharge permit application, the Director of Public Works will determine whether or not to issue a wastewater discharge permit. The Director of Public Works may deny any application for a wastewater discharge permit.

**§409. Wastewater Discharge Permit Issuance**

## 1. Wastewater Discharge Permit Duration

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

## 2. Wastewater Discharge Permit Contents

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Director of Public Works to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate biosolids management and disposal, and protect against damage to the POTW.

### A. Wastewater discharge permits must contain:

- (1) A statement that indicates wastewater discharge permit issuance date, expiration date and effective date;
- (2) A statement that the wastewater discharge permit is nontransferable without prior notification to the Township and the City in accordance with §409(5) of this Ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- (3) Effluent limits, including Best Management Practices, based on applicable pretreatment standards;
- (4) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants or best management practice to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law; and
- (5) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.
- (6) Requirements to control slug discharge, if determined by the Director of Public Works to be necessary.

### B. Wastewater discharge permits may contain, but need not be limited to, the following conditions:

- (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
- (2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
- (3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine

discharges;

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

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

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

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

(8) Other conditions as deemed appropriate by the Director of Public Works to ensure compliance with this Part Ordinance, and State and Federal and local laws, rules, and regulations.

### **3. Wastewater Discharge Permit Appeals**

The Director of Public Works shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the user, may petition the Director of Public Works to reconsider the terms of a wastewater discharge permit within thirty (30) days of notice of its issuance.

- A. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
- B. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
- C. The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
- D. If the Director of Public Works fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.
- E. Aggrieved parties seeking review of the final administrative wastewater discharge permit decision may appeal to the Industrial Waste Hearing Board.

### **4. Wastewater Discharge Permit Modification**

The Director of Public Works may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- A. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements;
- B. To address significant alterations or additions to the user's operation, process, or wastewater volume or character since the time of wastewater discharge permit issuance;
- C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
- D. Information indicating that the permitted discharge poses a threat to the Township and/or the POTW, personnel, biosolids, or the receiving waters;
- E. Violation of any terms or conditions of the wastewater discharge permit;
- F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
- G. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
- H. To correct typographical or other errors in the wastewater discharge permit; or
- I. To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with §409(5) of this Ordinance.

#### **5. Wastewater Discharge Permit Transfer**

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

- A. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes;
- B. Identifies the specific date on which the transfer is to occur; and
- C. Acknowledges full responsibility for complying with the existing wastewater discharge permit.

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

#### **6. Wastewater Discharge Permit Revocation**

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

- A. Failure to notify the Director of Public Works of significant changes to the wastewater prior to the changed discharge;
- B. Failure to provide prior notification to the Director of Public Works of changed conditions pursuant to §409(5) of this Ordinance;
- C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
- D. Falsifying self-monitoring reports and certification statements;
- E. Tampering with monitoring equipment;
- F. Refusing to allow the Director of Public Works timely access to the facility premises and records;
- G. Failure to meet effluent limitations;
- H. Failure to pay fines;
- I. Failure to pay sewer charges;
- J. Failure to meet compliance schedules;
- K. Failure to complete a wastewater survey or the wastewater discharge permit application;
- L. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- M. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this Ordinance.

Individual Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

## **7. Wastewater Discharge Permit Reissuance**

A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with §408(5) of this Ordinance, a minimum of one hundred eighty (180) days prior to the expiration of the user's existing wastewater discharge permit.

## 8. Regulation of Waste Received from Other Jurisdictions

A. If another municipality, or user located within another municipality, contributes wastewater to the POTW, the City shall enter into an intermunicipal agreement with the contributing municipality.

B. Prior to entering into an agreement required by §409(8)(A), above, the Director of Public Works shall request the following information from the contributing municipality:

- (1) A description of the quality and volume of wastewater discharged to the Township and POTW by the contributing municipality;
- (2) An inventory of all users located within the contributing municipality that are discharging to the Township and POTW; and
- (3) Such other information as the Director of Public Works may deem necessary.

C. An intermunicipal agreement, as required by subsection (A.), above, shall contain the following conditions:

- (1) A requirement for the contributing municipality to adopt a sewer use Ordinance which is at least as stringent as this Ordinance and local limits, including required Baseline Monitoring Reports (BMRs) which are at least as stringent as those set out in §406(4) of this Ordinance. The requirement shall specify that such Ordinance and limits must be revised as necessary to reflect changes made to the Township's and City's Ordinances or local limits;
- (2) A requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;
- (3) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Director of Public Works; and which of these activities will be conducted jointly by the contributing municipality and the Director of Public Works;
- (4) A requirement for the contributing municipality to provide the Director of Public Works with access to all information that the contributing municipality obtains as part of its pretreatment activities;
- (5) Requirements for monitoring the contributing municipality's discharge;
- (6) A provision ensuring the Director of Public Works 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 Director of Public Works; and
- (7) A provision specifying remedies available for breach of the terms of the intermunicipal agreement.



## §410 Reporting Requirements

### 1. Baseline Monitoring Reports

A. Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a) (4), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the Township or POTW shall submit to the Director of Public Works a report which contains the information listed in §410(1)(B), below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Director of Public Works a report which contains the information listed in §410(1)(B), below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

B. Users described above shall submit the information set forth below:

(1) All information required in §408(5)(A)(1)(a), §408(5)(A) (2), §408(5)(A)(3)(a), and §408(5)(A) (6).

(2) Measurement of pollutants.

- a. The User shall provide the information required in §408(5)(A)(7)(a) through (d).
- b. The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph.
- c. Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) to evaluate compliance with the Pretreatment Standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e) this adjusted limit along with supporting data shall be submitted to the Control Authority;
- d. Sampling and analysis shall be performed in accordance with §410(10);
- e. The Director of Public Works may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures;
- f. The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant Discharges to the POTW.

(3) Compliance Certification. A statement, reviewed by the user's authorized representative as defined in §405(C) and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

(4) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in §410(2) of this Ordinance.

(5) Signature and Report Certification. All baseline monitoring reports must be certified in accordance with §410(13) of this Ordinance and signed by an Authorized Representative as defined in §405(C)

## **2. Compliance Schedule Progress Reports**

The following conditions shall apply to the compliance schedule required by §410(1)(B)(4) of this Ordinance.

A. 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) ;

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

C. The user shall submit a progress report to the Director of Public Works 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 scheduled; and

D. In no event shall more than nine (9) months elapse between such progress reports to the Director of Public Works.

## **3. Reports on Compliance with Categorical Pretreatment Standard Deadline**

Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the Township and POTW, any user subject to such pretreatment standards and requirements shall submit to the Director of Public Works a report containing the information described in §408(5)(A) (6) and (7) and §410(1)(B)(2) of this Ordinance. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR, this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with §408(6) of this Ordinance. All sampling will be done in conformance with §410(10).

## **4. Periodic Compliance Reports**

A. All Significant Industrial Users must, at a frequency determined by the Director of Public Works submit no less than twice per year (June and December), or on dates specified, reports indicating the nature, concentration of pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User must submit documentation required by the Director of Public Works or the Pretreatment Standard necessary to determine the compliance status of the User

B. All periodic compliance reports must be signed and certified in accordance with §410(13) of this ordinance.

C. 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.

D. If a user subject to the reporting requirement in this Section monitors any pollutant at the appropriate sampling location more frequently than required by the Director of Public Works, using the procedures prescribed in § 410(9) and §410(10) of this Ordinance, the results of this monitoring shall be included in the report.

E. 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.

F. If a User subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Director of Public Works, using the procedures prescribed in §410(10) of this Ordinance, the results of this monitoring shall be included in the report.

## **5. Reports of Changed Conditions**

Each user must notify the Director of Public Works 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 ninety (90) days before the change.

A. The Director of Public Works may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under §409 of this Ordinance.

B. The Director of Public Works may issue a wastewater discharge permit under §409(7) of this Ordinance or modify an existing wastewater discharge permit under §409(4) of this Ordinance in response to changed conditions or anticipated changed conditions.

For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty (20%) percent or greater, loading increases of 20% or more for pollutants, and the discharge of any previously unreported pollutants.

## 6. Reports of Potential Problems

A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the Township and/or POTW, the user shall immediately telephone and notify the Director of Public Works 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.

B. Within five (5) days following such discharge, the user shall, unless waived by the Director of Public Works, 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 the Township and/or 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.

C. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in §410(6)(A), above. Employers shall ensure that all employees who may cause such a discharge to occur are advised of the emergency notification procedure.

D. Significant Industrial Users are required to notify the Director of Public Works immediately of any changes at its facility affecting the potential for a Slug Discharge.

## 7. Reports from Unpermitted Users

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Director of Public Works as the Director of Public Works may require from time to time.

## 8. Notice of Violation/Repeat Sampling and Reporting

If sampling performed by a user indicates a violation, the user must notify the Director of Public Works 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 Director of Public Works within thirty (30) days after becoming aware of the violation. Resampling by the Industrial User is not required if the City performs sampling at the User's facility at least once a month, or if the City performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the City receives the results of this sampling, or if the City has performed the sampling and analysis in lieu of the Industrial User.

## 9. Analytical Requirements

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analyses shall

be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Director of Public Works or other parties approved by EPA.

## **10. Sample Collection**

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

A. Except as indicated in §410(10)(B) and (C) below, the User must collect wastewater samples using 24-hour flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Director of Public Works. Where time-proportional composite sampling or grab sampling is authorized by the Township and/or City, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Township and/or City, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.

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

C. For sampling required in support of baseline monitoring and 90-day compliance reports required in §410(1) and §410(3) of this Ordinance [40 CFR 403.12(b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Director of Public Works may authorize a lower minimum. For the reports required by §410(4) of this Ordinance (40 CFR 403.12(e) and 403.12(h)), the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

## **11. Date of Receipt of Reports**

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

## **12. Record Keeping**

Users subject to the reporting requirements of this Part Ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Part Ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with Best Management Practices established under §406(4)(C).

Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the Township and/or the POTW City, or where the user has been specifically notified of a longer retention period by the Director of Public Works.

### 13. Certification Statements

A. Certification of Permit Applications, User Reports—The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with §408(6); Users submitting baseline monitoring reports under §410(1)(B)(5); Users submitting reports on compliance with the categorical Pretreatment Standard deadlines under §410(3); Users submitting periodic compliance reports required by §410(4). The following certification statement must be signed by an Authorized Representative as defined in §405(C):

I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.

B. Annual Certification for Non-Significant Categorical Industrial Users—A facility determined to be a Non-Significant Categorical Industrial User by the Director of Public Works pursuant to §405(~~JJKK~~)(3) and §408(6)(C) must annually submit the following certification statement signed in accordance with the signatory requirements in §405(C). This certification must accompany an alternative report required by the Director of Public Works:

*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 §405(~~JJKK~~)(3);*

*(b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and (c) the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.*

*This compliance certification is based on the following information.*

\_\_\_\_\_

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## 14. Hazardous Waste Reporting

Although discharges of hazardous wastes are specifically prohibited in §406(1)(B)(18), if any user accidentally discharges a hazardous waste the reporting requirements at 40 CFR 403.12(p) (1) shall be adhered to.

### §411. Compliance Monitoring

#### 1. Right of Entry: Inspection and Sampling

The Director of Public Works 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 Director of Public Works 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.

A. 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 Director of Public Works will be permitted to enter without delay for the purposes of performing specific responsibilities.

B. The Director of Public Works 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.

C. The Director of Public Works 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.

D. 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 Director of Public Works and shall not be replaced. The costs of clearing such access shall be borne by the user.

E. Unreasonable delays in allowing the Director of Public Works access to the user's premises shall be a violation of this Ordinance.

#### 2. Search Warrants

If the Director of Public Works 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 Township or City 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 Director of Public Works may seek issuance of a search warrant from the appropriate

issuing authority.

#### **§412. 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 Director of Public Works 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 Director of Public Works, 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.

#### **§413. Publication of Users in Significant Noncompliance**

The Director of Public Works shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term Significant Noncompliance shall be applicable to all Significant Industrial Users (or any other Industrial User that violates paragraphs (C), (D) or (H) of this Section) and shall mean:

A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six- (6-) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in §406;

B. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6) month period equals or exceeds the product of the numeric Pretreatment Standard or Requirement including Instantaneous Limits, as defined by §406 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);

C. Any other violation of a Pretreatment Standard or Requirement as defined by §406 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Director of Public Works determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of the Township and/or POTW personnel or the general public;

D. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Director of Public Works exercising his emergency authority to halt or prevent such a discharge;



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

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

G. Failure to accurately report noncompliance; or

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

#### **§414. Administrative Enforcement Remedies**

##### **1. Notification of Violation**

When the Director of Public Works 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 Director of Public Works of Township or POTW may serve upon that user a written Notice of Violation. Within twenty (20) 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 Director of Public Works. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this Section shall limit the authority of the Director of Public Works to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

##### **2. Consent Order**

The Director of Public Works 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 §414(4) and §414(5) of this Ordinance and shall be judicially enforceable.

##### **3. Show Cause Hearing**

The Director of Public Works may order a user which has violated, or continues to violate, any provision of this Part Ordinance, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Director of Public Works and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

##### **4. Compliance Orders**

When the Director of Public Works finds that a User has violated, or continues to violate, any provision of this Part

Ordinance, al wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Director of Public Works 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.

## **5. Cease and Desist Orders**

When the Director of Public Works 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, the Director of Public Works may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- A. Immediately comply with all requirements; and
- B. 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.

## **6. Administrative Fines**

A. When the Director of Public Works 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 Director of Public Works may fine such user in an amount not to exceed \$25,000 regardless of jurisdictional boundaries. Such penalties shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, penalty shall be assessed for each day during the period of violation. The penalties may be assessed whether or not the violation was willful or negligent.

B. Notice of assessment of penalty shall state the appeal process to be followed including the name, address and telephone number of the person responsible for accepting such appeal. Said notice shall also contain the date or dates of violation, the permit requirement that was violated, and the amount of penalty assessed. The notice shall state the time frame for appeal. It shall be served personally on the violator or shall be sent by certified mail to the address of the permit holder as noted on the permit.

C. The penalty shall be assessed in accordance with the Chart for Assessment, below, which sets forth the Township's City of Allentown's assessment policy considering damage to air, water, land or other natural resources, cost of restoration and abatement, savings resulting to the person for the violation, history of past violations, deterrence of future violations and other relevant factors.

D. Chart for Assessment

<u>Damage to Environment</u>	<u>Points</u>	<u>Cost of Restoration/Abatement</u>	<u>Points</u>
Extreme	5	Over 10,000	5
Severe	4	7,000	4
Moderate	3	5,000	3
Slight	2	2,500	2
None	1	0	1

<u>Savings to Violator</u>	<u>Points</u>	<u>Past Violations No. of Violations in Last 365 Days</u>	<u>Points</u>
10,000	5	5	5
7,500	4	4	4
5,000	3	3	3
2,500	2	2	2
0	1	1	1

Other Factors will be Considered

Other factors which may be considered include, but are not limited to; damage to POTW, willfulness or concealment, endangerment to the public and/or POTW personnel.

Points shall be assessed for a violation in accordance with the above chart which constitutes the Township's and the City of Allentown's assessment policy.

Points shall be totaled and the fine shall be assessed as follows:

<u>Number of Points</u>	<u>Penalty</u>
25	\$25,000
20	\$20,000
15	\$15,000
10	\$10,000
5	\$5,000

The assessment of penalties may include numbers which are not whole, such as 1.5, to allow flexibility and discretion by the Director of Public Works in arriving at a fair and appropriate penalty. The above listed fine shall be then pro-rated to reflect the less than whole number of points assessed.

Example: Total Points = 12.5

Civil Penalty = \$12,500.00

E. All fines collected shall be placed in restricted accounts and shall only be used by the Township and/or City of

Allentown, depending upon which has sustained damage to its facilities and/or environment and in what proportion, to repair damage and provide for additional maintenance and costs as a result of violations, to pay penalties imposed by any local, State or Federal Government for violation of pretreatment standards, for the costs of investigation and enforcement action, for monitoring of discharge in the pretreatment program and for capital improvement to the POTW.

F. Any party seeking to appeal the assessment of a fine shall do so by filing a notice of appeal with the Director of Public Works within thirty (30) days after receipt or service of said notice. The Appeal Board shall hear all such appeals. A transcript shall be made of said hearing at the sole expense of the appellant. Appellant shall pay the cost of appeal and the sum for estimate of stenographer bills at the time of filing said appeal. Failure to pay said sums at the time of filing shall make the appeal void. After the hearing, any additional stenographer charges shall be billed to appellant and shall be paid in full within ten (10) days of receipt or appeal shall be null and void ab initio. The Appeals Board shall either affirm the decision of the Director of Public Works or reverse or modify the same as the substantial evidence indicates in accordance with the assessment policy adopted by the Township and the City. Appeals from the decision of the Appeals Board shall be in accordance with State law.

G. Each permit holder shall keep the Township and City apprised in writing of any change in mailing address. The address on the permit shall be used to send all correspondence and notice of civil assessment to permit holders. The sending of a notice of civil assessment to a permit holder's address on permit shall conclusively be presumed to be valid service; thus, if the certified mail sent to such address is not accepted or picked up by permit holder, the date of service shall be the date that the certified mail was rejected or returned unclaimed.

H. The Township and City shall charge all costs for re-establishing the operation of the publicly owned treatment works after 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. These costs shall be paid by user within ten (10) days after notice of assessment of the same. Notice and appeal rights shall be the same as in the case of assessment of civil penalties. Any user not paying said assessment shall pay an additional penalty of five (5%) percent of the penalty per month or any part thereof.

I. Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the user.

## **7. Emergency Suspensions**

The Director of Public Works 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 Director of Public Works may also immediately suspend a User's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the Township and/or POTW, or which presents, or may present, an endangerment to the environment.

A. 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 Director of Public Works may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the Township and/or POTW, its receiving stream, or endangerment to any individuals. The Director of Public

Works may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the Director of Public Works that the period of endangerment has passed, unless the termination proceedings in §414(8) of this ordinance are initiated against the User.

B. 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 Director of Public Works prior to the date of any show cause or termination hearing under §414(3) or §414(8) of this Ordinance.

Nothing in this Section shall be interpreted as requiring a hearing prior to any Emergency Suspension under this Section.

## 8. Termination of Discharge

In addition to the provisions in §414(6) of this Ordinance, any User who violates the following conditions is subject to discharge termination:

- A. Violation of wastewater discharge permit conditions;
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge;
- C. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
- D. Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or
- E. Violation of the Pretreatment Standards in §406 of this Ordinance.

Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under §414(3) of this Ordinance why the proposed action should not be taken. Exercise of this option by the Director of Public Works shall not be a bar to, or a prerequisite for, taking any other action against the User.

## §415. Judicial Enforcement Remedies

### 1. Injunctive Relief

When the Director of Public Works for the Township or POTW 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 Director of Public Works for the Township and/or POTW may petition the Lehigh County Court of Common Pleas ~~through the Township Solicitor and/or the City Solicitor's~~ for the issuance of a restraining order, 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 Director of Public Works 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.

## **2. Civil Penalties**

A. 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 Township, the City, or both, for a maximum civil penalty to each of \$25,000.00 per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

B. The Director of Public Works may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the Township and/or City.

C. 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.

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

## **3. Criminal Prosecution**

A. A user who willfully or negligently violates any provision of this Ordinance, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a summary offense, punishable by a fine of not more than one thousand dollars (\$1,000) per violation, per day, or imprisonment for not more than ninety (90) days, or both.

B. A user who willfully or negligently introduces any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of at least one thousand dollars (\$1,000), or be subject to imprisonment for not more than ninety (90) days, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage available under State law.

C. A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this Ordinance, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Ordinance shall, upon conviction, be punished by a fine of not more than one thousand dollars (\$1,000) per violation, per day, or imprisonment for not more than ninety (90) days, or both.

D. In the event of a second conviction, a User shall be punished by a fine of not more than one thousand dollars (\$1,000) per violation, per day, or imprisonment for not more than one (1) years, or both.

## **4. Remedies Nonexclusive**

The remedies provided for in this Ordinance are not exclusive. The Director of Public Works for the Township, the POTW,

or both, 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 Township's and/or City's enforcement response plan. However, the Director of Public Works may take other action against any user when the circumstances warrant. Further, the Director of Public Works is empowered to take more than one (1) enforcement action against any noncompliant user.

## **§416. Supplemental Enforcement Action**

### **1. Performance Bonds**

The Director of Public Works may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this Ordinance, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to the Township and City, in a sum not to exceed a value determined by the Director of Public Works to be necessary to achieve consistent compliance.

### **2. Liability Insurance**

The Director of Public Works may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this Ordinance, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the Township and/or POTW caused by its discharge.

### **3. Water Supply Severance**

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

### **4. Contractor Listing**

Users which have not achieved compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the Township. Existing contracts for the sale of goods or services to the Township held by a user found to be in significant noncompliance with pretreatment standards or requirements may be terminated at the discretion of the Director of Public Works.

## **§417. Affirmative Defenses to Discharge Violations**

### **1. Upset**

A. For the purpose of this Section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

B. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (C), below, are met.

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

- (1) An upset occurred and the user can identify the cause(s) of the upset;
- (2) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
- (3) The user has submitted the following information to the Director of Public Works within twenty-four (24) hours of becoming aware of the upset [if this information is provided orally, a written submission must be provided within five (5) days] ;
  - (a) A description of the indirect discharge and cause of noncompliance;
  - (b) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and
  - (c) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

D. In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.

E. Users 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.

## **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 §406(1)(A) of this Ordinance or the specific prohibitions in §406(1)(B) (3) through (17) 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:

A. A local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during, the pass through or interference; or



B. No local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the Township and/or City was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable biosolids use or disposal requirements.

### 3. Bypass

A. For the purpose of this Section:

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

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

B. A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this section.

C. Bypass Notifications.

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

(2) A user shall submit oral notice to the Director of Public Works of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the user becomes aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact dates and times, and if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass. The Director of Public Works may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

D. Bypass

(1) Bypass is prohibited, and the Director of Public Works 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 §417(3)(C) of this Ordinance.

(2) The Director of Public Works may approve an anticipated bypass, after considering its adverse effects, if the Director of Public Works determines that it will meet the three (3) conditions listed in §417(3)(D) (1) of this section.

#### §418. Hearing Board

1. **Establishment of Hearing Board** An Industrial Hearing Board has been appointed by City for the POTW servicing the Township for the determination of any matters arising under the provisions of this Ordinance. The cost of such a hearing shall be borne by the person requesting the same.  
**A hearing board consisting of 5 members shall be established as set forth herein to resolve differences and hear appeals between the owners of any improved property on matters concerning the interpretation and execution of the provisions of this Ordinance by the Industrial Waste Manager.**
2. **Appointment of Hearing Board.** At any hearing pursuant to this Part, the testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.  
**The Council appointment which shall be made by the City's Council President and the Lehigh County Authority appointment which shall be made by the Lehigh County Authority, the remaining appointees shall be City residents and the City Council designee shall be a City resident.**
  - A. **One (1) member of the Board shall be a member of Lehigh County Authority or their designee; one (1) member shall be from City Council or their designee; one (1) member shall be a professional engineer skilled in the practice of sanitary engineering; one (1) member shall be a representative of industry or manufacturing enterprise; and one (1) member shall be a lawyer.**
    - (1) **The initial appointments to the Board shall be for the following terms:**
      - Lehigh County Authority Representative or Designee – five (5) years (Lehigh County Authority appointee)**
      - Professional Engineer (Sanitary Engineer) – four (4) years (Mayor appointee)**
      - Industrial Representative – three (3) years (Mayor appointee)**
      - Legal Representative – two (2) years (Mayor appointee)**
      - City Council Member or Designee – one (1) year (City Council appointee)**
    - (2) **All succeeding terms shall be for a period of five (5) years. Council will select their member or designee, Lehigh County Authority will select their member or designee. The Mayor, with the consent of Council, shall appoint the remaining representatives (Professional Engineer, Industrial, and Legal) to fill vacancies on the Board to complete unexpired terms. Interim appointments may be permitted to serve an additional full term on the Board.**
3. **Hearing Board Powers.** After the Hearing Board has reviewed all of the evidence presented, it may issue orders including, but not limited to, an order to a user responsible for a discharge in violation of this Part directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed or existing treatment

~~facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.~~

4. ~~A.~~ The Hearing Board shall have the following powers:

- ~~(a)~~ (1) To hear appeals from any person aggrieved by the application of this Ordinance;
- ~~(b)~~ (2) To make rules with regard to conducting its hearings, such rules to be submitted to Council for their advice and consent;
- ~~(c)~~ (3) To make such findings of fact as may be required by the application of this Article;
- ~~(d)~~ (4) To decide questions presented.

Aggrieved parties seeking judicial review of the decision of the Industrial Waste Hearing Board must file an appeal pursuant to State law.

#### §419. Miscellaneous Provisions

##### 1. Pretreatment Charges and Fees

~~The Township and City may adopt reasonable fees~~ **Pretreatment charges and fees shall be in accordance with the Concession Agreement. Such fees and charges shall include reasonable amount** for reimbursement of costs of setting up and operating the Township's and/or City's Pretreatment Program which may include:

- A. Fees for wastewater discharge permit applications including the cost of processing such applications;
- B. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports and certifications submitted by users;
- C. Fees for reviewing and responding to accidental discharge procedures and construction;
- D. Fees for filing appeals;
- E. Fees to recover administrative and legal costs associated with the enforcement activity taken ~~by the Director of Public Works~~ to address IU noncompliance; and
- F. Other fees as ~~the Township and the POTW City may deem necessary~~ to carry out the requirements contained herein. These fees relate solely to the matters covered by this Part Ordinance and are separate from all other fees, fines and penalties chargeable by the Township, and POTW City **or Lehigh County Authority as applicable.**

~~Such fees shall be established as required by the Charter.~~

## 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.

### §420. Surcharge

A. In the event that any user is discharging waste having average Biochemical Oxygen Demand, Suspended Solids, or Total Kjeldahl Nitrogen exceeding 300, 360, or 85 respectively, such waste will be subject to, payment of a surcharge by such user, or by proper and continuous pretreatment before discharge into the sewerage system. However, no such waste of unusual strength or character shall allow be permitted if in violation of federal pretreatment requirements. The surcharge shall be reviewed annually, and shall be initially determined by the following formula:

$$\text{QUARTERLY SURCHARGE} = 8.34 Q [(BOD - 300) \$0.085 + (SS - 360) \$0.076 + (TKN - 85) \$0.184]$$

Where: 8.34 is a constant used to convert waste strength expressed in mg/l of BOD and/or SS and/or TKN into pounds of BOD and/or SS and/or TKN per million gallons of waste.

Q is the quarterly waste flow from an improved property expressed in millions of gallons.

—— BOD is the biochemical oxygen demand of the waste in mg/l.

—— SS is the suspended solids of the waste in mg/l.

—— TKN is the total Kjeldahl nitrogen of the waste in mg/l.

B. To determine the strength of every waste requiring a surcharge, the Township and/or City shall sample and analyze four (4) times each year. For users discharging more than one million (1,000,000) gallons per day, sampling shall consist of seven (7) twenty four (24) hour composite samples taken every day for seven (7) consecutive days. For users discharging less than one million (1,000,000) gallons per day, the City will determine appropriate discharges according to established sampling and analyses periods. The Township and/or the City will consider any relevant factors, including flow volumes, an industry brings forth in deciding the sampling period. The average of said analysis shall be used to establish the surcharge for the quarter during which the samples are taken and quarterly or monthly billings shall be made by the Township and/or the City.

C. Whenever the Director of Public Works shall deem it necessary for the protection and safe, economical and efficient management of the POTW, a user shall provide at their expense such facilities for preliminary treatment and processing of industrial waste as may be necessary to: reduce BOD to three hundred (300) mg/l and suspended solids to three hundred sixty (360) mg/l and total Kjeldahl nitrogen to eighty-five (85) mg/L.

Reduce BOD to three hundred (300) mg/l and suspended solids to three hundred sixty (360) mg/l and total Kjeldahl nitrogen to eighty five (85) mg/l;

**Section II:** That this Ordinance shall be in full force and effect after ten (10) days following its passage and approval, as provided by law.

**Section III:** That all Ordinances inconsistent with the provisions above are hereby repealed

to the extent of their inconsistency.

**ENACTED** into an Ordinance this 14<sup>th</sup> day of September, 2017.

**TOWNSHIP OF SALISBURY**  
(Lehigh County, Pennsylvania)

By: James A. Pearson  
President, Board of Commissioners

Attest:

Cathy Bonaschkin  
Secretary

