



**PENNSYLVANIA
AMERICAN WATER**

**Susan Simms Marsh
Deputy General Counsel**

Deputy General Counsel
800 Hershey Park Drive
Hershey PA 17033
P (717) 531-3208
F (717) 531-3399
susan.marsh@amwater.com

November 2, 2015

Rosemary Chiavetta, Secretary
Pennsylvania Public Utility
Commission
Commonwealth Keystone Building
400 North Street
Harrisburg, PA 17105-3265

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**In re: Pennsylvania-American Water Company – Wastewater Division and
Lower Allen Township, et al. Assignment and Assumption of Agreement at
Docket No. U-2015-2508365**

Dear Ms. Chiavetta:

*In response to Sean Donnelly's letter dated October 27, 2015, attached for filing is
Pennsylvania-American Water Company's answers to the data requests regarding the above
referenced docket number.*

Sincerely,

Susan Simms Marsh

blg
Enclosure

cc: S. Donnelly
M. Deshpande

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

**Bureau of Technical Utility Services
Water/Wastewater Division**

Data Request 1

**Pennsylvania-American Water Company-Wastewater Division (PAWC-WD) and Lower
Allen Township et al. Assignment and Assumption of Agreement
at Docket No. U-2015-2508365**

October 27, 2015

Note: Restate the data request prior to providing a response. In addition, provide the name of the person(s) providing the response and/or information for each data response.

A-1. Please provide a copy of the agreement dated August 12, 1957, referenced in the Assignment and Assumption of Agreement, between the Lower Allen Township Authority and Fairview Township that, among other things, authorized the Lower Allen Township Authority to construct a sewage treatment plant within Fairview Township.

Response: Please see attached copy of the Assignment and Assumption Agreement dated August 12, 1957.

A-2. Please provide a copy of the Capacity Agreement, dated December 28, 1976, referenced in the Assignment and Assumption of Agreement, along with all subsequent amendments.

Response: Please see attached copy of the Capacity Agreement dated December 28, 1976 and subsequent amendments.

A-3. Please provide a copy of the Outfall Agreement, dated October 11, 1965, referenced in the Assignment and Assumption of Agreement, along with all subsequent amendments.

Response: Please see attached copy of the Outfall Agreement dated October 11, 1965 and subsequent amendments.

A-4. Please provide a copy of the Interjurisdictional Pretreatment Agreement, dated September 11, 1984, referenced in the Assignment and Assumption of Agreement, along with all subsequent amendments.

Response: Please see attached copy of Interjurisdictional Pretreatment Agreement dated September 11, 1984.

A-5. Please provide a legible copy of the Agreement's Exhibit A map that identifies the boundary of the "Lower Allen System Area".

Response: A copy of the Agreement's Exhibit A map that identifies the boundaries of the "Lower Allen System Area" will be submitted under separate cover.

A-6. Please provide a copy of Fairview Township's Industrial Pretreatment Ordinance, dated May 13, 1986, referenced in the Assignment and Assumption of Agreement, along with all subsequent revisions.

Response: Please see attached copy of Fairview Township's Industrial Pretreatment Ordinance dated May 13, 1986 and subsequent revisions.

A-7. Please list and describe the location of six existing points of connection to the Lower Allen Township Authority's wastewater system referenced in the Assignment and Assumption of Agreement.

Response: The six (6) existing points of connection to the Lower Allen Township Authority's wastewater system are as follows:

Manhole Number	Location Name	Fairview Main Size
23R	Villa Leo	8"
27R	Knight's Inn	8"
49	Middle	8"
57R	Beck's	10"
48R	Bridge	8"
88	Eggert's	12"

Attached is a map that shows the exact location of each of the six (6) connections. A color copy of the map will be sent under separate cover.

A-8. Please identify the dollar amount for each invoice listed in the Assignment and Assumption of Agreement's Exhibit B.

Response: Please see the attached dollar amount of each invoice listed in the Assignment and Assumption of Agreement's Exhibit B.

A-9. Please explain the Lower Allen Township Authority's methods and procedures for determining annual shared costs as referenced in the Assignment and Assumption of Agreement's Section 7.(f).

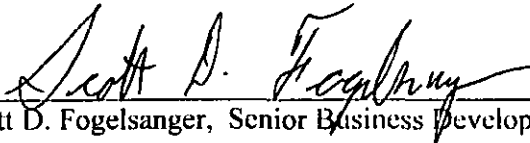
Response: Pursuant to the December 28, 1976 Agreement (Capacity Agreement), as amended on September 6, 1990 and September 4, 1997, Fairview Township pays Lower Allen Township Authority its equitable share of certain operating and maintenance and administrative costs for operating the Lower Allen Township Authority Sewage Treatment plant and jointly used interceptor and outfall lines. Please reference response A-2 specifically paragraphs 10-15 of the December 28, 1976 agreement for the detailed method and procedures for determining the shared costs.

Fairview Township also pays Lower Allen Township Authority a capital contribution for its equitable share of necessary capital improvements to the Lower Allen Township Authority Sewage Treatment plant. Please reference response A-2, specifically paragraph 16 of the December 28, 1976 agreement as amended for the detailed method and procedure for determining the shared costs. By way of summary, Fairview Township's capital contribution cost share is 6.72% and is based a ratio of Fairview Township's reserved sewer capacity to the total capacity of Lower Allen Township Authority's Sewage Treatment plant,

Pursuant to the Agreement dated October 11, 1965 (Outfall Agreement), as amended and modified on June 6, 1994 and March 13, 2000, Fairview Township pays Lower Allen Township Authority a quarterly fee (currently \$1,815) for Fairview Township's outfall connection to the Lower Allen Township Authority's outfall and the right to convey up to 726,000 gallons per day of sewer effluent flow discharge through the Lower Allen Township Authority outfall to the Susquehanna River. Please reference response to A-3, for the detailed method and procedures for determining the costs.

VERIFICATION

SCOTT D. FOGELSANGER, subject to the penalties of 18 Pa. Cons. Stat. § 4904 relating to unsworn falsification to authorities, hereby avers that he is Senior Business Development Manager, for PENNSYLVANIA-AMERICAN WATER COMPANY, that as such he is authorized to sign this Verification its behalf; and that the facts set forth in the foregoing Responses to Data Requests are true and correct to the best of his knowledge, information or belief.



Scott D. Fogelsanger, Senior Business Development
Manager

Dated: 10/30/2015

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NOV 2: 2015

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

THIS AGREEMENT, made this 10th day of August, 1987,

by and between LOWER ALLEN TOWNSHIP AUTHORITY, Cumberland County, Pennsylvania, an Authority organized and existing under the Municipality Authorities Act of 1945 of the Commonwealth of Pennsylvania (hereinafter called the "Authority"), and the TOWNSHIP OF FAIRVIEW, York County, Pennsylvania (hereinafter called the "Township").

WITNESSETH:

WHEREAS, the Authority is about to construct sanitary sewer systems and a sewage treatment plant to serve the Township of Lower Allen and the Borough of Shiremenstown, Cumberland County, Pennsylvania, in accordance with plans prepared by Gannett, Fleming, Corddry & Carpenter, Inc., consulting engineers (which overall construction may hereinafter be called the "Project"), and to finance the same by the issuance of its sewer revenue bonds; and

WHEREAS, it is the desire of the Authority and said engineers to construct the sewage treatment plant and appurtenances thereof on a site situated in the Township, such being the most favorable and economical location therefor; and

WHEREAS, such construction of the treatment plant will be disadvantageous to the Township in certain respects, such as rendering the property involved nontaxable and adversely affecting the value of properties situated nearby; and

WHEREAS, the Township is willing to permit such construction of the treatment plant only upon the terms and conditions hereinafter set forth, and the Authority is willing to accept and undertake such terms and conditions in order to carry out its

Project as aforesaid:

007971

RECORDED

JUL 27 9 25 AM '87

CLERK OF SUPERIOR COURT YORK COUNTY PA

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PA PUBLIC UTILITY COMMISSION SECRETARY'S BUREAU

NOW, THEREFORE, in consideration of the mutual covenants hereinafter contained, the parties hereto, intending to be legally bound hereby, agree to and with each other as follows:

SECTION 1: The Township hereby grants to the Authority the right to construct the aforesaid treatment plant and appurtenances together with any future additions or alterations thereto within the Township on the site designated in the plans of the aforesaid engineers and to operate the same in perpetuity. The plans and specifications for such proposed construction will be filed with the Township prior to any actual construction, and the layout and architectural treatment shall be subject to approval of the Township's engineer, provided that he will be deemed to have approved the same, unless within ten days after receipt of such plans he will have notified the engineers of the Authority of any objections that he has thereto.

SECTION 2: The Authority agrees that a screen of suitable evergreen trees shall be placed around the treatment plant area so as to conceal the plant and appurtenant facilities from the Township side, but not the river side, thereof; and the treatment plant area shall be graded and attractively landscaped. This obligation shall also supply to any future expansion of said treatment plant.

SECTION 3: The Authority hereby grants to the Township an option to connect any sewer system or systems constructed by or for the Township, from time to time, in the Township to the aforesaid treatment plant for the treatment of sewage collected by such system or systems. Whenever the Township desires to exercise such option it shall notify the Authority thereof in writing and the Authority shall permit the Township to make such connection or connections, at the Township's expense and at such place or places as the Authority's then consulting engineer shall designate. However, the right of the Township to so connect shall be conditioned upon its entering into an agreement with the Authority whereby the Township will obligate itself to pay out of its current revenues its equitable share of:

- (a) the annual fixed charges attributable to the construction of the sewage treatment plant, sewer, outfall sewer, and jointly used trunk and lateral sewers (hereinafter collectively referred to as the "Plant"); and
- (b) the annual administrative, operating and maintenance costs of said Plant.

In determining the Township's share of (a), above, the percentage which the total cost of construction of the said Plant bears to the total cost of construction of the whole Project, excluding cost of financing, engineering, legal and other non-construction costs, shall first be determined. This percentage of the annual fixed charges is the portion thereof of which the Township will pay its share; and its share of such portion thereof will consist of the percentage arrived at by taking the ratio which the number of users connected to the sewers in the Township bears to the total number of users connected to all of the sewers connected to the treatment plant. Payments shall be made in quarterly installments and will be based upon the average number of users during the quarterly period immediately preceding the calendar year during which the payments are to be made. Payments will commence at the start of the first quarter during which any connection to the Plant has been made by the Township and the actual number of users initially connected to any newly connected Township sewer system will be used in computing the quarterly installments until the next census is available, as amended.

Any building and its that term is defined in the then current code, or ordinance or regulation of the authority of the Township of Lower Allen, imposing sewer rentals or charges upon users of the sewer system in the Township of Lower Allen, shall be treated as one user; and each commercial, industrial, school, or other non-domestic establishment shall be treated as an appropriate number of users, based upon the relationship which the sewer rental it would be required to pay bears to the sewer rental required to be paid by a dwelling unit pursuant to the aforesaid resolution, ordinance or regulations.

The term "fixed lease rental" shall mean the annual fixed lease rental payable by the Lessee under the Agreement of Lease securing the bonds issued by the Authority to finance the cost of constructing the Project, and will include such lease rental on any supplemental Agreement of Lease securing any additional bond issues issued by the Authority to finance additions and improvements to the Plant alone or to it together with the sewer system or systems.

In determining the Township's share of (b), above, the total annual administrative, operating and maintenance costs of the aforesaid Plant shall first be determined, either by using the actual costs thereof for the preceding year, if such are available, or by using the estimated costs thereof as prepared by the Authority's then consulting engineer. The Township will then pay as its share of such costs the ratio of the users in the Township to all users of the Plant, as heretofore set forth. Such payments will be made concurrently with the payments of (a), above.

SECTION 4: All sewers constructed by the Township for connection with the treatment plant, as above, shall be in accordance with the specifications employed in the construction of the Project, or in accordance with any deviations therefrom approved by the Authority's then consulting engineer, and the supervision of inspection and final approval of such construction shall be by said engineer. Connection of properties in the Township to such sewer systems, and restrictions on what may be discharged into such sewer systems, shall comply with the resolutions, ordinances and regulations governing such connections in Lower Allen Township.

SECTION 5: It is agreed that the Township shall be under no obligation at any time to connect its sewer system to the said Plant, it merely having the option to do so. It is further agreed that the payments to be provided for in the agreement with the Authority, as provided in Section 3 hereof, shall not be retroactive in any sense, so as to include any fixed charges, or administrative, operating and maintenance costs incurred or paid by the Authority prior to actual connection and user by the Township of said Plant.

SECTION 6: The Authority shall pay to the Township the sum of one hundred and fifty (\$150.00) dollars each year commencing with the year 1958, which sum shall be payable annually before June 1 of each year. This yearly sum shall be reduced each year, commencing with the year immediately following the first year in which the Township shall connect any sewer system in the Township to the Plant, by the percentage which the users in the Township bears to all users of the Plant, as set forth in Section 5 hereof. Thirty years from the date of this agreement the said basic sum of \$150.00 shall be adjusted upon the basis of the estimated cost of reconstruction of the Plant as it then exists as compared to the actual cost of construction of the original Plant which estimate shall be made by the Authority's chief consulting engineer, or if there be no such engineer, by an independent engineer retained and paid for the purpose by the Authority or its assignee. A like adjustment shall be made each ten years thereafter.

SECTION 7: If the Authority should at any time transfer the aforesaid Plant to the Township of Lower Merion, whether such transfer be made by deed or otherwise, this agreement may be assigned to the Township of Lower Merion and shall become subject to the same. The Township of Lower Merion shall perform the same duties of the Authority and shall be entitled to receive all the rights and benefits thereunder. The Authority or its assignee shall be relieved of all title and interest in and to the Plant and the Township of Lower Merion shall be bound to pay all the principal and interest on all bonds issued by the Authority to finance the Project, and any replacements, additions or improvements thereto, in which case there shall be no responsibility on the part of the Trustee for any of the duties or obligations of the Authority hereunder or thereunder.

IN WITNESS WHEREOF, the said ~~Authority~~ has caused this agreement to be executed in its name by its Chairman or Vice-Chairman and its corporate seal to be hereto affixed and attested by its ~~Secretary~~ ^{Assistant} and the Township of Fairview has caused this agreement to be executed in its name by each of its Supervisors and its corporate seal to be hereto affixed and attested by its Secretary, all as of the day and year first above written.



Emily J. K...
Assistant Secretary
(SEAL)

LOWER ALLEN TOWNSHIP AUTHORITY

BY: David Putney
Chairman

TOWNSHIP OF FAIRVIEW

ATTEST:



Elizabeth Sait
Secretary
(SEAL)

BY: Walter R...
Supervisor

Frederic H. Lehman
Supervisor

James H. Brown
Supervisor

COMMONWEALTH OF PENNSYLVANIA
COUNTY OF DAUPHIN

On this, the 20th day of July, 1961,
a Notary Public, the undersigned officer, personally known to me
/Chairman
David Putney, (known to me or satisfactorily proved to me)
the person whose name is subscribed to the within instrument,
and acknowledged that he executed the same for the purposes
therein contained.

IN WITNESS WHEREOF, I hereunto set my hand and
official seal.



Emily J. Roush
NOTARY PUBLIC
My Commission Expires February 21, 1965
Harrisburg, Pa. Dauphin County

MAIL TO *David Putney*
3611 Derry St
Harrisburg Pa

Recorded in York Co., Pa.
July 27, 1961 in Record Book
51-0, Page 273

Luther N. Yeh Recorder

Fairview Township
599 Lewisberry Road
New Cumberland, PA 17070

Capacity Agmt.

AGREEMENT

THIS AGREEMENT, made this 28th day of December, 1976, by and among THE TOWNSHIP OF FAIRVIEW, a Pennsylvania municipal corporation, of York County, Pennsylvania; FAIRVIEW TOWNSHIP AUTHORITY, a Pennsylvania municipal authority, of York County, Pennsylvania, Parties of the First Part, and THE TOWNSHIP OF LOWER ALLEN, a Pennsylvania municipal corporation, of Cumberland County, Pennsylvania; LOWER ALLEN TOWNSHIP AUTHORITY, a Pennsylvania municipal authority, of Cumberland County, Pennsylvania, Parties of the Second Part,

WITNESSETH:

WHEREAS, The Lower Allen Township Authority and The Township of Fairview entered into an Agreement dated August 12, 1957, recorded in the Office of the Recorder of Deeds of York County, in Miscellaneous Book, Volume 10, Page 273; and

WHEREAS, Section 3 of said Agreement provided that Fairview Township has an Option to connect any sewer system or systems constructed by said Township to the Lower Allen Township Sewage Treatment Plant; and

WHEREAS, Section 3 of said Agreement requires an Agreement between Fairview Township and the Lower Allen Township Authority be entered into whereby Fairview Township obligates itself to pay out of its current revenues its equitable share of certain annual fixed charges and the annual administrative, operating and maintenance costs of said Plant determined pursuant to a formula set forth in said Agreement; and

WHEREAS, Fairview Township has, pursuant to Section 3 of said Agreement, notified Lower Allen Township Authority, in writing, of its exercise of its claimed Option with respect to the Green Lane Farm area; and

WYER, MYER,
WEBER & JOHNSON
ATTORNEYS AT LAW
100 S. MARKET STREET
LEMOYNE, PENNA.
5 W. HIGH STREET
CARLEISLE, PENNA.

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

WHEREAS, Fairview Township Authority is ready to award bids for the construction and the connection of a sewer system for the Green Lane Farm area; and

WHEREAS, Fairview Township Authority has applied for a grant from the Environmental Protection Agency, which grant has been approved in the amount of \$542,439.00, and the actual receipt of said grant may be dependent upon Fairview Township's entering into an Agreement permitting the connection of the Fairview Township Sewer System to The Lower Allen Township Sewer System.

WHEREAS, the claimed Option rights of Fairview Township poses problems for Lower Allen Township and Lower Allen Township Authority with respect to its reserve capacity, and Fairview Township recognizes the existence of said problems; and

WHEREAS, the Parties desire to enter into an Agreement with a view to alleviating said problems and providing for an equitable method of calculating the payments by Fairview Township to Lower Allen Township,

NOW, THEREFORE, the Parties hereto, intending to be legally bound according to law, represent, covenant and agree as follows:

1. Fairview Township and Fairview Township Sewer Authority covenant and agree to construct the sewage collection and transportation system in Green Lane Farms, a portion of Fairview Township, York County, Pennsylvania, containing approximately 173 acres as shown on the Plan attached hereto and marked Exhibit "B" and made part hereof by this reference, in accordance with plans and specifications prepared by the firm of William B. Whittock, Consulting Engineers, Camp Hill, Pennsylvania, and in accordance with the sewage construction permit

(Permit Number) obtained from the Pennsylvania Department of Environmental Resources.

2. Fairview Township and Fairview Township Authority has the perpetual right to connect the sewage collection and transportation system in Green Lane Farms to the Lower Allen Sewer System at the point, or points, shown on the Plan attached hereto, and made part hereof and marked as Exhibit "B", or at such other point, or points, as shall mutually be agreed upon and perpetually use the Lower Allen Township Sewer System. Such connection to the Lower Allen Township Sewer System shall be made at the sole cost and expense of Fairview Township, or Fairview Township Authority, and shall be operated and maintained at the sole cost and expense of Fairview Township, or Fairview Township Authority, without cost or expense to Lower Allen Township, or Lower Allen Township Authority. The said lines to be connected to the Lower Allen Sewer System shall remain a part of the Fairview Township Sewer System.

3. Fairview Township and Fairview Township Sewer Authority shall be entitled to a reserve capacity of .4 million gallons per day at the Lower Allen Township Sewage Treatment Plant. Said .4 million gallons per day includes those gallons per day flowing from Green Lane Farms area.

4. Fairview Township and Fairview Township Sewer Authority covenant that no roof drainage water, storm water, surface drainage or building foundation drainage will be discharged into the Lower Allen Sewer System, either directly or indirectly, and that no sewage shall be discharged into the Lower Allen Township Sewer System, except in accordance with those ordinances and regulations applicable to all users of the Lower Allen Sewer System promulgated by the Lower Allen Township governing body or the Lower Allen Township Sewer Authority's governing body.

5. Samples of sewage discharged into the Lower Allen Sewer System may be obtained and analyzed by the Parties hereto at any place, at any reasonable time, in order to ensure compliance with the terms and provisions of this Agreement.

6. The Parties agree that Fairview Township Authority will be responsible for the design, construction, operation and maintenance of all Fairview Township Sewage Collection and Transportation System or Systems and all such facilities shall be and remain a part of the Fairview Township Sewer System.

7. Fairview Township shall annually pay A PORTION OF ANNUAL LEASE RENTAL COSTS of Lower Allen Township, which portion shall be determined as follows:

A. A share of the annual lease rental under the Agreement of Lease dated February 1, 1963, attributable to Project 1957 (Defined in the Appendix attached hereto consisting of 10 pages which by this reference is incorporated herein) shall be calculated by determining the percentage of construction costs of the jointly used portion thereof (\$863,000.00) to actual construction costs for all of Project 1957 (\$3,566,000.00), which percentage is 24.20%, and applying said percentage to the annual lease rental for Project 1957 for the year in which Fairview Township and Fairview Township Authority connects its sewer system to the Lower Allen Sewer System and in fact generates sewage flow from

Fairview Township to Lower Allen Sewer System, and said lease rental for each fiscal year thereafter that Fairview Township and Fairview Township Authority Sewer System is so connected. Said annual lease rental is, and remains throughout the term of said lease, \$311,600.00. Accordingly, for 1977 (and each year thereafter), said share so calculated is \$75,400.00.

The ratio of initial reserve of Fairview Township (.14 million gallons per day) to total capacity of Lower Allen Township Sewage Treatment Plant (5.95 million gallons per day) shall be calculated by dividing .14 million gallons per day by 5.95 million gallons per day, said ratio is .0235.

The portion of annual lease rental for Project 1957 which Fairview Township shall pay Lower Allen Township as provided below is calculated by multiplying .0235 by \$75,400.00 (the share of annual lease rental attributable to Project 1957), and said portion so calculated is \$1,771.91 for each fiscal year.

B. A share of the annual lease rental under the Agreement of Lease dated February 1, 1972, attributable to Project 1971 and Project 1972 (as defined in the Appendix) or any annual lease rental resulting under a refinancing bond issue, shall be calculated as follows:

(i) From date of connection to September 14, 1987, Fairview's share

shall be calculated by taking 84% of such annual lease rental times .14 over 4.40.

(ii) From September 15, 1987, to September 14, 1993, Fairview's share shall be calculated by taking 84% of such annual lease rental times .25 over 4.40.

(iii) From September 15, 1993, and for the duration of the annual lease rental, Fairview's share shall be calculated by taking 84% of such annual lease rental for Projects 1971 and 1972 times .4 over 4.40.

C. If said connection is for less than a full year, said amount shall be pro-rated.

D. When the amount of average daily flow emanating from Fairview Township shall exceed during the period from date of connection to September 14, 1987, .14 million gallons per day and during the period from September 15, 1987, to September 14, 1993, .25 million gallons per day and during the period from September 15, 1993, and for the duration of the annual lease rental, .40 million gallons per day for any one (1) quarter of any fiscal year, then the portion payable by Fairview Township to Lower Allen Township for the annual lease rentals of the various Agreements of Lease shall be increased. Such increase shall be determined after changing the ratios set forth above so that the numerator for the Project

1957 will be the actual average daily flow, and the denominator will be 5.95 million gallons per day. For Projects 1971 and 1972 or any annual lease rental resulting under a re-financing bond issue, the numerator will be the actual average daily flow and the denominator will be 4.40 million gallons per day. The ratio, as altered, shall then be utilized in the methods of computation of payments set forth above.

8. In addition to the payments set forth in Paragraph 7 hereof, should Lower Allen Township and the Lower Allen Township Authority elect to re-finance their bond issue for Projects 1971 and 1972 and should the aggregate principal amount of the re-financing bond issue be less than the aggregate principal amount of the bond issue for Projects 1971 and 1972, then Fairview Township shall be required to make a proportionate contribution towards said difference by either making a lump-sum payment or by making the same contribution on an installment basis.

A. To determine Fairview Township's contribution if it elects to make a LUMP-SUM CONTRIBUTION, said difference between the aggregate principal amount of the bond issue for Projects 1971 and 1972 and the aggregate principal amount of the re-financing bond issue shall be multiplied by a fraction, the numerator of which will be either .14, .25, .4 or the actual average daily flow for any one quarter for any fiscal year (depending upon which numerator applies under Sub-paragraph B or D of Paragraph 7 at the time of closing such re-financing bond issue and the denominator of which is 4.4. Said contribution shall be paid at the time of closing of said re-financing bond issue. If the proper numera-

tor was .14 over a denominator of 4.40, the resulting number would be .0318. This .0318 would be multiplied by said difference and the product thereof will be the lump-sum capital contribution of Fairview Township.

B. To determine the installment contribution of Fairview Township, if it elects to make said contribution on an installment basis, the additional annual payment shall be determined by multiplying the annual lease rental payable by Fairview Township, as determined under Sub-paragraph 7B or Sub-paragraph 7D, as applicable at the time of the closing on the re-financing bond issue, by the difference between the aggregate principal amount of said bond issues and dividing such product by the aggregate principal amount of the re-financing bond issue. This amount so determined will not be increased even though the annual lease rental payable by Fairview Township under Sub-paragraphs 7B or 7D may change.

9. It is recognized by the Parties hereto that Fairview Township has a continual right to make additional connections which may result in a combined flow in excess of .4 million gallons per day, but in no event shall such additional connections producing a combined flow in excess of .4 million gallons per day be allowed, or cause the total amount of sewage treated at the plant to exceed the design capacity of the Lower Allen Township Sewage Treatment Plant or other jointly used facilities, except under the following terms and conditions:

A. Upon request of Lower Allen Township or Fairview Township, the Parties shall enter into negotiations in good faith concerning such

connections in excess of .4 million gallons per day and attempt to enter into an Agreement providing for such connections and appropriate payments thereof.

B. If no agreement can be reached by the said Parties after reasonable attempts to negotiate same, then the matter shall be referred to a panel of three (3) arbitrators; one arbitrator to be selected

by Fairview Township, one arbitrator to be selected by Lower Allen Township and the third arbitrator to be selected by the two arbitrators selected by the Townships. Fairview Township and Lower Allen Township shall be obligated to appoint an arbitrator as provided above when after reasonable attempts to negotiate have not resulted in an agreement and one of the Townships notifies the other Township that it considers the negotiations to be at an impasse. It shall be the responsibility of each of the Parties to select said arbitrator within sixty (60) days.

If either Fairview Township or Lower Allen Township fails to designate its arbitrator within the said sixty (60) day period, then the Party who has designated an arbitrator may petition the Court of its County to designate two (2) arbitrators and the no-designating Township hereby consents to said Petition.

It is agreed that the function of the paneled arbitrators shall be to specify under what terms and conditions (consistent with the concepts of this Agreement) Fairview Township and Fairview Township Authority shall be permitted to make such additional connections to the Lower Allen Sewer System which said arbitrators find will produce a flow in excess of .4 million gallons per day.

The cost of arbitration shall be borne equally by the Townships. If each Township designates an arbitrator and the two arbitrators so designated cannot agree on the third arbitrator, then Fairview

Township and Lower Allen Township shall jointly petition either the Cumberland or York County Court to select a third arbitrator. The Court to be petitioned shall be determined by the flip of a coin.

10. In addition to the foregoing, Fairview Township shall pay Lower Allen Township for the fiscal year beginning the 15th day of September and ending the 14th day of September in which Fairview Township connects to the Lower Allen Sewer System and, in fact generates sewage flow from Fairview Township to Lower Allen Sewer System and each fiscal year thereafter that Fairview Township and Fairview Township Authority Sewer System is so connected A PORTION OF THE ANNUAL COST OF OPERATION of the Lower Allen Township Sewage Treatment Plant and jointly used interceptor and outfall lines determined as follows: :

A. The engineer for Lower Allen Township shall determine the annual total cost of operation (as defined in the Appendix) The said cost shall be divided by the total gallonage of sewage treated at the Lower Allen Township Sewage Treatment Plant in said year. Said total gallonage of sewage shall include all sewage treated by said Plant, whether same shall have been received from Lower Allen Township users or other users during the year under consideration..

B. The amount determined under Sub-paragraph 9-A shall be the total charge per gallon and this shall be multiplied by the total ad-

justed gallons of water consumed by all residential dwelling units and non-residential users connected to the Fairview Sewer System which flows to the Lower Allen Sewage Treatment Plant for the fiscal year under consideration. The amount so determined shall constitute the annual charge for administrative, operation and maintenance costs payable by Fairview Township to Lower Allen Township for the fiscal year under consideration.

C. Lower Allen Township has an ordinance imposing a surcharge on certain industrial sewage, and Fairview Township will adopt a like ordinance. Should Fairview Township impose a surcharge pursuant to the provisions of said ordinance, 100% of the said surcharge, less the expenses of Fairview Township in collecting same, shall be paid to Lower Allen Township.

11. The volume of water consumed by each residential dwelling unit in Fairview Township connected to the Lower Allen Township Sewage Treatment Plant during the fiscal year under consideration shall include any and all metered water purchased by users in Fairview Township from Riverton Consolidated Water Company, or any other private or public water company, and, in addition, all water obtained from any other sources (such as wells, streams and the like) as determined by meters installed and maintained by Riverton Consolidated Water Company, Fairview Township, Lower Allen Township, users or from estimates or measurements made by Lower Allen Township.

In the event of a malfunction of a water meter so that the actual amount of water passing through the meter cannot be accu-

rately determined, the amount of water consumed by residential dwelling units shall be estimated on the basis of sixty (60) gallons per person per day. All non-residential users of Fairview Township providing sewage, either directly or indirectly, to the Lower Allen Sewage Treatment Plant shall be required by Fairview Township to install meters to measure their water consumption. In the event of a malfunction of a water meter for said non-residential users, the amount of water consumed by non-residential users shall be determined on the basis of Schedule "C". Within thirty (30) days after the close of each fiscal year, Fairview Township shall furnish a report to Lower Allen Township showing the gallons of water consumed by each residential dwelling unit and each non-residential dwelling unit. Said report shall separately state whether estimates are used for a residential dwelling unit. Meter records shall be made available to any party hereto upon request therefor.

12. In determining the adjusted total gallons of water consumed by all residential dwelling units and all non-residential users in Fairview Township for purposes of annual billing, there shall be added to the total gallons of water consumed by such residential dwelling units and non-residential users during the fiscal year under consideration an additional number of gallons of water to take into consideration infiltration, if any, into the sewer lines of Fairview Township hereinafter determined. Lower Allen Township may periodically (not less than semi-annually) test manholes in the Fairview Township Sewer System selected by its employees or representatives between the hours of 2:00 a.m. and 5:00 a.m. In the event that any test indicates a flow in excess of 5,000 gallons per day, Lower Allen Township may give written notice thereof to Fairview Township. Fairview Township

shall take action to eliminate such excess flow within six (6) months after receiving subject notice. In the event that such excess flow is not corrected within six (6) months after receipt of said notice, there shall be added to the total gallons consumed by all residential dwelling units and non-residential users in Fairview Township, the amount exceeding 5,000 gallons per day as if such excess had occurred on each day during the fiscal year, and such amount shall become a part of the adjusted total gallons of water consumed.

13. In order to provide working capital, Lower Allen Township shall prepare an estimate setting forth the estimated sum payable by Fairview Township to Lower Allen Township and supply copies thereof to each of the Parties hereto. During the first year of joint operation, the annual charge imposed by this paragraph shall be paid in equal quarter-annual installments on or before March 14, June 14, September 14 and December 14 of the first fiscal year of joint operation. Thereafter, Fairview Township, or Fairview Township Authority, shall pay to Lower Allen Township such annual charge in equal quarter-annual installments on or before December 14, March 14, June 14 and September 14 of each fiscal year based upon the annual charges of the preceding fiscal year.

14. Within sixty (60) days after the close of each fiscal year, Lower Allen Township shall furnish a report to Fairview Township, or Fairview Township Authority, showing the actual annual charge. Within thirty (30) days of such report, Fairview Township, or Fairview Township Authority, shall pay to Lower Allen Township any deficiencies properly chargeable against Fairview Township, or Fairview Township Authority, for

the preceding fiscal year, and Lower Allen Township, within such time, shall re-pay to Fairview Township, or Fairview Township Authority, any overpayment made by Fairview Township, or Fairview Township Authority, during such preceding fiscal year.

15. Lower Allen Township shall keep appropriate records and accounts with respect to annual lease rentals and costs of operation of the Lower Allen Sewer System so that determinations which shall be necessary under this Agreement may be made promptly at the required times, with fairness and accuracy. Certified audits of appropriate records and accounts of Lower Allen Township and Lower Allen Township Authority, as applicable, with respect to Lower Allen Sewer System shall be made available to Fairview Township and Fairview Township Authority annually upon request.

16. In the event that an increase in the quality of treatment, or a change in the nature of treatment, is required by the United States of America, the Commonwealth of Pennsylvania, or any government agency or body or department thereof, not involving an increase in capacity, Fairview Township agrees to make a capital contribution to the cost of construction thereof, and said contribution shall be determined as follows:

A. Cost of construction of said improvement or change shall be determined;

B. The ratio of reserve of Fairview Township (.14 or .25 or .4 million gallons per day or actual capacity used by Fairview Township if it exceeds said reserve per day) to total capacity of Lower Allen Township Sewage Treatment Plant (5.95 million gallons per day) shall be calculated;

C. The percentage figure determined in B immediately above shall be applied to A immediately above, and the product produced thereby shall equal the capital contribution of Fairview Township payable to Lower Allen Township.

Notwithstanding the foregoing, Fairview Township will not be obligated to make a capital contribution involved in the said increase in the quality of treatment or the change in the nature of treatment if the requirement for same arises from conditions caused or contributed to only by users in Lower Allen Township as distinguished from general or specific criteria for discharge in the Yellow Breeches Creek or the Susquehanna River.

17. In the event that the additional interceptor, interceptor or outfall sewer lines cannot transport the volume of sewage being discharged therein, or in the event that Lower Allen Sewage Treatment Plant is not treating sewage in accordance with the requirements of the United States of America, the Commonwealth of Pennsylvania, or any agency or department thereof, for a period of thirty (30) consecutive days, and Paragraph 16 is not applicable, Lower Allen Township shall immediately give written notice thereof to Fairview Township and Fairview Township Authority. Immediately thereafter, the Parties shall proceed with a joint investigation to determine the cause thereof. In the event it is determined that one of the Parties hereto is causing such deficiency by reason of use in excess of the capacity allocated to the Parties, the responsible Party shall, within thirty (30) days thereafter make satisfactory

arrangements to reduce its useage of the applicable facility to comply with said allocated capacity, or at its option, to make satisfactory arrangements to have provided and to pay the total cost of construction of such additional facilities as required to correct such deficiency, including finance costs and all other costs, charges and expenses, which are properly chargeable thereto under sound accounting and engineering practices. If the other Party desires to participate in the cost of construction of such additional facilities by reason of a desire to increase its right to discharge into the Lower Allen Sewer System more volume or pollution loadings, or if it is determined that such deficiency is caused by the discharge of sewage from both municipalities, or if none of the Parties hereto have caused such deficiency, the Parties hereto agree to negotiate in good faith with respect to the appropriate methods of correcting such deficiency and making appropriate payments for the cost of construction of such additional or corrective facilities, based upon the principles of actual useage and reserve capacity.

18. Fairview Township further agrees to have enacted and enforced ordinances, resolutions, rules and regulations governing the admission of sewage into the Lower Allen Sewer System, which ordinances, resolutions, rules and regulations shall be restrictive as existing ordinances, resolutions, rules and regulations that apply to all users of the Lower Allen Township Sewer System. Lower Allen Township will, within five (5) days of the execution hereof, deliver to Fairview Township two (2) copies of same. Fairview Township agrees to enact and enforce additional ordinances, resolutions, rules and regulations to be as restrictive as future ordinances, resolutions, rules and

regulations adopted by Lower Allen Township which are applicable to all users of Lower Allen Township from time to time to govern the admission of sewage into the Lower Allen Township Sewer System. A copy of all such ordinances, resolutions, rules and regulations in duplicate, shall be submitted by Fairview Township to Lower Allen Township, within sixty (60) days after enactment or adoption of the same, and a copy of all such ordinances, resolutions, rules and regulations, in duplicate, shall be submitted by Lower Allen Township to Fairview Township within sixty (60) days after enactment or adoption of the same.

19. Fairview Township and Fairview Township Authority shall provide authorized representatives of Lower Allen Township or Lower Allen Township Authority with access, at reasonable times, to the Fairview Township Sewer System which directly, or indirectly, connects to the Lower Allen Sewage Treatment Plant in order to assure compliance of the terms of this Agreement. Lower Allen Township and Lower Allen Township Authority shall provide authorized representatives of Fairview Township and Fairview Township Authority with access, at reasonable times, to the Lower Allen Sewer System in order to ensure compliance with the terms of this Agreement.

20. Lower Allen Township and Lower Allen Township Authority, as appropriate, covenant and agree that they will:

- A. Maintain the Lower Allen Sewer System in good repair, working condition and order;
- B. Continuously operate the same;
- C. From time to time, make all necessary repairs, renewals and replacements thereof and all necessary improvements thereto in order to maintain adequate service;

D. Comply with all present and future laws, rules, regulations, permits, orders and requirements lawfully made by the Pennsylvania Department of Environmental Resources, or any other governmental body having jurisdiction.

21. Fairview Township and Fairview Township Authority, as appropriate, covenant and agree that they will:

A. Maintain the Fairview Township Sewer System which connects either directly or indirectly to the Lower Allen Sewage Treatment Plant in good repair, working order and condition;

B. Continuously operate the same;

C. From time to time, make all necessary repairs, renewals and replacements thereof and all improvements thereto in order to maintain adequate service;

D. Comply with all present and future laws, rules, regulations, permits, orders and requirements lawfully made by the Pennsylvania Department of Environmental Resources, or any other governmental body having jurisdiction.

22. Any of the Parties hereto may assign all of its rights, title and interest hereunder to any other party hereto, or to any other municipal authority created by Lower Allen Township or Fairview Township, provided that the assignee agrees, in writing, to assume all of the obligations and duties hereunder of the assignor.

23. It is understood that each of the Parties hereto is responsible for the proper functioning of its own respective system of sewers. However, in the event of malfunctioning of one system causing damage to the other system, then the owner of the malfunctioning system shall be responsible for all damages resulting from negligence. It is further understood by all Parties that the owner of the system responsible for damages shall pay all claims, including the indemnification of the owner of the other system, for losses it might have suffered as a result of such negligence.

24. The present users in Fairview Township of the Lower Allen System are billed directly by Lower Allen Township. This arrangement shall continue and the sewage from said users shall not be considered as sewage from Fairview Township. However, Fairview Township shall have the option to take over said users and bill same. Should Fairview do this, it will have the responsibility to connect said users to its system, and the sewage from said users will be considered as sewage from Fairview Township.

25. The Agreement dated August 12, 1957, by and between Lower Allen Township and Fairview Township, to the extent that it is inconsistent herewith, is hereby repealed.

26. This Agreement shall be binding upon the Parties hereto and their respective successors and assigns.

27. This Agreement may be executed in any number of counter parts, each of which shall be considered an original, which counterparts together shall constitute but one and the same document.

IN WITNESS WHEREOF, each of the Parties hereto has caused this Agreement to be duly executed and attested by its proper officers, pursuant to the proper action of its governing body, all as of the day and year first above written.

ATTEST: TOWNSHIP OF FAIRVIEW
Edmund C. Miller Secretary By: Arthur L. Shaffer President of Board of Supervisors

ATTEST: FAIRVIEW TOWNSHIP AUTHORITY
Edmund C. Miller Secretary By: Walter A. Nelson Chairman of the Board

ATTEST: LOWER ALLEN TOWNSHIP
Edmund C. Miller Secretary By: W. Truman Hawley President of the Board of Commissioners

ATTEST: LOWER ALLEN TOWNSHIP AUTHORITY
Edmund C. Miller Secretary By: Robert J. Moore Chairman of the Board

APPENDIX

The following terms and phrases, for the purpose of this Agreement, shall have the following meanings, unless the context clearly otherwise requires:

A. "Additional Interceptor" shall mean the new Interceptor Sewer Line constituting part of the Lower Allen Sewer System, extending from the vicinity of Manhole #77 to a proposed new manhole near Rossmoyne as shown on the Plan attached hereto, made a part hereof and marked Exhibit "A", being part of Project 1972.

B. "Costs of Construction" shall mean the actual cost or the estimated cost, as applicable, of the portion or section of the Lower Allen Sewer System under consideration, calculated in the following manner:

(1) The amount actually paid or estimated to be paid under the contract or contracts for construction of the portion or section of the Lower Allen Sewer System under consideration shall be determined.

(2) The actual amount paid or estimated to be paid for acquiring by purchase or condemnation, including amounts of any award or final judgment in or a settlement or compromise of any condemnation proceedings, of land, rights-of-way, privileges, rights, licenses,

easements, and any other interest in real property as may be deemed necessary or convenient in connection with the portion or section of the Lower Allen Sewer System under consideration shall be determined; and amounts of any damages incident to or consequent upon acquisition or construction; and payments for a restoration of property damaged or destroyed in connection with the construction.

(3) The amount actually paid or estimated to be paid for acquiring property, real, personal, and mixed, tangible or intangible, or any interest therein, deemed necessary or desirable for carrying out the purposes of this Agreement relating to the Lower Allen Sewer System, including, without intending to limit the generality of the foregoing, costs of acquiring any sewer system or other properties in place, or any undivided interest therein, which can be operated as part of the portion or section of the Lower Allen Sewer System under consideration, and all fees and expenses incidental thereto, including without intending to limit the generality of the foregoing, costs of abstracts of title, title insurance, title opinions, surveys and reports.

(4) All actual or estimated fees and expenses of engineers for studies, tests, surveys, reports, maps, estimates of cost, preparation of plans and specifications, and making preliminary investigations therefor, supervision of construction or acquisition, inspections and performance of all other duties of engineers in connection with any construction or acquisitions, attributable under sound accounting and engineering practice to the portion or section of the Lower Allen Sewer System under consideration.

(5) All actual or estimated legal fees, costs and expenses attributable under sound accounting and engineering practice to the portion or section of the Lower Allen Sewer System under consideration, but not in connection with or relating to financing.

(6) Other costs, charges and expenses incidental to any improvement, alteration, extension or addition to the Lower Allen Sewer System which under sound accounting and engineering practice are properly chargeable to the portion or section of the Lower Allen Sewer System under consideration, but not in connection with or relating to financing.

(7) In the event the United States of America, the Commonwealth of Pennsylvania, or any other governmental body not a party hereto, acting through any agency or department, should make a grant to Lower Allen Township Authority or Lower Allen Township for application for and toward payment of a portion of the cost of construction as herein defined of the Lower Allen Sewer System, Lower Allen Township Authority's consulting engineers and Fairview Township Authority's consulting engineers, jointly, shall determine the portion, if any, of such grant attributable to the cost of construction as herein defined of such section or portion.

(8) The sums determined in Subparagraphs (1), (2), (3), (4), (5) and (6) above shall be added and the total of such sums, less the sum determined in Subparagraph (7), if applicable, shall represent the actual "Costs of Construction" or the estimated "Costs of Construction", as applicable, of the portion or section of the Lower Allen Sewer System under consideration.

C. "Costs of Operation" shall mean the actual costs or expenses or the estimated costs or expenses, as applicable, required in operating, repairing and

maintaining the portion or section of the Lower Allen Sewer System under consideration, including, in each case, without intending to limit the generality of the foregoing, expenses and costs of operation, maintenance (including insurance), repair, auditing and inspection and other expenses in relation to the Lower Allen Sewer System under consideration, and including gross receipts, income, profits, property or franchise taxes, if any, payable with respect to the Lower Allen Sewer System under consideration, which costs and expenses shall not include any amount attributable to debt service requirements with respect to indebtedness or administration of the Lower Allen Sewer System, and which costs and expenses shall be determined in accordance with sound and generally accepted engineering and accounting practices.

In the event the United States of America, the Commonwealth of Pennsylvania, or any governmental body not a party hereto, acting through any agency or department, should make a payment to Lower Allen Township or to the Lower Allen Township Authority for application for and toward payment of a portion of the costs of operation, as herein defined, of the Lower Allen Sewer System, Lower Allen Township Authority's consulting engineers and Fairview Township Authority's consulting engineers, jointly, shall determine the portion, if any, of such grant attributable to the cost of operation, as

herein defined, of such section or portion.

An example of such grant would be that received under Act 337.

D. "Fiscal Year" shall mean the period of twelve (12) months beginning September 15 and ending the following September 14.

E. "Green Lane Farms" means that portion of Fairview Township, York County, Pennsylvania, containing approximately 173 acres, as shown on Plan attached hereto, marked Exhibit "B" and made a part hereof.

F. "Interceptor" shall mean the new Interceptor Sewer Line constituting part of the Lower Allen Sewer System, extending from the vicinity of Manhole #77 to the Lower Allen Sewage Treatment Plant, as shown on the Plan attached hereto, made a part hereof and marked Exhibit "A", being part of Project 1971.

G. "Lower Allen Sewer System" means the existing sewage collection system, sewage treatment plant and related sewage facilities in, adjacent to and for the Township of Lower Allen and the existing sewage collection system in and for the Borough of Shiremanstown, Cumberland County, Pennsylvania, together with all appurtenant facilities and properties which the Lower Allen Township Authority owns as of the date of this Agreement or hereafter shall acquire in connection therewith, including all property, real, personal and mixed, rights, powers, licenses, easements, rights-of-way,

privileges, franchises and any and all other property or interests in property and whatsoever the nature used or useful in connection with such facilities, and together with all additions, extensions, alterations, and improvements which may be made or acquired, from time to time.

As of any particular time, "Lower Allen Sewer System" shall mean the aforesaid facilities and property owned by the Lower Allen Township Authority and capital additions (including property in the nature of capital additions acquired or constructed from funds wholly or partially contributed or advanced by the Upper Allen Township Authority, users, developers, or other persons or municipalities) acquired, owned, made or constructed by or for the Lower Allen Township Authority; and the "Lower Allen Sewer System" without intending to limit the generality of the foregoing, as of any particular time, shall include all buildings, basins, machinery, mains, conduits, pipes, pipelines, interceptor lines, outfall lines, trunk lines, service lines, sewer plants and systems, tanks, shops, treatment plants and systems, pumping stations, ejector stations, force mains, fixtures, engines, boilers, pumps, meters, and other equipment, all personal property and all franchises, land, rights-of-way, privileges, easements, licenses, rights and any other interest in real property, all of the foregoing being owned by the Lower Allen Township Authority and being used

or useful in connection with the collecting, transporting, pumping, treating and disposing of sewage.

H. "Lower Allen Sewage Treatment Plant" shall mean the Sewage Treatment Plant and appurtenant facilities constituting part of the Lower Allen Sewer System, including that portion of the Outfall Sewer Line extending from the Sewage Treatment Plant effluent chamber to the siphon effluent chamber, situate in Fairview Township, York County, Pennsylvania.

I. "Outfall Sewer Line" shall mean the new Outfall Sewer Line constituting part of the Lower Allen Sewer System, extending from the Lower Allen Sewage Treatment Plant to the Susquehanna River, as shown on the Plan attached hereto, made a part hereof and marked Exhibit "A", being part of Project 1972.

J. "Project 1957" shall mean the original Lower Allen sewage collection system, sewage treatment plant and related sewer facilities in, adjacent to, and for the Township of Lower Allen and the sewage collection system in and for the Borough of Shiremanstown financed by sewer revenue bonds under Trust Indenture dated as of September 15, 1957, between Lower Allen Township Authority and Dauphin Deposit Trust Company, Trustee, and refunded under Trust Indenture dated as of February 1, 1963.

K. "Project 1971" shall mean the enlargement and modification of the existing Lower Allen Sewage Treatment Plant, including additions and improve-

ments thereto, enlargement of the Interceptor and that portion of the Outfall Sewer Line extending from the Lower Allen Sewage Treatment Plant effluent chamber to the siphon effluent chamber except to the extent that such enlargement of the Interceptor is postponed and included in Project 1972.

I. "Project 1972" shall mean enlargement of previously existing Outfall Sewer Line, construction of Additional Interceptor and enlargement of the Interceptor to the extent that such enlargement is not completed as part of Project 1971.

M. "Sewage" means domestic sewage and/or industrial wastes, as such phrases usually and customarily are used by sanitary engineers.

LOWER ALLEN TOWNSHIP AND LOWER ALLEN TOWNSHIP SEWER AUTHORITY REPRESENT THAT THE FACTS AND FIGURES SET FORTH BELOW ARE ACCURATE AND UNDERSTAND THAT FAIRVIEW TOWNSHIP AND FAIRVIEW TOWNSHIP AUTHORITY RELIED UPON SAME IN ENTERING INTO THIS AGREEMENT.

A. THE ANNUAL LEASE RENTAL ATTRIBUTABLE TO PROJECT 1957 IS \$311,600.00;

B. ACTUAL CONSTRUCTION COST OF PROJECT 1957 IS \$3,566,000.00;

C. ACTUAL CONSTRUCTION COST OF PROJECT 1957, JOINTLY USED OR TO BE USED BY FAIRVIEW TOWNSHIP AND FAIRVIEW TOWNSHIP AUTHORITY AND LOWER ALLEN TOWNSHIP AND LOWER ALLEN TOWNSHIP SEWER AUTHORITY IS \$863,000.00;

D. THE ANNUAL LEASE RENTAL ATTRIBUTABLE TO PROJECTS 1971 AND 1972 IS: 1978 - \$322,000.00; 1979 - \$335,000.00; 1980 and thereafter - \$352,500.00;

E. THE TOTAL CAPACITY OF THE LOWER ALLEN SEWAGE TREATMENT PLANT IS 5.95 MILLION GALLONS PER DAY;

F. OF THE TOTAL 1971 and 1972 PROJECTS, 84% THEREOF IS UTILIZED BY LOWER ALLEN TOWNSHIP AND FAIRVIEW TOWNSHIP.

LAW OFFICES
METZGER, WICKERSHAM, KNAUSS & ERB

COMMONWEALTH NATIONAL BANK BUILDING

III MARKET STREET

P O BOX 93

HARRISBURG, PENNSYLVANIA 17108-0093

TELEPHONE (717) 238-8187

CHRISTIAN S. ERB, JR.
ROBERT E. YETTER
JAMES F. CARL
ROBERT P. REED
EDWARD E. KNAUSS, IV
JERED L. HOCK
KARL R. HILDGARDIANO
GUY H. BROOKS

FRANK E. WICKERSHAM (1888-1913)
WICKERSHAM & METZGER (1913-1922)
METZGER & WICKERSHAM (1922-1955)
METZGER, WICKERSHAM & KNAUSS (1955-1967)

May 9, 1988

RECEIVED

MAY 10 1988

JOHNSON, DUFFIE
STEWART AND WEIDNER

Johnson, Duffie, Stewart & Weidner
Third & Market Streets
P.O. Box 109
Lemoyne, PA 17043-0109

Attention: Richard W. Stewart, Esquire

Re: Lower Allen Township Authority - Fairview Township

Dear Dick:

Receipt of your letter dated May 4, 1988, dealing with the payment by Fairview Township of the sum of \$172,157.00 to Lower Allen Township Authority is hereby acknowledged.

We are pleased to advise that at the regular meeting of Lower Allen Township Authority held on Thursday, May 5, 1988 the Board accepted the offer to pay the balance of \$172,157.00 to Lower Allen Township Authority over a five year period with 20% down initially and the balance to be paid in four annual installments of \$34,431.00 each. It is understood that the first payment will be made on June 1, 1988 and on June 1 of each year thereafter until paid in full.

Very truly yours,

METZGER, WICKERSHAM, KNAUSS & ERB

By:


Robert E. Yetter

REY:c11

cc: Lower Allen Township Authority
Attention: Charles Bush, Flaut Superintendent

AMENDMENT TO AGREEMENT

THIS AMENDMENT TO AGREEMENT, made as of the 6th day of September, 1990, by and among the TOWNSHIP OF FAIRVIEW, a Pennsylvania municipal corporation, York County, Pennsylvania, FAIRVIEW TOWNSHIP AUTHORITY, a Pennsylvania municipal corporation, of York County, Pennsylvania, Parties of the First Part, and the TOWNSHIP OF LOWER ALLEN, a Pennsylvania municipal corporation, of Cumberland County, Pennsylvania, LOWER ALLEN TOWNSHIP AUTHORITY, a Pennsylvania municipal corporation, of Cumberland County, Pennsylvania, Parties of the Second Part,

WITNESSETH:

WHEREAS, the Parties hereto entered into an Agreement dated December 28, 1976, modified by letter agreement of Richard W. Stewart, Esquire, Solicitor, dated May 4, 1988, dealing with the payment by Fairview Township of the sum of One Hundred Seventy-Two Thousand One Hundred Fifty-Seven (\$172,157.00) Dollars to Lower Allen Township Authority (hereinafter the "Agreement"), providing, inter alia, for the collection, transportation, treatment, and discharge of sewage and waste emanating from portions of the Township of Fairview; and

WHEREAS, the Parties hereto desire to amend the Agreement to change from a fiscal year to a calendar year.

NOW, THEREFORE, the Parties hereto, intending to be legally bound, represent, covenant, and agree as follows:

1. All parties hereto acknowledge the change of fiscal year of Lower Allen Township Authority ending September 14 and to a calendar year ending December 31, effective January 1, 1991. Therefore, for the year 1990, there will be a fiscal year from September 15, 1989 to September 14, 1990, and a fiscal year of September 15, 1990 to December 31, 1990.

2. Paragraph 10 shall be amended to delete "fiscal year beginning the 15th day of September and ending the 14th day of September" and replaced with the phrase "calendar year", and all references to "fiscal year" shall be deleted and which is replaced with the term "calendar year".

3. Paragraphs 11 and 12 shall be amended to delete references to "fiscal year", which is replaced with the term "calendar year".

4. Paragraph 13 shall be amended to delete the reference to "March 14, June 14, September 14, and December 14", and replaced with the phrase "April 1, July 1, October 1, and January 1", and shall be amended to delete the references to "fiscal year", which is replaced with the term "calendar year".

5. All other terms and conditions contained in the Agreement, and all addenda thereto, and together with all other understandings by and among the Parties, or any of them, evidenced by writings of the same of prior or subsequent dates not in conflict with the hereinabove Agreement, will remain in

full force and effect, and the Parties hereby ratify and reaffirm the same.

IN WITNESS WHEREOF, the Parties hereto have duly executed this Amendment to Agreement as of the day and year first above written.

ATTEST:

TOWNSHIP OF FAIRVIEW

E. G. [Signature]
Secretary

By: *Charles J. [Signature]*
President
Board of Commissioners

ATTEST:

FAIRVIEW TOWNSHIP AUTHORITY

Thomas L. [Signature]
~~(Assistant)~~ Secretary

By: *Richard W. [Signature]*
(Vice) Chairman

ATTEST:

TOWNSHIP OF LOWER ALLEN

Randy J. [Signature]
(Assistant) Secretary

By: *William J. [Signature]*
(Vice) President
Board of Commissioners

ATTEST:

LOWER ALLEN TOWNSHIP AUTHORITY

William J. [Signature]
(Assistant) Secretary

By: *Richard J. [Signature]*
(Vice) Chairman

THIRD AMENDMENT TO AGREEMENT

THIS THIRD AMENDMENT TO AGREEMENT, made as of the 4th day of September, 1997, by and among the TOWNSHIP OF FAIRVIEW, a Pennsylvania municipal corporation, York County, Pennsylvania, FAIRVIEW TOWNSHIP AUTHORITY, a Pennsylvania municipal corporation, of York County, Pennsylvania, parties of the first part, and the TOWNSHIP OF LOWER ALLEN, a Pennsylvania municipal corporation, of Cumberland County, Pennsylvania, LOWER ALLEN TOWNSHIP AUTHORITY, a Pennsylvania municipal corporation, of Cumberland County, Pennsylvania, parties of the second part,

WITNESSETH:

WHEREAS, the parties hereto entered into an Agreement dated December 28, 1976 (herein "Agreement"), modified by letter agreement of Richard W. Stewart, Esquire, Solicitor, dated May 4, 1988, dealing with the payment by Fairview Township of the sum of One Hundred Seventy-Two Thousand One Hundred Fifty-Seven Dollars (\$172,157.00) to Lower Allen Township Authority, for the purchase of 250,000 gallons per day of capacity in the Lower Allen Sewage Treatment Plant, and modified by Amendment to Agreement made as of September 6, 1990, changing references to calendar year instead of fiscal year; and

WHEREAS, the parties hereto desire to further amend the Agreement to provide for the purchase by Fairview Township Authority of capacity of 150,000 gallons per day being its remaining reserve of capacity of 150,000 gallons per day.

NOW, THEREFORE, the parties hereto, intending to be legally bound, represent, covenant, and agree as follows:

1. The introductory clauses set forth above are incorporated herein by reference and made a part hereof as though set forth more fully below.

2. Lower Allen Township Authority, in consideration of the payment to it of the sum of \$180,864.00 hereby sells and assigns to Fairview Township Authority 150,000 gallons average daily flow, being its remaining reserve capacity of 150,000 gallons per day, being in addition to the already purchased 250,000 gallons of average daily flow, in the Lower Allen Sewage Treatment Plant. Payment of the \$180,864.00 shall be made by Fairview Township Authority to Lower Allen Township Authority within thirty (30) days from the date hereof. After said payment, Fairview Township will have its total reserve capacity of 400,000 gallons per day as provided for in Paragraph 3 of the Agreement.

3. It is agreed that the capital contribution percentage allocated to Fairview Township Authority shall be amended to reflect the above purchase of additional capacity at the Lower Allen, Sewage Treatment Plant to hereafter be a percentage allocation to Fairview Township Authority of 6.72 percent.

4. Paragraphs 7, 8 and 9 of the Agreement be and are hereby terminated and declared to be null and void. That all other terms and conditions contained in the Agreement, and all

addenda thereto, together with all other understandings by and among the parties, together with all other understandings by and among the parties, or any of them, evidenced by writings of the same or prior or subsequent dates not in conflict with the hereinabove amendment, will remain in full force and effect, and the parties hereby ratify and reaffirm the same.

IN WITNESS WHEREOF, the parties hereto have duly executed this Third Amendment to Agreement as of the day and year first above written.

ATTEST:

TOWNSHIP OF FAIRVIEW

Richard W. Brubaker By Perry Albert
Secretary President
Board of Commissioners

ATTEST:

FAIRVIEW TOWNSHIP AUTHORITY

Donna L. Nessel By R.H.P. Stuhlf
(Assistant) Secretary (Vice) Chairman

ATTEST:

TOWNSHIP OF LOWER ALLEN

Helen J. Grandis By A.W. B. Ch.
(Assistant) Secretary (Vice) President
Board of Commissioners

ATTEST

LOWER ALLEN TOWNSHIP AUTHORITY

[Signature] By Robert J. Mooney
(Assistant) Secretary (Vice) Chairman

AGREEMENT

THIS AGREEMENT, made and entered into this 11th day of October, 1965, by and between LOWER ALLEN TOWNSHIP AUTHORITY, a municipal Authority of the Commonwealth of Pennsylvania, with its principal office at 1993 Hummel Avenue, Camp Hill, Pennsylvania, hereinafter called "LOWER ALLEN AUTHORITY", party of the first part, and LOWER ALLEN TOWNSHIP, a political subdivision of the Commonwealth of Pennsylvania, with its principal office at 1993 Hummel Avenue, Camp Hill, Pennsylvania, hereinafter called "LOWER ALLEN", party of the second part, and FAIRVIEW TOWNSHIP AUTHORITY, a municipal Authority of the Commonwealth of Pennsylvania, hereinafter called "FAIRVIEW AUTHORITY", party of the third part, and TOWNSHIP OF FAIRVIEW, a political subdivision of the Commonwealth of Pennsylvania, with its principal office at R. D. 1, New Cumberland, Pennsylvania, hereinafter called "FAIRVIEW", party of the fourth part.

WITNESSETH:

WHEREAS, Lower Allen Authority has and operates a sewage treatment plant to serve the Township of Lower Allen and the Borough of Shiremanstown, which plant is located in the Township of Fairview, York County, Pennsylvania, and from which plant there extends an outfall line from the plant to the Susquehanna River; and

WHEREAS, Lower Allen is the lessee and operator of the sewage system owned by Lower Allen Township Authority and as such receives the rentals for sewer service rendered in such places; and

WHEREAS, Fairview Authority is about to construct and operate a sewer system in the Township of Fairview, York County, Pennsylvania, and proposes to make a connection with the outfall

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PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

line of Lower Allen Authority for the purpose of conveying its treated sewage from its plant to the Susquehanna River; and

WHEREAS, Fairview Township has a contract with Lower Allen Authority with respect to the maintenance of the sewage treatment plant of Lower Allen Authority in Fairview Township and in which provision is made for receiving sewage for treatment under and subject to certain conditions.

NOW, THEREFORE, in consideration of the mutual covenants, agreements and provisions herein contained, and each of the parties intending to be legally bound in accordance with the Act of Assembly in such cases made and provided, it is hereby mutually agreed as follows:

1. Lower Allen Authority and Lower Allen agree to allow Fairview Authority to connect its proposed twelve (12) inch outfall line at Manhole No. 10 on the outfall line of Lower Allen Authority, such connection to be made by Fairview Authority in a manner suitable to Lower Allen Authority and subject to inspection by Lower Allen Authority or its representative. No use shall be made of the twelve (12) inch Fairview outfall line until the provisions of this paragraph have been complied with, which compliance shall be evidenced by written approval from Lower Allen Authority. Any engineering expenses incurred by Lower Allen Authority for the inspection of this connection shall be paid by Fairview Authority, in addition to any other obligations under this Agreement.

2. Fairview Authority agrees with Lower Allen Authority that only effluent which has been treated in accordance with prevailing standards, regulations and specifications of the Pennsylvania Department of Health, will be delivered at Manhole No. 10 for discharge into the outfall line of Lower Allen Authority and Lower Allen Authority agrees to accept under this agreement only such effluent as meets with the above mentioned standards.

3. Fairview Authority and/or Fairview, if the latter is a Lessee of Fairview Authority agrees to pay Lower Allen or Lower Allen Authority the minimum sum of Six Hundred Dollars (\$600.00) or such greater amount as may be required under the subsequent provisions of this agreement at the end of each calendar quarter, (to wit: March 31, June 30, September 30 and December 31) for the use of the outfall line of Lower Allen Authority, said payments to be subject to the following conditions:

A. The obligation to make payments under this contract shall commence on the day that Fairview Authority puts into operation its contemplated sewage treatment plant;

B. The first payment shall be due on the last day of the calendar quarter during which the commencement of operation of the treatment plant shall have occurred and the amount due at that time shall be that proportion of \$600.00 which the actual days of use bear to the total number of days of the quarter;

C. Each full quarterly payment thereafter shall be either \$600.00 or such greater amount as may be required by the provisions of this agreement, hereinafter set forth.

4. The quarterly payments hereinabove mentioned are the minimum payments to which Lower Allen shall be entitled under this Agreement and are intended as full consideration to Lower Allen and Lower Allen Authority (subject to the later provisions of this Agreement) for average daily flows of 240,000 gallons. For the purposes of this agreement, the average daily flow for a quarter shall be computed by dividing the total daily flows for the quarter by the number of days in the quarter. To the extent, if any, that the average daily flows for any quarter shall exceed 240,000 gallons, Fairview Authority agrees to pay to Lower Allen, in addition to the minimum payments hereinabove required the sum of \$2.50 for each 1,000 gallons or portion thereof by which the actual average daily flows for that quarter have exceeded 240,000 gallons.

5. In accordance with the provisions of this agreement, Lower Allen and Lower Allen Authority shall be obligated to continuously receive from Fairview Township Authority under this Agreement, any flows of effluent which exceed a peak instantaneous rate of 480,000 gallons per day even though the average flows for the quarter shall be less than 240,000 gallons. If the peak instantaneous rate shall exceed 480,000 gallons more than three times in any quarter, Lower Allen shall notify Fairview Authority of this situation and Fairview Authority shall have three months from the date of said notice to correct the situations or conditions which may be causing such peak flows and if such conditions cannot be corrected within three months, the parties hereto agree that this contract shall be renegotiated and allowance made for the excess capacity thereby required by Fairview Township Authority. Such renegotiation may result in an adjustment of payments and an increase in the capacity of Lower Allen's facilities or a complete termination of rights under this Agreement after reasonable notice.

6. If the peak instantaneous rate hereinabove set forth shall have been exceeded more than three times in any quarter, Fairview Township Authority shall pay a surcharge computed as follows:

That fractional portion of \$600.00 obtained by multiplying \$600 times a fraction wherein the numerator shall be computed by dividing the total gallonage by which the flows have exceeded the ceiling rate of 480,000 gallons per day by the number of times in the quarter on which the ceiling rate was exceeded and the denominator of the fraction shall be 480,000 gallons.

The surcharge thus computed shall be paid for that quarter in addition to all other obligations of Fairview under this agreement computed without regard to said surcharge.

7. It is mutually understood and agreed that in the event the outfall line should become overloaded and a relief or new outfall line is required to be constructed, then and in such event, Fairview Authority agrees to and with Lower Allen Authority that it will pay its pro rata share of the cost of construction according to design flow allocation. Fairview Authority agrees to discharge its obligation hereunder by making a cash grant in aid of construction to Lower Allen Authority within ninety (90) days after notice of the amount required to be paid. The amount of Fairview's obligation hereunder shall be that portion of the total cost of the facilities actually used or to be used by Fairview Township which their authorized average daily flows bear to the total capacity of the facilities used and/or to be used by Fairview Township Authority. If construction is required solely for the accommodation and use of Fairview Authority, then Fairview Authority shall pay the total cost of installing such additional facilities. Any lines constructed under this paragraph shall be owned and remain the sole property of Lower Allen Authority and Fairview Authority shall have only such rights of user as are provided by this agreement or any amendment or supplement thereto.

8. Fairview Authority agrees to furnish Lower Allen and Lower Allen Authority its flow records, which shall be taken from its meter records of sewage discharged from its plant into the line for connections with Manhole No. 10 of Lower Allen Authority. These records shall be furnished monthly or the readings shall be available to Lower Allen and Lower Allen Authority on request. Lower Allen and Lower Allen Authority shall also have the right at reasonable hours and upon reasonable notice to read Fairview Authority's meters, to examine its facilities and to test the quality of its effluent.

9. Fairview Authority agrees to maintain in good working order the sewage meter or meters, the readings from which form the basis for the billings under this Agreement.

10. Fairview Authority shall obtain all the permits

necessary for its use of the said facility of Lower Allen.

11. The parties hereto mutually agree that the terms and conditions of a certain Agreement between Lower Allen Authority and Fairview shall remain as heretofore, and it is not the intention of the parties hereto to alter, amend or cancel the said contract in any way.

12. As a part of the consideration for the execution of this Agreement, Fairview Authority has agreed that it is indebted in the amount of \$ 638⁰⁷/₁₀₀ to Lower Allen Authority for engineering expenses incurred by Lower Allen Authority prior to the date hereof for certain studies of proposed rates made at the request of Fairview Authority.

13. It is the intention of the parties hereto that this Agreement shall continue for a period of 40 years, which shall be the period of the bond issue of Fairview Authority, subject to the provisions herein which may cause a termination or renegotiation of the contract.

14. This Agreement shall be binding upon and inure to the benefit of the successors and assigns of the parties hereto.

IN WITNESS WHEREOF, the parties hereto, have executed this Agreement the day and year first above written.

LOWER ALLEN TOWNSHIP AUTHORITY

By John A. Boonell
Chairman

ATTEST:

Richard S. Kelly
Secretary

LOWER ALLEN TOWNSHIP

By Robert J. Moore
President of the Board of Commissioners

ATTEST:

Thomas C. Wase
Secretary

FAIRVIEW TOWNSHIP SEWER AUTHORITY

By *[Signature]*
Chairman

[Signature]
Secretary

FAIRVIEW TOWNSHIP

By *[Signature]*
Chairman of the Board of
Supervisors

ATTEST:

[Signature]
Secretary

FIRST AMENDMENT
OUTFALL AGREEMENT**FAIRVIEW TOWNSHIP AUTHORITY
599 LEWISBERRY ROAD
NEW CUMBERLAND, PA 17070**

June 6, 1994

William Brown, Manager
Lower Allen Township Authority
1993 Hummel Avenue
Camp Hill, PA 17011

Re: Fairview Township Authority/Jointly Use Outfall Line

Dear Mr. Brown:

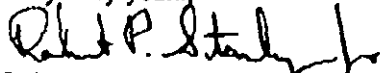
Per your request, I am writing this letter to you in connection with the expansion of the New Market Waste Water Treatment Plant. As you are aware, the New Market Waste Water Treatment Plant has recently been doubled in capacity. That Plant has an existing outfall line which connects to the Lower Allen Township Authority outfall line. There is an Agreement, dated October 11, 1965, which provides that Fairview Township/Fairview Township Authority is required to pay the sum of \$600.00 per quarter for average daily flows of approximately 240,000 gallons for use of the outfall line which is owned by Lower Allen Township Authority.

The New Market Waste Water Treatment Plant now has a capacity of 500,000 gallons per day. In light of the increased capacity, Fairview Township Authority/Fairview Township proposes to increase the quarterly payment pursuant to the Agreement from \$600.00 to \$1,200.00 effective April 1, 1994. If this adjustment is acceptable please advise.

In addition, the New Market Waste Water Treatment Plant, like all treatment facilities, experienced increases in flows during the past several months. Fairview Township Authority is currently investigating the collection system within the New Market area to identify the areas in which inflow and infiltration are occurring. The problem areas will be televised and remedial action will be taken. It is anticipated that remedial action should be completed within the next four to six months.

If you have questions please advise.

Very truly yours,


Robert P. Stanley, Jr., Chairman

RPS:dki:35558

cc: Paula S. Tezik, Administrative Assistant
Donna L. Nissel, Secretary

Lower Allen Township Authority

120 LIMEKILN ROAD, NEW CUMBERLAND, PA. 17070
Office: (717) 774-0610 • Fax: (717) 774-2291

FILE COPY

July 8, 1994

Robert P. Stanley, Jr., Chairman
Fairview Township Sewer Authority
599 Lewisberry Road
New Cumberland, PA 17070

RE: Fairview Township Authority/Jointly Use
Outfall Line


Dear Mr. Stanley:

This is in reply to your letter dated June 6, 1994. The Lower Allen Township Authority approved your proposal of \$1,200.00 per quarter with a flow of up to 500,000 gallons per day effective April 1, 1994.

We also will need copies of your Discharge Monitoring Reports on a monthly basis.

If you have any questions concerning the above information, please feel free to contact me.

Sincerely,



William L. Brown
Manager

WLB/jmh

cc: Paula S. Tezik, Administrative Assistant
Donna L. Nissel, Secretary

Lower Allen Township Authority

120 LIMEKILN ROAD, NEW CUMBERLAND, PA. 17070

Office: (717) 774-0610 • Fax: (717) 774-2291

Fairview Township Use of Outfall Line
as per October 11, 1965 Agreement

Design Plant Capacity 500,000 Gallons per day

Present Average Daily Flow 400,000 Gallons

240,000 Gallons Average Daily Flow = \$600.00 Per Quarter

160,000 Gallons x \$2.50 per thousand = \$400.00 Per Quarter

SECOND AMENDMENT TO OUTFALL AGREEMENT

THIS SECOND AMENDMENT TO OUTFALL AGREEMENT, ("Second Amendment"), made as of the 13TH day of MARCH, ~~19~~¹⁹⁶⁵ by and among the TOWNSHIP OF FAIRVIEW, a Pennsylvania municipal corporation, York County, Pennsylvania, FAIRVIEW TOWNSHIP AUTHORITY, a Pennsylvania municipal corporation, York County, Pennsylvania, parties of the first part, and the TOWNSHIP OF LOWER ALLEN, a Pennsylvania municipal corporation, of Cumberland County, Pennsylvania, LOWER ALLEN TOWNSHIP AUTHORITY, a Pennsylvania municipal corporation, of Cumberland County, Pennsylvania, parties of the second part,

WITNESSETH:

WHEREAS, the parties hereto entered into an Agreement, dated October 11, ~~1990~~¹⁹⁶⁵ (herein "Agreement"), dealing with the Fairview Township Authority outfall connection to the Lower Allen Township Authority outfall for conveying treated sewage to the Susquehanna River and outfall user charges; and

WHEREAS, the parties agreed to amend the Agreement by letter of Robert P. Stanley, Jr., Chairman Fairview Township Authority, dated June 6, 1994, increasing the Fairview Township Authority allocated outfall capacity from 240,000 gallons per day to 500,000 gallons per day and the quarterly payment from \$600.00 to \$1,200.00 effective April 1, 1994; and

WHEREAS, the parties hereto desire to further amend the Agreement to provide an additional 226,000 gallons per day of additional outfall capacity for a total of 726,000 gallons per day to provide the requisite capacity in connection with the pending re-rating of the New Market Wastewater Treatment Plant of Fairview Township Authority.

NOW, THEREFORE, the parties hereto, intending to be legally bound, represent, covenant, and agree as follows:

1. The introductory clauses set forth above are incorporated herein by reference and made a part hereof as though hereinafter fully set forth.
2. The Lower Allen Township Authority and Lower Allen Township agree pursuant to this Second Amendment, that the average daily treatment sewage effluent flow discharge at outfall manhole 10 of Lower

Allen Township Authority sewer system shall be increased from 500,000 gallon per day to 726,000 gallons per day.

3. The quarterly payment for the outfall capacity shall increase from \$1,200 per quarter to \$1,815 per quarter based on the cost of \$0.0274 per thousand gallons.

4. The additional quarterly payment to the extent, if any, shall increase to \$7.50 for each 1,000 gallons or portion thereof, by which the actual average daily flows for that calendar quarter have exceeded 726,000 gallons.

5. The Lower Allen Township Authority and Lower Allen Township shall not be obligated to continuously receive from Fairview Township Authority and Fairview Township under this amended Agreement any effluent flows which exceed a peak instantaneous rate of 1,206,000 gallons per day.

6. If the peak instantaneous rate as amended is exceeded more than three (3) times during any calendar quarter, Fairview Township Authority shall also pay for such calendar quarter a surcharge for each day that the peak instantaneous rate is exceeded, which surcharge is computed as that fractional portion of \$1,815 obtained by multiplying \$1,815 times a fraction, the numerator of which shall be computed by dividing the total gallonage by which the peak instantaneous rate exceeds the ceiling rate of 1,206,000 gallons per day by the number of times in the calendar quarter on which the ceiling rate was exceeded and the denominator of which shall be the ceiling rate of 1,206,000 gallons. By way of example, for calendar quarter peak instantaneous flows of 1,300,000; 1,400,000; 1,500,000; 1,350,000 gallons per day the surcharge would be $\$2,088.15 = \$1,815 (1,300,000 + 1,400,000 + 1,500,000 + 1,350,000 \text{ divided by } 4) \text{ divided by } 1,206,000$. For each day that the peak instantaneous rate is exceeded during each calendar quarter, in excess of three (3) times for such calendar quarter, the calculation of the surcharge shall be made for all such events (including the initial three [3] times during such calendar quarter) which occur during said calendar quarter. If the peak instantaneous rate as amended is exceeded three (3) or fewer times during any calendar quarter, then no surcharge is payable.

7. That all other terms and conditions contained in the Agreement, and all addenda thereto, together with all other understandings by and among the parties, or any of them evidenced by writings of the same or proper or subsequent date not in conflict with the herein above amendment, will remain in full force and effect, and the parties hereby ratify and reaffirm the same.

8. The obligations of Township of Fairview and Fairview Township Authority pursuant to this Second Amendment to Outfall Agreement are specifically conditioned upon Fairview Township Authority obtaining from the Pennsylvania Department of Environmental Protection ("DEP") authorization to rerate the capacity of the existing Northern Wastewater Treatment Plant from the current 500,000 gallons per day to 726,000 per day. If Fairview Township Authority does not obtain the additional capacity for said wastewater treatment plant from DEP by June 30, 2000 then, in that event, this Second Amendment to Outfall Agreement shall be null and void. Fairview Township Authority shall notify Lower Allen Township Authority within thirty (30) calendar days after DEP has authorized an increase in the treatment capacity of said wastewater treatment plant, if applicable.

IN WITNESS WHEREOF, the parties hereto have duly executed this Second Addendum to the Agreement as of the day and year first above written.

ATTEST:

Richard J. Brubaker
Secretary

TOWNSHIP OF FAIRVIEW

By: Michael R. ...
(Vice) Chairman
Board of Supervisors

ATTEST:

Donna L. Nissel
Secretary

FAIRVIEW TOWNSHIP AUTHORITY

By: R.H.P. ...
(Vice) Chairman

ATTEST:

Deanna D. ...
Secretary

TOWNSHIP OF LOWER ALLEN

By: Joseph M. ...
(Vice) Chairman
Board of Commissioners

ATTEST:

[Signature]
Secretary

LOWER ALLEN TOWNSHIP AUTHORITY

By: Robert J. ...
(Vice) Chairman

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NOV 2 2015

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

INTERJURISDICTIONAL PRETREATMENT AGREEMENT

THIS AGREEMENT, made as of this 11 day of Sept, 1984, among TOWNSHIP OF FAIRVIEW, a Pennsylvania municipal corporation, of York County, Pennsylvania, FAIRVIEW TOWNSHIP AUTHORITY, a Pennsylvania municipal authority, of York County, Pennsylvania, TOWNSHIP OF LOWER ALLEN, a Pennsylvania municipal corporation, of Cumberland County, Pennsylvania, and LOWER ALLEN TOWNSHIP AUTHORITY, a Pennsylvania municipal authority, of Cumberland County, Pennsylvania.

WITNESSETH:

WHEREAS, Lower Allen Township Authority owns and operates a Publicly Owned Treatment Works as defined in 40 CFR, Section 403.3 (o) (herein "POTW"); and,

WHEREAS, Township of Fairview and Fairview Township Authority currently utilize POTW pursuant to an Agreement between Township of Fairview, Fairview Township Authority, Township of Lower Allen, and Lower Allen Township Authority made as of December 28, 1976 (herein "Service Agreement"); and,

WHEREAS, Township of Lower Allen and Lower Allen Township Authority must develop and implement an industrial pretreatment program pursuant to conditions contained in its discharge permit Permit #0027189 issued by U.S. Environmental Protection Agency; and,

WHEREAS, Township of Fairview and Fairview Township Authority desire to continue to utilize the wastewater treatment system and

recognize their industrial waste control obligations under the Federal Pretreatment Regulations, 40 CFR, Section 403.

NOW, THEREFORE, the parties hereto, intending to be legally bound according to law, mutually agree as follows:

1. Township of Fairview shall adopt and diligently enforce an ordinance containing civil or criminal penalties, which is substantially identical to the ordinance adopted by the Township of Lower Allen or Resolution 84-A-12 adopted by Lower Allen Township Authority with respect to that portion of the geographic territory of Township of Fairview and its sewer system therein which are subject to and covered by the terms and provisions of the Service Agreement. Lower Allen Township Authority shall provide to Township of Fairview a copy of any such resolution and amendments thereto, and Township of Lower Allen shall provide to Township of Fairview a copy of such ordinance and any amendments thereto. Copies of all rules and regulations of Township of Lower Allen or Lower Allen Township Authority promulgated with respect to the industrial pretreatment program by Lower Allen Township Authority and Township of Lower Allen shall also be provided to Township of Fairview.

2. Township of Fairview shall explicitly incorporate the following provisions into its ordinance:

(a) a provision requiring any industrial user responsible for an accidental discharge to notify immediately

Lower Allen Township Authority, Township of Lower Allen, and Township of Fairview of the same;

(b) a prohibition on the use of dilution as a control technique for compliance with discharge limits except as allowed by Federal Pretreatment Standards;

(c) a grant of authority to impose mass discharge limits in lieu of, or in conjunction with, concentration discharge limits;

(d) a prohibition against and penalty for, to the extent permitted by law, the knowing transmittal of false information by an industrial user to either Lower Allen Township Authority, Township of Lower Allen, or Township of Fairview;

(e) a grant of explicit authority to Township of Fairview to require the installation of such monitoring and pretreatment facilities as shall be necessary to assure compliance with the Federal Pretreatment Standards.

3. Lower Allen Township Authority, Township of Lower Allen, and Township of Fairview shall periodically (at a minimum of every three (3) years) review their respective resolutions or ordinances and jointly draft and adopt equivalent amendments to their respective resolutions or ordinances when necessary to ensure the effective administration and operation of the pretreatment program. Whenever Lower Allen Township Authority or Township of Lower Allen becomes aware of a problem with the pretreatment program which can be mitigated by a change in the resolution or

ordinance, Lower Allen Township Authority by resolution or Township of Lower Allen by ordinance may make such change and if such change is so made, Township of Fairview will also make such change in its ordinance. If Township of Fairview has adopted a substantially identical ordinance as Township of Lower Allen or substantially identical ordinance to a resolution adopted by Lower Allen Township Authority, then, whenever Township of Lower Allen amends its ordinance or Lower Allen Township Authority amends its resolution, Township of Fairview shall adopt a substantially identical amendment.

4. Township of Fairview shall adopt, as part of its ordinance, and enforce specific discharge limits at least as stringent as the specific discharge limits established in ordinance of Township of Lower Allen or resolution of Lower Allen Township Authority, provided that if such discharge limits exceed the applicable limits of the Federal Pretreatment Regulations, Township of Fairview is only obligated to adopt and enforce limits which meet the minimum legal requirements contained in the Federal Pretreatment Regulations.

5. Township of Fairview ordinance shall require that categorical pretreatment standards promulgated by the U.S. Environmental Protection Agency (EPA) [promulgated by authority of the Clean Water Act Sections 307(b) and (c)] be automatically incorporated by reference into Township of Fairview ordinance. These standards shall supersede any specific discharge limits in

the ordinance which are less stringent than the categorical standards as they apply to the particular industrial subcategory. Township of Fairview shall notify in writing all affected industrial users of pertinent categorical standards and monitoring and reporting requirements contained in 40 CFR 403.12 or included as part of the categorical standard. If Township of Fairview does give said notice, Lower Allen Township Authority or Township of Lower Allen shall give said notice and provide Township of Fairview with a copy of said notice.

6. Township of Fairview shall adopt in its ordinance a definition for industrial user which is identical to the definition of industrial user adopted by Lower Allen Township Authority or Township of Lower Allen. Lower Allen Township Authority and Township of Lower Allen may make the final determination as to whether a particular industrial user is an industrial user based on information Lower Allen Township Authority or Township of Lower Allen may request from Township of Fairview or directly from such user. Township of Fairview shall control, through industrial discharge permits, industrial waste discharges from each industrial user discharging into the sewer system. Lower Allen Township Authority or Township of Lower Allen shall furnish Township of Fairview with a copy of its permit form, all rules and regulations promulgated with respect thereto, and a schedule of fees, if any.

7. If there exists any industrial user discharging to Township of Fairview sewer system but located outside the

jurisdictional limits of Township of Fairview, the Township of Fairview shall negotiate and enter into an agreement with this outside jurisdiction. Such agreement shall be substantially equivalent to this Agreement, and shall be jointly executed by Township of Fairview, Lower Allen Township Authority, and Township of Lower Allen, and the outside jurisdiction. If the outside jurisdiction refuses to negotiate and execute an agreement, then Township of Fairview shall enter into a contract with the industrial user which contains terms and conditions substantially equivalent to Township of Fairview industrial discharge permits.

8. Township of Fairview shall file with Lower Allen Township and Township of Lower Allen a certified copy of its ordinance, resolution, regulations and rules, if any, and any amendments thereto, other interjurisdictional agreements, each industrial waste discharge permit issued, schedule of fees, if any, and any contract entered into for the purposes of industrial waste control. Township of Fairview shall provide Lower Allen Township Authority and Township of Lower Allen access to and copies of, if requested, all industrial monitoring reports including 40 CFR §403.12 compliance reports, self-monitoring reports, baseline reports, records of violations and actions taken, and any other monitoring or reporting requirements imposed by Federal, State or local regulations. Lower Allen Township Authority and Township of Lower Allen shall permit Township of Fairview access to and copies of, if requested, such information.

These records and other revelant information shall be maintained for at least three (3) years.

9. Any authorized officer or employee of Lower Allen Township or Township of Lower Allen may enter and inspect at any reasonable time any part of the sewer system of Township of Fairview. The right of entry and inspection shall extend to public streets, easements, and property within which the system is located. Additionally, Lower Allen Township Authority or Township of Lower Allen shall be permitted, as appropriate, to enter onto private property to inspect industrial waste dischargers. Township of Fairview will cooperate to enable such inspection. The right of inspection shall include on-site inspection of pre-treatment and sewer facilities, observation, measurement, sampling, testing, and access to (with the right to copy) all pertinent compliance records located on the premises of the industrial user.

10. Township of Fairview and Lower Allen Township Authority or Township of Lower Allen may enter into a pretreatment agreement providing Lower Allen Township Authority or Township of Lower Allen with the legal authority and responsibility for performance of technical and administrative activities necessary for implementation of a pretreatment program within Township of Fairview. These activities may include, among others: 1) updating the industrial waste survey; 2) providing technical services, such as sampling, process chemical analysis, and engineering advice; 3) permitting; 4) compliance monitoring; 5) enforcement support.

Where pretreatment delegation occurs, Lower Allen Township Authority or Township of Lower Allen shall assess Township of Fairview the costs incurred by Lower Allen Township Authority or Township of Lower Allen in conjunction with the administration of the Pretreatment Program on behalf of Township of Fairview. Lower Allen Township Authority or Township of Lower Allen shall provide Township of Fairview with a detailed accounting of the pretreatment costs assessed Township of Fairview.

11. Lower Allen Township Authority or Township of Lower Allen shall review Township of Fairview ordinance and amendments thereto, and any interjurisdictional agreements for conformance with 40 CFR Part 403, and to ensure inclusion of all other legal provisions mandated by this Agreement. Lower Allen Township Authority or Township of Lower Allen shall periodically review the enforcement efforts of Township of Fairview and any other jurisdiction to ascertain whether pretreatment requirements are being diligently enforced. To the extent Township of Fairview chooses to administer its own pretreatment program, Lower Allen Township Authority or Township of Lower Allen may periodically review Township of Fairview pretreatment program activities and funding to ensure that Township of Fairview and any outside jurisdiction is adequately administering its pretreatment program in conformance with the Federal Pretreatment Regulations (40 CFR 403) and all Lower Allen Township Authority or Township of Lower Allen requirements.

12. If Lower Allen Township Authority or Township of Lower Allen determines that Township of Fairview has failed or has refused to fulfill any pretreatment obligations, Lower Allen Township Authority or Township of Lower Allen may develop and issue a remedial plan containing a description of the nature of the pretreatment deficiencies, an enumeration of steps to be taken by Township of Fairview, and a time schedule for attaining compliance with all pretreatment requirements. Such plans shall be specifically enforceable in a court of competent jurisdiction. Where Township of Fairview fails to satisfy the terms of the remedial plan, Lower Allen Township Authority or Township of Lower Allen may, upon thirty (30) days written notice, refuse to accept any industrial waste discharges from Township of Fairview.

13. Township of Fairview shall reimburse Lower Allen Township Authority or Township of Lower Allen for fines or costs incurred as a result of industrial waste discharge from Fairview Township to the POTW which is the proximate cause of injury to Lower Allen Township Authority or Township of Lower Allen personnel, damages to Lower Allen Township or Township of Lower Allen facilities, disruption of treatment processes or operations, degradation of sludge quality, NPDES permit violations, and other air, water, and sludge quality violations.

14. Where a discharge to the POTW reasonably appears to present an imminent danger to the health and welfare of persons, or

presents or may present an imminent danger to the environment, or threatens to interfere with the operation of the POTW system, Lower Allen Township Authority or Township of Lower Allen may immediately initiate steps to identify the source of the discharge, and to halt or prevent said discharge. Lower Allen Township Authority or Township of Lower Allen may seek injunctive relief against Township of Fairview or outside jurisdictions and/or any industrial user contributing to the emergency condition, and/or may pursue other self-help remedies.

15. The terms of this Agreement may be amended only by written agreement of the parties. In any event, this Agreement shall be reviewed and revised, as necessary, at least every three (3) years.

16. This Agreement modifies only those provisions of the existing Service Agreement between the parties which conflict with the terms of this Agreement.

17. This Agreement will remain in effect so long as the Service Agreement remains in effect. Termination of the Service Agreement shall also result in the termination of this Agreement.

IN WITNESS WHEREOF, each of the parties hereto has caused this Interjurisdictional Pretreatment Agreement to be duly executed and attested by its proper officers, pursuant to proper

action of its proper governing body, all as of the day and year first above written.

Attest:

(Corporate Seal)

Ed McCallie
(Assistant) Secretary

TOWNSHIP OF FAIRVIEW

By *Arthur L. Shaffer*
(Vice) President

Attest:

(Corporate Seal)

Gleason L. Wood
(Assistant) Secretary

FAIRVIEW TOWNSHIP AUTHORITY

By *Thomas A. Babson*
(Vice) Chairman

Attest:

(Corporate Seal)

Ronald J. Mull
(Assistant) Secretary

TOWNSHIP OF LOWER ALLEN

By *R. Thomas Hawley*
(Vice) President

Attest:

(Corporate Seal)

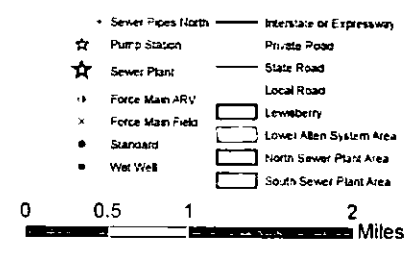
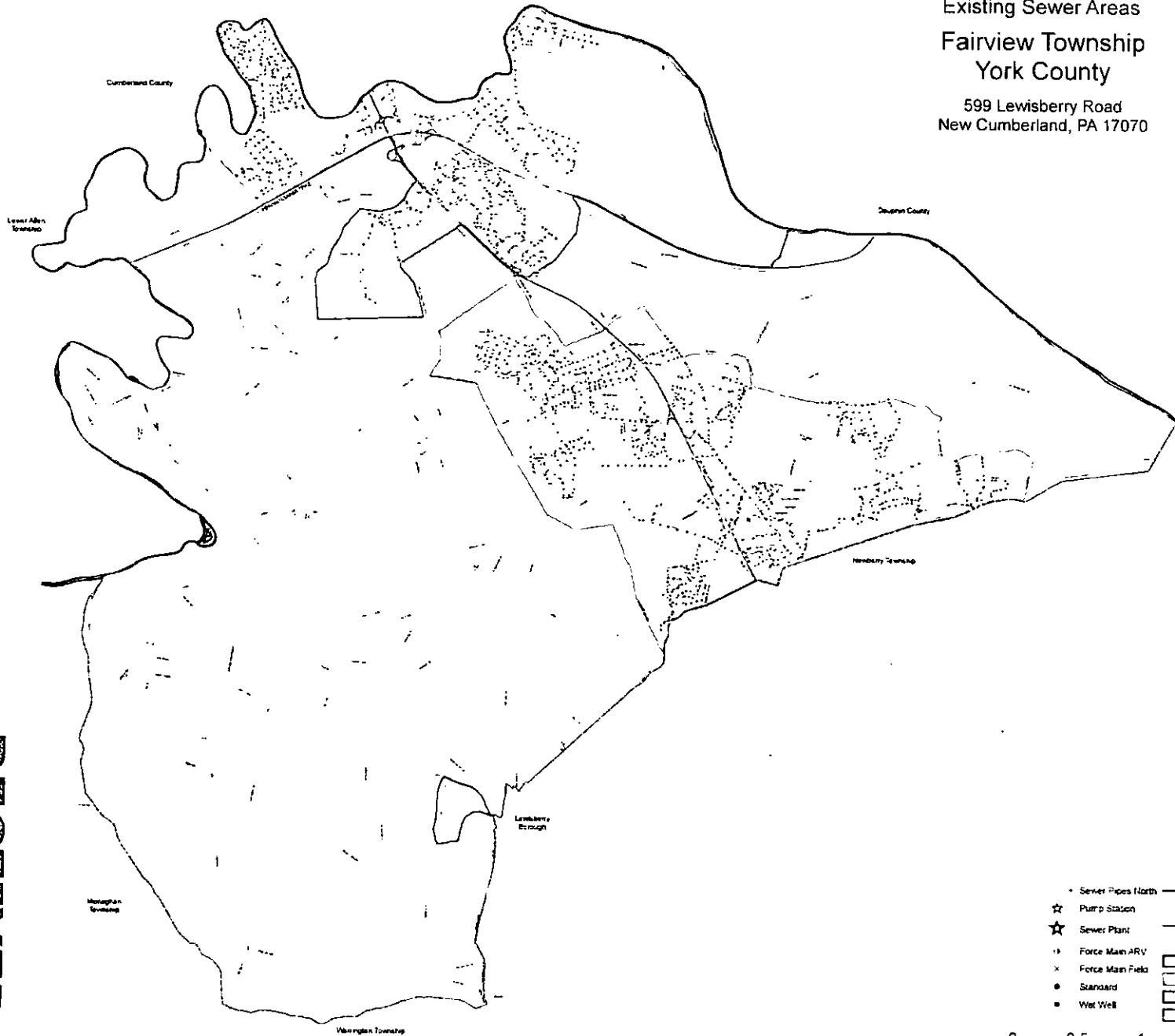
Kenneth W. Katz
(Assistant) Secretary

LOWER ALLEN TOWNSHIP AUTHORITY

By *Robert J. Mooney*
(Vice) Chairman

ACT 537
 Existing Sewer Areas
 Fairview Township
 York County

599 Lewisberry Road
 New Cumberland, PA 17070



A-5 Response

RECEIVED

NOV 2 2015

PA PUBLIC UTILITY COMMISSION
 SECRETARY'S BUREAU

ORDINANCE NO. 86-2

AN ORDINANCE OF THE TOWNSHIP OF FAIRVIEW, YORK COUNTY, PENNSYLVANIA, ESTABLISHING RULES AND REGULATIONS FOR THE REGULATION OF DIRECT AND INDIRECT CONTRIBUTORS TO THE SEWER SYSTEM, OF THE TOWNSHIP FOR WHICH TREATMENT IS PROVIDED BY THE POTW TREATMENT PLANT FOR THE ISSUANCE OF PERMITS TO CERTAIN NON-DOMESTIC USERS, AND FOR ENFORCEMENT OF GENERAL REQUIREMENTS FOR THE OTHER USERS; AUTHORIZING MONITORING, TESTING, INSPECTION AND ENFORCEMENT ACTIVITIES; REQUIRING USER REPORTING; PROVIDING FOR THE SETTING OF FEES FOR THE EQUITABLE DISTRIBUTION OF COSTS RESULTING FROM THE PROGRAM ESTABLISHED THEREUNDER; AND IMPOSING PENALTIES FOR USER NON-COMPLIANCE.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of Fairview Township, York County, Pennsylvania, and it is hereby enacted and ordained by the same:

SECTION 1. GENERAL PROVISIONS.

(a) Purpose and Policy - This ordinance sets forth uniform requirements for direct and indirect contributors to that portion of the Sewer System within the Township of Fairview, York County, Pennsylvania, which has its discharge treated by the POTW Treatment Plant (Sewer System) and enables the Township to comply with all applicable State and Federal laws required by the Clean Water Act of 1977 and the General Pretreatment Regulations (40 CFR, Part 403).

(2) Objectives - The objectives of this ordinance are:

(1) To prevent the introduction of Pollutants into the Sewer System which will interfere with the operation of the system or contaminate the resulting sludge;

(2) To prevent the introduction of Pollutants into the Sewer System which will pass through the system, inadequately treated, into the receiving waters or the atmosphere or otherwise be incompatible with the system;

(3) To improve the opportunity to recycle and reclaim Wastewaters and sludges from the system; and

(4) To provide for equitable distribution of the operating cost of the Sewer System.

(c) Applicability - This ordinance shall apply to the Township and to any municipality or person outside the Township who is, by contract or agreement with the Township, User of the Sewer System.

(d) Administration - Except as otherwise provided herein, the Board of Supervisors, Township Manager, or Superintendent of the POTW shall administer, implement and enforce the provisions of this ordinance. The Authority, Authority Manager and Lower Allen Township Manager may assist in the administration and imple-

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

NOV 2 2015

RECEIVED

mentation of the Ordinance as authorized designers of the Township but shall have no direct enforcement authority under this Ordinance.

SECTION 2. DEFINITIONS

(a) Words, Terms and Phrases - The following words, terms and phrases when used in this ordinance shall have the meaning ascribed to them in this section, except where the context specifically clearly indicates a different meaning:

(1) Act or "the Act": The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C., 1251, et seq.

(2) Allowable Industrial Waste: Any solid, liquid or gaseous substance, water-borne waste or form of energy ejected or escaping from any industrial, manufacturing, trade or business process or from the development, recovery or processing of natural resources, as distinct from sanitary sewage, which complies with all provisions of this ordinance and which is allowed to be discharged into the Sewer System by the Township, or allowable by the rules and regulations of the Township.

(3) Approval Authority: The Director in an NPDES state with an approved State Pretreatment Program and the Administrator of the EPA in a non-NPDES state or NPDES state without an Approved State pretreatment program.

(4) Approved POTW Pretreatment Program or "Program" or "POTW Pretreatment Program": A program administered by a POTW that meets the criteria established in regulations issued pursuant to the Act and which has been approved by a Regional Administrator or State Director in accordance with regulations issued pursuant to the Act.

(5) Authority: Lower Allen Township Authority, a Pennsylvania municipal authority. Lower Allen Township, Cumberland County, Pennsylvania.

(6) Authorized Representative of Industrial User: An authorized representative of an Industrial User may be:

A. A principal executive officer of at least the level of vice president, if the Industrial User is a corporation;

B. A general partner or proprietor if the Industrial User is a partnership or proprietorship, respectively;

C. A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates.

(7) B.O.D. (Biochemical Oxygen Demand): The quantity of oxygen, expressed in mg/l, utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees Centigrade. The standard laboratory procedure shall be found in the latest edition of "Standard Methods for the Examination of Water and Sewage" published by the American Public Health Association.

(8) Building Sewer: A sewer conveying wastewater from the premises of a User to the Sewer System.

(9) Categorical Standards: National Categorical Pretreatment Standard or Pretreatment Standard.

(10) Color: Color of an industrial waste is the color of the light transmitted by the waste solution after removing the suspended material, including the pseudo-colloidal particles.

(11) Control Authority: The Township or its duly authorized designees, representatives or agents. Such authorized representatives shall include the Manager or the Superintendent of the POTW.

(12) Cooling Water: The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

(13) Direct Discharge: The discharge of treated or untreated wastewater directly to the Waters of the State.

(14) Dissolved Solids: The anhydrous residues of the dissolved constituents in water or wastewater.

(15) Environmental Protection Agency, or "EPA": The U.S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.

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

(17) Grab Sample: A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

(18) Ground Water: That which is contained in or passing through the ground.

(19) Holding Tank Waste: Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

(20) Indirect Discharge: The discharge or the introduction of non-domestic pollutants from any source regulated under Section 307(b) or (c) of the Act (33 U.S.C., 1317) into the Sewer System (including holding tank waste discharged into the system).

(21) Industrial User: A source of Indirect Discharge.

(22) Industrial Waste: Solid, liquid or gaseous substances, water borne waste or form of energy discharged or escaping in the course of any industrial, manufacturing, commercial, trade, business or research process or in the course of development, recovering or processing of natural resources, but not Sanitary Sewage.

(23) Interference: The inhibition or disruption of the POTW, its treatment processes or operations or its sludge processes, use or disposal which contributes to a violation of any requirement of the POTW NPDES permit. The term includes prevention of sewage sludge use or disposal by the Authority in accordance with Section 4.05 of the Act (33 U.S.C. 1345) or any criteria, guidelines, or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substances Control Act, or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the Township.

(24) Manhole: A structure leading from the surface of the ground to a Sewer, permitting access to the Sewer.

(25) MG/L: Milligrams per liter.

(26) Municipality: Any county, municipal authority, city, borough, township, or school district.

(27) National Categorical Pretreatment Standard or "Pretreatment Standard" or "Standard": Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1347) which applies to a specific category of Industrial Users.

(28) National Pollutant Discharge Elimination System Permit or "NPDES Permit": A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

(29) National Prohibitive Discharge Standard or "Prohibitive Discharge Standard": Any regulation developed under the authority of 307(b) of the Act and 40 CFR, Section 403.5.

(30) New Source: Any source, the construction of which is commenced after the publication of proposed regulations prescribing a Section 307(c) (33 U.S.C. 1317) Pretreatment Standard which will be applicable to such source, if such Pretreatment Standard is thereafter promulgated within one hundred twenty (120) days of proposal in the Federal Register. Where the Pretreatment Standard is promulgated later than one hundred twenty (120) days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the Pretreatment Standard.

(31) Owner: Any person vested with ownership, legal or equitable, sole or partial, of an improved property.

(32) Pass Through: The discharge of Pollutants through the POTW into navigable waters in quantities or concentrations which are a cause of or significantly contribute to a violation of any requirement of the POTW's NPDES permit (including an in-

crease in the magnitude or duration of a violation). An Industrial User significantly contributes to such permit violation where it:

A. discharges a daily Pollutant loading in excess of that allowed by contract with the POTW or by Federal, State or local law;

B. discharges Wastewater which substantially differs in nature and constituents from the User's average Discharge;

C. Knows or has reason to know that its discharge, alone or in conjunction with discharges from other sources, would result in a permit violation; or

D. Knows or has reason to know that the POTW is, for any reason, violating its final effluent limitations in its permit and that such Industrial User's Discharge either alone or in conjunction with discharges from other sources, increases the magnitude or duration of the POTW's violations.

(33) Person: Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

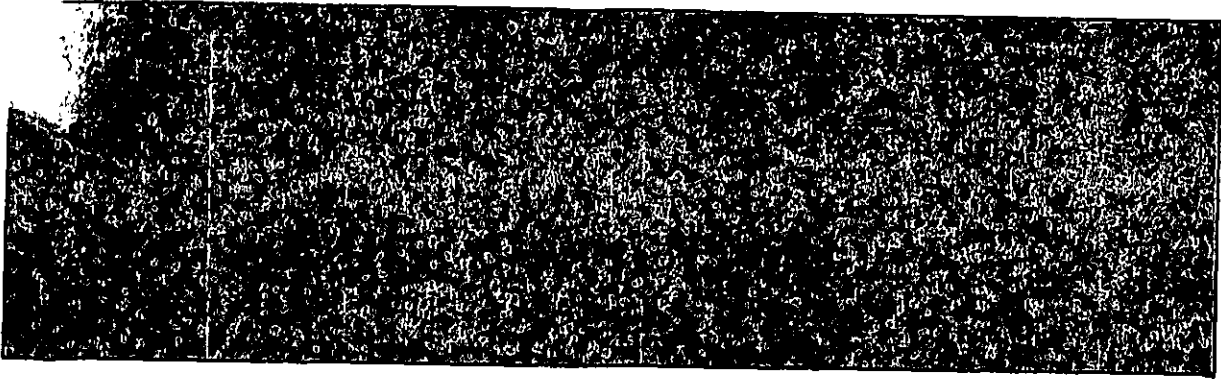
(34) pH: The logarithm of the reciprocal of the concentration of hydrogen ions, expressed in gram equivalent per liter of solution, and indicating the degrees of acidity or alkalinity of a substance. A stabilized "pH" will be considered as a "pH" which does not change beyond the specified limits when the waste is subjected to aeration. It shall be determined by one of the accepted methods described in the latest edition of "Standard Methods for Examination of Water and Sewage" published by the American Public Health Association.

(35) Pollution: The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of water.

(36) Pollutant: Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste discharged into water.

(37) Publicly Owned Treatment Works (POTW): A treatment works as defined in 40 CFR, Section 403.3(g) which is owned by the Authority. This definition includes any sewers that convey Wastewater to the POTW treatment plant, but does not include pipes, sewers or other conveyances not connected to a facility providing treatment. For the purposes of this ordinance, "POTW" shall also include any sewers that convey Wastewaters to the POTW from any municipality or person who is, by contract or agreement with the Authority or Township, User of the POTW.

(38) POTW Treatment Plant: The portion of the POTW designed to provide treatment to Wastewater.



(39) Pretreatment or Treatment: The reduction of the amount of Pollutants, the elimination of Pollutants, or the alteration of the nature of Pollutant properties in Wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such Pollutants into the Sewer System. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes and other means, except as prohibited by 40 CFR Section 403.6(d).

(40) Pretreatment Requirements: Any substantive or procedural requirement related to pretreatment, other than a National Categorical Pretreatment Standard imposed on an Industrial User.

(41) Qualified Analyst: Any person who has demonstrated competency in Wastewater analysis by having analyzed satisfactorily a minimum of three reference Wastewater samples as supplied upon request by the Authority or Township, or by submission of the generally recognized documentation of competency.

(42) Refrigeration: The preservation of food products, the maintenance of temperature for aid in process work, and the maintenance of storage temperature.

(43) Sanitary Sewage: The normal water-carried household and toilet waste from any improved Property, excluding, however, the effluent from septic tanks or cesspools, rain, storm and ground water, as well as roof or surface water, drainage or percolating or seeping waters, or accumulation thereof, whether underground or in cellars or basements.

(44) Sanitary Sewer: A Sewer which carries Sanitary Sewage or Industrial Wastes and to which storm, surface, and ground waters are not intentionally admitted.

(45) Sewer: A pipe or conduit for carrying Sanitary Sewage or Industrial Waste.

(46) Sewer System: Publicly Owned Treatment Works (POTW) as defined herein. For the purposes of this ordinance, a "Sewer System" shall also include any sewers that convey Wastewater to the Sewer System from any municipality or person who is, by contract or agreement with the Township, User of the Sewer System.

(47) Sewage Treatment Plant: POTW Treatment Plant as defined herein.

(48) Shall is mandatory; May is permissive.

(49) Significant Industrial User: Any Industrial User of the Sewer System who:

A. Has a discharge flow of 25,000 gallons or more per average work day, or

B. Has a flow greater than five (5) percent of the total flow into the Sewer System, or

C. Has in its wastes toxic substances, or

D. Is found by the Township, Superintendent of the POTW Pennsylvania Department of Environmental Resources, or the U.S. Environmental Protection Agency to have significant impact, either singly or in combination with other contributing industries, on the Sewer System, the quality of sludge, the system's effluent quality, or air emissions generated by the system.

(50) Slug: Any discharges of water, sewage, or Industrial Waste in which concentration of any given constituent or in quantity of flow exceeds for any period of duration longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, or flow, during normal operation.

(51) Standard Methods: An abbreviated expression used to denote "Standard Methods for the Examination of Water and Waste Water," a manual published by the American Public Health Association specifying official analytical procedures for the measurement of wastewater parameters.

(52) State: Commonwealth of Pennsylvania.

(53) Standard Industrial Classification (SIC): A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget, 1972.

(54) Stormwater: Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(55) Suspended Solids: Solids that either float on the surface of or are in suspension in water, sewage or other liquids and which are removable by laboratory filtering.

(56) Total Solids: The sum of dissolved and undissolved constituents in water or Wastewater.

(57) Township: Fairview Township, a second class township, York County, Pennsylvania.

(58) Toxic Substances: Any substance or combination of substances that: (a) is listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provisions of CWA 307(a) or other Acts, or (b) is present in sufficient quantity, either singly or by interaction with other wastes, to injure or interfere with any sewage treatment process, to constitute a hazard to humans or animals, to create a public nuisance, or to create any hazard in the Sewer System or in the receiving waters of the sewage treatment plant.

(59) Twenty-four (24) Hour Composite Wastewater Sample: Consists of twenty-four (24) hourly wastewater samples collected over a twenty-four (24) hour period with the sample proportioned according to the flow rate at the time of the sample. The cumulative sample shall be refrigerated.

(60) Unauthorized Waste: Any waste which is not in compliance with the provisions of this ordinance, or which is discharged into the Sewer System by a person in violation of any provision contained in this ordinance.

(61) User: Any person who contributes, causes or permits the contribution of Wastewater into the Sewer System.

(62) Wastewater: The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the Sewer System.

(63) Wastewater Contribution Permit: As set forth in Section 4 of this ordinance.

(64) Water-Cooled Equipment: Any equipment using water as a cooling medium for purposes other than air conditioning or refrigeration.

(65) Waters of the State: All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or ground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

(b) The following abbreviations shall have the designated meanings:

- BOD - Biochemical Oxygen Demand
- CFR - Code of Federal Regulations
- COD - Chemical Oxygen Demand
- EPA - Environmental Protection Agency
- l - Liter
- mg - Milligrams
- mg/l - Milligrams per liter
- NPDES - National Pollutant Discharge Elimination System
- POTW - Publicly Owned Treatment Works
- SIC - Standard Industrial Classification
- SWDA - Solid Waste Disposal Act, 42 U.S.C., 6901, et seq.
- USC - United States Code
- TSS - Total Suspended Solids

SECTION 3. REGULATIONS

(a) Use of Sewer System and Admission of Industrial Waste

(1) All Sanitary Sewage and authorized Industrial Waste may be discharged to the Sewer System except those which are deemed harmful to the Sewer System or are specifically prohibited by this ordinance.

(2) No User shall Discharge or cause to be Discharged any stormwater, surface water, Ground Water, roof runoff, subsurface drainage, cooling water, drainage from tile fields or unpolluted process waters to any Sanitary Sewer.

(3) No User shall contribute or cause to be contributed, directly or indirectly, any Pollutant or Wastewater which will interfere with the operation or performance of or Pass Through the Sewage Treatment Plant. These general prohibitions apply to all such Users of the Sewer System whether or not the User is subject to National Categorical Pretreatment Standards or any other National, State, or local Pretreatment Standards or Pretreatment Requirements.

(4) Except as otherwise provided in this ordinance, no User shall discharge or cause to be discharged to the Sewer System any Sanitary Sewage, Industrial Waste, or other matter or substance:

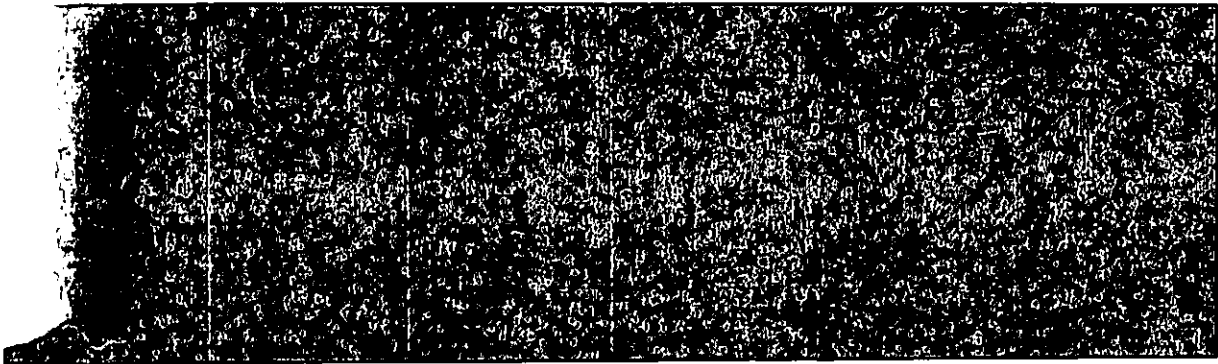
A. Having a temperature which will inhibit biological activity in the Sewage Treatment Plant resulting in interference, but in no case Wastewater with a temperature at the introduction into the sewer system which exceeds 104° F or is less than 32° F.

B. Containing more than 100 mg/l of fat, oil or grease.

C. Containing any liquids, solids or gases which by reason of their nature or quantity, are, or may be sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the Sewer System or to the operation of the Sewage Treatment Plant. At no time shall two successive readings on any explosion hazard meter, at the point of discharge into the Sewer System (or at any point in the Sewer System) be more than five (5%) percent nor any single reading over ten (10%) percent of the Lower Explosive Limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, fuel oil, kerosene, naphtha, benzene, toluene, xylene, paint products, ethers, alcohols, ketones, aldehydes, peroxides, acids or bases, chlorates, perchlorates, bromates, carbides, hydrides and sulfides and any other substances which the Township, Authority, Lower Allen Township, State or EPA has notified the User is a fire hazard or a hazard to the Sewer System.

D. Containing unground garbage with particles greater than one-half (1/2) inch in any dimension.

E. Containing solid or viscous substances which may cause obstruction to the flow in a Sewer or other interference with the operation of the Sewage Treatment Plant such as, but not limited to: ashes, cinders, spent lime, stone or marble, dust, sand, mud, straw, grease, clay, shavings, metals, glass, rags, grass clippings, feathers, tar, glass grinding, plastics, wood, whole blood, paunch manure, spent grains, spent hops, bentonite,



lye, gas, building materials, rubber, asphalt residues, hairs, bones, leather, hides or flossings, animal guts or tissue, porcelain, china, ceramic wastes, polishing wastes, residues from refining or processing of fuel or lubricating oil, or other solid or viscous substances capable of causing obstruction or other interference with the operation of the Sewer System.

F. Having a pH, stabilized, lower than 6.0 or higher than 9.0 or having any other corrosive or scale forming property capable of causing damage or hazard to structures, equipment, bacterial action or personnel of the Sewer System.

G. Containing toxic or poisonous Pollutants in sufficient quantity, either singly or by interaction with other Pollutants, to injure or Interfere with any Wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the Sewage Treatment Plant, or to exceed the limitation set forth in a National Categorical Pretreatment Standard. A toxic Pollutant shall include but not be limited to any Pollutant identified pursuant to Section 307(a) of the Act.

H. Containing BOD concentrations greater than 200 mg/l or suspended solids concentration greater than 250 mg/l or of such character and quantity that unusual attention or expense is required to handle such materials in the Sewage Treatment Plant. Discharges in excess of those listed above shall be subject to strength of waste surcharges as provided for in the Authority sewer rate ordinance, or amendments thereto. Other constituents may be subject to a strength of waste discharge as determined by the Township or Super intendent of the POTW from time to time.

I. Containing any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the Sewer System for maintenance and repair.

J. Containing dye from any source that will not have an effluent the equivalent of that produced by alum coagulation and chlorination to remove suspended or colloidal matter and bleach the dissolved dyes.

K. Containing radioactive substances and/or isotopes of such half-life or concentration as may exceed limits in compliance with applicable State or Federal regulations.

L. Having a chlorine demand in excess of 12 mg/l as a detention time of twenty (20) minutes.

M. Prohibited by an permit issued by the Commonwealth of Pennsylvania or the Environmental Protection Agency.

N. Containing any substance which will cause the Sewage Treatment Plant to violate its NPDES and/or State Permit or the receiving water quality standards.

O. Containing any substance which may cause the Sewage Treatment Plant's effluent or any other product of the Sewage Treatment Plant such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the

reclamation process. In no case shall a substance discharged to the Sewer System cause the Sewage Treatment Plant to be in non-compliance with recognized sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.

P. Containing wastes which are not amenable to biological treatment or reduction in existing treatment facilities, specifically non-biodegradable complex carbon compounds.

Q. Containing any organic compounds of endrin, lindane, methoxychlor, toxaphene, dichlorophenoxyacetic acid or trichlorophenoxypropionic acid.

R. Causing a hazard to human life or public nuisance.

S. Containing total solids greater than 2,000 mg/l or of such character and quantity that unusual attention or expense is required to handle such materials at the Sewage Treatment Plant.

T. Containing Pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration which a User knows or has reason to know will cause interference to the Sewage Treatment Plant. In no case shall a Slug load have a flow rate or contain concentration or quality of Pollutants that exceed for any time period longer than fifteen (15) minutes more than three (3) times the average twenty-four (24) hours concentration, quantities, or flow during normal operation.

U. Containing concentrations of anions, cations, and other various objectionable substances in excess of the Wastewater Contribution Permit limits, measured at the point of discharge to the Sewer System:

V. Contains Wastewater in excess of:

3.00 mg/l arsenic
0.20 mg/l cadmium
1.00 mg/l copper
0.10 mg/l cyanide
1.00 mg/l lead
0.01 mg/l mercury
1.00 mg/l nickel
0.50 mg/l silver
1.00 mg/l total chromium
2.50 mg/l zinc
1.00 mg/l phenolic compounds

W. Prohibited by any National Categorical Pretreatment Standard promulgated by EPA for a particular Industrial User.

(5) If such amount of any water or waste is discharged, or is proposed to be discharged to the Sewer System, which water or waste contains the matter of substances or possesses the charac-

eristics enumerated in this section, violates the provisions of this Section 3.03(a) or which in the judgment of the Township may have a deleterious effect upon or interfere with the Sewer System, the Township may, upon giving written notice to the discharger:

A. Reject the same.

B. Require Pretreatment to reduce characteristics to maximum limits permitted by this ordinance or any other applicable rules or law. Where necessary, in the opinion of the Township, the Township may require the owner to provide, at the sole expense of the owner, facilities for Pretreatment of Industrial Wastes as may be necessary to reduce objectional characteristics or constituents of such Industrial Wastes. Plans, specifications and any other pertinent information relating to the Pretreatment facilities shall be submitted for approval by the Township, in writing, prior to construction of such facilities.

C. Require control over the quantities and rates of discharge, or

D. Require immediate discontinuance of the waste discharge until such time as it meets the requirements of this section.

(6) Grease, oil, and sand interceptors or traps shall be provided where, in the opinion of the Township, they are necessary for the proper handling of liquid wastes containing grease in excessive amounts or any flammable wastes, sand, or other harmful ingredients. All interceptors shall be of a type and capacity acceptable to the Township, and shall be located as to be readily and easily accessible for cleaning and inspection.

(7) The use of mechanical garbage grinders producing a finely divided mass, properly flushed with an ample amount of water, shall be permitted upon the condition that no such mechanical garbage grinder to serve premises used for commercial purposes shall be installed until written permission for such installation shall have been obtained from the Township.

(8) Where preliminary treatment or flow-equalizing facilities are provided for any waters or wastes, they shall be maintained continuously in satisfactory and effective operation by the Owner at his expense, and shall be accessible to the Township, or its authorized designees for inspection and testing.

(b) Federal Categorical Pretreatment Standards

Upon the promulgation of the Federal Categorical Standards for a particular industrial subcategory, the Federal Categorical Standard, if more stringent than limitations imposed upon this ordinance for sources in that subcategory, shall immediately supersede the limitations imposed under this ordinance. The Township shall notify all affected Users of the applicable reporting requirements under 40 CFR, Section 403.12.

(c) Modification of Federal Categorical Pretreatment Standards

Where the Sewage Treatment Plant achieves consistent removal of Pollutants limited by Federal Pretreatment Standards, the

Township may apply to the Approval Authority for modification for specific limits in the Federal Pretreatment Standards. "Consistent Removal" shall mean reduction in the amount of a Pollutant or alteration of the nature of the Pollutant by the Sewage Treatment Plant to a less toxic or harmless state in the effluent which is achieved by the system in ninety-five (95) percent of the samples taken when measured according to the procedures set forth in Section 403.7(c) (2) of (Title 40 of the Code of Federal Regulations, Part 403) - "General Pretreatment Regulations for Existing and New Sources of Pollution" promulgated pursuant to the Act. The Township may then modify Pollutant discharge limits in the Federal Pretreatment Standards if the requirements contained in 40 CFR, Part 403, Section 403.7, are fulfilled and prior approval from the Approval Authority is obtained.

(d) State Requirements

State requirements and limitations on discharges shall apply in any case where they are more stringent than Federal requirements and limitations or those in this ordinance.

(e) Right to Revisions

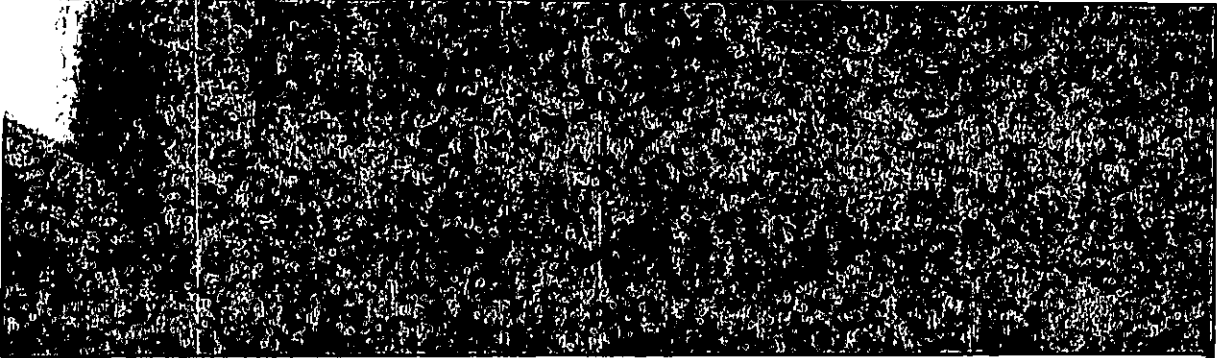
The Township reserves the right to establish more stringent limitations or requirements on discharges to the Sewer System if deemed necessary to comply with the objectives presented in Section 1.1 of this ordinance. Nothing in this ordinance shall be construed as preventing any special agreement between the Township and any User of the Sewer System whereby unusual strength or character may be accepted by the Township by special agreement, in writing, executed prior to such acceptance, containing safeguards, limitations and conditions acceptable to the Township, subject to any charges as may be applicable; provided, however, that National Categorical Pretreatment Standards shall not be waived, unless such waiver is granted by procedures established under the General Pretreatment Regulations (40 CFR, Part 403).

(f) Excessive Discharge

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 the limitations contained in the Federal Categorical Pretreatment Standards, or in any other Pollutant-specific limitations developed by the Township, Authority, State, or EPA.

(g) Accidental Discharges

Each User shall provide protection from accidental discharge of prohibited materials or other substances regulated by this ordinance. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or User's own cost and expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted by Industrial Users to the Township for review, and shall be approved in writing by the Township before construction of the facility. All existing Industrial Users shall complete such a plan within six (6) months of the effective date of this ordinance. No Industrial User who commences contribution to the Sewer System after the effective date of this ordinance shall be permitted to introduce Pollutants into the Sewer System until accidental discharge procedures have been approved by the Township. Review and



approval of such plans and operating procedures shall not relieve the Industrial User from the responsibility to modify the Industrial User's facility as necessary to meet the requirements of this ordinance. In the case of an accidental discharge, it is the responsibility of the User to immediately telephone and notify the Township, Authority, and Lower Allen Township of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions.

(g) Written Notice

Within five (5) days following an accidental discharge, the User shall submit to the Township a detailed written report describing the cause 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 Sewer System, fish kills, or any other damage to person or property; nor shall such notification relieve the User of any fines, civil penalties, or other liability which may be imposed by this ordinance or other applicable law.

(h) Notice to Employees

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 of prohibited materials or other substances regulated by this ordinance. Employers shall insure that all employees who may cause or suffer such discharge to occur are advised of the emergency notification procedure.

(i) Pretreatment Requirements

(1) General - Users shall design, construct, operate, and maintain at their own expense Wastewater Pretreatment facilities whenever necessary to reduce or modify the User's Wastewater to achieve compliance with this ordinance, National Pretreatment Standards, any condition or limitation contained in the User's Wastewater Discharge Permit, or any sludge limitation imposed by federal, state or local authorities. Detailed plans showing the Pretreatment facilities and operating procedures shall be submitted to the Township for review and shall not be constructed until after approval in writing by the Township. The review or approval of Pretreatment facility plans, specifications, and operating procedures by the Authority or its consulting engineer shall not excuse or mitigate any violations by the User of this ordinance or any federal, state, or local requirements. Any subsequent change in the Pretreatment facilities or method of operation shall be reported to and the Township shall indicate its acceptance thereof in writing prior to the User's initiation of the change.

(2) Maintenance - When Pretreatment facilities are provided, they shall be maintained continuously in satisfactory and effective operation by the User at his own expense, and shall be subject to periodic inspection by the Township, or Superintendent of the POTW.

(3) Damage Liability - The person producing the waste shall be liable for all damages directly attributable to such waste.

(4) Disposal of Sludges - Sludges, floats, oils, etc., generated by Pretreatment Facilities must be contained and transported in a safe manner as prescribed by the rules of Regulatory Agencies, including, but not limited to, the U.S. Department of Transportation and handled by reputable persons who shall dispose of all such wastes in accordance with all Federal, State, and local regulations. The owner of such sludges, floats, oils, etc., shall keep records and receipts needed to demonstrate proper disposal for review by the Township, Superintendent of the POTW.

SECTION 4. ADMINISTRATION

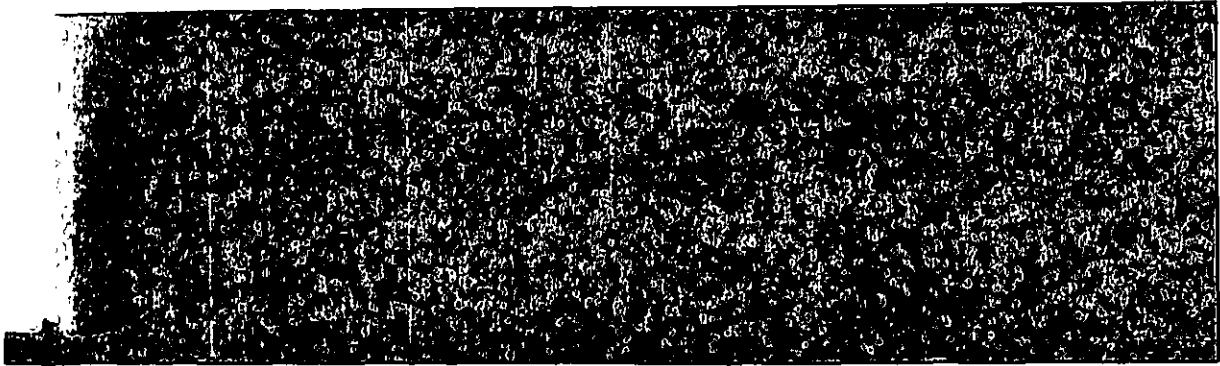
(a) Wastewater Discharges - It shall be unlawful for the Owner of property or any other User to discharge, without first obtaining a permit from the Township, to the Sewer System any Industrial Waste, except as authorized by the Township in accordance with the provisions of this ordinance.

(b) Wastewater Contribution Permit

(1) General - All Industrial Users proposing to connect to or to contribute to the Sewer System shall obtain a Wastewater Contribution Permit before connecting to or contributing to the Sewer System. All existing Industrial Users connected to or contributing to the Sewer System shall obtain a revised Wastewater Contribution Permit within one hundred eighty (180) days after the effective date of this ordinance.

(2) Permit Application - Users required to obtain a Wastewater Contribution Permit shall complete and file with the Township, an application in the form prescribed by the Township, and accompanied by a fee in the amount specified by the current fee schedule. Existing Users shall apply for a Wastewater Contribution Permit within thirty (30) days after the effective date of this ordinance, and proposed new Users shall apply at least ninety (90) days prior to connecting to or contributing to the Sewer System. In support of the application, the User shall submit, in units and terms appropriate for evaluation, the following information:

- A. Name, address, and location (if different from the address).
- B. SIC number according to the Standard Industrial Classification Manual, Bureau of Budget, 1972, as amended.
- C. Wastewater constituents and characteristics including, but not limited to, those mentioned in Section 3 of this ordinance as determined by a reliable analytical laboratory; sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR Part 136, as amended.



D. Time and duration of contribution.

E. Average daily and 1 minute peak Wastewater flow rates, including daily, monthly, and seasonal variations if any.

F. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, sewer connections, and appurtenances by the size, location, and elevation.

G. Description of activities, facilities and plant processes on the premises including all material which are or could be discharged.

H. Where known, the nature and concentration of any Pollutants in the discharge which are limited by any Township, Authority, State or Federal Pretreatment Standards, and a statement regarding whether or not the 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 for the User to meet applicable Pretreatment Standards.

I. If additional Pretreatment and/or operation and maintenance will be required to meet the Pretreatment Standards; the shortest schedule by which the User will provide such additional Pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. The following conditions shall apply to this schedule:

1. The schedule shall contain increments of progress 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 (e.g. hiring an engineer, completing preliminary plans; completing final plans, executing contract for major components; commencing construction, completing construction, etc.).

2. No increment referred to in paragraph 1) shall exceed nine (9) months.

3. Not later than fourteen (14) days following each date in the schedule and the final date for compliance, the User shall submit a progress report to the Township including, as a minimum, whether or not it complied with the increment of progress to be met on such date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the User to return the construction to the schedule established. In no event shall more than nine (9) months elapse between such progress reports to the Township.

J. Each product produced by type, amount, process or processes and rate of production.

K. Type and amount of raw materials processed (average and maximum per day).

L. Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system.

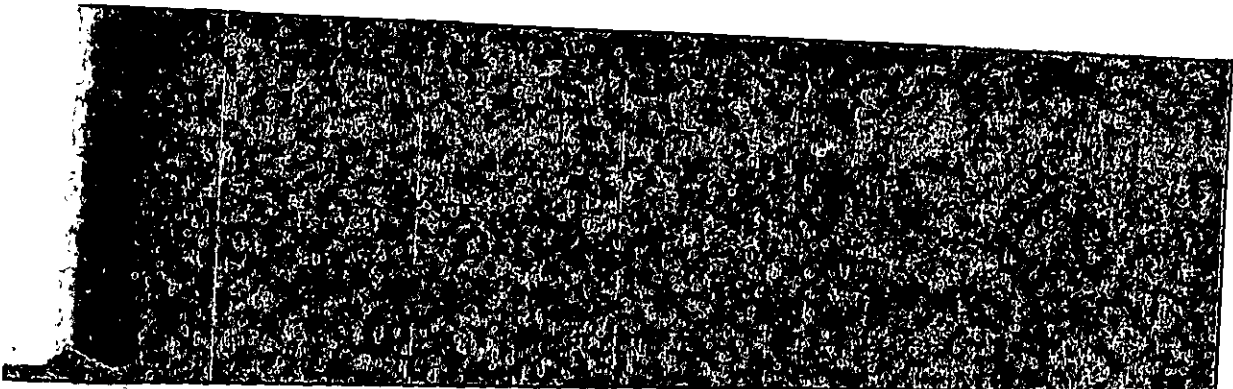
M. Any other information as may be deemed by the Township to be necessary to evaluate the permit application.

The Township will evaluate the data furnished by the User and may require additional information. After evaluation and acceptance of the data furnished, the Township may issue a Wastewater Contribution Permit subject to terms and conditions provided herein.

(3) Permit Modifications - Within nine (9) months of the promulgation of a National Categorical Pretreatment Standard, the Wastewater Contribution Permit of Users subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Where a User, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for a Wastewater Contribution Permit as required by 4.2.(2), the User shall apply for a Wastewater Contribution Permit within one hundred eighty (180) days after the promulgation of the Applicable National Categorical Pretreatment Standard. In addition, the User, with an existing Wastewater Waste Discharge Permit, shall submit to the Township within one hundred eighty (180) days after the promulgation of an applicable Federal Categorical Pretreatment Standard the information required by subparagraph (h) and (i) of Section 4.2., paragraph (2). Permit modification applications shall be subject to a fee as established by separate ordinance.

(4) Permit Conditions - Wastewater Contribution Permits shall be expressly subject to all provisions of this ordinance and all other applicable regulations, user charges and fees established by the Township. Permits may contain the following:

- A. The unit charge or schedule of user charges and fees for the Wastewater to be discharged to the Sewer System.
- B. Limits on the average and maximum Wastewater constituents and characteristics.
- C. Limits on average and maximum rate and time of discharge or requirements for flow regulations and equalization.
- D. Requirements for installation and maintenance of inspection and sampling facilities.
- E. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types, and standards for tests and reporting schedule.
- F. Compliance schedule.
- G. Requirements for submission of technical reports or discharge reports.
- H. Requirements for maintaining and retaining plant records relating to Wastewater discharge as specified by the Township, and affording Township or Superintendent of the POTW access thereto.
- I. Requirements for notification of the Township for any new introduction of Wastewater constituents or any substantial change in the volume or character of the Wastewater constituents being introduced into the Sewer System.



- J. Requirements for notification of Slug discharges.
- K. Requirements for pretreatment.
- L. Prohibition of discharge of certain Wastewater constituents.
- M. Other conditions as deemed appropriate by the Township to ensure compliance with all applicable local, State and Federal regulations.

(5) Permit Duration - Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than a year or may be stated to expire on a specific date. The User shall apply for permit reissuance a minimum of one hundred eighty (180) days prior to the expiration of the User's existing permit. The terms and conditions of the permit may be subject to modification by the Township during the term of the permit as limitations or requirements as identified in Section 2 are modified or other just cause exists. The User shall be informed of any proposed changes in his permit at least thirty (30) days prior to the effective date of change. Any changes or new conditions in the permit shall include a reasonable time schedule for compliance.

(6) Permit Transfer - Wastewater Contribution Permits are issued to a specific User for a specific operation. A Wastewater Contribution Permit shall not be reassigned or transferred or sold to a new owner, new User, different premises, or a new or changed operation without the approval of the Township. Any succeeding owner or User shall also comply with the terms and conditions of the existing permit.

(7) Waste Characteristic Change - Any owner of property who is discharging Industrial Waste into the Sewer System and who contemplates a change in the method of operation or in the Pre-treatment facilities which will alter the type of Industrial Waste then being discharged into the Sewer System shall apply for a new Wastewater Contribution Permit at least thirty (30) days prior to such change. The revised Wastewater Contribution Permit will be subject to a fee. approval or disapproval of a modified permit shall be regulated by the procedures established hereunder for the issuance of an original permit.

(8) Separation of Wastes - In the case of complete separation of Sanitary Sewage from Industrial Wastes within a User, with the Sanitary Sewage only discharged to the Sanitary Sewer, no permit fee shall be imposed on that portion of the wastes going to the Sanitary Sewer.

(9) Files - The Township and all Users shall maintain a permanent file in which copies of all Wastewater Contribution Permits, revisions thereto and supporting data will be filed for reference.

(c) Reporting Requirements for Permittee:

(1) Compliance Data Report - Users shall provide necessary Wastewater treatment as required to comply with this ordinance and shall achieve compliance with all Federal Categorical Pretreatment Standards within the time limitations as specified by the

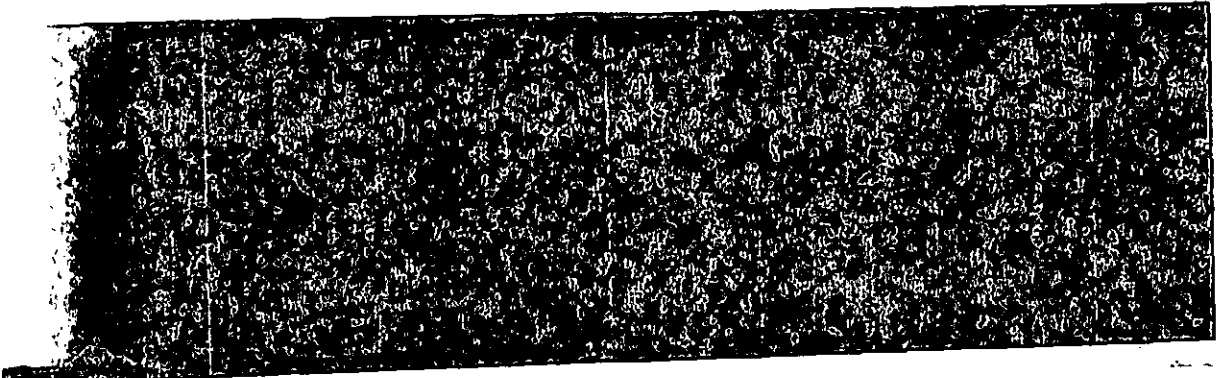
Federal Pretreatment Regulations. Any facilities required to pretreat wastewater to a level acceptable to the Township shall be provided, operated, and maintained at the User's expense. Detailed plans showing the Pretreatment facilities and operating procedures shall be submitted to the Township for review, and shall be acceptable to the Township *before construction of the facility*. The review of such plans and operating procedures will in no way relieve the User from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the Township under the provisions of this ordinance.

Within ninety (90) days following the date for final compliance with applicable Pretreatment Standards or, in the case of a new Source, following commencement of the introduction of wastewater into the Sewer System, any User subject to Pretreatment Standards and Requirements shall submit to the Township a report indicating the nature and concentration of all Pollutants in the discharge from the regulated process which are limited by Pretreatment Standards and Requirements and the average and maximum daily flow for these process units in the User facility which are limited by such Pretreatment Standards or Requirements. The report shall state whether the applicable Pretreatment Standards or Requirements are being met on a consistent basis and, if not, what additional operation and maintenance and/or pretreatment is necessary to bring the User into compliance with the applicable Pretreatment Standards or Requirements. This statement shall be signed by an authorized representative of the Industrial User, and certified to by a qualified professional.

(2) Industrial Waste Contribution Report

A. Each Significant Industrial User and any User subject to a Pretreatment Standard, after the compliance date of such Pretreatment Standard, or, in the case of a New Source, after commencement of the discharge into the Sewer System, shall submit to the Township ten (10) days prior to the first day of June and December, unless required more frequently in the Pretreatment Standards, a report indicating the nature and concentration of pollutants in the effluent. This report shall specifically contain, but not necessarily be limited to, concentration levels of those Pollutants which are limited by the User's Pretreatment Standards. If requested by the User, the Township or Superintendent of the POTW will perform the required analyses and will bill the User accordingly. In addition, this report shall include a record of all daily flows which, during the reporting period, exceeded the average daily flow reported in Section 4.2.(2)(c) of this ordinance. At the discretion of the Township and in consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Township may agree to alter the months during which the above reports are to be submitted.

B. The Township may impose mass limitations on Users which are using dilution to meet applicable Pretreatment Standards or Requirements, or in other cases where the imposition of mass limitations are appropriate. In such cases, the report required by paragraph (1) of this subsection shall indicate the mass of pollutants regulated by Pretreatment Standards in the effluent of the User. These reports shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass where requested



by the Township, of Pollutants contained therein which are limited by the applicable Pretreatment Standard. All sampling and analysis shall be performed in accordance with procedures established by the Environmental Protection Agency pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136 and amendments thereto. Where 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question, sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication, Sampling and Analysis Procedures for Screening of Industrial Effluents for Priority Pollutants, April 1977, and amendments thereto.

(d) Sampling, Flow Measurement, Testing, and Inspection

(1) Any User whose property is serviced by a building sewer carrying industrial waste shall install at his expense a suitable control manhole together with such necessary meters and other appurtenances in the building sewer to facilitate observation, sampling, and measurement of the waste. The monitoring facility should normally be situated on the User's premises, but the Township may, when such a location would be impractical or cause undue hardship on the User, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the User. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the Township's requirements and all applicable local construction standards and specifications.

(2) Persons or occupants of premises where Wastewater is created or discharged to the Sewer System shall provide the Township, or the Superintendent of the POTW or the representatives and agents bearing proper credentials and I.D. the opportunity of access at any time to any part of any property served by the Sewer System as shall be required for purposes of inspection, measurement, sampling, testing and records examination for ascertainment of whether the purposes of this ordinance are being met, all requirements are being complied with, and for performance of other functions relating to service rendered by the Authority. The Township, or the Superintendent of the POTW and (where the NPDES State is the Approval Authority) EPA shall have the right to set up on the User's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a User has security measures in force which would require proper identification and clearance before entry into their premises, the User shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the Township, Approval Authority, EPA or Superintendent of the POTW will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

(3) All measurements, tests, and analysis of the characteristics of waters and wastes to which reference is made in this ordinance shall be determined in accordance with the latest edition of "Standard Methods for Examination of Water and Waste Water," published by the American Public Health Association and

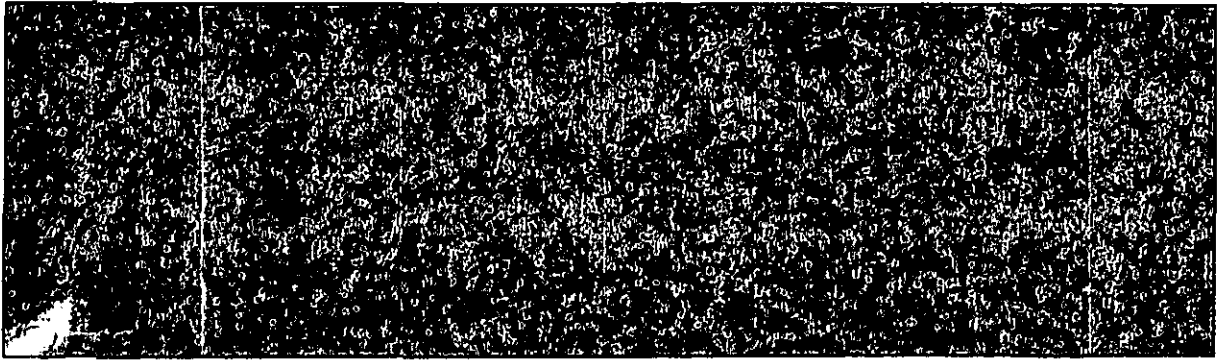
shall be determined by or under the direct supervision of a Qualified Analyst at the control manhole provided, or upon suitable samples taken at such control manhole. In the event that no special manhole has been required, the control manhole shall be considered to be the nearest downstream manhole in the public sewer to the point at which the building sewer is connected. Sampling shall be carried out by customarily accepted methods to reflect the effect of constituents upon the Sewer System and to determine the existence of hazards to life, limb and property, including the right to determine whether a twenty-four (24) hour composite of all discharge of a User is appropriate or whether a grab sample or samples be taken).

(4) The costs of all sampling, testing, inspection, and other monitoring activities shall be borne by the respective User. The Township will sample and analyze the discharge of each User holding a Wastewater Contribution Permit once per year. The fees for such sampling and analysis will be billed to and shall be paid by the User.

(5) Pursuant to the requirements of 40 CFR, Section 403.8, the Township shall annually publish a newspaper notification of those Users which were not in compliance with any Pretreatment Requirements or Standards or any other provision of this ordinance at least once during the twelve (12) previous months. The report shall also summarize any enforcement actions taken against the User(s) during the same twelve (12) months.

(6) Both the User and the Township shall maintain all records relating to compliance with Pretreatment Standards for a period of three (3) years, and all such records shall be made available to officials of the Authority, EPA, or Approval Authority upon request.

(7) Information and data on a User obtained from reports, questionnaires, permit applications, permits and monitoring programs and from inspections shall be available to the public or other government agency without restriction unless the User specifically requests and is able to demonstrate to the satisfaction of the Township that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the User. When requested by the person furnishing a report, 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 upon written request to governmental agencies for uses related to this ordinance, the National Pollutant Discharge Elimination System (NPDES) Permit, State Disposal System Permit and/or the Pretreatment Programs; provided, however, that such portions of a report shall be available for use by EPA, the State or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents, effluent data, and characteristics will not be recognized as confidential information. Effluent data shall include information necessary to determine the identity, amount, frequency, concentration, temperature, or other characteristics of any pollutant discharged, a description of the manner or rate of operation of any source to the extent necessary to determine what was discharged under an applicable standard or limitation, or a general description of the location and nature of the source to the extent necessary to



distinguish it from others. Information accepted by the Township as confidential, shall not be transmitted to any government agency by the Township until and unless a ten (10) day notification is given to the User.

SECTION 5. FEES .

(a) Purpose - It is the purpose of this section to provide for the recovery of costs from Users of the Sewer System for the implementation of the program established herein. The applicable charges or fees shall be set forth in the Township's schedule of charges and fees.

(b) Charges and Fees - The Township may from time to time collect charges and fees to include:

- (1) Fees for reimbursement of costs of setting up and operating the Township's Pretreatment Program.
- (2) Fees for monitoring, inspections, and surveillance procedures.
- (3) Fees for yearly sampling and analyses of User's discharge.
- (4) Fees for reviewing accidental discharge procedures and construction.
- (5) Fees for permit and modified permit applications.
- (6) Fees for filing appeals.
- (7) Fees for consistent removal (by the Township) of pollutants otherwise subject to Federal Pretreatment Standards.
- (8) Other fees as the Township may deem necessary to carry out the requirements contained herein.

These fees relate solely to the matters covered by this ordinance and are separate from all other fees chargeable by the Township.

SECTION 6. ENFORCEMENT

(a) Harmful Contributions - The Township may suspend the wastewater treatment service and/or a Wastewater Contribution Permit when such suspension is necessary, in the opinion of the Township, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes interference to the Sewer System, causes the Authority to violate any condition of the POTW NPDES Permit, or causes a violation of the provisions of this ordinance.

Any person notified of a suspension of the Wastewater treatment service and/or the Wastewater Contribution Permit shall immediately stop or eliminate the discharge. In the event of a failure of the person to comply voluntarily with the suspension order, the Township shall take such steps as deemed necessary including immediate severance of the sewer connection, to prevent or minimize damage to the Sewer System or endangerment to any

individuals. The Township shall reinstate the Wastewater Contribution Permit and/or the Wastewater treatment service upon proof of the elimination of the non-complying discharge. A detailed written statement submitted by the User describing the causes of the harmful discharge and the measures taken to prevent any future occurrence shall be submitted to the Township within fifteen (15) days of the date of occurrence.

(b) Revocation of Permit - Any User who violates the following conditions of this ordinance, or applicable state and federal regulations, is subject to having its permit revoked in accordance with the procedures of Section 925.06 of this ordinance.

(1) Failure of a User to factually report the wastewater constituents and characteristics of his discharge;

(2) Failure of the User to report significant changes in operations, or wastewater constituents and characteristics;

(3) Refusal of reasonable access to the User's Premises for the purpose of inspection or monitoring; or

(4) Violation of conditions of the permit.

If a permit is revoked, the Township may take steps it deems advisable, including severance of the sewer connection, to promote compliance with this ordinance.

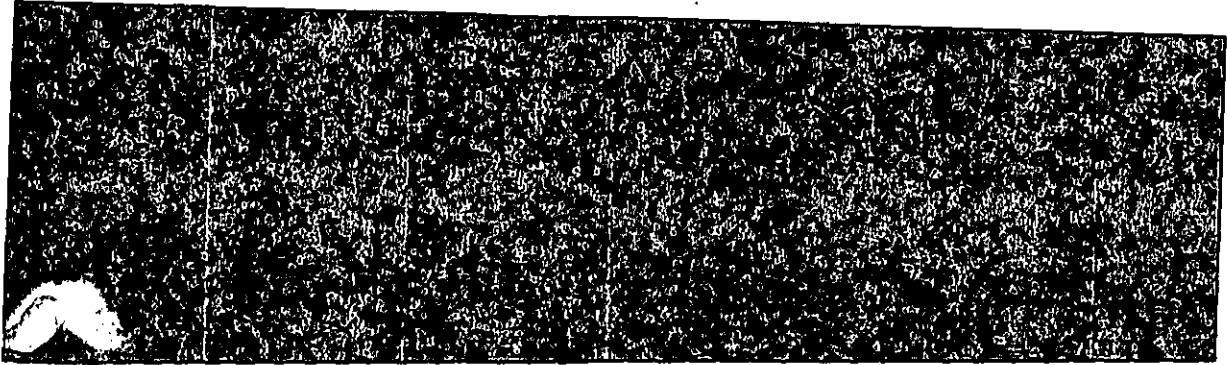
(c) Notification of Violation - Whenever the Township finds that any User has violated or is violating this ordinance, Wastewater Contribution Permit, or any prohibition, limitation of requirements contained herein, the Township may serve upon such person a written notice stating the nature of the violation. Within thirty (30) days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the Township by the User.

(d) Show Cause Hearing

(1) The Township may order any User who causes or allows an unauthorized discharge to enter the Sewer System to show cause before the Board of Commissioners why the proposed enforcement action should not be taken. A notice shall be served on the User specifying the time and place of a hearing to be held by the Board of the Township regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the User to show cause before the Board of Supervisors why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.

(2) The Board of Supervisors may itself conduct the hearing and take the evidence, or may designate any of its members or any officer, employee, or agent of the Township to:

A. Issue in the name of the Township notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;



B. Take the evidence;

C. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Authority for action thereon.

(3) At any hearing held pursuant to this ordinance, 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.

(4) After the Township has reviewed the evidence, it may issue an order to the User responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, devices or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued.

(c) Legal Action - If any person discharges sewage, Industrial Wastes, or other wastes into the Sewer System contrary to the provisions of this ordinance, Federal or State Pretreatment Requirements, or any order of the Township, the Township Solicitor may commence an action for appropriate legal and/or equitable relief in any court having jurisdiction of the matter.

SECTION 7. PENALTY: COSTS

(a) Any person who violates the provisions of this Article or any rule, regulation, order, or permit issued hereunder or included herein shall be fined not less than One Hundred (\$100.00) Dollars nor more than Three Hundred (\$300.00) Dollars for each offense, and costs of prosecution, and in default of the payment thereof, be imprisoned for not more than thirty (30) days. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense.

(b) Any person who knowingly makes any false statement, representation, or certification in any application, record, report, statement, sample, plan or other document filed or required to be maintained pursuant to this ordinance, or Wastewater Contribution Permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this ordinance will be prosecuted to the extent permitted by law under the Crimes Code, 18 Pa. C.S.A. Section 101 et seq.

SECTION 8.

The provisions of this ordinance, so far as they are the same as those of ordinances in force immediately prior to the enactment of this ordinance, are intended as a continuation of such ordinances and not as new enactments. The provisions of this ordinance shall not affect any act done or liability incurred, nor shall it affect any suit or prosecution pending or to be instituted to enforce any right or penalty or to punish any offense under the authority of any ordinance repealed by this ordinance.

SECTION 9.

The provisions of this ordinance are severable. If any sentence, clause, or section of this ordinance is for any reason found to be unconstitutional, illegal, or invalid, such decision shall not affect the validity of any of the remaining provisions of this ordinance. It is hereby declared as a legislative intent that this ordinance would have been adopted had such unconstitutional, illegal, or invalid provision not been included herein.

SECTION 10.

This ordinance shall take effect immediately.

ENACTED AND ORDAINED into an ordinance this 13th day of MAY, 1986.

Attest:
(Corporate Seal)

BOARD OF SUPERVISORS
FAIRVIEW TOWNSHIP

[Signature]
(Assistant) Secretary

By [Signature]
(Vice) President

By [Signature]

By [Signature]

ORDINANCE NO. 99-2

AN ORDINANCE OF THE TOWNSHIP OF FAIRVIEW, YORK COUNTY, PENNSYLVANIA, ESTABLISHING AN INDUSTRIAL PRETREATMENT PROGRAM AND PROVIDING REGULATIONS LIMITING AND CONTROLLING THE QUALITY OF WASTEWATER DISCHARGED INTO THE LOWER ALLEN SEWER SYSTEM, DEFINING CERTAIN WORDS AND PHRASES, PROVIDING PROCEDURES AND SYSTEMS FOR THE ADMINISTRATION OF THE PROGRAM, CREATING ENFORCEMENT PROCEDURES FOR VIOLATION OF THE PROGRAM AND ITS REGULATIONS, ESTABLISHING TECHNICAL REQUIREMENTS AND PROHIBITIONS ON DISCHARGES, PROVIDING FOR THE SETTING OF CERTAIN FEES, PROVIDING PENALTIES, PROVIDING SEVERABILITY OF PROVISIONS HEREOF, AND PROVIDING FOR REPEAL OF ALL INCONSISTENT RESOLUTIONS OR PARTS OF RESOLUTIONS.

BE IT ENACTED AND ORDAINED by the Board of Supervisors of Fairview Township, York County, Pennsylvania, and it is hereby enacted and ordained by the same:

SECTION 1--EFFECTIVE DATE

This Ordinance shall be known as the "Industrial Pretreatment Program (IPP) Ordinance," and the provisions hereof shall become effective upon the date of adoption hereof, as entered below, and shall remain in effect thereafter unless the same be repealed.

SECTION 2--OBJECTIVES, APPLICABILITY AND RESERVATION OF RIGHTS

2.01 This Ordinance sets forth uniform requirements for Dischargers into the Lower Allen Sewer System and enables the Township and Authority to comply with applicable State and federal laws required by the Clean Water Act of 1977 (33 U.S.C. §1251 *et seq*) and the General Pretreatment Regulations (40 CFR, Part 403).

2.02 The objectives of this Ordinance are:

(1) To prevent the introduction of Pollutants into the Lower Allen Sewer System that will cause Interference, increase the difficulty or costs of operation of the Sewage Collection System or the Sewage Treatment Plant, or reduce the efficiency or effectiveness of the Sewage Collection System or Sewage Treatment Plant;

- (2) To prevent Pass Through of Pollutants, inadequately treated, to the environment;
- (3) To protect workers and the general public from exposure to toxic or other dangerous substances;
- (4) To protect the Sewer System from damage;
- (5) To improve the opportunity to recycle or reclaim wastewater or sludge from the Sewer System;
- (6) To provide for the equitable distribution of the cost of the operation, administration and enforcement of the Industrial Pretreatment Program;
- (7) To enable the Lower Allen Township Authority to comply with all applicable State and Federal laws rules and regulations, including NPDES permit conditions, sludge use and disposal requirements, air quality standards, and water quality standards; and
- (8) To comply with the requirements of an Intermunicipal Agreement between the Township and the Authority.

2.03 This Ordinance shall apply to all Persons inside or outside the Township who Discharge or permit to be Discharged any water, Wastewater, or any other substance into the Sewer System owned or operated by the Township, the Lower Allen Township Authority or to Sewers which connect with and Discharge to the Sewage Collection System or the Sewage Treatment Plant, as defined herein.

2.04 Notwithstanding any other provision to the contrary, nothing in the Ordinance shall be deemed to be a legally binding commitment under the Clean Water Act, 33 U.S.C. § 1251 *et seq.*, the Clean Streams Law, 35 Pa. Stat. §§ 691.1 *et seq.*, and applicable regulations (e.g. 40 CFR Part 403, Title 25 Pa. Code) for the Township to undertake implementation or enforcement activities beyond the minimum otherwise required by these laws and regulations. Nevertheless, the Township maintains discretionary authority to undertake activities beyond the minimum required. Except as otherwise provided herein, the Board of Supervisors of the Township, Township Manager, or Superintendent of the POWT shall administer, implement and enforce the provisions of this Ordinance with respect to the Fairview Township Service Area discharging to the Lower Allen Sewer System. The Authority, Authority Manager, or Lower Allen Township Manager may assist in the administration and implementation of the Ordinance as authorized designees of the Township.

SECTION 3 - DEFINITIONS

3.01 Words, Term and Phrase

As used in this Ordinance, the following words, terms and phrases shall have the meanings ascribed to them in this section, unless the context clearly requires a different meaning:

- (1) Act or "the Act". The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, *et seq.*
- (2) Approval Authority. The Regional Administrator of Region III of the EPA.
- (3) Authority. The Lower Allen Township Authority, a Pennsylvania municipal authority, its officers, Board members, employees and agents.
- (4) Authority Manager. An employee of the Authority so designated by that title.
- (5) Authorized Representative (of Industrial User). An Authorized Representative of an Industrial User may be: (1) A principal executive officer of at least the level of president, secretary, treasurer, or vice-president in charge of a principal business function, or any other person who performs similar policy- or decision-making function, if the Industrial User is a corporation; (2) A general partner or proprietor if the Industrial User is a partnership or proprietorship, respectively; (3) A principal executive officer or director having responsibility for the overall operation of the discharging facility or a ranking elected official if the Industrial User is a governmental entity, charitable organization or other such unincorporated entity; (4) a manager of one or more manufacturing, production or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding \$25 million (in second-quarter 1980 dollars), if the authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures; or (5) A duly authorized representative of the individual designated above in (1), (2) (3) or (4) if such representative, by name or position, is (a) identified in writing submitted to the Township and Authority and (b)(i) is responsible for the overall operation of the facilities from which the Discharge originates or (ii) has overall responsibility for environmental matters for the company.

If an authorization under item (5) of this definition is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for the environmental matters for the company, a new authorization satisfying the requirements of item (5) of this definition must be submitted to the Township and Authority prior to or together with any reports to be signed by an Authorized Representative.

- (6) Biochemical Oxygen Demand (BOD). The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20° centigrade expressed in terms of weight and concentration (milligrams per liter (mg/L)).
- (7) Building Sewer. A Sewer conveying Wastewater from the premises of a User to the Sewer System.
- (8) Bypass. The intentional diversion of Wastewater from any portion of an Industrial User's Pretreatment facility through which the Wastewater normally passes.
- (9) Calendar Day. Unless otherwise specified, the term Calendar Day when referred to in this Resolution consists of the period from midnight to midnight, or any equivalent twenty-four consecutive hour period, as determined to be appropriate by the Township.
- (10) Categorical Industrial User. An Industrial User subject to Categorical Standards.
- (11) Categorical Standards. National Categorical Pretreatment Standards. (40 CFR, Parts 403 through 471)
- (12) Certified Professional. A registered professional engineer under the laws of the State.
- (13) Chain of Custody. A record of sample collection indicating the place date and time of collection and the Person collecting the sample. It shall also include a record of each Person involved in possession of the sample including the laboratory Person who takes final possession of the sample for the purpose of analysis.
- (14) Clean Streams Law. The Act of June 22, 1937, P.L. 1937, as amended and re-enacted by the Act of October 10, 1980, P.L. 894, 35 P.S. Sections 691.1 to 691.702.
- (15) Color. Color of light transmitted through a waste after removal of all suspended matter, including pseudo-colloidal particles, and measured in platinum-cobalt units.
- (16) Combined Waste Formula. A procedure for calculating discharge concentrations of constituents of Industrial Waste, as defined in 40 CFR §403.6(e).
- (17) Compliance. Adherence to conditions and requirements of this Ordinance and Resolution, any Order issued by the Authority, and any Wastewater Discharge Permit and other permit issued under the provisions of this Ordinance and Resolution.

- (18) Composite Sample. A sample composed of individual subsamples taken at regular intervals over a specified period of time. Subsamples may be proportioned by time interval or size according to flow (Flow-proportioned Composite Sample), or be of equal size and taken at equal time intervals (Equal-time Composite Sample).
- (19) Contributing Municipality. The Borough of Shiremanstown; the Commonwealth of Pennsylvania State Correctional Institution; the Townships of Lower Allen, Fairview, and Hampden, York County Pennsylvania; the Township of Fairview, York County Pennsylvania; and any other municipality which is party to a service agreement and therefore a User of the Sewer System, their elected officials, officers, members, employees, agents and assigns.
- (20) Daily Maximum. The highest value obtained for samples collected in any Calendar Day. When used in a limit, the Daily Maximum is the highest value allowed in any Composite Sample, or the maximum value allowed as an average of one or more Grab Samples taken during a Calendar Day. The Daily Maximum may also be expressed as the maximum mass allowed to be Discharged during any one Calendar Day.
- (21) Discharge. The conveyance or placing of any water, Wastewater or other substance into the Sewer System including the delivery of water or Wastewater by truck.
- (22) Domestic Wastes. Normal household wastes from kitchens, water closets, lavatories and laundries, or any waste from a similar source and possessing the same characteristics.
- (23) Enforcement Response Plan. A plan and guide developed pursuant to 40 CFR §403.8(f)(5) providing for the enforcement of the Industrial Pretreatment Program.
- (24) EPA. The U. S. Environmental Protection Agency, or where appropriate the term may also be used as a designation for the Administrator or other duly authorized official of said agency.
- (25) Existing Source. Any source of Discharge, the construction or operation of which commenced prior to the publication by EPA of proposed Categorical Standards, which Categorical Standards will be applicable to such source if the Categorical Standard is thereafter promulgated in accordance with Section 307 of the Act.
- (26) Garbage. Solid or semi-solid wastes resulting from preparation, cooking, and dispensing of food, and from handling storage and sale of produce.
- (27) Grab Sample. A sample which is taken from a waste stream on a one-time basis with no regard to the flow in the waste stream and without consideration of time.

- (28) Groundwater. Water which is contained in or passing through the ground.
- (29) Holding Tank Waste. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.
- (30) Industrial Pretreatment Program. The sum of the provisions of this Ordinance and Resolution, amendments thereto, and any activities authorized by this Ordinance and Resolution as regards the regulation and control of Industrial Users to the extent required by the federal pretreatment regulations set forth in 40 C.F.R. Part 403, and including similar provisions in ordinances of the Contributing Municipalities authorized to be administered and enforced by the Township or Authority.
- (31) Industrial User. Any Person who Discharges Industrial Waste into the Sewer System.
- (32) Industrial Waste. Any solid, liquid or gaseous substance, water-borne waste or form of energy, which is produced as a result, whether directly or indirectly, of any industrial, manufacturing, commercial, trade or business or research process or activity, or in the course of developing, recovering or processing of natural resources and which is Discharged into the Sewer System; but not Non-contact Cooling Water or Sanitary Sewage. Any Wastewater which contains Industrial Waste and which is Discharged from an industrial, manufacturing, trade or business premises is considered Industrial Waste for the purposes of this Ordinance and Resolution.
- (33) Infectious Waste. Any substance which is Discharged, and which consists of or is contaminated by pathogens or other etiologic agents, and which has not been sterilized, neutralized, or otherwise rendered harmless. Infectious Waste includes, but is not limited to: contaminated blood, blood products or other bodily fluids (excepting excreta discharged by normal bodily functions); wastes, including excreta, from patient isolation areas; laboratory samples or test materials; animal wastes and bedding; body parts; pathology and autopsy wastes; and glassware, hypodermic needles, surgical instruments and other sharps.
- (34) Interference. A Discharge which, alone or in conjunction with Discharges from other sources:
- (a) Inhibits or disrupts the processes or operations of the Sewage Treatment Plant or the Sewage Collection System, or sludge processes, use or disposal; and therefor

- (b) Is a cause of or contributes to a violation of any requirement of the Authority's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Article 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxics Substances Control Act, and the Marine Protection, Research and Sanctuaries Act; or which results in or increases the severity of a violation of other State or National environmental statutes, rules or regulations.
- (35) Local Limits. Numerical limitations on the concentration, mass or other characteristics of wastes or Pollutants Discharged, or likely to be Discharged, by Industrial Users, and which are developed by the Authority.
- (36) Manhole. A structure allowing access from the surface of the ground to a Sewer.
- (37) Mg/L. Milligrams per liter; a measure of concentration of water borne substances.
- (38) Monthly Average. The arithmetic mean of all daily determinations of concentration and/or mass measurements made during a calendar month.
- (39) National Categorical Pretreatment Standard. Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1317) which applies to a specific category of Industrial Users. National Categorical Pretreatment Standards are enumerated in 40 CFR, Chapter I, Subchapter N, Parts 405 through 471.
- (40) NPDES Permit. A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).
- (41) New Source. Any building, structure, facility, or installation for which there is or may be a Discharge of Pollutants, the construction of which commenced after the publication of proposed Categorical Standards under Section 307(c) of the Act which will be applicable to such source if such Categorical Standards are thereafter promulgated in accordance with that Section. Determination of the applicability of New Source standards shall be made as provided in the Act and at 40 CFR, §403.3.

- (42) Noncompliance. Not in Compliance.
- (43) Non-contact Cooling Water. The water from any use such as air conditioning, cooling or refrigeration, not otherwise considered as Process Wastewater, and to which the only pollutant added is heat.
- (44) Normal Production Day. For the purposes of sampling Wastewater, a Normal Production Day is that portion of a Calendar Day during which Wastewater is Discharged and production, clean-up, and other activities that normally produce Wastewater or Industrial Waste are occurring. If a sample is specified to be collected during a Normal Production Day, it should not include aliquots taken during low wastestream flow periods that are not representative of such normal activities, or during times when Wastewater is not being Discharged.
- (45) Operator. Any Person having charge, care, control or management of a Pretreatment facility for Industrial Wastes or of a truck or trucks used in the removal, transport or disposal of Sewage or Industrial Wastes.
- (46) Owner. Any Person vested with ownership, legal or equitable, sole or partial, of an improved property.
- (47) Pass Through. A discharge which exits the Sewage Treatment Plant into waters of the State in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation or any requirement of the Authority's NPDES permit, including an increase in the magnitude or duration of a violation.
- (48) 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. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.
- (49) pH. The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in moles per liter of solution.
- (50) Pollutant. Any substance including but not limited to dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, medical wastes, backwash from water filtration and industrial, municipal, and agricultural waste which, when discharged into water, results in Pollution or increases Pollution.

(51) Pollution. The contamination of any Waters of the State such as will create or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, municipal, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life; or contamination of the air, soil, or of the environment so as to produce or is likely to produce similar deleterious effects.

(52) POTW. A publicly owned treatment works as defined by Section 212 of the Act (33 U.S.C. 1292). The term includes the Sewage Collection System, and the Sewage Treatment Plant.

(53) Pretreatment. The reduction of the amount of Pollutants, the elimination of Pollutants, or the alteration of the nature of Pollutant properties in Wastewater to a less harmful state prior to or in lieu of Discharging or otherwise introducing such Pollutants into the Sewer System. The reduction or alteration can be obtained by physical, chemical or biological processes, or by means of other process changes except as prohibited by 40 CFR §403.6(d).

(54) Pretreatment Coordinator. Agent of the Authority designated to assist the Township Manager and Authority Manager in the administration of the provisions of the Industrial Pretreatment Program, and so designated by that title.

(55) Pretreatment Requirements. Any substantive or procedural requirement, other than a Categorical Standard or Prohibitive Discharge Standard, imposed on an Industrial User by Section 303(b) and (c) of the Act or associated regulations, the State or the Industrial Pretreatment Program.

(56) Process Wastewater. Any Wastewater resulting from the direct contact of water with any raw material, intermediate product, finished product, by-product, or waste during any manufacturing process, or water other than Non-contact Cooling Water which results from a manufacturing process.

(57) Prohibited Discharge. Any Discharge which is prohibited under Section 4.02 of this Ordinance.

(58) Prohibitive Discharge Standard. Any regulation developed under Section 307(b) and (c) of the Act (33 USC 1317) including prohibitive discharge limits under 40 CFR §403.5. Prohibitive Discharge Standards are included in the list of Prohibited Discharges in Section 4, paragraph 4.02 of this Ordinance.

(59) Qualified Analyst. Any Person who has demonstrated competency in the analysis of Wastewater by submission of their generally recognized documentation of competency

to the Township and Authority, or who has received an academic degree or professional certification of competency in the field of chemical and/or biological analysis of water and Wastewater.

(60) Refrigeration. Maintenance of temperature for storage, preservation of food, or as a process of manufacturing.

(61) Representative Sample. A sample taken so that it is representative of the wastewater discharged during the sampling period. A representative sample is normally a flow - proportioned composite sample taken during a normal production day.

(62) Resolution (this Resolution). When capitalized, the term Resolution refers to Resolution 98-A-16 of the Authority and any amendments thereto.

(63) Sanitary Sewage. The normal water-carried Domestic Wastes from any improved property, but excluding: effluent from septic tanks or cesspools; rain, snow or Stormwater; Groundwater; or other collected water from roofs, drains or basements.

(64) Sanitary Sewer. A Sewer carrying only Sanitary Sewage or Industrial Wastes, and to which Stormwater, surface water or Groundwater are not intentionally admitted.

(65) Sewage Collection System. All facilities of the Authority or any Contributing Municipality or Person party to a contract or service agreement with the Authority or Contributing Municipality, as of any particular time, used or usable for collecting, transporting, pumping and disposing of Wastewater, which facilities are connected to and served by the Sewage Treatment Plant.

(66) Sewage Treatment Plant. That portion of the Sewer System owned and operated by the Authority, which is designed to provide treatment of Wastewater and discharge of treated effluent to the environment.

(67) Sewer. A pipe or conduit for conveying Wastewater.

(68) Sewer System. The Sewage Collection System, Sewage Treatment Plant, and any Sewers that convey Wastewater to the Sewage Treatment Plant. For the purposes of this Ordinance, "Sewer System" shall also include any sewers that convey Wastewater to the Sewage Treatment Plant from Persons who are, by contract or agreement with the Authority or a Contributing Municipality, Users of the Sewer System.

(69) Shall. When used in the Ordinance, shall is mandatory, May is permissive.

(70) Significant Industrial User. An Industrial User who (1) has a discharge flow of 25,000 gallons or more of Process Wastewater during a Normal Production Day; (2) Discharges Industrial Waste which makes up 5 percent or more of the average dry weather organic capacity of the Sewage Treatment Plant; (3) is regulated by Categorical Standards; or (4) is determined by the Authority, Township, Pennsylvania Department of Environmental Protection, or EPA to have the potential of adversely affecting the operation of the POTW, causing Interference or Pass Through, or of violating any Pretreatment Requirement or Prohibitive Discharge Standard.

(71) Significant Noncompliance. A Noncompliance which meets or exceeds standards of Significant Noncompliance determined by the Township, Township Manager, Authority, Authority Manager and contained in Paragraph 7.11 of this Ordinance.

(72) Significant Violator. Any Industrial User in Significant Noncompliance at any time during a calendar year.

(73) Slug or Slug Load. Any Prohibited Discharge occurring for any length of time.

(74) Spill. Any Discharge of a non-routine, episodic nature, including but not limited to an accidental Spill or a deliberate or accidental non-customary or unauthorized batch Discharge, or the control or cleanup activities associated with such an occurrence; an accidental Spill may result from the spilling, overflowing, rupture, or leakage of any storage, process or transfer container.

(75) SPCC Plan. A spill prevention, control and countermeasure plan prepared by an Industrial User to minimize the likelihood, duration and intensity of a Slug Load or Spill and to expedite control and cleanup activities should a Slug Load or Spill occur.

(76) Standard Industrial Classification (SIC). A classification pursuant to the Standard Industrial Classification Manual issued by the Executive Office of the President, Office of Management and Budget.

(77) State. Commonwealth of Pennsylvania.

(78) Stormwater. Any flow occurring during or following any form of natural precipitation and resulting therefrom.

(79) Suspended Solids. The total suspended matter that floats on the surface of, or is suspended in, water, Wastewater or other liquids, and which is removable by laboratory filtering.

- (80) Superintendent. The Person designated by the Authority to supervise the operation of the Sewage Treatment Plant, or his duly authorized representative.
- (81) Total Solids. The sum of the dissolved and undissolved solid constituents of water or Wastewater.
- (82) Total Toxic Organics. The sum of all quantifiable values of various organic pollutants as determined by the Authority or, for certain Categorical Industrial Users, as defined in the applicable Categorical Standard.
- (83) Township. Fairview Township, a second class township, York County, Pennsylvania.
- (84) Toxic Organic Management Plan. A plan submitted in lieu of testing for Total Toxic Organics in which an Industrial User specifies methods of control to assure that Total Toxic Organics do not routinely enter the Sewer System.
- (85) Toxic Pollutants. Any Pollutant or combination of Pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of Section 307(a) of the Act, or other acts, or is present in sufficient quantity, either singly or in combination with other Wastewater, so as to present risk of causing Interference or Pass Through, causing harm to humans, animals or plants, or creating a hazard to Persons or property, either in the Sewage Collection System, the Sewage Treatment Plant, or the environment into which it is released.
- (86) Unauthorized Discharge. Discharge of an Unauthorized Waste, or a Discharge which otherwise is not in Compliance with the requirements of the Industrial Pretreatment Program or other Rules or Regulations of the Authority or a Contributing Municipality.
- (87) Unauthorized Waste. Any substance which is Discharged into the Sewer System and which is not in Compliance with the provisions of the Industrial Pretreatment Program, or which is Discharged by a Person in violation of any of the provisions of this Ordinance, Resolution or the provisions of the ordinances of a Contributing Municipality.
- (88) User. Any Person who contributes, causes or permits the Discharge of Wastewater into the Sewer System.
- (89) Wastewater. Industrial Wastes or Domestic Wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any Groundwater, surface water, and Stormwater that may be present, whether treated or untreated, which enters the Sewer System.

(90) Waters of the State. All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the State or any portion thereof.

(91) Wastewater Discharge Permit. As set forth in Section 6 of this Ordinance.

SECTION 4 - PROHIBITED WASTES AND POLLUTANT LIMITATIONS

4.01 Discharge of Stormwaters

No Person shall Discharge or cause or permit to be Discharged any Stormwater, surface water, Groundwater, roofwater, subsurface drainage, or building foundation drainage into any Sanitary Sewer.

4.02 Prohibited Discharges

No User shall Discharge or cause to be Discharged, directly or indirectly, any Pollutant or Wastewater which will cause or contribute to Interference with the operation or performance of the Sewer System. These general prohibitions apply to all Users whether or not the Users are subject to Categorical Standards, National Prohibitive Standards, or any other Pretreatment Requirements. No Person shall Discharge the following substances to the Sewer System:

(1) Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the Sewer System or to the operation of the Sewer System. At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter. At no time shall the closed cup flashpoint of the Wastewater be less than 140 degrees Fahrenheit (60 degrees Celsius) using test methods specified in 40 CFR §261.21

Prohibited materials include, but are not limited to, the following substances in concentrations which cause Noncompliance with the above standard: gasoline, kerosene, naphtha, benzene, ethers, alcohols, peroxides, chlorates, perchlorates, bromates, and carbides.

(2) Solid or viscous substances which may cause obstruction to the flow in a Sewer or other Interference with the operation of the Sewer System, such as, but not limited to: grease, Garbage with particles greater than one-half inch (1/2") in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood,

feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

(3) Any Wastewater having a pH less than 6.0 or higher than 9.0, or Wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the Sewer System.

(4) Any Wastewater containing Toxic Pollutants in sufficient quantity, either singly or by interaction with other constituents of the Wastewater, to injure or interfere with any Wastewater treatment process, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the Sewage Treatment Plant, or to exceed the limitation set forth in an applicable Categorical Standard.

(5) Any noxious or malodorous liquids, gases, or solids which either singly or by interaction with other substances present in the Sewer System are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the Sewer System for maintenance and repair.

(6) Any substance which results in the formation or release of toxic gases, vapors or fumes in a quantity that may cause acute worker health and safety problems.

(7) Any petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause Interference or Pass Through.

(8) Fats, oils, greases or waxes of animal or vegetable origin in amounts which will cause Interference or Pass Through.

(9) Any substance which may cause the Sewage Treatment Plant's effluent or any other product of the Sewage Treatment Plant such as residues, sludges, or scums, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case, shall a substance discharged to the Sewer System cause the Sewage Treatment Plant to be in noncompliance with sludge use or disposal criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State criteria applicable to the sludge management method being used.

(10) Any substance which will cause the Authority to violate its NPDES and/or State Collection System Permit or applicable receiving water quality standards.

- (11) Any Wastewater with objectionable color which will Pass Through the Treatment Plant, such as, but not limited to, dye wastes and vegetable tanning solutions.
- (12) Any Wastewater having a temperature which will inhibit biological activity in the Sewage Treatment Plant resulting in Interference, but in no case Wastewater with a temperature at the Discharge into the Sewer System which exceeds 104° F (40° C).
- (13) Any Pollutants, including oxygen demanding Pollutants (BOD, etc.) released at a flow rate and/or Pollutant concentration which will cause Interference to the Sewage Treatment Plant or interfere with the operation of the Sewer System.
- (14) Any Wastewater containing any radioactive wastes or isotopes of such halflife or concentration as may exceed limits established by the Authority, Township or applicable State or federal regulations, cause Interference, or otherwise adversely impact the POTW or cause or contribute to Pollution.
- (15) Any trucked or hauled Wastewater or Pollutants except those Discharged at points designated by the Township.
- (16) Any Wastewater which is incompatible with treatment processes in use at the Sewage Treatment Plant so as to cause Interference or Pass Through.
- (17) Any Wastewater containing any compounds or salts of aldrin, dieldrin, endrin, lindane, methoxychlor, toxaphene, dichlorophenoxyacetic acid, trichlorophenoxypropionic acid, or other persistent herbicides, pesticides or rodenticides.
- (18) Any Infectious Waste.

4.03 Unauthorized Discharges

Discharge of any prohibited substance listed under paragraph 4.02 shall be considered an Unauthorized Discharge and the Township or Authority may take whatever steps are necessary to halt such a Discharge, as set forth in Sections 7 and 8 of this Ordinance.

4.04 Categorical Standards

If the Categorical Standards for a particular Industrial User are more stringent than Local Limits or other Pretreatment Requirements imposed under this Ordinance, then the Categorical Standards shall apply. The National Categorical Pretreatment Standards are hereby incorporated into the Industrial Pretreatment Program as program requirements for those Industrial Users subject to such Categorical Standards.

4.05 Removal Credits

Where the Sewage Treatment Plant achieves consistent removal of Pollutants limited by Categorical Standards, the Township may, at its sole discretion, apply to the Approval Authority for modification of specific limits in the Categorical Standards as provided for in 40 CFR §403.7

4.06 State Requirements

State requirements and limitations on Discharges shall apply in any case where they are more stringent than federal requirements and limitations or those established under this Ordinance.

4.07 Local Limits

The Authority may establish, review, and revise from time to time, Local Limits regulating the Discharge of specific Pollutants by Industrial Users.

- (1) Local Limits may be established for any substance which is Discharged, or is likely to be Discharged, to the Sewer System.
- (2) Local Limits may limit concentration, mass, or a combination of the two.
- (3) The procedure for the calculation of Local Limits may be as recommended by the Approval Authority or otherwise considered appropriate by the Authority.
- (4) Local Limits shall be calculated for Pollutants, as deemed necessary, to prevent Interference and Pass Through. In addition, Local Limits may be calculated to prevent the Discharge of toxic materials in toxic amounts; threats to worker health and safety; and physical, chemical or biological damage to the Sewer System, or for such other purposes as the Authority deems appropriate.
- (5) Local Limits are applicable to all Significant Industrial Users and may be included in Wastewater Discharge Permits. Local Limits may be applied to other Industrial Users as deemed appropriate by the Authority.
- (6) Discharging any Pollutant by a Significant Industrial User, or an Industrial User subject to a Local Limit, in excess of a Local Limit established for that Pollutant shall constitute an Unauthorized Discharge.
- (7) Local Limits for Industrial Waste Discharges (See Attachment A)

4.08 Prohibition on Dilution

No Industrial User shall, in any way, attempt to dilute a Discharge as a partial or complete substitute for adequate Pretreatment to achieve compliance with the limitations contained in

applicable Categorical Standards, or in any other pollutant-specific limitation, including Local Limits, developed by the Authority or State.

4.09 Slug Loads and Spills

Each Industrial User shall provide protection from Spills or Discharges that result in Slug Load Discharges. Facilities to prevent Spills and Slug Loads shall be provided and maintained at the Owner's or Industrial User's own cost and expense.

(1) Notification. In the case of a Spill or Slug Load the Industrial User shall immediately telephone and notify the Pretreatment Coordinator or the Superintendent of the incident. The notification shall include location of Discharge, type of waste, concentration and volume, corrective actions being taken or planned, and expected duration. Such notification shall not relieve the Industrial User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the Sewer System, fish kills, or any other damage to Person or property; nor shall such notification relieve the Industrial User of any fines, civil penalties, or other liability which may be imposed by this Ordinance or applicable law.

(2) Notice to Employees. A notice shall be permanently posted on the Industrial User's bulletin board or other prominent place advising employees whom to call (i.e., the Pretreatment Coordinator or the Superintendent) in the event of a Spill or Slug Load. Employers shall insure that all employees who may cause, suffer or observe such a Discharge to occur are advised of the emergency notification procedure.

(3) Written Notice. Within five (5) days following a Spill or Slug Load the Industrial User shall submit to the Township and Authority a detailed written report describing the cause of the Discharge and the measures to be taken by the Industrial User to prevent similar future occurrences. Such notification shall not relieve the Industrial User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the Sewer System, fish kills, or any other damage to Person or property; nor shall such notification relieve the Industrial User of any fines, civil penalties, or other liability which may be imposed by this Ordinance or applicable law. This written notice requirement may be waived by the Authority for any Industrial User which is not required to submit a plan under Subsection D, below.

(4) SPCC Plans. Within one hundred and eighty days of the adoption of this Ordinance, all existing Significant Industrial Users shall complete and obtain approval of a Spill Prevention Control and Countermeasure (SPCC) Plan, or provide acceptable evidence that such a Plan is not necessary for their facility. No Significant Industrial User who commences Discharge to the Sewer System after the effective date of this Ordinance shall be permitted to introduce Pollutants into the Sewer System until this requirement has

been fulfilled. The Township, at its discretion, may require that an SPCC Plan be developed by any other Industrial User. SPCC Plans for Significant Industrial Users shall, at a minimum, contain the elements specified in 40 CFR §403.8(f)(2)(v)(A)-(D). SPCC Plans shall be submitted to the Township for review, and shall be approved by the Township before implementation of the Plan or construction of any required facilities. Review and approval of such Plans, facilities and operating procedures by the Township shall not relieve the Industrial User from the responsibility to modify its facility as necessary to meet the requirements of the Industrial Pretreatment Program. The review and approval of plans and procedures by the Township shall not be considered as an approval or determination regarding their efficacy, safety or reliability; such considerations are solely the responsibility of the Industrial User.

4.10 Drainage of Water Filtration Systems

Discharge of filter backwash water to the Sewer System shall be regulated as follows:

- (1) Granular media (e.g., sand) filter backwash water may be Discharged to the Sewer System, subject to all of the applicable provisions of this Ordinance.
- (2) Diatomaceous earth filter backwash, if Discharged to the Sewer System, shall be connected to the Sewer System through settling tanks with no less than three (3) months storage capacity of spent diatomaceous earth, which tanks shall be accessible for removing solid waste for disposal.

4.11 Trucked and Hauled Wastes

- (1) Discharge of trucked or hauled wastes shall only be made at a point designated by the Township.
- (2) Such wastes may be required to conform to all requirements of the Industrial Pretreatment Program regarding Prohibited Discharges, regulated characteristics, Local Limits, or other requirements as to nature, and concentration.
- (3) No trucked or hauled wastes may be Discharged except as specifically approved by the Township. The Township may require testing, reporting, or other specific information to be presented by the Operator or Owner prior to Discharge.
- (4) In order to implement the provisions of part C of this paragraph, the Township may establish a permit system or other means of control, and may set rate, frequency, volume, or other controls on the Discharges from such vehicles.

4.12 Grease and Sand traps

Grease, oil and sand interceptors or traps shall be provided by a User when the Township determines that such devices are necessary for the proper handling of Wastewaters containing greases, oils or settleable solids. Interceptors and traps shall be installed, operated, maintained and cleaned properly, so that they will consistently remove the grease, oil or settleable solids. Interceptors and traps shall be properly designed to accommodate the maximum flow rate expected to occur, and shall be located as to be readily and easily accessible for cleaning and inspection.

4.13 Notification Requirements - Hazardous Wastes and Hazardous Substances

(1) All Industrial Users shall notify the Township, Authority, the EPA Regional Waste Management Division Director, and the Pennsylvania Department of Environmental Protection, Bureau of Waste Management, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR part 261. Such notification shall include the name of the hazardous waste, as set forth in 40 CFR part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). If the Industrial User discharges more than 100 kilograms of such waste per calendar month, the notification shall also include the following information, to the extent that it is known and readily available to the Industrial User:

- (a) An identification of the hazardous constituents contained in the waste;
- (b) An estimation of the mass and concentration in the Wastewater of all such constituents discharged in the most recent month; and
- (c) An estimate of the mass and concentration of such constituents expected to be discharged during the following twelve months.

(2) Industrial Users that commence Discharge of a hazardous waste after the effective date of this Ordinance shall submit the report within 180 days of first Discharge of the hazardous waste, except as provided in part D of this paragraph. If the new Discharge constitutes a change in the character of the Industrial Waste, the Industrial User shall also comply with the requirements of Section 6, paragraph 6.20 of this Ordinance. In the case of any new regulations under 40 CFR Part 261 identifying additional wastes as characteristic or listed hazardous waste, the Industrial User discharging such substances shall submit the report within 90 days of the effective date of the new regulations.

(3) The required report need be submitted only once for each hazardous waste discharged. Industrial Users regulated under Categorical Standards which have already submitted such information in baseline monitoring reports or periodic compliance reports do not have to report this information again.

(4) Industrial Users that Discharge less than fifteen (15) kilograms of hazardous wastes in a calendar month do not have to comply with these reporting requirements. This exemption does not apply to acute hazardous wastes as specified in 40 CFR §261.30(d) and 261.33(e).

(5) An Industrial User shall notify the Township and Authority within five (5) days of becoming aware of any Discharges of reportable quantities of listed or unlisted Hazardous Substances, as defined at 40 CFR §302.4 (CERCLA Hazardous Substances). This notification shall include the time of release; the name of the substance; the identifying CAS number, if known; and the approximate quantity Discharged. If the Discharge constitutes a Spill, change in Wastewater constituents, or Slug Load, other reporting requirements of the Industrial Pretreatment Program may also apply.

(6) Each notification required by this section shall include a statement certifying that the Industrial User has a program in place to reduce the volume and/or toxicity of the Discharged wastes to the extent that it is economically practical. This statement shall be signed by the Authorized Representative of the Industrial User.

(7) Township and Authority agree to notify the appropriate Contributing Municipality and the York County or York County Emergency Management director, as appropriate, of any Spill or Slug Load relating to a Discharge of hazardous waste and substances under this section.

SECTION 5 - FEES

5.01 Purpose

It is the purpose of this section to provide for the recovery of costs from Industrial Users of the Sewer System for the implementation of the Industrial Pretreatment Program established herein. The applicable charges or fees shall be set forth in the Authority's Schedule of Charges and Fees and Township's Schedule of Charges and Fees.

5.02 Establishment of Fee Schedule

The Township and Authority may each establish a system of rates and charges for implementation of the Industrial Pretreatment Program, which shall be applicable to all Users of the Sewer System, or to such Industrial Users as determined by the Township and Authority in its sole discretion. Such a system of rates is incorporated herein by reference and made a part hereof. Such a system of rates and charges may be changed from time to time by ordinance. These rates and charges relate solely to the matters covered by this Ordinance and are separate from all other rates and fees chargeable by the Township.

SECTION 6 - PERMITS AND REPORTS FOR INDUSTRIAL WASTE DISCHARGED INTO THE SEWER SYSTEM

6.01 Requirement for Wastewater Discharge Permits

(1) Discharge of any Industrial Waste to the Sewer System without a Wastewater Discharge Permit, except as authorized by the Township and Authority in accordance with the provisions of this Ordinance, is an Unauthorized Discharge and subject to the penalties provided herein.

(2) The Township and Authority reserve the right, at their sole discretion, to deny the issuance of a Wastewater Discharge Permit, or to issue such a Permit conditionally.

6.02 Significant Industrial Users

(1) All Significant Industrial Users proposing to connect to or to Discharge to the Sewer System shall obtain a Wastewater Discharge Permit before connecting to or Discharging to the Sewer System.

(2) All Significant Industrial Users connected to or Discharging to the Sewer System as of the effective date of this Ordinance shall apply for a Wastewater Discharge Permit within ninety (90) days of adoption, if such application has not already been made.

6.03 Other Industrial Users

Except as otherwise required by the Township and Authority on a case-by-case basis, Industrial Users that are not Significant Industrial Users do not require a Wastewater Discharge Permit, but are required to comply with all other provisions of this Ordinance. If an Industrial User makes changes to processes, flow, Wastewater concentration, Wastewater characteristics, or other changes which result in the Industrial User meeting the definition of Significant Industrial User, the Industrial User shall, immediately upon becoming aware that such a change has occurred, or ninety (90) days prior to such a change if it is planned, notify the Township and apply for a Wastewater Discharge Permit. The Township or Authority, at their discretion, may modify the timeframe for submission of a permit application and may require any non-Significant Industrial Users to apply for and obtain a Wastewater Discharge Permit, as the Township or Authority deems appropriate.

6.04 Permit Applications

Industrial Users required to obtain a Wastewater Discharge Permit shall complete and file with the Township and Authority an application in the form prescribed by the Township and Authority and accompanied by the fee prescribed in the Township's and Authority's schedule of fees. A new facility planning to Discharge to the Sewer System shall make such submission prior (e.g., 90 days in advance) to the date it intends to connect to or Discharge to the Sewer System so as to provide ample time for the permitting process. In support of the application, the Industrial User shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name, address, and location, (if different from the address);
- (2) SIC number or numbers according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;
- (3) Wastewater constituents and characteristics as required by the Authority, as determined by a Qualified Analyst;
 - (a) Sampling and analyses shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended, or as approved by EPA and the Authority;
 - (b) Sample results shall be accompanied by a signed statement of the Authorized Representative that the samples analyzed are representative of a Normal Production Day;
- (4) Each product by type, amount, process or processes and rate of production;

- (5) Type and amount of raw materials processed (average and maximum per day);
- (6) Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;
- (7) Time and duration of Wastewater or Industrial Waste contribution;
- (8) Average daily and 30 minute peak Wastewater flow rates, including daily, monthly and seasonal variation if any;
- (9) Site plans, floor plans, mechanical and plumbing plans and details to show all floor drains, Building Sewers, Sewer connections, and appurtenances by the size, location and elevation;
- (10) Description of activities, facilities and plant processes on the premises including all materials which are or could be Discharged;
- (11) The nature and concentration of any Pollutants in the Discharge which are limited by the Authority, Township, State, or National Pretreatment Requirement (including Local Limits), Prohibitive Discharge Standard or Categorical Standards, and a statement regarding whether or not the Categorical Standard, Prohibitive Discharge Standard or Pretreatment Requirements are being met on a consistent basis and, if not, how the Industrial User proposes to meet the applicable Standards or other Pretreatment Requirements, including whether additional Operation and Maintenance (O&M) and/or additional Pretreatment is required for the Industrial User to meet the applicable Standard or Requirement. If the applicant is a Categorical Industrial User, this statement shall be signed by a Certified Professional.
- (12) If additional Pretreatment and/or O&M will be required to meet Categorical Standards, Prohibitive Discharge Standard, or Pretreatment Requirements (including Local Limits), the shortest schedule by which the Industrial User will provide such additional Pretreatment shall be developed and submitted. The completion date of this schedule for any Categorical Standard shall not be later than the compliance date established for the applicable Categorical Standard. The following conditions shall apply to this schedule:
 - (a) The schedule shall contain increments of progress 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 Industrial User to meet the applicable Categorical Standards or other Pretreatment Requirements (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

(b) For Compliance with a Categorical Standard, no increment referred to in subparagraph (1) shall exceed 9 months

(c) Not later than 14 days following each date in the schedule pertaining to compliance with a Categorical Standard and the final date for compliance, the Industrial User shall submit a progress report to the Township and Authority including, as a minimum, whether or not it complied with the increment of progress to be met on such date, and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the Industrial User to return the construction to the schedule established. In no event shall more than 9 months elapse between such progress reports to the Township and Authority.

(13) Any other information as may be deemed by the Township and Authority to be necessary to evaluate the application.

(14) The application shall be signed and attested to by an Authorized Representative of the Industrial User.

The Township or Authority will evaluate the data furnished by the Industrial User and may require additional information. After evaluation and acceptance of the data furnished, the Township or Authority may issue a Wastewater Discharge Permit subject to terms and conditions provided herein, or may deny issuance of a Wastewater Discharge Permit, in which case the proposed Discharge is prohibited.

6.05 Confidentiality of Applications

(1) All information required by the Township or Authority in the Permit application shall be provided by the Industrial User to the best of its ability.

(2) If information regarding raw materials, processes, production rates or other manufacturing information is regarded as confidential by the Industrial User, such information shall be clearly marked "confidential" on the application form. Process information and production rates to the extent that are necessary to categorize the Industrial User, shall remain public information.

(3) Confidentiality shall not apply to information regarding the flow of or the constituents in the Industrial Waste or other Wastewater Discharge.

(4) Information accepted by the Township and Authority as confidential shall be handled as detailed in paragraph 6.19 of this Section.

6.06 Wastewater Discharge Permit Conditions

(1) Wastewater Discharge Permits are hereby expressly subject to all provisions of this Ordinance and all other applicable regulations, User charges and fees established by the Township and Authority. Permits shall contain the conditions specified in 40 CFR §403.8(f)(1)(iii). Permits may contain, but are not limited to, the following:

- (a) Limits on the average and maximum Wastewater constituents and characteristics, including Local Limits and/or Categorical Standards, as applicable;
- (b) List of Prohibited Discharges, as presented in Section 4 of this Ordinance;
- (c) Requirements for submission of technical reports or Discharge reports, including the information to be contained and the signatory requirements of these reports;
- (d) Specifications for monitoring programs which may include the specific substances to be analyzed, sampling locations, frequency of sampling, number, types and standards for tests, toxicity testing, and reporting schedules;
- (e) Requirements for maintaining and retaining records relating to Industrial Waste and Wastewater Discharges and characteristics as specified by the Township or Authority, and affording the Township and Authority access thereto;
- (f) Requirements for notification to the Township and Authority of any new introduction of Wastewater constituents or any substantial change in the volume or character of the Wastewater constituents being Discharged into the Sewer System;
- (g) Requirements for notification of Slug Loads and Spills as per Section 4, paragraph 4.09;
- (h) Statement of duration of the Wastewater Discharge Permit, as provided in paragraph 6.08 of this Section;
- (i) Notification of the rules regarding transferability, as stated in paragraph 6.07 of this Section;

- (j) Notification of penalties provided for Noncompliance as contained in Sections 7 and 8 of this Ordinance, or otherwise available to the Township and Authority;
 - (k) Requirements pertaining to modification, suspension, and termination of the Wastewater Discharge Permit, and appeal procedures;
 - (l) Limits on average and maximum rate and time of Discharge or requirements for flow regulation and equalization;
 - (m) Requirements for installation and maintenance of inspection and sampling facilities;
 - (n) Requirements for installation and maintenance of Pretreatment facilities;
 - (o) Requirements for developing and implementing special plans or practices such as Toxic Organic Management Plans, Toxic Reduction Evaluations, special management or housekeeping practices, or other such procedures;
 - (p) Compliance schedules;
 - (q) The unit charge or schedule of charges and fees; and
 - (r) Other conditions as deemed appropriate by the Township or Authority to ensure compliance with this or any other applicable ordinance and applicable federal, State and local Pretreatment Requirements.
- (2) A Wastewater Discharge Permit, in addition to implementing requirements as mandated by federal pretreatment regulations, may be a means for the Township or Authority to implement other requirements in accordance with federal, state and local law. Implementation and enforcement of such provisions shall be at the discretion of the Township or Authority.

6.07 Transferability of Permits

Wastewater Discharge Permits are issued to a specific Industrial User for a specific operation. A Wastewater Discharge Permit shall not be reassigned or transferred or sold to a new Person, new Industrial User, different premises, or a new or changed operation without the approval of the Authority. If such a transfer is approved by the Township and Authority, the existing Owner or Operator shall provide a copy of the Wastewater Discharge Permit to the new Owner or Operator. Any succeeding Industrial User shall also comply with the terms and conditions of the existing Wastewater Discharge Permit. The Authority may, at its discretion,

deny the transfer of a Wastewater Discharge Permit and require application for a new Wastewater Discharge Permit under the provisions of this Section.

6.08 Duration and Modification of Wastewater Discharge Permits

(1) Wastewater Discharge Permits shall be issued for a specified time period, not to exceed five (5) years. A Wastewater Discharge Permit may be issued for a period of less than five years or may be dated to expire on a specific date. Except as otherwise approved by the Township and Authority, the Industrial User shall apply for reissuance of the Wastewater Discharge Permit a minimum of 120 days prior to the expiration of the Industrial User's existing Wastewater Discharge Permit

(2) The terms and conditions of the Wastewater Discharge Permit may be subject to modification by the Township and Authority during the term of the Wastewater Discharge Permit as limitations or requirements as identified in Section 4, are modified or other just cause exists, including but not limited to the following.

- (a) Noncompliance with any term or condition of the Wastewater Discharge Permit and/or any requirement set forth in an applicable pretreatment law, ordinance, regulation or rule;
- (b) Obtaining a Wastewater Discharge Permit by misrepresentation or failure to disclose fully all relevant facts in either the permit application or any report, including the falsification of self-monitoring reports or the tampering with monitoring equipment;
- (c) Promulgation of more stringent standards under federal, State or local law, including the adoption of new or revised pretreatment resolution by the Authority;
- (d) Changes in the processes used by the Permittee or changes in the volume or character of the Industrial Waste;
- (e) Changes in the design or capability of the POTW, or changed or new NPDES permit requirements or sludge disposal requirements;
- (f) A change in any condition that requires a temporary or permanent reduction or elimination of the Discharge;
- (g) Failure to allow timely access to the Industrial User's facility or records;
- (h) Failure to timely pay fines, fees, or applicable sewer charges assessed by the Township or Authority; and

- (i) Other such conditions as determined to be appropriate by the Township or Authority.

6.09 Delayed Permit Renewal

(1) If the Industrial User has complied with the terms of the Wastewater Discharge Permit and this Resolution, and has applied for renewal as provided for in paragraph 6.08 of this Section, and the Wastewater Discharge Permit is not renewed on or before the expiration date through no fault of the Industrial User, then the existing Wastewater Discharge Permit shall remain in effect until it is re-issued or rescinded by the Township or Authority, provided that the Wastewater Discharge Permit shall not remain in effect for more than five years.

(2) If the Wastewater Discharge Permit is not renewed because of a failure of the Industrial User to apply for renewal in a timely fashion, as a result of an incomplete or incorrect application, or through an act or omission of the Industrial User, then Discharge of Industrial Waste by the Industrial User without a Wastewater Discharge Permit is an Unauthorized Discharge.

6.10 Appeal of Wastewater Discharge Permits

(1) Any Industrial User that is issued or reissued a Wastewater Discharge Permit may appeal the Permit conditions or requirements, in whole or in part. If a Wastewater Discharge Permit is modified during its effective term, the Industrial User may appeal only the conditions or requirements which have been changed. Appeal procedures applicable to these permit actions, as well as suspension, revocation or denial of issuance of a Wastewater Discharge Permit, shall be as set forth in Section 7, paragraph 7.07 of this Ordinance.

(2) During the process of appeal, the Wastewater Discharge Permit shall remain in effect and shall be subject to potential enforcement unless, upon the request of the Permittee, the Township or Authority grants a stay of specified Permit condition(s) or requirement(s). Pursuant to Section 7, paragraph 7.07. Conditions and requirements imposed by federal or State Regulations (e.g. - Categorical Standards) shall not be appealed or stayed. Conditions or requirements which, in the opinion of the Township or Authority, would constitute a hazard or pose a potential threat of Pollution if stayed, shall not be stayed during an appeal. Grant of a stay of Permit conditions is at the discretion of the Township or Authority.

6.11 Baseline Monitoring Reports

(1) Where an Industrial User, subject to a newly promulgated Categorical Standard, has not previously submitted an application for a Wastewater Discharge Permit as required by Section 6, paragraph 6.04, the Industrial User shall, within 180 days after the promulgation of the applicable Categorical Standard:

(a) Apply for a Wastewater Discharge Permit;

(b) Provide the baseline monitoring information required by 40 CFR §403.12(b). This information may be incorporated into the application for a Wastewater Discharge Permit; and

(c) Provide a compliance schedule for meeting the Pretreatment Standards as required by 40 C.F.R. §403.12(c) if such a schedule is required. The requirements of such a compliance schedule are described in paragraph 6.04, part L of this Section.

(2) An Industrial User with an existing Wastewater Discharge Permit shall submit to the Township and Authority within 180 days after the promulgation of an applicable Categorical Standard the information required by 40 CFR § 403.12(b).

(3) A New Source, or an Industrial User that becomes a Categorical Industrial User through a change in facilities or processes, shall submit a report containing the information required by 40 CFR § 403.12(b) at least 90 days prior to commencement of Discharge from the regulated process or facility.

(4) Baseline Monitoring Reports shall be signed and certified by an Authorized Representative in accordance with 40 C.F.R. §§ 403.12(l) and 403.6(a)(2)(ii).

6.12 Categorical Compliance Report

Within 90 days following the date for final compliance with applicable Categorical Standards or, in the case of a New Source, following commencement of the Discharge of Industrial Waste from processes regulated by Categorical Standards into the Sewer System, any Industrial User subject to Categorical Standards shall submit to the Township and Authority a report indicating the nature and concentration of all Pollutants in the Discharge from the regulated process which are limited by Categorical Standards and the average and maximum daily flow for those process units in the Industrial User's facility which are limited by such Categorical Standards. The report shall certify that the information contained therein concerning Wastewater constituents and flows is representative of discharges during a Normal Production Day. The report shall state whether the applicable Categorical Standards are being met on a consistent basis and, if not, what additional Operation and Management practices and/or Pretreatment is necessary to bring the Industrial User into compliance with the applicable Categorical Standards, and including a schedule for completion of the required actions in the form described in paragraph 6.04, part L, of this Section. This statement shall be signed by an Authorized Representative of the Industrial User, and certified to by a Certified Professional.

6.13 Periodic Compliance Reports

(1) All Significant Industrial Users shall report to the Township and Authority at least twice a year, the date of the report to be as determined by the Authority and contained in the Wastewater Discharge Permit or other official notification. Reports may be required more frequently, if deemed necessary by the Township or Authority.

(2) The reports required under this Section shall contain the information required by 40 C.F.R. § 403.12(e), 403.12(g) and/or 403.12(h), as applicable including, at a minimum, the measured concentrations of all Pollutants regulated by Categorical Standards or otherwise regulated by the Wastewater Discharge Permit, a record of any measured daily flows and a statement of accuracy and completeness signed and certified by the Authorized Representative of the Significant Industrial User in accordance with 40 C.F.R. §§ 403.12(l) and 403.6(a)(2)(ii). Reports shall also contain any other information as required by the Township or Authority. The Authority may require that reporting forms it may have provided to the Industrial User for use in meeting this reporting requirement shall be used.

(3) For Significant Industrial Users subject to Categorical Standards, if discharge limits are based on mass units per production unit, then production information regarding the regulated processes during the reporting period shall be included in the report, along with flow and concentration values, so that a determination of Compliance or Noncompliance with Categorical Standards can be made.

(4) For Significant Industrial Users subject to Categorical Standards, the certification of Compliance with those Standards, shall be signed by a Certified Professional.

6.14 Sampling and Analysis

(1) Each Industrial User shall perform Wastewater sampling and analyses in accordance with its Wastewater Discharge Permit or as otherwise directed by the Authority.

(2) All sampling and analysis performed by the Industrial User in Compliance with Wastewater Discharge Permit conditions, to prepare the reports required in paragraphs 6.11, 6.12, 6.13 and 6.15 of this Section or as otherwise required by the Township or Authority, shall be accomplished using techniques specified in 40 CFR Part 136 or alternative procedures approved by the Authority and the Administrator, and performed by a Qualified Analyst. Unless otherwise required, all sampling must be performed during a Normal Production Day and must reflect the usual and typical Wastewater Discharge of the User.

(3) The Industrial User may monitor more frequently than otherwise required by the Township or Authority. If the Industrial User monitors any Pollutant, subject to an effluent limitation and at the location designated for compliance monitoring, more frequently than otherwise required by the Township or Authority using the procedures set forth in 40 CFR Part 136 or otherwise required, the results of such monitoring shall be included in the calculation and reporting of the data submitted to the Authority.

(4) Where the Township or Authority performs the sampling or collects the required information herein, the Township or Authority may waive the corresponding reporting requirement as provided in 40 CFR §§ 403.12(g) and 403.12(h).

(5) The Industrial User shall ensure that all monitoring and analytical equipment it uses to monitor or otherwise analyze the Pollutants Discharged to the Sewer System are periodically calibrated and maintained at intervals which ensure the accuracy of measurements.

(6) If sampling results indicate that the Industrial User has exceeded an effluent limitation, the Authority may require the Industrial User to undertake increased sampling. Upon notification from the Authority, the Industrial User shall undertake such additional monitoring as directed. All sampling and analysis performed in compliance with Wastewater Discharge Permit conditions or to prepare the reports required in paragraphs 6.11, 6.12, 6.13 and 6.15 of this Section shall be accomplished using techniques specified in 40 CFR Part 136, or alternative procedures approved by the Authority and Administrator.

6.15 Reporting and Resampling of Discharge Limit Violations

(1) If, upon receipt of valid sampling and testing results, a Significant Industrial User becomes aware that a Noncompliance with Discharge limits has occurred, the Significant Industrial User shall, within 24 hours of becoming aware of the violation, notify the Township and Authority of this fact. Within 30 days of becoming aware of the Noncompliance, the Significant Industrial User shall also sample and analyze its Discharge(s) for each parameter found to be in Noncompliance and report the results of the re-sampling and analysis to the Township and Authority. This resampling and reporting requirement may be waived by the Township and Authority provided that the conditions in 40 CFR §403.12(g)(2) are satisfied.

(2) Each Significant Industrial User shall have a duty, on receipt of validly obtained sampling and analysis results, of inspecting the results and determining if any Wastewater Discharge Permit condition has been violated. Failure to examine and compare testing results with Wastewater Discharge Permit conditions shall not be a valid defense for failure to comply with these reporting conditions.

6.16 Monitoring Facilities

(1) The Township and Authority may require an Industrial User to provide and operate at the Owner's or Industrial User's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the Wastewater or Industrial Waste Discharge. The monitoring facility should normally be situated on the Industrial User's premises, but the Township or Authority may, when such a location would be impractical or cause undue hardship on the Industrial User, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles, provided that such location is acceptable to the Township and Authority.

(2) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the Industrial User.

(3) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the Authority's and Township's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification by the Authority.

6.17 Inspections

The Township, the Authority, and their duly authorized employees and representatives, may enter and inspect the facilities of any User to ascertain whether the purpose of this Ordinance is being met and all requirements are being complied with. Persons or occupants of premises where Wastewater is created or Discharged shall allow the Township, the Authority or its representatives ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and copying or in the performance of any of their duties. Areas which are subject to inspection include, but are not limited to, areas which could result in Wastewater Discharge to the Sewer, such as manufacturing areas and chemical storage areas; areas where Industrial Waste is generated; Pretreatment facilities; Spill prevention and control facilities; hazardous waste generation areas; industrial self-monitoring facilities and areas where relevant documentation is kept or stored. The Township, the Authority, and Approval Authority and their agents shall have the right to set up on the User's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a User has security measures in force which would require proper identification and clearance before entry onto their premises, the User shall make necessary arrangements with its security guards so that upon presentation of suitable identification, personnel from the Township, the Authority, and Approval Authority will be permitted to enter, without delay, for the purpose of performing their specific responsibilities. It shall not be inferred, however, that the Township or Authority is authorized to enter upon property of any Industrial User under this section for any purpose in the event such entry is not otherwise allowable under Pennsylvania law.

6.18 Pretreatment Facilities

Industrial Users shall provide necessary Wastewater Pretreatment as required to comply with this Ordinance and shall achieve Compliance with all applicable Categorical Standards within the time limitations as specified by the applicable Categorical Standards and, for other Pretreatment Requirements, shall achieve Compliance as specified by the State or Township or Authority, whichever is more stringent. Any facilities required for Pretreatment shall be provided, operated, and maintained at the Industrial User's expense. Detailed plans showing the Pretreatment facilities and operating procedures shall be submitted to the Township and Authority for review, and shall be acceptable to the Township and Authority before construction of the facility. The review of such plans and operating procedures will in no way relieve the Industrial User from the responsibility of modifying the facility as necessary to produce a Discharge which complies with the provisions of this Ordinance. Any subsequent changes in the Pretreatment facilities or method of operation shall be reported to and be acceptable to the Township and Authority prior to the Industrial User's initiation of the changes. The review and acceptance of plans and procedures by the Township and Authority shall not be considered as an approval regarding their efficacy, safety or reliability; such considerations are solely the responsibility of the Industrial User.

6.19 Confidentiality

(1) Information and data on an Industrial User obtained from reports, questionnaires, Wastewater Discharge Permit applications and monitoring programs and from inspections shall be available to the public or any governmental agency without restriction unless the Industrial User specifically requests and is able to demonstrate to the satisfaction of the Township and Authority that the release of such information, processes or methods of production are entitled to protection as trade secrets of the Industrial User.

(2) When requested by the Person furnishing a report, and supported by evidence acceptable to the Township and Authority as to need for protection as confidential material, the portion 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 upon request to governmental agencies for uses related to this Ordinance, the Authority's NPDES Permit, any State permit and/or the Industrial Pretreatment Program; provided, however that such portions of a report shall be available for use by the EPA, the State or any State agency in judicial review or enforcement proceedings involving the Person furnishing the report. Wastewater and Industrial Waste constituents and characteristics shall not be recognized as confidential information.

(3) When information accepted by the Township and Authority as confidential is transmitted to any government agency, a notification to the Industrial User may be provided listing the confidential information transmitted, and the governmental entity requesting it. The person seeking confidentiality protection of the information shall bear the burden of demonstrating to the other governmental agency that such information is entitled to confidential protection.

6.20 Change in Operations

(1) Any Industrial User contemplating or planning a change in the manufacturing process, raw materials, auxiliary processes, Pretreatment processes or other changes which may result in changes to Wastewater character, composition, volume or rate of flow, shall notify the Township and Authority in writing at least 30 days prior to making such a change, or if the change is not planned 30 days or more in advance, immediately upon the decision to make such a change. The report shall include all information necessary to determine the effect on the Wastewater of the change.

(2) In the event that an Industrial User discovers that changes in raw materials, potable water quality, or other factors beyond its control have occurred so that the constituents or character of the Industrial Waste Discharge has changed, the User shall report such information in writing to the Township and Authority immediately upon such discovery.

If such a change constitutes a Slug Load, other reporting requirements under paragraph 4.09 may apply.

- (3) The Township and Authority may, on receipt of such a report:
 - (a) Continue an existing Wastewater Discharge Permit in effect;
 - (b) Require application for a new Wastewater Discharge Permit;
 - (c) Modify an existing Wastewater Discharge Permit to reflect the changed nature of the waste;
 - (d) Rescind and re-issue an existing Wastewater Discharge Permit in order to make substantial changes in Wastewater Discharge Permit conditions;
 - (e) Revoke an existing Wastewater Discharge Permit or require the Industrial User to cease or prevent the Discharge; or
 - (f) Take such other action as it deems appropriate.

6.21 Records

(1) All Industrial Users shall keep and maintain records of monitoring activities and results, Wastewater Discharge Permits, and reports to the Township and Authority, in accordance with 40 C.F.R. § 403.12(o)(1) and (2), for a minimum of 3 years. This period shall be automatically extended for the duration of any litigation concerning compliance with this Ordinance, or where the Industrial User has been notified of a longer retention period by the Township and Authority.

(2) The Industrial User shall furnish the Township and Authority, within a reasonable time, any information which the Township and Authority may request to determine whether cause exists for modifying, reissuing, suspending or revoking a Wastewater Discharge Permit or to determine Industrial User compliance. The Industrial User shall also furnish to the Township and Authority, upon request, copies of records required to be kept.

(3) Where the Industrial User becomes aware that it failed to submit any relevant facts in an application for a Wastewater Discharge Permit, or submitted incorrect information in an application for a Wastewater Discharge Permit, report to the Township and Authority, or in any other correspondence pertaining to its Industrial Wastewater Discharge, it shall promptly submit such facts or corrective information to the Township and Authority.

SECTION 7 - ENFORCEMENT**7.01 Right to Refuse**

The Authority reserves the right to refuse to accept Wastewater, or combinations of Wastewater, which are Discharged in violation of the terms or conditions of this Ordinance, or the orders of the Township and Authority issued pursuant to the conditions of this Ordinance. The Township and Authority may take such steps as it deems necessary to compel discontinuance of use of the Sewer System or Pretreatment of Industrial Wastes in order to comply with the provisions of this Ordinance. The Authority may exercise its right of refusal by denial of issuance of a Wastewater Discharge Permit; in such a case the Discharge of the subject Industrial Waste is prohibited.

7.02 Revocation of Permit

(1) Any Industrial User who violates the following conditions of this Ordinance, or applicable State and federal regulations, is subject to having its Wastewater Discharge Permit revoked.

(a) Failure of an Industrial User to factually report the Wastewater constituents and characteristics of its Discharge in any application for a Wastewater Discharge Permit, or in any reports required by Section 6, paragraphs 6.11, 6.12, 6.13, or 6.15 of this Ordinance;

(b) Failure of the Industrial User to report significant changes in operations, or Wastewater constituents and characteristics as required in Section 6, paragraph 6.20 of this Ordinance;

(c) Refusal of reasonable access to the Industrial User's premises for the purpose of inspection or monitoring; or

(d) Violation of conditions of the Wastewater Discharge Permit.

(2) Discharge of any Industrial Waste to the Sewer System by a Significant Industrial User without a Wastewater Discharge Permit or after the revocation of a Wastewater Discharge Permit is an Unauthorized Discharge, as provided in Section 6, paragraph 6.01, and is subject to the penalties provided herein and such other remedies as allowable at law or in equity.

(3) Any Industrial User notified of a revocation of its Wastewater Discharge Permit may be required to immediately stop or eliminate the Discharge (even if an appeal of the revocation notice is pending). In the event of a failure of the Industrial User to comply voluntarily with the notice of revocation, the Discharge shall be considered an Unauthorized Discharge and the Township and Authority may take such steps as deemed necessary, which may include immediate severance of the connection between the Building Sewer and the Sewage Collection System, or discontinuance of water service, to prevent or minimize damage to the Sewer System or endangerment to the environment or any property or Person.

7.03 Suspension of Permit

(1) The Township and Authority may suspend a Wastewater Discharge Permit when such suspension is necessary, in the opinion of the Township or Authority, in order to stop an actual or threatened Discharge which (1) presents or may present an imminent or substantial endangerment to the health or welfare of Persons, to the environment, (2) causes or contributes to or may cause or contribute to Interference or Pass Through, or (3) causes or may cause the Authority to violate any condition of its NPDES Permit or any other federal or State law, rule, regulation or permit condition.

(2) Any Industrial User notified of a suspension of its Wastewater Discharge Permit shall immediately stop or eliminate the Discharge. In the event of a failure of the Industrial User to comply voluntarily with the suspension order, the Discharge shall be considered an Unauthorized Discharge and the Township and Authority shall take such steps as deemed necessary, including immediate severance of the connection between the Building Sewer and the Sewage Collection System, to prevent or minimize damage to the Sewer System or endangerment to the environment or any property or Person or to prevent the Discharge from causing or contributing to Pass Through or Interference.

(3) If a Wastewater Discharge Permit has been suspended as a result of an Unauthorized Discharge, which Discharge resulted in or contributed to damages to the Sewer System or to any Person or property, the Wastewater Discharge Permit shall not be reinstated, and Discharge of the subject Wastewater shall not resume, until such time as all such damages have been satisfied.

(4) The Authority may reinstate the Wastewater Discharge Permit upon submission of acceptable proof by the Industrial User of the elimination of the Unauthorized Discharge, and upon such other conditions as the Authority may deem appropriate.

(5) Township and Authority agree to provide any Industrial User such due process as may be required under Pennsylvania law prior to suspension of any connection.

7.04 Notice of Violation

Whenever the Township or Authority finds that any Industrial User has violated or is violating this Ordinance, its Wastewater Discharge Permit, or any prohibition, limitation or requirements contained herein, the Township or Authority may serve upon such Industrial User a written notice stating the nature of the violation, and requiring a response within a specified time. Responses required of Industrial Users may include, but are not restricted to, actions, plans, compliance schedules, or written explanations.

7.05 Show Cause Hearing

(1) The Township or Authority may order any Industrial User who causes or allows an Unauthorized Discharge to enter the Sewer System, or who violates any condition or requirement of the Industrial Pretreatment Program or its Wastewater Discharge Permit, to show cause before the Township or Authority why the proposed enforcement action should not be taken. A notice shall be served on the Industrial User specifying the time and place of a hearing to be held by the Township or Authority regarding the violation, the proposed enforcement action, the reasons why the action is to be taken, and directing the Industrial User to show cause before the Board of Supervisors or Authority why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten days before the hearing. Service may be made on any agent or officer of a corporation if the Industrial User is a corporation.

(2) The Board of Supervisors or Authority may itself conduct the hearing and take the evidence, or may designate any of its members or any employee, agent or representative of the Township or Authority to:

(a) Issue in the name of the Township or Authority notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

(b) Take the evidence;

(c) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Township and Authority for action thereon.

(3) At any hearing held pursuant to this Ordinance, testimony taken may be under oath and recorded electronically or 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.

(4) After the Township or Authority has reviewed the evidence, it may, in writing, direct the Industrial User to take certain actions to correct the Unauthorized Discharge or to achieve Compliance. The direction may be in the form of a schedule for Compliance, setting dates by which certain actions shall be taken. The actions which may be directed include, but are not limited to:

- (a) Installation of Pretreatment facilities or equipment;
- (b) Modification or additions to existing Pretreatment facilities or equipment;
- (c) Initiation of management practices which are required to alter the nature of the Industrial Waste being Discharged;
- (d) Development or implementation of SPCC plans or other measures;
- (e) Other measures found to be necessary to correct the Unauthorized Discharge or other Noncompliance.

(5) Failure of an Industrial User to comply with written directions issued pursuant to a hearing constitutes a separate and distinct Noncompliance with this Ordinance.

7.06 Administrative Orders

(1) The Township or Authority may issue written directions as described in paragraph 7.05, part D, of this Section without a Show Cause Hearing if the Township or Authority determines that such directions are necessary to correct conditions or remedy continuing Noncompliances with this Ordinance or any Wastewater Discharge Permit or other requirements of the Industrial Pretreatment Program, directions of the Township, Authority, or federal or State regulations.

(2) Failure of an Industrial User to comply with written directions issued pursuant to this paragraph constitutes a separate and distinct Noncompliance with this Ordinance.

7.07 Right of Appeal

(1) An Industrial User may appeal: the enforcement actions enumerated above in paragraphs 7.02, 7.03, 7.05.(4) and 7.06 of this Section; denial of issuance of a Wastewater Discharge Permit; or conditions contained in a Wastewater Discharge Permit. A Notice of Violation or notice to appear at a show-cause hearing shall not be appealed. An appeal is subject to the following requirements.

- (a) An appeal shall be made in writing to the Township or Authority.
 - (b) An appeal must be made within thirty (30) calendar days from the date of receipt of the Wastewater Discharge Permit or revision to a Wastewater Discharge Permit; notice of denial of issuance of a Wastewater Discharge Permit; receipt of written directions; or notice of suspension or revocation of a Wastewater Discharge Permit, which action is being appealed by the Industrial User.
 - (c) The appeal must state the specific provision(s) of a Wastewater Discharge Permit or the specific action(s) of the Township or Authority which are being contested.
 - (d) The appeal must state the reasons for the appeal of each provision or action.
 - (e) The appeal may suggest alternate or revised provisions or actions to replace those appealed.
 - (f) An appeal of a Wastewater Discharge Permit may include a request to stay specific Permit conditions pending the outcome of the appeal. Any such request shall include all factual and legal justification for such a request.
- (2) Provisions specifically mandated by federal or State regulations (e.g., compliance with Categorical Standards) shall not be appealed. Conditions which, in the opinion of the Township or Authority, would constitute a hazard or pose a potential threat of Pollution if stayed, shall not be stayed during an appeal. Grant of a stay of Permit conditions during an appeal shall be made at the sole discretion of the Township or Authority.
- (3) The appeal shall be reviewed by any designated representative(s) of the Township and Authority, provided:
- (a) The representative shall not be the Township Manager or Authority Manager; and
 - (b) The representative shall not be the Pretreatment Coordinator if the Pretreatment Coordinator is the individual who took the action being appealed (e.g., issuance of a Wastewater Discharge Permit).
- (4) Within 60 days of receipt, the representative(s) reviewing the appeal shall report in writing to the Township and Authority the results of the review. The report shall contain, at a minimum:

(a) A summary of each item appealed, the appellant's reasons for appeal, and the appellant's proposed remedies, if any. A copy of the appeal itself may suffice to provide this information.

(b) The finding of merit for each point of appeal, and the reason(s) for so finding.

(c) For each point of appeal found to be with merit, a proposed remedy, and a finding that the remedy is allowable under this Ordinance, and all applicable federal, State and local rules, regulations and laws.

(5) The Township or Authority, or a board of appeal appointed by the Township or Authority may upon its own initiative or in response to a request by the Permittee, review the appeal and the report and, at one or more regular or special public meetings, take any additional testimony offered by the appellant, reviewer, Pretreatment Program Coordinator, or other interested party. The Township or Authority or the board of appeal, if invested with the power to act on behalf of the Township or Authority, may, within a reasonable time, decide to:

(a) Grant a stay of Wastewater Discharge Permit conditions pending a final decision on the merits of a Permit appeal (this decision may be made at a separate meeting from the determination of the merits of an appeal, so as to provide a timely response to the request for a stay of conditions);

(b) Grant the appeal or portions of the appeal, applying such remedies as it deems proper; or

(c) Deny the appeal or portions of the appeal.

The decision to grant, partially grant, or deny an appeal constitutes final administrative action.

(6) If the Township or Authority or any hearing board appointed by the Township or Authority shall have as a member any Person who has a financial, legal or other proprietary interest in the Industrial User bringing the appeal, such Person shall recuse himself from any vote which shall determine the decision of the body in regard to the appeal.

(7) Action of the Township or Authority for which review had been available (e.g., adoption of a resolution or issuance, modification, suspension or revocation of a Wastewater Discharge Permit) shall not be subject to administrative or judicial review in any civil or criminal proceeding for enforcement.

7.08 Civil Actions

If any Person violates the provisions of the Industrial Pretreatment Program, including local federal or State Pretreatment Requirements, Prohibitive Discharge Standards, Categorical Standards, or any Wastewater Discharge Permit or written directions issued by the Township or Authority, the Township Solicitor or Authority Solicitor may commence an action for appropriate legal and/or equitable relief in the Court of Common Pleas having jurisdiction of the matter.

7.09 Injunctive Relief

If any Person (1) causes or permits an Unauthorized Discharge to occur; (2) otherwise is in Noncompliance with the conditions imposed by this Ordinance or with any Wastewater Discharge Permit or written directions issued by the Township or Authority or with any National or State Pretreatment Requirement; or (3) Discharges Wastewater or Industrial Waste which otherwise presents or may present an endangerment to the environment or which threatens to interfere with the operations of the POTW, the Township Solicitor or Authority Solicitor may commence an action in the Court of having jurisdiction of the matter, or any other appropriate forum, for injunctive relief to stop the Discharge or violation, or to require Compliance with the applicable condition.

7.10 Penalties

Any person who violates any of the terms, provisions or requirements of the Pretreatment Program or any of the applicable rules and regulations, or whoever refuses or neglects to comply with any notice given pursuant to the Pretreatment Program to such person, or whoever obstructs or interferes with any person in the enforcement of the Pretreatment Program shall, upon conviction thereof, severally for each and every such violation or noncompliance respectively be fined one thousand dollars (\$1,000.00) and/or imprisoned for a term not exceeding ninety (90) days. Each twenty-four (24) hour period during which a violation continues shall be considered a separate offense and punishable as such.

7.11 Criminal Penalties

Any person who knowingly, willfully, or intentionally makes a false oral or written statement in any report, record, plan, application, or other document filed with the Township, Superintendent of POTW, or Authority or who falsifies, tampers with or renders inaccurate any monitoring device or method required under this Program, shall be liable to prosecution under appropriate criminal statutes, including but not limited to, False Swearing, 18 Pa.C.S.A. 4903; Unsworn Falsification to Authorities, 18 Pa. C.S.A. 4904; Tampering with or Fabricating Physical Evidence, 18 Pa. C.S.A. 4910; and Tampering with Public Records or Information, 18 Pa. C.S.A. 4911.

7.12 Enforcement Response Plan

The Township or Authority may be guided by an Enforcement Response Plan when reviewing Industrial User reports, inspection results and other compliance information, and when determining appropriate enforcement action in response to Noncompliance.

7.13 Significant Violators

The Township and Authority shall publish annually, in the local daily newspaper of highest circulation, a list of Industrial Users that were found to be in Significant Noncompliance during the previous calendar year. Significant Noncompliance shall be determined using measures of rate, magnitude, and type of noncompliance, as delineated below:

(1) Chronic Noncompliance with Local Limits, Prohibitive Discharge Standards, Categorical Standards, or other numerical limitations on Discharges of Industrial Waste.

A Chronic Noncompliance occurs if the Noncompliance occurs in sixty-six percent or more of all measurements for the same maximum or average limit and taken during a six month period for the same Pollutant(s).

(2) Technical Review Criteria (TRC) Noncompliance with Local Limits, Prohibitive Discharge Standards, Categorical Standards, or other numerical limitations on Discharges of Industrial Waste. A TRC Noncompliance occurs if thirty-three percent or more of all of the measurements during a six month period for any Pollutant equal or exceed the product of the daily maximum limit or the monthly average limit and the applicable TRC factor. For conventional Pollutants (BOD, Total Suspended Solids and fats, oil and grease), the TRC factor equals one and four-tenths (1.4); for all other Pollutants except pH, the TRC factor equals one and two-tenths (1.2).

(3) Any Noncompliance with Local Limits, Prohibitive Discharge Standards, Categorical Standards, or other numerical limitations on Discharges of Industrial Waste which the Township or Authority determines has caused Pass Through or Interference, or has endangered the health or safety of Township or Authority personnel or the public.

(4) Any Discharge that has caused imminent endangerment to human health, welfare or the environment, or has caused the Township or Authority to exercise its emergency authority under Paragraph 7.02 of this ordinance.

(5) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in a Wastewater Discharge Permit or submitted in response to written directions of the Township or Authority, for starting construction, completing construction, or attaining final compliance.

- (6) Failure to provide, within thirty (30) days after the due date, any required reports, including but not limited to baseline monitoring reports, periodic compliance reports, reports on compliance with compliance schedules, or reports on a change in operations.
- (7) Failure to accurately report any Noncompliance.
- (8) Any other violation, Noncompliance, or group of violations or Noncompliances which the Township or Authority determines will adversely affect the operation or implementation of the Industrial Pretreatment Program.

The Township or Authority, subject to its discretion, may, as an enforcement response, publish notification of Industrial User Noncompliance on a more frequent basis than annually or if the level of Industrial User Noncompliance does not meet the Significant Noncompliance standard described above.

7.14 Responsible Officers

Except as may be otherwise provide herein, the Township Manager shall administer and enforce the provisions of this Ordinance. The Township Manager may delegate any or all powers granted by this Ordinance to the Pretreatment Coordinator, or to others as he deems appropriate.

7.15 Acceptance of Program Conditions by Users

Discharge of Wastewater or Industrial Waste to the Sewer System by a User constitutes an agreement on the part of the User to be subject to the resolutions, policies, and requirements of the Township or Authority, including the provisions of this Ordinance, the Industrial Pretreatment Program, and all applicable Pretreatment Requirements.

SECTION 8 - REMEDIES CUMULATIVE AND CONCURRENT

The remedies provided for in this Ordinance are intended to be concurrent and cumulative, and the provisions of this Ordinance shall not abridge or alter any right of action or remedy, now or hereafter existing in law, or under the common law or statutory law, criminal or civil, available to the Township or Authority.

SECTION 9 - SPECIAL AGREEMENTS AND/OR WAIVER OF PRETREATMENT REQUIREMENTS

Nothing contained in this Ordinance shall be construed as prohibiting special agreements between the Authority and a Person Discharging Industrial Wastes or Wastewaters to the Sewer System, or for the Township or Authority to otherwise waive requirements hereunder, when conditions and circumstances making such special agreements or waiver advisable and/or necessary, in the opinion of the Township or Authority, are present; provided, however, that:

9.01 *National Categorical Pretreatment Standards, General Pretreatment Regulations, and Prohibitive Discharge Standards (including the general and specific prohibitions set forth at 40 CFR §§ 403.5(a) and (b)) shall not be waived, unless such waiver is granted by mechanisms established under the National Pretreatment Regulations (40 CFR 403 et seq.); and*

9.02 In no case shall a special agreement or waiver of Local Limits allow for an Industrial User to Discharge any Pollutant which, alone or in combination with other regulated Industrial User Discharges, would reasonably be expected to exceed the mass loadings determined by the Authority as acceptable to the Sewage Treatment Plant based upon considerations of, among other things, Interference, Pass Through and sludge contamination. The Authority may consider other factors (e.g., effect of the Discharge on the POTW, future expansion, etc.), as it deems appropriate. In no event shall special agreement or waiver allow the sum of the loadings allocated to Industrial Users to exceed the values set forth in any Local Limits analysis submitted by the Authority to EPA and approved by EPA as part of the Industrial Pretreatment Program.

9.03 The Authority may require an Industrial User requesting a special agreement or waiver adjusting effluent limitations to submit supporting documentation indicating why the Industrial User cannot reasonably expect to meet the effluent limitation contained in its Wastewater Discharge Permit, setting forth an expeditious schedule for achieving Compliance with such limitations, and including such other information as the Authority may require. In granting any special agreement or waiver the Authority may impose time limitations upon any reduced requirements and provide a compliance schedule for achieving Compliance. In granting any special agreement or waiver, the Authority may impose any other conditions deemed necessary to implement the purposes of this Resolution.

9.04 *If granting a special agreement or waiver would result in increased costs to the Authority (e.g. treatment, monitoring, sludge disposal costs), the Authority may condition the special agreement or waiver upon the agreement of the Industrial User to pay those costs, and to provide security adequate in the judgement of the Authority to assure payment of said costs.*

9.05 Any special agreement and/or waiver of Pretreatment Requirements under this Section shall be memorialized in writing. "In writing" includes, among other things, a Wastewater Discharge Permit modification, a written agreement, a letter from the Authority to the Industrial User, an

inspection report, or any other written record which identifies that the Authority waived or otherwise modified the requirement.

SECTION 10 - ADOPTION OF ADDITIONAL RULES AND REGULATIONS

The Township or Authority reserves the right to adopt, from time to time, such additional rules as it shall deem necessary and proper in connection with use and operation of the Sewer System, which rules and regulations shall be, shall become and shall be construed as part of this Ordinance.

SECTION 11 - APPLICABILITY OF THE INDUSTRIAL PRETREATMENT PROGRAM IN THE CONTRIBUTING MUNICIPALITIES

The Sewage Collection System is owned and operated in part by the Contributing Municipalities and in part by the Authority. In accord with an agreement between the Authority and the Contributing Municipalities, and as provided by the Contributing Municipalities in their respective ordinances and resolutions, the provisions of this Ordinance and the Industrial Pretreatment Program are applicable to all Users, regardless of the Contributing Municipality in which a Discharge occurs.

SECTION 12 - CONSTRUCTION AND SEVERABILITY

The provisions of this Ordinance are severable. If any sentence, clause, or section of this Ordinance is for any reason found to be unconstitutional, illegal, or invalid, such decision shall not affect the validity of any of the remaining provisions of this Ordinance. It is hereby declared as a legislative intent that this Ordinance would have been adopted had such unconstitutional, illegal, or invalid provision not been included herein.

SECTION 13 - REPEALER

The provisions of this Ordinance, so far as they are the same as those of Ordinances in force immediately prior to the enactment of this Ordinance, are intended as a continuation of such Ordinances and not as new enactments. The provisions of this Ordinance shall not affect any act done or liability incurred, nor shall it affect any suit or prosecution pending or to be instituted to enforce any right or penalty or to punish any offense under the authority of any Ordinance

repealed by this Ordinance. Except as set forth, all other Ordinances or parts of Ordinance inconsistent herewith expressly are repealed.

ENACTED AND ORDAINED into an Ordinance this 25th day of JANUARY,
1998. *PA. 25th*

ATTEST:
(CORPORATE SEAL)

Paula J. Lynch
(Assistant) Secretary

BOARD OF SUPERVISORS
FAIRVIEW TOWNSHIP

By: *Berry Albert*
(Vice) Chairman

ATTACHMENT "A"

Ordinance No. 99-2

LOCAL LIMITS FOR INDUSTRIAL WASTE DISCHARGES

<u>Parameter</u>	<u>Monthly Average</u>	<u>Daily Maximum</u>
	<u>Mg/L</u>	<u>Mg/L</u>
Cadmium	0.03	0.06
Chromium, Total	1.0	2.0
Copper	1.0	2.0
Lead	0.4	0.8
Mercury	0.002	0.004
Nickel	1.0	2.0
Silver	0.5	1.0
Zinc	0.6	1.2
Chloroform	1.62	1.62
1,1,1, Trichloroethane	0.01	0.02
Toluene	0.01	0.02
Dichlorobromomethane	0.01	0.02
Fluorene	0.01	0.02
Naphthalene	0.01	0.02
Phenanthrene	0.01	0.02
Hexachlorobenzene	0.002	0.004
Methylene Chloride	14	28
bis (2-Ethylhexyl Phthalate)	100	200
Dimethyl Phthalate	57	57
PCBs	0.0004	0.0008
Phenolics, Total	1.0	2.0

ORDINANCE NO. 2003 - 6

AN ORDINANCE OF THE TOWNSHIP OF FAIRVIEW AMENDING CHAPTER 18, PART 5, INDUSTRIAL PRETREATMENT PROGRAM FOR THE LOWER ALLEN SEWER SYSTEM, SECTIONS 503, 504, AND 509 OF THE CODE OF ORDINANCES OF THE TOWNSHIP OF FAIRVIEW.

Be it enacted and ordained by the Board of Supervisors of the Township of Fairview, York County, Pennsylvania, and it is hereby enacted and ordained as follows:

Section 1. Chapter 18, Part 5, Section 503. Definitions of the Code of Ordinances of Fairview Township, is hereby amended that the following words, terms, and phrases listed therein shall read as follows:

GRAB SAMPLE. A sample, which is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes.

INDIRECT DISCHARGE OR DISCHARGE. The introduction of pollutants into the POTW from any non-domestic source regulated under Section 307 (b), (c), or (d) of the Federal Water Pollution Control Act.

INDUSTRIAL USER OR USER. A source of indirect discharge.

Section 2. Chapter 18, Part 5, Section 504.7.G of the Code of Ordinances of Fairview Township is hereby amended to read in its entirety:

G. Local limits for industrial waste dischargers.

Parameter	Local Limits	
	Monthly Average mg/L	Daily Maximum mg/L
Arsenic	0.1466	0.2932
Cadmium	0.1255	0.2510
Chromium, Total	3.00225	6.0045
Copper	2.52725	5.0545
Cyanide	1.0322	2.0644
Lead	0.6329	1.2658
Mercury	0.0476	0.0952
Molybdenum	3.07145	6.1429
Nickel	1.9337	3.8674
Selenium	0.10735	0.2147
Silver	1.4890	2.9780

Zinc	1.2578	2.5156
PCBs	0.0001	0.0002
bis(2-Ethylhexyl) Phthalate	1.93405	3.8681

Notes: Based on EPA Region III July 2002 PRELIM Determination and headworks analysis of February, 2003.

Section 3. Chapter 18, Part 5, section 504.12, Grease and Sand Traps, of the Code of Ordinances of Fairview Township, is hereby amended by deleting the language set forth therein and amending that subsection so it shall read in its entirety as follows:

§504.12. Grease and Sand Traps. Grease, oil and sand interceptors or traps shall be provided by a User when the Township determines that such devices are necessary for the proper handling of Wastewaters containing greases, oils or settleable solids. Interceptors and traps shall be installed, operated, maintained, and cleaned properly, so that they will consistently remove the grease, oil, or settleable solids. Interceptors and traps shall be properly designed to accommodate the maximum flow rate expected to occur, have a minimum size of 250 gallons, and shall be located outside as to be readily and easily accessible for cleaning and inspection. All pumping records for cleaning shall be maintained by the Discharger and be available for review upon request.

Section 4. Chapter 18, Part 5, section 504, Prohibited Wastes and Pollutant Limitations, is hereby amended to add a new subsection that shall read in its entirety as follows:

14. Bypassing of Pretreatment Facilities. Bypass of pretreatment facilities without prior notice to the Township is prohibited unless it is unavoidable to prevent loss of life, injury to persons or severe property damage. Lack of provisions of adequate back up or auxiliary facilities is not a valid excuse. Bypass may occur for purpose of maintenance or improvement to the Pretreatment facilities if permit conditions are not violated as a result and prior permission from the Township is obtained. A Bypass resulting in Industrial Pretreatment Program conditions being violated is an Unauthorized Discharge and the Slug Loads and Spills reporting requirements of Section 504.9 of Ordinance 99-2 shall be applicable. Additional monitoring of Bypass may be required, and directed by the Pretreatment Coordinator.

Section 5. Chapter 18, Part 5, section 509.A is hereby amended by deleting the language set forth therein and amending that subsection so it shall read in its entirety as follows:

§509.A. National Categorical Pretreatment Standards, Prohibitive Discharge Standards (including the general and specific prohibitions set forth at 40 CFR §§ 403.5 (a) and (b), and other Pretreatment Requirements set forth in 40 CFR § 403 shall not be waived, unless such waiver is granted by mechanisms established under the National Pretreatment Regulations (40 CFR et seq.).

Section 6. All Ordinances or parts of Ordinances that are inconsistent herewith are hereby repealed.

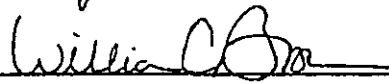
Section 7. Severability. If any sentence, clause, section or part of this Ordinance is for any reason found to be unconstitutional, illegal, or invalid, such unconstitutionality, illegality or invalidity shall not affect or impair any of the remaining provisions, sentences, clauses, sections or parts of this Ordinance. It is hereby declared as the intent of the Board of Supervisors that this Ordinance would have been adopted had such unconstitutional, illegal or invalid sentence, clause, section or part thereof not been included herein.

Section 8. Effective date. This ordinance shall become effective immediately upon its adoption by the Board of Supervisors.

ENACTED AND ORDAINED by the Board of Supervisors of the Township of Fairview, York County, Pennsylvania, this 1st day of DECEMBER, 2003.

**FAIRVIEW TOWNSHIP
BOARD OF SUPERVISORS**

By: 

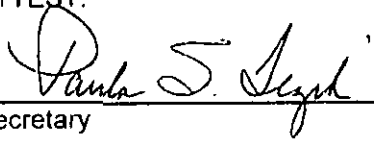
By: 

By: 

By: _____

By: _____

ATTEST:


Asst. Secretary

FAIRVIEW TOWNSHIP
YORK COUNTY, PENNSYLVANIA

ORDINANCE NO. 2010-8

AN ORDINANCE OF THE BOARD OF SUPERVISORS OF FAIRVIEW TOWNSHIP, YORK COUNTY, PENNSYLVANIA, ESTABLISHING A REVISED INDUSTRIAL PRETREATMENT PROGRAM AND LOCAL LIMIT CRITERIA FOR CONTROLLING THE QUALITY OF WASTEWATER DISCHARGED INTO THE SEWER SYSTEM AS REQUIRED BY THE ENVIRONMENTAL PROTECTION AGENCY ("EPA") AND BY AGREEMENT WITH THE LOWER ALLEN TOWNSHIP AUTHORITY

WHEREAS, the Lower Allen Township Authority (hereinafter "the Authority") is a municipal authority established under the laws of the Commonwealth of Pennsylvania; and

WHEREAS, the Authority has enacted Resolutions establishing regulations for the discharge of industrial waste into the sewer system (hereinafter "the Pretreatment Program") as mandated by EPA in the Authority NPDES Permit No. PA 0027189; and

WHEREAS, Fairview Township ("Township") and other municipalities have entered into an Agreement with the Authority in which the Township covenants to adopt by ordinance the provisions of the Pretreatment Program and Local Limit criteria as adopted by Authority Resolution; and

WHEREAS, the Pretreatment Program provides that local limits regulating and the quality of industrial waste discharged to the sewer system may be developed by the Authority, and this Ordinance affirms the right to impose limitations or requirements, including local limits, on discharges to the sewer system, and that the limits established by the Township shall be identical to the local limits adopted by the Authority;

WHEREAS, the Authority has developed such program and local limits, which it has determined are applicable to industrial users of the sewer system; and

WHEREAS, the Authority has determined that it is necessary to establish said local limits in order to comply with the objectives of the pretreatment program and the ordinances;

WHEREAS, the Authority is required by its NPDES Permit to reevaluate and amend the Industrial Pretreatment Program and Local Limits as a condition for permit renewal; and

WHEREAS, the Authority adopted Resolution 2010-A-09 on August 5, 2010, amending and revising its Industrial Pretreatment Program and Local Limits;

ENACTED AND ORDAINED at a duly convened meeting of the Board of Supervisors of Fairview Township, York County, Pennsylvania, and it is hereby enacted and ordained by the authority of the same:

1. The Lower Allen Township Authority Industrial Pretreatment Program attached to this Resolution as Exhibit A including the Local Limits in Section 2.4 as adopted by Lower Allen Township Authority Resolution 2010-A-04 on February 4, 2010, is hereby incorporated and made a part of this Ordinance.

2. The Lower Allen Township Authority Industrial Pretreatment Program and Local Limits adopted hereunder shall remain in effect as the Industrial Pretreatment Program and Local Limits until such time as the Township revises the same by Ordinance.

ENACTED AND ORDAINED this 6th day of December, 2010.

ATTEST:

FAIRVIEW TOWNSHIP

By: Donna L. Nissel
Donna L. Nissel
Secretary

By: Perry Albert
Perry Albert, Chairman
Board of Supervisors

Lower Allen Township Authority

Resolution 2010-A-10

A RESOLUTION OF THE BOARD OF THE LOWER ALLEN TOWNSHIP AUTHORITY, CUMBERLAND COUNTY, PENNSYLVANIA, ESTABLISHING A REVISED INDUSTRIAL PRETREATMENT PROGRAM ENFORCEMENT RESPONSE PLAN AS REQUIRED BY EPA AND REPLACES RESOLUTION 98-A-23 ADOPTED DECEMBER 3, 1998; AND RESOLUTION 99-A-09 ADOPTED JUNE 5, 1999.


WHEREAS, the Lower Allen Township Authority (hereinafter "the Authority") is a municipal authority established under the laws of the Commonwealth of Pennsylvania; and

WHEREAS, the Authority has enacted Resolutions establishing regulations for the discharge of industrial waste into the sewer system (hereinafter "the Pretreatment Program") as mandated by EPA in the Authority NPDES Permit No. PA 0027189; and

NOW THEREFORE, BE IT RESOLVED by the Board of Lower Allen Township Authority, Cumberland County, Pennsylvania, as follows:

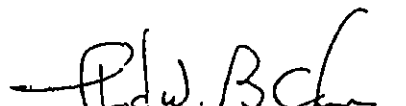
1. The Industrial Pretreatment program Enforcement Response Plan of the Lower Allen Township Authority, August 5, 2010, marked "Exhibit A", attached hereto and made part hereof, shall be and is hereby adopted replacing the June 1999 Plan to incorporate EPA mandated requirements.
2. All Resolutions or parts of Resolutions inconsistent herewith are hereby repealed.
3. This Resolution shall take effect immediately.

This Resolution is adopted on this 5th day of August at a regular meeting of the Board of the Lower Allen Township Authority as indicated in the minutes of that meeting and attested below.


Secretary/Assistant Secretary


Chairman/Vice Chairman

I certify that the above is a true and complete copy of a Resolution adopted at a regular meeting of the Board of the Lower Allen Township Authority on the 5th day of August 2010.


Secretary/Assistant Secretary

(Authority Seal)

Lower Allen Township Authority

Resolution 2010-A-09

A RESOLUTION OF THE BOARD OF THE LOWER ALLEN TOWNSHIP AUTHORITY, CUMBERLAND COUNTY, PENNSYLVANIA, ESTABLISHING A REVISED INDUSTRIAL PRETREATMENT PROGRAM AND LOCAL LIMIT CRITERIA FOR CONTROLLING THE QUALITY OF WASTEWATER DISCHARGED INTO THE SEWER SYSTEM AS REQUIRED BY EPA AND REPLACES RESOLUTIONS 98-A-16 AND 98-A-17 ADOPTED AUGUST 6, 1998, RESOLUTION 98-A-20 ADOPTED OCTOBER 1, 1998, RESOLUTION 2003-A-08 ADOPTED JUNE 5, 2003 AND RESOLUTION 2006-A-19 ADOPTED DECEMBER 7, 2006.

WHEREAS, the Lower Allen Township Authority (hereinafter "the Authority") is a municipal authority established under the laws of the Commonwealth of Pennsylvania; and

WHEREAS, the Authority has enacted Resolutions establishing regulations for the discharge of industrial waste into the sewer system (hereinafter "the Pretreatment Program") as mandated by EPA in the Authority NPDES Permit No. PA 0027189; and

WHEREAS, the Borough of Shiremanstown and the Townships of Lower Allen, Upper Allen, Hampden, and Fairview (hereinafter "the Municipalities") have entered into Agreements with the Authority in which they covenant to adopt by ordinance the provisions of the Pretreatment Program and Local Limit criteria as adopted by Authority Resolution; and

WHEREAS, the Pretreatment Program provides that local limits regulating and the quality of industrial waste discharged to the sewer system may be developed by the Authority, and the ordinances affirm the right to impose limitation or requirements, including local limits, on discharges to the sewer system, and that the limits established by the municipalities shall be identical to the local limits adopted by the Authority;

WHEREAS, the Authority has developed such program and local limits, which it has determined are applicable to industrial users of the sewer system; and

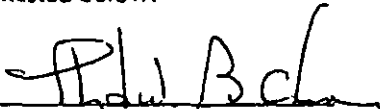
WHEREAS, the Authority has determined that it is necessary to establish said local limits in order to comply with the objectives of the pretreatment program and the ordinances;

WHEREAS, the Authority is required by its NPDES Permit to reevaluate and amend the Industrial Pretreatment Program and Local Limits as a condition for permit renewal;

NOW THEREFORE, THE LOWER ALLEN TOWNSHIP AUTHORITY HEREBY RESOLVES AS FOLLOWS:

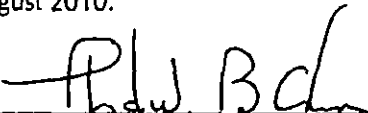
1. The Industrial Pretreatment Program attached to this Resolution as Exhibit A including the Local Limits in Section 2.4 as adopted by Resolution 2010-A-04 on February 4, 2010, is hereby incorporated and made a part of this Resolution.
2. The Authority hereby requests that the municipalities proceed to adopt the Industrial Pretreatment Program and Local Limits criteria in Exhibit A as an enforceable Ordinance as provided for by Agreement and provide proof of Ordinance adoption to the Authority for submission to EPA.
3. The Authority hereby requests that the Pennsylvania Department of Corrections on behalf of the Commonwealth of Pennsylvania provide a letter acknowledging receipt and intent to comply with the Industrial Pretreatment Program and Local Limits criteria in Exhibit A as provided by Agreement.
4. The Industrial Pretreatment Program and Local Limits hereby established shall remain in effect until such time as the Authority revises them by Resolution.

This Resolution is adopted on this 5th day of August at a regular meeting of the Board of the Lower Allen Township Authority as indicated in the minutes of that meeting and attested below.


Secretary/Assistant Secretary


Chairman/Vice Chairman

I certify that the above is a true and complete copy of a Resolution adopted at a regular meeting of the Board of the Lower Allen Township Authority on the 5th day of August 2010.


Secretary/Assistant Secretary



Resolution 2010-A-09 – Exhibit A

LOWER ALLEN TOWNSHIP AUTHORITY

INDUSTRIAL PRETREATMENT PROGRAM

**LOWER ALLEN TOWNSHIP AUTHORITY
120 LIMEKILN ROAD
NEW CUMBERLAND, PA 17070-2428
717-774-0610**

August 5, 2010

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SECTION 1—GENERAL PROVISIONS

1.1 Purpose and Policy

This Resolution sets forth uniform requirements for Users of the Publicly Owned Treatment Works for the Lower Allen Township Authority ("Authority") and enables the Authority to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code (U.S.C.) section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the Code of Federal Regulations (CFR) Part 403). The objectives of this Resolution 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 sludge in the course of their employment and the general public;
- D. To promote reuse and recycling of industrial wastewater and sludge 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 Authority to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.

This Resolution shall apply to all Users of the Publicly Owned Treatment Works. The Resolution authorizes the issuance of individual 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 by separate Resolution.

1.2 Administration

Except as otherwise provided herein, the Authority shall administer, implement, and enforce the provisions of this Resolution. Any powers granted to or duties imposed upon the Authority may be delegated by the Authority to a duly authorized employee.

1.3 Abbreviations

The following abbreviations, when used in this Resolution, 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
POTW – Publicly Owned Treatment Works
RCRA – Resource Conservation and Recovery Act
SIU – Significant Industrial User
SNC – Significant Noncompliance
TSS – Total Suspended Solids
U.S.C. – United States Code

1.4 Definitions

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this Resolution, 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. section 1251 et seq.
- B. Approval Authority. The Regional Administrator of Region III of the EPA.
- C. Authority. The Lower Allen Township Authority, A Pennsylvania Municipal Authority, its Officers, Board Members, Employees and Agents, Owner and Operator of the sewer collection systems in Lower Allen Township and Borough of Shiremanstown and Lower Allen Wastewater Treatment Plant System.

- D. **Authority Manager.** An Employee of the Authority so designated by that title who is charged with certain duties and responsibilities for the operation of the POTW and this Resolution.
- E. **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 or more manufacturing, production, or operating 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 individual 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.
 - (4) The individuals described in paragraphs 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, or the government facility, and the written authorization is submitted to the Authority.
- F. **Biochemical Oxygen Demand or BOD.** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20 degrees centigrade, usually expressed as a concentration (e.g., mg/l).

- G. Best Management Practices or BMPs means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 2.1 A and B [40 CFR 403.5(a)(1) and (b)]. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.
- H. 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. section 1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
- I. Categorical Industrial User. An Industrial User subject to a categorical Pretreatment Standard or categorical Standard.
- J. Chemical Oxygen Demand or COD. A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.
- K. Contributing Municipality. The Borough of Shiremanstown; The Commonwealth of Pennsylvania, Department of Corrections; The Townships of Lower Allen, Upper Allen, and Hampden, Cumberland County Pennsylvania; the Township of Fairview, York County Pennsylvania; their Officers, Members, Employees, Agents and Assigns.
- L. Control Authority. The Lower Allen Township Authority
- M. Daily Maximum. The arithmetic average of all effluent samples for a pollutant collected during a calendar day.
- N. 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.
- O. Environmental Protection Agency or EPA. The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Management Division Director, the Regional Administrator, or other duly authorized official of said agency.

- P. Existing Source. Any source of discharge that is not a "New Source."
- Q. Grab Sample. A sample that is taken from a waste stream without regard to the flow in the waste stream and over a period of time not to exceed fifteen (15) minutes
- R. Indirect Discharge or Discharge. The introduction of pollutants into the POTW from any non-domestic source.
- S. 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.
- T. Interference. A discharge that, alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of the Authority's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, 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 sludge 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.
- U. Local Limit. Specific discharge limits developed and enforced by the Authority upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).
- V. 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.
- W. Monthly Average. The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.
- X. 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.

Y. 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 that 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 paragraph has commenced if the owner or operator has:
 - (a) Begun, or caused to begin, as part of a continuous onsite 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 paragraph.

- Z. Non-contact Cooling Water. Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.
- AA. Pass Through. A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the Authority's NPDES permit, including an increase in the magnitude or duration of a violation.
- BB. Person. Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, or any other legal entity; or their legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.
- CC. pH. A measure of the acidity or alkalinity of a solution, expressed in standard units.
- DD. Pollutant. Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, Medical Wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).
- EE. 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.
- FF. Pretreatment Requirements. Any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.
- GG. Pretreatment Standards or Standards. Pretreatment Standards shall mean prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.
- HH. Prohibited Discharge Standards or Prohibited Discharges. Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 2.1 of this Resolution.

- II. Publicly Owned Treatment Works or POTW. A treatment works, as defined by section 212 of the Act (33 U.S.C. section 1292), which is owned by the Authority. 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.
- JJ. Septic Tank Waste. Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.
- KK. Sewage. Human excrement and gray water (household showers, dishwashing operations, etc.).
- LL. Significant Industrial User (SIU).

Except as provided in paragraph (3) of this Section, 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 waste stream 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 Authority on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.
 - (3) Upon a finding that a User meeting the criteria in Subsection (2) of this part has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the Authority may at any time, on its own initiative or in response to a petition received from an Industrial 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.
- MM. Slug Load or Slug Discharge. Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Section 2.1 of this Resolution. 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.

- NN. Stormwater. Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.
- OO. 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 that is removable by laboratory filtering.
- PP. User or Industrial User. A source of indirect discharge.
- QQ. 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.
- RR. Wastewater Treatment Plant or Treatment Plant. That portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

SECTION 2—GENERAL SEWER USE REQUIREMENTS

2.1 Prohibited Discharge Standards

- A. General Prohibitions. No User shall introduce or cause to be introduced into the POTW any pollutant or wastewater which 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, waste streams with a closed-cup flashpoint of less than 140 degrees F (60 degrees C) using the test methods specified in 40 CFR 261.21;
 - (2) Wastewater having a pH less than 6.0 or more than 9.0, or otherwise causing corrosive structural damage to the POTW or equipment;
 - (3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in Interference but in no case solids greater than 1/2 inch in any dimension or above industrial discharger permit listed limits;

- (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 or above industrial discharger permit listed limits;
- (5) Wastewater having a temperature greater than 140 degrees F (60 degrees C), or which will inhibit biological activity in the treatment plant resulting in Interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees F (40 degrees C);
- (6) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause Interference or Pass Through;
- (7) Pollutants which 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 Authority in accordance with Section 3.4 of this Resolution;
- (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, thereby violating the Authority's NPDES permit;
- (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, swimming pool drainage, condensate, de-ionized water, Non-contact Cooling Water, and unpolluted wastewater, unless specifically authorized by the Authority;
- (13) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- (14) Medical Wastes, except as specifically authorized by the Authority in an individual 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 that might cause excessive foaming in the POTW;
- (17) Fats, oils, or greases of animal or vegetable origin in concentrations greater than a maximum daily 200 mg/l and a monthly average 100 mg/l;
- (18) 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.

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.

2.2 National Categorical Pretreatment Standards

Users must comply with the categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405–471. EPA regulations at 40 CFR 403.13 authorize a CIU to obtain a variance from a categorical Pretreatment Standard if the CIU can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical Pretreatment Standard. The Authority may recognize revised Standards if the User has obtained an FDF variance from EPA on the basis of 40 CFR 403.13 and consider using revised EPA FDF variance standards.

- A. Where a categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Authority may impose equivalent concentration or mass limits in accordance with Section 2.2E and 2.2F. (40 CFR 403.6(c))
- B. When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Authority 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. (40 CFR 403.6(c) (2))
- C. When wastewater subject to a categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the Authority shall impose an alternate limit in accordance with 40 CFR 403.6(e).

D. A CIU may obtain a *net/gross* adjustment to a categorical Pretreatment Standard in accordance with the following paragraphs of this Section. (40 CFR 403.15)

- (1) Categorical Pretreatment Standards may be adjusted to reflect the presence of pollutants in the Industrial User's intake water in accordance with this Section. Any Industrial User wishing to obtain credit for intake pollutants must make application to the Authority. Upon request of the Industrial User, the applicable Standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) if the requirements of paragraph (2) of this Section are met.
- (2) Criteria.
 - (a) Either (i) The applicable categorical Pretreatment Standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or (ii) The Industrial User demonstrates that the control system it proposes or uses to meet applicable categorical Pretreatment Standards would, if properly installed and operated, meet the Standards in the absence of pollutants in the intake waters.
 - (b) Credit for generic pollutants such as biochemical oxygen demand (BOD), total suspended solids (TSS), and oil and grease shall not be granted unless the Industrial User demonstrates that the constituents of the generic measure in the User's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.
 - (c) Credit shall be granted only to the extent necessary to meet the applicable categorical Pretreatment Standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with Standard(s) adjusted under this Section.
 - (d) Credit shall be granted only if the User demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The Authority may waive this requirement if it finds that no environmental degradation will result.

E. When a categorical Pretreatment Standard is expressed only in terms of pollutant concentrations, an Industrial User may request that the Authority convert the limits to equivalent mass limits. Mass based limit requests will not be approved by the Authority in place of Categorical concentration based limits for pollutants such as pH, temperature, radiation or any other pollutants for which mass limits are not appropriate. The determination to convert concentration limits to mass limits is within the discretion of the Authority. The Authority may establish equivalent mass limits only if the Industrial User meets all the conditions set forth in Sections 2.2E(1)(a) through 2.2E(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 individual 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 waste streams, 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 Authority whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in paragraph 2.2E(1)(c) of this Section. Upon notification of a revised production rate, the Authority 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 paragraphs 2.2E (1) (a) of this Section so long as it discharges under an equivalent mass limit.

- (3) When developing equivalent mass limits, the Authority:
 - (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 individual 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 Section 2.6. The Industrial User must also be in compliance with Section 13.3 regarding the prohibition of bypass.

- F. The Authority 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. When converting such limits to concentration limits, the Authority 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 2.6 of this Resolution. In addition, the Authority will document how the equivalent limits were derived for any changes from concentrations to mass limits, or vice versa and make this information publicly available (40 CFR 403.6 (c)(7)).

- G. Once included in its permit, the Industrial User must comply with the equivalent limitations developed in this Section (2.2) in lieu of the promulgated categorical Standards from which the equivalent limitations were derived. (40 CFR 403.6(c) (7))

- H. 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. (40 CFR 403.6(c) (8))

- I. Any Industrial User operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based Standard shall notify the Authority 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 Authority 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. (40 CFR 403.6(c) (9))

2.3 State Pretreatment Standards

Users must comply with all applicable PA Consolidated Statutes as amended.

2.4 Local Limits

- A. The Authority is required and authorized to establish Local Limits pursuant to 40 CFR 403.5(c).
- B. The following pollutant limits are established to protect against Pass Through and Interference. No person shall discharge wastewater containing in excess of the following Monthly Average and Daily Maximum Limits.

	Monthly Average mg/L	Daily Maximum mg/L ⁽¹⁾	Maximum Allowable Headworks (MAHL-LBS/D) ⁽²⁾
Arsenic	0.1420	0.2840	0.6234
Cadmium	0.0908	0.1815	0.3983
Chromium	4.2220	8.4439	18.5320
Copper	2.6575	5.3150	15.4752
Cyanide	1.4077	2.8153	6.2836
Lead,	0.9672	1.9344	4.2456
Mercury	0.0442	0.0883	0.1939
Molybdenum	0.5485	1.0970	2.5920
Nickel	1.5588	3.1175	6.8420
Selenium	0.3118	0.6235	1.3684
Silver	3.2657	6.5313	14.3344
PCBs	0.0001	0.0002	0.0547
Zinc	1.2145	2.4290	18.8507

Notes: Based on EPA Version Pa 3.1 ⁽¹⁾ Table 18 ⁽²⁾ Table 20, 1/26/2010

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise. The Authority may impose mass limitations in addition to the concentration-based limitations above.

2.5 Authority's Right of Revision

The Authority reserves the right to establish, by Resolution or in individual wastewater discharge permits, more stringent Standards or Requirements on discharges to the POTW consistent with the purpose of this Resolution.

2.6 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 Authority 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.

SECTION 3—PRETREATMENT OF WASTEWATER

3.1 Pretreatment Facilities

Users shall provide wastewater treatment as necessary to comply with this Resolution and shall achieve compliance with all categorical Pretreatment Standards, Local Limits, and the prohibitions set out in Section 2.1 of this Resolution within the time limitations specified by EPA, the State, or the Authority, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Authority for review, before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the User from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the Authority under the provisions of this Resolution.

3.2 Additional Pretreatment Measures

- A. Whenever deemed necessary, the Authority may require Users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the POTW and determine the User's compliance with the requirements of this Resolution.
- B. The Authority 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. An individual 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 Authority, 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 a type and capacity to accommodate the peak flow and loading expected to occur, have a minimum size of 250 gallons, located outside as to be readily accessible for inspection and cleaning, and approved by the Authority.
- D. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

3.3 Accidental Discharge/Slug Discharge Control Plans

The Authority shall evaluate whether each SIU needs an accidental discharge/slug discharge control plan or other action to control Slug Discharges. The Authority 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 Authority may develop such a plan for any User. An accidental discharge/slug discharge 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 Authority of any accidental or Slug Discharge, as required by Section 6.6 of this Resolution; 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.

3.4 Hauled Wastewater

- A. The Authority will not receive hauled septic tank waste or hauled industrial waste.

SECTION 4—INDIVIDUAL WASTEWATER DISCHARGE PERMITS

4.1 Wastewater Analysis

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

4.2 Individual Wastewater Discharge Permit Requirement

- A. *No Significant Industrial User shall discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit from the Authority, except that a Significant Industrial User that has filed a timely application pursuant to Section 4.3 of this Resolution may continue to discharge for the time period specified therein.*
- B. *The Authority may require other Users to obtain individual wastewater discharge permits as necessary to carry out the purposes of this Resolution.*
- C. *Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of this Resolution and subjects the wastewater discharge permittee to the sanctions set out in Sections 10 through 12 of this Resolution. Obtaining an individual wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or Requirements or with any other requirements of Federal, State, and local law.*

4.3 Individual Wastewater Discharge Permitting: Existing Connections

Any User required to obtain an individual wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this Resolution and who wishes to continue such discharges in the future, shall, within one hundred and twenty (120) days after said date, apply to the Authority for an individual wastewater discharge permit in accordance with Section 4.5 of this Resolution, and shall not cause or allow discharges to the POTW to continue after one hundred and eighty (180) days of the effective date of this Resolution except in accordance with an individual wastewater discharge permit issued by the Authority.

4.4 Individual Wastewater Discharge Permitting: New Connections

Any User required to obtain an individual wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this individual wastewater discharge permit, in accordance with Section 4.5 of this Resolution, must be filed at least one hundred and twenty (120) days prior to the date upon which any discharge will begin or recommence.

4.5 Individual Wastewater Discharge Permit Application Contents

- A. All Users required to obtain an individual wastewater discharge permit must submit a permit application. The Authority may require Users to submit all or some of the following information as part of a permit application:
- (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 waste stream 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 Authority, 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 Section 6.10 of this Resolution. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Authority or the applicable Standards to determine compliance with the Standard.
 - (e) Sampling must be performed in accordance with procedures set out in Section 6.11 of this Resolution.
 - (8) Any requests for a monitoring waiver (or a renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on Section 6.4 B (40 CFR 403.12(e)(2)).
 - (9) Any other information as may be deemed necessary by the Authority to evaluate the permit application.
- B. Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.
- 4.6 Application Signatories and Certifications
- 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 Section 6.14 A. (Definition of Authorized Representative, see Section 1.4 C)

- 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 Authority prior to or together with any reports to be signed by an Authorized Representative.

4.7 Individual Wastewater Discharge Permit Decisions

The Authority will evaluate the data furnished by the User and may require additional information. Within sixty (60) days of receipt of a complete permit application, the Authority will determine whether to issue an individual wastewater discharge permit. The Authority may deny any application for an individual wastewater discharge permit.

SECTION 5—INDIVIDUAL WASTEWATER DISCHARGE PERMIT ISSUANCE

5.1 Individual Wastewater Discharge Permit Duration

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

5.2 Individual Wastewater Discharge Permit Contents

An individual wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Authority 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 sludge management and disposal, and protect against damage to the POTW.

A. Individual wastewater discharge permits must contain:

- (1) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date; (See Section 5.1.)
- (2) A statement that the wastewater discharge permit is nontransferable without prior notification to the Authority in accordance with Section 5.5 of this Resolution, 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.*
 - (5) *The process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the Discharge in accordance with Section 6.4 B.*
 - (6) *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.*
 - (7) *Requirements to control Slug Discharge, if determined by the Authority to be necessary.*
 - (8) *Any grant of the monitoring waiver by the Authority in accordance with Section 6.4 B must be included as a condition in the User's permit.*
- B. *Individual 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 POTW;*
 - (5) *The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the 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 individual 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 individual wastewater discharge permit; and
- (8) Other conditions as deemed appropriate by the Authority to ensure compliance with this Resolution, and State and Federal laws, rules, and regulations.

5.3 Permit Issuance Process

- A. Public Notification. The Authority may publish in a newspaper of general circulation that provides meaningful public notice with the jurisdiction served by the POTW, a notice to issue a pretreatment permit, at least thirty (30) days prior to issuance. The notice will indicate a location where the draft permit may be reviewed and an address where written comments may be submitted.
- B. Permit Appeals. The Authority shall provide public notice of the issuance of an individual wastewater discharge permit. Any person, including the User, may petition the Authority to reconsider the terms of an individual wastewater discharge permit within thirty (30) days of notice of its issuance.
 - (1) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
 - (2) In its petition, the appealing party must indicate the individual wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the individual wastewater discharge permit.
 - (3) The effectiveness of the individual wastewater discharge permit shall not be stayed pending the appeal.
 - (4) If the Authority fails to act within ninety (90) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider an individual wastewater discharge permit, not to issue an individual wastewater discharge permit, or not to modify an individual wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

5.4 Permit Modification

- A. The Authority may modify an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:
- (1) To incorporate any new or revised Federal, State, or local Pretreatment Standards or Requirements;
 - (2) To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of the individual wastewater discharge permit issuance;
 - (3) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
 - (4) Information indicating that the permitted discharge poses a threat to the Authority's POTW, Authority personnel, sludge quality, or the receiving waters;
 - (5) Violation of any terms or conditions of the individual wastewater discharge permit;
 - (6) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
 - (7) Revision of or a grant of variance from categorical Pretreatment Standards pursuant to 40 CFR 403.13;
 - (8) To correct typographical or other errors in the individual wastewater discharge permit; or
 - (9) To reflect a transfer of the facility ownership or operation to a new owner or operator where requested in accordance with Section 5.5.

5.5 Individual Wastewater Discharge Permit Transfer

Individual wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least sixty (60) days advance notice to the Authority and the Authority approves the individual wastewater discharge permit transfer. The notice to the Authority 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;

3. Identifies the specific date on which the transfer is to occur; and
- C. Acknowledges full responsibility for complying with the existing individual wastewater discharge permit.

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

5.6 Individual Wastewater Discharge Permit Revocation

The Authority may revoke an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- A. Failure to notify the Authority of significant changes to the wastewater prior to the changed discharge;
- B. Failure to provide prior notification to the Authority of changed conditions pursuant to Section 6.5 of this Resolution;
- 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 Authority 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 Resolution.*

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

5.7 Individual Wastewater Discharge Permit Re-issuance

A User with an expiring individual wastewater discharge permit shall apply for individual wastewater discharge permit re-issuance by submitting a complete permit application, in accordance with Section 4.5 of this Resolution, a minimum of one hundred and twenty (120) days prior to the expiration of the User's existing individual wastewater discharge permit.

5.8 Regulation of Waste Received from Other Jurisdictions

- A. *If another municipality, State or Federal operating property unit, or User located within another municipality, contributes wastewater to the POTW, the Authority shall receive and treat the wastewater in accordance with the current contributing inter-governmental agreements with the Authority and the conditions of this Resolution.*
- B. *In accordance with inter-governmental agreements, the Authority shall request the following information from the contributing municipality or government unit as mandated by EPA:*
 - (1) *A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;*
 - (2) *An inventory of all Users located within the contributing municipality that are discharging to the POTW; and*
 - (3) *Such other information as the Authority may deem necessary for compliance with State and Federal regulations.*

- C. The contributing municipality, State or Federal operating property unit as provided for in the inter-governmental agreement shall at a minimum comply with the following EPA required conditions:
- (1) The contributing municipality or governmental unit shall adopt a sewer use Ordinance or State-Federal Operating Standard which is at least as stringent as this Resolution and Local Limits, including required Baseline Monitoring Reports (BMRs) which are at least as stringent as those set out in Section 2.4 of this Resolution. The limits must be revised as necessary to reflect changes made to the Authority's Resolution or Local Limits as mandated by EPA;
 - (2) The contributing municipality or governmental unit shall submit a revised User inventory on at least an annual basis to the Authority;
 - (3) Pretreatment implementation activities, including individual wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; or governmental unit within the sewer system it owns and discharges to the Authority's sewer system;
 - (4) The contributing municipality or governmental unit shall provide the Authority with access to all information that the contributing municipality or governmental unit obtains as part of any pretreatment activities undertaken by the municipality or government unit.

SECTION 6—REPORTING REQUIREMENTS

6.1 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 POTW shall submit to the Authority a report which contains the information listed in paragraph B, below. At least ninety (90) days prior to commencement of their discharge, New Sources, and sources that become Categorical Industrial Users subsequent to the promulgation of an applicable categorical Standard, shall submit to the Authority a report which contains the information listed in paragraph 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 Section 4.5A (1) (a), Section 4.5A (2), Section 4.5A (3) (a), and Section 4.5A (6). (40 CFR 403.12(b)(1)-(7))
 - (2) Measurement of pollutants.
 - (a) The User shall provide the information required in Section 4.5 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 waste stream 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 Section 6.10;
 - (e) The Authority 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 Section 1.4 E 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 Section 6.2 of this Resolution.

- (5) **Signature and Report Certification.** All baseline monitoring reports must be certified in accordance with Section 6.14 A of this Resolution and signed by an Authorized Representative as defined in Section 1.4E.

6.2 Compliance Schedule Progress Reports

The following conditions shall apply to the compliance schedule required by Section 6.1(B) (4) of this Resolution:

- 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 Authority no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and
- D. In no event shall more than nine (9) months elapse between such progress reports to the Authority.

6.3 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 POTW, any User subject to such Pretreatment Standards and Requirements shall submit to the Authority a report containing the information described in Section 4.5A (6) and (7) and 6.1(B) (2) of this Resolution. For Users subject to equivalent mass or concentration limits established in accordance with the procedures in Section 2.2 (40 CFR 403.6(c)), this report shall contain a reasonable measure of the User's long-term production rate. For all other Users subject to categorical Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production or other measure of operation, this report shall include the User's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 6.14 A of this Resolution. All sampling will be done in conformance with Section 6.11.

6.4 Periodic Compliance Reports

All SIUs are required to submit periodic compliance reports.

- A. Except as specified in Section 6.4.C, all Significant Industrial Users must, at a frequency determined by the Authority submit no less than twice per year and no later than 45 days from the last day of June and December 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 Authority or the Pretreatment Standard necessary to determine the compliance status of the User.
- B. The Authority may authorize an Industrial User subject to a categorical Pretreatment Standard to forego sampling of a pollutant regulated by a categorical Pretreatment Standard if the Industrial User has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the pollutant due to activities of the Industrial User. (40 CFR 403.12(e) (2)) This authorization is subject to the following conditions:
 - (1) The waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical Standard and otherwise includes no process wastewater.
 - (2) The monitoring waiver is valid only for the duration of the effective period of the individual wastewater discharge permit, but in no case longer than 5 years. The User must submit a new request for the waiver before the waiver can be granted for each subsequent individual wastewater discharge permit. See Section 4.5A (8).
 - (3) In making a demonstration that a pollutant is not present, the Industrial User must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.
 - (4) The request for a monitoring waiver must be signed in accordance with Section 1.4E, and include the certification statement in 6.14 A (40 CFR 403.6(a) (2) (ii)).

- (5) Non-detectable sample results may be used only as a demonstration that a pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.
- (6) Any grant of the monitoring waiver by the Authority must be included as a condition in the User's permit. The reasons supporting the waiver and any information submitted by the User in its request for the waiver must be maintained by the Authority for 3 years after expiration of the waiver.
- (7) Upon approval of the monitoring waiver and revision of the User's permit by the Authority, the Industrial User must certify on each report with the statement in Section 6.14 C below, that there has been no increase in the pollutant in its waste stream due to activities of the Industrial User.
- (8) In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the User's operations, the User must immediately: Comply with the monitoring requirements of Section 6.4 A or other more frequent monitoring requirements imposed by the Authority, and notify the Authority.
- (9) This provision does not supersede certification processes and requirements established in categorical Pretreatment Standards, except as otherwise specified in the categorical Pretreatment Standard.

Any Categorical User that is authorized to reduce its monitoring to once per year is required to immediately notify the Authority if it no longer meets the criteria for reduced monitoring. (40 CFR 403.12(e) (3) (iv))

- C. The Authority may reduce the requirement for periodic compliance reports for Categorical Users subject to categorical standards as may be permitted by Section 6.4 A (40 CFR 403.12(e)(1)) to a requirement to report no less frequently than once a year, unless required more frequently in the Pretreatment Standard or by the EPA, where the Industrial User's total categorical wastewater flow does not exceed any of the following:
 - (1) 62,500 gallons per day, 0.01 percent of the POTW's design dry-weather hydraulic capacity of the POTW, or 5,000 gallons per day, whichever is smaller, as measured by a continuous effluent flow monitoring device unless the Industrial User discharges in batches; and
 - (2) 108.46 LBS per day, 0.01 percent of the design dry-weather organic treatment capacity of the POTW; and

- (3) 0.01 percent of the maximum allowable headworks loading for any pollutant regulated by the applicable categorical Pretreatment Standard for which approved Local Limits were developed in accordance with Section 2.4 of this Resolution.

Reduced reporting is not available to Industrial Users that have in the last two (2) years been in Significant Noncompliance, as defined in Section 9 of this Resolution. In addition, reduced reporting is not available to an Industrial User with daily flow rates, production levels, or pollutant levels that vary so significantly that, in the opinion of the Authority decreasing the reporting requirement for this Industrial User would result in data that are not representative of conditions occurring during the reporting period.

- D. All periodic compliance reports must be signed and certified in accordance with Section 6.14 A of this Resolution.
- 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 requirements in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Authority, using the procedures prescribed in Section 6.11 of this Resolution, the results of this monitoring shall be included in the report.

6.5 Reports of Changed Conditions

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

- A. The Authority 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 Section 4.5 of this Resolution.
- B. The Authority may issue an individual wastewater discharge permit under Section 5.7 of this Resolution or modify an existing wastewater discharge permit under Section 5.4 of this Resolution in response to changed conditions or anticipated changed conditions.

6.6 Reports of Potential Problems

- A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, a Slug Discharge or Slug Load, that might cause potential problems for the POTW, the User shall immediately telephone and notify the Authority 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 Authority, 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 might be incurred as a result of damage to the 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 Resolution.
- C. A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of a discharge described in paragraph A, above. Employers shall ensure that all employees, who could cause such a discharge to occur, are advised of the emergency notification procedure.
- D. Significant Industrial Users are required to notify the Authority immediately of any changes at its facility affecting the potential for a Slug Discharge.

6.7 Reports from Un-permitted Users

All Users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the Authority as the Authority may require.

6.8 Notice of Violation/Repeat Sampling and Reporting

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

6.9 Notification of the Discharge of Hazardous Waste

- A. The discharge into the POTW of any substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261 is prohibited.
- B. In the case of any new regulations under section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the User must notify the Authority, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities, and stop the discharge of such substance on the effective date of such regulations.
- C. In the case of any notification made under this Section, the User shall certify that it has a program in place stop the hazardous wastes generated from being discharged.
- D. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this Resolution, a permit issued thereunder, or any applicable Federal or State law.

6.10 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 Authority or other parties approved by EPA.

6.11 Sample Collection

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

- A. Except as indicated in Section 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 Authority. Where time-proportional composite sampling or grab sampling is authorized by the Authority, the samples must be representative of the discharge and the reasons documented for using the alternative sampling monitoring. 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 Authority, 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 Section 6.1 and 6.3 (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 Authority may authorize a lower minimum. For the reports required by paragraphs Section 6.4 (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 Industrial Users with applicable Pretreatment Standards and Requirements.

6.12 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.

6.13 Recordkeeping

Users subject to the reporting requirements of this Resolution shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Resolution, 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. 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 Authority or where the User has been specifically notified of a longer retention period by the Authority.

6.14 Certification Statements

- A. **Certification of Permit Applications, User Reports and Initial Monitoring Waiver—**
The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Section 4.7; Users submitting baseline monitoring reports under Section 6.1 B (5) (40 CFR 403.12 (l)); Users submitting reports on compliance with the categorical Pretreatment Standard deadlines under Section 6.3 (40 CFR 403.12(d)); Users submitting periodic compliance reports required by Section 6.4 A–D (40 CFR 403.12(e) and (h)), and Users submitting an initial request to forego sampling of a pollutant on the basis of Section 6.4B(4) (40 CFR 403.12(e)(2)(iii)). The following certification statement must be signed by an Authorized Representative as defined in Section 1.4 E:

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. Certification of Pollutants Not Present

Users that have an approved monitoring waiver based on Section 6.4 B must certify on each report with the following statement that there has been no increase in the pollutant in its waste stream due to activities of the User.(40 CFR 403.12(e)(2)(v))

Based on my inquiry of the person or persons directly responsible for managing compliance with the Pretreatment Standard for 40 CFR _____ [specify applicable National Pretreatment Standard part(s)], I certify that, to the best of my knowledge and belief, there has been no increase in the level of _____ [list pollutant(s)] in the wastewaters due to the activities at the facility since filing of the last periodic report under Section 6.4.A.

SECTION 7—COMPLIANCE MONITORING

7.1 Right of Entry: Inspection and Sampling

The Authority shall have the right to enter the premises of any User to determine whether the User is complying with all requirements of this Resolution and any individual wastewater discharge permit or order issued hereunder. Users shall allow the Authority 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 Authority shall be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The Authority 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 Authority 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 at a minimum frequency specified by the Authority based on site conditions 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 Authority and shall not be replaced. The costs of clearing such access shall be born by the User.*
- E. *Unreasonable delays in allowing the Authority access to the User's premises shall be a violation of this Resolution.*

7.2 Search Warrants

If the Authority 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 Resolution, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Authority designed to verify compliance with this Resolution or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, the Authority may seek issuance of a search warrant from the Court of Common Pleas of Cumberland or York County or other appropriate forum and may request EPA enforcement assistance.

SECTION 8--CONFIDENTIAL INFORMATION

Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, and monitoring programs, and from the Authority's inspection and sampling activities, shall be available to the public without restriction, unless the User specifically requests, and is able to demonstrate to the satisfaction of the Authority, 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 at 40 CFR 2.302 shall not be recognized as confidential information and shall be available to the public without restriction.

SECTION 9—PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE

The Authority 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, at any time 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 Section 2;
- 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 Section 2 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 Section 2 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Authority determines has caused, alone or in combination with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;
- D. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Authority's exercise of its 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 an individual 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 Authority determines will adversely affect the operation or implementation of the local pretreatment program.

SECTION 10--ADMINISTRATIVE ENFORCEMENT REMEDIES

10.1 Notification of Violation

When the Authority finds that a User has violated, or continues to violate, any provision of this Resolution, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Authority may serve upon that User a written Notice of Violation. Within thirty (30) days of the receipt of such 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 Authority. Submission of such a 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 Authority to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

10.2 Consent Orders

The Authority may enter into Consent Orders, assurances of compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents shall 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 Sections 10.4 and 10.5 of this Resolution and shall be judicially enforceable.

10.3 Show Cause Hearing

The Authority may order a User which has violated, or continues to violate, any provision of this Resolution, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before the Authority and show cause why the proposed enforcement action should not be taken. Notice shall be served on the User specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the User show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least thirty (30) days prior to the hearing. Such notice may be served on any Authorized Representative of the User as defined in Section 1.4 E and required by Section 4.7 A. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.

10.4 Compliance Orders

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

10.5 Cease and Desist Orders

When the Authority finds that a User has violated, or continues to violate, any provision of this Resolution, an individual 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 Authority 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.

10.6 Administrative Fines

- A. When the Authority finds that a User has violated, or continues to violate, any provision of this Resolution, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Authority may fine such User in an amount not to exceed the maximum fine allowed under State Law. Such fines shall be assessed on a per-violation, per-day basis. In the case of monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.

- B. *Users desiring to dispute such fines must file a written request for the Authority to reconsider the fine along with full payment of the fine amount within thirty (30) days of being notified of the fine. Where a request has merit, the Authority may convene a hearing on the matter. In the event the User's appeal is successful, the payment shall be returned to the User. The Authority may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.*
- C. *Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User.*

10.7 Emergency Suspensions

The Authority 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 Authority may also immediately suspend a User's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the 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 Authority may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Authority may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the Authority that the period of endangerment has passed, unless the termination proceedings in Section 10.8 of this Resolution 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 Authority prior to the date of any show cause or termination hearing under Sections 10.3 or 10.8 of this Resolution.*

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

10.8 Termination of Discharge

In addition to the provisions in Section 5.6 of this Resolution, any User who violates the following conditions is subject to discharge termination:

- A. Violation of individual 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 Section 2 of this Resolution.

Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 10.3 of this Resolution why the proposed action should not be taken. Exercise of this option by the Authority shall not be a bar to, or a prerequisite for, taking any other action against the User.

SECTION 11—JUDICIAL ENFORCEMENT REMEDIES

11.1 Injunctive Relief

When the Authority finds that a User has violated, or continues to violate, any provision of this Resolution, an individual wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Authority may petition the Court of Common Pleas of Cumberland or York County or any other appropriate forum through the Authority's Solicitor for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, order, or other requirement imposed by this Resolution on activities of the User. The Authority may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the User to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a User.

11.2 Civil Penalties

The Authority may assess monetary penalties for Noncompliance as provided by 35 P.S. §752 et seq., the Publicly Owned Treatment Works Penalty Law, Act of the General Assembly of March 26, 1992, P.L. 23, No. 9, subject to the appeal procedures as specified in 2 Pa. C.S. for any Industrial User in Noncompliance.

11.3 Criminal Prosecution

Any person who knowingly, willfully, or intentionally makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to this Resolution, or Wastewater Contribution Permit, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this Resolution will be prosecuted to the extent permitted by law under the Crimes Code, 18 Pa. C.S.A. Section 101, et seq.

11.4 Remedies Nonexclusive

The remedies provided for in this Resolution are not exclusive. The Authority 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 Authority's enforcement response plan. However, the Authority may take other action against any User when the circumstances warrant. Further, the Authority is empowered to take more than one enforcement action against any noncompliant User.

SECTION 12—SUPPLEMENTAL ENFORCEMENT ACTION

12.1 Performance Bonds

The Authority may decline to issue or reissue an individual wastewater discharge permit to any User who has failed to comply with any provision of this Resolution, a previous individual 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 Authority, in a sum not to exceed a value determined by the Authority to be necessary to achieve consistent compliance.

12.2 Liability Insurance

The Authority may decline to issue or reissue an individual wastewater discharge to any User who has failed to comply with any provision of this Resolution, a previous individual 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 POTW caused by its discharge.

12.3 Payment of Outstanding Fees and Penalties

The Authority may decline to issue or reissue an individual wastewater discharge permit to any User who has failed to pay any outstanding fees, fines or penalties incurred as a result of any provision of this Resolution, a previous individual wastewater discharge permit, or order issued hereunder.

12.4 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 Authority. Existing contracts for the sale of goods or services to the Authority held by a User found to be in Significant Noncompliance with Pretreatment Standards or Requirements may be terminated at the discretion of the Authority.

SECTION 13—AFFIRMATIVE DEFENSES TO DISCHARGE VIOLATIONS

13.1 Upset

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

13.2 Prohibited Discharge Standards

A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in Section 2.1(A) of this Resolution or the specific prohibitions in Sections 2.1(B) (3) through (7) and (9) through (18) of this Resolution 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 Authority was regularly in compliance with its NPDES permit, and in the case of Interference, was in compliance with applicable sludge use or disposal requirements.

13.3 Bypass

- A. For the purposes of this Section,
- (1) Bypass means the intentional diversion of waste streams 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 Authority, at least ten (10) days before the date of the bypass, if possible.
 - (2) A User shall submit oral notice to the Authority 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 Authority 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 Authority may take an enforcement action against a User for a bypass, unless
 - (a) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (b) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (c) The User submitted notices as required under paragraph (C) of this section.
- (2) The Authority may approve an anticipated bypass, after considering its adverse effects, if the Authority determines that it will meet the three conditions listed in paragraph (D)(1) of this Section.

SECTION 14—WASTEWATER TREATMENT RATES

- A. Rates for wastewater treatment are adopted by the Authority under a separate Resolution and amended as required.

SECTION 15—MISCELLANEOUS PROVISIONS

15.1 Pretreatment Charges and Fees

The Authority may adopt by separate Resolution reasonable fees for reimbursement of costs of setting up and operating the Authority'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 certification statements 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 (not included in Section 15.1 B) associated with the enforcement activity taken by the Authority to address IU noncompliance; and
- F. Other fees as the Authority may deem necessary to carry out the requirements contained herein. These fees relate solely to the matters covered by this Resolution and are separate from all other fees, fines, and penalties chargeable by the Authority.

15.2 Severability

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

SECTION 16—EFFECTIVE DATE

This Industrial Pretreatment Program shall be in full force and effect immediately following its passage, and approval, as provided by law.

Resolution 2010-A-10 – Exhibit A

LOWER ALLEN TOWNSHIP AUTHORITY

INDUSTRIAL PRETREATMENT PROGRAM

ENFORCEMENT RESPONSE PLAN

August 5, 2010

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NOTICE

This Enforcement Response Plan is an official document adopted by the Lower Allen Township Authority in keeping with the requirements of the General Pretreatment Requirements (40 CFR Part 403) and the requirements of the Environmental Protection Agency. The enforcement of the provisions of the Industrial Pretreatment Program by the Authority shall be guided by the information and procedures presented in this document. However, the Authority reserves the right to apply such additional enforcement actions and seek such additional remedies as it determines appropriate, and as are allowable by law, without respect to the provisions of this document. Nothing herein, however, shall be deemed to preclude the Authority from exercising or pursuing any enforcement or other rights as (a) set forth in the resolutions of the Authority, (b) provided in the ordinances of the contributing municipalities, or (c) as otherwise provided by law.

LOWER ALLEN TOWNSHIP AUTHORITY

ENFORCEMENT RESPONSE PLAN

I. INTRODUCTION

The Lower Allen Township Authority (hereinafter referred to as LATA or the Authority) has developed its Industrial Pretreatment Program (IPP) to meet the requirements of the Environmental Protection Agency, as codified in 40 CFR, Part 403. The program is established delineated by the Authority's Industrial Pretreatment Program Resolution ("Resolution") and authorized by the enabling ordinances and resolutions of the contributing Municipalities. The IPP consists of several components. These include prohibitions and controls on Dischargers to the Sewer System; monitoring and reporting requirements for Industrial Users; a Permit system for Significant Industrial Users (SIUs); and enforcement options. This Enforcement Response Plan (Plan) summarizes the administrative tasks for measuring compliance of Industrial Users with their discharge and reporting requirements, discusses the administrative tools available to investigate suspected Noncompliance, describes the enforcement tools available to encourage compliance and correct Noncompliance, and provides guidance on the implementation of those tools.

While this Enforcement Response Plan is directed towards the objective of assuring User compliance with applicable pretreatment requirements, the process of meeting these objectives is to be flexible and dynamic. This Plan establishes a system for identifying priorities and directing the flow of enforcement actions based on these priorities.

This Plan has been developed for the internal use of the Lower Allen Township Authority and is not intended to limit the enforcement discretion of the Authority. Legal rights and obligations of LATA are reflected in the Pretreatment Resolution of the Authority, the Intermunicipal Agreement between LATA and the various municipalities and municipal authorities, the NPDES permit issued to LATA by the Commonwealth, and various applicable laws, such as the Pennsylvania Municipality Authorities Act and the Publicly Owned Treatment Works Penalty Law. This Plan provides a convenient listing of the enforcement procedures available to LATA under these various instruments. It serves to satisfy the requirements of 40 CFR Part 403.8(f)(5) which requires the development and implementation of an enforcement response plan in which various enforcement responses are described and in which LATA's responsibility to enforce Federal Pretreatment Requirements and Standards are reflected.

II. ADMINISTRATION

1. Basis of the Program

The Industrial Pretreatment Program was developed by the LATA and implemented throughout the entire service area by a combination of a resolution of LATA and enabling ordinances of the contributing municipalities pursuant of the Interjurisdictional Treatment Agreement. Each contributing municipality has agreed that the Superintendent of POTW, the governing body of the contributing municipality, and the Manager of the contributing municipality, jointly administer, implement and enforce the Industrial Pretreatment Program within the contributing municipality.

2. Responsible Personnel

The Lower Allen Township Authority is the POTW owner, the NPDES Permit holder, and the municipality with the legal authority to implement and enforce an Industrial Pretreatment Program. Therefore, ultimate responsibility for all IPP activities lies with the Authority. The Authority appoints an Authority Manager to conduct administrative duties. Thus, the authority to administer the IPP is assigned to the Authority Manager of LATA. In normal circumstances the Authority Manager delegates this authority to the Pretreatment Coordinator, a position established by LATA for this purpose. All of the day to day activities of the Program are normally carried out by the Pretreatment Coordinator or others under their direction. However, the administrative responsibility for the program remains with the Authority Manager, and ultimate responsibility lies with the Board Members of the Lower Allen Township Authority.

Although the Authority Manager is assigned administrative authority, three functions are retained by the Board of LATA. One is hearing appeals from permittees; the second is conducting Show Cause Hearings. The Resolution also allows LATA to appoint representatives to conduct Show Cause Hearings, and it is anticipated that this will often be the Pretreatment Coordinator; however, the Board may decide, at its discretion, to conduct such a hearing itself. The third function retained by the Board is determining enforcement actions to be taken against Industrial Users. While the Authority Manager and his staff and the Authority solicitor will assess noncompliance and determine appropriate enforcement actions to be taken, the final implementation of enforcement actions is made by the Board of the Authority.

Many references are made to the Authority throughout the Resolution, in terms of submitting reports or other documents to LATA. As LATA's delegated employee, the Pretreatment Coordinator is the person to whom these documents will actually be submitted. Likewise, development of Local Limits, the Enforcement Response Plan, and other documents are assigned to LATA by the Resolution. In this case, too, the Pretreatment Coordinator (acting for and under the direction of the Authority Manager) is the agent who will normally provide this service.

3. Enforcement

Enforcement is only one aspect of administration. Enforcement takes place when a violation of program requirements occurs. A violation, or Noncompliance, may be perpetrated by various kinds of User, and may occur in many possible ways. For example, an individual (or an Industrial User) may cause a Prohibited Discharge to occur, e.g., discharging a flammable substance into the Sewer System. An Industrial User may violate a prohibition specific to Industrial Users, such as a Local Limit. A Significant Industrial User may violate the terms of its Wastewater Discharge Permit in any of a number of ways, such as failing to submit reports or to keep records. Enforcement requires that the violation be detected, the perpetrator be identified, and the proper action selected. This Enforcement Response Plan is intended primarily to serve as a guidance for enforcing the requirements of Industrial Users, particularly Significant Industrial Users. However, enforcement actions may be appropriate for violations by persons other than Significant Industrial Users.

Significant Industrial Users are issued Permits and required to monitor their Discharges to ensure compliance with both prohibited and regulated pretreatment standards¹. It is the duty of the Executive Directors (usually delegated to the Pretreatment Coordinator) to both establish local standards (Local Limits) and enforce all the standards (Prohibited, Categorical and Local Limits). In addition to Discharge limitations, the Permits contain various reporting and recordkeeping requirements and may contain additional operation requirements or compliance schedules. These, too, may be subject to enforcement.

¹ Note that the LATA program does not define the term "Pretreatment Standard." When used in this document, the term is assigned no meaning other than the common one indicated by the text. When referring to federal Pretreatment Standards as defined by EPA, the appropriate Standard (i.e., Prohibited, Categorical or Local Limit) is specified.

III. PERMITS

The Permit is the primary administration and enforcement document applicable to Significant Industrial Users ("SIU"). The Permit should notify the Discharger of its obligations under the Program. These obligations include prohibitions on certain Discharges, Local Limits on specific pollutants, reporting requirements, recordkeeping requirements, and possibly operational requirements for Pretreatment or other facilities. Permits also enumerate the enforcement actions that are available to LATA, so that the permittee is informed of the possible consequences on Noncompliance.

In addition to the privilege to have wastewater treated by the LATA treatment plant, Permits grant the privilege to discharge Industrial Waste into a collection system owned by LATA or a contributing municipality. The Permit is an enforceable document. Permits are not contracts, and are issued at the discretion of LATA. Permits can be revoked or suspended, and LATA has the right to refuse to issue a Permit (and thereby deny the privilege to discharge Industrial Waste) if it determines that this is appropriate. Although the conditions in a Permit may be negotiated with an SIU, it is not necessary to obtain the approval or acceptance of the Industrial User to issue a Permit. If the SIU objects to Permit conditions it may appeal. It may not, however, ignore the Permit. Note that during an appeal the appealed Permit conditions remain in effect unless the Permittee requests - and LATA agrees - to stay particular conditions. Conditions required by federal or state law, e.g., Categorical Standards may not be stayed during an appeal.

IV. INSPECTIONS AND SAMPLING

Industrial inspections and sampling are a key component of an IPP. They are necessary to confirm the accuracy and completeness of information received from the Industrial Users in applications and reports. Inspections are also used to detect any changes from past practices and compliance with the requirements imposed by Permits, written directions and the regulations. Violations observed during an inspection, if not immediately resolved while the inspection is taking place, may be cause for an enforcement action. Serious violations, even if immediately corrected, may be a cause for enforcement action.

Sampling may take place during an inspection or at another time. Samples should be of the type (composite or grab) specified in the Permit so that the results can be applied to Permit conditions. Sampling can become an enforcement tool when used to confirm reported Noncompliance. In addition to sampling performed by the Authority, SIUs are required to sample and report (self-monitor) at least twice a year, or more often as required by their Permits.

V. DETERMINING AND INVESTIGATING NONCOMPLIANCE

The determination of Noncompliance consists of comparing reported or observed conditions of Discharge, monitoring, and reporting with those required by the Resolution, an Industrial Wastewater Discharge Permit, written directions, or schedule issued by LATA. The determination and recording of Noncompliance is a separate activity from determination of the appropriate enforcement action.

1. Investigating Industrial User Noncompliance

Noncompliance can be divided into several broad categories as shown on the Enforcement Response Guide, Table 1, (ERG) at the end of this Plan. Investigation of Noncompliance can be divided similarly, depending on the type of Noncompliance:

- A. Sampling, monitoring and reporting Noncompliance consist primarily of failure to do required sampling or provide required reports. Investigation of these instances generally will consist of determining (1) if the proper action took place and the report was not received through the fault of some third party (e.g., report lost in the mail), or (2) if the deficiency in fact exists (e.g., sample never taken for analysis). Such an investigation can be conducted by phone call, visit or letter to the IU. Inspections or sampling may also be used as investigative tools.
- B. Effluent Limits Noncompliance are normally detected through comparison of laboratory results with Permit limits. Further investigation is normally not required unless the IU alleges some discrepancy in the report. Since all self-monitoring reports are submitted by the IU itself, and certified as correct by the IU at the time of submission, this situation should be rare. If POTW monitoring conflicts with IU self-monitoring, further investigation could include checking lab reliability through split samples, spiked samples, or standard QA samples. Additional sampling may also be used to investigate such Noncompliance.
- C. Compliance Schedule Noncompliance are failures to adhere to an established and enforceable schedule. Investigation of these events normally consists of contacting the IU to determine the reason for Noncompliance, in order to select the correct enforcement response on the ERG. Such a contact may be in person, by telephone or in writing. In rare instances, a visit or inspection may be necessary to thoroughly investigate a compliance schedule Noncompliance.

- D. Failure to Comply with Enforcement Actions consists of failure to provide a report, schedule, payment of penalty or other activity required in an enforcement action. Other than confirming that the Noncompliance has occurred, very little investigation is normally required.

2. Type of Noncompliance

The nature and frequency of Noncompliance often determines the appropriate enforcement response to be taken. A discussion of this concept appears in Section VII of this Plan. For purposes of Identifying Significant Violators, EPA requires that noncompliance that meet standards of Significant Noncompliance (SNC) be identified (40 CFR 403.8(f)(2)(viii)). Because SNC frequently (but not always) provides a measure of severity, the identification of a Significant Noncompliance may be used in setting priorities for investigation and enforcement, and as one factor to be considered in the selection of an enforcement response.

- A. Significant Noncompliance (SNC). An Industrial User is in Significant Noncompliance if one or more of the following criteria are in violation.

- (1) *Chronic violations.* Sixty-six percent or more of all the measurements taken for the same pollutant parameter during a 6-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits.
- (2) *Technical Review Criteria (TRC) Violations.* Thirty-three percent or more of all the measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric pretreatment standard or requirement (including instantaneous limits) multiplied by the applicable TRC.

For BOD, TSS, fats, oil and grease, TRC = 1.4

For all other pollutants except pH, TRC = 1.2
- (3) Any other violation(s) of a pretreatment standard or requirement that the Control Authority determines has caused, alone or in combination with other discharges, interference (e.g., slug loads) or pass-through, or endangered the health of the sewage treatment personnel or the public.

- (4) Any discharge of a pollutant that has caused imminent endangerment to human health/welfare or to the environment and has resulted in the Authority's exercise of its emergency authority to halt or prevent such a discharge.
- (5) Violations of compliance schedule milestones, contained in a local control mechanism or enforcement order by 90 days or more after the schedule date for starting construction, completing construction, and attaining final compliance.
- (6) Failure to provide reports for compliance schedules, self monitoring data, or categorical standards, baseline monitoring reports, 90-day compliance reports, and periodic reports within 45 days from the due date.
- (7) Failure to accurately report noncompliance.
- (8) Any other violation or group of violations, which may include a violation of Best Management Practices, that the Authority determines will adversely affect the operation or implementation of the pretreatment program.

The determination of Significant Noncompliance for magnitude and frequency criteria (items A. (1) & (2) above) is to be made for a six month period. Six month periods will be evaluated on a "rolling quarter" basis, as recommended by EPA Region III.

- B. Other Noncompliance Other Noncompliance include any violation of Wastewater Discharge Permit requirements or Pretreatment Program requirements which does not meet any of the criteria itemized above for SNC. The principal difference between Significant Noncompliance and other Noncompliance lies in the requirements to annually publish the names of the Significant Violators (40 CFR 403.8(f)(2)(vii)). A Significant Violator is any User in Significant Noncompliance during a calendar year.

3. Priority of Noncompliance

This Enforcement Response Plan provides a process for reviewing and screening Industrial User violations to assure that enforcement resources are concentrated on the most serious violations. This Plan places priority on response to instances of Industrial User SNC, especially by Significant Industrial Users ("SIUs"). As resources allow, non-SIU Discharges of concern and other instances of Noncompliance may be subject to enforcement responses. Notwithstanding the priority placed on SIU Significant Noncompliance, it is recognized that it may be appropriate to exercise enforcement discretion even if an SIU meets the SNC criteria (e.g., an error was made in calculating a Permit limit, or an SNC criterion is triggered due to the result of only one sample). This Plan is intended to provide the Authority as much flexibility as allowed by applicable federal and state requirements in responding to Industrial User violations. As such, deviations from this Plan may occur, depending upon the facts of a specific case.

VI. ENFORCEMENT OPTIONS

The Authority Manager (or his agent, the Pretreatment Program Coordinator) and the Solicitor, where such assistance is deemed necessary, are responsible for selecting and recommending to the Authority whatever enforcement actions are determined to be appropriate. The Solicitor depends on information provided by the Authority Manager and will initiate legal actions such as a request for injunctive relief or filing of criminal charges only upon the prior determination by the Authority that such an action is appropriate. All enforcement actions are the responsibility of the Authority and will be taken only upon an Authority decision.

Enforcement actions may be taken against any User, not just Industrial Users or Significant Industrial Users. As all circumstances cannot possibly be foreseen, these guidelines allow a certain amount of flexibility in determining what enforcement actions are to be taken. Such factors as a violator's history of compliance, degree of Noncompliance, the deterrent value of an action, amount of cooperation shown by the User, fairness, equity and extenuating circumstances all can affect an enforcement decision. A decision whether to enforce often involves a complicated balancing of a number of factors. Thus, one must not only assess whether a violation has occurred, but whether the Authority's resources are best spent on this violation or another. One must also impartially assess the likelihood of success of a contemplated enforcement action (e.g. - where an IU alleges that a failure to meet a compliance schedule deadline was due to the negligence of a third party, the Authority might be faced with the burden of proof that such negligence was in fact the IU's own in order to secure court ordered relief). Thus, selection of an enforcement action cannot be "automatic" or "programmed" by a simplistic set of fixed guideline.

The enforcement actions listed below are not mutually exclusive. It may be necessary to seek an injunction to stop a dangerous practice, issue an Administrative Order with a Compliance Schedule to correct the practice, and levy a civil penalty, all for the same Noncompliance. Civil penalties ("fine") may be used in conjunction with other actions to reinforce the impact of the enforcement action. The order of discussion below does not indicate a priority ranking; a listing of enforcement responses in escalating order may be found in Section VII of this Plan.

1. Telephone Contacts

A telephone call to a User plant official (e.g., plant manager or environmental coordinator) may be used to address violations, usually of a minor nature. The telephone call could serve to remind the User of its obligations, to notify the User that the Authority is aware of and concerned about the violation, to obtain an explanation or a commitment to make corrections, and to suggest that subsequent violations of the same type may be dealt with more severely. A telephone call that is initiated as an investigative tool (see Section V above) may develop into an enforcement action depending on the information obtained.

2. Meeting

An impromptu or informal meeting with a User (e.g., plant manager or environmental coordinator) may be used to address violations, usually of a minor nature. The meeting (which can take place during a sampling or inspection visit) could serve to notify the User that the Authority is concerned about the violation, to obtain an explanation (i.e., an investigative tool), to discuss possible solutions, and to suggest that subsequent violations of the same type may be dealt with more severely.

3. Increased Monitoring and/or Reporting

Increased monitoring and/or reporting, beyond the federally required minimum, may be used as a means to address Discharge or other violations by Users that have demonstrated a history of Noncompliance. The increased surveillance of a User associated with increased monitoring and reporting may provide an incentive for the User to return to compliance. As with some other enforcement tools, this action may also serve as an investigative tool.

As the Authority deems appropriate, the User could be required to undertake the increased monitoring or it can be undertaken by the Authority. If undertaken by the Authority, costs of increased monitoring may be charged to the User. Given the significant expense involved in monitoring, the increased costs to the User could serve to deter future violations.

Increased monitoring can be imposed as a modification of the User Discharge Permit or in conjunction with another enforcement response, as appropriate. Furthermore, increased monitoring, as an enforcement response, can be automatically initiated by language contained in a Permit at the time of issuance or re-issuance.

4. Modification of the Industrial User Permit To Include Additional Monitoring, Reporting, Effluent Limitations or to Provide For Permit of Short Duration.

Increased monitoring and/or reporting beyond the federal minimum requirements may be used to address Discharge or other violations by Industrial Users that have demonstrated a history on Noncompliance. Additional effluent limitation (e.g., daily maximum for Users that only have monthly average requirements) may provide the User the necessary incentive to avoid permit violations, particularly those associated with significant fluctuations in Discharge characteristics.

Furthermore, the Wastewater Discharge Permit renewal process provides and opportunity to evaluate a User's Pretreatment and compliance status, and provides that the User will compile and submit relevant information. This process may be beneficial in reminding the User of the various concerns that the Authority considers in administering the Pretreatment Program. Federal regulations provide that SIU Permits can be issued for a duration of five years. Permits of shorter duration, however, may provide the Authority with additional leverage to foster User compliance.

5. Public Notice of Noncompliant Users

Pursuant to federal requirements, the Authority intends to publish, on an annual basis, a list of IUs whose discharge violations exceed the criteria established for Significant Noncompliance (i.e., Significant Violators - see Part V.2. B above). The Authority also reserves its rights, as an additional enforcement response, to provide public notice of IU Noncompliance more frequently than once a year or based upon violations which do not meet the SNC threshold. The Authority further reserves its rights to implement other special community awareness steps, as an enforcement response, to deter IU Noncompliance.

6. Suspension or Revocation of Wastewater Treatment Service (Sec. 7.01, 7.02 & 7.03)

Suspension of a Wastewater Discharge permit can be used to stop an actual or threatened Unauthorized Discharge. Suspension is used when immediate action is necessary, or when an Unauthorized Discharge is continued in spite of enforcement efforts. Suspension is not normally used to enforce other Pretreatment Requirements, such as reporting violations.

Revocation of an Industrial User's Discharge Permit is made for neglect or failure to correct or cure a Noncompliance of any provision, term, standard, schedule, condition, requirement or safeguard of the Discharge Permit, applicable Ordinance, Resolution or other governmental regulation; if the User fails to eliminate a Discharge of Wastewater which is subject to a stop-Discharge Order; or if access to the facility for inspection or sampling is denied. In addition to revocation of the User's Discharge Permit, the Authority can request the contributing municipality to plug or sever the points of connection to the Collection System, as a means of suspension of treatment services.

A revocation is intended to permanently stop all Discharge and normally is considered a final action. A suspension is intended to require the remedy of the Noncompliance, with the intention of resuming service once the situation is corrected. Because suspension and revocation are intended to force the Discharge to stop, they may have an economic impact of the IU, and therefore can be considered penalties as well as enforcement actions.

Normally, these enforcement measures are reserved for use when other reasonable enforcement measures have proved unsuccessful, or when extenuating circumstances exist which would warrant these more drastic measures.

7. Notice of Violation (Sec. 7.04)

A written notice, stating the nature of the violation, and, where deemed appropriate, requiring that a plan for correction be submitted within 30 days, is provided for in the Resolution. If the plan is acceptable, it should be monitored for compliance. Failure to respond to the Notice of Violation, and failure to comply with the plan are violations that may require additional enforcement actions.

8. Show-Cause Hearing (Sec. 7.05)

A hearing may be conducted, at which the IU must show why further enforcement actions should not be taken. A show-cause hearing is an enforcement action, rather than a penalty, and is used to illustrate the seriousness of violations so that IUs are encouraged to comply with Authority requests. The mechanism for calling and conducting a show-cause hearing is found in Section 7, paragraph 7.05 of the Resolution.

9. Administrative Orders (Sec. 7.05 & 7.06)

The Authority may issue written directions to a User. Although often called Administrative Orders, the Resolution refers to this enforcement mechanism as "directions of the Authority". Written directions may be issued independently, or following a Show-Cause Hearing. Written directions are official notifications which specify actions and deadlines which the IU must meet. Written directions may incorporate a Compliance Schedule, or require that a Compliance Schedule be provided by the IU. Such directions may specify that service will be terminated, or other penalties will be imposed.

10. Consent Order (Sec. 9)

The Consent Order is an order entered into between the Authority and an IU regarding, e.g., significant corrective action implementation or Pretreatment equipment installation. The Consent Order may be appropriate when the IU assumes responsibility for its Noncompliance and is willing to correct the cause(s) to potentially avoid escalated enforcement action being taken. A Consent Order may include a detailed compliance schedule and signatures of both the Authority and IU management. Consent orders are not separately enumerated in the Resolution as an enforcement measure, but are authorized in Section 9.

11. Court Action Injunctive Relief (Sec. 7.09)

The Authority can file a civil suit requesting the court to order ("enjoin") and Industrial User to refrain from specific action (i.e. stop a Prohibited Discharge). The civil suit for injunctive relief may be used when the User has shown that the appropriate measures necessary to achieve or maintain compliance are not likely to be undertaken, or when the danger presented by a Noncompliance does not allow lengthy negotiation of a settlement. Injunctive relief may require such actions as installation of facilities needed to come into compliance or cessation of Prohibited Discharges. Injunctive relief is a form of equitable relief, discussed below.

12. Court Action for Legal or Equitable Relief

The Authority can sue to recover damages caused by an IU or to require specific actions of an IU ("specific performance"). Equitable relief may be sought in addition to penalties. The Resolution does not itemize this option since it is a legal right to the Authority and does not need to be 'authorized: in a Resolution.

13. Civil Penalties

Civil penalties for violation of the LATA Resolution (or a Permit or schedule issued under the provisions of the Resolution) can be assessed for each violation. The Authority has the power to assess penalties under Pennsylvania Law (35 P.S. §752 et seq., enacted as Act 9 of 1992 - the Publicly Owned Treatment Works Penalty Law - hereinafter "Act 9"). The provisions of Act 9 require a number of administrative procedures be developed in order that it be invoked. The Authority has developed such procedures, including a Civil Penalty Assessment Policy, as required by §752.4(c).

14. Court Action Criminal Penalties

Criminal penalties can be sought against individuals who falsify records or interfere with sampling. Criminal penalties must be sought under the ordinances of the municipality in which the violation occurred, or under appropriate Pennsylvania State Law; criminal penalties specific to Pretreatment Program violations are not provided. This Plan provides for the initiation of criminal investigations, and the filing of criminal actions, where deemed appropriate by the Authority.

15. Referral to EPA and/or DEP

For any instance(s) of Noncompliance, the Authority, as it deems appropriate, may refer the case to DEP and/or EPA so as to subject the non-complying Industrial User to the penalties available to such agencies under applicable law. The Authority may join in the law suite or otherwise assist DEP and/or EPA, e.g., provide testimony. This option does not serve as a substitute for enforcement action by LATA; it provides an additional means of enforcement available when conditions warrant.

16. No Action Response

For some violations, appropriate response may be determined to be "no action necessary at this time". A decision by the Authority not to initiate an enforcement response for particular Industrial User violation(s) does not absolve the Industrial User from any liability or damages should the Authority, the contributing municipality, EPA, the Commonwealth, or any other person, as appropriate, seek to initiate an enforcement action for such, or any other, violation(s) by the Industrial User. The "No Action" response is not intended to allow the Authority to ignore violations or its obligation to investigate and respond to Noncompliance, but is an appropriate option available for selection when circumstances dictate.

VII. ENFORCEMENT RESPONSE GUIDELINES

1. Levels of Enforcement Action

The Authority Manager or Pretreatment Coordinator should evaluate Noncompliance to determine whether an enforcement response is appropriate and the severity of any enforcement response, if applicable. Factors which may be considered include severity of the Noncompliance; potential effects to the POTW, receiving stream, and public health/welfare; frequency or occurrence of similar or other types of Noncompliance; efforts of the User to mitigate the Noncompliance, prompt reporting of the Noncompliance and other positive efforts by the User; likelihood of success in initiating the enforcement response; potential counterclaims or cross-claims to be raised by the other parties; and such other factors as may be appropriate. The assistance of the Authority's Solicitor may be necessary when certain formal actions are contemplated or when significant legal issues appear to be involved. Based on the evaluation, the Authority Manager will recommend the appropriate enforcement response to the Board of the Authority for its action.

If an enforcement response is deemed appropriate, enforcement options include both informal and formal responses. These enforcement responses include, but are not necessarily limited to those discussed in section VI above. The appropriate enforcement response will depend upon the specifics of each case. Moreover, the identified enforcement responses are not mutually exclusive; the Authority may combine any enforcement responses provided for by law as it deems appropriate (Sec. 8).

Because various options may have differing effects on different IUs it is not possible to provide a definitive "ranking" of actions in terms of severity. For instance, public notice of a violation may have a greater impact on one IU than on another, while monetary penalties may be viewed as onerous by one IU and merely a "cost of business" by another. Therefore, enforcement escalation cannot be in some fixed order, but will be selected as appropriate to the situation. The enforcement responses listed below are in general order of increasing severity and are provided on the accompanying Table 1, Enforcement Response Guide using the indicated abbreviations.

1. No Action ("NA")
2. Phone Call ("PC")
3. Meeting ("MTG")
4. Increased Monitoring ("IM")
5. Notice of Violation (which may require a compliance schedule or other response) ("NOV")

6. Modification of the Industrial User Permit To Include Additional Monitoring, Reporting, Effluent Limitations or to Provide For Permit of Short Duration ("MOD")
7. Written Directions (which may contain a Compliance Schedule) ("WD")
8. Public Notice of User Noncompliance Beyond the Minimum Required by Federal Regulations; or Other Special Community Awareness Programs ("PUB")
9. Show Cause Hearing, (which may be followed by Written Directions) ("SCH")
10. Consent Order (which may contain a Compliance Schedule, penalties, or both) ("CO")
11. Suspension of Discharge Permit ("SUS")
12. Civil Suite for Injunctive or other Equitable Relief ("INJ")
13. Suite for Damages or Other Equitable Relief ("DAM")
14. Civil Penalties (may be assessed concurrently with other actions)("CIV")
15. Revocation of Discharge Permit (may involve severance or plugging of service lateral) ("REV")
16. Criminal Investigation ("CRIM")
17. Referral to EPA and/or DEP for Federal and/or State enforcement action ("REF")

2. The Enforcement Response Guide

A summary of response ranges to be considered for various levels of Noncompliance is included as the Enforcement Response Guide (ERG), Table 1, at the end of this document. The ERG compares the Noncompliance with the circumstances surrounding the violation, and suggests the appropriate response or range of responses available to the Authority. For clarity, Table 1 summarizes Noncompliance by the following categories:

1. Sampling, Monitoring, and Reporting Violations
2. Effluent Limit Violations
3. Compliance Schedule Violations
4. Failure to Comply with Enforcement Actions

Entries on Table 1 are briefly described below. Such description is intended for the clarification of the general nature of each listed Noncompliance and is not intended to be a complete or exhaustive recitation of all possible Noncompliance to which the indicated response is restricted.

A. *Sampling, Monitoring and Reporting Requirements*

- (1) The Wastewater Discharge Permit contains specific sampling and reporting requirements. These can include routine monitoring reports or special requirements. Certain other reports may be required by the Pretreatment Resolution.
- (2) If LATA requires additional sampling, monitoring or reporting in, e.g., written directions or a Notice of Violation, such requirements are enforceable.
- (3) Permittees are required to notify LATA within 24 hours of becoming aware of a violation of discharge limits (Sec. 6.15). Normally such information is obtained when laboratory test results are received, however other sources of information (e.g. flow meters) may also be relevant.
- (4) In the case that self-monitoring indicates an effluent limit violation, the user must resample for the parameter(s) in violation and report the results within 30 days (Sec. 6.15).
- (5) Users are required to notify LATA in advance of any anticipated changes in the volume or characteristics of industrial waste discharges, or provide notification of such changes immediately upon becoming aware of them if they are unplanned (Sec. 6.20).
- (6) Users must notify LATA immediately upon the occurrence of a Spill or Slug Load (Sec. 4.09) the terms are defined in the LATA Pretreatment Resolution.
- (7) Unless this requirement is specifically waived by LATA and User that experiences a Spill or Slug Load must file a written report on the incident within five days (Sec. 4.09).
- (8) Reports must be completed and include all required information and a signed certification of the accuracy and veracity of the report by the Authorized Representative (Sec. 6.13).
- (9) All valid data which the user obtains regarding its discharge must be accurately reported to LATA (Sec. 6.14).

- (10) Certain Categorical Industrial Users are required to submit Baseline Monitoring Reports and "90 Day" reports within certain time limits (Sec. 6.11 and 6.12).
- (11) This category includes typographical errors, mathematical errors, or other inadvertent omissions or errors in reports that do not affect the validity of reports.
- (12) Errors may be made in obtaining samples correctly, or in selecting the correct analytical procedure. This item is selected if the errors are minor and do not appear to have affected the validity of the results.
- (13) Samples must be obtained, preserved, transported and analyzed according to EPA criteria (Sec. 6.14 references 40 CFR Part 136). Deviations from these procedures may affect analytical results so that they become invalid.
- (14) The Wastewater Discharge Permit or instructions from LATA will indicate the number of samples per reporting period, frequency of sampling and the parameters that are to be analyzed.
- (15) All industrial users must provide adequate protection from the possibility of a Spill or Slug Load discharge. All Significant Industrial Users (those issued Wastewater Discharger Permits) must have a spill prevention control and countermeasure plan or demonstrate that such a plan is unnecessary. Those users that have developed such a plan must implement it (Sec. 4.09).
- (16) The discharge of any hazardous waste is prohibited and Federal regulations require that all Industrial Users that discharge substances that, if not discharged to the sewer would be considered a hazardous waste under 40 CFR Part 261, must notify the Authority, DEP and EPA of such discharge (40 CFR §403.12(p)).
- (17) Wastewater Discharge Permits are issued for a specific time, and each permittee must apply for renewal of the permit in a timely manner as specified in the permit (Sec. 6.08 and 6.09).

- (18) Permittees must allow LATA to inspect facilities, take samples, and inspect and copy records at any reasonable time. Permittees must take steps to insure the prompt admittance of LATA personnel for such activities. Facilities must be provided to allow taking wastewater samples (Sec. 6.16 and 6.17).
- (19) Because not all circumstances can be foreseen, this category provides for any violations of Wastewater Discharge Permit that are not otherwise addressed on the Enforcement Response Guide.

B. Effluent Limits Noncompliance

- (1) All Significant Industrial Users must obtain a Wastewater Discharge Permit prior to discharging Industrial Waste (these terms are defined in the LATA Pretreatment Resolution). LATA may condition or deny the right to discharge (Sec. 6.01 and 6.02).
- (2 & 3) Interim and/or final discharge limitations are contained in Wastewater Discharge Permits, or may be contained in written directions or special agreements between a User and LATA.
- (4) Best management Practices (BMPs) are schedules of activities, prohibitions or practices, maintenance procedures, and other management practices implemented to meet permit criteria and may include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal or drainage from raw materials.

C. Compliance Schedule Noncompliance

- (1) Compliance schedules issued by LATA or contained in Wastewater Discharge Permits may require reporting on progress at specified intervals or upon completion of specific tasks.
- (2) Compliance schedules may contain interim dates by which certain tasks must be completed in order to attain the final compliance date.
- (3) Compliance schedules may set a date by which compliance with Pretreatment Program requirements must be attained.

D. Failure to Comply with Enforcement Actions

- (1) Users that receive written directions (e.g., Notice of Violation, Special Agreement or Order) must comply with the requirements of the Authority's directions.
- (2) Users that are assessed Civil Penalties must pay the penalties by the due date (unless and appeal is timely filed).

3. Appropriate Response Ranges

The first step in selecting an enforcement action is to identify the category of violation on the Enforcement Response Guideline, as described above. The second step is to determine the severity of the violation. The Enforcement Response Guideline is subdivided into two ranges of response for each Itemized Noncompliance. These two ranges are captioned "Circumstances Constituting Infrequent, Non-routine or Isolated Violations", and "Circumstances Involving Frequent and/or Routine Violations or Results In Known Harm." The two ranges should not be interpreted to correspond to non-significant Noncompliance and Significant Noncompliance, respectively. The division emphasizes that *selection of an enforcement action should be according to degree of Noncompliance* in addition to type. In most cases, a Noncompliance or series of Noncompliance that constitute SNC will be enforced under the "Frequent and Routine" responses; however certain situations may contraindicate such an action.

Note that the two classes of severity are primarily defined by frequency rather than magnitude. Magnitude (i.e., the amount by which a Noncompliance exceeds the requirements) is normally addressed in the third step of enforcement action selection, discussed below. However, if the magnitude of an effluent limit Noncompliance is sufficient to cause harm (i.e., Pass Through, Interference, property damage or injury to persons) then the second class of enforcement responses is automatically selected as representing "Results in Known Harm". This allows a high magnitude of severity to override frequency considerations; an extreme violation of either frequency or magnitude is therefore addressed using the more stringent range of responses.

Necessarily, the terms "frequent" and "routine" are not narrowly defined for all cases. This is partly because the various required actions of an IU occur at various frequencies. For instance, self-monitoring reports may be required only twice a year, while during the same year an IU might conduct twelve sampling events. Two errors in sampling in two years would most likely not be considered "routine", while two missing semi-annual reports in the same time period may very well be so considered. SNC violations or effluent limits under either "chronic" or Technical Review Criteria, "TRC", criteria (see Part V above) provide two measures of frequency for effluent limits violations (i.e., 66% and 33% in a six month period, respectively); however such measures should not automatically be considered "frequent" or "routine" Noncompliance without further deliberation. The term "isolated" generally means a single Noncompliance, not recurring during a reporting period. However, even a single Noncompliance may in some situations constitute SNC. The selection of appropriate enforcement actions should take into consideration the facts of each situation, including the actual frequency and magnitude, not merely a technical finding that it constitutes or does not constitute an SNC. In support of this philosophy, a short description of the circumstances that constitute an "infrequent" or a "frequent and routine" violation is included on the Enforcement Response Guideline for each type of Noncompliance. In spite of some ambiguity, this method of constructing the Enforcement Response Guideline was chosen so as to emphasize the necessity of basing enforcement actions on relevant measures of frequency and magnitude of Noncompliance, rather than an arbitrary rule. While most substantive violations will also be SNC, SNC status in itself is not the determining factor for selecting enforcement actions. The only regulatory requirement regarding SNC is the requirement for annual publication of Significant Violators.

The third step in selecting an enforcement action is to assess the magnitude of the Noncompliance in order to select from the enforcement responses provided in a selection cell. The listing of enforcement actions in order of severity does not restrict LATA to use the first-listed action for a first violation, the second-listed action for a second, etc. Noncompliance that is of substantial magnitude will be addressed by more strict enforcement actions than those of lesser magnitude, regardless of the number of prior Noncompliance.

4. Prompt Response

Federal regulations (40 CFR §403.8.(f)(5)(ii)) require that an enforcement response plan "describe the types of escalating enforcement responses the POTW will take in response to all anticipated types of industrial user violations and the time periods within which responses will take place." The regulations do not specify a particular time period as acceptable; neither do they require that a fixed time be assigned to each response or that times be predicated for determining when a Noncompliance has occurred.

Generally, the time frame for responses will be based upon the nature of the violation and competing Pretreatment Program priorities. Violations which threaten human health, the POTW or the environment will be given the highest priority. As discussed above, Significant Industrial Users in Significant Noncompliance will be given the next highest priority when enforcement conflicts occur. Other Noncompliance and Noncompliance by non-SIUs will receive the lowest enforcement priority when priorities are necessary. Except as otherwise provided, an enforcement response will usually be initiated within 90 days of the Authority undertaking a review of an Industrial User file and determining that a Noncompliance has occurred. This, however, does not preclude the Authority from responding to a violation in a shorter period of time as it deems appropriate.

Obviously the Authority (i.e. the Authority Manager or Pretreatment Coordinator) must become aware of a violation before a response can be made. Therefore, this Plan provides for response time subsequent to learning of a violation through a report, inspection, or other means. Frequently, determination that a Noncompliance has occurred will be made within a few days of receipt of a report; in other cases, such a determination of SNC for effluent limits, determinations are made quarterly (see discussion under Section V.2.A above), and a Significant Noncompliance may not be detected until the quarterly review takes place. Some Noncompliance may be detected immediately upon observation, as may occur during an IU inspection. Therefore, the time period necessary for determination that a Noncompliance has occurred cannot be prescribed by this Plan.

This Plan is not intended to provide a fixed schedule for responding to all situations, because all circumstances cannot be foreseen. Although LATA will make every effort to initiate enforcement actions within the 90 day guideline provided above, the determination of a "reasonable time" in taking an enforcement action is subject to factors that may vary from case to case, and remains the prerogative of the Authority. Instances requiring the input of the Solicitor or other professional assistance, or other such time-consuming activities could be deemed good cause, and may significantly impact the time frame in which the Authority can reasonably be expected to initiate an enforcement response. Examples include, but are not limited to, consultation with EPA or where laboratory results are questionable and the laboratory's assistance is required to confirm the validity of data.

In developing this document, LATA has identified a broad range of enforcement options beyond the minimum required by Federal Regulation. The Authority's goal in implementing this Enforcement Response Plan is to work towards responding to instances of Industrial User Noncompliance in a manner similar to that undertaken by the Approval Authority (EPA) and the Commonwealth in implementing similar permit programs (e.g., NPDES). Such an approach will promote consistency with State and National Programs and provide the Authority with the opportunity to benefit from the experiences of its Federal and State partners in the implementation of its Pretreatment Program.

5. Response Management Guideline

Reasonable time frames for response and for compliance by Industrial Users will be established on a case-by case basis, as appropriate. Generally, if a simple verbal response is required, such as whether or not sampling was carried out, an immediate response will be expected. If a verbal or written response such as answering questions regarding production processes or laboratory procedures is requested, a time limit of 10 working days from receipt of the notification may be appropriate, unless the Authority determines that additional time is warranted. If development of a Compliance Schedule is being required, it is usually appropriate to provide the User at least 10 days to submit a written commitment to comply, if applicable, and at least 30 days for development and submission of the Schedule.

6. Compliance Monitoring

The Authority will monitor IU compliance with enforcement actions. If an IU fails to comply with the requirements set forth in an Authority enforcement action, or with other User commitments set forth in a User's response to a Authority enforcement action, was initiated, the Authority reserves its right to take additional enforcement actions based upon new violations, as well as the original violations. This includes escalation of enforcement where deemed necessary by the Authority.

User compliance with the requirements set forth in the Authority's enforcement action or with User commitments made in response to an Authority enforcement action shall not be defense (unless provided by State law) to any subsequent enforcement action which the Authority, subject to its exclusive discretion, may decide to commence. Nothing herein, however, shall be deemed to require the Authority to commence a subsequent enforcement action under such circumstances. Instances of intermittent Noncompliance with any Pretreatment Program requirements(s) or may be subject to escalated or initial enforcement responses, as deemed appropriate by the Authority.

TABLE 1
ENFORCEMENT RESPONSE GUIDE

A. SAMPLING, MONITORING AND REPORTING NONCOMPLIANCE				
NONCOMPLIANCE	CIRCUMSTANCES INVOLVING INFREQUENT, NON-ROUTINE OR ISOLATED VIOLATIONS	RANGE OF RESPONSE (see page vi for key to response codes)	CIRCUMSTANCES INVOLVING FREQUENT AND/OR ROUTINE VIOLATIONS OR RESULTS IN KNOWN HARM	RANGE OF RESPONSE
1. Failure to sample, monitor, or report as required by Permit or Ordinance (routine reports, BMRs etc.)	Infrequent, non-routine or isolated violations	NA, PC, MTG, IM, NOV, MOD, WD (which may establish a deadline for submitting information), SCH	Frequent and/or routine violations or results in injury, environmental or POTW damage.	MTG, IM, NOV, MOD, WD, PUB, SCH, CO, SUS, INJ, DAM, CIV, REV, REF
2. Failure to sample monitor or report as legally mandated by the Authority (Written Directions or compliance schedule requirements).	Infrequent, non-routine or isolated violations	NA, PC, MTG, IM, NOV, MOD, WD, SCH, PR	Repeated failure to comply with same order or results in injury, environmental or POTW damage.	IM, MOD, SCH, CO, SUS, INJ, DAM, CIV, REV, REF
3. Failure to notify of effluent violation detected through self-monitoring (24 hour report).	Infrequent, non-routine or isolated violations	NA, PC, MTG, NOV, MOD, WD (which may require re-sampling if not already scheduled by IU).	Frequent and/or routine violations.	MTG, NOV, MOD, WD, PUB, SCH, CO, SUS, CIV, REV, REI
4. Failure to resample and report within 30 days when violation detected through self-monitoring.	Infrequent, non-routine or isolated violations	NA, PC, MTG, IM, NOV, MOD, WD, (which may require re-sampling if not already scheduled by IU).	Frequent and/or routine violations or discharge results in injury, environmental or POTW damage.	IM, NOV, MOD, WD, PUB, SCH, CO, SUS, INJ, DAM, CIV, REV, REF

TABLE 1
ENFORCEMENT RESPONSE GUIDE
(Continued)

A. SAMPLING, MONITORING AND REPORTING NONCOMPLIANCE				
NONCOMPLIANCE	CIRCUMSTANCES INVOLVING INFREQUENT, NON-ROUTINE OR ISOLATED VIOLATIONS	RANGE OF RESPONSE (see page vi for key to response codes)	CIRCUMSTANCES INVOLVING FREQUENT AND/OR ROUTINE VIOLATIONS OR RESULTS IN KNOWN HARM	RANGE OF RESPONSE
5. Failure to notify of substantial change in Discharge (30 days in advance or as soon as known).	Infrequent, non-routine or isolated violations	NA, PC, MTG, IM, NOV, MOD, WD (which may require written plan to prevent future occurrence), SCH	Frequent and/or routine violations or discharge results in injury, environmental or POTW damage.	NOV, MOD, WD, PUB, SCH, CO, SUS, INJ, DAM, CIV, REV, REF
6. Failure to immediately notify of Spill or Slug Load	Infrequent, non-routine or isolated violations	NA, PC, MTG, NOV, MOD, WD (which may require corrective plan - SPCC Plan).	Frequent and/or routine violations or discharge results in injury, environmental or POTW damage, Pass Trough or Interference	NOV, MOD, WD, PUB, SCH, CO, SUS, INJ, DAM, CIV, REV, CRIM, REF
7. Failure to submit written report on Slug Load or Spill (when required).	Isolated, non-routine or infrequent events.	NA, PC, MTG, NOV, MOD, WD (may require report and plan to prevent recurrence), PUB.	Frequent and/or routine violations or results in injury, environmental or POTW damage.	MTG, NOV, MOD, WD, PUB, SCH, CO, SUS, INJ, DAM, CIV, REV, REF
8. Reports incomplete not signed or certified.	Isolated, non-routine or infrequent.	NA, PC, MTG, NOV (may return and require corrections), WD	Frequent and/or routine failure to complete, sign or certify reports.	MTG, NOV (may return and require corrections), WD, SCH, CO, SUS, INJ, CIV, REV, REF

TABLE 1
ENFORCEMENT RESPONSE GUIDE
(Continued)

A. SAMPLING, MONITORING AND REPORTING NONCOMPLIANCE				
NONCOMPLIANCE	CIRCUMSTANCES INVOLVING INFREQUENT, NON-ROUTINE OR ISOLATED VIOLATIONS	RANGE OF RESPONSE <i>(see page vi for key to response codes)</i>	CIRCUMSTANCES INVOLVING FREQUENT AND/OR ROUTINE VIOLATIONS OR RESULTS IN KNOWN HARM	RANGE OF RESPONSE
9. Information falsified - does not agree with laboratory reports.	Isolated, non-routine or infrequent and does not appear to be intentional falsification.	NA, PC, MTG or NOV to determine cause of false information; MOD, WD, SCH	Frequent and/or routine violations or evidence of intentional falsification is present.	MTG, NOV, MOD, WD, SCH, CO, SUS, INJ, CIV, REV, CRIM, REF
10. BMR or 90 day reports late.	Less than 30 days.	NA, PC, MTG, NOV, WD (establishing a deadline for submission of report), PUB.	30 days or more.	PC, MTG, NOV, MOD, WD, SCH, CO, SUS, CIV, REF
11. Minor monitoring or reporting deficiencies (e.g., sampling time not identified, typographical or mathematical errors, etc.)	Isolated, non-routine or infrequent events.	NA, PC, MTG, NOV, MOD, WD (may require corrections to be made on the next submittal).	Frequent and/or routine violations.	PC, MTG, NOV, MOD, WD (may require corrections to be made on the next submittal), PUB, SCH, SUS, CIV
12. Minor violations of analytical or sampling procedures. No significant affect on validity of test results.	Any instance	NA, PC, MTG, NOV MOD, WD, SCH (may require IU to submit written response describing corrective measures).	-----	-----

TABLE 1
ENFORCEMENT RESPONSE GUIDE
(Continued)

A. SAMPLING, MONITORING AND REPORTING NONCOMPLIANCE				
NONCOMPLIANCE	CIRCUMSTANCES INVOLVING INFREQUENT, NON-ROUTINE OR ISOLATED VIOLATIONS	RANGE OF RESPONSE (see page vi for key to response codes)	CIRCUMSTANCES INVOLVING FREQUENT AND/OR ROUTINE VIOLATIONS OR RESULTS IN KNOWN HARM	RANGE OF RESPONSE
13. Major violation of analytical or sampling procedures. Test results significantly affected.	Infrequent, non-routine or isolated violations, and no evidence of negligence or intent.	PC, MTG, NOV, MOD, WD, (May require IU to submit written plan for corrective measures and/or resample within specified time frame), SCH, CO, INJ, CIV, CRIM	Frequent and/or routine violations or evidence of negligence or intent.	MTG, NOV, MOD, WD, SCH, CO, SUS, INJ, DAM, CIV, REV, CRIM, REF
14. Sampling not complete, all parameters not analyzed, or not at proper frequency.	Isolated, non-routine or infrequent.	PC, MTG, IM, NOV, MOD, WD (which may require correction), PUB	Frequent and/or routine violations or results in injury, environmental or POTW damage.	MTG, IM, NOV, MOD, WD, PUB, SCH, CO, SUS, INJ, DAM, CIV, REV, REF
15. SIU SPCC plan not implemented or developed (if required).	No Spills or Slug Loads resulted.	PC, MTG, NOV, MOD, WD (may require written intent to comply, or submission or plan, within specified time frame), PUB, SCH, CO	Spills or Slug Loads occurred.	MTG, NOV, MOD, WD, SCH, CO, SUS, INJ, DM, CIV, REV, REF

TABLE 1
ENFORCEMENT RESPONSE GUIDE
(Continued)

A. SAMPLING, MONITORING AND REPORTING NONCOMPLIANCE				
NONCOMPLIANCE	CIRCUMSTANCES INVOLVING INFREQUENT, NON-ROUTINE OR ISOLATED VIOLATIONS	RANGE OF RESPONSE <i>(see page vi for key to response codes)</i>	CIRCUMSTANCES INVOLVING FREQUENT AND/OR ROUTINE VIOLATIONS OR RESULTS IN KNOWN HARM	RANGE OF RESPONSE
16. Hazardous waste Discharge – Discharge of any hazardous waste and not reporting as required by §403.12(p) and Resolution.	Minor quantity, infrequent, no Pass Through or Interference or User unaware of RCRA domestic sewage exclusive status of its waste.	PC, MTG, IM, NOV, MOD, WD	Pass Through or Interference results	MTG, IM, NOV, MOD, WD (may requiring report and corrective plan), SCH, CO, SUS, INJ, DAM, CIV, REV, CRIM, REF
17. Failure to apply for permit renewal.	Less than 30 days overdue.	PC, MTG, NOV, WD (requiring submission).	More than 30 days past due.	PC, MTG, NOV, WD (requiring submission), SCH, SUS, INJ, DAM, CIV, REV, REF
18. Denial of Entry to Inspector.	Not applicable.	-----	-----	PUB, SCH, CO, INJ (including a Court Order to gain immediate access to the User's property), CIV, REV, CRIM, REF

TABLE 1
 ENFORCEMENT RESPONSE GUIDE
 (Continued)

A. SAMPLING, MONITORING AND REPORTING NONCOMPLIANCE				
NONCOMPLIANCE	CIRCUMSTANCES INVOLVING INFREQUENT, NON-ROUTINE OR ISOLATED VIOLATIONS	RANGE OF RESPONSE (see page vi for key to response codes)	CIRCUMSTANCES INVOLVING FREQUENT AND/OR ROUTINE VIOLATIONS OR RESULTS IN KNOWN HARM	RANGE OF RESPONSE
19. Other violation of permit conditions not covered above.	Infrequent, non-routine or isolated violations.	NA, PC, MTG, IM, NOV, MOD, WD (may require written response and/or corrective plan within specified time period), PUB, SCH, CO, INJ, PR, DAM, CIV, CRIM, REF	Frequent and/or routine violations, results in injury or environmental or POTW damage.	MTG, IM, NOV, MOD, WD, PUB, SCH, CO, SUS, INJ, DAM, CIV, REV, CRIM, REF

TABLE 1
ENFORCEMENT RESPONSE GUIDE
(Continued)

B. EFFLUENT LIMITS NONCOMPLIANCE				
NONCOMPLIANCE	CIRCUMSTANCES INVOLVING INFREQUENT, NON-ROUTINE OR ISOLATED VIOLATIONS	RANGE OF RESPONSE <i>(see page vi for key to response codes)</i>	CIRCUMSTANCES INVOLVING FREQUENT AND/OR ROUTINE VIOLATIONS OR RESULTS IN KNOWN HARM	RANGE OF RESPONSE
1. Discharge without a Permit by an SIU; or Discharge by a non-SIU after notification by Authority that Discharge is prohibited.	Isolated, non-routine or infrequent events without known environmental or POTW damage.	PC, MTG, NOV, WD or SCH (to require IU to make proper application for Permit), CO, INJ, CIV, disconnect from sewer system.	Failure to apply for Permit (or Permit renewal) after notification from the Authority; or Noncompliance results in injury, environmental or POTW damage.	WD, PUB, SCH, CO, INJ, DAM, CIV, disconnect from sewer system, CRIM, REF
2. Exceeding final limit (Categorical, Local Limit, or Prohibited) or Discharge of a Slug Load or Spill (even if properly reported).	Infrequent, non-routine or isolated violations.	NA, PC, MTG, IM, NOV (may require IU to submit a report showing cause(s) of Noncompliance, and provide a corrective action plan), MOD, WD, PUB, SCH, CO, SUS, CIV	Frequent and/or routine violations, meets standards of Significant Noncompliance or results in injury, environmental or POTW damage.	NOV, MOD, WD, PUB, SCH, CO, SUS, INJ, DAM, CIV, REV, CRIM, REF

TABLE 1
ENFORCEMENT RESPONSE GUIDE
(Continued)

B. EFFLUENT LIMITS NONCOMPLIANCE				
NONCOMPLIANCE	CIRCUMSTANCES INVOLVING INFREQUENT, NON-ROUTINE OR ISOLATED VIOLATIONS	RANGE OF RESPONSE <i>(see page vi for key to response codes)</i>	CIRCUMSTANCES INVOLVING FREQUENT AND/OR ROUTINE VIOLATIONS OR RESULTS IN KNOWN HARM	RANGE OF RESPONSE
3. Exceeding interim limits (Categorical or local).	Infrequent, non-routine or isolated violations.	NA, PC, MTC, IM, NOV (may require IU to submit a report showing cause(s) of Noncompliance, and provide a corrective action plan), MOD, WD, PUB, SCH, CO, SUS, CIV	Frequent and/or routine violations, meets standards of Significant Noncompliance, or results in injury, environmental or POTW damage.	NOV, MOD, WD, PUB, SCH, CO, SUS, INJ, DAM, CIV, REV, REF
4. Failure to apply Best Management Practices (BMPs) to implement listed prohibitions	Infrequent, non-routine or isolated violations.	NA, PC, MTC, IM, NOV (may require IU to submit a report showing cause(s) of Noncompliance, and provide a corrective action plan), MOD, WD, PUB, SCH, CO, SUS, CIV	Frequent and/or routine violations, meets standards of Significant Noncompliance, or results in injury, environmental or POTW damage.	NOV, MOD, WD, PUB, SCH, CO, SUS, INJ, DAM, CIV, REV, REF, CRIM

TABLE 1
ENFORCEMENT RESPONSE GUIDE
(Continued)

C. COMPLIANCE SCHEDULE NONCOMPLIANCE				
NONCOMPLIANCE	CIRCUMSTANCES INVOLVING INFREQUENT, NON-ROUTINE OR ISOLATED VIOLATIONS	RANGE OF RESPONSE (see page vi for key to response codes)	CIRCUMSTANCES INVOLVING FREQUENT AND/OR ROUTINE VIOLATIONS OR RESULTS IN KNOWN HARM	RANGE OF RESPONSE
1. Reporting false information regarding compliance schedule progress.	Isolated, non-routine or infrequent and does not appear to be intentional falsification.	NA, PC, MTG, IM, NOV, MOD, WD, SCH	Frequent and/or routine violations or evidence of intentional falsification is present.	MTG, IM, NOV, MOD, WD, SCH, CO, SUS, DAM, CIV, REV, CRIM, REF.
2. Missed interim date(s) (includes, e.g., failure to undertake planning, order necessary equipment, install equipment or meeting interim limits).	Good cause existed for missing interim date (e.g., force majeure) or is not expected to affect final date.	NA, PC, MTG, NOV, MOD, WD, (which may require IU to submit revised compliance schedule).	No good cause existed and is expected to affect compliance with final date.	NOV, MOD, WD, PUB, SCH, CO, SUS, INJ, DAM, CIV, REV, CRIM
3. Missed final date. (includes, e.g., failure to install or operate Pretreatment facilities, institute management plan, etc.).	Good excuse for missing interim date (e.g., force majeure)	NA, PC, MTG, NOV, MOD, WD, (which may require IU to submit revised compliance schedule).	-----	-----

TABLE 1
ENFORCEMENT RESPONSE GUIDE
(Continued)

C. COMPLIANCE SCHEDULE NONCOMPLIANCE				
NONCOMPLIANCE	CIRCUMSTANCES INVOLVING INFREQUENT, NON-ROUTINE OR ISOLATED VIOLATIONS	RANGE OF RESPONSE (see page vi for key to response codes)	CIRCUMSTANCES INVOLVING FREQUENT AND/OR ROUTINE VIOLATIONS OR RESULTS IN KNOWN HARM	RANGE OF RESPONSE
4. Missed final date. (includes, e.g., failure to install or operate Pretreatment facilities, institute management plan, etc.).	No good cause existed and is less than 90 days.	PC, MTC, NOV, MOD, WD (which may require IU to submit revised compliance schedule), PUB, SCH, CO, INJ, DAM, CIV, CRIM	No good cause existed and is 90 days or more outstanding.	NOV, WD, PUB, SCH, CO, SUS, INJ, DAM, CIV, RIV, CRIM, REF

TABLE 1
ENFORCEMENT RESPONSE GUIDE
(Continued)

D. FAILURE TO COMPLY WITH ENFORCEMENT ACTIONS				
NONCOMPLIANCE	CIRCUMSTANCES INVOLVING INFREQUENT, NON-ROUTINE OR ISOLATED VIOLATIONS	RANGE OF RESPONSE (see page vi for key to response codes)	CIRCUMSTANCES INVOLVING FREQUENT AND/OR ROUTINE VIOLATIONS OR RESULTS IN KNOWN HARM	RANGE OF RESPONSE
1. Failure to respond to NOV or other directions as required.	Infrequent or isolated occurrence.	MTG, NOV, MOD, WD, PUB, SCH, CO, SUS, INJ, CIV	Frequent or routine violation, or nature of Noncompliance for which action was taken was serious.	PUB, SCH, CO, SUS, INJ, CIV, REV, CRIM, REF
2. Failure to pay civil penalty.	Infrequent or isolated occurrence.	MTG, PUB, SCH, CO, SUS, INJ, DAM, CIV, REV, CRIM, REF	More than one occurrence in any period of time.	CO, SUS, INJ, DAM, CIV, REV, CRIM, REF

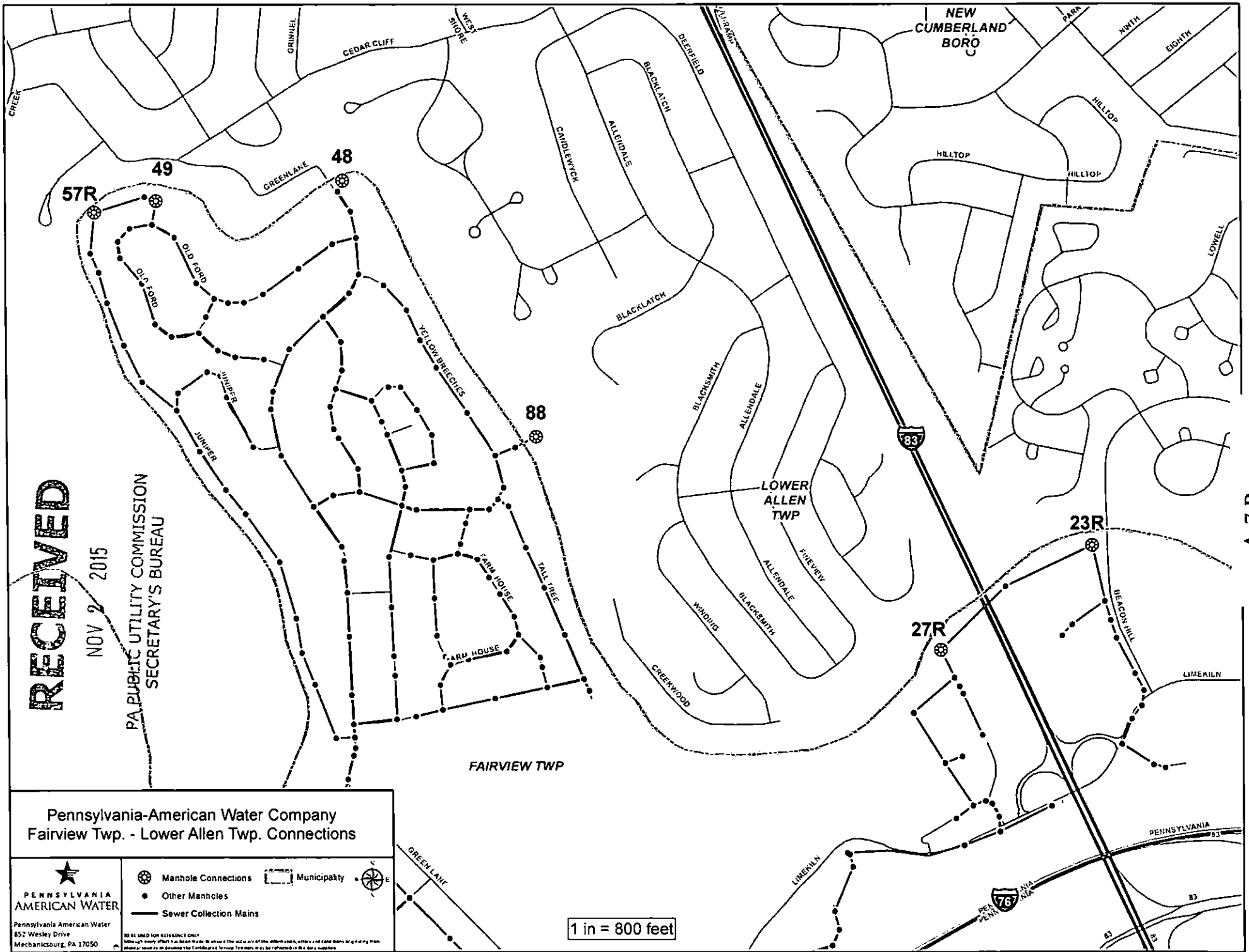
Key To Enforcement Action Codes:

NA - No Action deemed necessary; PC - Phone Call; MTG - Meeting; IM - Increased Monitoring; NOV - Notice of Violation (which may require a compliance schedule or other response); MOD - Modification of the Industrial User Permit To Include Additional Monitoring, Reporting, Effluent Limitations or to Provide For Permit of Short Duration; WD - Written Directions (which may contain a Compliance Schedule); PUB - Public Notice of User Noncompliance Beyond the Minimum Required by Federal Regulations, or Other Special Community Awareness Programs; SCH - Show Cause Hearing (which may be followed by Written Directions); CO - Consent Order (which may contain a Compliance Schedule, penalties, or both); SUS - Suspension of Discharge Permit; INJ - Civil Suite for Injunctive or other Equitable Relief; DAM - Suite for Damages or Other Equitable Relief; CIV - Civil Penalties (may be assessed concurrently with other actions); REV - Revocation of Permit (may include physical disconnection from Sewer System); CRIM - Criminal Investigation; REF - Referral to EPA and/or DEP for Federal and/or State enforcement action.

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
NOV 2 2015

PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU



Pennsylvania-American Water Company
Fairview Twp. - Lower Allen Twp. Connections


**PENNSYLVANIA
 AMERICAN WATER**
 Pennsylvania American Water
 852 Wesley Drive
 Mechanicsburg, PA 17050

-  Manhole Connections
-  Other Manholes
-  Sewer Collection Mains
-  Municipality



1 in = 800 feet

A-7 Response

Invoice #	Check #	Date	Amount	Yearly Total
3490-11 ; 3488-11 MULT	48035	02/11/2011	\$ 140,867.65	
3511-11 ; 3513-11 MULT	48757	05/20/2011	\$ 51,630.90	
3530-11 MULT	49208	07/29/2011	\$ 15,989.95	
3533-11	49289	08/12/2011	\$ 17,728.24	
3549-11	49729	10/21/2011	\$ 8,372.10	
3553-11	49821	11/04/2011	\$ 17,728.24	\$ 252,317.08

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NOV 2 2015
PA PUBLIC UTILITY COMMISSION
SECRETARY'S BUREAU

Invoice #	Check #	Date	Amount	Yearly Total
3572-12	50598	02/10/2012	\$ 25,258.60	
3577-12	50699	02/24/2012	\$ 4,361.30	
3585-12	50790	03/09/2012	\$ 20,992.39	
3593-12	51061	04/20/2012	\$ 20,190.32	
3601-12	51156	05/04/2012	\$ 24,351.45	
3603-12	51241	05/17/2012	\$ 33,993.55	
3616-12	51380	06/14/2012	\$ 50,074.84	
3621-12	51582	07/13/2012	\$ 55,242.99	
3630-12 MULT	51739	08/10/2012	\$ 83,319.04	
3640-12	51991	09/21/2012	\$ 22,844.06	
3646-12	52197	10/19/2012	\$ 107,309.51	
3650-12 ; 3653-12 MULT	52372	11/16/2012	\$ 95,417.11	
3661-12	52520	12/14/2012	\$ 107,638.14	\$ 650,993.30

Invoice #	Check #	Date	Amount	Yearly Total
3667-13	52688	01/11/2013	\$ 60,770.80	
3672-13	52866	02/08/2013	\$ 24,353.57	
3675-13	52964	02/22/2013	\$ 66,151.03	
3680-13	53149	03/22/2013	\$ 37,930.77	
3687-13	53338	04/19/2013	\$ 37,419.84	
3693-13	53429	05/03/2013	\$ 41,956.03	
3697-13	53528	05/17/2013	\$ 36,419.73	
3703-13	53694	06/14/2013	\$ 57,512.83	
3712-13	53963	07/19/2013	\$ 40,887.11	
3716-13; 3717-13	MULT	54083	08/09/2013	\$ 88,707.08
3725-13	54364	09/20/2013	\$ 32,861.30	
3733-13	54559	10/18/2013	\$ 13,964.91	
3739-13	54732	11/15/2013	\$ 41,956.03	
3746-13	54898	12/12/2013	\$ 11,067.63	\$ 591,958.66

Invoice #	Check #	Date	Amount	Yearly Total
3758-14	55255	02/07/2014	\$ 32,894.41	
3759-14	55341	02/18/2014	\$ 8,824.84	
3765-14	55546	03/21/2014	\$ 2,836.51	
3771-14 ; 3777-14 MULT	55727	04/17/2014	\$ 28,265.62	
3785-14	56091	06/13/2014	\$ 7,526.74	
3792-14	56455	08/08/2014	\$ 27,019.46	
3798-14	56537	08/22/2014	\$ 3,306.63	
3806-14	57111	11/14/2014	\$ 27,019.46	\$ 137,693.67

Invoice #	Check #	Date	Amount	Yearly Total
3817-15	57516	01/23/2015	\$ 729.42	
3823-15	57668	02/20/2015	\$ 28,329.76	
3832-15	58102	05/01/2015	\$ 36,389.92	
3838-15 3839-15 MULT	58373	06/12/2015	\$ 72,779.84	\$ 138,228.94
			<u>\$1,771,191.65</u>	<u>\$1,771,191.65</u>

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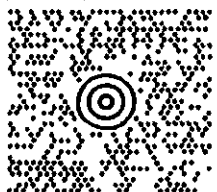
BOBBI GAITSCH
717-531-3212
PA AW - HERSHEY
800 W HERSHEY PARK DR
HERSHEY PA 17033

2 LBS

1 OF 1

SHIP TO:

SECRETARY'S BUREAU
PENNSYLVANIA PUBLIC UTILITY COMMISS
P.O. BOX 3265
400 NORTH STREET
COMMONWEALTH KEYSTONE BUILDING
HARRISBURG PA 17120-0200

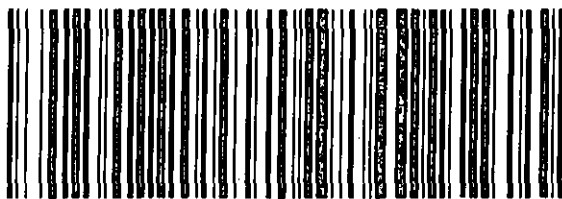


PA 171 9-20



UPS GROUND

TRACKING #: 1Z 172 3E2 03 9277 5753



BILLING: P/P



CMPC

To: PUC SECRETARY BUREAU

Agency PUC

Floor:

External Carrier: UPS GROUND

11/3/2015 9:47:36 AM



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