

**BOARD OF SUPERVISORS**  
**TOWNSHIP OF PALMER**  
**NORTHAMPTON COUNTY, PENNSYLVANIA**

ORDINANCE NO. \_\_\_\_

**AN ORDINANCE OF THE PALMER TOWNSHIP BOARD OF SUPERVISORS AMENDING CHAPTER 147 OF THE PALMER TOWNSHIP CODE TO ADOPT THE CITY OF BETHLEHEM’S REGULATIONS FOR DISPOSAL AND DISCHARGE OF INDUSTRIAL WASTE AND THE CITY OF BETHLEHEM’S ENFORCEMENT RESPONSE PLAN; AND PROVIDING FOR AN EFFECTIVE DATE FIVE DAYS AFTER ENACTMENT**

***WHEREAS***, Palmer Township (“Township”) is a municipality served by both the Easton Area Joint Sewer Authority and the City of Bethlehem’s Wastewater Treatment Plant; AND

***WHEREAS***, the Township has from time to time amended, supplemented, or modified the Palmer Township Code at Chapter 147, relating to Sewer Use, to abide the rules and regulations of both treatment plants; AND

***WHEREAS***, it is necessary for Chapter 147 to include reference to the City of Bethlehem’s Article 923 language detailing regulations for disposal and discharge of industrial waste regulations; AND

***WHEREAS***, as a contributing municipality, Palmer Township will maintain an updated Enforcement Response Plan with reference to the City of Bethlehem Code Article 923; AND

***WHEREAS***, as a contributing municipality, Palmer Township will be subject to the City of Bethlehem’s surcharge and local limits requirements as stated in Section 923.02(d) of the City of Bethlehem Code.

**NOW THEREFORE, BE IT ENACTED AND ORDAINED BY THE** Board of Supervisors of Palmer Township, Northampton County, Pennsylvania, and the same is hereby ordained and enacted as follows to wit:

[Remainder of Page Left Intentionally Blank]

**SECTION I:           SEWER USE**

Chapter 147 of the Palmer Township Code, relating to Sewer Use, is amended with the creation of a new Article VII, entitled “City of Bethlehem Disposal and Discharge of Industrial Waste Regulations” which shall read as follows:

**ARTICLE VII  
CITY OF BETHLEHEM DISPOSAL AND DISCHARGE OF  
INDUSTRIAL WASTE REGULATIONS**

**§147-52 – Adoption of Disposal and Discharge of Industrial Waste Regulations.**

The Disposal and Discharge of Industrial Waste Regulations of the City of Bethlehem, approved by the City of Bethlehem, are approved and adopted by Palmer Township. The Disposal and Discharge of Industrial Waste Regulations, as applied to Palmer Township, may be amended from time to time by resolution of the Board of Supervisors of Palmer Township. The current Disposal and Discharge of Industrial Waste Regulations of the City of Bethlehem are attached hereto and incorporated herein as *Exhibit “A.”*

**§147-53 – Adoption of Enforcement Response Plan.**

The Enforcement Response Plan of the City of Bethlehem, approved by the City of Bethlehem, is hereby approved and adopted. The Enforcement Response Plan, as applied to Palmer Township, may be amended from time to time by resolution of the Board of Supervisors of Palmer Township. The current Enforcement Response Plan of the City of Bethlehem is attached hereto and incorporated herein as *Exhibit “B.”*

**SECTION II:           SEVERABILITY**

The provisions of this Ordinance are declared to be severable. If any article, section, subsection, paragraph, clause, phrase or provision of this Ordinance shall be held to be invalid or held unconstitutional, the same shall not affect the validity of this Ordinance as a whole or any part or provisions hereof, other than the part determined to be invalid or unconstitutional.

**SECTION III:         CONFLICTS**

Any ordinance, resolution and/or other regulation of the Township, or any parts of ordinances, resolutions and/or other regulations of the Township, in conflict herewith are hereby repealed. All other provisions of the ordinances, resolutions and/or other regulations of Palmer Township, Northampton County, Pennsylvania shall remain in full force and effect.

**SECTION IV:         EFFECTIVE DATE**

This Ordinance shall become effective five (5) days after enactment.

**BOARD OF SUPERVISORS**  
**TOWNSHIP OF PALMER**  
**NORTHAMPTON COUNTY, PENNSYLVANIA**

**ORDINANCE NO.**

**SIGNATURE PAGE**

**ENACTED AND ORDAINED BY THE TOWNSHIP OF PALMER, NORTHAMPTON  
COUNTY, PENNSYLVANIA, THIS \_\_\_\_ DAY OF \_\_\_\_\_, 2024.**

\_\_\_\_\_  
Michael Brett, Chairman

\_\_\_\_\_  
Joseph Armato, Vice-Chairman

\_\_\_\_\_  
K. Michael Mitchell, Member

\_\_\_\_\_  
Charles E. Bellis, III, Member

\_\_\_\_\_  
Jeffrey Young, Member

Attest:

\_\_\_\_\_  
Robert Williams  
Township Manager  
(Seal)

# Exhibit "A"

## ARTICLE 923

### Disposal and Discharge of Industrial Waste Regulations

923.01	Definitions.	923.05	Enforcement.
923.02	General Discharge Regulations.	923.06	Repealer.
923.03	Fees.	923.07	Severability.
923.04	Permits.	923.08	Holding Tank Wastes.
		923.09	Regulation of Wastewater from Other Jurisdictions.
		923.10	Contributing Municipality Approval and Consent.
		923.99	Penalty.

### CROSS REFERENCES

The Federal Water Pollution Control Act - 33 U.S.C. 1251, et. seq.  
Department of Public Works - See ADM. Art. 107  
Sanitary Sewer Regulations - See S.U. & P.S. Art. 921  
Storm Sewer Regulations - See S.U. & P.S. Art. 925

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#### 923.01 DEFINITIONS.

The following abbreviations, acronyms, words, terms and phrases when used in this Article shall have the meaning ascribed to them in this section, except where the context clearly indicates a different meaning. Additional definitions that apply to this Article are set forth in Section 921.01 of the Codified Ordinances of the City of Bethlehem.

Abbreviations - The following abbreviations shall have the designated meanings:

BOD <sub>5</sub>	- Biochemical Oxygen Demand (5-day)
CBOD <sub>5</sub>	- Carbonaceous Biochemical Oxygen Demand (5-day)
CFR	- Code of Federal Regulations
COD	- Chemical Oxygen Demand
EPA	- United States Environmental Protection Agency
IWDP	- Industrial Waste Discharge Permit
mg/l	- milligrams per liter
NPDES	- National Pollutant Discharge Elimination System
NH <sub>3</sub> -N	- Ammonia-Nitrogen
POTW	- Publicly Owned Treatment Works
RCRA	- Resource Conservation and Recovery Act
SIC	- Standard Industrial Classification
SWDA	- Solid Waste Disposal Act, 42 U.S.C. 6901, et. seq.
USC	- United States Code
TSS	- Total Suspended Solids

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.

Administrator or "the Administrator" - The Administrator of the U.S. Environmental Protection Agency.

Approval Authority - The Regional Administrator of EPA Region III as defined in 40 CFR 403.3(c).

Authorized Representative of a User - An authorized representative of a User may be:

- (1) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision making functions for the corporation;
- (2) A general partner or proprietor, if the User is a partnership or proprietorship, respectively;
- (3) A director or highest official appointed or designated to oversee operations and performance, if the User is a Federal, State or Local Governmental facility.
- (4) A duly authorized representative of the individual identified in (1) through (3) above, if such representative is responsible for the overall operation of the facilities from which the indirect discharge originates and a written request for designation of an alternate representative is approved by the City.

Best Management Practice (BMP) – Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in 40 CFR 403.5(a)(1) and (b). BMP's also include treatment requirements, operating procedures, and practices to contract plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage. (Ord. 2009-1. Passed 1/6/09.)

Biochemical Oxygen Demand (BOD<sub>5</sub>) - The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures, five (5) days at 20 degrees Celsius expressed as a concentration (mg/l - milligrams per liter), and determined in accordance with EPA test methods referenced in 40 CFR 136.

Building Sewer - A sewer conveying wastewater from the premises of a User to the POTW.

Carbonaceous Biochemical Oxygen Demand (CBOD<sub>5</sub>) - The quantity of oxygen utilized in the biochemical oxidation of carbonaceous organic matter expressed as a concentration (mg/l -

milligrams per liter), and determined in accordance with EPA test methods referenced in 40 CFR 136.

Categorical Standard or Categorical Pretreatment Standard - See National Categorical Standard.

Chemical Oxygen Demand (COD) - The quantity of oxygen utilized in the chemical oxidation of organic matter which is susceptible to conversion to carbon dioxide and water and expressed as a concentration (mg/l - milligrams per liter), and determined in accordance with EPA test methods referenced in 40 CFR 136.

City - The City of Bethlehem, Pennsylvania or the City Council of Bethlehem.

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

Control Authority - The City of Bethlehem.

Direct Discharge - The discharge of treated or untreated wastewater directly to the waters of the State of Pennsylvania.

Director of Water and Sewer Resources - The person designated by the City to implement, administer and enforce the provisions of this Article, or the Director's duly authorized representative.

Domestic Sewage - Liquid or water-carried waste generated from sanitary conveniences of campers, trailers, dwellings, office buildings, factories or institutions and from household laundry operations, washing and cooking foods and dishwashing, but does not contain industrial waste.

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

Existing Source - Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed Categorical Standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.

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 taken over a period of time which does not exceed 15 minutes.

Hearing Board - The Board appointed according to provisions of Section 923.05 of this Article.

**Holding Tank Waste** - Any waste from holding tanks such as, but not limited to, treatment units, vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

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

**Industrial Pretreatment Coordinator** - The person designated by the City to supervise the operation of its Industrial Pretreatment Program, who is charged with certain duties and responsibilities by this Article, or a duly authorized representative as delegated by the Industrial Pretreatment Coordinator.

**Industrial User** - A source of Indirect Discharge.

**Industrial Waste** - Solid, liquid or gaseous wastes from any industrial, manufacturing, or commercial process or from the development, recovery or processing of natural resources, but not domestic sewage.

**Industrial Waste Discharge Permit (IWDP)** - A Permit as set forth in Section 923.04 of this Article.

**Interference** - A discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

- (1) Inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal; and
- (2) Therefore is a cause of a violation of any requirement of the POTW'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): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as 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 Toxic Substance Control Act, and the Marine Protection, Research and Sanctuaries Act.

**Monthly Average** - The arithmetic mean of the values for Users' samples collected over a calendar month.

**National Categorical Standard or Categorical Standard** - Standard specifying quantities or

concentrations of pollutants or pollutant properties which may be discharged to the POTW by existing or new Industrial Users in specific industrial subcategories as established as separate regulations under 40 CFR Chapter I, Subchapter N.

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

National Pretreatment Standard or National Standard - Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Section 307(b) and (c) of the Act, which applies to Industrial Users. This term includes categorical standards and the prohibitive discharge standards or local limits established pursuant to 40 CFR 403.5.

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

- (1) The building, structure, facility or installation is constructed at a site at which no other source is located; or
- (2) The building, structure, facility or installation totally replaced the process or production equipment that causes the discharge of pollutants at an existing source; or
- (3) The production or wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered. (Ord. 3305. Passed 12/5/89.)

Pass Through - A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the City's NPDES Permit (including an increase in the magnitude or duration of a violation).  
(Ord. 2940. Passed 4/17/84; Ord. 3028. Passed 10/15/85; Ord 3305. Passed 12/5/89.)

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



determined in accordance with EPA test methods referenced in 40 CFR 136.

**Pollutant** - Any dredged soil, solid waste, incinerator residue, sewage, garbage, sewage sludge, munitions, chemicals, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural waste discharged into the environment.

**Pollution** - The man-made or man-induced alteration of the chemical, physical, biological, and radiological integrity of the environment.

**Pretreatment or Treatment** - The reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state prior to or in lieu of discharging or otherwise introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, or process changes by other means, except as prohibited by 40 CFR Section 403.6 (d).

**Pretreatment Requirements** - Any substantive or procedural requirement related to pretreatment, other than a National Pretreatment Standard imposed on an Industrial User.

**Pretreatment Standard** - See National Pretreatment Standard.

**Publicly Owned Treatment Works (POTW)** - A treatment works as defined by Section 212 of the Act (33 U.S.C. 1292), which is owned in this instance by the City. This definition includes any devices or systems used in the storage, treatment, recycling, and reclamation of municipal sewage or industrial wastes of a liquid nature and any manholes, sewers, pumping stations, force mains, siphons or other facilities or appurtenances which are part of the system utilized to convey wastewater to a POTW Treatment Plant. The POTW shall also include any collection and conveyance systems which convey wastewaters to the City's POTW from persons outside the City who are, by contract or agreement with the City, Users of the City's POTW.

**POTW Treatment Plant** - That portion of the POTW designated to provide treatment to wastewater.

**Septage** - A type of holding tank waste originating from the discharge of strictly domestic sewage to holding tanks, chemical toilets, camper waste tanks, trailer waste tanks, cesspools and septic tanks.

**Sewage** - See Wastewater.

**Shall** - is mandatory; **may** - is permissive.

**Significant Industrial User** - Any Industrial User of the City's POTW who:

- (1) is subject to Categorical Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; or

- (2) discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, non-contact cooling and boiler blowdown wastewater); or contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the City on the basis that the Industrial User has a reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement.

Slug Load or Slug - Any pollutant released in a discharge at a flow rate or concentration which will cause a violation of the specific discharge prohibitions in 40 CFR 403.5 (b) and/or any discharge of non-routine nature, episodic nature, including but not limited to accidental spills or non-customary batch discharges, or which could cause a violation of the prohibited discharge standards of Section 923.02 of this Article.

Specific Pollutant Discharge Limitations or Local Limits - Numeric quantities or concentrations of pollutants which may be discharged to the POTW by existing or new Industrial Users developed by the City in accordance with 40 CFR 403.5(c) and defined in Section 923.02(d) of this Article.

State - State of Pennsylvania.

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, as amended.

Storm Water - Any flow occurring during or following any form of natural precipitation and resulting therefrom.

Superintendent - The person designated by the City to supervise the operation of the Publicly Owned Treatment Works and who is charged with certain duties and responsibilities by this Article, or the Superintendent's duly authorized representative.

Total Suspended Solids (TSS) or Suspended Solids - The total suspended matter that floats on the surface of, or is suspended in, water, wastewater or other liquids, and which is removable by laboratory filtering and determined in accordance with EPA test methods referenced in 40 CFR 136.

User - Any person who utilizes the services of the City's POTW.

Wastewater - The liquid and water-carried industrial wastes and/or domestic sewage from dwellings, commercial buildings, industrial facilities, or institutions, whether treated or untreated, which are contributed into or permitted to enter the POTW.

Water Quality Manager – The person designated by the City to supervise the operation of the Water Quality Bureau. (Ord. 2009-1. Passed 1/6/09.)

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.

Weekly Average - The arithmetic mean of the values for the Users' samples collected over a seven day calendar week.

#### 923.02 GENERAL DISCHARGE REGULATIONS.

(a) No User shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater which will cause pass through or interference with the operation or performance of the POTW. These general prohibitions apply to all such Users of a POTW whether or not the User is subject to National Categorical Standards or any other National, State, or local Pretreatment Standards or Requirements. A User may not contribute the following substances to the POTW:

- (1) Quantities of liquids, solids or gases (including, but not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides) 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 way to the POTW or to the operation of the POTW, including, but not limited to, any discharge with a closed-cup flashpoint of less than 140<sup>0</sup>F (60<sup>0</sup>C) using the test methods specified in 40 CFR 261.21. At no time, shall any wastewater cause two successive readings on an explosion hazard meter, at the point of discharge into the system (or at any point in the system), to be more than five percent (5%) nor any single reading to be over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter.
- (2) Solid or viscous pollutants in amounts which will cause obstruction to the flow in the POTW resulting in interference, including, but not limited to, grease, garbage, solids greater than three (3) inches in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.

- (3) Pollutants which will cause any damage to the POTW, but in no case may pollutants being discharged have a pH lower than 5.0 nor greater than 11.5. (Ord. 3305. Passed 12/5/89; Ord. 3869. Passed 2/17/98.)
- (4) Pollutants in sufficient quantity which, either alone or by interaction with other pollutants, would result in the presence of toxic gases, vapors or fumes, cause worker injury or disruption of any wastewater treatment process, including the disposal of sludge, or would be in non-compliance with any Categorical or Pretreatment Standards established in accord with 40 CFR Section 403.6.
- (5) Noxious or malodorous liquids, gases, or solids which either alone or by interaction with other wastes, cause a public nuisance or hazard to life or prevent entry into the POTW for maintenance and repair.
- (6) Pollutants, including oxygen demanding pollutants, released in a discharge at a flow rate and/or concentration which will cause interference with the POTW.
- (7) Substances which will cause pass through and cause the POTW to violate its NPDES and/or State Solid Waste Disposal System Permit(s) or the air quality and/or receiving water quality standards. (Ord. 3305. Passed 12/5/89.)
- (8) Wastewater with excessive discoloration not removed in the POTW treatment process, including, but not limited to, dye wastes and vegetable tanning solutions, which causes or contributes to interference, pass through, or any violations at the POTW Treatment Plant.
- (9) Heat in amounts producing interference, but in no case heat in such quantities that the temperature at the POTW Treatment Plant exceeds 40°C (104°F). At no time shall a discharge to the POTW have a temperature higher than 150°F or less than 32°F. (Ord. 3305. Passed 12/5/89.)
- (10) Slug loads as defined in Section 923.01 of this Article. (Ord. 2009-1. Passed 1/6/09.)
- (11) Wastewater containing any radioactive material or isotopes of such half-life or concentration as may cause pass through or interference in the POTW or exceed limits established by the Superintendent in compliance with applicable Delaware River Basin Commission, State or Federal regulations.
- (12) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.

- (13) Discharge of mineral/petroleum oil and grease in concentrations greater than 100 mg/l and animal/vegetable oil and grease in concentrations greater than 300 mg/l. (Ord. 3751. Passed 5/21/96; Ord. 3869. Passed 2/17/98.)
- (14) Discharge of holding tank waste or septage, except as provided for in Section 923.08 of this Article.
- (15) Discharge which, if otherwise disposed of, would be considered a hazardous waste as defined in 40 CFR Part 261, without prior notification by the User in writing to the POTW, the State and EPA in accordance with 40 CFR 403.12(p)(1) and written approval by the Superintendent.
- (16) New or increased discharges or changes in the nature of discharges without prior notification to the POTW and written approval by the Superintendent.
- (17) Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, unpolluted industrial process water, unpolluted cooling water (also refer to Article 915), or swimming pool drainage (also refer to Article 921), unless specifically authorized by the Superintendent.
- (18) Sludges, screenings, or other residues from the pretreatment of industrial wastes, unless specifically authorized by the Superintendent.
- (19) Wastes generated in the diagnosis, treatment, immunization, or autopsy of human beings or animals, in research pertaining thereto, or in the preparation of human or animal remains for burial or cremation, unless specifically authorized by the Superintendent.
- (20) Wastewater, alone or in conjunction with other sources, causing the POTW Treatment Plant's effluent to fail a toxicity test.
- (21) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW.

When the Industrial Pretreatment Coordinator determines that a User is contributing to the POTW any of the above enumerated substances in such amounts as to cause pass through or interference with the operation of the POTW and/or POTW Treatment Plant, the Industrial Pretreatment Coordinator shall: (1) Notify the User of the impact of the contribution on the POTW and/or POTW Treatment Plant; (2) Develop effluent limitation(s), as needed, for the User to correct the pass through or interference with the POTW and/or POTW Treatment Plant; and (3) Proceed with enforcement pursuant to the provisions of Section 923.05 of this Article.

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

(b) National Pretreatment Standards and National Categorical Standards - All Industrial Users are subject to the National Pretreatment Standards. The National Categorical Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated into this Article by reference as though set forth in full. Industrial Users must comply with all applicable Categorical Standards and other requirements promulgated by EPA. Any Categorical Standard, if more stringent than the limitations imposed under this Article, shall immediately supersede the limitations imposed under this Article.

- (1) Where a Categorical Standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Industrial Pretreatment Coordinator may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- (2) When wastewater subject to a Categorical Standard is mixed with wastewater not regulated by the same standard, the Industrial Pretreatment Coordinator shall impose an alternate limit using the Combined Waste Stream Formula in 40 CFR 403.6(e).
- (3) An Industrial User may obtain a variance from a Categorical Standard from EPA if the Industrial User can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the Categorical Standard. If a variance is obtained, the City reserves the right to modify the Industrial User's Permit to incorporate the revised standards and requirements.
- (4) An Industrial User may obtain a net gross adjustment to a Categorical Standard in accordance with 40 CFR 403.15.

(c) Modification of National Categorical Standards - Where the City's POTW Treatment Plant achieves consistent removal of pollutants limited by National Categorical Standards, the City may apply to the Approval Authority for modification of specific limits in the National Categorical Standards. "Consistent Removal" is defined by EPA in 40 CFR 403.7(b). The City may then modify pollutant discharge limits in the National Categorical Standards if the requirements contained in 40 CFR, Part 403, Section 403.7 are fulfilled and prior approval from the Approval Authority is obtained.

(d) Specific Pollutant Discharge Limitations - Local Limits - In accordance with 40 CFR 403.5(c), the City imposes the following Specific Pollutant Discharge Limitations for all Industrial Users:

Pollutant (Total)

Local Limit (mg/l)

Arsenic	0.11
Cadmium	0.05
Chromium	0.91
Copper	1.35
Lead	0.39
Mercury	0.007
Molybdenum	0.22
Nickel	1.36
Selenium	0.23
Silver	0.21
Zinc	2.58
Cyanide	0.38

(Ord. 3751. Passed 5/21/96; Ord. 3880. Passed 4/21/98. Ord. 2009-1. Passed 1/6/09.)

The Specific Pollutant Discharge Limitations listed above are the highest allowable concentration in any type of sample, either a grab or composite, collected over any time interval, unless otherwise specified in an IWDP.

The Specific Pollutant Discharge Limitations listed above apply at the point where the wastewater is discharged to the POTW or at the point designated by the Industrial Pretreatment Coordinator.

In addition to Industrial Users, the City reserves the right to apply the Specific Pollutant Discharge Limitations listed above to any User’s wastewater discharge which is not composed of strictly domestic sewage.

The City reserves the right to establish alternate Specific Pollutant Discharge Limitations in individual Industrial Waste Discharge Permits, but only in accordance with regulatory requirements. In no event shall any alternate limit allow the total loading allocated to all industrial users for any pollutant to exceed the maximum allowable industrial headworks loading as determined in the City’s most recent local limits evaluation approved by the Approval Authority. The Specific Pollutant Discharge Limitations, if more stringent than the National Categorical Standards, shall immediately supersede the National Categorical Standards. (Ord. 2009-1. Passed 1/6/09.)

(e) State Requirements - State requirements and limitations on discharges shall apply in any case where they are more stringent than Federal requirements and limitations or those in this Article.

(f) City's Right of Revision - The City reserves the right to establish by ordinance more stringent limitations or requirements on discharges to the POTW if deemed necessary.

(g) Excessive Discharge - No User shall increase the use of process water solely for the purpose of complying with this Article or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in the National Categorical Standards, or in any other pollutant-specific limitation developed by the City or State. The Industrial Pretreatment Coordinator may impose mass limitations on Users who are using dilution to meet applicable National Categorical Standards, or in any other pollutant-specific limitations or requirements, or in other cases when the imposition of mass limitations is appropriate.

(h) Accidental Discharges/Slug Loads - Each Industrial User shall provide protection from accidental discharges/slug loads of prohibited materials or other substances regulated by this Article. Where facilities are provided to prevent accidental discharges/slug loads of prohibited materials, these facilities shall be provided and maintained at the Industrial User's own cost and expense. In the case of an accidental discharge/slug loads, it shall be the responsibility of the Industrial User, upon discovery, and after assessing the situation and taking initial corrective action, to immediately telephone and notify the Industrial Pretreatment Coordinator of the incident. The notification shall include location of discharge, type of waste, estimated concentration and volume if known, and initial corrective actions taken by the Industrial User.

(1) Written Notice: Within five (5) days following a accidental discharge/slug loads; the Industrial User shall submit to the Industrial Pretreatment Coordinator a detailed written report including the date, time, duration of the discharge as well as describing the cause of the discharge, all corrective measures implemented or attempted, and measures to be taken by the Industrial User to prevent similar future occurrences. Such notification shall not relieve the Industrial User of any expenses, loss, damage, or other liability which may be incurred as a result of damage to the POTW, fish kills, or any other damage to person or property; nor shall such notification relieve the Industrial User of any fines, civil penalties, or other liability which may be imposed by this Article or other applicable articles or laws.

(2) Notice to Employees: A notice shall be permanently posted on the Industrial User's bulletin board or other prominent place advising employees whom to call in the event of an accidental discharge/ slug load. Employers shall insure that all employees are advised of the emergency notification procedures.

(i) Accidental Discharge/Slug Control Plans - An Accidental Discharge or Slug Control Plan, as prescribed under 40 CFR 403.8 (f) (2) (v), shall be required:

(1) For new source Industrial Users. Detailed plans showing facilities and operating procedures to provide protection from accidental discharges or slugs shall be submitted to the City for review as part of the IWDP



application, and shall be approved by the City before construction of the facility.

- (2) For existing Industrial Users. The Industrial Pretreatment Coordinator shall evaluate whether each Industrial User needs a new or updated accidental discharge/slug control plan. (Ord. 2009-1. Passed 1/6/09.)

(j) Should the Industrial Pretreatment Coordinator require the Industrial User to develop, submit for approval, and implement a new or updated accidental discharge/slug control plan, the accidental discharge/slug control plan shall address, at a minimum, the following:

- (1) Description of discharge practices, including non-routine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the Industrial Pretreatment Coordinator of any accidental or slug discharge, as required by Section 923.02(h) of this Article; and
- (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures shall include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

When an existing Industrial User is required by the Industrial Pretreatment Coordinator to provide and/or modify an accidental discharge/slug control plan, the Industrial User shall provide the plan within sixty (60) days of notification. Should the plan require construction or implementation of measures to meet compliance, the plan shall provide a schedule for those actions. After initial review, should additional information be required to provide a complete plan, it shall be furnished to the Industrial Pretreatment Coordinator within thirty (30) days of the date of notification. Failure to submit a revised plan and/or failure to provide a complete plan after the 30 day submission period may render the Industrial Waste Discharge Permit void.

The City's review and approval of accidental discharge/slug control plans shall not relieve the Industrial User from the responsibility to modify the Industrial User's facility as necessary to meet the requirements of this Article.

If not specifically required by the Industrial Pretreatment Coordinator, the information, requirements, etc., called for in a plan are not waived by the City and the Industrial User shall provide all necessary items, procedures, etc., to prevent any accidental discharge and/or slug discharge to the POTW.

An approved State pollution prevention plan may substitute for all or a portion of the contents of an accidental discharge/slug control plan to the extent that it satisfies the requirements described herein.

All Users are required to notify the POTW immediately of any changes at its facility affecting potential for a Slug Discharge. (Ord. 2009-1. Passed 1/6/09.)

### 923.03 FEES

It is the purpose of this section to provide for the recovery of costs from Users of the City's POTW for the implementation of the Industrial Pretreatment Program established herein. The applicable charges or fees are set forth below:

(a) Service Charges and Fees - The charges and fees include:

- (1) Fees for monitoring, inspections and surveillance procedures completed by the City or the City's contract laboratory to be billed at 1.15 times the actual cost. (Ord. 2009-1. Passed 1/6/09.)
- (2) Fees for IWD Permit applications - \$250.00. (Ord. 3751. Passed 5/21/96.)
- (3) Fees for filing appeals - \$200.00.

(b) Program Fee - The City reserves the right to develop and institute a Program Fee to recover operating costs associated with implementation of the Industrial Pretreatment Program which are separate from or in lieu of those costs identified in Sections 923.03 (a) or 923.03 (c) of this Article. The Program Fee will be chargeable to all Users included in the Industrial Pretreatment Program and will be billed and updated at a frequency determined by the City.

The above fees relate solely to the matters covered by this Article and are separate from all other fees chargeable by the City.

(c) Industrial Waste Surcharge

When approval is granted by the City to a User to discharge industrial waste into the POTW, the User's sewer rental will be based on the prevailing rate for normal domestic sewage plus a quarterly Surcharge based on the relative strength of said industrial waste contribution and calculated as follows:

$$\text{Surcharge} = 0.00834 \times \text{Flow} \times \{((\text{BOD}_5 - 300) \times \text{BOD}_5 \text{ Cost}) + ((\text{TSS} - 350) \times \text{TSS Cost}) + ((\text{NH}_3\text{-N} - 50) \times \text{NH}_3\text{-N Cost})\}$$

Where:

Surcharge = Surcharge calculated quarterly;  
 0.00834 = constant to convert industrial waste strength from mg/l to thousand pounds;  
 Flow = total quarterly discharge flow of the industrial waste in million gallons;  
 BOD<sub>5</sub> = biochemical oxygen demand (5-day) of the industrial waste in mg/l;  
 300 = value expressing the BOD<sub>5</sub> of normal domestic sewage in mg/l;  
 BOD<sub>5</sub> Cost = annual City treatment cost per thousand pounds of BOD<sub>5</sub>;  
 TSS = total suspended solids of the industrial waste in mg/l;  
 350 = value expressing the TSS of normal domestic sewage in mg/l;  
 TSS Cost = annual City treatment cost per thousand pounds of TSS;  
 NH<sub>3</sub>-N = ammonia-nitrogen of the industrial waste in mg/l;  
 50 = value expressing the NH<sub>3</sub>-N of normal domestic sewage in mg/l;  
 NH<sub>3</sub>-N Cost = annual City treatment cost per thousand pounds of NH<sub>3</sub>-N;

The City reserves the right to substitute the following formula for the Surcharge in the event that BOD<sub>5</sub> is not the normal measure of the strength of the industrial waste:

$$\text{Surcharge} = 0.00834 \times \text{Flow} \times \{((\text{COD} - 600) \times \text{COD Cost}) + ((\text{TSS} - 350) \times \text{TSS Cost}) + ((\text{NH}_3\text{-N} - 50) \times \text{NH}_3\text{-N Cost})\}$$

Where:

Surcharge = Surcharge calculated quarterly;  
 0.00834 = constant to convert industrial waste strength from mg/l to thousand pounds;  
 Flow = total quarterly discharge flow of the industrial waste in million gallons;  
 COD = chemical oxygen demand of the industrial waste in mg/l;  
 600 = value expressing the COD of normal domestic sewage in mg/l;  
 COD Cost = annual City treatment cost per thousand pounds of COD;  
 TSS = total suspended solids of the industrial waste in mg/l;  
 350 = value expressing the TSS of normal domestic sewage in mg/l;  
 TSS Cost = annual City treatment cost per thousand pounds of TSS;  
 NH<sub>3</sub>-N = ammonia-nitrogen of the industrial waste in mg/l;  
 50 = value expressing the NH<sub>3</sub>-N of normal domestic sewage in mg/l;  
 NH<sub>3</sub>-N Cost = annual City treatment cost per thousand pounds of NH<sub>3</sub>-N;

When actual industrial waste values of BOD<sub>5</sub> and/or COD and/or TSS and/or NH<sub>3</sub>-N are less than the normal domestic sewage values, then the normal domestic sewage values of 300, 600, 350 and/or 50 mg/l, respectively, shall be used in the calculation of the Surcharge in place of the actual industrial waste values.

The annual City treatment costs per thousand pounds of BOD<sub>5</sub>, COD, TSS and NH<sub>3</sub>-N shall be determined at the beginning of each calendar year, based upon the City Sewer Fund's actual operating costs from the previous year.

In no instance shall the sewer rental for industrial waste be less than the prevailing rate for normal domestic sewage.

In order to ascertain the strength of an industrial waste requiring a Surcharge, the City shall cause appropriate analysis (BOD<sub>5</sub>, COD, TSS and NH<sub>3</sub>-N) to be made quarterly, the average of which shall be used to establish the Surcharge for the ensuing quarter. A more extensive analysis may be required under Section 923.04 of this Article. All sampling and analysis shall be completed in accordance with the provisions of this Article. All expenses for these analyses shall be borne by the User. (Ord. 2940, Passed 4/17/84; Ord. 3028, Passed 10/15/85; Ord. 3751, Passed 5/21/96.)

The City reserves the right to recalculate and adjust the Surcharge of any User at any time during the year due to the introduction of new wastewater constituents or any substantial increase in the strength of the wastewater. A substantial increase shall mean 15% or greater.

#### 923.04 PERMITS.

(a) It shall be unlawful for any Significant and/or Categorical Industrial User to discharge to the POTW tributary to the City's POTW Treatment Plant without having first obtained a City Industrial Waste Discharge Permit (IWDP), except as authorized by the Director of Water & Sewer Resources in accordance with the provisions of this Article, subject to State and Federal laws and regulations.

In addition to the IWDP, the Industrial User shall obtain such additional permits as required by applicable sections of the Codified Ordinances of the City of Bethlehem.

(b) When requested by the Industrial Pretreatment Coordinator, any User must submit information on the nature and characteristics of its wastewater within thirty (30) days of the request unless additional time is approved, in writing, by the Industrial Pretreatment Coordinator. The Industrial Pretreatment Coordinator is authorized to prepare a form for this purpose and may periodically require Users to update this information.

(c) Industrial Waste Discharge Permits - All Significant and/or Categorical Industrial Users proposing to connect to or to contribute to the POTW shall obtain an IWDP before connecting to or contributing to the POTW.

The Industrial Pretreatment Coordinator may require other Users to obtain an IWDP as necessary to carry out the purposes of this Article.

Any violation of the terms and conditions of an IWDP shall be deemed a violation of this Article and shall subject the User to the enforcement under Section 923.05. Obtaining an IWDP does not relieve a User of its obligation to comply with all Federal and State Pretreatment Standards or Requirements or with any other requirements of Federal, State, and local law.

(d) Permit Application - Users required to obtain an IWDP shall complete and file with the City an application in the form prescribed by the Industrial Pretreatment Coordinator, and accompanied by a fee as listed in Section 923.03(a) of this Article. Existing Users shall file

a completed application in accordance with Section 923.04(1). Proposed new Users shall file a completed application at least 90 days prior to connecting to or contributing to the POTW or within 60 days of receipt of the application from the City, whichever is sooner. In support of the application, the User shall submit, in units and terms appropriate for evaluation, the following information:

- (1) Name, address, and location (if different from the address).
- (2) SIC number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended.
- (3) Wastewater constituents and characteristics including, but not limited to, those referenced in Section 923.02 of this Article or any pollutants in the discharge which are limited by City, State, or National Pretreatment Standards as determined by a City approved analytical laboratory. Sampling and analysis shall be performed in accordance with procedures established by the EPA pursuant to Section 304(g) of the Act and contained in 40 CFR, Part 136, as amended.
- (4) Time and duration of contribution.
- (5) Average daily and peak wastewater flow rates, including variations, if any.
- (6) Plans to show all sewers, sewer connections, and appurtenances by the size, location and elevation.
- (7) Description of activities, facilities and plant processes on the premises relating to all materials which are or could be discharged.
- (8) A certification statement regarding whether or not the National Standards are being met on a consistent basis and if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment is required for the User to meet applicable National Standards.
- (9) Copies of all Material Safety Data Sheets.
- (10) Products produced.
- (11) Raw material processed.
- (12) Normal hours of scheduled operation and operation of pretreatment system.
- (13) List of all environmental permits held.

- (14) For all Industrial Users subject to Categorical Standards, any other information required in a Baseline Monitoring Report as stated in 40 CFR 403.12(b).
- (15) Accidental Discharge/Slug Control Plan
- (16) Any other information as may be deemed by the City to be pertinent to evaluate the permit application.

All IWDP applications and User reports must be signed by an authorized representative of the User.

Incomplete or inaccurate IWDP applications will not be processed and will be returned to the User for revision. All site plans, floor plans, mechanical and plumbing plans, all other types of construction plans, and process diagrams, which are subject to the requirements of this Article, shall be signed by an authorized representative of the User that is familiar with the information and its accuracy. It is recommended that the above information be signed and sealed by a Professional Engineer, who is licensed in the Commonwealth of Pennsylvania, to ensure compliance with sound engineering and all applicable Federal, State, and local codes and statutes.

(e) The Industrial Pretreatment Coordinator will evaluate the data furnished by the User and may require additional information. Within sixty (60) days of receipt of a complete IWDP application, the City will determine whether or not to issue an IWDP. The City may deny any application for an IWDP, if the application or discharge does not comply with the requirements of this Article or applicable Federal and State laws and regulations. In the event that a timely and complete IWDP renewal application has been submitted and the IWDP can not be reissued, through no fault of the User, before the expiration date, the terms and conditions of the existing IWDP will be automatically continued and will remain fully effective and enforceable pending the granting or denial of the application for IWDP renewal.

(f) The City may modify an IWDP for good cause, including, but not limited to, the following reasons:

- (1) To incorporate any new or revised Federal, State, or local Pretreatment Standards or Requirements;
- (2) To address significant alterations or additions to the User's operation, processes, or wastewater volume or character since the time of IWDP issuance;
- (3) To reflect a change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;

- (4) Information indicating that the permitted discharge poses a threat to the City's POTW, City personnel, or the receiving waters;
- (5) Violation of any terms or conditions of the IWDP;
- (6) Misrepresentations or failure to fully disclose all relevant facts in the IWDP application or in any required reporting;
- (7) Revision of or a grant of variance from Categorical Standards pursuant to 40 CFR 403.13;
- (8) To correct typographical or other errors in the IWDP; or
- (9) To reflect a transfer of the facility ownership or operation to a new owner or operator.

The User shall be informed of any proposed changes in the IWDP at least 30 days prior to the effective date to change. Any changes or new conditions in the IWDP shall include a reasonable time schedule for compliance.

(g) Permit Conditions - IWDPs shall be expressly subject to all provisions of this Article and all other applicable regulations, User charges and fees established by the City. IWDP's may contain the following:

- (1) The unit charge or schedule of User charges and fees for the wastewater to be discharged to the POTW.
- (2) Limits on the wastewater constituents and characteristics.
- (3) Limits on rate and time of discharge or requirements for flow regulations and equalization.
- (4) Requirements for installation and maintenance of inspection and sampling facilities.
- (5) Specifications for monitoring programs which may include sampling locations, frequency of sampling, number, types and standards for tests and reporting schedule.
- (6) Compliance schedules.
- (7) Requirements for submission of technical reports or discharge reports. All Baseline Monitoring Reports, 90-Day Compliance Reports, and periodic compliance reports must be certified by a qualified professional and must be signed by an authorized representative of the User and must contain the

certification statement in 40 CFR 403.6(a)(2)(ii). The periodic compliance reports will be required a minimum of twice a year, indicating the nature and concentration of pollutants in the discharge as well as a record of flows.

- (8) Requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the City, and affording City access thereto. As required by 40 CFR 403.12(o), Users must keep records for a minimum of three (3) years or longer in case of unresolved litigation or when requested by the Approval Authority. The User shall make such records available for inspection and copying.
- (9) Requirements for prior notification of the City of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system, including the listed or characteristic hazardous wastes for which the User has submitted initial notification under 40 CFR 403.12(p). Substantial shall mean 15% plus or minus.
- (10) Requirements for notification of accidental discharges/slug loads as per Section 923.02(h).
- (11) Requirements that if sampling by a User indicates a violation, the User must notify the City within 24 hours of becoming aware of the violation. The User must also resample and submit results of this resampling to the City within 30 days.
- (12) Statements regarding permit duration or transfer as per Sections 923.04(h) and (i) of this Article.
- (13) Statements associated with enforcement in accordance with Section 923.05 or this Article.
- (14) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the POTW;
- (15) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;
- (16) Requirements to develop and implement slug control measures and to provide notification of facility changes that affect the potential for a slug discharge. (Ord. 2009-1. Passed 1/6/09.)



- (17) Requirements associated with BMP's at the sole discretion of the Industrial Pretreatment Coordinator. (Ord. 2009-1. Passed 1/6/09.)
- (18) Other pertinent conditions required by the City to ensure compliance with this Article.

(h) Permits Duration - IWDP's shall be issued for a specified time period, not to exceed five (5) years. An IWDP may be issued for a minimum period of a year, and shall be stated to expire on a specific date.

(i) Permit Transfer - IWDPs are issued to a specific User for a specific operation. An IWDP shall not be reassigned or transferred or sold to a new owner, new User, different premises, or a new or changed operation without the approval of the City. Any succeeding owner or User shall also comply with the terms and conditions of the existing IWDP.

(j) Permit Comments - The User may petition the Industrial Pretreatment Coordinator to reconsider the terms of an IWDP within thirty (30) days of receipt of the IWDP. This petition must be made in writing and shall indicate the IWDP provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the IWDP. The Industrial Pretreatment Coordinator will review the comments and make the final decision on the matter. If the User objects to the Industrial Pretreatment Coordinator's final decision, the User may appeal the matter in accordance with Section 923.05(m) of this Article. Failure to submit written comments within thirty (30) days shall indicate acceptance of the IWDP.

(k) Permit Revocation - The City may, in accordance with this Article, revoke an IWDP for good cause, including, but not limited to, the following reasons:

- (1) Failure to notify the Industrial Pretreatment Coordinator of significant changes to the wastewater prior to the changed discharge;
- (2) Misrepresentation or failure to fully disclose all relevant facts in the IWDP application;
- (3) Falsifying self-monitoring reports;
- (4) Tampering with monitoring equipment;
- (5) Refusing to allow the Industrial Pretreatment Coordinator timely access to the facility premises and records;
- (6) Failure to meet effluent limitations;
- (7) Failure to pay fines;
- (8) Failure to pay sewer charges;

- (9) Failure to meet compliance schedules;
- (10) Failure to complete a wastewater survey or the IWDP application;
- (11) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- (12) Violation of any Pretreatment Standard or Requirement, or any terms of the IWDP or this Article.

IWDPs shall be voidable upon cessation of operations for a period exceeding six (6) months or transfer of business ownership, unless approved by the City. All IWDPs issued to a particular User are void upon the issuance of a new or modified IWDP to that User.

(l) Permit Reissuance - A User with an expiring IWDP shall apply for IWDP reissuance by submitting a complete IWDP application, in accordance with Section 923.04 (d) of this Article, a minimum of 120 days prior to the expiration of the User's existing IWDP or within 60 days of receipt of the application from the City, whichever is sooner. It is the responsibility of the User to request an IWDP Application Form no less the 150 days prior to the expiration of the existing IWDP.

(m) Reporting Requirements

(1) Baseline Monitoring Reports

- (A) Within one hundred eighty (180) days after either the effective date of a Categorical Standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing Industrial Users currently discharging to or scheduled to discharge to the POTW, subject to the new or revised Categorical Standard, shall submit to the Industrial Pretreatment Coordinator a report which contains the information listed in paragraph (C), below.
- (B) At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become Industrial Users subsequent to the promulgation of an applicable Categorical Standard, shall submit to the Industrial Pretreatment Coordinator a report which contains the information listed in paragraph (C), below. A new source shall report the method of pretreatment it intends to use to meet applicable standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.

- (C) Industrial Users described above shall submit the information set forth below.

**Identifying Information.** The name and address of the facility, including the name of the operator and owner.

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

**Description of Operations.** A brief description of the nature, average rate of production, and Standard Industrial Classifications of the operation(s) carried out by such Industrial User. This description shall include a schematic process diagram which indicates points of discharge to the POTW from the regulated processes.

**Flow Measurement.** Accurate information from properly designed, installed and maintained flow metering devices showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6(e).

**Measurement of Pollutants.** The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Industrial Pretreatment Coordinator, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be collected and analyzed in accordance with 40 CFR, Part 136 as amended.

**Best Management Practices.** Information identified by the Industrial Pretreatment Coordinator or the applicable pretreatment standard regarding compliance with any applicable BMP's. (Ord. 2009-1. Passed 1/6/09.)

**Certification.** A statement, reviewed by the Industrial User's authorized representative and certified by a qualified professional, indicating whether Pretreatment Standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.

Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the Industrial User will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. A Compliance Schedule pursuant to this section must meet the requirements set out in Section 923.04(m)(2) of this Article.

Signature. All baseline monitoring reports must be signed by the Industrial User's Authorized Representative.

- (2) Compliance Schedule Progress Reports - The following conditions shall apply to the Compliance Schedule required by Section 923.04(m)(1)(c) of this Article:
  - (A) The Compliance Schedule shall contain progress increments (milestones) 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 Pretreatment Standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
  - (B) No increment referred to above shall exceed nine (9) months;
  - (C) The Industrial User shall submit a progress report to the Industrial Pretreatment Coordinator no later than fourteen (14) days following each date in the Compliance Schedule and the final date of compliance including, at a minimum, whether or not it complied with the increment of process, including the overall completion date, the reason for any delay, and, if appropriate, the steps being taken by the Industrial User to return to the established schedule; and
  - (D) In no event shall more than nine (9) months elapse between such progress reports to the Industrial Pretreatment Coordinator.
- (3) Reports on Compliance with Pretreatment Standard Deadline - Within ninety (90) days following the date for final compliance with applicable Categorical Standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any Industrial User subject to such Pretreatment Standards and Requirements

shall submit to the Industrial Pretreatment Coordinator a report on the status of compliance. This report must contain all the information described in Section 923.04(m)(1)(c) of this Article. For Industrial Users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the Industrial User's long-term production rate. For all other Industrial Users subject to Pretreatment Standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the Industrial User's actual production during the appropriate sampling period. All compliance reports must be signed by the Industrial User's Authorized Representative. (Ord. 2009-1. Passed 1/6/09)

(4) Periodic Compliance Reports For All Permitted Users

- (A) All permitted Users shall, at a frequency determined by the Industrial Pretreatment Coordinator but in no case less than semi-annually, submit a report indicating the nature and concentration of pollutants in the discharge which are limited by Pretreatment Standards and/or contained in a valid IWDP and the measured or estimated average and maximum daily wastewater flows for the reporting period. Information identified by the Industrial Pretreatment Coordinator or the applicable pretreatment standard regarding compliance with any applicable BMP shall also be included with the report. All periodic compliance reports must be signed by the User's Authorized Representative.  
(Ord. 2009-1. Passed 1/6/09)
- (B) As part of these reports, the User may be required to provide manifests, certifications or any other information deemed necessary by the Industrial Pretreatment Coordinator to ensure compliance with this Article.
- (C) All wastewater samples must be representative of the User's discharge.
- (D) If a User subject to the reporting requirement in this section monitors any pollutant more frequently than required by the Industrial Pretreatment Coordinator, using EPA approved procedures, the results of this monitoring shall be included in the report.
- (E) The Industrial Pretreatment Coordinator may waive some or all of the reporting requirements described in (A) and (B) if it is determined that the City will complete discharge monitoring on the

User's behalf.

- (5) Reports of Changed Conditions - Each User must notify the Industrial Pretreatment Coordinator of any significant changes to the User's operations or system which might alter the nature, quality, or volume of its wastewater at least ninety (90) days before the change occurs.
  - (A) The Industrial Pretreatment Coordinator may require the User to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of an IWDP application.
  - (B) The Industrial Pretreatment Coordinator may issue a new or modified IWDP in response to changed conditions or anticipated changed conditions.
  - (C) For purposes of this requirement, significant changes include, but are not limited to average flow increases of 15% or greater, and the discharge of any previously unreported pollutants at levels that may cause pass-through or interference or otherwise violate the provisions of this Article.
- (6) Reports of Potential Problems - In the case of any discharge, including, but not limited to, accidental discharges, discharges that violate the prohibitions of Section 923.02 of this Article, or any discharge that could cause potential problems for the POTW, the User upon discovery shall follow the reporting procedures identified in Section 923.02(h) of this Article.
- (7) Reports from Unpermitted Users - All Users not required to obtain an IWDP may be required to provide appropriate reports, certifications, laboratory analyses, manifests or any other information to the Industrial Pretreatment Coordinator as the Industrial Pretreatment Coordinator shall require to ensure compliance with the requirements of this Article.
- (8) Notice of Violation/Repeat Sampling and Reporting
  - (A) If sampling performed by the User indicates a violation, the User must notify the Industrial Pretreatment Coordinator within twenty-four (24) hours of becoming aware of the violation. The User shall repeat the sampling within ninety-six (96) hours and shall submit the analytical results to the Industrial Pretreatment Coordinator within thirty (30) days of becoming aware of the violation.
  - (B) Where the User believes the first reported result(s) indicating a

violation(s) maybe in error, the User may submit additional data to support its position with the repeat sampling results.

(C) Where the User believes its facility continues in violation of its IWDP after repeat sampling, the User shall again repeat the sampling within ninety-six (96) hours and shall submit the analytical results to the Industrial Pretreatment Coordinator within thirty (30) days of becoming aware of the violation. The User shall also notify the Industrial Pretreatment Coordinator to determine if a schedule for additional monitoring is required.

(D) The User may not be required to resample if the Industrial Pretreatment Coordinator notifies the User that the City will initiate monitoring at the User's facility.

(9) All reports described in (1) through (8) must include the certification statement listed in 40 CFR 403.6 (a)(2)(ii).

(n) Sample Collection - Wastewater samples collected to comply with any provision of this Article shall meet the following requirements.

(1) Samples should be collected using 24-hour flow proportional composite collection techniques. In the event that flow proportional sampling is infeasible or not warranted in the opinion of the Industrial Pretreatment Coordinator, the Industrial Pretreatment Coordinator may authorize the use of time proportional sampling, a minimum of four (4) grab samples where the User demonstrates that this will provide a representative sample of the effluent being discharged or a frequency of grab samples acceptable to the Industrial Pretreatment Coordinator. The Industrial Pretreatment Coordinator may allow grab samples to be composited prior to analysis. (Ord. 2009-1. Passed 1/6/09.)

(2) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using standard grab collection techniques.

(3) Sampling techniques prescribed in 40 CFR Part 136, as amended, shall be followed.

(4) The Industrial Pretreatment Coordinator shall be notified a minimum of 48 hours prior to the collection of a sample(s) by a User and may observe the collection of any sample.

(5) If a User does not follow proper sample collection protocols and/or techniques, all samples collected inappropriately shall be discarded and re-

collected at the sole expense of the User.

- (6) Sampling facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its sampling location or facility in good working order shall not be grounds for the User to claim that sample results are unrepresentative of its discharge.
- (7) All sampling locations utilized to meet the discharge monitoring provisions of this Article shall be approved by the Industrial Pretreatment Coordinator.

(o) Analytical Requirements - Wastewater pollutant analyses completed to comply with any provision of this Article shall meet the following requirements.

- (1) All pollutant analyses shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable Categorical Standard. If 40 CFR Part 136 does not contain analytical techniques for the pollutant in question, analyses must be performed in accordance with procedures approved by the Administrator.
- (2) The User shall provide the Industrial Pretreatment Coordinator with the name, address and telephone number of any contract laboratory intended to be utilized for pollutant analyses at least 48 hours prior to the collection of any samples. The Industrial Pretreatment Coordinator may recommend the use of an alternate contract laboratory.
- (3) Copies of laboratory analysis results shall be forwarded to the User and the Industrial Pretreatment Coordinator simultaneously.
- (4) Laboratory analysis results obtained by a User following improper protocols or deemed technically deficient by the Industrial Pretreatment Coordinator shall be discarded and samples shall be re-analyzed at the sole expense of the User.

(p) Flow Measurement - All wastewater flow monitoring data obtained to comply with any provision of this Article shall meet the following requirements.

- (1) All new, required flow measuring devices shall be approved by the Industrial Pretreatment Coordinator prior to installation. The flow measuring device(s) shall be properly designed, compatible with the process involved and accurate. The flow measuring device(s) shall be calibrated at least semi-annually.
- (2) If a discrepancy in reported flow data is identified, the Industrial



Pretreatment Coordinator may require that existing flow measuring devices be serviced by a certified technician or replaced at the sole expense of the User.

- (3) Flow monitoring facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a User to keep its flow monitoring facility in good working order shall not be grounds for the User to claim that the measurements are unrepresentative of its volume of flow to the POTW.
- (4) If a User does not properly calibrate or maintain its flow monitoring equipment or if flow measurements are deemed inaccurate by the Industrial Pretreatment Coordinator, the Industrial Pretreatment Coordinator shall utilize the User's metered water usage records to determine the volume of wastewater flow to the POTW. In this case, all claims of product uptake, evaporation or other water losses shall be precluded.
- (5) If a User does not have a flow measurement device, the Industrial Pretreatment Coordinator may:
  - (A) Require installation of flow monitoring facilities in accordance with the provisions of this Article or;
  - (B) Rely on the User's metered water usage records to determine the volume of wastewater flow to the POTW. In this case, metered water losses may be considered by the Industrial Pretreatment Coordinator. Unmetered claims of product uptake, evaporation or other losses shall be precluded unless appropriated documentation can be provided by the User.

(q) Monitoring Facilities - The City shall require to be provided and operated at the User's own expense, sampling manholes or any other device or facility suitable and appropriate to enable inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. Such manhole device or facility should normally be situated on the User's premises in the User's possession; but, the City may, when a location would be impractical or cause undue hardship on the User, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

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

- (r) Inspection and Sampling - The City shall inspect, at a minimum annually, the

facilities of any User to ascertain whether the purpose of this Article is being met and all requirements are being complied with. Persons or occupants of premises connected to the sewage collection system shall allow the City or its representative ready access at all reasonable times to all parts of the premises for the purpose of inspection, sampling, or in the performance of any duties. The User's records of monitoring activities and results shall be available for inspection and copying. The City 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 without notification to the User. (Ord. 2009-1. Passed 1/6/09.)

Where a User has security measures in force which would require proper identification and clearance before entry into their premises, the User shall make necessary arrangements with their security guards so that upon presentation of suitable identification, personnel from the City will be permitted to enter and to perform their specific responsibilities within 10 minutes of their initial time of arrival. Delaying City personnel for more than 10 minutes for any reason or to complete process changes or to alter wastewater constituency prior to sample collection shall be a violation of this Article and shall subject the User to the sanctions set forth in this Article.

Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the User at the written request of the Industrial Pretreatment Coordinator and shall not be replaced without approval of the Industrial Pretreatment Coordinator. The costs of clearing such access shall be born by the User.

(s) If the Industrial Pretreatment Coordinator has been refused any records or access to a building, structure, or property, or any part thereof, or if the Industrial Pretreatment Coordinator believes that there is a need to inspect and/or sample as part of a routine or specific inspection and sampling program of the City, designed to verify compliance with this Article or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Director of Water and Sewer Resources may seek issuance of a search warrant from the appropriate judicial authority.

(t) Pretreatment - Users shall provide wastewater treatment as necessary to comply with this Article and shall achieve compliance with all applicable Pretreatment Standards, local limits, and the prohibitions set out in Sections 923.02 of this Article within the time limitations specified by the agency issuing the standards. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Industrial Pretreatment Coordinator for review, and shall be acceptable to the Industrial Pretreatment Coordinator before such facilities are constructed. The City's review of such plans and operating procedures shall in no way relieve the User from the responsibility of additional or future modifications of such facilities as necessary to produce a discharge acceptable to the City under the provisions of this Article.

Whenever deemed necessary, the Industrial Pretreatment Coordinator may require Users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only at specific points of the POTW, relocate and/or consolidate points of discharge,

separate domestic sewage waste streams from industrial waste streams, and/or such other conditions as may be necessary to protect the POTW and determine the User's compliance with the requirements of this Article.

The Industrial Pretreatment Coordinator may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A IWDP may be issued solely for flow equalization.

Grease, oil, and sand interceptors shall be provided when they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential sources. All interception units shall be of type and capacity approved by the Industrial Pretreatment Coordinator and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the User at their expense.

(u) Publication of Users in Significant Non-compliance – The City shall annually publish, in a newspaper of general circulation that provides meaningful Public Notice within the jurisdictions served by the POTW, all Users which at any time during the previous twelve months were in significant non-compliance with applicable Pretreatment Standards or Requirements. For the purpose of this provision, a User is in significant non-compliance if its violation meets one or more of the following criteria:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent or more of all of the measurements taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3 (1);
- (2) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3 (1) multiplied by the applicable TRC (TRC = 1.4 for BOD<sub>5</sub>, CBOD<sub>5</sub>, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);
- (3) Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the City determines has caused, alone or in combination with other discharges, interference or pass through (including endangering the health of POTW personnel or the general public);
- (4) Any discharge of a pollutant that has caused imminent endangerment to human health, welfare or to the environment or has resulted in the POTW's exercise of its emergency authority under 40 CFR 403.8(f) (1) (vi) (B) to halt or prevent such a discharge;

- (5) Failure to meet, within 90 days after the schedule date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;
- (6) Failure to provide, within 45 days after the schedule date, required reports such as Baseline Monitoring Reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report non-compliance;
- (8) Any other violation or group of violations which may include violations of BMP's that the City determines will adversely affect the operation or implementation of the City's pretreatment program.

(Ord. 2009-1. Passed 1/6/09.)

(v) Confidential Information - Information and data on a User obtained from reports, questionnaires, permit applications, permit and monitoring programs and from inspections shall be available to the public or other governmental agency without restriction unless the User specifically requests and is able to demonstrate to the satisfaction of the City that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets or other confidential business information of the User.

When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this Article, the National Pollutant Discharge Elimination System (NPDES) Permit, State Disposal System Permit and/or the Pretreatment Programs; provided, however, that such portions of a report shall be available for use by the EPA or the State in judicial review or enforcement proceedings involving the person furnishing the report. Effluent data as defined in 40 CFR 2.302(a)(2) will not be recognized as confidential information.

(w) Record Retention - Users shall maintain records of all information resulting from any discharge monitoring activities completed by the User. At a minimum, such records must include:

- (1) The date, exact place, method, time of sampling and the names of the person(s) collecting the samples;
- (2) Dates analyses were performed;
- (3) Who performed the analyses;
- (4) Analytical techniques/methods used; and
- (5) The results of such analyses.

Users shall retain and preserve for no less than three (3) years, any records, reports, chemical analyses, etc. made by or on behalf of the User in connection with its discharge, records associated with implementation of BMP's and any other records required by the City related to the MIPP. In addition, any records that pertain to matters that are the subject of special orders or any other enforcement or litigation activities brought by the City shall be retained and preserved by the User until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired. The User shall, upon request and within the time frame specified by the Industrial Pretreatment Coordinator, furnish to the City copies of any records required to be kept by this Article. (Ord. 2009-1. Passed 1/6/09.)

#### 923.05 ENFORCEMENT.

(a) Suspension - The City may suspend the wastewater treatment service and/or an IWDP without prior notice when such suspension is necessary in order to stop an actual or threatened discharge which presents or may present an imminent and substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW or causes the City to violate any condition of its NPDES Permit. In the event of a failure of the person to comply voluntarily with the suspension order, the City shall take steps as deemed necessary including immediate termination of water service and/or immediate severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The service and/or IWDP shall be restored within five working days after, in the opinion of the City, the actual or threatened cause for the suspension has been removed. The above actions shall be taken only as ordered by the Director of Water & Sewer Resources.

(b) Notice of Suspension - In the event that the City decides it is necessary to suspend its wastewater treatment service for reasons other than as described above, the User shall be given a 15 day notice of such suspension. Any person notified of a suspension of the wastewater treatment service and/or IWDP shall stop or eliminate the contribution as required in the suspension notice. Between the time of the notice of suspension of services and the date services are terminated, the User shall have the right to have a Show Cause Hearing with the Hearing Board regarding the cause of the suspension.

The City shall reinstate the IWDP and/or wastewater treatment service within five working days upon proof of the elimination of the non-complying discharge or in compliance with instruction of the Hearing Board. A detailed written statement submitted by the User describing the cause of the harmful contributions and the measures taken to prevent any future occurrence shall be submitted to the City within five days of the date of occurrence. In the event of a failure of the User to comply with the suspension notice, the City may take such steps as deemed necessary to terminate the service.

(c) Revocation of Permit - Any User who violates the conditions of this Article, or applicable state and federal regulations, is subject to having the User's permit revoked as described in Section 923.04(k) of the Article.

(d) Notification of Violation - Whenever the City finds that any User has violated or is violating this Article, Industrial Waste Discharge Permit, or any prohibition, limitation of requirements contained herein the City may serve upon such person a written Notice of Violation stating the nature of the violation. Within 30 days of the date of the Notice, a plan for the satisfactory correction thereof shall be submitted to the City by the User.

(e) Hearing Board

- (1) A Hearing Board, shall be appointed by the Mayor of the City of Bethlehem as needed, for the purpose of hearing and deciding appeals between the City and Users on matters concerning interpretation and execution of the provisions of this Article. Cost of appeals shall be borne by the User requesting an appeal.
- (2) The chairperson of the board shall be a member of City Council's Public Works Committee, one member shall be a professional engineer skilled in practice of sanitary engineering; one member shall be a representative of industry or manufacturing enterprise; one member shall be a representative of a local environmental organization; and one member shall be selected at large for that member's interest in accomplishing the objectives of this Article.
- (3) Terms on the Board shall be for a period of five years. The Mayor shall appoint representatives to fill vacancies on the board to complete unexpired terms. Interim appointments may be permitted to serve an additional full term on the board. Hearing Boards may be appointed as standing panels, or on a case-by-case basis, as determined from time to time, in the sole discretion of the Mayor.

(f) Show Cause Hearing

- (1) The City may order any User who causes or allows an unauthorized discharge to enter the POTW to show cause before the Hearing Board why the proposed enforcement action should not be taken. A notice shall be served on the User specifying the time and place of a hearing to be held by the Hearing Board regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the User to show cause before the Hearing Board 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.
- (2) The Hearing Board may itself conduct the hearing and take the evidence, or may designate any one or more of its members, or any officer or

employee of the assigned department to:

- (A) Issue in the name of the Hearing Board notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings.
  - (B) Receive evidence.
  - (C) Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Hearing Board for action thereon.
- (3) At any hearing pursuant to this Article, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.
- (4) After the Hearing Board has reviewed the evidence, it may issue an order to the User responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, devices or other related appurtenances are properly operated. Further and/or other orders and directives as are necessary and appropriate may be issued.

(g) Consent Orders - The City may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any User responsible for non-compliance. Such documents will include specific action to be taken by the User to correct the non-compliance within a time period specified by the document.

(h) Compliance Orders - When the Industrial Pretreatment Coordinator finds that a User has violated, or continues to violate, any provision of this Article, an IWDP or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may issue an order to the User responsible for the discharge directing that the User come into compliance within a specified time. If the User does not come into compliance within the time provided, wastewater service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance Orders also may contain other requirements to address the non-compliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the POTW. A Compliance Schedule contained in any Compliance Order shall not be construed as an extension of the deadline for compliance established for any Pretreatment Standard or Requirement, nor does a Compliance Order relieve the User of liability for any violation, including any continuing violation.

(i) Cease and Desist Orders - When the Industrial Pretreatment Coordinator finds that a User has violated, or continues to violate, any provision of this Article, an IWDP or order issued hereunder, or any other Pretreatment Standard or Requirement, or that the User's past violations are likely to recur, the City may issue an order to the User directing it to cease and desist all such violations and directing the User to:

- (1) Immediately comply with all requirements; and
- (2) Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations, terminating the discharge or hauling non-compliant discharges off-site for proper disposal.

(j) Administrative Fines

- (1) When the Industrial Pretreatment Coordinator finds that a User has violated, or continues to violate, any provision of this Article, an IWDP or order issued hereunder, or any other Pretreatment Standard or Requirement, the City may fine such User in an amount not to exceed the amount set forth in the Section 923.99 of this Article for each violation regardless of jurisdictional boundaries. Such fines shall be assessed in accordance with the terms set forth in this Article and/or the City's Enforcement Response Plan. In the case of weekly, monthly or other long-term average discharge limits, fines shall be assessed for each day during the period of violation.
- (2) A lien against the User's property will be sought and other enforcement collection action may be taken for unpaid fines.
- (3) Users desiring to dispute such fines shall file a written request for the City to reconsider the fine along with the full payment of the fine amount within thirty (30) days of being notified of the fine. The Hearing Board may convene to deliberate on the matter. In the event the appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the User. The City may add the costs of preparing administrative enforcement actions, such as notices and orders to the fine when the fine and or a portion of same, is substantiated.
- (4) Issuance of an administrative fine shall not be a bar against, or a prerequisite for, taking any other action against the User.

(k) Legal Action - The City shall be able to seek injunctive relief for non-compliance by Users with Pretreatment Standards or Requirements. Injunctive relief is available for violations of any requirement stated in this Article or Industrial Waste Discharge Permits, including, but not limited to, wastewater discharge violations, failure to allow access by the City



to a User's facility, failure to submit reports by a specified deadline or any violation of any order of the City. The City Solicitor may commence an action for appropriate legal and/or equitable relief in the local Court of Common Pleas.

(l) Remedies Nonexclusive - The remedies provided for in this Article are not exclusive. The City may take any, all, or any combination of these actions against a non-compliant User. Enforcement of industrial pretreatment program violations will be in accordance with this Article and/or the City's Enforcement Response Plan. However, the City may take other action against any User when the circumstances warrant. Further, the City is empowered to take more than one enforcement action against any non-compliant User. Where the Enforcement Response Plan does not provide guidelines on enforcement action for a specific instance of non-compliance, the City may impose other appropriate enforcement action to address the non-compliance.

(m) Appeals - A User, may appeal the terms of an IWDP, Administrative Fine or any Administrative Action within thirty (30) days of notice of its issuance. The written appeal request shall provide the name, address and telephone number of the appellant as well the date that the City took the action which is the subject matter of the appeal. In its petition, the appealing party shall also indicate the provisions objected to, the reasons for this objection, and the alternative condition, if any.

- (1) Failure to submit a timely appeal for review shall be deemed to be a waiver of the administrative appeal.
- (2) The conditions of the current IWDP shall remain in effect pending the appeal of the new IWDP.
- (3) The City shall respond with its position within sixty (60) days of filing of an appeal.
- (4) The User must file its appeal with the Hearing Board, described in Section 923.05(e), to conduct a hearing and decide an appeal on the matter.
- (5) Aggrieved parties seeking judicial review of the final administrative decision must do so by filing a complaint with the local Court of Common Pleas, within thirty (30) days of the decision of the Hearing Board.

(n) Conference Option - At the time an appeal is requested, the User may also request a conference with the City prior to the scheduling of a Hearing Board hearing. Said conference will include appropriate members of the City staff and its agents. Violations and penalties will be explained and discussed. Electing this option does not foreclose and/or affect the User's right to a hearing provided that the written request for the hearing was filed within thirty (30) days of service as noted above. The purpose of this option is to provide the User with an informal forum within which to discuss the alleged violations and expedite conclusion and/or resolution of outstanding enforcement actions. If resolution is not reached within ninety (90) days of the

scheduled conference, the City shall schedule the matter for Hearing Board hearing. In any event either party may request a Hearing Board hearing at any point during the conference proceedings.

923.06 REPEALER.

All ordinances and parts of ordinances inconsistent herewith be, and the same are hereby repealed.

923.07 SEVERABILITY.

If any court of competent jurisdiction declares any provision to be unconstitutional or invalid, that decision shall only affect the provision so declared. The declaration shall not affect any other portion of this Article as a whole.

923.08 HOLDING TANK WASTE.

(a) Holding Tank Waste - The City may accept discharged, trucked or hauled waste exclusively from holding tanks for treatment. The decision for approval shall be based on, but not limited to, the source, characteristics and volume of waste to be discharged. In no instance shall holding tank waste be discharged to the POTW without prior approval by the Superintendent. All holding tank waste discharges shall be regulated through the City's Industrial Pretreatment Program.

(b) Septage - The City may accept for treatment, trucked and hauled septage which originated from chemical toilets, campers, trailers or residential, commercial, or industrial septic tanks/cesspools containing domestic sewage only. The decision for approval shall be based on, but not limited to, the characteristics of the septage in conjunction with the volume of septage to be discharged. In no instance shall septage be discharged to the POTW without prior approval by the Superintendent. All septage discharges shall be regulated in accordance with the City's Industrial Pretreatment Program and/or Septage Management Plan.

(c) Discharge Points - The City shall designate the authorized discharge point(s) for holding tank waste and septage. All such discharges must be made at the designated point(s).

(d) Application for Discharge - The City may require that some or all of the information listed in Section 923.04(d) of this Article be submitted to the Industrial Pretreatment Coordinator for review as part of the decision making process for approval to discharge holding tank waste or septage.

(e) Approval to Discharge - The City may issue a letter approval for limited frequency discharges or may require that a permit be obtained for the proposed discharge. Permits will be obtained in accordance with Section 923.04 of this Article and/or the City's

## Septage Management Plan.

(f) Enforcement - Users will adhere to and obey all terms and conditions stated in their individual approval letters or permits and the requirements of this Article. Any violation of the terms and conditions of individual approval letters or permits or the requirements of this Article shall subject the User to the sanctions set out in this Article. Obtaining an approval to discharge holding tank waste or septage from the City does not relieve a User of their obligation to comply with any other requirements of Federal, State, and local law.

(g) Fees - A fee based on the City's current fee schedule will be levied on all holding tank waste or septage discharged to the City's POTW. Holding tank waste and septage may also be subject to surcharge fees as described in Section 923.03 of this Article.  
(Ord. 2009-1. Passed 1/6/09.)

## 923.09 REGULATION OF WASTEWATER FROM OTHER JURISDICTIONS.

(a) If another municipality, or User located within another municipality outside of the jurisdiction of the City, contributes wastewater to the POTW, the City may enter into a binding agreement with the contributing municipality.

(b) Prior to entering into an agreement required by paragraph (a) above, the Industrial Pretreatment Coordinator shall request the following information from the contributing municipality:

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

(c) A binding agreement, as required by paragraph (a), above, shall contain the following conditions at a minimum:

- (1) A requirement for the contributing municipality to adopt a Sewer Use Ordinance which is at least as stringent as this Article, an Enforcement Response Plan Resolution, a Surcharge Resolution and local limits which are at least as stringent as those set out in Section 923.02(d) of this Article. The requirement shall specify that such ordinance and limits must be revised as necessary to reflect changes made to the City's Article(s) or local limits;

- (2) A requirement for the contributing municipality to submit a revised User inventory on at least an annual basis;
- (3) A provision specifying which pretreatment implementation activities, including permit issuance, inspection and sampling, and enforcement, will be conducted by the contributing municipality; which of these activities will be conducted by the Industrial Pretreatment Coordinator; and which of these activities will be conducted jointly by the contributing municipality and the Industrial Pretreatment Coordinator;
- (4) A requirement for the contributing municipality to provide the Industrial Pretreatment Coordinator with access to all information that the contributing municipality obtains as part of its pretreatment activities;
- (5) Limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;
- (6) Requirements for monitoring the contributing municipality's discharge;
- (7) A provision ensuring the Industrial Pretreatment Coordinator access to the facilities of Users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Industrial Pretreatment Coordinator; and
- (8) A provision specifying remedies available for breach of the terms of the binding agreement, and authorizing the City to take legal action to enforce the terms of the contributing municipality's Ordinance or impose and enforce Pretreatment Standards or Requirements.

#### 923.10 CONTRIBUTING MUNICIPALITY APPROVAL AND CONSENT.

Following initial approval of this revised Article by the contributing municipalities, who by contract or agreement with the City are users of the City's POTW, the City may amend and supplement this Article as it deems appropriate and the initial contributing municipalities' approval shall be deemed to be an advance consent to and approval of such further amendments and supplements.

#### 923.99 PENALTY.

##### (a) Criminal Penalties

A User who willfully or negligently violates any provision of this Article, an

IWDP, or order issued hereunder, or who willfully or negligently introduces any substance into the POTW which causes personal injury, property damage, pass through, interference or any User who knowingly makes any false statements, representations or certifications in any application, record, report, plan, or other document filed, or required to be maintained pursuant to this Article, an IWDP or order issued under this Article or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this Article, may be subject to criminal prosecution in accordance with the applicable provisions of the Pennsylvania Crimes Code, 18 P.C.S. Section 101 et seq.

(b) Civil Penalties

- (1) In accordance with PA Act 9, any User who has violated, or continues to violate, any provision of this Article, an IWDP, or order issued hereunder, or any other Pretreatment Standard or Requirement shall be liable to the City for a maximum civil penalty of \$25,000 per violation, per day.
- (2) In determining the amount of civil liability, there shall be taken into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the User's violation, corrective actions by the User, the compliance history of the User, and any other factor as justice requires. All penalties shall be assessed in accordance with this Article and the City's Enforcement Response Plan.
- (3) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a User.
- (4) In the event any User violation(s) results in the imposition of a fine or other penalty on the City by EPA, the state, or any other agency, such violation(s) shall be punishable by a civil penalty at least equal to the dollar amount imposed upon the City plus its administrative, legal, engineering costs, and expenses, but not more than \$25,000, per day, per violation.

(c) Pursuant to 40 CFR 403.8(f)(1)(vi)(A), any penalties required under this section will apply per violation per day. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In the case of weekly, monthly or other long-term average discharge limits, penalties shall accrue for each day during the period of the violation. In addition to the penalties provided herein, the City may recover reasonable costs for any loss, damage, cleaning, repair, or replacement work caused by the violation, attorney's fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this Article or the orders, rules, regulations, and permits issued hereunder. (Ord. 3028. Passed 10/15/85; Ord. 3242 - Passed 2/7/89; Ord. 3305. Passed 12/5/89; Ord. 3470. Passed 3/3/92; Ord. 4116. Passed 12/18/01)



**Exhibit "B"**

**CITY OF BETHLEHEM**  
**MUNICIPAL INDUSTRIAL PRETREATMENT PROGRAM**  
**ENFORCEMENT RESPONSE PLAN**  
**(REVISED February 2008)**

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## SECTION 3.0 - ENFORCEMENT GUIDELINES

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## SECTION 4.0 - PUBLIC NOTIFICATION AND REPORTING OF SIGNIFICANT NONCOMPLIANCE

### TABLES

- Table 1 Enforcement Response Guidelines



## SECTION 1.0 - GENERAL PROVISIONS

### **1.1 Definitions**

All abbreviations, acronyms, words, terms and phrases when used in this document shall have the meaning ascribed to them in the City of Bethlehem's (City's) Codified Ordinances, Article 923 - Disposal and Discharge of Industrial Waste Regulations, Section 923.01, unless the context clearly indicates a different meaning. In addition, certain terms and acronyms, which are specific to an Enforcement Response Plan (ERP), are defined throughout this document.

### **1.2 Purpose**

The City, as part of its mandated Municipal Industrial Pretreatment Program (MIPP) for its POTW (Publicly Owned Treatment Works), has the responsibility to enforce all MIPP Rules and Regulations set by the United States Environmental Protection Agency's (USEPA) General Pretreatment Regulations described in Title 40 of the Code of Federal Regulations (40 CFR) Part 403 Article 923 of the City's Codified Ordinances (Disposal and Discharge of Industrial Waste Regulations), and the City's Industrial Waste Discharge Permits (IWDP). The purpose of this ERP is to provide guidance to ensure that the City's responses to instances of Industrial User noncompliance are implemented in accordance with Federal and State requirements and, in a consistent, systematic, and timely fashion. In addition, provisions have been included in this ERP to implement enforcement actions upon Users (who are not Industrial Users) who do not comply with Article 923 - Disposal and Discharge of Industrial Waste Regulations.

### **1.3 Federal Requirements**

40 CFR Part 403.8(f)(5) requires the City to develop an ERP which contains detailed procedures indicating how the POTW will investigate and respond to instances of Industrial User noncompliance. The ERP shall, at a minimum:

- (1) Describe how the POTW will investigate instances of noncompliance;
- (2) Describe the types of escalating enforcement responses the POTW will take in response to all anticipated types of Industrial User violations and the time periods within which responses will take place;
- (3) Identify (by title) the official(s) responsible for each type of response;
- (4) Adequately reflect the POTW's primary responsibility to enforce all applicable pretreatment requirements and standards.

The subsequent sections of this ERP address each of these items.

## **1.4 State Requirements**

Assessment of civil penalties against Industrial Users as part of the City's MIPP are subject to the requirements of the State of Pennsylvania's Publicly Owned Treatment Works Penalty Law (PA Act 9 of 1992). This Act requires the City to adopt a formal written civil penalty assessment policy and make it publicly available. Each Industrial User participating in the MIPP must be given written notice of the policy. Development of the policy must consider damage to air, water, land or other natural resources of the Commonwealth and their uses; cost of restoration and abatement; savings resulted to the person in consequence of violations; history of past violations; deterrence of future violations; and other relevant factors. This ERP also serves as the City's formal written civil penalty assessment policy and will be available to the public upon written request and will be provided to all Industrial Users in the City's MIPP in accordance with the requirements of PA Act 9 of 1992.

## SECTION 2.0 - IDENTIFYING NONCOMPLIANCE

### **2.1 General**

The first component of the ERP is to identify procedures for determining whether or not Industrial Users are complying with pretreatment standards and requirements which includes all conditions in the Industrial User's IWDP.

### **2.2 Compliance Screening**

Compliance screening involves reviewing all available information to identify violations. This review assesses compliance with schedules, reporting requirements, discharge limits and all other pretreatment standards and requirements. The compliance screening process verifies that reports are submitted on schedule, that they cover the proper time period, include all information required, and are properly signed. Also screened are the parameters reported, the number of measurements for each parameter, sampling procedures, the discharge concentration and/or mass loading and completeness of other information contained in the monitoring reports.

Specifically, the MIPP Coordinator will identify instances of Industrial User noncompliance through the following methods:

- Review of Baseline Monitoring Reports (BMR), 90-Day Compliance Reports, Self-Monitoring Reports, Spill or Slug Discharges Reports, Responses to Notices of Violation, Schedule of Compliance Reports, and any other reporting obligation;
- Independent sampling of all Industrial Users at least twice per year. More sampling may be completed to insure compliance;
- Scheduled facilities inspections of all permitted Industrial Users. Unscheduled inspections may performed to insure compliance; and
- Formalized screening process for identifying new Industrial Users through water consumption records, industrial directories, tax records and any other available information.

### **2.3 Compliance Evaluation**

When a violation of pretreatment standards or requirements is identified during compliance screening, it will be evaluated to determine whether it is a nonsignificant, recurring or significant violation.

Nonsignificant violations are generally isolated violations of pretreatment standards or requirements that do not cause interference or pass through at the POTW, endanger the health of sewage treatment personnel or the public, or damage the environment.

Recurring violations are multiple or continuous violations of pretreatment standards or requirements within a specific time frame which may result in Significant Noncompliance (SNC) as defined in Section 3.3 but do not cause interference or pass through at the POTW, endanger the health of sewage treatment personnel or the public, or damage the environment. They indicate that a problem is occurring repeatedly and a solution must be found to correct the problem. A corrective plan of action is generally required to resolve the problem. A violation will be considered recurring if it is the third violation of the same parameter within a 12 consecutive month time period.

Significant violations can be isolated or continuous violations of pretreatment standards or requirements that cause interference or pass through at the POTW, endanger the health of sewage treatment personnel or the public, damage the POTW or the environment or potentially damage the environment (if impacts can not be immediately determined).

In addition to identifying the type of violation, the compliance history of the violator/violation will also be determined.

## SECTION 3.0 - ENFORCEMENT GUIDELINES

### **3.1 General**

Violations and discrepancies identified during compliance screening and compliance evaluation will be reviewed to determine the type of enforcement response needed.

### **3.2 Enforcement Responses**

In accordance with Article 923 of the City's Codified Ordinances, Disposal and Discharge of Industrial Waste Regulations, the enforcement responses listed below are available to the City, the State or Federal Government, to remedy instances of Industrial User noncompliance. The remedies provided for in this document are not exclusive. The City may take any, all, or any combination of these actions against a non-compliant Industrial User.

#### 1. Noncompliance Letter

A Noncompliance Letter is an official correspondence from the City to an Industrial User documenting that a pretreatment violation has occurred. This is the first response to a nonsignificant violation. The Noncompliance Letter lists the violation and identifies the regulation violated. It is generally issued by the City within thirty (30) days of becoming aware of the violation and also requires, within thirty (30) days of receipt, submission of a response stating the cause of the violation as well as corrective actions which will be implemented to eliminate and prevent recurrence of the violation. In addition, it indicates that continued noncompliance will result in escalated enforcement actions.

#### 2. Notice of Violation

A Notice of Violation (NOV) is an official enforcement document from the City to an Industrial User documenting that a recurring or significant pretreatment violation has occurred. The NOV is used to transmit an Administrative Fine, Civil Penalty, Administrative Order, Compliance Schedule and/or other Enforcement Remedies and requires specific responses within allowed time frames. Typically, when the City issues a NOV it contains a fine and Compliance Order.

#### 3. Administrative Order

An Administrative Order is an official enforcement document from the City to an Industrial User in response to a recurring or significant pretreatment violation. The Administrative Order may be a Consent Order, Compliance Order or a Cease and Desist Order and will require specific responses within allowed time frames. The most common order issued by the City is a Compliance Order (which is also referred to as an Order for Compliance) and sometimes contains a Compliance Schedule.

#### 4. Compliance Schedule

A Compliance Schedule is an official enforcement document issued by the City to an Industrial User requiring implementation of a list of planned activities in accordance with a schedule to assist an Industrial User in achieving compliance with all pretreatment requirements or standards or terminate its discharge. A Compliance Schedule is issued in conjunction with some type of Administrative Order. If the City issues a Compliance Schedule, it is included as part of a Compliance Order. It generally requires establishment of compliance dates for investigative studies, concept design/feasibility studies, detailed pretreatment facility design, construction, start-up and operation and a final date for compliance with effluent limitations. It requires, no later than fourteen (14) days following each compliance date, a progress report, which certifies compliance or noncompliance with each specific schedule requirement.

#### 5. Administrative Fines

An administrative fine is a monetary penalty assessed by the City for violations of pretreatment standards or requirements and are issued along with a NOV (it is also referred to as an administrative penalty). Administrative fines differ from civil penalties (penalties imposed through court proceedings) since they do not require court intervention unless the Industrial User contests the action or refuses to pay the fine. Administrative fines are to recapture the full or partial economic benefit of noncompliance, and to deter future violations. Administrative fines may also be used to recover costs born by the City associated with a noncompliance incident (equitable relief) and may, based upon the sole discretion of the City, be waived if all or a portion of the fine amount is applied toward a feasibility study, pretreatment facility design and/or pretreatment facility construction which will assist the Industrial User in achieving compliance. Administrative fine amounts will be assessed following the guidelines provided in Section 3.3 of this document and the attached Table 1 - Enforcement Response Guidelines and will not exceed the maximum limitation of \$1,000 per violation plus costs as set by the State of Pennsylvania's Third Class City Code. In the case of weekly, monthly or other long-term average discharge limit violations, administrative fines shall be assessed for each day during the period of violation.

Industrial Users desiring to dispute such fines shall file a written appeal request for the Industrial Pretreatment Coordinator to reconsider the fine along with the full payment of the fine amount within thirty (30) days of being notified of the fine. Failure to appeal within this period shall result in a waiver of all legal rights to contest the violation or the amount of the fine. Where a request has merit, the City may convene the Hearing Board to deliberate on the matter. In the event the appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the Industrial User. The Industrial Pretreatment Coordinator may add the costs of preparing administrative enforcement actions, such as notices and orders to the fine when the fine and or a portion of same, is substantiated.

A lien against the Industrial User's property will be sought along with other enforcement collection action for unpaid fines, said actions may include seeking a judgment for up to 90 days imprisonment.

#### 6. Show Cause Hearing

A Show Cause Hearing is an official meeting between the City and an Industrial User to resolve conditions of continued violations. The City may order any Industrial User who causes or allows an unauthorized discharge to enter the POTW to show cause before the Hearing Board 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 Hearing Board 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 Hearing Board why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation. Failure to respond to a show cause hearing will result in judicial action being taken.

#### 7. Injunctive Relief

Judicial proceedings for injunctive relief may be initiated in the Court of Common Pleas of Northampton County, Pennsylvania when the Industrial User does not execute steps necessary to achieve or maintain compliance, when the violation is of such seriousness to warrant court action to deter future violations or when the danger does not permit lengthy negotiation of a settlement. If necessary, the court may be requested to issue a temporary restraining order or preliminary injunction restraining the Industrial User from violating pretreatment standards or requirements if the Industrial User's discharge presents an imminent danger or substantial harm to the POTW, the public or the environment or it causes the POTW to violate any condition of its NPDES permit or if the Industrial User has shown a lack of ability or intention to comply with pretreatment standards or requirements.

#### 8. Civil Penalties

Judicial proceedings may be initiated in the Court of Common Pleas of Northampton County, Pennsylvania to assess a civil penalty (also referred to as a judicial penalty) upon an Industrial User for a violation of pretreatment standards or requirements in accordance with PA Act 9 of 1992. In determining the amount of the civil penalty, the City shall take into account all relevant circumstances, including, but not limited to the nature of violation, damage to air, water, land or other natural resources of the Commonwealth and their uses or damage to the POTW arising from the Industrial User's discharge, cost of restoration and abatement, savings resulted to the person in consequence of violations, history of past violations and deterrence of future violations.

The maximum civil penalty amount is \$25,000 per day per violation. Each day on which a violation occurred shall be deemed a separate and distinct offense. In the case of a weekly, monthly or other long-term average discharge limits, penalties shall be considered for each day during the period of the violation. Specific civil penalties will be calculated in accordance with the guidelines provided in Section 3.3 of this document and the attached Table 1 - Enforcement Response Guidelines and may include reasonable costs for any loss, damage, cleaning, repair, or replacement work caused by the violation; as well as administrative, legal, engineering, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the Industrial User for the violation (equitable relief).

In the event any Industrial User violation results in the imposition of a fine or other penalty on the City by EPA, the State, or any other agency, such violation shall be punishable by a civil penalty at least equal to the dollar amount imposed upon the City plus its administrative, legal, engineering costs, and expenses, but not more than \$25,000, per day, per violation.

Industrial Users charged with a civil penalty shall have thirty (30) days to pay the penalty in full, or, if the Industrial User wishes to contest either the amount of the penalty or the fact of the violation, the Industrial User must file an appeal of the action (along with full payment of the penalty) pursuant to the applicable municipal law. Failure to appeal within this period shall result in a waiver of all legal rights to contest the violation or the amount of the fine. The notice of an assessment of civil penalty will include a description of the applicable appeals process to be followed including the name, address and telephone number of the party responsible for accepting such appeal. In the event the appeal is successful, the payment, together with any interest accruing thereto, shall be returned to the Industrial User.

Civil penalties collected pursuant to PA Act 9 of 1992 will be placed in a restricted account and shall only be used by the City for the repair of damage and any additional maintenance needed or any additional costs imposed as a result of the violation for which the penalty was imposed, to pay any penalties imposed on the City by the Federal or State Government associated with the violation, for costs incurred by the City to investigate and take the enforcement action that resulted in a penalty being imposed, for the monitoring of discharges as part of the MIPP and for capital improvements to the POTW, which may be required by the MIPP. Any remaining funds may be used for general capital improvements to the POTW.

## 9. Criminal Prosecution

Section 309 (c) of the Clean Water Act authorizes the Federal Government to seek criminal punishment for any person who willfully or negligently violates pretreatment standards or requirements, knowingly makes false statements regarding any report, application, record, or any other document required by General Pretreatment Regulations. There may also be criminal prosecution under applicable provisions of the Pennsylvania Criminal Code. The



determination to pursue violations through criminal action will take into consideration the willfulness of the violation, knowledge of the violation, nature and seriousness of the offense, need for deterrence, compliance history of the Industrial User, adequacy of the evidence and adequacy of penalties and sanctions available through civil and administrative enforcement action.

#### 10. Suspension and Termination of Services

The City may suspend the wastewater treatment service and/or an IWDP without prior notice when such suspension is necessary in order to stop an actual or threatened discharge which presents or may present an imminent and substantial endangerment to the health or welfare of persons, to the environment, causes interference to the POTW or causes the City to violate any condition of its NPDES Permit. In the event of a failure of the Industrial User to comply voluntarily with the suspension order, the City shall take steps as deemed necessary including immediate termination of water service and/or severance of the sewer connection, to prevent or minimize damage to the POTW system or endangerment to any individuals. The service and/or IWDP shall be restored within five working days after, in the opinion of the City, the actual or threatened cause for the suspension has been removed.

In the event that the City decides it is necessary to suspend its wastewater treatment service for reasons other than as described above, the Industrial User shall be given a fifteen (15) day notice of such suspension. Any Industrial User notified of a suspension of the wastewater treatment service and/or IWDP shall stop or eliminate the contribution as required in the suspension notice. Between the time of the notice of suspension of services and the date services are terminated, the Industrial User shall have the right to have a show cause hearing regarding the cause of the suspension. The City shall reinstate the IWDP and/or wastewater treatment service within five working days upon proof of the elimination of the non-complying discharge or in compliance with instruction of the Hearing Board. A detailed written statement submitted by the Industrial User describing the cause of the harmful contributions and the measures taken to prevent any future occurrence shall be submitted to the City within 5 days of the date of occurrence. In the event of a failure of the Industrial User to comply with the suspension notice, the City may take such steps as deemed necessary to terminate the service.

The City may revoke an IWDP for good cause, including, but not limited to, the following reasons:

- ⇒ Failure to notify the Industrial Pretreatment Coordinator of significant changes to the wastewater prior to the changed discharge;
- ⇒ Misrepresentation or failure to fully disclose all relevant facts in the IWDP application;
- ⇒ Falsifying self-monitoring reports;

- ⇒ Tampering with monitoring equipment;
- ⇒ Refusing to allow the Industrial Pretreatment Coordinator timely access to the facility premises and records;
- ⇒ Failure to meet effluent limitations;
- ⇒ Failure to pay fines;
- ⇒ Failure to pay sewer charges or purchase sufficient sewer capacity;
- ⇒ Failure to meet compliance schedules;
- ⇒ Failure to complete a wastewater survey or the wastewater Discharge Permit application;
- ⇒ Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- ⇒ Violation of any pretreatment standard or requirement, or any terms of the IWDP Permit or Article 923.

All documents described in this section will be issued in a format, which is similar to those described in EPA's Guidance for Developing Control Authority Enforcement Response Plans (September 1989). All enforcement responses by the City shall be documented. All enforcement correspondence will be sent by Certified Mail, return receipt requested.

### **3.3 Enforcement Response Selection for Industrial Users**

Any violation of pretreatment standards or requirements (i.e., limits, sampling, analysis, reporting, meeting compliance schedules, regulatory deadlines) is an instance of noncompliance for which the Industrial User is liable for enforcement. The enforcement response shall be appropriate to the type and severity of the violation and enforcement responses shall be applied uniformly.

In general, enforcement is considered for each violation or group of violations. The decision to pursue formal action is developed on the basis of nature of violation, pattern of repetition, Industrial User's response to a Noncompliance Letter, and its efforts to achieve compliance. The City may require a Show Cause Hearing associated with a Civil Penalty if the violations resulted in harm to personnel, facilities, or violated any Federal, State, or local Regulations. The first step of formal enforcement is typically a Noncompliance Letter. The enforcement may escalate to a NOV which includes a fine and an Order for Compliance detailing milestones required to achieve compliance and may also include a Compliance

Schedule. The NOV may also include some other type of Administrative Order other than or in addition to the Compliance Order. The Administrative Order shall also include all records of violation and duration of its occurrence. All records are reviewed to assure that proper procedures were used to collect information and that all contacts with the Industrial User were recorded. If the Industrial User has received conflicting information regarding its compliance status, that status is clarified in writing. A special on site review or inspection may be conducted to verify available data and review analytical test results to confirm the accuracy of the information contained in periodic reports.

The most common and frequent type of noncompliance is a violation of IWDP limits. Thus, the City's enforcement response to this type of violation has been specifically described below.

- (1) If the Industrial User is in violation of its IWDP limits, the Industrial User shall notify the Industrial Pretreatment Coordinator within twenty-four (24) hours of becoming aware of the violation. The User shall repeat the sampling within ninety-six (96) hours and copies of laboratory analysis results shall be forwarded to the User and the Industrial Pretreatment Coordinator simultaneously but not more than thirty (30) days after becoming aware of the violation.
- (2) Where the Industrial User believes the first reported result(s) indicating a violation maybe in error, the Industrial User may submit additional data to support its position with the repeat sampling results. If supported, no further action shall be required.
- (3) Where the repeat sampling results show a return to compliance and no further violation is identified during the 30-day period, no further action on the initial violation may be necessary.
- (4) Where the Industrial User believes its facility continues in violation of its IWDP limits after repeat sampling, the Industrial User shall again repeat the sampling within ninety-six (96) hours and copies of laboratory analysis results shall be forwarded to the User and the Industrial Pretreatment Coordinator simultaneously but not more than thirty (30) days after becoming aware of the violation. The Industrial User shall also contact the Industrial Pretreatment Coordinator to determine if a schedule for additional monitoring is required or if the City will initiate additional monitoring at the facility.
- (5) The Industrial User will be issued a Noncompliance Letter to document the IWDP violations.
- (6) If the IWDP violation or violations are recurring or significant, were deliberate, or the explanation of the violation or the plan of corrective action is inadequate, enforcement action may be escalated. Enforcement includes Consent Orders, Show Cause Hearings, Compliance Orders, Cease and Desist Orders and/or

Administrative Fine(s) which may escalate to Civil Penalties. There may also be emergency suspensions of sewer service, termination of discharges, as well as Judicial Remedies by way of Injunctive Relief, Civil Penalties and/or criminal prosecution.

The attached Table 1 - Enforcement Response Guidelines provides the framework, which the City will follow to:

- (1) Describe how it will investigate all instances of noncompliance(in addition to those described above);
- (2) Describe the types of escalating enforcement responses the City will take in response to all anticipated types of Industrial User violations and the time periods within which responses will take place;
- (3) Identify (by title) the official(s) responsible for each type of response. Note that in the event that a staff member is not available to perform their specified task, it will be completed by the next higher official in the City's chain-of-command for the Department of Water and Sewer Resources.

These guidelines cover enforcement responses that will be used based upon the nature and severity of the violation and the overall degree of noncompliance. The guidelines provide for uniform application of enforcement responses to ensure fairness, equity, consistency and the integrity of the City's MIPP.

Terms and abbreviations used in attached Table 1 - Enforcement Response Guidelines are defined below:

**Enforcement Response Actions**

Abbreviation	Action
AO	Administrative Order
CO	Compliance Order
NA	Not Applicable
NC	Noncompliance Letter
NOV	Notice of Violation
TRC	Technical Review Criteria Violation
SNC	Significant Noncompliance Violation

### **Enforcement Response Personnel**

<u>Abbreviation</u>	<u>Personnel</u>
D	Director of Water and Sewer Resources
PC	Pretreatment Coordinator
Sol	City Solicitor
WQ	Water Quality Manager

The City shall use the following criteria to select the appropriate enforcement response from the attached Table 1 - Enforcement Response Guidelines:

#### 1. Magnitude of the Violation

Generally, an isolated instance of noncompliance or nonsignificant violation can be met with an informal response (e.g., telephone call) or a Noncompliance Letter. However, even an isolated violation could threaten public health and the environment, damage public and private property, or threaten the integrity of the City's MIPP (e.g., falsifying a self-monitoring report). The City shall respond to any significant or recurring violations with a NOV which contains an administrative fine and an Administrative Order that requires a return to compliance by a specific date (Order for Compliance possibly with a Compliance Schedule). Sometimes recurring violations result in SNC. An Industrial User or User is in significant noncompliance if its violation meets one or more of the specific criteria set forth in the General Pretreatment Regulations, 40CFR403.8(f)(2)(viii). These criteria are described below:

- Chronic violations of wastewater discharge limits, defined as those in which 66 percent or more of all the measurements taken during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(1);
- Technical Review Criteria (TRC) violations, defined as those violations in which 33 percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of the a numeric pretreatment standard or requirement, including instantaneous limits, as defined by 40 CFR 403.3(1) times the applicable TRC (TRC=1.4 for BOD, TSS, fats, oil and grease, and 1.2 for all other pollutants except pH).
- Any other violation of a pretreatment effluent limit (daily maximum or longer-term average) that the City determines has caused, alone or in combination with other discharges, an interference, pass-through, or upset at the treatment plant (including endangering the health of City personnel or the general public);
- Any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or to the environment or has resulted in the City's exercise of its emergency authority under 40CFR403.8(f)(1)(vi)(B) to halt or prevent such a discharge;

- Failure to meet, within ninety (90) days after the scheduled date, a compliance schedule date, or a compliance schedule milestone contained in a local control mechanism or enforcement action for starting construction, completing construction, or attaining final compliance;
- Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- Failure to accurately report incidents of noncompliance; or
- Any other violations, which may include violations of Best Management Practices [or group of violations] that the City determines will adversely affect the overall implementation of its industrial pretreatment program.

For any Industrial User in SNC, the City shall: (1) report information to the Approval Authority as part of the City's Pretreatment Program Annual Report; (2) list the Industrial User in a newspaper of general circulation that provides meaningful Public Notice within the jurisdictions served by the POTW that the user is in SNC as defined in 40CFR403.8(f)(2)(viii) of the General Pretreatment Regulations (described further in Section 4.0); and (3) address SNC through appropriate enforcement actions.

## 2. Duration of the Noncompliance

Noncompliances (regardless of severity) which continue over prolonged periods of time (recurring) shall subject the Industrial User to escalated enforcement actions. For recurring violations, the City shall issue a NOV which contains an administrative fine along with a Compliance Order (possibly with a Compliance Schedule) obtaining a court order (injunctive relief) to halt further violations as well as to recover the costs of repairing the damage, civil penalties, terminating sewer service or initiating a criminal investigation.

## 3. Effect on the Receiving Water (Pass Through)

In USEPA's General Pretreatment Regulations, 40CFR403.3(n), "Pass Through" is defined as a discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES Permit (including an increase in the magnitude or duration of a violation).

One of the primary objectives of the City's MIPP is to prevent pollutants from "passing through" the POTW and entering the receiving stream (Lehigh River or Saucon Creek). Consequently, any violation which results in environmental harm shall be met with a severe enforcement response. Environmental harm or potential environmental harm will be presumed whenever an Industrial User discharges a pollutant which:

- Passes through the POTW;
- Causes a violation of the POTW's NPDES permit (including water quality standards);
- Has a toxic effect on the receiving waters (e.g. fish kill).

At a minimum, responses to these circumstances shall include a NOV, which contains an administrative fine along with a Compliance Order (possibly with a Compliance Schedule). In addition, a civil penalty shall be assessed to ensure the recovery from the noncompliant Industrial User of any fines or penalties paid by the City and may also be used to recover damages for the destruction, harm or potential harm to local natural resources. If the discharge causes repeated harmful effects, the City shall consider terminating sewer service or initiating a criminal investigation.

#### 4. Effect on the POTW (Interference)

In USEPA's General Pretreatment Regulations, 40CFR403.3(i), "Interference" is defined as a discharge which, alone or in conjunction with a discharge or discharges from other sources, both inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use or disposal and therefore is a cause of a violation of any requirement of the POTW's NPDES Permit (including an increase in the magnitude or duration of the violation) or of the prevention of sewage sludge use or disposal in accordance with applicable federal, state and local laws.

Some violations may have negative impacts on the POTW itself. For example, they may result in significant increases in treatment costs, interfere or harm POTW personnel, equipment, processes, operations, or cause sludge contamination resulting in increased disposal costs. These violations shall be met with a NOV which contains an administrative fine along with a Compliance Order (possibly with a Compliance Schedule) to correct the violation. In addition, the response shall ensure the recovery from the noncompliant Industrial User of any fines or penalties paid by the City. In addition, a civil penalty shall be assessed to ensure the recovery from the noncompliant Industrial User of any fines or penalties paid by the City, to recover damages for the destruction or harm to the POTW and to reimburse the City for repairs. In addition to recovery of all additional costs and expenses to repair the POTW (Equitable Relief).

#### 5. Compliance History of the Industrial User

A pattern of recurring violations (even of different MIPP requirements) may indicate either that the Industrial User's treatment system is inadequate or that the Industrial User has taken a casual approach to operating and maintaining its treatment system. These indications shall alert the City to the likelihood of future significant violations. Accordingly, Industrial Users exhibiting recurring compliance problems shall be strongly dealt with to ensure that consistent compliance is achieved. Compliance history is an important factor for deciding which of the designated appropriate remedies to apply to a

particular violator. If the violator has a good compliance history, the City may decide to use less severe options.

#### 6. Good Faith of the Industrial User

The Industrial User's "good faith" in correcting its noncompliance is a factor in determining which enforcement response to invoke. "Good faith" is defined as the Industrial User's honest intention to remedy its noncompliance coupled with actions, which give support to this intention. Generally, an Industrial User's demonstrated willingness to comply shall predispose the City to select less stringent enforcement responses. However, good faith does not eliminate the necessity of an enforcement action. For example, if the POTW experiences a treatment upset, it shall recover its costs regardless of prior good faith. Good faith is typically demonstrated by cooperation and completion of corrective measures in a timely manner (although compliance with previous enforcement orders is not necessarily good faith).

### **3.4 Enforcement Response Selection for Non Industrial Users**

Any person or User, who is not an Industrial User, who is found to be in noncompliance with Article 923 of the City's Codified Ordinances, Disposal and Discharge of Industrial Waste Regulations shall be subject to all of the enforcement remedies described in this document with the exception of initiation of judicial proceedings in the Court of Common Pleas of Northampton County, Pennsylvania to assess a civil penalty in accordance with PA Act 9 of 1992. This Act only applies to Users who meet the definition of an Industrial User. However, this does not preclude the City from initiating a judicial action to collect monetary damages from a person or User for payment of administrative fines, reimbursement of costs for any loss, damage, cleaning, repair, replacement work or any related costs caused by the noncompliance; as well as administrative, legal, engineering, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the User for the noncompliance.



SECTION 4.0 - PUBLIC NOTIFICATION AND REPORTING OF  
SIGNIFICANT NONCOMPLIANCE

In accordance with 40 CFR 403.8(f)(2)(viii), the City shall annually publish, in a newspaper of general circulation that provides meaningful Public Notice within the jurisdictions served by the POTW, all Industrial Users which at any time during the previous twelve months were in significant non-compliance with applicable pretreatment standards or requirements. For the purpose of this provision, an Industrial User is in significant non-compliance if its violation meets one or more of the criteria described in 40 CFR 403.8(f)(2)(vii) A through H. These criteria are also described in Section 3.3 of this document.

**TABLE 1**  
**CITY OF BETHLEHEM**  
**INDUSTRIAL PRETREATMENT PROGRAM**  
**ENFORCEMENT RESPONSE GUIDELINES**

NONCOMPLIANCE	NATURE OF NONCOMPLIANCE	ENFORCEMENT RESPONSE	PERSONNEL	Administrative Fine Schedule (See Note G for Civil Penalty Calculations)					
				COOPERATIVE WITH CITY "GOOD FAITH"			UNCOOPERATIVE WITH CITY NOT IN "GOOD FAITH"		
				1ST VIOL	2ND VIOL	3RD VIOL	1ST VIOL	2ND VIOL	3RD VIOL
<b><u>UNAUTHORIZED DISCHARGES</u></b>									
Unpermitted Discharge	Unaware of requirement; No harm to POTW/environment	Phone call; NC with permit application form	PC, D	NA			NA		
	Unaware of requirement: Potential harm to POTW/environment	NOV with fine & CO; AO; Civil Penalty	PC, D, SOL	NA			1000	1000	1000
	Failure to apply; Continues after notice by POTW	NOV with fine & CO; AO; Injunctive Relief; Criminal Prosecution; Terminate Service	PC, D, SOL	NA			1000	1000	1000
Nonpermitted Discharge (Failure to Renew)	Has not submitted application within 10 days of due date	Phone call, request written explanation	PC	NA			NA		
	Failure to apply; Continues after notice by the POTW	NOV with fine & CO; AO; Injunctive Relief; Criminal Prosecution; Terminate Service	PC, D, SOL	NA			1000	1000	1000
<b><u>DISCHARGE LIMIT NONCOMPLIANCES</u></b>									
Discharge Standard Violations	Isolated; No harm to POTW/environment	Phone call; NC; Resampling	PC, D	NA			NA		
	Recurring; No harm to POTW/environment	NOV with fine & CO	PC, D	200	500	1000	400	1000	1000
	Isolated; Potential Harm to POTW/environment	NOV with fine & CO; AO; Civil Penalty	PC, D, SOL	NA			1000	1000	1000
	Recurring; Potential Harm to POTW/environment	NOV with fine & CO; AO; Injunctive Relief; Civil Penalty; Criminal Prosecution Revoke Permit; Terminate Service	PC, D, SOL	NA			1000	1000	1000

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**ENFORCEMENT RESPONSE GUIDELINES**

NONCOMPLIANCE	NATURE OF NONCOMPLIANCE	ENFORCEMENT RESPONSE	PERSONNEL	Administrative Fine Schedule						
				(See Note G for Civil Penalty Calculations)						
				COOPERATIVE WITH CITY "GOOD FAITH"			UNCOOPERATIVE WITH CITY NOT IN "GOOD FAITH"			
				1ST VIOL	2ND VIOL	3RD VIOL	1ST VIOL	2ND VIOL	3RD VIOL	
BMP Violations	Isolated; No harm to POTW/environment	Phone call; NC; Resampling	PC, D		NA			NA		
	Recurring; No harm to POTW/environment	NOV with fine & CO	PC, D	200	500	1000	400	1000	1000	
	Isolated; Potential Harm to POTW/environment	NOV with fine & CO; AO; Civil Penalty	PC, D, SOL		NA			1000	1000	1000
	Recurring; Potential Harm to POTW/environment	NOV with fine & CO; AO; Injunctive Relief; Civil Penalty; Criminal Prosecution Revoke Permit; Terminate Service	PC, D, SOL		NA			1000	1000	1000

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NONCOMPLIANCE	NATURE OF NONCOMPLIANCE	ENFORCEMENT RESPONSE	PERSONNEL	Administrative Fine Schedule (See Note G for Civil Penalty Calculations)					
				COOPERATIVE WITH CITY "GOOD FAITH"			UNCOOPERATIVE WITH CITY NOT IN "GOOD FAITH"		
				1ST VIOL	2ND VIOL	3RD VIOL	1ST VIOL	2ND VIOL	3RD VIOL
<b><u>MONITORING AND REPORTING NONCOMPLIANCES</u></b>									
Reporting Violation	Report is improperly signed or certified	Phone call, request written explanation	PC		NA			NA	
	Report is improperly signed or certified; 30 days after notice by POTW	NC	PC, D		NA			NA	
	Failure to submit report within 15 days	Phone call, request written explanation	PC		NA			NA	
	Failure to submit report within 30 days	NC	PC, D		NA			NA	
	Failure to submit report; Report always late	NOV with fine & CO	PC, D		NA		400	1000	1000
	Failure to report spill or changed discharge; No harm to POTW/ environment	NC	PC, D		NA			NA	
	Failure to report spill or changed discharge; Potential harm to POTW/ environment	NOV with fine & CO; AO; Civil Penalty	PC, D, SOL	1000	1000	1000	1000	1000	1000
	Repeated failure to report spills	NOV with fine & CO; AO; Injunctive Relief; Civil Penalty; Criminal Prosecution Revoke Permit; Terminate Service	PC, D, SOL		NA		1000	1000	1000
	Incorrect information; isolated	NC	PC, D		NA			NA	
	Incorrect information; recurring	NOV with fine & CO; AO; Civil Penalty	PC, D, SOL	200	500	1000	400	1000	1000

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NONCOMPLIANCE	NATURE OF NONCOMPLIANCE	ENFORCEMENT RESPONSE	PERSONNEL	Administrative Fine Schedule (See Note G for Civil Penalty Calculations)					
				COOPERATIVE WITH CITY "GOOD FAITH"			UNCOOPERATIVE WITH CITY NOT IN "GOOD FAITH"		
				1ST VIOL	2ND VIOL	3RD VIOL	1ST VIOL	2ND VIOL	3RD VIOL
Reporting Violation	Falsification of information; isolated	NOV with fine & CO; AO; Civil Penalty	PC, D, SOL		NA		1000	1000	1000
	Falsification of information; recurring	NOV with fine & CO; AO; Injunctive Relief; Civil Penalty; Criminal Prosecution Revoke Permit; Terminate Service	PC, D, SOL		NA		1000	1000	1000
Failure to monitor correctly; Including sample location, sample type, sample collection techniques	Isolated failure to monitor correctly, or all pollutants as required by permit	NC	PC, D		NA			NA	
	Recurring failure to monitor correctly, or all pollutants	NOV with fine & CO	PC, D, SOL		NA		400	1000	1000
	Evidence of intent	NOV with fine & CO; AO; Injunctive Relief; Civil Penalty; Criminal Prosecution Revoke Permit; Terminate Service	PC, D, SOL		NA		1000	1000	1000
Failure to install monitoring equipment	Unavoidable delay	Phone call, request written explanation	PC		NA			NA	
	Intentional or avoidable delay	NOV with fine & CO	PC, D	200	500	1000	400	1000	1000
	Recurring delays	NOV with fine & CO; AO; Injunctive Relief; Civil Penalty; Criminal Prosecution Revoke Permit; Terminate Service	PC, D, SOL		NA		1000	1000	1000
Compliance Schedule Violations	Missed milestone by less than 30 days; No effect on final compliance date	Phone call, request written explanation	PC		NA			NA	
	Missed milestone by more than 30 days; No effect on final compliance date	Phone call, request written explanation	PC		NA			NA	
	Missed milestone by more than 30 days; Will affect final compliance date (good cause for delay)	NC; Revised CS	PC, D		NA			NA	

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NONCOMPLIANCE	NATURE OF NONCOMPLIANCE	ENFORCEMENT RESPONSE	PERSONNEL	Administrative Fine Schedule (See Note G for Civil Penalty Calculations)					
				COOPERATIVE WITH CITY "GOOD FAITH"			UNCOOPERATIVE WITH CITY NOT IN "GOOD FAITH"		
				1ST VIOL	2ND VIOL	3RD VIOL	1ST VIOL	2ND VIOL	3RD VIOL
Compliance Schedule Violations	Missed milestone by more than 30 days; Will affect final compliance date ( no good cause for delay)	NOV with fine & CO; Revised CS	PC, D		NA		400	1000	1000
	Recurring violation of Compliance Schedule	NOV with fine & CO; AO; Injunctive Relief; Civil Penalty; Criminal Prosecution Revoke Permit; Terminate Service	PC, D, SOL		NA		1000	1000	1000
Wastestreams are diluted in lieu of treatment	Initial Noncompliance	NC	PC, D		NA			NA	
	Recurring; Continues after notice by POTW	NOV with fine & CO; AO; Injunctive Relief; Civil Penalty; Criminal Prosecution Revoke Permit; Terminate Service	PC, D, SOL		NA		1000	1000	1000
Failure to mitigate noncompliance or halt production; Failure to properly operate and maintain pretreatment facility, where required	No harm to POTW/environment	NC	PC, D		NA			NA	
	Potential harm to POTW/environment	NOV with fine; AO; Civil Penalty	PC, D, SOL		NA		1000	1000	1000
	Intent or gross negligence	NOV with fine & CO; AO; Injunctive Relief; Civil Penalty; Criminal Prosecution Revoke Permit; Terminate Service	PC, D, SOL		NA		1000	1000	1000
<b>NONCOMPLIANCES DETECTED DURING SITE VISITS</b>									
Entry Delay	Entry or sampling access delayed (isolated)	NOV with fine & CO; AO; Civil Penalty	PC, D, SOL		NA		1000	1000	1000
Entry Denial	Recurring entry/sampling access delays; Entry denied or consent withdrawn; Sampling access or copies of records denied	NOV with fine & CO; AO; Injunctive Relief; Civil Penalty; Criminal Prosecution Revoke Permit; Terminate Service	PC, D, SOL		NA		1000	1000	1000

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				COOPERATIVE WITH CITY "GOOD FAITH"			UNCOOPERATIVE WITH CITY NOT IN "GOOD FAITH"		
				1ST VIOL	2ND VIOL	3RD VIOL	1ST VIOL	2ND VIOL	3RD VIOL
Improper Sampling; Including sample location sample type, sample collection techniques	Isolated - Unintentional	NC	PC, D	NA			NA		
	Recurring - Unintentional	NOV with fine & CO	PC, D	200	500	1000	400	1000	1000
	Recurring or isolated with evidence of intent	NOV with fine & CO; AO; Injunctive Relief; Civil Penalty; Criminal Prosecution Revoke Permit; Terminate Service	PC, D, SOL	NA			1000	1000	1000
Inadequate Recordkeeping	Files incomplete or missing - Unintentional	NC	PC, D	NA			NA		
	Recurring - Unintentional	NOV with fine & CO	PC, D	200	500	1000	400	1000	1000
	Recurring or isolated with evidence of intent	NOV with fine & CO; AO; Injunctive Relief; Civil Penalty; Criminal Prosecution Revoke Permit; Terminate Service	PC, D, SOL	NA			1000	1000	1000
Failure to report additional monitoring	Results not reported - Unintentional	NC	PC, D	NA			NA		
	Recurring - Unintentional	NOV with fine & CO	PC, D	200	500	1000	400	1000	1000
	Recurring or isolated with evidence of intent	NOV with fine & CO; AO; Injunctive Relief; Civil Penalty; Criminal Prosecution Revoke Permit; Terminate Service	PC, D, SOL	NA			1000	1000	1000
<u>OTHER NONCOMPLIANCES</u>									
	Any miscellaneous violations of an IWDP condition or Article 923 not previously or specifically identified	NC; NOV with fine & CO; AO; Injunctive Relief; Civil Penalty; Criminal Prosecution Revoke Permit; Terminate Service	PC, D, SOL	200	500	1000	400	1000	1000

NOTES ASSOCIATED WITH TABLE 1

- A. All noncompliances will be identified and initial enforcement responses involving contact with the Industrial User and requesting information on preventative actions(s) will occur within 30 days of noncompliance detection.
- B. Noncompliances which threaten health, property or environmental quality are considered emergencies and will receive immediate responses.
- C. Escalating enforcement options are provided and will be used at the City's discretion depending upon the magnitude, duration, damage, cost of investigation and restoration associated with the violation along with savings which may have resulted to the Industrial User, history of past violations, deterrence of future violations and any other relevant factors.
- D. Noncompliances beyond the third violation will remain at the \$1,000.00 level. In the case of violations of multi-day average IWDP or local limits, administrative fines or civil penalties will consider each day of the averaging period a separate and distinct violation. In the case of pH, each recorded limit exceedance shall be considered a separate and distinct violation.
- E. After 12 consecutive months of zero violations of an IWDP or local limit, the City shall revert to the minimum administrative fine level.
- F. A noncompliance shall be considered "recurring" if it is the third violation of the same IWDP condition or Article 923 requirement within a 12 consecutive month period.
- G. In addition to cost recovery, civil penalties for violations of an IWDP or local limit, shall be calculated in accordance with the following schedule:

<u>Exceedance</u>	<u>Fine</u>
Exceedance is up to 2.0 times greater than IWDP or local limit	\$1,000.00/violation
Exceedance is up to 3.0 times greater than IWDP or local limit	\$2,000.00/violation
Exceedance is up to 4.0 times greater than IWDP or local limit	\$3,000.00/violation
Exceedance is up to 5.0 times greater than IWDP or local limit	\$4,000.00/violation
Exceedance is more than 5.0 times greater than IWDP or local limit	\$5,000.00/violation

- H. In addition to cost recovery, civil penalties for pH violations shall be calculated using \$2,000.00/violation/day or \$200.00/each instantaneous violation, whichever is greater.