

**BOROUGH OF FREELAND**

**LUZERNE COUNTY, PENNSYLVANIA**

**ORDINANCE NUMBER 4-1-1 - of 2013**

***ESTABLISHING AN  
INDUSTRIAL PRETREATMENT PROGRAM AND  
OTHER RULES CONTROLLING DISCHARGES  
TO THE SEWER SYSTEM***

**Adopted:**

**Effective: May 13, 2013**



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**BOROUGH OF FREELAND**  
Luzerne County, Pennsylvania

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Ordinance Number <sup>4-1-1</sup> of 2013

AN ORDINANCE OF THE BOROUGH COUNCIL OF THE BOROUGH OF FREELAND, LUZERNE COUNTY, PENNSYLVANIA, ESTABLISHING AN INDUSTRIAL PRETREATMENT PROGRAM AND PROVIDING REGULATIONS LIMITING AND CONTROLLING THE QUALITY OF WASTEWATER DISCHARGED INTO THE PUBLIC SEWAGE SYSTEM, DEFINING CERTAIN WORDS AND PHRASES, PROVIDING PROCEDURES AND SYSTEMS FOR THE ADMINISTRATION OF THE PROGRAM, CREATING ENFORCEMENT PROCEDURES FOR VIOLATION OF THE PROGRAM AND ITS REGULATIONS, ESTABLISHING TECHNICAL REQUIREMENTS AND PROHIBITIONS ON DISCHARGES, PROVIDING FOR THE SETTING OF CERTAIN FEES, PROVIDING FOR THE EFFECTIVENESS OF THIS ORDINANCE, PROVIDING FOR THE SEVERABILITY OF PROVISIONS HEREOF, AND PROVIDING FOR REPEAL OF ALL INCONSISTENT ORDINANCES OR PARTS OF ORDINANCES.

The Borough Council of the Borough of Freeland, Luzerne County, Pennsylvania, enacts and ordains as follows:

**ARTICLE I – PURPOSE AND POLICY**

**Section 1.01 Purpose:**

This Ordinance sets forth the following uniform requirements for Users of the Sewer System and enables the Township to regulate the use of the Sewer System and to comply with the requirements of the Clean Water Act and other applicable State and Federal laws and regulations:

- A. Requirements regulating the introduction of Wastewater into the Sewer System by all Users,
- B. Establishing an Industrial Pretreatment Program to monitor and control the Discharge of Industrial Wastes.

**Section 1.02 Objectives**

The objectives of this Ordinance are:

- A. To prevent the introduction of Pollutants into the Sewer System that will cause Interference, increase the difficulty or costs of operation of the Collection System

or the Sewage Treatment Plant, or reduce the efficiency or effectiveness of the Collection System or Sewage Treatment Plant;

- B. To prevent Pass Through of Pollutants, inadequately treated, to the environment;
- C. To protect workers and the general public from exposure to toxic or other dangerous substances;
- D. To protect the Sewer System from damage;
- E. To improve the opportunity to recycle or reclaim wastewater or sludge;
- F. To provide for the equitable distribution of the cost of the operation, administration and enforcement of the Industrial Pretreatment Program; and
- G. To enable the Township and the Borough of Freeland Municipal Authority to comply with all applicable State and Federal laws rules and regulations, including NPDES permit conditions, sludge use and disposal requirements, air quality standards, and water quality standards.
- H. To comply with the requirements of Agreements and Amendments to Agreements between the Township and the Borough of Freeland Municipal Authority in which the Township covenants to adopt and enforce an ordinance establishing an Industrial Pretreatment Program and designating the Authority as an agent of the Township for the purposes of administering the provisions of the ordinance.

## ARTICLE II - DEFINITIONS

**Section 2.01** As used in this Ordinance, the following words, terms and phrases will hereinafter have the meanings set forth in this section, unless the context clearly requires a different meaning:

**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 Region III of the EPA.

**Authority**. Control Authority.

**Authorized Representative of Industrial User**. An Authorized Representative of an Industrial User may be: (1) A principal executive officer of at least the level of vice-president, if the Industrial User is a corporation; (2) A general partner or proprietor if the Industrial User is a partnership or proprietorship, respectively; (3) A principal executive officer or director having responsibility for the overall operation of the discharging facility if the Industrial User is a governmental entity, charitable organization or other such unincorporated entity; (4) A duly authorized representative of the individual designated above if such representative is responsible for the overall operation of the facilities from which the Discharge originates.

**Best Management Practices (BMPs).** Schedule of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in Section 3.02 Prohibited Discharges. BMPs also 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.

**Biochemical Oxygen Demand (BOD).** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure, five (5) days at 20° centigrade expressed in terms of weight and concentration (milligrams per liter (mg/L)).

**Borough.** The Borough of Freeland, Luzerne County, Pennsylvania, a municipal corporation existing under the laws of the Commonwealth of Pennsylvania, and the Borough Council thereof, its agents and officials.

**Building Sewer.** A Sewer conveying Wastewater from the premises of a User to the Sewer System.

**Bypass.** The intentional diversion of Wastewater from any portion of an Industrial User's Pretreatment facility through which the Wastewater normally passes.

**Categorical Industrial User.** An Industrial User subject to Categorical Standards.

**Categorical Standards.** National Categorical Pretreatment Standards.

**Certified Professional.** A registered professional engineer under the laws of the State.

**Chain of Custody.** A record of sample collection indicating the place and time of collection and the Person collecting the sample. It shall also include a record of each Person involved in possession of the sample including the laboratory Person who takes final possession of the sample for the purpose of analysis.

**Clean Streams Law.** The Act of June 22, 1937, P.L. 1937, as amended and re-enacted by the Act of October 10, 1980, P.L. 894, 35 P.S. Sections 691.1 to 691.702.

**Color.** Color of light transmitted through a waste after removal of all suspended matter, including pseudo-colloidal particles, and measured in platinum-cobalt units.

**Combined Waste Formula.** A procedure for calculating discharge concentrations of constituents of Industrial Waste, as defined in 40 CFR §403.6(e).

**Compliance.** Adherence to conditions or requirements of this Ordinance, any written directions issued by the Borough, or any Wastewater Discharge Permit or other permit issued under the provisions of this Ordinance.

**Composite Sample.** A sample composed of individual subsamples taken at regular intervals over a specified period of time. Subsamples may be proportioned by time interval or size according to flow (Flow-proportioned Composite Sample), or be of equal size and taken at equal time intervals (Equal-time Composite Sample).

**Contributing Municipality.** Any of the municipalities party to a service agreement with the Authority, including the Borough of Freeland, Foster Township and Butler Township, and such other municipalities incorporated under the laws of the State which may enter into a similar agreement with the Authority.

**Control Authority.** The Borough of Freeland Municipal Authority, a Pennsylvania municipal authority incorporated, organized and existing under provisions of the Pennsylvania Municipal Authorities Act of 1945, approved May 2, 1945, P.L. 382, as amended and supplemented.

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

**Discharge.** The conveyance of any water or Wastewater into the Sewer System.

**Domestic Wastes.** Normal household wastes from kitchens, water closets, lavatories and laundries, or any waste from a similar source and possessing the same characteristics.

**Enforcement Response Plan.** A plan and guide developed pursuant to 40 CFR §403.8(f)(5) providing for the enforcement of the Industrial Pretreatment Program.

**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.

**Garbage.** Solid or semi-solid wastes resulting from preparation, cooking, and dispensing of food, and from handling storage and sale of produce.

**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.

**General Permit.** A control mechanism issued to more than one Significant Industrial User. Facilities covered under a general permit must have certain similar characteristics as described in Section 5.02(B).

**Groundwater.** Water which is contained in or passing through the ground.

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

**Industrial Pretreatment Program.** The sum of the provisions of this Ordinance, amendments thereto, and any activities authorized by this Ordinance as regards the regulation and control of Industrial Users.

**Interference.** A Discharge which, alone or in conjunction with Discharges from other sources:

1. Inhibits or disrupts the processes or operations of the Sewage Treatment Plant or the Sewage Collection System, or sludge processes, use or disposal; or
2. Is a cause of a violation of any requirement of the Authority's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Article 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including

Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including State regulations contained in any State sludge management plan prepared pursuant to Subtitle D of the SWDA), the Clean Air Act, the Toxics Substances Control Act, and the Marine Protection, Research and Sanctuaries Act; or which results in or increases the severity of a violation of other State or National environmental statutes, rules or regulations.

**Industrial User.** Any Person who Discharges Industrial Waste into the Sewer System.

**Industrial Waste.** Any solid, liquid or gaseous substance, or form of energy, which is produced as a result, whether directly or indirectly, of any industrial, manufacturing, trade or business process or activity, or in the course of developing, recovering or processing of natural resources; but not Sanitary Sewage.

**Local Limits.** Numerical limitations on the concentration, mass or other characteristics of wastes or pollutants discharged, or likely to be discharged, by Industrial Users, and which are developed by the Borough.

**Manhole.** A structure allowing access from the surface of the ground to a Sewer.

**Mg/L.** Milligrams per liter; a measure of concentration of water borne substances.

**Middle Tier Categorical Industrial User.** A Categorical Industrial User that meets the following conditions as determined by the Borough and as listed in Schedule 2 attached hereto and incorporated into this Ordinance and Amendments thereto: 1) Categorical wastewater flow does not exceed a) 0.01% of the design dry weather hydraulic capacity of the POTW, or 5,000 gpd, whichever is smaller, b) 0.01% of the design dry weather organic treatment capacity of the POTW, and c) 0.01% of the maximum allowable headworks loading for any pollutant regulated by the applicable categorical Pretreatment Standard for which approved local limits were developed; 2) has not been in significant noncompliance for any time in the past two years; and 3) does not have daily flow rates, production levels, or pollutant levels that vary so significantly that decreasing the reporting requirement for this Industrial User would result in data that are not representative of conditions occurring during the reporting period.

**Monthly Average.** The arithmetic mean of all daily determinations of concentration made during a calendar month.

**National Categorical Pretreatment Standard.** Any regulation containing pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C. 1317) which applies to a specific category of Industrial Users. National Categorical Pretreatment Standards are enumerated in 40 CFR, Chapter I, Subchapter N, Parts 405 through 471.

**NPDES Permit.** A permit issued pursuant to Section 402 of the Act (33 U.S.C. 1342).

**Net/Gross calculation.** A procedure for calculating discharge concentrations of constituents of Industrial Waste, as defined in 40 CFR §403.15.

**New Source.** Any building, structure, facility, or installation for which there is or may be a Discharge of Pollutants, the construction of which commenced after the publication of proposed Categorical Standards under Section 307 (c) of the Act which will be applicable to such source if



such Categorical Standards are thereafter promulgated in accordance with that Section. Determination of the applicability of New Source standards shall be made as provided in the Act and 40 CFR, §403.3.

**Noncompliance.** Not in Compliance.

**Non-Significant Categorical Industrial User (NSCIU).** A Categorical Industrial User that meets the following conditions as determined by the Borough: 1) never discharges more than 100 gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the Pretreatment Standard), 2) has consistently complied with all applicable categorical Pretreatment Standards and Requirements, 3) never discharges any untreated concentrated wastewater, and 4) annually submits a certification statement stating that the facility met the definition of an NSCIU together with any additional information necessary to support the certification statement.

**Operator.** Any Person having charge, care, control or management of a Pretreatment facility for Industrial Wastes or of a truck or trucks used in the removal, transport or disposal of Sewage or Industrial Wastes.

**Owner.** Any Person vested with ownership, legal or equitable, sole or partial, of an improved property.

**Pass Through.** Discharge of Pollutants to the Waters of the State either untreated or insufficiently treated, whether alone or in conjunction with a Discharge or Discharges from other sources, so as to cause Pollution or a violation of the Authority's NPDES permit, or causes or contributes to an increase in the magnitude or duration of such Pollution or violation; or concentration of Pollutants in the sludge so that the end use of the sludge results in Pollution, harm to the environment, or a violation of any State or Federal sludge disposal regulation, guideline or standard, or which causes or contributes to an increase in the magnitude or duration of such Pollution, harm or violation.

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

**pH.** The logarithm (base 10) of the reciprocal of the concentration of hydrogen ions expressed in moles per liter of solution.

**Pollutant.** Any substance including but not limited to dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt and industrial, municipal, and agricultural waste which, when discharged into water, results in Pollution or increases Pollution.

**Pollution.** The contamination of any Waters of the State such as will create or is likely to create a nuisance or to render such waters harmful, detrimental or injurious to public health, safety or welfare, or to domestic, municipal, commercial, industrial, agricultural, recreational, or other legitimate beneficial uses, or to livestock, wild animals, birds, fish or other aquatic life; or

contamination of the air, soil, or of the environment so as to produce or is likely to produce similar deleterious effects.

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

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

**Pretreatment Coordinator.** Agent of the Borough designated to administer the provisions of the Industrial Pretreatment Program.

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

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

**Prohibited Discharge.** Any Discharge which is prohibited under Section 3.02 of this Ordinance.

**Prohibitive Discharge Standard.** Any regulation developed under Section 307(b) and (c) of the Act (33 USC 1317) and 40 CFR, §403.5.

**Qualified Analyst.** Any Person who has demonstrated competency in the analysis of Wastewater by submission of their generally recognized documentation of competency to the Borough.

**Refrigeration.** Maintenance of temperature for storage, preservation of food, or as a process of manufacturing.

**Sanitary Sewage.** The normal water-carried Domestic Wastes from any improved property, but excluding: effluent from septic tanks or cesspools; rain, snow or stormwater; groundwater; or other collected water from roofs, drains or basements.

**Sanitary Sewer.** A Sewer carrying only Sanitary Sewage or Industrial Wastes, and to which storm, surface or ground waters are not intentionally admitted.

**Sewage Collection System.** All facilities of the Authority or any municipality party to a service agreement with the Authority, as of any particular time, used or usable for collecting, transporting, pumping and disposing of Wastewater, which facilities are connected to and served by the Sewage Treatment Plant. The Sewage Collection System includes, but is not necessarily

limited to those facilities owned or operated by the Borough of Freeland Municipal Authority, Foster Township, and Butler Township, or any other Contributing Municipality.

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

**Sewer.** A pipe or conduit for conveying Wastewater.

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

**Shall** is mandatory: **May** is permissive.

**Significant Industrial User (SIU).** An Industrial User who (1) has a discharge flow of 25,000 gallons or more of Process Wastewater per average work day; (2) discharges an organic load, in pounds of BOD per average work day, of 5% or more of the average daily organic loading of the Sewage Treatment Plant; (3) is regulated by Categorical Standards, except in cases where the Borough determines that an Industrial User is a Non-Significant Categorical Industrial User (NSCIU); or (4) is determined by the Borough to have the potential of adversely affecting the operation of the POTW, causing Interference or Pass Through, or of violating any Pretreatment Requirement.

**Significant Noncompliance (SNC).** A Noncompliance which meets or exceeds standards of Significant Noncompliance determined by the Borough and contained in Section 6.11 of this Ordinance.

**Significant Violator.** Any Industrial User in Significant Noncompliance.

**Slug or Slug Load.** Any Prohibited Discharge, or Discharge which could cause problems to the POTW.

**Spill.** Any non-routine episodic Discharge, including, but not limited to, accidental spills and leaks and non-customary batch Discharges, and including any Discharge resulting from control or cleanup activities associated with such an occurrence.

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

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

**Standard Methods.** The latest edition of "Standard Methods for the Examination of Water and Wastewater," published by the Water Pollution Control Federation, the American Public Health Association and the American Waterworks Association.

**State.** Commonwealth of Pennsylvania.

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

**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.

**Superintendent.** The Person designated by the Authority to supervise the operation of the Sewage Treatment Plant and monitor flows in the Sewage Collection System, including Authority Management, or The Authority's duly authorized representative.

**Total Solids.** The sum of the dissolved and undissolved solid constituents of water or Wastewater.

**Total Toxic Organics.** The sum of all quantifiable values of various organic pollutants as determined by the Borough or, for certain Categorical Industrial Users, as defined in the applicable Categorical Standard.

**Borough.** The Borough of Freeland, Luzerne County, Pennsylvania, a municipal corporation existing under the laws of the Commonwealth of Pennsylvania, and the Borough Council thereof, its agents and officials.

**Toxic Organic Management Plan.** A plan submitted in lieu of testing for Total Toxic Organics in which an Industrial User specifies methods of control to assure that Total Toxic Organics do not routinely enter the Sewer System.

**Toxic Pollutants.** Any Pollutant or combination of Pollutants listed as toxic in regulations promulgated by the Administrator of the Environmental Protection Agency under the provision of Section 307(a) of the Act, or other acts, or is present in sufficient quantity, either singly or in combination with other Wastewater, so as to present risk of causing Interference or Pass Through, causing harm to humans, animals or plants, or creating a hazard to Persons or property, either in the Sewage Collection System, the Sewage Treatment Plant, or the environment into which it is released.

**Unauthorized Discharge.** Discharge of an Unauthorized Waste, or a Discharge which otherwise is not in compliance with the requirements of the Industrial Pretreatment Program or other Rules or Regulations of the Borough.

**Unauthorized Waste.** Any substance which is Discharged into the Sewage Collection System which is not in compliance with the provisions of the Industrial Pretreatment Program, or which is Discharged by a Person in violation of any of the provisions of this Ordinance.

**User.** Any Person who contributes, causes or permits the Discharge of Wastewater into the Sewer System.

**Wastewater.** Industrial Wastes or Domestic Wastes from dwellings, commercial buildings, industrial facilities, and institutions, together with any groundwater, surface water, and stormwater that may be present, whether treated or untreated, which enters the Sewer System.

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

**Wastewater Discharge Permit.** As set forth in Article V of this Ordinance.

### **ARTICLE III - PROHIBITED WASTES AND POLLUTANT LIMITATIONS**

#### **Section 3.01 Discharge of Stormwaters**

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

#### **Section 3.02 Prohibited Discharges**

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

A. Any liquids, solids or gases which by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any other way to the Sewer System or to the operation of the Sewer System. At no time, shall two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system) be more than five percent (5%) nor any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter. At no time shall the closed cup flashpoint of the Wastewater be less than 140 degrees Fahrenheit. Prohibited materials include, but are not limited to, the following substances in concentrations which cause exceedance of the above standard: gasoline, kerosene, naphtha, benzene, ethers, alcohols, peroxides, chlorates, perchlorates, bromates, and carbides.

B. Solid or viscous substances which may cause obstruction to the flow in a Sewer or other Interference with the operation of the Sewer System, such as, but not limited to: grease, Garbage with particles greater than one-half inch (1/2") in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

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

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

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

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

G. Any petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause Interference or Pass Through, but in no case exceeding 30 mg/L in any composite sample or 50 mg/L in any grab sample.

H. Fats, oils, greases or waxes of animal or vegetable origin in amounts which cause Interference with the POTW, including but not limited to physical obstruction of Sewers.

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

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

K. Any Wastewater with objectionable color which will Pass Through the Treatment Plant, such as, but not limited to, dye wastes and vegetable tanning solutions.

L. Any Wastewater having a temperature which will inhibit biological activity in the Sewage Treatment Plant resulting in Interference, but in no case Wastewater with a temperature at the Discharge into the Sewer System which exceeds 40° C (104° F).

M. Any Pollutants, including oxygen demanding Pollutants (BOD, etc.) released at a flow rate and/or Pollutant concentration which will cause Interference to the Sewage Treatment Plant or interfere with the operation of the Sewer System. BOD in excess of 250mg/l in a composite sample, and 500 mg/l in any grab sample is prohibited. In no case shall a Slug Load be discharged.

N. Any Wastewater containing any radioactive wastes or isotopes of such halflife or concentration as may exceed limits established by the Borough or applicable State or Federal regulations.

O. Any trucked or hauled Wastewater or Pollutants except those discharged at points designated by the Authority.

P. Any Wastewater which is incompatible with treatment processes in use at the Sewage Treatment Plant so as to cause Interference or Pass Through.

Q. Any Wastewater containing any compounds or salts of aldrin, dieldrin, endrin, lindane, methoxychlor, toxaphene, dichlorophenoxyacetic acid, trichlorophenoxypropionic acid, or other persistent herbicides, pesticides or rodenticides.

### **Section 3.03 Unauthorized Discharges**

Discharge of any prohibited substance listed under Section 3.02 shall be considered an Unauthorized Discharge and the Borough may take whatever steps are necessary to halt such a discharge, as set forth in Articles VI and VII of this Ordinance.

### **Section 3.04 Categorical Standards**

A. If the Categorical Standards for a particular Industrial User are more stringent than Local Limits or other requirements imposed under this Ordinance, then the Categorical Standards shall apply. The Borough shall notify all affected Industrial Users of the applicable reporting requirements under 40 CFR, §403.12. The National Categorical Pretreatment Standards are hereby incorporated into the Industrial Pretreatment Program as program requirements for those Industrial Users subject to such Categorical Standards.

B. When the limits in a Categorical Pretreatment Standard are expressed only in terms of pollutant concentrations, the Borough may implement the limits as equivalent mass limits. An Industrial User may request equivalent mass limits from the Borough in writing. Upon receiving such a request the Borough will determine if the Industrial User meets the eligibility criteria for mass limits as listed in Sections 3.04(B)(1)(a) through 3.04(B)(1)(e) below. The Borough may determine that an Industrial User meets the criteria, but choose not to implement the limits as equivalent mass requirements based on other considerations.

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 control mechanism;

(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 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 Control Authority whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in paragraph (1)(c) of this section. Upon notification of a revised production rate, the Control Authority must 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 (1)(a) of this section so long as it discharges under an equivalent mass limit.

3. When establishing equivalent mass limits, the Borough:

(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) Will, upon notification of a revised production rate, 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 control mechanism 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 3.08. The Industrial User must also be in compliance with Section 3.15 (regarding the prohibition of bypass).

### **Section 3.05 Removal Credits**

Where the Sewage Treatment Plant achieves consistent removal of Pollutants limited by Categorical Standards, the Borough may apply to the Approval Authority for modification of specific limits in the Categorical Standards. If the requirements contained in 40 CFR, §403.7, are fulfilled and prior approval from the Approval Authority is obtained, the Borough may then modify Pollutant discharge limits in the Categorical Standards.



### **Section 3.06 State Requirements**

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

### **Section 3.07 Local Limits**

The Borough may establish Local Limits regulating the Discharge of specific Pollutants by Industrial Users.

- A. Local Limits may be established for any substance which is Discharged, or is likely to be Discharged, to the Sewer System.
- B. Local Limits may limit concentration, mass, or a combination of the two.
- C. The procedure for the calculation of Local Limits should be as recommended by the Approval Authority. Whenever possible, the calculation of Local Limits shall be technically based, using all available information.
- D. Local Limits shall be calculated to prevent Interference; Pass Through; the discharge of toxic materials in toxic amounts; threats to worker health and safety; and physical, chemical or biological damage to the Sewer System.
- E. Local Limits shall be applied to all Significant Industrial Users and shall be included in all Wastewater Discharge Permits. Local Limits may be applied to other Industrial Users if deemed appropriate by the Borough.
- F. Discharging any pollutant in excess of a Local Limit established for that Pollutant shall constitute an Unauthorized Discharge. Such a Discharge is subject to the actions and penalties set forth herein.

### **Section 3.08 Prohibition on Dilution**

No Industrial User shall, in any way, attempt to dilute a Discharge as a partial or complete substitute for adequate Pretreatment to achieve compliance with the limitations contained in applicable Categorical Standards, or in any other pollutant-specific limitation, including Local Limits, developed by the Borough or State.

### **Section 3.09 Slug Loads and Spills**

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

#### **A. Notification**

- 1. In the case of a Spill or Slug Load or other Unauthorized Discharge, it is the responsibility of the Industrial User to immediately telephone and notify the Superintendent of the incident. The notification shall include location of Discharge, type of waste, concentration and volume, corrective actions being taken or planned, and expected duration.

2. In the event a change is made at a facility that affects the potential for discharge of a Spill or Slug Load, or other Unauthorized Discharge the Industrial User shall immediately notify the Borough of the change.

B. **Notice to Employees** A notice shall be permanently posted on the Industrial User's bulletin board or other prominent place advising employees whom to call in the event of a Spill or other Unauthorized Discharge. Employers shall insure that all employees who may cause or suffer such a Discharge to occur are advised of the emergency notification procedure.

C. **Written Notice** Within five (5) days following a Spill, Slug Load, or other Unauthorized Discharge, the Industrial User shall submit to the Borough a detailed written report describing the cause of the Discharge and the measures to be taken by the Industrial User to prevent similar future occurrences. Such notification shall not relieve the Industrial User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the Sewer System, fish kills, or any other damage to Person or property; nor shall such notification relieve the Industrial User of any fines, civil penalties, or other liability which may be imposed by this Ordinance or applicable law.

D. **SPCC Plans** All existing Significant Industrial Users shall complete and obtain approval of a Spill Prevention Control and Countermeasure (SPCC) Plan, or provide acceptable evidence that such a Plan is not necessary for their facility. No Significant Industrial User who commences Discharge to the Sewer System after the effective date of this Ordinance shall be permitted to introduce Pollutants into the Sewer System until this requirement has been fulfilled. Industrial Users other than Significant Industrial Users may be required to submit a SPCC Plan at the discretion of the Borough. Such Plans shall, at a minimum, contain the elements specified in 40 CFR §403.8(f)(2)(v)(A)-(D). SPCC Plans shall be submitted to the Borough for review, and shall be approved by the Borough before implementation of the Plan or construction of any required facilities. Review and approval of such Plans, facilities and operating procedures by the Borough shall not relieve the Industrial User from the responsibility to modify its facility as necessary to meet the requirements of the Industrial Pretreatment Program.

### **Section 3.10 Drainage of Water Filtration Systems**

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

A. Granular media filter backwash water may be Discharged to the Sewer System, subject to all of the applicable provisions of this Ordinance.

B. Diatomaceous earth filter backwash, if Discharged to the Sewer System, shall be connected to the Sewer System through settling tanks with no less than three (3) months storage capacity of spent diatomaceous earth, which tanks shall be accessible for removing solid waste for disposal.

### **Section 3.11 Trucked and Hauled Wastes**

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

### **Section 3.12 Grease and Sand traps**

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

### **Section 3.13 Garbage Grinders**

The use of mechanical Garbage grinders producing a finely divided mass, properly flushed with an ample amount of water, shall be permitted, upon the condition that no such mechanical Garbage grinder used for commercial or business purposes shall be installed until permission for such use has been obtained from the Borough.

### **Section 3.14 Notification Requirements - Hazardous Wastes and Hazardous Substances**

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

1. An identification of the hazardous constituents contained in the waste;

2. An estimation of the mass and concentration in the Wastewater of all such constituents discharged in the most recent month; and
  3. An estimate of the mass and concentration of such constituents expected to be discharged during the following twelve months.
- B. Industrial Users that commence discharge after the effective date of this Ordinance shall submit the report within 180 days of first discharge of the hazardous waste, except as provided in paragraph D of this Section.
- C. The required report need be submitted only once for each hazardous waste discharged. Industrial Users regulated under Categorical Standards which have already submitted such information in baseline monitoring reports or periodic compliance reports do not have to report this information again.
- D. Industrial Users that Discharge less than fifteen (15) kilograms of hazardous wastes in a calendar month do not have to comply with these reporting requirements. This exemption does not apply to acute hazardous wastes as specified in 40 CFR §261.30(d) and 261.33(e).
- E. An Industrial User shall notify the Borough within 5 days of becoming aware of any Discharges of reportable quantities of listed or unlisted Hazardous Substances, as defined at 40 CFR § 302.4 (CERCLA Hazardous Substances). This notification shall include the time of release; the name of the substance; the identifying CAS number, if known; and the approximate quantity Discharged. If the Discharge constitutes a Spill, change in Wastewater constituents, or Slug Load, other reporting requirements of the Industrial Pretreatment Program may also apply.
- F. Each notification required by this section shall include a statement certifying that the Industrial User has a program in place to reduce the volume and/or toxicity of the Discharged wastes to the extent that it is economically practical. This statement shall be signed by the Authorized Representative of the Industrial User.

### **Section 3.15 Bypass**

- A. Bypass is prohibited, and the Borough may take enforcement action against an Industrial User for a bypass, unless;
1. Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage. 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. 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 preventative maintenance; and

3. The Industrial User submitted notices as required under paragraph (C) of this section.

B. An Industrial 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 provisions of paragraphs (A), (C) and (D) of this section.

C. If an Industrial User knows in advance of the need for a bypass, it shall submit prior notice to the Borough, if possible at least ten days before the date of the bypass. The Borough may approve an anticipated bypass, after considering its adverse effects, if the Borough determines that it will meet the three conditions listed in paragraphs (A)(1) through (A)(3) of this section.

D. An Industrial User shall submit oral notice of an unanticipated bypass that exceeds applicable Pretreatment Standards to the Borough within 24 hours from the time the Industrial User becomes aware of the bypass. A written submission shall also be provided within 5 days of the time the Industrial 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 Borough may waive the written report on a case-by-case basis if the oral report has been received within 24 hours.

## ARTICLE IV - FEES

### Section 4.01 Purpose

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

### Section 4.02 Fees that may be Charged

The Borough may adopt charges and fees which may include:

- A. Fees for reimbursement of costs of setting up and operating the Industrial Pretreatment Program;
- B. Fees for monitoring, inspections and surveillance procedures;
- C. Fees for reviewing accidental discharge procedures and construction;

- D. Fees for Wastewater Discharge Permit applications;
- E. Fees for filing appeals;
- F. Fees for consistent removal (by the Sewage Treatment Plant) of Pollutants otherwise subject to Categorical Standards; and
- G. Other fees as the Borough may deem necessary to carry out the requirements contained herein, including surcharge fees for violation of permit limits.

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

## **ARTICLE V - PERMITS AND REPORTS FOR INDUSTRIAL WASTE DISCHARGED INTO THE SEWER SYSTEM**

### **Section 5.01 Requirement for Wastewater Discharge Permits**

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

### **Section 5.02 Significant Industrial Users**

A. All Significant Industrial Users, including those meeting the description of a Middle Tier Categorical Industrial User, proposing to connect to or to Discharge to the Sewer System shall obtain a Wastewater Discharge Permit before connecting to or Discharging to the Sewer System.

B. At the discretion of the Borough, General Permits may be available for groups of Significant Industrial Users. Upon review of an application for a new or renewal Wastewater Discharge Permit the Borough may recommend that a Significant Industrial User be covered under a general permit. When applying for a new or renewed discharge permit, an industrial user may also request coverage under a general permit. To be eligible for coverage under a general permit the SIU must meet the following criteria, as determined by the Borough, when compared with other facilities covered under the general permit:

1. Involve the same or substantially similar types of operations;
2. Discharge the same types of wastes;
3. Require the same effluent limitations;
4. Require the same or similar monitoring; and
5. In the opinion of the Borough, are more appropriately controlled under a general control mechanism than under individual control mechanisms.

C. The Borough may not control a Significant Industrial User through a general control mechanism where the facility is subject to production-based Categorical Pretreatment Standards or Categorical Pretreatment Standards expressed as mass of pollutant discharged per day or for Industrial Users whose limits are based on the Combined Wastestream Formula or Net/Gross calculations.

### **Section 5.03 Other Industrial Users**

Industrial Users which are not Significant Industrial Users do not require a Wastewater Discharge Permit, but are required to comply with all other provisions of this Ordinance. If an Industrial User makes changes to processes, flow, Wastewater concentration, Wastewater characteristics, or other changes which result in the Industrial User meeting the definition of Significant Industrial User, the Industrial User shall immediately upon becoming aware that such a change has occurred, or ninety (90) days prior to such a change if it is planned, notify the Borough and apply for a Wastewater Discharge Permit.

### **Section 5.04 Permit Applications**

Industrial Users required to obtain a Wastewater Discharge Permit shall complete and file with the Borough, an application in the form prescribed by the Borough, and accompanied by the fee prescribed in the Borough's schedule of fees, at least 90 days prior to connecting to or Discharging to the Sewer System. In support of the application, the Industrial User shall submit, in units and terms appropriate for evaluation, the following information:

- A. Facility name, address, location, (if different from the address), and the name and phone number of a facility contact.
- B. SIC number or numbers according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended;
- C. Wastewater constituents and characteristics as required by the Borough, as determined by a Qualified Analyst; sampling and analyses shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended;
- D. Each product by type, amount, process or processes and rate of production;
- E. Type and amount of raw materials processed (average and maximum per day);
- F. Number and type of employees, and hours of operation of plant and proposed or actual hours of operation of pretreatment system;
- G. Time and duration of Wastewater or Industrial Waste contribution;
- H. Average daily and 30 minute peak Wastewater flow rates, including daily, monthly and seasonal variation if any;
- I. Site plans, floor plans, mechanical and plumbing plans and details to show all Building Sewers, Sewer connections, and appurtenances by the size, location and elevation;

- J. Description of activities, facilities and plant processes on the premises including all materials which are or could be Discharged, and a proposed discharge sampling location;
- K. The nature and concentration of any Pollutants in the Discharge which are limited by any Borough, State, or Federal Pretreatment Requirements (including Local Limits), or Categorical Standards, and a statement regarding whether or not the Categorical Standard or Pretreatment Requirements are being met on a consistent basis and, if not, how the Industrial User proposes to meet the Categorical Standards and/or Pretreatment Requirements, including whether additional Operation and Maintenance (O&M) and/or additional Pretreatment is required for the Industrial User to meet the applicable Categorical Standard or Pretreatment Requirement. If the applicant is a Categorical Industrial User, this statement shall be signed by a Certified Professional;
- L. If additional Pretreatment and/or O&M will be required to meet Categorical Standards, Prohibitive Discharge Standards, or other Pretreatment Requirements (including Local Limits), the shortest schedule by which the Industrial User will provide such additional facilities or procedures shall be developed and submitted. The completion date of this schedule shall not be later than the compliance date established for any applicable Categorical Standard.

The following conditions shall apply to this schedule:

(1) The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the construction and operation of additional Pretreatment required for the Industrial User to meet the applicable Categorical Standards or other Pretreatment Requirements (e.g., hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, completing construction, etc.).

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

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

- M. Compliance information for any applicable best management practices.
- N. Any other information as may be deemed by the Borough to be necessary to evaluate the application.



- O. The application shall be signed and attested to by an Authorized Representative of the Industrial User.

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

#### **Section 5.05 Confidentiality of Applications**

- A. All information required by the Borough in the Permit application shall be provided by the Industrial User to the best of its ability.
- B. If information regarding raw materials, processes, production rates or other manufacturing information is regarded as confidential by the Industrial User, such information shall be marked "confidential" on the application form.
- C. Confidentiality shall not apply to information regarding the flow of or the constituents in the Industrial Wastewater Discharge.
- D. Information accepted by the Borough as confidential shall be handled as detailed in Section 5.19 of this Article.

#### **Section 5.06 Wastewater Discharge Permit Conditions**

Wastewater Discharge Permits shall be expressly subject to all provisions of this Ordinance and all other applicable regulations, user charges and fees established by the Borough. Permits shall contain the following:

- A. Limits on Wastewater constituents and characteristics, including Local Limits and/or Categorical Standards, as applicable;
- B. List of Prohibited Discharges, as presented in Article III of this Ordinance;
- C. Requirements for submission of technical reports or discharge reports, including the information to be contained and the signatory requirements of these reports;
- D. Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule;
- E. Requirements for maintaining and retaining records relating to Industrial Waste, and Wastewater Discharges, wastewater characteristics and Best Management Practices as specified by the Borough, and affording the Borough access thereto;
- F. Requirements for notification to the Borough of any new introduction of Wastewater constituents or any substantial change in the volume or character of the Wastewater constituents being Discharged into the Sewer System;
- G. Requirements for notification of Spills or Slug Loads and any changes affecting the potential for Spills or Slug Loads as per Article III, Section 3.09;
- H. Statement of duration of the Wastewater Discharge Permit;

- I. Notification of the rules regarding transferability, as stated in Section 5.07 of this Article;
- J. Notification of penalties provided for Noncompliance as contained in Article VII of this Ordinance;
- K. Notification of right of appeal.  
Permits may also contain other information, including, but not limited to:
- L. Limits on average and maximum rate and time of discharge or requirements for flow regulation and equalization;
- M. Requirements for installation and maintenance of inspection and sampling facilities;
- N. Requirements for installation and maintenance of Pretreatment facilities;
- O. Requirements for developing and implementing special plans or practices such as Toxic Organic Management plans, best management or housekeeping practices, or other such procedures;
- P. Compliance schedules;
- Q. The unit charge or schedule of User charges and fees for the Wastewater to be discharged to the Sewer System;
- R. Applicable slug control requirements.
- S. Other conditions as deemed appropriate by the Borough to ensure compliance with this or any other applicable Ordinance or Ordinance.

#### **Section 5.07 Transferability of Permits**

Wastewater Discharge Permits are issued to a specific Industrial User for a specific operation. A Wastewater Discharge Permit shall not be reassigned or transferred or sold to a new Person, new Industrial User, different premises, or a new or changed operation without the approval of the Borough. Any succeeding Industrial User shall also comply with the terms and conditions of the existing Wastewater Discharge Permit. The Borough may, at its discretion, deny the transfer of a Wastewater Discharge Permit and require application for a new Wastewater Discharge Permit under the provisions of this Article.

#### **Section 5.08 Duration of Wastewater Discharge Permits**

Wastewater Discharge Permits shall be issued for a specified time period, not to exceed five (5) years. A Wastewater Discharge Permit may be issued for a period of less than five years or may be dated to expire on a specific date. The Industrial User shall apply for reissuance of the Wastewater Discharge Permit a minimum of 180 days prior to the expiration of the Industrial User's existing Wastewater Discharge Permit. The terms and conditions of the Wastewater Discharge Permit may be subject to modification by the Borough during the term of the Wastewater Discharge Permit as limitations or requirements as identified in Article III are modified or other just cause exists. The Industrial User shall be informed of any proposed changes in its Wastewater Discharge Permit at least 30 days prior to the effective date of change.

Any changes or new conditions in the Wastewater Discharge Permit shall include a reasonable time schedule for compliance.

#### **Section 5.09 Delayed Permit Renewal**

A. If the Industrial User has complied with the terms of the Wastewater Discharge Permit and this Ordinance, and has applied for renewal as provided for in Section 5.08 of this Article, and the Wastewater Discharge Permit is not renewed on or before the expiration date through no fault of the Industrial User, then the existing Wastewater Discharge Permit shall remain in effect until it is re-issued or rescinded by the Borough.

B. If the Wastewater Discharge Permit is not renewed because of a failure of the Industrial User to apply for renewal in a timely fashion or through an act or omission of the Industrial User, then Discharge of Industrial Waste by the Industrial User without a Wastewater Discharge Permit is an Unauthorized Discharge and is subject to the enforcement provisions of this Ordinance.

#### **Section 5.10 Appeal of Wastewater Discharge Permits**

A. Any Industrial User that is issued a Wastewater Discharge Permit may appeal the Permit conditions, in whole or in part. Appeal procedures shall be as set forth in Article VI, Section 6.07 of this Ordinance.

B. During the process of appeal, the Wastewater Discharge Permit shall remain in effect and shall be enforced with the exception of those conditions specified in writing in the appeal. Conditions imposed by Federal or State Regulations (e.g. - Categorical Standards) shall not be waived. Conditions which, in the opinion of the Borough, would constitute a hazard or pose a potential threat of Pollution if waived, shall not be waived during an appeal.

#### **Section 5.11 Baseline Monitoring Reports**

A. As soon as possible following the promulgation of a Categorical Standard, the Wastewater Discharge Permit of Industrial Users subject to such standards shall be revised, if necessary, to require compliance with such Categorical Standard within the time frame prescribed by the Categorical Standard.

B. Where an Industrial User, subject to a newly promulgated Categorical Standard, has not previously submitted an application for a Wastewater Discharge Permit as required by Article V, Section 5.04, the Industrial User shall, within 180 days after the promulgation of the applicable Categorical Standard:

(1) Apply for a Wastewater Discharge Permit; and

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

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

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

### **Section 5.12 Categorical Compliance Report**

Within 90 days following the date for final compliance with applicable Categorical Standards or, in the case of a New Source, following commencement of the Discharge of Industrial Waste from processes regulated by Categorical Standards into the Sewer System, any Industrial User subject to Categorical Standards shall submit to the Borough a report indicating the nature and concentration of all Pollutants in the Discharge from the regulated process which are limited by Categorical Standards and the average and maximum daily flow for those process units in the Industrial User's facility which are limited by such Categorical Standards. The report shall certify that the information contained therein concerning Wastewater constituents and flows is representative of discharges during normal workcycles. The report shall state whether the facility is in compliance with applicable best management practices, and if not, include a schedule for implementation of applicable best management practices. The report shall also state whether the applicable Categorical Standards are being met on a consistent basis and, if not, what additional Operation and Management practices and/or Pretreatment is necessary to bring the Industrial User into compliance with the applicable Categorical Standards, and including a schedule for completion of the required actions in the form described in Section 5.04, paragraph L, of this Article. This statement shall be signed by an Authorized Representative of the Industrial User, and certified to by a Certified Professional.

### **Section 5.13 Periodic Compliance Reports**

A. All Significant Industrial Users shall report to the Borough at least twice a year, the date of the report to be as determined by the Borough and contained in the Wastewater Discharge Permit. Reports may be required more frequently, if deemed necessary by the Borough.

B. The Borough may decrease the frequency of periodic compliance reports to no less than once per year for a Significant Industrial User that is designated a Middle Tier Categorical Industrial User (Middle Tier CIU).

C. The reports required under this Section shall contain, at a minimum, the measured concentrations of all Pollutants regulated by the Wastewater Discharge Permit, information necessary to demonstrate compliance with required Best Management Practices, a record of all measured daily flows which exceeded the average daily flow value reported in compliance with Article V, Section 5.04, paragraph H of this Ordinance and the following statement of accuracy and completeness signed and certified by the Authorized Representative of the Significant Industrial User:

"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 this 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. All wastewater discharge data are representative of normal daily facility operations. I am aware that there are significant penalties for submitting false information, including the possibility of fine or imprisonment for willful or knowing violations."

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

E. For Significant Industrial Users subject to Categorical Standards, the certification of Compliance with those Standards, signed by a Certified Professional.

F. Users designated by the Borough as Non-Significant Categorical Industrial Users (NSCIUs) must submit the following certification statement to the Borough once each year along with documentation supporting their classification as a NSCIU:

"Based on my inquiry of the person or persons directly responsible for managing compliance with the categorical Pretreatment Standards under 40 CFR \_\_\_\_, I certify, that to the best of my knowledge and belief that during the period from \_\_\_\_\_, \_\_\_\_\_ to \_\_\_\_\_, \_\_\_\_\_ [months, days, year]: (a) The facility described as \_\_\_\_\_ [facility name] met the definition of a non-significant categorical Industrial User as described in §403.3(v)(2); (b) the facility never discharged more than 100 gallons of total categorical wastewater on any given day during this reporting period. This compliance certification is based upon the following information: \_\_\_\_\_"

#### **Section 5.14 Reporting and Resampling of Discharge Limit Violations**

A. If, upon receipt of valid sampling and testing results, a Significant Industrial User becomes aware that a violation of Discharge limits has occurred, the Significant Industrial User shall, within 24 hours of becoming aware of the violation, notify the Borough of this fact. Within 30 days of becoming aware of the violation, the Significant Industrial User shall also sample and analyze its discharge(s) for each parameter found to be in violation and report the results of the re-sampling and analysis to the Borough.

B. Each Significant Industrial User shall have a duty, on receipt of validly obtained sampling and analysis results, of inspecting the results and determining if any Wastewater Discharge Permit condition has been violated. Failure to examine and compare testing

results with Wastewater Discharge Permit conditions shall not be a valid defense for failure to comply with these reporting conditions.

#### **Section 5.15 Sampling and Analysis**

A. All sampling and analysis performed in compliance with Wastewater Discharge Permit conditions or to prepare the reports required in Sections 5.11, 5.12, 5.13 and 5.14 of this Article shall be accomplished using techniques specified in 40 CFR Part 136, or alternative procedures approved by the Administrator, or using procedures described in Standard Methods if no EPA-approved procedure exists.

B. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Borough. Where time-proportional composite sampling or grab sampling is authorized by the Borough, the samples must be representative of the Discharge and the decision to allow the alternative sampling must be documented in the Industrial User file for that facility or facilities.

C. All samples taken for purposes of demonstrating compliance must be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of normal conditions occurring during the reporting period.

D. If an Industrial User subject to the reporting requirements of this Article monitors any pollutant more frequently than required by the Borough using procedures as specified in Paragraph A., above, the results of this monitoring shall be provided to the Borough with the periodic compliance report required by Section 5.13. If the additional monitoring indicates that a violation of Pretreatment Requirements has occurred, then the provisions of Section 5.14 shall apply. It shall be a violation of the provisions of the Pretreatment Program to obtain several sample analyses for the purpose of selecting and submitting only those analyses that show Compliance with Pretreatment Requirements.

#### **Section 5.16 Monitoring Facilities**

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

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

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

### **Section 5.17 Inspections**

The Borough may inspect the facilities of any User to ascertain whether the purpose of this Ordinance is being met and all requirements are being complied with. Persons or occupants of premises connected to the sewage collection system and/or where Wastewater is created or discharged shall allow the Borough or its representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and copying or in the performance of any of their duties. The Borough, its agents (including the Authority), and EPA shall have the right to set up on the User's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a User has security measures in force which would require proper identification and clearance before entry onto their premises, the User shall make necessary arrangements with its security guards so that upon presentation of suitable identification, personnel from the Borough, the Authority, any state environmental agency, and EPA will be permitted to enter, without delay, for the purpose of performing their specific responsibilities.

### **Section 5.18 Pretreatment Facilities**

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

### **Section 5.19 Confidentiality**

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

B. When requested by the Person furnishing a report, and supported by evidence acceptable to the Borough as to need for protection as confidential material, the portion of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this Ordinance, the Authority's NPDES Permit, any State permit and/or the Industrial Pretreatment Program; provided, however that such portions of a report shall be available for use by the EPA, the State or any State agency in judicial review or enforcement proceedings involving the Person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.

C. The Borough shall maintain a secure place to store records containing confidential information and shall insure that all records marked as confidential are kept secure from casual or public scrutiny.

D. When information accepted by the Borough as confidential is transmitted to any government agency, a notification to the Industrial User shall be provided listing the confidential information transmitted, and the governmental entity requesting it.

#### **Section 5.20 Change in Operations**

A. Any Significant Industrial User contemplating or planning a change in the manufacturing process, raw materials, auxiliary processes, Pretreatment processes or other changes which may result in changes to Wastewater character, composition, volume or rate of flow, shall notify the Borough in writing at least 30 days prior to making such a change, or if the change is unplanned, immediately upon making the change. The report shall include all information necessary to determine the effect on the Wastewater of the change.

B. The Borough may, on receipt of such a report:

1. Continue an existing Wastewater Discharge Permit in effect;
2. Require application for a new Wastewater Discharge Permit;
3. Modify an existing Wastewater Discharge Permit to reflect the changed nature of the waste;
4. Rescind and re-issue an existing Wastewater Discharge Permit in order to make substantial changes in Wastewater Discharge Permit conditions;
5. Revoke an existing Wastewater Discharge Permit or require the Industrial User to cease or prevent the Discharge; or
6. Take such other action as it deems appropriate.

C. Facilities permitted as Middle Tier Categorical Industrial Users (Middle Tier CIUs) must notify the Borough immediately of any changes at its facility causing it to no longer meet Middle Tier eligibility criteria. Upon notification, the Industrial User must immediately begin complying with the minimum reporting as described in Section 5.13(A).



### **Section 5.21 Records**

A. The Borough shall keep and maintain all records relating to the administration and enforcement of the Industrial Pretreatment Program, including but not limited to Wastewater Discharge Permit applications, investigations and calculations, Wastewater Discharge Permits, inspection reports, Industrial User reports, reports of compliance with Best Management Practices, sampling results and enforcement activities, for a minimum of three years. In cases of on-going litigation, records shall be maintained as long as they may be required.

B. The Borough shall keep and maintain documentation to support a determination that a significant industrial user meets the criteria to be permitted under a general permit, a copy of the user's general permit, and a copy of the user's request for coverage under a general permit, for a minimum of three years after expiration of a general permit.

C. The Borough shall keep and maintain documentation to support a determination that a facility qualifies as a Middle Tier CIU, for a minimum of three years after expiration of the permit establishing requirements based on the middle tier determination.

D. All Industrial Users shall keep and maintain records of monitoring activities and results, records of compliance with Best Management Practices, Wastewater Discharge Permits, and reports to the Borough for a minimum of 3 years. In cases of on-going litigation such records shall be maintained as long as they may be required.

## **ARTICLE VI - ENFORCEMENT**

### **Section 6.01 Right to Refuse**

The Borough reserves the right to refuse to accept Wastewater, or combinations of Wastewater, which are Discharged in violation of the terms or conditions of this Ordinance, or the written directions of the Borough issued pursuant to the conditions of this Ordinance. The Borough may take such steps as it deems necessary, as outlined in this Ordinance, to compel discontinuance of use of the Sewer System or Pretreatment of Industrial Wastes in order to comply with the provisions of this Ordinance.

### **Section 6.02 Suspension of Permit**

A. The Borough may suspend the Wastewater Discharge Permit when such suspension is necessary, in the opinion of the Borough, in order to stop an actual or threatened Discharge which presents or may present an imminent or substantial endangerment to the health or welfare of Persons, to the environment, causes Interference or Pass Through, or causes the Authority to violate any condition of its NPDES Permit or any other Federal or State law, rule, regulation or permit condition.

B. Any Industrial User notified of a suspension of its Wastewater Discharge Permit shall immediately stop or eliminate the Discharge. In the event of a failure of the Industrial User to comply voluntarily with the notice of suspension, the Discharge shall be considered an Unauthorized Discharge and the Borough shall take such steps as deemed necessary, including immediate severance or plugging of the connection between the Building Sewer and the Sewage Collection System, to prevent or minimize damage to the Sewer System or endangerment to the environment or any property or Person.

C. The Borough may reinstate the Wastewater Discharge Permit upon submission of proof by the Industrial User of the elimination of the Unauthorized Discharge. A detailed written statement submitted by the Industrial User describing the causes of the Unauthorized Discharge and the measures taken to prevent any future occurrence shall be submitted to the Borough within 15 days of the date of occurrence.

### **Section 6.03 Revocation of Permit**

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

1. Failure of an Industrial User to factually report the Wastewater constituents and characteristics of its discharge in any application for a Wastewater Discharge Permit, or in any reports required by Article V, Sections 5.11, 5.12, 5.13, or 5.14 of this Ordinance;
2. Failure of the Industrial User to report significant changes in operations, or Wastewater constituents and characteristics as required in Article V, Section 5.20 of this Ordinance;
3. Refusal of reasonable access to the Industrial User's premises for the purpose of inspection or monitoring; or
4. Significant Noncompliance with conditions of the Wastewater Discharge Permit.

B. Discharge of any Industrial Waste to the Sewer System by a Significant Industrial User without a Wastewater Discharge Permit is an Unauthorized Discharge, as provided in Article V, Section 5.01, and is subject to the penalties provided herein.

### **Section 6.04 Notice of Violation**

Whenever the Borough finds that any Industrial User has violated or is violating the provisions of the Industrial Pretreatment Program, its Wastewater Discharge Permit, or any prohibition, limitation or requirements contained herein, the Borough may serve upon such Industrial User a written notice stating the nature of the violation, and requiring a response

within a specified time. Responses required of Industrial Users may include, but are not restricted to, actions, plans, compliance schedules, or written explanations.

#### **Section 6.05 Show Cause Hearing**

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

B. The Borough may itself conduct the hearing and take the evidence, or may designate any of its members or any representative of the Borough to:

1. Issue in the name of the Borough notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;
2. Take the evidence;
3. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Borough for action thereon.

C. At any hearing held pursuant to this Section, 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.

D. After the Borough has reviewed the evidence, it may, in writing, direct the Industrial User to take certain actions to correct the Unauthorized Discharge or to achieve Compliance. The actions which may be directed include, but are not limited to:

1. Installation of Pretreatment facilities or equipment;
2. Modification or additions to existing Pretreatment facilities or equipment;
3. Initiation of management practices which are required to alter the nature of the Industrial Waste being Discharged;
4. Development or implementation of SPCC plans or other measures;

5. Other measures found to be necessary to correct the Unauthorized Discharge or other Non Compliance.
  6. The direction may be in the form of a schedule for compliance, setting dates by which certain actions shall be taken.
- E. Failure of an Industrial User to comply with directions issued pursuant to a hearing constitutes a violation of this Ordinance and may be subject to additional actions or penalties as outlined in this Article.

#### **Section 6.06 Administrative Orders**

The Borough may issue written directions as described in Section 6.05, paragraph D, of this Article without a Show Cause Hearing if the Borough determines that such directions are necessary to correct conditions or remedy continuing violations of this Ordinance or any Wastewater Discharge Permit or other requirements of the Industrial Pretreatment Program, the Borough or Federal or State regulations.

#### **Section 6.07 Right of Appeal**

- A. An Industrial User may appeal the enforcement actions enumerated above in Sections 6.02, 6.03, 6.05 and 6.06 of this Article, or Wastewater Discharge Permit conditions, in whole or in part. An appeal is subject to the following requirements.
1. The appeal must be made in writing to the Borough.
  2. The appeal must be made within thirty (30) calendar days from the date of receipt of the Wastewater Discharge Permit, written directions, or notice of suspension or revocation of a Wastewater Discharge Permit being appealed by the Industrial User.
  3. The appeal must state the specific provision(s) of a Wastewater Discharge Permit or the specific directions of the Borough which are being contested.
  4. The appeal must state the reasons for the appeal of each provision.
  5. The appeal may suggest alternate or revised provisions to replace those appealed.
- B. Provisions mandated by Federal or State regulations (e.g., compliance with Categorical Standards) shall not be appealed.
- C. An appeal shall be made to the Borough, and shall be reviewed by any designated representative(s) of the Borough, provided:
1. The representative shall not be the Pretreatment Coordinator; and
  2. The representative is not the Superintendent.
- D. Within 60 days of receipt, the representative(s) reviewing the appeal shall report in writing to the Borough the results of the review. The report shall contain, at a minimum:

1. A summary of each item appealed, the appellant's reasons for appeal, and the appellant's proposed remedies, if any.
2. The finding of merit for each point, and the reason(s) for finding.
3. For each point found to be with merit, a proposed remedy, and a finding that the remedy is allowable under the provisions of the Industrial Pretreatment Program, and all applicable Federal, State and local rules, regulations and laws.

E. The Borough shall review the report and, at one or more regular or special public meetings, take any additional testimony offered by the appellant, reviewer, Pretreatment Program Coordinator, or other interested party. The Borough shall, within 45 days of the conclusion of testimony, decide to:

1. Grant the appeal or portions of the appeal, applying such remedies as it deems proper; or
2. Deny the appeal.

This decision constitutes final administrative action.

#### **Section 6.08 Civil Actions**

If any Person violates the provisions of the Industrial Pretreatment Program, including local Federal or State Pretreatment Requirements, Categorical Standards, or any Wastewater Discharge Permit or written directions issued by the Borough, the Borough may commence an action for appropriate legal and/or equitable relief in the Court of Common Pleas of Luzerne County.

#### **Section 6.09 Injunctive Relief**

If any Person causes or permits an Unauthorized Discharge to occur, or otherwise violates the conditions imposed by the Industrial Pretreatment Program or any Wastewater Discharge Permit or written directions issued by the Borough, or any Federal or State Pretreatment Requirement or Categorical Standard, the Borough may commence an action in the Court of Common Pleas of Luzerne County for injunctive relief to stop the Unauthorized Discharge, or to require Compliance with the applicable condition.

#### **Section 6.10 Enforcement Response Plan**

The Borough may develop an Enforcement Response Plan to guide the Pretreatment Coordinator in the administration of the Industrial Pretreatment Program. The Enforcement Response Plan shall meet the requirements of 40 CFR § 403.8(f)(5) regarding the contents of Enforcement Response Plans. The Pretreatment Coordinator shall be guided by the Enforcement Response Plan when reviewing Industrial User reports, inspection results and other compliance information, and when recommending to the Borough enforcement action in response to Noncompliance.

## **Section 6.11 Significant Violators**

The Borough shall publish annually, a list of Industrial Users that were found to be in Significant Noncompliance during the previous calendar year. The list shall be published in a newspaper of general circulation within the municipalities served by the Sewage Collection System. Significant Noncompliance shall be determined using measures of rate, magnitude, and type of Noncompliance, as delineated below:

A. Chronic violations of Local Limits, Prohibitive Discharge Standards, Categorical Standards, or other numerical limitations on Discharges of Industrial Waste. A Chronic violation occurs if sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter during a six (6) month period exceed (by any magnitude) a numeric Pretreatment Standard or requirement, including instantaneous limits.

B. Technical Review Criteria (TRC) violations of Local Limits, Prohibitive Discharge Standards, Categorical Standards, or other numerical limitations on Discharges of Industrial Waste. A TRC violation occurs if thirty-three percent (33%) or more of all of the measurements taken for the same pollutant parameter during a six (6) month period equal or exceed (by any magnitude) a numeric Pretreatment Standard or requirement, including instantaneous limits, multiplied by the applicable TRC. For conventional Pollutants (BOD, Total Suspended Solids and fats, oil and grease), the TRC equals one and four-tenths (1.4); for all other Pollutants except pH, the TRC equals one and two-tenths (1.2).

C. Any violation of Local Limits, Prohibitive Discharge Standards, Categorical Standards, or other Standard or Requirement for Discharges of Industrial Waste which the Borough determines has caused, alone or in combination with other discharges, Pass Through or Interference, or has endangered the health or safety of Sewer System maintenance or operating personnel or the public.

D. Any Discharge that has caused imminent endangerment to human health, welfare or the environment, or has caused the Borough to exercise its emergency authority under Section 6.02 of this Ordinance.

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

F. Failure to provide, within forty-five (45) days after the due date, any required reports, including but not limited to baseline monitoring reports, periodic compliance reports, reports on compliance with compliance schedules, or reports on a change in operations.

G. Failure to accurately report any Noncompliance.

H. Any other violation, or group of violations, Noncompliance or Noncompliances, which may include a violation of Best Management Practices, which the Borough determines will adversely affect the operation or implementation of the Industrial Pretreatment Program.

**Section 6.12 Records**

The Borough shall maintain records of all enforcement actions taken, the reasons for those actions, and the results of those actions. These records shall be made available to the Approval Authority and the public during normal Borough business hours.

**ARTICLE VII - PENALTIES**

Any person who violates any provisions of this Ordinance, or the rules, regulations and permits issued hereunder, shall pay a civil penalty of not less than One Hundred Dollars nor more than Twenty-five Thousand Dollars for each offense. In addition to the penalties provided herein, the Borough may recover reasonable attorney's fees, court costs, court reporters' fees and other expenses of litigation by appropriate suite at law against the Person found to have violated this Ordinance or the rules, regulations, and permits issued hereunder.

**ARTICLE VIII – REMEDIES NOT EXCLUSIVE**

The enumeration of remedies in Articles VI and VII of this Ordinance does not restrict their application. Although the Enforcement Response Plan shall serve as a guide in applying remedies and penalties, the Borough reserves the right to take any action or combination of actions allowed by this Ordinance or other applicable law, including concurrent actions, if it determines that those actions are necessary for the proper and prudent administration or enforcement of the Industrial Pretreatment Program.

**ARTICLE IX – ADMINISTRATION OF THE INDUSTRIAL  
PRETREATMENT PROGRAM**

**Section 9.01 Appointment of Authority as Agent**

The Borough appoints the Borough of Freeland Municipal Authority as its agent for the purposes of administering the Industrial Pretreatment Program. All reports and applications required by this ordinance to be submitted to the Borough shall be submitted to the Authority. The Authority is hereby authorized to develop all procedures for inspecting Users, reporting, issuing Wastewater Discharge Permits, reviewing Pretreatment facility plans, and otherwise administering all of the provisions of this Ordinance and the Industrial Pretreatment Program. Local Limits developed by the Authority shall be applied as Local Limits authorized by this Ordinance and applied to such Industrial Users as authorized by this Ordinance. All administrative enforcement actions, as set forth in Articles VI and VII of this Ordinance, may be taken by the Authority acting as an agent for the Borough; this includes, but is not limited to, issuance of written directions and notices of violation, the scheduling and hearing of Show Cause Hearings, and the suspension or revocation of Wastewater Discharge Permits. On the appeal of an action by the Authority by an Industrial User, the Borough may assign the hearing of the appeal and the right to make final decisions to the Authority. This appointment may be revoked only upon the amendment of this Ordinance by majority vote of the Borough Council of the Borough of Freeland, at a duly scheduled and publicly advertised regular or special public meeting.

## **Section 9.02 Authorization of Authority To Act In The Name Of The Borough**

All enforcement procedures authorized by Articles VI and VII of this Ordinance may be undertaken, without prior consultation with the Borough, by the Authority and the Authority shall in such instances be authorized to act for and in the name of the Borough. It is the intent of the Borough Council of the Borough of Freeland that the Industrial Pretreatment Program be administered and enforced by the Authority and that all action taken by the Authority in administering and enforcing this ordinance are actions on behalf of the Borough and may be taken in the name of the Borough. This authorization may be revoked only upon the amendment of this ordinance by a majority vote of the Borough Council of the Borough of Freeland at a duly scheduled and publicly advertised regular or special public meeting.

## **Section 9.03 Information To Be Shared With Authority**

Information acquired by the Borough which pertains to the provisions of the Industrial Pretreatment Program shall be provided to the Authority in a timely manner. Such information shall include but not limited to:

- A. Information regarding new Industrial Users or changes in use of existing Users.
- B. Information pertaining to the quality, quantity, or rate of flow Discharges.
- C. Information regarding violations of this ordinance or any of its provisions or of the Industrial Pretreatment Program.

## **Section 9.04 Actions To Be Taken In Support of Authority in Administration and Enforcement**

The Borough may provide such services as may be required or requested in aid of the administration or enforcement of the provisions of the Industrial Pretreatment Program. Such aid and assistance may include, but not limited to, assistance in obtaining information, recordkeeping, sampling, inspections or enforcement.

## **Section 9.05 Authorization of Authority Not Exclusive**

Notwithstanding the above, the Borough retains the right to administer and enforce the Industrial Pretreatment Program in keeping with the provisions of this Ordinance. When so notified by the Borough, Users shall provide such information as is required by this Ordinance or its provisions to the Borough. The Borough may take such administrative or enforcement actions as it deems necessary to comply with the provisions of this Ordinance.

## **ARTICLE X – ADOPTION OF ADDITIONAL RULES AND REGULATIONS**

The Borough Council of the Borough of Freeland reserve the right to adopt, from time to time, such additional rules and regulations as it shall deem necessary and proper in conjunction with use and operation of the Sewer System, which rules and regulations shall be, shall become and shall be construed as part of this Ordinance.



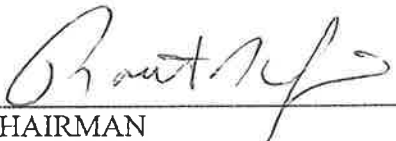
**ARTICLE XI – CONSTRUCTION AND SEVERABILITY**

In the event any provision, section, sentence, clause or part of this Ordinance shall be held to be invalid, such validity shall not affect or impair any remaining provision, section, sentence, clause or part of this Ordinance, it being the intent of the Authority that such remainder shall be and shall remain in force and effect. Provisions of headings in this Ordinance are solely for convenience and shall have no effect on the legal or technical interpretation of any provision or requirement.

**ARTICLE XII – REPEALER**

All other ordinances or parts of ordinances inconsistent herewith expressly are repealed

PASSED FINALLY, by Borough Council of the Borough of Freeland, Luzerne County, Pennsylvania, in lawful session duly assembled, this **Thirteenth** day of May, 2013.

  
CHAIRMAN

ATTEST:

  
SECRETARY

(SEAL)