

**ORDINANCE NO. 508**

**EAST NORRITON TOWNSHIP**

**MONTGOMERY COUNTY, PENNSYLVANIA**

**AN ORDINANCE AMENDING THE CODE OF EAST NORRITON TOWNSHIP, SPECIFICALLY CHAPTER 162, SEWERS, PROVIDING FOR UNIFORM REQUIREMENTS FOR DIRECT AND INDIRECT CONTRIBUTIONS INTO THE WASTEWATER COLLECTION SYSTEM, TO EFFECT COMPLIANCE WITH APPLICABLE STATE AND FEDERAL LAWS CONCERNING DISCHARGES OF WASTEWATER AND POLLUTANTS INTO THE SEWER SYSTEM PROVIDING FOR WASTEWATER DISCHARGE PERMITS, AND PROVIDING FOR PENALTIES FOR VIOLATION OF PROVISIONS OF THE ORDINANCE.**

**BY THE BOARD OF SUPERVISORS OF EAST NORRITON TOWNSHIP, MONTGOMERY COUNTY, PENNSYLVANIA UNDER AND BY VIRTUE OF AUTHORITY GRANTED BY THE SECOND CLASS TOWNSHIP CODE DOES HEREBY ENACT AND ORDAIN:**

**SECTION I.**

The Code of East Norriton Township, Chapter 162, Sewers, is hereby amended to add the following:

**ARTICLE V  
Wastewater Collection System**

**§ 162-46. Purpose; objectives.**

- A. This Ordinance sets uniform requirements for direct and indirect contributors from East Norriton Township (“Township”) into the wastewater collection system of the East Norriton-Plymouth-Whitpain Joint Sewer Authority (“Joint Sewer Authority”) and enables the Joint Sewer Authority to comply with all 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, as amended).
- B. The objectives of this Ordinance are:
  - (1) To prevent the introduction of pollutants into the Joint Sewer Authority’s wastewater collection system (“POTW”) which will interfere with the operation of the system or contaminate the resulting sludge at the POTW servicing the Township.

- (2) To prevent the introduction of pollutants into the POTW which will pass through the system inadequately treated into receiving waters or the atmosphere or otherwise be incompatible with the system.
- (3) To improve opportunity to recycle and reclaim wastewaters and sludges from the system.
- (4) To provide for equitable distribution of the cost of operating the wastewater collection system.
- (5) To protect the general public, and treatment works personnel who may be affected by wastewater and sludge in the course of their employment.
- (6) To enable the Joint Sewer Authority to comply with its National Pollution Discharge Elimination System ("NPDES") permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the POTW is subject; and, to empower the POTW to enforce penalties against violators as required by its Enforcement Response Guide and by Federal and State law.

C. This Ordinance provides for the regulations of direct and indirect contributors to the POTW through the issuance of permits to certain non-domestic Users, and through enforcement of general requirements for the other Users; authorizes monitoring and enforcement activities; requires User reporting; assumes that existing customer's capacity will not be preempted; and, provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

**§ 162-47. Applicability; administrative officer.**

This Ordinance shall apply to the Township and to persons outside the Township who are Users or Significant Users of the Township's collection systems and the POTW. Except as otherwise provided herein, the Joint Sewer Authority, with notification to the Township, shall administer, implement, and enforce the provisions of this Ordinance.

**§ 162-48. Definitions; abbreviations; word usage.**

A. Unless the context specifically indicates otherwise, the following terms and phrases as used in this Ordinance shall have the meanings hereinafter designated:

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.

APPROVAL AUTHORITY - The Regional Administrator of EPA, Region III.

AUTHORIZED REPRESENTATIVE OF INDUSTRIAL, COMMERCIAL, INSTITUTIONAL, OR SIGNIFICANT INDUSTRIAL 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 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 facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- (4) The individuals described in paragraphs (1) through (3), above, may designate another authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Joint Sewer Authority.

BEST MANAGEMENT PRACTICES (BMPS) - Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 162-49 A 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. BMPs also include alternative means (i.e., management plans) of complying with, or in place of certain established categorical Pretreatment Standards and effluent limits.

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 degrees centigrade, expressed in terms of weight and concentration (milligrams per liter (mg/L)).

BUILDING SEWER - A sewer conveying wastewater from the premises of a User to the POTW.

**CATEGORICAL STANDARDS or CATEGORICAL PRETREATMENT STANDARDS** - Any regulation, heretofore or hereafter adopted by the United States Environmental Protection Agency, being any regulation containing pollutant discharge limits promulgated by EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. §1317) that apply to a specific category of Users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

**COOLING WATER** - The water discharged from any use, such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.

**DAILY MAXIMUM** - The arithmetic average of all effluent samples for a pollutant collected during a calendar day.

**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.

**DIRECT DISCHARGE** - The discharge of treated or untreated wastewater directly to the waters of the Commonwealth of Pennsylvania.

**ENVIRONMENTAL PROTECTION AGENCY (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.

**EXISTING SOURCE** - Any source of discharge that is not a "New Source."

**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.

**INDIRECT DISCHARGE OR DISCHARGE** - The discharge or the introduction of pollutants into the collection system from any nondomestic source.

**INDUSTRIAL, COMMERCIAL OR INSTITUTIONAL USER** - An industrial, commercial or institutional source of indirect discharge.

**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.

**INDUSTRIAL WASTE** - Shall have the meaning ascribed to it in the Act of June 22, 1937 (P.L. 1987, No. 394) known as the Clean Stream Law and the regulations adopted thereunder.

**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 POTW'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.

LOCAL LIMIT - Specific discharge limits developed and enforced by the Joint Sewer Authority upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

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.

MONTHLY AVERAGE - The sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

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.

NATIONAL CATEGORICAL PRETREATMENT STANDARD - Any regulation hereto or hereafter adopted by the United States Environmental Protection Agency containing any pollutant discharge limits heretofore or hereafter promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. Section 1317) which applies to a specific category of Industrial Users, as set forth in 40 CFR Chapter 1, Subchapter N.

NATIONAL POLLUTION DISCHARGE ELIMINATION SYSTEM OR NPDES PERMIT - A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

NATIONAL PROHIBITIVE DISCHARGE STANDARD OR PROHIBITIVE DISCHARGE STANDARD - Any regulation developed under the authority of 307(b) of the Act 40 CFR Section 403.5.

NEW SOURCE -

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

- (a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
  - (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  - (c) The production or wastewater generating process 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 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 on-site construction program
    - [1] if any placement, assembly, or installation of facilities or equipment; or
    - [2] 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.

NON-CONTACT COOLING WATER - Water used for cooling which does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

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 POTW's NPDES permit, including an increase in the magnitude of duration of violation.

PERSON - Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity, 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.

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

POLLUTANT - Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, municipal, agricultural, and industrial wastes, and certain characteristics of wastewater (e.g., temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

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.

PRETREATMENT REQUIREMENTS - Any substantive or procedural requirement related to pretreatment imposed on a User, other than a Pretreatment Standard.

PRETREATMENT STANDARDS OR STANDARDS - Pretreatment Standards shall mean prohibited discharge standards, categorical Pretreatment Standards, and Local Limits.

PROHIBITED DISCHARGE STANDARDS OR PROHIBITED DISCHARGES - Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Section 162-49 of this Ordinance.

PUBLICLY OWNED TREATMENT WORKS (POTW) - A "treatment works", as defined by Section 212 of the Act (33 U.S.C. 1292) which is owned by the Joint Sewer 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 the treatment plant.

SEPTIC TANK WASTE - Any sewage from holding tanks such as vessels, chemical toilets, campers, trailers, and septic tanks.

SEWAGE - Human excrement and gray water (household showers, dishwashing operations, etc.).

SIGNIFICANT INDUSTRIAL USER -

(1) Except as provided in subparagraph (b) of this subparagraph,

(a) All Industrial Users subject to categorical Pretreatment Standards; or

- (b) Any other Industrial User that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, non-contract cooling and boiler blow down wastewater); contributes a process waste stream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the Joint Sewer 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.
- (2) Upon finding that an Industrial User meeting the criteria in subparagraph (a) above has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the POTW may at any time, on its own initiative or in response to a petition received from a User, and in accordance with 40 CFR 403.8(f)(6), determine that such Industrial User is not a Significant Industrial User.

SIGNIFICANT NONCOMPLIANCE - An Industrial User is in significant noncompliance if its violation meets one or more of the specific criteria set forth in 40 CFR 403.8(f)(2)(viii). For purposes of this definition, an Industrial User is in significant noncompliance if its violation meets one or more of the following criteria:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all of the measurements taken for the same pollutant parameter taken during a six-month (6) period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Section 162-48;
- (2) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent 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 162-48 multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- (3) Any other violation of a Pretreatment Standard or Requirement as defined by Section 162-48 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Joint Sewer 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;
- (4) Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment or has resulted in the Joint Sewer Authority's exercise of its emergency authority under of this Ordinance to halt or prevent such a discharge;
- (5) Failure to meet, within ninety (90) days after the schedule date, a compliance schedule milestone contained in this Ordinance, a wastewater discharge permit or in an enforcement order.

- (6) Failure to provide, within **forty five (45)** days after the due date, required reports such as baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report non-compliance;
- (8) Any other violation or group of violations that may include a violation of BMPs, which the Joint Sewer Authority determines will adversely effect the operation or implementation of the local pretreatment program.

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 162-49 of this Ordinance. A Slug Discharge is any Discharge of a non-routine, episodic nature, including but not limited to an accidental spill or a non-customary batch Discharge, which has a reasonable potential to cause Interference or Pass Through, or in any other way violate the Joint Sewer Authority's and/or POTW's regulations, Local Limits or Permit conditions.

STANDARD INDUSTRIAL CLASSIFICATION (SIC) - A Classification pursuant to the Standard Industrial Classification Manual issued by the United States Office of Management and Budget.

STATE - Commonwealth of Pennsylvania.

STORM WATER - Any flow occurring during or following any form of natural precipitation, and resulting from such precipitation, including snowmelt.

SUPERINTENDENT - The person designated by the POTW to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this Ordinance, or a duly authorized representative.

TOTAL SUSPENDED SOLIDS OR 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.

TOXIC POLLUTANT - Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the EPA under the provision of CWA 307(a) or other acts.

USER or INDUSTRIAL USER - A source of indirect discharge.

WASTEWATER - Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, together with any groundwater, surface water, and storm water that may be present, whether treated or untreated which is contributed into or permitted to enter the POTW.

B. Abbreviations. 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

**§ 162-49. Prohibited discharge standards.**

- A. General Prohibitions. No User shall introduce or cause to be introduced into the POTW any pollutants 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 person 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 one-half inch 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, petroleum products (including plastics, gasoline, tar, asphalt residues, residues from refining or processing of fuel or lubricating oil), mud, glass grinding, or polishing wastes;

- (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW;
- (5) Wastewater having a temperature greater than 120 degrees F (49 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 Superintendent in accordance with Section 162-50 D of this Ordinance;
- (9) Noxious or malodorous liquids (including automobile antifreeze), 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 POTW's NPDES permit;
- (11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations and the requirements of the Joint Sewer Authority;
- (12) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, non-contact cooling water, and unpolluted wastewater, unless specifically authorized by the Joint Sewer Authority;
- (13) Sludges, screenings, or other residues from the pretreatment of industrial wastes;
- (14) Medical wastes, except as specifically authorized by the POTW in a wastewater discharge permit;
- (15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test or caused non-compliance with sludge disposal requirements;

- (16) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
- (17) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 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%);
- (19) The discharge of toxic or hazardous wastes, as defined in the Act or in RCRA.

C. 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.

#### **§ 162-49.1. National categorical pretreatment standards.**

The categorical Pretreatment Standards now found or hereafter found at 40 CFR Chapter I, Subchapter N, are hereby incorporated in this article by reference as though set forth in full and shall apply to Users, including categorical Industrial Users, pursuant to the definitions set forth in this Ordinance and as set forth in the Ordinance.

- A. Where a categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Joint Sewer Authority may impose equivalent concentration or mass limits in accordance with Section 162-49.1 E and F.
- B. When the limits in a categorical Pretreatment Standard are expressed only in terms of mass of pollutant per unit of production, the Superintendent may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual Industrial Users.
- C. When wastewater subject to a categorical Pretreatment Standard is mixed with wastewater not regulated by the same Standard, the Joint Sewer Authority shall impose an alternate limit using the combined waste stream formula in 40 CFR 403.6(e).
- D. A User may obtain a net/gross adjustment to a categorical Pretreatment Standard in accordance with the following paragraphs of this Section:
  - (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 Joint Sewer 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 should not be granted unless the Industrial User demonstrates that the constituents of the general 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 Joint Sewer 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 Joint Sewer Authority convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the Joint Sewer Authority. The Joint Sewer Authority may establish equivalent mass limits only if the Industrial User meets all the conditions set forth in Sections 162-49.1 E(1)(a) through 162-49.1 (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 wastestreams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions;
- d. Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the Discharge; and

- e. Have consistently complied with all applicable categorical Pretreatment Standards during the period prior to the Industrial User's request for equivalent mass limits.

(2) An Industrial User subject to equivalent mass limits must:

- a. Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits.
- b. Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;
- c. Continue to record the facility's production rates and notify the Joint Sewer Authority whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in paragraph E(1)(c) of this Section. Upon notification of a revised production rate, the Joint Sewer 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 paragraph E(1)(a) of this Section so long as it discharges under an equivalent mass limit.

(3) When developing equivalent mass limits, the Joint Sewer 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 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 162-49.5. The Industrial User must also be in compliance with Section 162-59 C regarding the prohibition of bypass.

- F. The Joint Sewer 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. The conversion is at the discretion of the Joint Sewer Authority.
- G. Once included in its permit, the Industrial User must comply with the equivalent limitations developed in this Section 162-49.1 in lieu of the promulgated categorical Standards from which the equivalent limitations were derived.
- 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.

- I. Any Industrial User operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based Standard shall notify the Joint Sewer 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 Joint Sewer 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.
- J. A User may obtain a variance from a categorical Pretreatment Standard if the User 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.

**§ 162-49.2. State pretreatment standards.**

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.

**§ 162-49.3. Local limits.**

- A. The Joint Sewer Authority is authorized to establish Local Limits pursuant to 40 CFR 403.5(c). The following pollutant limits are established to protect against Pass through and Interference. No person shall discharge wastewater containing in excess of the following Daily Maximum Limit:

<u>TOXIC POLLUTANTS</u>	<u>mg/L</u>
Arsenic	1.165
Cadmium	0.107
Chromium (Total)	0.260
Copper	5.558
Cyanide	2.328
Lead	0.969
Mercury	0.008
Molybdenum	0.418
Nickel	2.046
Selenium	11.699
Silver	7.098
Zinc	2.800
BOD <sub>5</sub>	250
Suspended Solids	250
Ammonia Nitrogen	25
Total Kejdahl Nitrogen	40

The above limits apply at the point where the wastewater is discharged to the POTW, which for purposes of this Ordinance includes all points within and throughout the distribution system. All concentrations for metallic substances are for "total" metal unless indicated otherwise. The Joint Sewer Authority may impose mass limitations in addition to, or in place of, the concentration-based limitations above.

- B. The Joint Sewer Authority reserves the right to establish alternate local limits Industrial User Discharge Permits, but only in accordance with regulatory requirements. At no time will the summation of the Industrial Users' discharges be greater than the allowable industrial headworks loading as determined in the most recent local limits evaluation approved by the Approval Authority.

The Joint Sewer Authority may develop Best Management Practices (BMPs), by ordinance, resolution or in wastewater discharge permits to implement Local Limits and the requirements of Section 162.49.

#### **§ 162-49.4. Township's right of revision.**

The Township reserves the right to establish, by Ordinance, more stringent standards or requirements on discharges to the POTW.

#### **§ 162-49.5. 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 Joint Sewer 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.

#### **§ 162-49.6. 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 to the Joint Sewer Authority for review, and shall be approved by the Joint Sewer Authority before construction of the facility. No user shall be permitted to introduce pollutants into the system until accidental discharge procedures have been approved by the Joint Sewer Authority. Review and approval of such plans and operating procedures shall not relieve the Industrial User from the responsibility to modify the 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 notify the Joint Sewer Authority of the incident. The notification shall include location of discharge, type of waste, concentration and volume, and corrective actions

**§ 162-49.7. Written notice.**

Within twenty-four (24) hours following an accidental discharge, the User shall notify the Joint Sewer Authority and within five (5) days following an accidental discharge, the User shall submit to the Joint Sewer Authority 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 POTW, 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 article or other applicable law.

**§ 162-49.8. 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 an accidental discharge. Employers shall insure that all employees who may cause or suffer such an accidental discharge to occur are advised of the emergency notification procedures.

**§ 162-50. Pretreatment of wastewater.**

A. Pretreatment facilities.

Users shall provide wastewater treatment as necessary to comply with this Ordinance and shall comply with all categorical Pretreatment Standards, Local Limits, and the prohibitions set out in Section 162-49 of this Ordinance within the time limitations specified by EPA, the State, or the Joint Sewer 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 Joint Sewer Authority for review, and shall be acceptable to the Joint Sewer Authority 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 Joint Sewer Authority under the provisions of this Ordinance.

B. Additional pretreatment measures.

- (1) Whenever deemed necessary, the Joint Sewer 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 wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the User's compliance with the requirements of this Ordinance.
- (2) The Joint Sewer 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. A Wastewater Discharge Permit may be issued solely for flow equalization.

- (3) Grease, oil, and sand interceptors shall be provided when, in the opinion of the Joint Sewer 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 unless a residential User who is contributing excessive amounts of grease, oil, or sand has first been given the opportunity to reduce the discharge by other means. All interception units shall be of type and capacity approved by the Joint Sewer Authority and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the User at their expense, in accordance with any procedure for the installation and maintenance of grease traps as may be established from time to time by the Joint Sewer Authority.
- (4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

C. Accidental discharge/slug control plans.

At least once every two (2) years, the Joint Sewer Authority shall evaluate whether each Significant Industrial User needs an accidental discharge/slug control plan. The Joint Sewer Authority may require any User to develop, submit for approval, and implement such a plan. Alternatively, the Joint Sewer Authority may develop such a plan for any User. An accidental discharge/slug control plan shall address, at a minimum, the following:

- (1) Description of discharge practices, including non-routine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the Joint Sewer Authority of any accidental or slug discharge, as required by Section 162-53 F of this Ordinance; and
- (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff (i.e., a spill prevention plan), worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

D. Hauled wastewater.

- (1) Septic tank waste may be introduced into the POTW only at locations designated by the Joint Sewer Authority, and at such times as are established by the Joint Sewer Authority. Such waste shall not violate Section 162-49 of this Ordinance or any other requirements established by the Joint Sewer Authority. The Joint Sewer Authority may require septic tank waste haulers to obtain wastewater discharge permits.

- (2) The Joint Sewer Authority shall require haulers of industrial waste to obtain wastewater discharge permits. The Joint Sewer Authority may require generators of hauled industrial waste to obtain wastewater discharge permits. The Joint Sewer Authority also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this Ordinance.
- (3) Industrial waste haulers may discharge loads only at locations designated by the Joint Sewer Authority. No load may be discharged without prior consent of the Joint Sewer Authority. The Joint Sewer Authority may collect samples of each hauled load to ensure compliance with applicable standards. The Joint Sewer Authority may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- (4) Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

**§ 162-51. Wastewater discharge permit application.**

- A. Wastewater analysis. When requested by the Joint Sewer Authority, a User must submit information on the nature and characteristics of its wastewater within five (5) days of the request. The Joint Sewer Authority is authorized to prepare a form for this purpose and may periodically require Users to update this information.
- B. Wastewater discharge permit requirement.
  - (1) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Joint Sewer Authority, except that a significant industrial user that has filed a timely application pursuant to Section 162-51.C of this Ordinance may continue to discharge for the time period specified therein.
  - (2) The Joint Sewer Authority may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this Ordinance.
  - (3) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this Ordinance and subjects the wastewater discharge permittee to the sanctions set out elsewhere in this Ordinance. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State Pretreatment Standards or Requirements or with any other requirements of Federal, State, and local law.
- C. Wastewater discharge permitting: existing connections. Any User required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this Ordinance and who wishes to continue such discharges in the future, shall, within sixty (60) days after said date, apply to the Joint Sewer Authority for an individual wastewater discharge permit in

accordance with Section 162-51.D of this Ordinance and shall not cause or allow discharges to the POTW to continue after one hundred (100) days of the effective date of this Ordinance except in accordance with a wastewater discharge permit issued by the Joint Sewer Authority.

D. Wastewater discharge permitting: new connections. Any User required to obtain a 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 wastewater discharge permit, in accordance with Section 162-51.C of this Ordinance, must be filed at least sixty (60) days prior to the date upon which any discharge will begin or recommence.

E. Wastewater discharge permit application contents.

(1) All Users required to obtain a wastewater discharge permit must submit a permit application. The Joint Sewer Authority may require Users to submit all or some of the following information as part of a permit application:

(a) Identifying Information.

[1] The name and address of the facility, including the name of the operator and owner.

[2] Contact information, description of activities, facilities, and plant production processes on the premises;

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

(c) Description of Operations.

[1] 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.

[2] 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;

[3] Number and type of employees, hours of operation, and proposed or actual hours of operation;

[4] Type and amount of raw materials processed (average and maximum per day);

[5] 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;

- (d) Time and duration of discharges;
- (e) The location for monitoring all wastes covered by the permit;
- (f) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in Section 162-50 C of this Ordinance (50 CFR 403.6(e)).
- (g) Measurement of Pollutants.

[1] The categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.

[2] The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standard or by the Joint Sewer Authority, of regulated pollutants in the discharge from each regulated process.

[3] Instantaneous, Daily Maximum, and long-term average concentrations, or mass, where required, shall be reported.

[4] The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Section 162-53 J of this Ordinance. Where the Standard requires compliance with a BMP or pollution prevention alternative, the User shall submit documentation as required by the Joint Sewer Authority or the applicable Standards to determine compliance with the Standard.

[5] Sampling must be performed in accordance with procedures set out in Section 162-53 K of this Ordinance.

(h) Any other information as may be deemed necessary by the Joint Sewer Authority to evaluate the permit application.

- (2) Incomplete or inaccurate applications will not be processed and will be returned to the User for revision.

F. Application signatories and certification.

- (1) 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 162-53 N.
- (2) 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 Joint Sewer Authority prior to or together with any reports to be signed by an Authorized Representative.

(3) A facility determined to be a Non-Significant Categorical Industrial User by the Joint Sewer Authority must annually submit the signed certification statement in Section 162-53 N.

G. Wastewater discharge permit decisions. The Joint Sewer Authority will evaluate the data furnished by the User and may require additional information. Within thirty (30) days of receipt of a complete wastewater discharge permit application, the Joint Sewer Authority will determine whether or not to issue a wastewater discharge permit. The Joint Sewer Authority may deny any application for a wastewater discharge permit.

#### **§ 162-52. Wastewater discharge permit issuance process.**

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

B. Wastewater discharge permit contents. A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Joint Sewer 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.

(1) Wastewater discharge permits must contain:

- (a) A statement that indicates the wastewater discharge permit issuance date, expiration date and effective date;
- (b) A statement that the wastewater discharge permit is nontransferable without prior notification to the Joint Sewer Authority in accordance with Section 162-52 E of this Ordinance, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- (c) Effluent limits, including BMPs, based on applicable Pretreatment Standards;
- (d) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law; and
- (e) 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.

- (f) 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.
  - (g) Requirements to control Slug Discharge, if determined by the Joint Sewer Authority to be necessary.
- (2) Wastewater discharge permits may contain, but need not be limited to, the following conditions:
- (a) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
  - (b) 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;
  - (c) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges;
  - (d) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
  - (e) The unit charge or schedule of User charges and fees for the management of the wastewater discharged to the POTW;
  - (f) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
  - (g) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State Pretreatment Standards, including those which become effective during the term of the wastewater discharge permit; and
  - (h) Other conditions as deemed appropriate by the Joint Sewer Authority to ensure compliance with this Ordinance, and State and Federal laws, rules, and regulations.

C. Wastewater discharge permit process.

- (1) Public Notification. The Joint Sewer Authority will publish in an official government publication and/or newspaper(s) of general circulation that provides meaningful public notice with the jurisdiction(s) 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.
- (2) The Joint Sewer Authority shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the User, may petition the Joint Sewer Authority to reconsider the terms of a wastewater discharge permit within thirty (30) days of its issuance.
  - (a) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
  - (b) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
  - (c) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
  - (d) If the Joint Sewer Authority fails to act within thirty (30) days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.
- (3) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the Court of Common Pleas of Montgomery County, Pennsylvania, within the period proscribed by Pennsylvania's Local Agency Law, 2 Pa. C.S.A. Section 105, et. seq.

D. Wastewater discharge permit modification. The Joint Sewer Authority may modify a 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 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 POTW, Joint Sewer Authority's personnel, or the receiving waters;

- (5) Violation of any terms or conditions of the 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 wastewater discharge permit; or
- (9) To reflect a transfer of the facility ownership or operation to a new owner or operator.

E. Wastewater discharge permit transfer.

- (1) 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 Joint Sewer Authority and the Joint Sewer Authority approves the wastewater discharge permit transfer. The notice to the Joint Sewer 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;
  - (b) Identifies the specific date on which the transfer is to occur; and
  - (c) Acknowledges full responsibility for complying with the existing wastewater discharge permit.
- (2) Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.

F. Wastewater discharge permit revocation.

- (1) The Joint Sewer Authority may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:
  - (a) Failure to notify the Joint Sewer Authority of significant changes to the wastewater prior to the changed discharge;
  - (b) Failure to provide prior notification to the Joint Sewer Authority of changed conditions pursuant to Section 162-53 E of this Ordinance;
  - (c) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;

- (d) Falsifying self-monitoring reports;
- (e) Tampering with monitoring equipment;
- (f) Refusing to allow the Joint Sewer 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 Ordinance.
- (n) Failure to obtain required sewer capacity.

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

G. Wastewater discharge permit reissuance. A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Section 162-51 of this Ordinance, a minimum of one hundred eighty (180) days prior to the expiration of the User's existing wastewater discharge permit.

H. Regulation of waste received from other jurisdictions.

- (1) If another municipality, or User located within another municipality, contributes wastewater to the POTW, the Joint Sewer Authority shall enter into an intermunicipal agreement with the contributing municipality.
- (2) Prior to entering into an agreement required by Paragraph A, above, the Joint Sewer Authority shall request the following information from the contributing municipality:

- (a) A description of the quality and volume of wastewater discharged to the POTW by the contributing municipality;
  - (b) An inventory of all Users located within the contributing municipality that are discharging to the POTW: and
  - (c) Such other information as the Joint Sewer Authority may deem necessary.
- (3) An intermunicipal agreement, as required by Paragraph A, above, shall contain the following conditions:
- (a) A requirement for the contributing municipality to adopt a sewer use ordinance which is at least as stringent as the Joint Sewer Authority's most recent Sewer Use Resolution and Local Limits, including required Baseline Monitoring Reports (BMRs) which are at least as stringent as those set out in the Joint Sewer Authority's most recent Sewer Use Resolution. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to any municipal Joint Sewer Authority's ordinance or the POTW's Local Limits;
  - (b) A requirement for the contributing municipality to submit a revised User inventory on at least an annual basis;
  - (c) A provision specifying which pretreatment implementation activities, including wastewater discharge permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted jointly by the contributing municipality and the Joint Sewer Authority;
  - (d) A requirement for the contributing municipality to provide the Joint Sewer Authority with access to all information that the contributing municipality obtains as part of its pretreatment activities;
  - (e) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;
  - (f) Requirements for monitoring the contributing municipality's discharge;
  - (g) A provision ensuring the Joint Sewer Authority access to the facilities of Users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection sampling, and any other duties deemed necessary by the Joint Sewer Authority; and
  - (h) A provision specifying remedies available for breach of the terms of the intermunicipal agreement.

- (4) Pursuant to the Pennsylvania Publicly Owned Treatment Works Penalty Law (Act 9 of 1992), the Joint Sewer Authority reserves the right to regulate waste entering the Treatment Plant regardless of its point of origin.
- (5) Each municipality which participates in the operation of the POTW shall, in accordance with various interjurisdictional agreements signed by them, enforce their respective Sewer Use Ordinances with respect to the discharges within each of their jurisdictions : Whenever possible, the enforcement, in cooperation with the Joint Sewer Authority, of a particular municipality's Sewer Use Ordinance shall be a joint and cooperative effort between the subject municipality and staff from the Joint Sewer Authority, which has primary responsibility for plant operations. In the event that any municipality fails or refuses to enforce its Sewer Use Ordinance after the Joint Sewer Authority made a determination that such enforcement is necessary, then the Joint Sewer Authority reserve all rights which they may have to either undertake enforcement pursuant to the Pennsylvania Publicly Owned Treatment Works Penalty Law, and/or to seek enforcement of any interjurisdictional agreement which may require the cooperation of the municipality which fails or refuses to act.

### **§ 162-53. Reporting requirements.**

#### **A. Baseline monitoring reports.**

- (1) Within either one hundred eighty (180) days after the 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 Users currently discharging to or scheduled to discharge to the POTW shall submit to the Joint Sewer 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 Users subject to the promulgation of an applicable categorical standard, shall submit to the Joint Sewer 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.
- (2) Users described above shall submit the information set forth below.
  - (a) All information required in Section 162-51.D of this Ordinance.
  - (b) Measurement of pollutants.
    - [1] The User shall provide the information required in Section 162-53;
    - [2] The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph;

- [3] Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.5(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 Joint Sewer Authority;
- [4] Sampling and analysis shall be performed in accordance with Section 162-53.J;
- [5] The Joint Sewer 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;
- [6] 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.

- (c) Compliance Certification. A statement, reviewed by the User's Authorized Representative as defined in Section 162-48.A of this Ordinance 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.
- (d) 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 data 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 162-53.B of this Ordinance.
- (e) Signature and Report Certification. All baseline monitoring reports must be certified in accordance with Section 162-51.E of this Ordinance and signed by an Authorized Representative as defined in Section 162-48.A of this Ordinance.

B. Compliance schedule progress reports. The following conditions shall apply to the compliance schedule required by Section 162-53.2 of this Ordinance:

- (1) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the User to meet the applicable Pretreatment Standards (such events

include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);

- (2) No increment referred to above shall exceed nine (9) months;
- (3) The User shall submit a progress report to the Joint Sewer Authority no later than fourteen (14) days following each date in the schedule and the final date of compliance including, at a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the User to return to the established schedule; and
- (4) In no event shall more than nine (9) months elapse between such progress reports to the Joint Sewer Authority.

C. 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 Joint Sewer Authority a report containing the information described in Section 162-51.D and 162-53.2 of this Ordinance. For Users subject to equivalent mass or concentration limits established in accordance with the procedures in Section 162-50, 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 162-51.E of this Ordinance. All sampling will be done in conformance with Section 162-53.

D. Periodic compliance reports.

- (1) All Significant Industrial Users shall, at a frequency determined by the Joint Sewer Authority but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a BMP or pollution prevention alternative, the User must submit documentation required by the Joint Sewer Authority or the Pretreatment Standard necessary to determine the compliance status of the User.
- (2) All periodic compliance reports must be signed and certified in accordance with Section 162-51 of this Ordinance. In the event that the months for submission of the reports are altered by the Joint Sewer Authority, factors such as local high or low flow rates, holiday, budget cycles, etc., shall be taken into consideration.
- (3) 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.

- (4) If a User subject to the reporting requirement in this Section monitors any pollutant more frequently than required by the Joint Sewer Authority, using the procedures prescribed in Section 162-53 of this Ordinance, the results of this monitoring shall be included in the report.
- (5) The Joint Sewer Authority may reduce the requirement for periodic compliance reports to a requirement to report no less frequently than once a year, unless required more frequently in the Pretreatment Standard or by the EPA or State, where the Industrial User's total categorical wastewater flow does not exceed any of the following:
  - (a) A value equal to 0.01 percent of the POTW's design dry-weather *hydraulic capacity*, or five thousand (5,000) gallons per day, whichever is smaller, as measured by a continuous effluent flow monitoring device unless the Industrial User discharges in batches;
  - (b) A value equal to 0.01 percent of the design dry-weather *organic treatment capacity* of the POTW; and
  - (c) A value equal to 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 162-49.3 of this Ordinance. (By way of example, if the POTW's maximum allowable headworks loading for copper is 5 pounds, then 0.01 percent would be 0.0005 pounds; the POTW would need to do this calculation for each pollutant for which it has approved Local Limits.)

Reduced reporting is not available to Industrial Users that have in the last two (2) years been in Significant Noncompliance, as defined in Section 162-56 of this Ordinance. 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 Joint Sewer Authority, decreasing the reporting requirement for this Industrial User would result in data that are not representative of conditions occurring during the reporting period.

- (6) All periodic compliance reports must be signed and certified in accordance with Section 162-53 of this Ordinance.
- (7) 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.
- (8) If a User subject to the reporting requirement in this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Joint Sewer

Authority, using the procedures prescribed in Section 162-53 of this Ordinance, the results of this monitoring shall be included in the report.

- E. Reports of changed conditions. Each User must notify the Joint Sewer Authority of any planned significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater **at least sixty (60) days before** the change.
- (1) The Joint Sewer 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 162-51 of this Ordinance.
  - (2) The Joint Sewer Authority may issue a wastewater discharge permit under Section 162-51 of this Ordinance or modify an existing wastewater discharge permit under Section 162-52 of this Ordinance in response to changed conditions or anticipated changed conditions.
  - (3) For purposes of this requirement, significant changes include, but are not limited to, flow increases of twenty percent (20%) or greater, and the discharge of any previously unreported pollutants.
- F. Reports of potential problems.
- (1) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-customary batch discharge, or a slug load, that may cause potential problems for the POTW, the User shall immediately telephone and notify the Joint Sewer 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, along with the identity of the person or persons believed to be responsible for the discharge.
  - (2) Within five (5) days following such discharge, the User shall, unless waived by the Joint Sewer Authority a detailed written report describing the cause(s) of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the User of any fines, penalties, or other liability which may be imposed pursuant to this Ordinance.
  - (3) A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph A above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
- G. Reports of unpermitted Users. All Users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Joint Sewer Authority as the Joint Sewer Authority may require.

- H Notice of violation/repeat sampling and reporting. If sampling performed by a User indicates a violation, the User must notify the Joint Sewer 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 Joint Sewer Authority within thirty (30) days after becoming aware of the violation. The User is not required to resample if the Joint Sewer Authority monitors at the User's facility at least once a month, or if the Joint Sewer Authority samples between the User's initial sampling and when the User receives the results of this sampling.
- I. Notification of the discharge of hazardous waste.
- (1) Any User who commences the discharge of hazardous waste shall notify the Joint Sewer Authority, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the Joint Sewer Authority of a substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261. Such notification must 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 User discharges more than one hundred (100) kilograms of such waste per calendar month to the Joint Sewer Authority, the notification also shall contain the following information to the extent such information is known and readily available to the User: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month, and an estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 162-53 of this Ordinance. The notification requirement in this section does not apply to pollutants already reported by Users subject to categorical Pretreatment Standards under the self-monitoring requirements of Section 162-53 of this Ordinance.
  - (2) Discharges are exempt from the requirements of paragraph A, above, during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen (15) kilograms of non-acute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the User discharges more than such quantities of any hazardous waste do not require additional notification.
  - (3) In the case of any new regulations under Section 3001 of Resource Conservation and Recovery Act of 1976 identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the User must notify the Joint Sewer Authority, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.

- (4) In the case of any notification made under this section, the User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- (5) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this Ordinance, a permit issued thereunder, or any applicable Federal or State law.

J. 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 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 Joint Sewer Authority or other parties approved by EPA.

K. Sample collection.

- (1) Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions occurring during the reporting period.
- (2) Except as indicated in Section 3 and 4 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 Joint Sewer Authority. Where time-proportional composite sampling or grab sampling is authorized by the Joint Sewer Authority the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Joint Sewer Authority, as appropriate. In addition, grab samples may be required to show compliance with Instantaneous Limits.
- (3) Samples for oil and grease, temperature, pH, cyanide, total phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
- (4) For sampling required in support of baseline monitoring and 90-day compliance reports required in Section 162-53, 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 Joint Sewer Authority may authorize a lower minimum. For the reports required by Section 162-53, the Industrial User is required to collect the number of grab samples necessary to assess and assure compliance by with applicable Pretreatment Standards and Requirements.

- L. 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.
- M. Record keeping. Users subject to the reporting requirements of this Ordinance shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Ordinance and any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with BMPs established under Section 162-49.3. 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 Joint Sewer Authority, or where the User has been specifically notified of a longer retention period by the Joint Sewer Authority.
- N. Certification statements.

- (1) Certification of Permit Applications and User Reports – The following certification statement is required to be signed and submitted by Users submitting permit applications in accordance with Section 162-51; Users submitting baseline monitoring reports under Section 162-53; Users submitting reports on compliance with the categorical Pretreatment Standard deadlines under Section 162-51; Users submitting periodic compliance reports required by Section 162-53, and Users submitting an initial request to forego sampling of a pollutant on the basis of Section 162-51. The following certification statement must be signed by an Authorized Representative as defined in Section 162-48:

*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.*

- (2) Annual Certification for Non-Significant Categorical Industrial Users – A facility determined to be a Non-Significant Categorical Industrial User by the Joint Sewer Authority pursuant to Section 162-48 must annually submit the following certification statement signed in

accordance with the signatory requirements in Section 162-48. This certification must accompany an alternative report required by the Joint Sewer Authority:

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

(a) The facility described as \_\_\_\_\_ [facility name] met the definition of a Non-Significant Categorical Industrial User as described in 1.4GG(3);

(b) The facility complied with all applicable Pretreatment Standards and requirements during this reporting period; and

(c) The facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period.

This compliance certification is based on the following information.

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#### **§ 162-54. Compliance Monitoring.**

A. Right of entry: inspection and sampling. The Joint Sewer Authority shall have the right to enter the premises of any User, without notice, to determine whether the User is complying with all requirements of this Ordinance and any wastewater discharge permit or order issued hereunder. Users shall allow the Joint Sewer 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. User water use may be relied upon if discharge monitoring data is not available.

- (1) Where a User has security measures in force which require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Joint Sewer Authority will be permitted to enter without delay for the purposes of performing specific responsibilities.
- (2) The Joint Sewer 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.
- (3) The Joint Sewer 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 to ensure their accuracy.

- (4) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written or verbal request of the Joint Sewer Authority and shall not be replaced. The costs of clearing such access shall be born by the User.
- (5) Unreasonable delays in allowing the Joint Sewer Authority access to the User's premises shall be a violation of this Ordinance.
- (6) When it would be impractical or cause undue hardship on the User to situate the monitoring facility on the User's premises, the municipality may 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 condition at the expense of the User.

B. **Search warrants.** If the Joint Sewer Authority has been refused access to a building, structure, or property, or any part thereof by a User, and is able to demonstrate probable cause to believe that there may be a violation of this Ordinance, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Joint Sewer Authority designed to verify compliance with this Ordinance or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Joint Sewer Authority may seek issuance of a search warrant from the District Justice in whose jurisdiction the property is situate.

#### **§ 162-55. Confidential information.**

Information and data on a User obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the Joint Sewer 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 Joint Sewer 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 by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

#### **§ 162-56. Publication of Users in significant noncompliance.**

The Joint Sewer Authority shall publish annually, in a daily newspaper of general circulation that provides meaningful public notice within the jurisdiction 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 wastewater measurements taken during a six (6) month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement, including Instantaneous Limits as defined in Section 162-49;
- 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 162-49 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 162-49 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Joint Sewer 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 other discharge violation that the Joint Sewer Authority believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
- E. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Joint Sewer Authority's exercise of its emergency authority to halt or prevent such a discharge;
- F. Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;
- G. Failure to provide within thirty (30) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical Pretreatment Standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- H. Failure to accurately report noncompliance; or
- I. Any other violations, which may include a violation of BMPs, which the Joint Sewer Authority determines will adversely affect the operation or implementation of the local pretreatment program.

**§ 162-57. Enforcement remedies.**

- A. The Joint Sewer Authority, in conjunction with the Township, is fully empowered to undertake all enforcement remedies set forth below in order to assure User compliance with all State and Federal laws and regulations. The enforcement actions described herein will be undertaken pursuant to the Joint Sewer Authority's duly adopted and EPA-approved Enforcement Response Plan, a federally mandated statement of policy which provides fair and even application of all enforcement remedies to Users in violation, such document being available at all times for public inspection. In addition, the Joint Sewer Authority retain each and every right and power granted pursuant to the Pennsylvania Publicly Owned Treatment Works Penalty Law also known as Act 9 of 1992, in addition to any amendments thereto and pursuant to the Civil Penalty Assessment Policy adopted by the Joint Sewer Authority
  
- B. Surcharge in lieu of enforcement remedy. With respect to conventional pollutants, the Joint Sewer Authority may, from time to time and at its discretion, adopt a policy whereby certain specifically identified conventional pollutants are permissibly discharged to the Joint Sewer Authority for removal at the POTW, with the cost of such removal to be borne by the discharger. The Joint Sewer Authority may expand or limit the list of conventional pollutants to which this surcharge system applies based upon the POTW's capacity/ability to effectively remove particular conventional pollutants. In the event that a conventional pollutant is within the scope of the surcharge system as it exists at the time of discharge, then such conventional pollutant discharge shall not be considered a violation of this Ordinance. However, any failure to pay the surcharge cost for the POTW's removal of the pollutant shall itself be considered a violation of this Ordinance and subject to enforcement action, in addition to all generally held rights of collection.

**§ 162-57.1. Administrative remedies.**

- A. Notification of violation. When the Joint Sewer Authority finds that a User has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or Requirement, the Joint Sewer Authority shall serve upon that User a written Notice of violation. The specific manner in which such Notice of Violation shall issue, and the terms and conditions pursuant to which the User shall respond or correct the violation complained of, shall be as set forth in the Enforcement Response Plan. When the Notice of Violation includes a plan for satisfactory correction and prevention of the violation, submission of such 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 Joint Sewer Authority to take any action, including emergency action or any other enforcement action, without first issuing a Notice of Violation.
  
- B. Consent orders. The Joint Sewer Authority may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any User responsible for noncompliance. Such documents will include specific action to be taken by the User to correct the noncompliance within a time period specified by the document. Such documents shall have the same effect as the administrative orders authorized elsewhere in this section of the Ordinance and shall be judicially enforceable.
  
- C. Show cause hearing.

- (1) The Joint Sewer Authority may order a User which has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or Requirement, to appear before the Joint Sewer 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 hearing, 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 hearing shall be served personally or by registered mail at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the User. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the User.
- (2) Any hearing conducted pursuant to this section shall be presided over by the Joint Sewer Authority Board (hereinafter "Board") as to why the proposed enforcement action should not be taken. In the event that any municipality fails to designate a hearing participant, then the Joint Sewer Authority shall designate an individual to so serve. The Board may itself conduct a hearing and take the evidence or may designate any of its members or any officer or employee of the Joint Sewer Authority to:
  - (a) Issue in the name of the Board, 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 Board 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 Board has reviewed the evidence, it may issue an order, through the Joint Sewer Authority (who shall actually issue the 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.
- (5) Any User aggrieved by the enforcement of this Ordinance may take an appeal to the Court of Common Pleas of Montgomery County, Pennsylvania, in accordance with the provisions of the Local Agency Law, 2 Pa. C.S.A. Section 105, et seq. A failure to appeal in accordance with the Local Agency Law shall result in a waiver of all legal rights to contest the action taken at the Show Cause hearing.

D. Compliance order. When the Joint Sewer Authority finds that a User has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or Requirement, the Joint Sewer 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.

E. Cease and desist orders.

(1) When the Joint Sewer Authority finds that a User has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, the Joint Sewer 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.

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

F. Administrative fines.

(1) When the Joint Sewer Authority finds that a User has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit or order issued hereunder or any other Pretreatment Standard or Requirement, the Joint Sewer Authority may fine such User in an amount not to exceed twenty-five Thousand Dollars (\$25,000.00) or any greater amount which might be permitted by the Publicly Operated Treatment Works Penalty Law and the Joint Sewer Authority's Civil Penalty Assessment Policy. 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. The actual amount of the fine in a particular case shall account for the factors set forth in the Enforcement Response Plan.

- (2) Unpaid charges, fines, and penalties shall, after thirty (30) calendar days, be assessed an additional penalty of six percent (6%) of the unpaid balance, and interest shall accrue thereafter at a rate of six percent (6%) per month. A municipal lien against the User's property shall be filed for unpaid charges, fines, and penalties.
- (3) Users desiring to dispute such fines must file a written request for the Joint Sewer Authority to reconsider the fine along with full payment of the fine amount within twenty (20) days of being notified of the fine. Where a request has merit, the Joint Sewer Authority may convene a hearing on the matter. In the event the User's appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the User. The Joint Sewer Authority may add the costs of preparing administrative enforcement actions, such as notices and orders, to the fine.
- (4) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User.

G. Emergency suspensions.

(1) The Joint Sewer 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 Joint Sewer 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 Joint Sewer 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 Joint Sewer Authority may allow the User to recommence its discharge when the User has demonstrated to the satisfaction of the Joint Sewer Authority that the period of endangerment has passed, unless the termination proceedings in Section 162-57.1 of this Ordinance are initiated against the User.
- (b) A User that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Joint Sewer Authority prior to the date of any show cause or termination hearing described elsewhere in this section of the Ordinance.

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

H. Termination of discharge.

- (1) In addition to the provisions in Section 162-52 of this Ordinance, any User who violates the following conditions is subject to discharge termination:
  - (a) Violation of wastewater discharge permit conditions;
  - (b) Failure to accurately report the wastewater constituents and characteristics of its discharge;
  - (c) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
  - (d) Refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or
  - (e) Violation of the Pretreatment Standards in Section 162-49 of this Ordinance.
- (2) Such User will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Section 162-57.1 of this Ordinance why the proposed action should not be taken. Exercise of this option by the Joint Sewer Authority shall not be a bar to, or a prerequisite for, taking any other action against the User.

**§ 162-57.2. Judicial enforcement remedies.**

- A. Injunctive relief. When the Joint Sewer Authority finds that a User has violated, or continues to violate, any provision of this Ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, the Joint Sewer Authority may petition the Court of Common Pleas of Montgomery County, through the attorney for the Joint Sewer Authority, for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this Ordinance on activities of the User. The Joint Sewer 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.
- B. Civil penalties.
  - (1) A User who has violated, or continues to violate, any provision of this Ordinance, a Wastewater Discharge Permit, or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the Joint Sewer Authority for a maximum civil penalty of Twenty-five Thousand Dollars (\$25,000) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation. Such penalty may be assessed in accordance with Section 162-59 of this Ordinance.

- (2) The Joint Sewer Authority may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the Joint Sewer Authority.
  - (3) In determining the amount of civil liability, there shall be taken into account all relevant circumstances, including but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires and as set forth in the Enforcement Response Plan.
  - (4) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.
- C. Criminal prosecution. In the event that any discharge or other violation of this Ordinance constitutes a violation of any criminal or penal statute, then in addition to all enforcement remedies described elsewhere in this Ordinance, the Joint Sewer Authority or the other participating municipalities shall have the unfettered right to initiate and/or assist in any State or Federal criminal proceedings as a result of such violation. Examples of criminal conduct in connection with a violation include, but are not limited to, knowing or intentional introduction of any substance into the Joint Sewer Authority's POTW which causes injury to persons or property, otherwise undertaking any act or failing to undertake any act which recklessly endangers the well-being of the community or plant personnel, falsification of documents required to be filed pursuant to this Ordinance, and tampering with or otherwise rendering inaccurate a monitoring device or similar equipment.
- D. Remedies nonexclusive. The remedies provided for in this Ordinance are not exclusive. The Joint Sewer Authority may take any, all, or any combination of these actions against a non-compliant User. Enforcement of pretreatment violations will generally be in accordance with the Joint Sewer Authority's Enforcement Response Plan. However, the Joint Sewer Authority may take other action against any User when the circumstances warrant. Further, the Joint Sewer Authority is empowered to take more than one enforcement action against any non-compliant User.

**§ 162-58. Supplemental enforcement action.**

- A. Performance bonds. The Joint Sewer Authority may decline to issue or reissue a wastewater discharge permit to any User who has failed to comply with any provision of this Ordinance, a previous wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, unless such User first files a satisfactory bond, payable to the Joint Sewer Authority, in a sum not to exceed a value determined by the Joint Sewer Authority to be necessary to achieve consistent compliance.
- B. Liability insurance. The Joint Sewer Authority may decline to issue or reissue a wastewater discharge permit to any User who has failed to comply with any provision of this Ordinance, a previous wastewater discharge permit, or order issued hereunder, or any other Pretreatment

Standard or Requirement, unless the User first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

- C. Water supply severance. Whenever a User has violated or continues to violate any provision of this Ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement, water service to the User may be severed. Service will only recommence, at the User's expense, after it has satisfactorily demonstrated its ability to comply.
- D. Public nuisances. A violation of any provision of this Ordinance, a wastewater discharge permit, or order issued hereunder, or any other Pretreatment Standard or Requirement may separately be declared as a public nuisance to the extent that it constitutes such nuisance as defined by Pennsylvania law or municipal Ordinance.

### **§ 162-59. Affirmative defenses to discharge violations**

#### A. Upset.

- (1) For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical Pretreatment Standards because of factors beyond the reasonable control of the User. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.
- (2) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical Pretreatment Standards if the requirements of paragraph (C), below, are met.
- (3) A User who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
  - (a) An upset occurred and the User can identify the cause(s) of the upset;
  - (b) The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures; and
  - (c) The User has submitted the following information to the Joint Sewer 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):
    - [1] A description of the indirect discharge and cause of noncompliance;
    - [2] The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

[3] Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

- (4) In any enforcement proceeding, the User seeking to establish the occurrence of an upset shall have the burden of proof.
- (5) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical Pretreatment Standards.
- (6) 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.

B. 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 162-49 of this Ordinance or the specific prohibitions in Section 162-49 of this Ordinance if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass through or interference and that either:

- (1) A local limit exists for each pollutant discharged and the User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or
- (2) No local limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when the Joint Sewer 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.

C. Bypass.

- (1) For the purposes of this section,
  - (a) "Bypass" means the intentional diversion of waste streams from any portion of a User's treatment facility.
  - (b) "Severe property damage" means substantial physical damage to property, damage to the treatment facilities which causes them to become inoperable, or substantial and permanent loss of natural resources which can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.
- (2) A User may allow any bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it also is for essential maintenance to assure efficient

operation. These bypasses are not subject to the provision of paragraphs (C) and (D) of this section.

(3) Notification.

- (a) If a User knows in advance of the need for a bypass, it shall submit prior notice to the Joint Sewer Authority, at least ten (10) days before the date of the bypass, if possible.
- (b) A User shall submit oral notice to the Joint Sewer 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 Joint Sewer Authority may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

(4) Enforcement action; appeals.

- (a) Bypass is prohibited, and the Joint Sewer Authority may undertake an enforcement action against a User for a bypass, unless
  - (1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
  - (2) 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
  - (3) The User submitted notices as required under paragraph (C) of this section.
- (b) The Joint Sewer Authority may approve an anticipated bypass, after considering its adverse effects, if the Joint Sewer Authority determines that it will meet the three conditions listed in paragraph (D)(1) of this section.
- (c) "Appeal." An Industrial User assessed with a civil penalty under the terms of this section shall have the right to file an appeal to contest either the amount of the penalty or the fact of the violation, within thirty (30) days of the assessment of the civil penalty, pursuant to the Local Agency Law, 2 Pa.C.S.A. Section 105 et seq. (relating to administrative law

and procedure). Failure to appeal within this period shall result in a waiver of all legal rights to contest the violation or the amount of the penalty.

D. Assessment of civil penalties.

- (1) Pursuant to the provisions of the Pennsylvania Publicly Owned Treatment Works Penalty Law, Act 9 of 1992, providing for enhanced penalty authority for publicly owned treatment works which are authorized to enforce industrial Pretreatment Standards for industrial waste discharges, and in addition to proceeding under any other remedy available at law or equity for violation of Pretreatment Standards and/or Requirements, the Joint Sewer Authority, as the operator of the POTW, may assess a civil penalty upon an Industrial User for violation of any of the terms and provisions of this Ordinance. The penalty may be assessed whether or not the violation was willful or negligent. The civil penalty shall not exceed Twenty Five Thousand Dollars (\$25,000) per day for each violation, regardless of jurisdictional boundaries. Each violation for each separate day shall constitute a separate and distinct defense under this Section.
- (2) As part of any notice of assessment of civil penalties issued by the Joint Sewer Authority to an Industrial User, there shall also be included a description of the applicable appeals process to be followed, including the name, address and telephone number of the person responsible for accepting such appeal, on behalf of the Joint Sewer Authority.
- (3) For purposes of this Section, a single operational upset which leads to simultaneous violations of more than one Pretreatment Standard or Requirement shall be treated as a single violation as required by Federal Water Pollution Control Act. The Joint Sewer Authority may, however, recover its costs for reestablishing the operation of the treatment works in addition to any civil penalty imposed under this Section.
- (4) The Joint Sewer Authority shall publicly adopt a formal, written civil penalty assessment policy and make it publicly available. Each industrial discharger participating in the pretreatment program shall be given written notice of the policy. The penalty assessment policy shall consider:
  - (a) damage to air, water, land or other natural resources of the Commonwealth of Pennsylvania and their uses;
  - (b) costs of restoration and abatement;
  - (c) savings resulting to the person in consequence of the violation;
  - (d) history of past violations;
  - (e) deterrence of future violations;
  - (f) other relevant factors.

- (5) Uses for Penalties. All civil penalties collected pursuant to this Section shall be placed by the Joint Sewer Authority in a restricted account and shall only be used by the Joint Sewer Authority and the publicly owned treatment works for the following uses:
- (a) the repair of damage and any additional maintenance needed or any additional costs imposed as a result of the violation for which the penalty was imposed;
  - (b) pay any penalties imposed on the Joint Sewer Authority or the POTW by the Federal or State government for violation of Pretreatment Standards;
  - (c) for the costs incurred by the Township or POTW to investigate and take the enforcement action that resulted in a penalty being imposed;
  - (d) for the monitoring of discharges in the pretreatment program and for capital improvements to the treatment works, including sewage collection lines, which may be required by the pretreatment program; and
  - (e) any remaining funds may be used for capital improvements to the POTW, including collection lines.
- (6) Injunctive Relief. The Joint Sewer Authority shall have the power to obtain injunctive relief to enforce compliance with or restrain any violation of any Pretreatment Standard or Requirement pursuant to and in accordance with the provisions of Act 9 of 1992, and 40 CFR 403.8(f)(1)(vi)(A). Injunctive Relief shall be available upon the showing of one or more of the following:
- (a) A discharge from an Industrial User presents an imminent danger or substantial harm to the POTW or the public;
  - (b) A discharge from an Industrial User presents an imminent or substantial endangerment to the environment;
  - (c) A discharge from an Industrial User causes the POTW to violate any condition of its discharge permit; or
  - (d) The Industrial User has shown a lack of ability or intention to comply with a Pretreatment Standard.
- (7) Notwithstanding the preceding paragraph, an injunction affecting an industrial operation not directly related to the condition or violation in question, may be issued if the Court determines that other enforcement procedures would not be adequate to affect prompt correction of the condition or violation. In addition to an injunction, the Court in any such proceedings may levy civil penalties in accordance with Act 9 of 1992 and this Ordinance.

**§ 162-60. Building sewers and connections relating to industrial users.**

The provisions of any applicable Township Code or the provisions of this Section shall apply, whichever is more strict.

- A. No unauthorized persons (i.e., persons other than personnel of the Joint Sewer Authority, the participating municipalities, or their agents) shall uncover, make any connections with or opening into, use, alter, or disturb any public sewer or appurtenance thereof without first obtaining a written permit from the Township.
- B. There shall be two classes of building sewer permits: (a) for residential and commercial service, and (b) for service to Industrial Users. In either case, the owner or his agent shall make application on a special form furnished by the Joint Sewer Authority and/or the Township. The permit application shall be supplemented by any plans, specifications, or other information considered pertinent in the judgment of the Joint Sewer Authority and/or the Township. A permit and inspection fee for a residential or commercial building sewer permit and for an industrial building sewer permit shall be paid to the Joint Sewer Authority and/or the Township at the time the application is filed. All building sewer permit applications under (b) above, shall be reviewed and approved in writing by the Joint Sewer Authority and/or the Township prior to permit issuance. Permit and inspection fees for sewer permits shall be in such amounts as may be established from time to time by the Joint Sewer Authority and/or the Township.
- C. All costs and expenses incidental to the installation, connection, and maintenance of the building sewer shall be borne by the owner or User, who shall indemnify the Joint Sewer Authority and/or the Township from any loss or damage that may directly or indirectly be caused by the installation of the building sewer.
- D. A separate and independent building sewer shall be provided for every building or any part of any building as may be determined by the Joint Sewer Authority and/or the Township.
- E. Old building sewers may be used in connection with new buildings only when they are found, upon examination and test by the Joint Sewer Authority and/or the Township, to meet all requirements of this Ordinance.
- F. The size, slope, alignment, materials or construction of a building sewer, and the methods to be used in excavating, placing of the pipe, jointing, testing, and backfilling the trench shall conform to the requirements of the building and plumbing codes and/or other applicable rules and regulations of the Joint Sewer Authority and/or the Township. In the absence of code provisions or in amplification therefore, the materials and procedures set forth in appropriate specifications of the ASTM and WPCF Manual of Practice No. 9 shall apply.
- G. In order to prevent grease, oil and sand from being discharged into the public sewage system, all hospitals, nursing homes, hotels, restaurants, and any other establishments engaged in the preparation, processing or sale of food shall install and properly maintain one or more grease traps of a type and capacity approved by the Joint Sewer Authority and/or the Township, and same shall

be located so as to be readily and easily accessible for cleaning and inspection. If any other User in the opinion of the Joint Sewer Authority and/or the Township discharges a quantity, oil or sand in its sewage so as to warrant the installation and maintenance of one or more grease traps, same shall be installed and maintained in accordance with these regulations at the direction of the Joint Sewer Authority and/or the Township.

- H. Whenever possible, the building sewer shall be brought to the building at an elevation below the basement floor. In all buildings in which any building drain is too low to permit gravity flow to the public sewer, sanitary sewage carried by such building drain shall be lifted by a method approved by the Joint Sewer Authority and/or the Township and discharged to the building sewer.
- I. No person shall make connection of sump pumps, roof downspouts, foundation drains, areaway drains, or other sources of surface runoff or groundwater to a building sewer or building drain which in turn is connected directly or indirectly to a POTW unless such connection is approved in writing by the Joint Sewer Authority and/or the Township for purposes of disposal of polluted surface drainage.
- J. The connection of the building sewer into the POTW (which for purposes of this Ordinance includes the collection system) shall conform to the requirements of the building and plumbing code or other applicable rules and regulations of the respective municipality set forth in appropriate specifications of the ASTM and the WPCF Manual of Practice No. 9. All such connections shall be made gas-tight and water-tight, and verified by proper testing. Any deviation from the prescribed procedures and materials must be approved by the Joint Sewer Authority and/or the Township before installation.
- K. The applicant for the building sewer permit shall notify the Manager when the building sewer is ready for inspection and connection to the POTW. The connection to the public sewer and testing shall be made under the supervision of the manager or his representative.
- L. All excavations for building sewer installation shall be adequately guarded with barricades and lights, so as to protect the public from hazard. Streets, sidewalks, parkways, and other public property disturbed in the course of work shall be restored in a manner satisfactory to the Joint Sewer Authority and/or the Township.
- M. No excavation, construction, or connection work shall be commenced within an the Joint Sewer Authority and/or the Township right-of-way until the owner, his agents and/or independent contractor shall have first filed a bond in double the amount of the cost of the work to be performed as determined by the Joint Sewer Authority and/or the Township, agreeing to indemnify and save harmless the Joint Sewer Authority and/or the Township against any and all loss, damages, costs, and expenses which the Joint Sewer Authority and/or the Township may thereafter suffer, incur, or pay by reason of the failure to complete properly any of the aforesaid excavation, construction, or connection work.
- N. The term "owner" as used herein, shall be deemed to include the owner or owners in fee simple, lessees of the premises, occupiers of the premises, Users, and all other parties having a use or

interest in the premises and occupying the same with or without the consent and permission of the owner of the fee title.

- O. Sanitary sewers installed with unused points of connection for building sewers shall have said points of connection capped for watertight integrity prior to connection of the building sewer. The method of capping shall be one approved by the Manager and/or the Township.

**§ 162-61. Falsifying information.**

Any person who knowingly 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 Ordinance, or Wastewater Discharge Permit, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this Ordinance, shall be prosecuted in accordance with the provisions of the Pennsylvania Crimes Code pertaining to perjury and falsification in official matters pursuant to 18 Pa.C.S.A. 4901 et seq.

**§ 162-62. Fees.**

- A. Purpose. It is the purpose of this chapter to provide for the recovery of costs from Users of the Joint Sewer Authority's wastewater disposal system for the implementation of the program established herein. The applicable charges or fees shall be set forth in the Joint Sewer Authority's Schedule of Charges and Fees.
- B. Charges and Fees.
  - (1) The Joint Sewer Authority may adopt by Ordinance charges and fees which may include:
    - (a) fees for reimbursement of costs of setting up and operating the Joint Sewer Authority's Pretreatment Program;
    - (b) fees for monitoring, inspections, and surveillance procedures;
    - (c) fees for reviewing accidental discharge procedures and construction;
    - (d) fees for permit applications;
    - (e) fees for filing appeals;
    - (f) fees for consistent removal (by the Joint Sewer Authority) of pollutants otherwise subject to Federal Pretreatment Standards; and
    - (g) other fees as the Joint Sewer Authority may deem necessary to carry out the requirements contained herein.

- (2) These fees relate solely to the matters covered by this Ordinance and are separate from all other fees or sewer rentals chargeable by the Joint Sewer Authority and Township.

**§ 162-63. Severability; conflict with other legislation; when effective.**

- A. Severability. If any provision of this Ordinance is invalidated by any court of competent jurisdiction, the remaining provisions shall not be effected and shall continue in full force and effect.
- B. Conflict. All other Ordinances and parts of other Ordinances inconsistent or conflicting with any part of this Ordinance are hereby repealed to the extent of such inconsistency or conflict.
- C. Effective date. This Ordinance shall be in full force and effect immediately following its passage, approval, and publication, as provided by law.

**SECTION II. SEVERABILITY**

If any section, subsection, sentence, clause, phrase, or portion of this Ordinance is for any reason held invalid or unconstitutional by any court of competent jurisdiction, such provisions shall be separate, distinct and independent and such holding shall not affect the validity of the remaining portions of this Ordinance.

**SECTION III. RATIFICATION**

This Ordinance shall in no other way affect, amend or modify the Code of East Norriton Township.

**SECTION IV FAILURE TO ENFORCE NOT A WAIVER**

The failure of the Township to enforce any provision of this Ordinance shall not constitute a waiver by the Township of its rights of future enforcement hereunder.

**ENACTED AND ORDAINTED** by the Board of Supervisors of East Norriton Township, Montgomery County, Pennsylvania, this 22<sup>nd</sup> day of July, 2008.

Attest:

BOARD OF SUPERVISORS  
EAST NORRITON TOWNSHIP

[Signature]  
Secretary

By: [Signature]  
Chairman

