

CHAPTER 18

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Part 1
Use of Sewers

§101. Definitions. Unless the context specifically and clearly indicates otherwise, the meaning of terms used in this Part shall be as follows:

AUTHORITY - Emmaus Municipal Authority, a Pennsylvania municipality authority.

BUILDING SEWER - the extension from the sewer drainage system of any structure to the lateral of a sewer.

BOROUGH - the Borough of Emmaus, Lehigh County, Pennsylvania, a Pennsylvania municipal corporation, acting by and through its Council or, in appropriate cases, acting by and through its authorized representatives.

IMPROVED PROPERTY - any property within this Borough upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure sanitary sewage and/or industrial wastes shall be or may be discharged.

INDUSTRIAL WASTES - any solid, liquid or gaseous substance or form of energy rejected or escaping in the course of any industrial, manufacturing, trade or business process or in the course of the development, recovery or processing of natural resources, as distinct from sanitary sewage, including such ground, surface or storm water as may be present.

LATERAL - that part of the sewer system extending from a sewer to the curb line or, if there is no curb line, to the property line. The Borough shall be responsible for any required maintenance or repair of the lateral, unless the maintenance or repair is necessitated by an illegal discharge from the building sewer or root growth or other intrusion that enters the sewer system through the building sewer or at the connection of the building sewer to the lateral, in which instances the property owner shall be responsible for such maintenance and repair. [Ord. 1071]

OWNER - any person vested with ownership, legal or equitable, sole or partial, of any property located in this Borough.

PERSON - any individual, partnership, company, association, society, corporation or other group or entity.

SANITARY SEWAGE - normal water-carried household and toilet wastes from any improved property, including such ground, surface or storm water as may be present.

SEWER - any pipe or conduit constituting a part of the sewer system used or usable for sewage collection purposes.

SEWER SYSTEM - all facilities, as of any particular time, for collecting, pumping, treating and disposing of sanitary sewage and industrial wastes, situate in or adjacent to this Borough and owned by the Authority and leased to this Borough for operation and use.

STREET - any street, road, lane, court, alley and public square.
(Ord. 367, 1/4/1960, Art. 1; as amended by Ord. 1071, 7/6/2010)

§102. Use of Public Sewers Required.

1. The owner of any improved property abutting on or adjoining any street in which is a sewer shall connect such improved property therewith, in such manner as this Borough may require, within sixty (60) days after notice to such owner from this Borough to make such connection, for the purpose of discharge of all sanitary sewage and industrial wastes from such improved property, subject to such limitations and restrictions as shall be established herein or otherwise shall be established by this Borough, from time to time.

2. All sanitary sewage and industrial wastes from any improved property, after connection of such improved property with a sewer shall be required under subsection 1, shall be conducted into a sewer, subject to such limitations and restrictions as shall be established herein or otherwise shall be established by this Borough, from time to time.

3. No person shall place or deposit or permit to be placed or deposited upon public or private property within this Borough any sanitary sewage or industrial wastes in violation of subsection 1.

No person shall discharge or permit to be discharged to any natural outlet within this Borough any sanitary sewage or industrial wastes in violation of subsection 1, except where suitable treatment has been provided which is satisfactory to this Borough.

4. No privy vault, cesspool, sinkhole, septic tank or similar receptacle shall be used and maintained at any time for the disposal of sanitary sewage or industrial wastes upon any improved property which has been connected to a sewer.

Every such privy vault, cesspool, sinkhole, septic tank or similar receptacle in existence shall be abandoned as a disposal for sanitary sewage and industrial wastes and, at the discretion of this Borough, shall be cleansed and filled under the direction and supervision of this Borough; and any such privy vault, cesspool, sinkhole, septic tank or similar receptacle not so abandoned and, if required by this Borough, cleansed and filled, shall constitute a nuisance and such nuisance may be abated as provided by law, at the expense of the owner of such improved property. [Ord. 371]

5. No privy vault, cesspool, sinkhole, septic tank or similar receptacle at any time shall be connected with a sewer.

6. The notice by this Borough to make a connection to a sewer, referred to in subsection 1, shall consist of a copy of this Part, including any amendments at the time in effect, and a written or printed document requiring the connection, and may be given at any time after a sewer is in place which can receive and convey sanitary sewage and industrial wastes for treatment and disposal from the particular improved property.

(Ord. 367, 1/4/1960, Art. 2; as amended by Ord. 371, 5/2/1960, §1)

§103. Building Sewers and Connections.

1. No person shall uncover, connect with, make any opening into or use, alter, or disturb, in any manner, any sewer or the sewer system without first obtaining a permit, in writing, from the Borough. In addition, any building floor drain shall have gravity or pump discharge completely independent of the sanitary sewer system, except where the entire finished

floor is at an elevation above the finish grade around the exterior of the building. No person shall make connection of roof downspouts, exterior foundation drains, area drains, or other sources of surface runoff or groundwater to a building sewer or building drain, which, in turn, is connected directly or indirectly to a public sanitary sewer. [Ord. 1027]

2. Application for a permit required under §103(1) shall be made by the owner of the improved property to be served.

3. No person shall make or cause to be made a connection of any improved property with a sewer until such person shall have fulfilled each of the following conditions:

A. Such person shall have notified the Borough Manager of the desire and intention to connect to a sewer.

B. Such person shall have applied for and obtained a permit as required by §103(1).

C. Such person shall have given the Borough Manager at least twenty-four (24) hours' notice of the time when such connection will be made so that this Borough may supervise and inspect the work of connection and necessary testing.

4. Except as otherwise provided in this §103, each improved property shall be connected separately and independently with a sewer through a building sewer. Grouping of more than one improved property on one building sewer shall not be permitted, except under special circumstances and for good sanitary reasons or other good cause shown, but then only after special permission of this Borough, in writing, shall have been secured.

5. All costs and expenses of construction of a building sewer and all costs and expenses of connection of a building sewer to a sewer shall be borne by the owner of the improved property to be connected; and such owner shall indemnify and save harmless this Borough from all loss or damage that may be occasioned, directly or indirectly, as a result of construction of a building sewer or of connection of a building sewer to a sewer.

6. Materials for a building sewer, jointing materials and methods of installation shall be in accordance with requirements of §104 and shall be subject to approval of this Borough.

7. The permit required by §103(1) shall be displayed prominently upon the improved property to be connected to a sewer at all times during construction of the building sewer and connection of the building sewer to a sewer.

8. A building sewer shall be connected to a sewer at the lateral. No person shall make a connection directly to or tamper with, in any manner, a sewer.

The invert of a building sewer at the point of connection to a lateral shall be at the same or a higher elevation than the invert of the sewer. A smooth, neat joint shall be made and the connection of a building sewer to a lateral shall be made secure and watertight. Special fittings for connection of a building sewer to a lateral may be used only after approval of this Borough has been secured.

9. If the owner of any improved property abutting on or adjoining any street in which is a sewer, after sixty (60) days' notice from this Borough,

in accordance with §102(1), shall fail to connect such improved property, as required, this Borough may make such connection and may collect from such owner the costs and expenses thereof by a municipal claim, an action in assumpsit or such other legal proceedings as may be permitted by law.

(Ord. 367, 1/4/1960, Art. 3; as amended by Ord. 1027, 7/2/2007)

§104. Rules and Regulations Governing Building Sewers and Connections to Sewers.

1. Building sewers shall be no less than four inches (4") in diameter.
2. Pipe used in a building sewer shall be one of the following types:
 - A. Cast iron soil pipe - "medium" weight.
 - B. Vitrified clay sewer pipe - "standard strength".
 - C. Cement asbestos sewer pipe.
 - D. 2.0 Plastic Vinyl Chloride (PVC) pipe.
3. Uniform bearing shall be provided along the entire length of a building sewer; and all joints of a building sewer shall be watertight and rust-proof. No cement mortar joints shall be used. When hot-poured joints are used, the trench shall be free of water.
4. Where an improved property, at the time of securing a permit under §103(1) to connect to a sewer, shall be served by its own sewage disposal system or device, the existing house sewer line shall be broken on the structure side of such sewage disposal system or device and attachment shall be made, with proper fittings, to continue such house sewer line, as a building sewer, undiminished in inside diameter, but not less than four inches (4"), to the lateral.
5. A building sewer to serve one improved property may occupy the same trench as a building sewer to serve the next adjoining improved property; Provided, however, that the common trench is on or immediately adjacent to the common property line and such joint occupancy is by mutual agreement of the owners concerned.
6. Cast iron soil pipe of a building sewer laid in a trench must be supported properly at each joint. When vitrified clay sewer pipe or cement asbestos sewer pipe is used in a building sewer, the entire length of such pipe, as well as the joint, must have uniform bearing. Vitrified clay sewer pipe in a building sewer may be laid only in virgin soil and may not be laid in fill.
7. Fittings in a building sewer shall conform to the type of pipe used in construction.
8. Changes in direction in a building sewer must be made by use of "Y" branches or of 1/8 or 1/16 bends. Caulking or lead or poured joints to angles of less than a 1/16 bend equivalent only shall be permitted.
9. Fittings or connections in a building sewer which have an enlargement, chamber or recess with a ledge, shoulder or reduction of pipe area that shall offer any obstruction to flow shall not be allowed.
10. Joints in cast iron soil pipe in a building sewer shall be paced with oakum in the bell and spigot terminations and thereafter shall be filled with molten lead to a depth of at least one inch (1") and not to be

depressed more than one-eighth inch (1/8") below the rim of the hub. The lead then must be caulked in place. No paint, varnish or other coating shall be permitted on the jointing material until after the building sewer has been tested and approved as provided in §104(17-19).

11. Bell and spigot joints in vitrified clay sewer pipe in a building sewer shall be packed with oakum, jute or hemp at the base and thereafter shall be poured with hot compound as required for the purpose. Such hot compound shall be poured against dry surfaces having a bond strength of no less than one hundred (100) pounds per square inch, shall not soften at temperatures up to one hundred sixty degrees Fahrenheit (160°F), shall not be soluble in the waste to be carried by the building sewer and shall be root repellent. Each such joint shall be poured completely in one continuous operation and shall not be tested until at least one hour after completion of such pouring. Mechanical joints of plastic or synthetic, rubber-like materials, commonly known as compression joints, may be used with approval of this Borough.

12. Joints in cement asbestos sewer pipe in a building sewer shall be made with sleeve couplings of the same composition as the pipe and shall be sealed with rubber rings.

13. Joints between cast iron soil pipe and vitrified clay sewer pipe in a building sewer shall be made by inserting the cast iron soil pipe into the bell of the vitrified clay sewer pipe. Such joints shall be made as provided in §104(11) dealing with hot poured joints. [Ord. 371]

14. A building sewer shall be provided with a horizontal trap, known as an interceptor trap, of not less than four inches (4") inside diameter, of cast iron equivalent to cast iron soil pipe. Such trap shall be provided with a vent and clean-out openings, each to be at a level at least equal to the finished grade level and to be provided with vent cowls. Lines from such trap to such finished grade level shall be of the same size and material as the building sewer.

15. The interceptor trap required under §104(14) shall be located at a point to be determined and approved by the Borough Plumbing Inspector in accordance with rules and regulations applicable thereto as adopted by Borough. Such trap and its vent shall be on the property side of the curb. [Ord. 371]

16. The slope or grade of a building sewer, when the inside diameter is four inches (4") or more, shall be no less than one-quarter inch (1/4") per foot of length and shall be downward in the direction of flow; Provided, however, that when cement asbestos sewer pipe shall be used the slope may be reduced but shall be not less than one-eighth inch (1/8") per foot of length.

17. This Borough shall observe all testing of a building sewer. All equipment and material required for testing shall be furnished by the owner of the improved property to be connected to a sewer.

In the event a building sewer is not approved by this Borough, a further test or tests shall be made following completion of necessary corrections. A fee of five dollars (\$5.00) will be charged by this Borough for observation of each test subsequent to the initial test.

18. No building sewer shall be covered until it has been inspected, tested, as provided in §104(17), and approved. If any part of a building sewer is covered before so being inspected, tested and accepted, it shall be uncovered for inspection and testing at the cost and expense of the owner of the improved property to be connected to a sewer.

19. Every building sewer shall be tested by filling the same with water, completely, so that every section shall be tested with not less than a ten foot (10') head of water. Water shall be kept in the building sewer for fifteen (15) minutes before inspection starts and no leakage shall be observable at the time of inspection.

Upon approval of the test of a building sewer by this Borough a certificate of approval will be issued to the owner of the improved property to be connected to a sewer.

20. Whenever this Borough has reason to believe any building sewer has become defective, such building sewer shall be subject to test and inspection. Defects found upon such test and inspection, if any, shall be corrected as required by this Borough, in writing, at the cost and expense of the owner of the improved property served through such building sewer.

21. Every building sewer of any improved property shall be maintained in a sanitary and safe operating condition by the owner of such improved property.

22. Every excavation for a building sewer shall be guarded adequately with barricades and lights to protect all persons from damage and injury. Streets, sidewalks and other public property disturbed in the course of installation of a building sewer shall be restored, at the cost and expense of the owner of the improved property being connected, in a manner satisfactory to this Borough.

(Ord. 367, 1/4/1960, Art. 4; as amended by Ord. 371, 5/2/1960, §§2, 3; and by Ord. 675, 11/17/1986)

§105. Permit Required for Making Connections.

1. Any person who has been engaged regularly in the performance of plumbing work in this Borough for a period of one (1) year prior to enactment of this Part shall be deemed competent to obtain a permit. Any other person seeking to obtain a permit shall exhibit such evidence of competency as this Borough may require, from time to time.

2. Any person not possessing a permit shall not perform any plumbing work upon any improved property which is connected to a sewer or which is to be connected to a sewer.

3. Any improved property upon which plumbing work is performed by a person not possessing a permit will not be approved for connection to a sewer.

(Ord. 367, 1/4/1960, Art. 5; as amended by Ord. 675, 11/17/1986)

§106. Reservations.

1. If any person shall fail or refuse, upon receipt of a notice of this Borough, in writing, to remedy any unsatisfactory condition with respect to a building sewer, within sixty (60) days of receipt of such

notice, this Borough may refuse to permit such person to discharge sanitary sewage and industrial wastes into the sewer system until such unsatisfactory condition shall have been remedied to the satisfaction of this Borough.

2. This Borough reserves the right to refuse to any person the privilege of connection of any improved property to a sewer, or to compel discontinuance of use of a sewer by any person, or to compel the pretreatment of industrial wastes, in order to prevent discharge into the sewer system of wastes which may be deemed by this Borough to be harmful to the sewer system or to have a deleterious effect on sewage treatment processes.

3. This Borough reserves the right to adopt, from time to time, additional rules and regulations as it shall deem necessary and proper relating to connections with a sewer and the sewer system, which additional rules and regulations, to the extent appropriate, shall be and shall be construed as part of this Part.

(Ord. 367, 1/4/1960, Art. 6)

§107. Penalties. Any person, firm or corporation who shall violate any provision of this Part 1 shall, upon conviction thereof, be sentenced to pay a fine of not more than three hundred dollars (\$300.00); and/or to imprisonment for a term not to exceed ninety (90) days. Every day that a violation of this Part 1 continues shall constitute a separate offense. (Ord. 367, 1/4/1960, Art. 7; as amended by Ord. 675, 11/17/1986)

Part 2

Rates

§201. Definitions. Unless the context specifically and clearly indicates otherwise, the meaning of terms used in this Part shall be as follows:

AUTHORITY - Emmaus Municipal Authority, a Pennsylvania municipal authority.

B.O.D. (BIOCHEMICAL OXYGEN DEMAND) - the quantity of oxygen, expressed in ppm by weight, utilized in the biochemical oxidation of organic matter under standard laboratory procedure for five (5) days at twenty degrees Centigrade (20°C). The standard laboratory procedure shall be that found in the latest edition of "Standard Methods for the Examination of Water and Sewage" published by the American Public Health Association.

BOROUGH - the Borough of Emmaus, Lehigh County, Pennsylvania, a Pennsylvania municipal corporation, acting by and through its Council or, in appropriate cases, acting by and through its authorized representatives.

CHLORINE DEMAND - the quantity of chlorine absorbed in water, sewage or other liquids, allowing a residual of 0.1 ppm by weight after fifteen (15) minutes of contact.

GARBAGE - solid wastes resulting from preparation, cooking and dispensing of food and from handling, storage and sale of produce.

IMPROVED PROPERTY - any property within this Borough upon which there is erected a structure intended for continuous or periodic habitation, occupancy or use by human beings or animals and from which structure sanitary sewage and/or industrial wastes shall be or may be discharged.

INDUSTRIAL WASTES - any solid, liquid or gaseous substance of energy rejected or escaping in the course of any industrial, manufacturing, trade or business process or in the course of the development, recovery of processing of natural resources, as distinct from sanitary sewage, including such ground, surface or stormwater as may be present.

OWNER - any person vested with ownership, legal or equitable, sole or partial, of any property located in this Borough.

PERSON - any individual, partnership, company, association, society, corporation or other group or entity.

PH - the logarithm of the reciprocal of the weight of hydrogen ions, expressed in grams per liter of solution, and indicates the degree of acidity or alkalinity of a substance.

PPM - parts per million.

PROPERLY SHREDDED GARBAGE - garbage that has been shredded to such a degree that all its particles will be carried freely under normal sewer flow conditions, with no particle greater than one-half inch ($\frac{1}{2}$ ") in any dimension.

SANITARY SEWAGE - normal water-carried household and toilet wastes from any improved property, including such ground, surface or stormwater as may be present.

SEWAGE TREATMENT PLANT - the plant and facilities operated for such purpose by the City of Allentown, Lehigh County, Pennsylvania, to which the sewer system is to be connected.

SEWER - any pipe or conduit constituting a part of the sewer system used or usable for sewage collection purposes and to which ground, surface and stormwater is not admitted intentionally.

SEWER SYSTEM - all facilities, as of any particular time, for collection, pumping, treating and disposing of sanitary sewage and industrial wastes, situate in or adjacent to this Borough and owned by the Authority and leased to this Borough for operation and use.

SUSPENDED SOLIDS - solids that either float on the surface of or are in suspension in water, sewage or other liquids and which are removable by laboratory filtration.

TOXIC SUBSTANCE - any poisonous substance, including copper, cyanide and chromium ions.

WATER SYSTEM - the facilities of this Borough for the supply of water to the public in this Borough.

(Ord. 368, 1/18/1960, §1)

§202. Sewer Rentals and Charges. Sewer rentals and charges are imposed upon and shall be collected from the owner of each improved property within this Borough which shall be connected with the sewer system, whether the benefit resulting from such connection shall be direct or indirect, which sewer rentals and charges shall commence and shall be effective on the first day of October, 1960, or on the date when the Borough first shall be capable of accepting sanitary sewage and industrial wastes from such improved property for transportation to and treatment at the sewage treatment plant, whichever date last shall occur, and shall be payable quarterly, as provided in this Part.

(Ord. 368, 1/18/1960, §2)

§203. Computation of Sewer Rentals and Charges. Effective with the first billing as of January 1, 2013, the sewer rental charge shall be as follows:

| | <u>Per Quarter</u> |
|------------------------|--------------------|
| Per connection | \$23.75 |
| Per Each 1,000 gallons | \$ 2.31 |

(Ord. 368, 1/18/1960, §3; as amended by Ord. 540, 1/19/1976; by Ord. 675, 11/17/1986; by Ord. 740, 12/17/1990, §1; by Ord. 810, 12/5/1994, §1; by Ord. 952, 7/1/2002, §I; by Ord. 1020, 12/18/2006, §1; by Ord. 1049, 12/29/2008, §I; and by Ord. 1093, 12/17/2012, §I)

§204. Time and Method of Payment.

1. Sewer rentals and charges imposed by this Part shall be payable quarterly.

In the case of an owner of improved property whose quarterly bill for sewer rentals and charges shall be computed in whole or in part upon the basis of water volume usage metered by this Borough in connection with the water system, the quarterly billing date shall be the same date and shall cover the same quarterly period as shall be applicable for billing by this Borough in connection with the water system.

In the case of an owner of improved property whose quarterly bill for sewer rentals and charges shall be computed on any basis completely independent of water volume usage metered by this Borough in connection with the water system, the quarterly billing dates shall be the fifteenth days of January, April, July and October, respectively, in each year and shall cover a quarterly billing period consisting of the immediately preceding three complete calendar months.

2. Sewer rentals and charges shall be due and payable upon the applicable quarterly billing date set forth in subsection 1 of this §204 and the appropriate amount computed in accordance with this Part shall constitute the net bill. If sewer rentals and charges are not paid within thirty (30) calendar days after each quarterly billing date, an additional sum of ten percent (10%) shall be added to such net bill, which net bill, plus such additional sum, shall constitute the gross bill. Payment made or mailed and postmarked on or before the last day of such thirty (30) calendar day period shall constitute payment within such period. If the end of such thirty (30) calendar day period shall fall on a legal holiday or a Sunday, payment made on or mailed and postmarked on the next succeeding week day which is not a legal holiday shall constitute payment within such period.

Whenever service to any improved property shall begin after the first day or shall terminate before the last day of any quarterly billing period, sewer rentals and charges for such period shall be prorated equitably, if appropriate, for that portion of the quarterly billing period during which such improved property was served by the sewer system.

3. Every owner of improved property which is connected to the sewer system initially shall provide this Borough with and thereafter shall keep this Borough advised of his correct address. Failure of any person to receive quarterly bills for sewer rentals and charges shall not be considered an excuse for non-payment nor shall such failure result in an extension of the period of time during which the net bill shall be payable.

(Ord. 368, 1/18/1960, §4)

§205. Liens for Sewer Rentals; Filing and Collection of Liens. Sewer rentals and charges imposed by this Part shall be a lien on the improved property connected to and served by the sewer system; and any such sewer rentals and charges which are delinquent shall be filed as a lien against the improved property so connected to and served by the sewer system, which lien shall be filed in the office of the Prothonotary of Lehigh County, Pennsylvania, and shall be collected in the manner provided by law for the filing and collecting of municipal claims. (Ord. 368, 1/18/1960, §5)

§206. Measuring Volume of Sanitary Sewage and Industrial Wastes.

1. Methods of Measuring Volume -

A. Whenever the entire water supply of an improved property discharging sanitary sewage and/or industrial wastes into the sewer system is supplied by the water system, the volume of water furnished, as determined from meter readings of the water system, shall be used as the measure of discharge of sanitary sewage and/or industrial wastes in computing sewer rentals and charges, subject to adjustment, if appropriate, as provided in this Part.

B. Whenever an improved property discharging sanitary sewage and/or industrial wastes into the sewer system shall have a source or sources of water supply in addition to or other than the water system, the owner of such improved property shall provide a meter on such additional or other source or sources of water supply. The total volume of water consumed, as determined from the meter readings of the water system and the meter readings of the meter or meters on such additional or other source or sources of water supply, or the meter readings of the meter or meters on such other source or sources of water supply, as appropriate, shall be used as the measure of discharge of sanitary sewage and/or industrial wastes in computing the sewer rentals and charges, subject to adjustment, if appropriate, as provided in this Part.

C. Whenever an improved property shall use water from the water system and/or water from a source or sources of supply in addition to or other than the water system for cooling or unpolluted commercial or industrial process purposes, and all or part of the water so used shall not be discharged into the sewer system, the volume used as the measure of discharge of sanitary sewage and/or industrial wastes in computing sewer rentals and charges may be adjusted by one of the following methods:

(1) By installing a meter or other measuring device on the connection to the sewer system. The readings from such meter or measuring device shall be used as the measure of discharge of sanitary sewage and/or industrial wastes in computing sewer rentals and charges.

(2) By installing a meter or other measuring device to measure the volume not being discharged into the sewer system. The readings from such meter or measuring device shall be deducted from the total water meter readings and the remainder shall be used as the measure of discharge of sanitary sewage and/or industrial wastes in computing sewer rentals and charges.

(3) If it is not practical, in the opinion of this Borough, to install a meter or other measuring device to determine continuously the volume not discharged into the sewer system, this Borough shall determine, in such manner and by such method as it may prescribe, the percentage of metered water which is being discharged into the sewer system. The quantity of water used as the measure of discharge of sanitary sewage and/or industrial wastes in computing sewer rentals and charges shall be the

percentage so determined of the quantity measured by the water meter or meters. Any dispute as to such estimated percentage shall be submitted to this Borough, after notice of such estimate. The decision of this Borough with respect to the matter shall be final for the then current calendar year.

2. Measuring Devices - Meters or other measuring devices which shall not be owned by this Borough in connection with the water system but which shall be required or permitted under provisions of this Part shall be furnished and installed by the owner of the improved property at his expense, shall be under the control of this Borough and may be tested, inspected or repaired by this Borough whenever necessary. The owner of the improved property upon which such meter or other measuring device shall be installed shall be responsible for its maintenance and safekeeping; and all repairs thereto shall be made at the expense of the owner, whether such repairs shall be made necessary by ordinary wear and tear or other causes. Bills for such repairs, if made by this Borough, shall be due and payable immediately upon completion of such repairs and shall be collected in the same manner as quarterly bills for sewer rentals and charges.

3. Meter Readings - The Borough shall be responsible for the reading of all meters or other measuring devices and the same shall be available to this Borough at all reasonable times.

(Ord. 368, 1/18/1960, §6)

§207. Access. This Borough shall have the right of access at reasonable times to any part of any improved property served by the sewer system as shall be required for purposes of inspection, measurement, sampling and testing and for performance of other functions relating to service rendered by this Borough through the sewer system. (Ord. 368, 1/18/1960, §10)

§208. Adoption of Additional Rules and Regulations. This Borough reserves the right to adopt, from time to time, such additional rules and regulations as it shall deem necessary and proper in connection with use and operation of the sewer system, which rules and regulations shall be, shall become and shall be construed as part of this Part. (Ord. 368, 1/18/1960, §11)

§209. Penalties. Any person, firm or corporation who shall violate any provision of this Part 2 shall, upon conviction thereof, be sentenced to pay a fine of not more than three hundred dollars (\$300.00); and/or to imprisonment for a term not to exceed ninety (90) days. Every day that a violation of this Part 2 continues shall constitute a separate offense. (Ord. 368, 1/18/1960; as added by Ord. 515, 6/3/1974; and as amended by Ord. 675, 11/17/1986)

Part 3

Wastewater Discharge Limitations

A. Title, Purpose and Definitions

§301. Short Title. This Part shall be known, and may be cited, as the Borough's "Wastewater Discharge Limitations Ordinance." (Ord. 1097, 5/6/2013, Art. I, §300)

§302. Purpose.

1. It is declared that the enactment of this Part is necessary for the protection, benefit, and preservation of the health, safety, and welfare of the inhabitants of this Borough. This Part is also enacted to comply with agreements which require the Borough to conform to uniform requirements for users of the publicly owned treatment works (POTW) for the City of Allentown. Such requirements enable the City and the Borough to comply with all applicable State and Federal laws, including the Clean Water Act (33 U.S.C. §1251 *et seq.*) and the General Pretreatment Regulations (40 CFR, Part 4031). The objectives of this Part are:

A. To prevent the introduction of pollutants into the POTW that will interfere with its operation.

B. To prevent the introduction of pollutants into the POTW that will pass through the POTW, inadequately treated, into receiving waters, or otherwise be incompatible with the POTW.

C. To protect both POTW personnel who may be affected by wastewater and biosolids in the course of their employment and the general public.

D. To promote reuse and recycling of industrial wastewater and biosolids from the POTW.

E. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the POTW.

F. To enable the Borough and the City to comply with its National Pollutant Discharge Elimination System (NPDES) permit conditions, biosolids use and disposal requirements, and any other Federal or State laws to which the POTW is subject.

G. To cause the Borough's wastewater discharge limitations and procedures relating to, among other things, monitoring, testing, permitting, use, record keeping, reporting, limiting and enforcement to conform to the requirements of the City as set forth in the agreement and ordinances of the City relating to the discharge of wastewater into the POTW, including without limitation, Ordinance 14686.

2. This Part shall apply to all users of the POTW. This Part authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

(Ord. 1097, 5/6/2013, Art. I, §301)

§303. Definitions. Unless a provision explicitly states otherwise, the following terms, abbreviations and phrases, as used in this Part, shall have the meanings hereinafter designated:

ACT or "the ACT" - the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §1251 *et seq.*

AGREEMENT - the inter-municipal agreement between the City and the Borough, dated March 17, 1959, as amended, and referenced at §5.8 of Ordinance 14686 of the City.

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

AUTHORIZED or DULY AUTHORIZED REPRESENTATIVE OF THE USER -

(1) If the user is a corporation:

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

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

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

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

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

BEST MANAGEMENT PRACTICE OR BMP - schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in §311.2 and .3 (40 CFR 403.5(a) (1) and (b)). BMPs include treatment requirements, operating procedures, management plans, and practices to control the discharge of pollutants.

BMR - abbreviation for baseline monitoring report.

BOD - abbreviation for "biochemical oxygen demand," which means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at twenty (20) degrees centigrade, usually expressed as a concentration (e.g., mg/l).

BOROUGH - the Borough of Emmaus, Lehigh County, Pennsylvania, a municipality of the Commonwealth of Pennsylvania, acting by and through its Borough Council or, in appropriate cases, acting by and through its authorized representatives.

BUREAU OF WATER RESOURCES - the Bureau within the City of Allentown that is charged with water treatment, water distribution, sewage collection, sewage treatment and stormwater.

CATEGORICAL PRETREATMENT STANDARD or CATEGORICAL STANDARD - any regulation containing pollutant discharge limits promulgated by EPA in accordance with §307(b) and (c) of the Clean Water Act (33 U.S.C. §1317) which apply to a specific category of users and which appear in 40 CFR Chapter 1, Subchapter N, Parts 405-471.

CATEGORICAL INDUSTRIAL USER OR CIU - an industrial user subject to categorical pretreatment standard or categorical standard.

CFR - Code of Federal Regulations.

CHEMICAL OXYGEN DEMAND OR COD - a measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

CITY - the City of Allentown, Lehigh County, Pennsylvania, or the City Council of Allentown.

CLEAN WATER ACT - the Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. §1251 *et seq.*

CONTROL AUTHORITY - the City of Allentown.

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

DAILY MAXIMUM LIMIT - the maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

DIRECTOR OF PUBLIC WORKS - the person designated by the City to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by the City's sewage and industrial waste ordinance. The term also means a duly authorized representative of the Director of Public Works.

ENVIRONMENTAL PROTECTION AGENCY or EPA - the United States Environmental Protection Agency, or, where appropriate, the Regional Water Management Division Director, or other duly authorized official of said agency.

EXISTING SOURCE - any source of discharge that is not a "new source."

GPD - abbreviation for gallons per day.

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

INDIRECT DISCHARGE or DISCHARGE - the introduction of pollutants into the POTW from any non-domestic source.

INSTANTANEOUS LIMIT - the maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composite sample collected, independent of the industrial flow rate and the duration of the sampling event.

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

IU - abbreviation for "industrial user."

LOCAL LIMIT or LOCAL LIMITS - specific discharge limit(s) developed and enforced by the City upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 4033(a) (1) and (b).

MEDICAL WASTE - isolation wastes, infectious agents, human blood and blood products, pathological wastes, sharps, body parts, contaminated bedding, surgical wastes, potentially contaminated laboratory wastes, and dialysis wastes.

mg/l - milligrams per liter.

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

MONTHLY AVERAGE LIMIT - the highest allowable average of "daily discharges" over a calendar month, calculated as the sum of all "daily discharges" measured during a calendar month divided by the number of "daily discharges" measured during that month.

NEW SOURCE -

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

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

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

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

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

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

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

1) Any placement, assembly, or installation of facilities or equipment.

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

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

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

NORTH AMERICAN INDUSTRY CLASSIFICATION SYSTEM (NAICS) - a classification pursuant to the North American Industry Classification System Manual issued by the United States Office of Management and Budget.

NPDES - National Pollutant Discharge Elimination System.

NSCIU - abbreviation for "non-significant categorical industrial user."

PASS THROUGH - a discharge which exits the POTW into waters of the United States in quantities or concentration 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.

PERSON - any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, society, trust, estate, governmental entity, or other group or legal entity, or their legal representatives, agents or assigns. This definition includes all Federal, State, and local governmental entities.

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

POLLUTANT - dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage biosolids, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, municipal, agricultural and industrial wastes, and certain characteristics of wastewater (including, but not limited to, pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

PRETREATMENT - the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into the POTW. This reduction or alteration can be obtained by physical, chemical, or biological processes; by process changes; or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.

PRETREATMENT REQUIREMENTS - any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.

PRETREATMENT STANDARDS or STANDARDS - prohibited discharge standards, categorical pretreatment standards, and local limits.

PROHIBITED DISCHARGE STANDARDS or PROHIBITED DISCHARGES - absolute prohibitions against the discharge of certain substances. These prohibitions appear in §311 of this Part.

PUBLICLY OWNED TREATMENT WORKS or POTW - a "treatment works" as defined in §212 of the Act (33 U.S.C. §1292) which is owned by the City or any municipality which contributes wastewater to the City's system. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances which convey wastewater to a treatment plant.

RCRA - the Resource Conservation and Recovery Act, 42 U.S.C. §6901 *et seq.*

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

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

SEWER SYSTEM - all facilities within the Borough's control and subject to this Part, as of any particular time, for collecting, transporting, pumping, treating, or disposing of wastewater, which is ultimately conveyed for treatment to the City's wastewater treatment plant.

SIGNIFICANT INDUSTRIAL USER or SIU - except as provided in subparagraphs (3) and (4) of this paragraph, a significant industrial user is:

(1) An industrial user subject to categorical pretreatment standards.

(2) An industrial user that:

(a) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, non-contact cooling water, and boiler blow down wastewater).

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

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

(3) The Borough may determine that an industrial user subject to categorical pretreatment standards is a non-significant categorical industrial user rather than a significant industrial user on a finding that the industrial user never discharges more than one hundred (100) gallons per day (gpd) of total categorical wastewater (excluding sanitary, non-contact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard) and the following conditions are met:

(a) The industrial user, prior to Borough's finding, has consistently complied with all applicable categorical pretreatment standards and requirements.

(b) The industrial user annually submits the certification statement required in §6.13 (see 40 CFR 403.12(q)), together with any additional information necessary to support the certification statement.

(c) The industrial user never discharges any untreated concentrated wastewater.

(4) Upon a finding that a user meeting the criteria in subparagraph (2) has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, the Borough may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

SNC - abbreviation for significant noncompliance.

SLUG LOAD or SLUG DISCHARGE - any discharge at a flow rate or concentration which could cause a violation of the prohibited discharge standards in §311. A slug discharge is any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch discharge, which has a reasonable potential to cause interference or pass through, or in any other way violate the POTW's regulations, local limits or permit conditions.

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

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

TOTAL SUSPENDED SOLIDS OR SUSPENDED SOLIDS OR TSS - 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.

TOTAL KJELDAHL NITROGEN or TKN - the sum of free-ammonia and of organic nitrogen compounds which are converted to ammonium sulfate $(\text{NH}_4)_2\text{SO}_4$ under conditions specified by Standard Methods 20th Edition, Method 4500 or EPA Method 351.

U.S.C. - United States Code.

USER or INDUSTRIAL USER - a source of indirect discharge.

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

WASTEWATER TREATMENT PLANT or TREATMENT PLANT - portion of the POTW which is designed to provide treatment of municipal sewage and industrial waste.

(Ord. 1097, 5/6/2013, Art. I, §302)

B. Restrictions on Wastewater Introduced Into the Sewer System§306. Prohibited Discharge Standards.

1. Stormwater, Etc. No person shall discharge or cause to be discharged into the POTW any stormwater, surface water, spring water, groundwater, roof runoff, subsurface drainage, building foundation drainage, cellar drainage, drainage from roof leader connections and overflow or drainage from cesspools.

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

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

A. Waste having BOD greater than 300 mg/l. Moreover, in addition to the prohibition in the preceding sentence, no user or other person shall introduce or cause to be introduced into the sewer system waste having BOD greater than 210 mg/l without the express written approval of the Borough.

B. Waste having a content of suspended solids greater than 360 mg/l. Moreover, in addition to the prohibition in the preceding sentence, no user or other person shall introduce or cause to be introduced into the sewer system waste having suspended solids greater than 230 mg/l without the express written approval of the Borough.

C. Waste having a content of total Kjeldahl nitrogen greater than 85 mg/l. Moreover, in addition to the prohibition in the preceding sentence, no user or other person shall introduce or cause to be introduced into the sewer system waste having total Kjeldahl nitrogen greater than 40 mg/l without the express written approval of the Borough.

D. Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, waste streams with a closed-cup flashpoint of less than 140 degrees F. (60 degrees C.) using the test methods specified in 40 CFR 261.21 or wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of more than five percent (5%) or any single reading over ten percent (10%) of the lower explosive limit of the meter.

E. Wastewater having a pH less than 5.0 or more than 12.5, or otherwise causing corrosive structural damage to the POTW or equipment. Wastewater having a pH less than 6.0 or more than 9.0 or otherwise causing corrosive structural damage to the sewer system shall not be introduced into the sewer system without the express written approval of the Borough.

F. Solid or viscous substances in amounts which, alone or in combination with other substances, will cause obstruction of the flow in the POTW resulting in interference.

G. Any unground garbage.

H. Pollutants, including oxygen-demanding pollutants (BOD, etc.), released in a discharge at a flow rate and/or pollutant concentration, which, either singly or by interaction with other pollutants, will cause interference with the POTW.

I. Wastewater having a temperature that will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the treatment plant to exceed 104 degrees F. (40 degrees C.).

J. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.

K. Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.

L. Trucked or hauled pollutants, except at discharge points designated by the Borough in accordance with §324 of this Part.

M. Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair.

N. Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent.

O. Wastewater containing any radioactive wastes or isotopes, except in compliance with applicable Federal or State regulations.

P. Stormwater, surface water, ground water, artesian well water, roof runoff, subsurface drainage, significant quantities of: condensate, de-ionized water, noncontact cooling water, or unpolluted water, unless specifically authorized by the Borough.

Q. Biosolids, sludges, screenings, or other residues from the pretreatment of industrial wastes.

R. Medical wastes, except as specifically authorized by the Borough in a wastewater discharge permit.

S. Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.

T. Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW or its discharge.

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

V. Any substance which is a hazardous waste under 40 CFR Part 261.

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

(Ord. 1097, 5/6/2013, Art. I, §306)

§307. National Categorical Pretreatment Standards. Users must comply with the categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471 which are hereby incorporated.

A. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Borough may impose equivalent concentration or mass limits in accordance with paragraphs .D and .E.

B. When the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the Borough may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users.

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

D. When a categorical pretreatment standard is expressed only in terms of pollutant concentrations, an industrial user may request that the Borough convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the Borough. The Borough may establish equivalent mass limits only if the industrial user meets all the conditions set forth in subparagraph (1)(a)-(e) below.

(1) To be eligible for equivalent mass limits, the industrial user must:

(a) Employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its wastewater discharge permit.

(b) Currently use control and treatment technologies adequate to achieve compliance with the applicable categorical pretreatment standard, and not have used dilution as a substitute for treatment.

(c) Provide sufficient information to establish the facility's actual average daily flow rate for all waste streams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and the long-term average production rate must be representative of current operating conditions.

(d) Not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the discharge.

(e) Have consistently complied with all applicable categorical pretreatment standards during the period prior to the industrial user's request for equivalent mass limits.

(2) An industrial user subject to equivalent mass limits must:

(a) Maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits.

(b) Continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device.

(c) Continue to record the facility's production rates and notify the Borough whenever production rates are expected to vary by more than twenty percent (20%) from its baseline production rates determined in subparagraph (1)(c) of this Section. Upon notification of a revised production rate, the Borough will reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility.

(d) Continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to subparagraph (1)(a), of this Part so long as it discharges under an equivalent mass limit.

(3) When developing equivalent mass limits, the Borough:

(1) Will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the industrial user by the concentration-based daily maximum and monthly average standard for the applicable categorical pretreatment standard and the appropriate unit conversion factor.

(2) Upon notification of a revised production rate, will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility.

(3) May retain the same equivalent mass limit in subsequent wastewater discharger permit terms if the industrial user's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to §317. The industrial user must also be in compliance with §393 regarding the prohibition of bypass.

E. The Borough may convert the mass limits of the categorical pretreatment standards of 40 CFR Parts 414, 419, and 455 to concentration limits for purposes of calculating limitations applicable to individual industrial users. The conversion is at the discretion of the Borough.

[Note: When converting such limits to concentration limits, the Borough will use the concentrations listed in the applicable subparts

of 40 CFR Parts 414, 419, and 455 and document that dilution is not being substituted for treatment as prohibited by §317 of this Part (see 40 CFR 403.6(d)). In addition, the Borough will document how the equivalent limits were derived for any changes from concentration to mass limits, or vice versa, and make this information publicly available (see 40 CFR 403.6(c)(7)).]

F. Once included in its permit, the industrial user must comply with the equivalent limitations developed in this Section in lieu of the promulgated categorical standards from which the equivalent limitations were derived. [Note: See 40 CFR 403.6(c)(7)]

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

H. Any industrial user operating under a permit incorporating equivalent mass or concentration limits calculated from a production-based standard shall notify the Borough within two (2) business days after the user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any user not notifying the Borough of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long term average production rate. [Note: See 40 CFR 403.6(c)(9)]

(Ord. 1097, 5/6/2013, Art. I, §307)

§308. State Pretreatment Standards. [Reserved] (Ord. 1097, 5/6/2013, Art. I, §308)

§309. Local Limits.

1. The Director of Public Works is authorized to establish local limits pursuant to 40 CFR 403.5(c).

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

3. The Borough may develop Best Management Practices (BMPs), by ordinance or in wastewater discharge permits, to implement local limits and the requirements of §311.

4. In the event that the City, Allentown Bureau of Water Resources or

the Director of Public Works establishes local limits or best management practices, after receipt of notice thereof, the Borough shall adopt same by ordinance and shall thereafter become applicable to users within the Borough or connected to the sewer system.

(Ord. 1097, 5/6/2013, Art. I, §309)

§310. City's Right of Revision. The City has reserved the right to establish, by ordinance or inter-municipal agreement, or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW consistent with the purpose of its ordinance enacted to regulate wastewater. In the event that the City, Allentown Bureau of Water Resources or the Director of Public Works establishes more stringent standards or requirements on discharges to the POTW, after receipt of notice thereof, the Borough shall adopt same by ordinance and shall thereafter become applicable to users within the Borough or connected to the sewer system. (Ord. 1097, 5/6/2013, Art. I, §310)

§311. Adoption by Borough. No person shall discharge pollutants into the sewer system, which would exceed the limits, or violate the restrictions established by the Borough as described in this Section and other portions of this Part. (Ord. 1097, 5/6/2013, Art. I, §311)

§312. Dilution. No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Borough may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements or in other cases when the imposition of mass limitations is appropriate. (Ord. 1097, 5/6/2013, Art. I, §312)

§313. Rights Reserved to Prevent Harmful Discharges. The Borough reserves the right to refuse permission to connect to the sewer system, to compel discontinuance of use of the sewer system or to compel pretreatment of wastewater in order to prevent discharges deemed harmful or to have a deleterious effect upon the sewer system or any other part of the POTW. (Ord. 1097, 5/6/2013, Art. I, §313)

C. Pretreatment of Wastewater

§321. Pretreatment Facilities. Users shall provide wastewater treatment as necessary to comply with this Part and shall achieve compliance with all categorical pretreatment standards, local limits and the prohibitions set forth in §311 of this Part within the time limitations specified by EPA, the State, or the Borough, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Borough for review and shall be acceptable to the Borough before such facilities are constructed. Review and acceptance of plans are not an endorsement of the effectiveness of any facilities set forth therein and the Borough shall not be held liable in any way for the performance of said facilities. The review of such plans and operating procedures shall in no way relieve the user from the responsibility for modifying such facilities and procedures as necessary to produce a discharge acceptable to the Borough under the provisions of this Part and to the City under corresponding City ordinances. (Ord. 1097, 5/6/2013, Art. I, §320)

§322. Additional Pretreatment Measures. Whenever deemed necessary, the Borough may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage waste streams from industrial waste streams, and such other conditions as may be necessary to protect the sewer system and the POTW and determine the user's compliance with the requirements of this Part.

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

B. Grease, oil, and sand interceptors shall be provided when, in the opinion of the Borough, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand, except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the Borough, and shall be so located as to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at its expense.

C. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

(Ord. 1097, 5/6/2013, Art. I, §321)

§323. Accidental Discharge/Slug Control Plans.

1. Requirement of Plan. The Borough shall, either on its own initiative or at the request of the City of Allentown, and in either case, with the assistance of the City of Allentown, evaluate whether each significant industrial user needs an accidental discharge/slug control plan or other action to control slug discharge. The Borough may require any user to develop, submit for approval to the Borough, and implement such a plan, or

take such action that may be necessary to control slug discharge. Alternatively, the Borough, with the assistance of the City of Allentown, may develop such a plan for any user, which shall be implemented by the user.

2. An accidental discharge/slug control plan shall address, at a minimum, the following:

A. Description of discharge practices, including non-routine batch discharges.

B. Description of stored chemicals.

C. Procedures for immediately notifying the Borough of any accidental or slug discharge, as required by Section 355.

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

(Ord. 1097, 5/6/2013, Art. I, §322)

§324. Hauled Wastewater.

1. Any hauler, operator, or other person cleaning cesspools, septic tanks, privies, or any other similar container within the Borough shall:

A. Obtain any and all required State and local permits (there is no permit required by the Borough) before cleaning such containers and hauling the material for disposal to a Pennsylvania Department of Environmental Protection licensed disposal facility.

B. Only use tank trucks or equipment (used or intended to be used for the removal, transportation, and disposal of sewage and industrial wastes) which:

(1) Are watertight.

(2) Are constructed that every portion of the interior and exterior can be easily cleaned and shall be kept in a clean and sanitary condition.

(3) Have piping, valves, and permanent or flexible connections which are accessible and easily disconnected for cleaning purposes.

(4) Have an inlet opening, or an opening to every container, that is constructed so that the material will not spill outside during filling, transfer or transport.

(5) Have an outlet connection constructed so that no material will leak out, run out to a location other than the point of discharge, and shall be of a design and type suitable for the material handled and capable of controlling the flow of discharge without spillage, undue spray, or flooding immediate surroundings while in use.

(6) Have not have any connection any time between a tap or outlet furnishing potable water on any premises and any container

or equipment holding material by any means other than an open connection.

2. No hauler, operator or other person cleaning cesspools, septic tanks, privies, or any other similar container shall discharge or otherwise dispose of any wastewater into the Borough's sewer system, whether generated within or without the Borough, without the express written consent of the Borough.

(Ord. 1097, 5/6/2013, Art. I, §323)

D. Wastewater Discharge Permits

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

(Ord. 1097, 5/6/2013, Art. I, §330)

§332. Wastewater Discharge Permit Requirement.

1. No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Borough (an application form and sample permit are attached hereto as Schedule 3-332-A) except that a significant industrial user that has filed a timely application pursuant to §335 of this Part may continue to discharge for the time period specified therein.

2. The Borough may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this Part.

3. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this Part and subjects the wastewater discharge permittee to the sanctions set out in §§377 to 383, inclusive. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirement of Federal, State, or local law.

(Ord. 1097, 5/6/2013, Art. I, §331)

§333. Wastewater Discharge Permitting; Existing Connections. Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this Part and who wishes to continue such discharges in the future shall, within ninety (90) days after said date, apply to the Borough for a wastewater discharge permit in accordance with §335 and shall not cause or allow discharges to the sewer system to continue after one hundred eighty (180) days following the effective date of this Part, except in accordance with a wastewater discharge permit issued by the Borough, it being understood that the Borough cannot issue a permit without first having secured permission therefore from the City. (Ord. 1097, 5/6/2013, Art. I, §332)

§334. Wastewater Discharge Permitting; New Connections. Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with §335, must be filed at least ninety (90) days prior to the date upon which any discharge will begin or recommence. (Ord. 1097, 5/6/2013, Art. I, §333)

§335. Wastewater Discharge Application Contents.

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

A. Identifying Information.

(1) The name and address of the facility, including the name of the operator and owner.

(2) Contact information, description of activities, facilities, and plant production processes on the premises.

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

C. Description of Operations.

(1) A brief description of the nature, average rate of production (including each product produced by type, amount, processes, and rate of production), and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.

(2) Types of waste generated, and a list of all raw materials and chemicals used or stored at the facility, which are, or could accidentally or intentionally be, discharged to the POTW.

(3) Number and type of employees, hours of operation, and proposed or actual hours of operation.

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

(5) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.

D. Time and duration of discharges.

E. The location for monitoring all wastes covered by the permit.

F. Flow Measurements. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in §312.C [40 CFR 403.6(e)1.

G. Measurement of Pollutants.

(1) The categorical pretreatment standards applicable to each regulated process and any new categorically regulated processes for existing sources.

(2) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the Standards or by the Borough of regulated pollutants in the discharge from each regulated process.

(3) Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported.

(4) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in §312

of this Part. Where the standards require compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the Borough or the applicable standards to determine compliance with the standards.

(5) Sampling must be performed in accordance with procedures set out in §360 of this Part.

H. Any other information as may be deemed necessary by the Borough to evaluate the wastewater discharge permit application.

2. Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

(Ord. 1097, 5/6/2013, Art. I, §334)

§336. Application Signatories and Certification.

1. All wastewater discharge permit applications, user reports and certification statements must be signed by an authorized representative of the user and contain the certification statement in §363.1.

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

3. A facility determined to be a non-significant categorical industrial user by the Borough pursuant to §303 must annually submit the signed certification statement in §363.2

(Ord. 1097, 5/6/2013, Art. I, §335)

§337. Individual Wastewater Discharge Decisions. The Borough will evaluate the data furnished by the user and may require additional information. Within sixty (60) days of receipt of a complete wastewater discharge permit application, the Borough will determine whether or not to issue a wastewater discharge permit. The Borough may deny any application for a wastewater discharge permit. The Borough shall provide public notice as required by the Borough Code, codified at 53 P.S. §45101 *et seq.*, of the issuance of a wastewater discharge permit.

(Ord. 1097, 5/6/2013, Art. I, §336)

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

(Ord. 1097, 5/6/2013, Art. I, §337)

§339. Wastewater Discharge Permit Content. A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Borough to prevent pass through or interference, protect the quality of

the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate biosolids management and disposal, and protect against damage to the POTW.

A. Wastewater discharge permits must contain:

(1) A statement that indicates the wastewater discharge permit issuance date and effective date.

(2) A statement that the wastewater discharge permit is nontransferable without prior notification to the Borough in accordance with §341 of this Part and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.

(3) Effluent limits including BMPs based on applicable pretreatment standards.

(4) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants or best management practice to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law.

(5) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.

(6) Requirements to control slug discharge, if determined by the Borough to be necessary.

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

(1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.

(2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.

(3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or non-routine discharges.

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

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

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

(7) A statement that compliance with the wastewater discharge

permit does not relieve the permittee of responsibility for compliance with all applicable Federal, State, and local pretreatment standards, including those which become effective during the term of the wastewater discharge permit.

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

(Ord. 1097, 5/6/2013, Art. I, §338)

§340. Wastewater Discharge Permit Appeals. The Borough (or the Director of Public Works, if so authorized by the Borough) shall provide public notice of the issuance of a wastewater discharge permit as set forth in §337 of this Part. Any person, including the user, may petition the Borough (or the Director of Public Works, if so authorized by the Borough) to reconsider the terms of a wastewater discharge permit, within thirty (30) days of public notice of its issuance.

A. Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.

B. In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.

C. The effectiveness of a wastewater discharge permit shall not be stayed pending the appeal.

D. If the Borough (or the Director of Public Works, if so authorized by the Borough) fails to act within thirty (30) days, after the filing of a petition for reconsideration, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.

E. Aggrieved parties seeking review of the final administrative wastewater discharge permit decision may appeal as provided in accordance with §§380 and 381, and applicable Borough ordinances and State law.

(Ord. 1097, 5/6/2013, Art. I, §339)

§341. Wastewater Discharge Permit Modification. The Borough may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

A. To incorporate any new or revised Federal, State, or local pretreatment standards or requirements.

B. To address significant alterations or additions to the user's operation, process, or wastewater volume or character since the time of wastewater discharge permit issuance.

C. To change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.

D. Information indicating that the permitted discharge poses a threat to the POTW, personnel, biosolids, or the receiving waters.

E. Violation of any terms or conditions of the wastewater discharge permit.

F. Misrepresentations or the failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting.

G. Revision of or a grant of a variance from categorical pretreatment standards pursuant to 40 CFR 403.13.

H. To correct typographical or other errors in the wastewater discharge permit.

I. To reflect a transfer of the facility ownership or operation to a new owner or operator, where requested in accordance with §342.

(Ord. 1097, 5/6/2013, Art. I, §340)

§342. Wastewater Discharge Permit Transfer.

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

A. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes.

B. Identifies the specific date on which the transfer is to occur.

C. Acknowledges full responsibility for complying with the existing wastewater discharge permit.

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

(Ord. 1097, 5/6/2013, Art. I, §341)

§343. Wastewater Discharge Permit Revocation.

1. The Borough may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

A. Failure to notify the Borough of significant changes to the wastewater prior to the changed discharge.

B. Failure to provide prior notification to the Borough of changed conditions pursuant to §355.

C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application.

D. Falsifying self-monitoring reports and certification statements.

E. Tampering with monitoring equipment.

F. Refusing to allow the Borough or its duly authorized agent timely access to the facility premises and records.

- G. Failure to meet effluent limitations.
- H. Failure to pay fines.
- I. Failure to pay sewer charges.
- J. Failure to meet compliance schedules.
- K. Failure to complete a wastewater surveyor the wastewater discharge permit application.
- L. Failure to provide advance notice of the transfer of business ownership of a permitted facility.
- M. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this Part.

2. Individual wastewater discharge permits shall be void upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user, it being understood that the Borough cannot issue a permit without first having secured permission therefore from the City.

(Ord. 1097, 5/6/2013, Art. I, §342)

§344. Wastewater Discharge Permit Reissuance. A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with §335, a minimum of one hundred eighty (180) days prior to the expiration of the user's existing wastewater discharge permit.

(Ord. 1097, 5/6/2013, Art. I, §343)

E. Reporting Requirements§351. Baseline Monitoring Reports.

1. Within one hundred eighty (180) days after either the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical industrial users currently discharging to or scheduled to discharge to the POTW shall submit to the Borough a report, which contains the information listed in subsection .2. At least ninety (90) days prior to commencement of their discharge, new sources and sources that become categorical users subsequent to the promulgation of an applicable categorical standard shall submit to the Borough a report, which contains the information listed in subsection .2. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards and give estimates of its anticipated flow and the quantity of pollutants to be discharged.

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

A. All information required in §§334.1.A(1), 334.1.B, 334.1.C(1), and 334.1.F.

B. Measurement of Pollutants.

(1) The user shall provide the information required in §334.1.G(1) through (4).

(2) The user shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this Section.

(3) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment the user should measure the flows and concentrations necessary to allow use of the combined waste stream formula in 40 CFR 403.6(e) to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e), this adjusted limit along with supporting data shall be submitted to the Borough.

(4) Sampling and analysis shall be performed in accordance with §360.

(5) The Borough may allow the submission of a baseline report, which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

(6) The baseline report shall indicate the time, date and place of sampling and methods of analysis, and shall certify that such sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.

C. Compliance Certification. A statement, reviewed by the user's

authorized representative as defined in §303 and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.

D. Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M must be provided. The completion 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 §352 of this Part.

E. Signature and Report Certification. All baseline monitoring reports must be certified in accordance with §363 of this Part and signed by an authorized representative as defined in §303 of this Part.

(Ord. 1097, 5/6/2013, Art. I, §350)

§352. Compliance Schedule Progress Report. The following conditions shall apply to the compliance schedule required by §351.2.D of this Part:

A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction and beginning and conducting routine operation).

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

C. The user shall submit a progress report to the Borough no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule.

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

(Ord. 1097, 5/6/2013, Art. I, §351)

§353. Reports on Compliance with Categorical Pretreatment Standard Deadline. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source, following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Borough a report containing the information described in §§334.1.F, 334.1.G and 350.2.B. For users subject to equivalent mass or concentration limits established in accordance with the procedures in §312, this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with §336. All

sampling will be done in accordance with §360. (Ord. 1097, 5/6/2013, Art. I, §352)

§354. Periodic Compliance Reports.

1. All significant industrial users must, at a frequency determined by the Borough, submit no less than twice per year (June and December), or on dates specified, reports indicating the nature, concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the pretreatment standard requires compliance with a BMP or pollution prevention alternative, the user must submit documentation required by the Borough or the pretreatment standard necessary to determine the compliance status of the user.

2. All periodic compliance reports must be signed and certified in accordance with §336 of this Part.

3. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.

4. If a user subject to the reporting requirement in this Section monitors any pollutant more frequently than required by the Borough, using the procedures prescribed in §§359 and 360 of this Part, the results of this monitoring shall be included in the report.

(Ord. 1097, 5/6/2013, Art. I, §353)

§355. Reports of Changed Conditions.

1. Each user must notify the Borough of any planned significant changes to the user's operations or system that might alter the nature, quality, or volume of its wastewater at least ninety (90) days before the change.

2. The Borough or may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under §335 of this Part.

3. The Borough may issue a wastewater discharge permit under §344 of this Part or modify an existing wastewater discharge permit under §341 of this Part in response to changed conditions or anticipated changed conditions.

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

(Ord. 1097, 5/6/2013, Art. I, §354)

§356. Reports of Potential Problems.

1. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a non-routine, episodic nature, a non-

customary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the Borough of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.

2. Within five (5) days following such discharge, the user shall, unless waived by the Borough, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the sewer system, the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this Part.

3. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees of whom to call in the event of a discharge described in subsection .1 above. Employers shall ensure that all employees who may cause such a discharge to occur are advised of the emergency notification procedure.

4. Significant industrial users are required to notify the Borough immediately of any changes at its facility affecting the potential for a slug discharge.

(Ord. 1097, 5/6/2013, Art. I, §355)

§357. Reports from Unpermitted Users. All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Borough, as the Borough may require. (Ord. 1097, 5/6/2013, Art. I, §356)

§358. Notice of Violation/Repeat Sampling and Reporting. If sampling performed by a user indicates a violation, the user must notify the Borough and the Director of Public Works within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Borough and the Director of Public Works within thirty (30) days after becoming aware of the violation. Re-sampling by the industrial user is not required if the Borough or its duly authorized agents perform sampling at the user's facility at least once a month or if the Borough or its duly authorized agents perform sampling at the user's facility between the time when the initial sampling was conducted and the time when the user or the Borough receives the results of this sampling, or the Borough or its duly authorized agents have performed the sampling and analysis in lieu of the industrial user. (Ord. 1097, 5/6/2013, Art. I, §357)

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

techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures including procedures suggested by the Borough or other parties approved by the EPA. (Ord. 1097, 5/6/2013, Art. I, §358)

§360. Sample Collection.

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

2. Except as indicated in subsections .3 and .4, below, the user must collect wastewater samples using twenty-four (24) hour flow proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Borough. Where time-proportional composite sampling or grab sampling is authorized by the Borough, the samples must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a twenty-four (24) hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Borough, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

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

4. For sampling required in support of baseline monitoring and ninety (90) day compliance reports required in §§351 and 352 [40 CFR 403.12(b) and (d)], a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Borough may authorize a lower minimum. For the reports required by §§354 [40 CFR 403.12(e) and 403.12(h)], the industrial user is required to collect the number of grab samples necessary to assess and assure compliance by with applicable pretreatment standards and requirements.

(Ord. 1097, 5/6/2013, Art. I, §359)

§361. Timing. Written reports required under this Part will be deemed to have been submitted on the date postmarked. For reports which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern. (Ord. 1097, 5/6/2013, Art. I, §360)

§362. Recordkeeping. Users subject to the reporting requirements of this Part shall retain and make available for inspection and copying all records of information obtained pursuant to any monitoring activities required by this Part and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such

requirements, and documentation associated with BMPs established under §314. Records shall include the date, exact place, method, and time of sampling, the name(s) of the person (s) taking the samples; the dates the analyses were performed; the person (s) performing the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or the Borough, or where the user has been specifically notified of a longer retention period by the Borough. (Ord. 1097, 5/6/2013, Art. I, §361)

§363. Certification Statements.

1. Certification of Permit Applications; User Reports. The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with §335; users submitting baseline monitoring reports under §350.2.E; users submitting reports on compliance with the categorical pretreatment standard deadlines under §352; users submitting periodic compliance reports required by §353. The following certification statement must be signed by an authorized representative as defined in §303:

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

2. Annual Certification for Non-significant Categorical Industrial Users. A facility determined to be a non-significant categorical industrial user by the Borough pursuant to §§302 and 335(C) must annually submit the following certification statement signed in accordance with the signatory requirements in §302(C). This certification must accompany an alternative report required by the Borough:

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

"(1) The facility described as _____ [facility name] met the definition of a non-significant categorical industrial user as described in §303.

"(2) The facility complied with all applicable pretreatment standards and requirements during this reporting period.

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

"This compliance certification is based on the following information.

(Ord. 1097, 5/6/2013, Art. I, §362)

§364. Hazardous Waste Reporting. Although hazardous wastes are specifically prohibited in §306.3.R, if any user accidentally discharges a hazardous waste, the user shall adhere to the reporting requirements found at 40 CFR 402.12(p) (1).

(Ord. 1097, 5/6/2013, Art. I, §363)

F. Monitoring and Confidentiality

§366. Right of Entry; Inspection and Sampling. The Borough or its duly authorized representatives shall have the right to enter the premises of any user or part of any property connected to the sewer system or the POTW to determine whether the user or other person owning, operating, or using the property is complying with all requirements of this Part and any wastewater discharge permit or order issued hereunder. Users and other persons shall allow the Borough or its duly authorized representative ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

A. Where a user or other person has security measures in force which require proper identification and clearance before entry into its premises, the user or other person shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Borough's employees or agents will be permitted to enter without delay for the purposes of performing specific responsibilities.

B. The Borough shall have the right to set up on the user's or other person's property, or require the user or other person to install, such monitoring equipment as necessary to conduct sampling and/or metering of the user's or other person's operations.

C. The Borough may require the user to install monitoring equipment, as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user or other person at his own expense. All devices used to measure wastewater flow and quality shall be calibrated at least annually to ensure their accuracy.

D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user or other person at the written or verbal request of the Borough and shall not be replaced. The costs of clearing such access shall be borne by the user or other person.

E. Unreasonable delays in allowing the Borough or its duly authorized representative access to the user's premises shall be a violation of this Part.

(Ord. 1097, 5/6/2013, Art. I, §366)

§367. Search Warrants. If the Borough has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this Part or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Borough designed to verify compliance with this Part or any permit or order issued hereunder, or to protect the overall public health, safety, and welfare of this community, then the Borough or its duly authorized representatives may seek issuance of a search warrant from the appropriate issuing authority. (Ord. 1097, 5/6/2013, Art. I, §367)

§368. Confidential Information. Information and data on a user or other person obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from

the Borough inspection and sampling activities conducted under this Part, shall be available to the public without restriction, unless the user or other person specifically requests confidentiality, and is able to demonstrate to the satisfaction of the Borough that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user or other person furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data," as defined by 40 CFR 2.302, will not be recognized as confidential information and will be available to the public without restriction. (Ord. 1097, 5/6/2013, Art. I, §368)

G. Administrative Enforcement Remedies

§371. Publication of Users in Significant Noncompliance. The Borough (or the City, if so authorized by the Borough) shall publish annually, in a newspaper of general circulation that provides meaningful public notice within the jurisdiction served by the POTW, a list of the users which, during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term "significant noncompliance" shall be applicable to all significant industrial users (or any other industrial user) that violates paragraphs .C, .D, or .H of this Section and shall mean:

A. Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of all the measurements taken for the same pollutant parameter taken during a six (6)-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits as defined in §303.

B. Technical review criteria (TRC) violations, defined as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six (6)-month period equals or exceeds the product of the numeric pretreatment standard or requirement, including instantaneous limits as defined in §303; multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils, and grease, and 1.2 for all other pollutants except pH).

C. Any other discharge violation of a pretreatment standard or requirement as defined in §§311 through 317 (daily maximum, long-term average, instantaneous limit, or narrative standard) that the Borough determines has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public.

D. Any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Borough exercising its emergency authority to halt or prevent such a discharge.

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

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

G. Failure to accurately report noncompliance.

H. Any other violation(s) which the Borough may include a violation of best management practices that the Borough determines will adversely affect the operation or implementation of the local pretreatment program.

(Ord. 1097, 5/6/2013, Art. I, §370)

§372. Notification of Violation. When the Borough's Code Enforcement Official finds that a user or other person has violated, or continues to violate, any provision of this Part, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the official may serve upon that user or other person a written notice of violation. Within twenty (20) days after receipt of this notice, an explanation of the alleged violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted to the Borough. Submission of this plan in no way relieves the user or other person of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this Section shall limit the authority of the Borough to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation. (Ord. 1097, 5/6/2013, Art. I, §371)

§373. Consent Orders. The Borough may enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user or other person responsible for noncompliance. Such documents will include specific action to be taken by the user or other person to correct the noncompliance within a time period specified by the document. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to §§374 and 375 of this Part and shall be judicially enforceable. (Ord. 1097, 5/6/2013, Art. I, §372)

§374. Show Cause Hearing. The Borough's enforcement official may order a user that has violated, or continues to violate, any provision of this Part, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before that person or entity of enforcement and show cause why a proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be serviced personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice shall be served on any authorized representative of the user. A show cause hearing shall not be a bar against, or a prerequisite for, the Borough taking any other action against the user. (Ord. 1097, 5/6/2013, Art. I, §373)

§375. Compliance Orders. When the Borough's enforcement official or agent finds that a user has violated, or continues to violate, any provision of this Part, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Borough's enforcement official or agent may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve

the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, the Borough taking any other action against the user. (Ord. 1097, 5/6/2013, Art. I, §374)

§376. Cease and Desist Orders. When the Borough's enforcement official or agent finds that a user has violated, or continues to violate, any provision of this Part, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, or that the user's past violations are likely to recur, the Borough's enforcement official or agent may issue an order to the user directing it to cease and desist all such violations and directing the user to:

A. Immediately comply with all requirements.

B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge. Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, the Borough taking any other action against the user.

(Ord. 1097, 5/6/2013, Art. I, §375)

§377. Administrative Fines.

1. When the Borough's enforcement official or agent finds that a user has violated, or continues to violate, any provision of this Part, a wastewater discharge permit or order issued hereunder, or any pretreatment standard or requirement, the enforcement official or agent may fine such user in an amount not to exceed twenty five thousand dollars (\$25,000), regardless of jurisdictional boundaries. Such penalties shall be assessed on a per violation, per day basis. In the case of monthly or other long term average discharge limits, penalties shall be assessed for each day during the period of violation. The penalties may be assessed whether or not the violation was willful or negligent.

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

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

Chart of Assessment

A. Damage to Environment. The user shall be assessed between one and five points depending on the degree of damage to the environment, according to the following table:

| Damage | Points |
|---------------|---------------|
| Extreme | 5 |
| Severe | 4 |
| Moderate | 3 |
| Slight | 2 |
| None | 1 |

B. Cost of Restoration/Abatement. The user shall be assessed between one and five points depending on the cost of restoration or abatement due to the violation, according to the following table:

| Cost | Points |
|---------------------|---------------|
| Over \$10,000 | 5 |
| \$7,000 to \$10,000 | 4 |
| \$5,000 to \$6,999 | 3 |
| \$2,500 to \$4,999 | 2 |
| \$0 to \$2,500 | 0 |

C. Savings to Violator. The user shall be assessed between one and five points depending on the amount of savings resulting to the user due to the violation, according to the following table:

| Savings | Points |
|--------------------|---------------|
| Over \$10,000 | 5 |
| \$7,500 to \$9,999 | 4 |
| \$5,000 to \$6,999 | 3 |
| \$2,500 to \$4,999 | 2 |
| \$0 to \$2,500 | 1 |

D. Recent Past Violations. The user shall be assessed between one and five points depending on the number of past violations in the three hundred sixty five (365) days before the violation in question, according to the following table:

| Damage | Points |
|---------------|---------------|
| 5 or more | 5 |
| 4 | 4 |
| 3 | 3 |
| 2 | 2 |
| 1 | 1 |

E. Other Factors Will Be Considered. The user shall be assessed between one and five additional points based on the severity of other factors which may be considered include, without limitation, damage to the POTW, willfulness or concealment, endangerment to the public and/or POTW personnel.

F. Points shall be assessed for a violation in accordance with the above chart, which constitutes the Borough's assessment policy.

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

| Number of Points | Penalty |
|------------------|----------|
| 25 | \$25,000 |
| 20 | \$20,000 |
| 15 | \$15,000 |
| 10 | \$10,000 |

H. The assessment of penalty points may include numbers which are not whole, such as 1.5, to allow flexibility and discretion by the Borough enforcement official or agent in arriving at a fair and appropriate penalty. The above listed fine shall be then prorated to reflect the less than whole number of points assessed.

(1) Example-total points = 12.5.

(2) Civil penalty = \$12,500.00.

4. All fines or civil penalties collected shall be placed in a restricted account and shall only be used by the Borough (or any owner or operator of any portion of the POTW) to repair damage and any additional maintenance needed or any additional costs imposed as a result of the violation for which the penalty was imposed by the Borough, State or Federal government (or any owner or operator of any portion of the POTW) for violation of pretreatment standards; for the costs incurred by the Borough (or any owner or operator of any portion of the POTW) to investigate and take the enforcement action that resulted in a penalty being imposed, for monitoring of discharge in the pretreatment program and for capital improvements to the POTW, including sewage collection lines, which may be required by the pretreatment program.

5. Any party seeking to appeal the assessment of a fine shall do so by filing a notice of appeal with the Borough Manager (with a copy to the Borough's enforcement official or agent who assessed the civil penalty) within thirty (30) days after receipt or service of the notice.

A. Borough Council shall hear all such appeals. A transcript shall be made of said hearing at the sole expense of the appellant.

B. Any party seeking to appeal the assessment of a fine shall pay the cost of the appeal and the sum for estimate of stenographer bills at the time the appeal is filed and shall pay any balance when billed. Failure to pay said sums at the time the appeal is filed shall render the appeal void. After the hearing, any additional stenographer charges

shall be billed to appellant and shall be paid in full within ten (10) days of receipt or appeal shall be null and *void ob initio*.

C. Borough Council shall either affirm the decision of the Borough's enforcement official or reverse or modify the same as the substantial evidence indicates in accordance with the penalty assessed by the Borough's enforcement official or agent based on the evidence received at the hearing and in accordance with the Borough's official civil penalty assessment policy. Appeals from the decision of Borough Council shall be made in accordance with applicable State law. Each permit holder shall keep the Borough apprised in writing of any change in mailing address. The address on the permit may be used to send correspondence and notices of civil penalty assessment to permit holders. The sending of a notice of civil assessment to a permit holder's address as stated on the permit shall be conclusively presumed to be valid service. If the certified mail sent to such address is not accepted or picked up by the permit holder, the date of service shall be the date that the certified mail was rejected or returned unclaimed.

6. The Borough shall charge all costs for re-establishing the operation of the POTW after a user has violated, or continues to violate any provision of this Part, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement. These costs shall be paid by user within ten (10) days after notice of assessment of the same. Notice and appeal rights shall be the same as in the case of assessment of civil penalties. Any user not paying said assessment shall pay an additional penalty of five percent (5%) of the penalty per month or any part thereof.

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

(Ord. 1097, 5/6/2013, Art. I, §376)

§378. Emergency Suspensions.

1. The Borough enforcement official may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons. The Borough enforcement official may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

2. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Borough enforcement official may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Borough enforcement official may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Borough enforcement official that the period of endangerment has passed, unless the termination proceedings in §389 of this Part are initiated against the user.

3. A user that is responsible, in whole or in part, for any discharge

presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Borough enforcement official prior to the date of any show cause or termination hearing under §§384 or 389 of this Part.

4. Nothing in this Section shall be interpreted as requiring a hearing prior to any emergency suspension under this Section.

(Ord. 1097, 5/6/2013, Art. I, §377)

§379. Termination of Discharge.

1. In addition to the provisions in Section 342 of this Part, any user who violates the following conditions is subject to discharge termination:

- A. Violation of wastewater discharge permit conditions.
- B. Failure to accurately report the wastewater constituents and characteristics of its discharge.
- C. Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge.
- D. Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling.
- E. Violation of the pretreatment standards in §312 of this Part.

2. Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under §384 of this Part why the proposed action should not be taken. Exercise of this option by the Borough enforcement officer shall not be a bar to, or a prerequisite for, taking any other action against the user.

(Ord. 1097, 5/6/2013, Art. I, §378)

H. Judicial Enforcement Remedies

§381. Injunctive Relief. When the Borough's enforcement official or agent finds that a user has violated, or continues to violate, any provision of this Part, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the enforcement official or agent may petition the Lehigh County Court of Common Pleas through the Borough Solicitor for the issuance of a temporary or permanent injunction, as appropriate, which restrains the violation and/or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this Part on the activities of the user. The petitioner may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, the Borough taking any other action against the user.

(Ord. 1097, 5/6/2013, Art. I, §380)

§382. Civil Penalties and Remedies.

1. A user who has violated, or continues to violate, any provision of this Part, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement shall be liable to the Borough for a maximum civil penalty of twenty-five thousand dollars (\$25,000.00) per violation, per day. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.

2. The Borough enforcement officer may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the Borough.

3. In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.

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

(Ord. 1097, 5/6/2013, Art. I, §381)

§383. Criminal Prosecution.

1. A user who willfully or negligently violates any provision of this Part, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a summary offense, punishable by a fine of not more than one thousand dollars (\$1,000) per violation, per day, or, in default thereof, by imprisonment for not more than thirty (30) days.

2. A user who willfully or negligently introduces any substance into the sewer system or the POTW which causes personal injury or property damage shall, upon conviction, be guilty of summary offense, punishable by a fine of not more than one thousand dollars (\$1,000) per violation, per day, or, in default thereof, or be subject to imprisonment for not more than thirty (30)

days. This penalty shall be in addition to any other cause of action for personal injury or property damage available under applicable State law.

3. A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained pursuant to this Part, wastewater discharge permit or order issued hereunder, or who falsifies, tampers with or knowingly renders inaccurate any monitoring device or method required under this Part shall, upon conviction, be guilty of a summary offense, punished by a fine of not more than one thousand (\$1,000) dollars per violation, per day, or, in default thereof, or imprisonment for not more than thirty (30) days.

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

(Ord. 1097, 5/6/2013, Art. I, §382)

§384. Remedies Nonexclusive. The remedies provided for in this Part are not exclusive. The Borough, the Borough's enforcement official or agent may take any, all, or any combination of these actions against a noncompliant user. (Ord. 1097, 5/6/2013, Art. I, §383)

§385. Performance Bonds. The Borough may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this Part, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to the Borough or its designee, in a sum not to exceed a value determined by the Borough to be necessary to achieve consistent compliance. (Ord. 1097, 5/6/2013, Art. I, §384)

§386. Liability Insurance. The Borough may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this Part, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless such user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the sewer system and the POTW caused by its discharge. (Ord. 1097, 5/6/2013, Art. I, §385)

§387. Water Supply Severance. Whenever a user has violated or continues to violate any provision of this Part, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will recommence, at the user's expense, only after the user has satisfactorily demonstrated its ability to comply. (Ord. 1097, 5/6/2013, Art. I, §386)

§388. Contractor Listing. Users which have not achieved compliance with applicable pretreatment standards and requirements are not eligible to receive a contractual award for the sale of goods or services to the Borough. Existing contracts for the sale of goods or services to the Borough held by a user found to be in significant noncompliance with pretreatment standards or requirements may be terminated at the discretion of the Borough enforcement officer. (Ord. 1097, 5/6/2013, Art. I, §387)

I. Affirmative Defenses to Discharge Violations§391. Upset.

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

2. An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subsection .3, below are met.

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

A. An upset occurred and the user can identify the cause(s) of the upset.

B. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures.

C. The user has submitted the following information to the Borough within twenty four (24) hours of becoming aware of the upset. If this information is provided orally, a written submission must be provided within five (5) calendar days:

(1) A description of the indirect discharge and cause of noncompliance.

(2) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue.

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

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

5. Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

6. Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(Ord. 1097, 5/6/2013, Art. I, §390)

§392. Prohibited Discharge Standards.

1. A user shall have an affirmative defense to an enforcement action

brought against it for noncompliance with the general prohibitions in §306.2 or the specific prohibitions in §306.3.A through 306.3.V, if it can prove that it did not know, or have reason to know, that its discharge, alone or in combination with discharges from other sources, would cause pass through or interference, and that either:

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

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

(Ord. 1097, 5/6/2013, Art. I, §391)

§393. Bypass.

1. For purposes of this Section:

BYPASS - the intentional diversion of wastestreams from any portion of a user's treatment facility.

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

2. A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provisions of subsections .3 and .4 of this Section.

3. Bypass Notifications.

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

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

4. Bypass.

A. Bypass is prohibited and the Borough may take enforcement action against a user for a bypass, unless:

(1) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage.

(2) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance.

(3) The user submitted notices as required under §392.3.

B. The Borough may approve an anticipated bypass, after considering its adverse effects, if the Borough determines that it will meet the three (3) conditions listed in subsection .4.A of this Section.

(Ord. 1097, 5/6/2013, Art. I, §392)

§394. Review by Council.

1. Appeal. Any person aggrieved by a decision of the Borough enforcement official may appeal that decision to Borough Council by filing a notice of appeal with the Borough Manager (with a copy to the enforcement official) within ten (10) days after service of notice of the enforcement official's decision, unless the delegate has authority to render such decision independent of the grant from the Borough under this Part.

2. Hearing. Borough Council shall hear all appeals under this Section in accordance with the Local Agency Law, 2 Pa.C.S.A. §751 *et seq.* A transcript shall be made of the hearing at the sole expense of the party appealing the decision of the Borough enforcement official. The appellant shall pay an estimate of the stenographic costs at the time the appeal is filed and shall pay any balance when billed. Failure to pay an estimate of the costs at the time the appeal is filed shall render the appeal void. Borough Council shall affirm, reverse, or modify the decision of the enforcement agent.

3. Further Appeals. Appeals from the decision of Borough Council shall be made in accordance with applicable law.

(Ord. 1097, 5/6/2013, Art. I, §395)

§395. Pretreatment Charges and Fees. The Borough may adopt, by resolution, reasonable fees for reimbursement of costs of setting up and operating the Borough's wastewater discharge limitations program, which fees may include:

A. Fees for wastewater discharge permit applications, including the cost of processing such applications.

B. Fees for monitoring, inspection, and surveillance procedures, including the cost of collecting and analyzing a user's discharge, and reviewing monitoring reports submitted by users.

C. Fees for reviewing and responding to accidental discharge procedures and construction.

D. Fees for filing appeals.

E. Reimbursement of costs imposed on the Borough or its delegate in setting up and operating their wastewater discharge limitations programs.

F. Other fees as the Borough may deem necessary to carry out the requirements herein. These fees relate solely to the matters covered by this Part and are separate from all other fees, fines, and penalties chargeable by the Borough.

(Ord. 1097, 5/6/2013, Art. I, §396)

§396. Surcharge.

1. In the event that any user is discharging waste having average biochemical oxygen demand, suspended solids, or total Kjeldahl nitrogen exceeding 300, 360, or 85 respectively, such waste will be subject to, payment of a surcharge by such user, or by proper and continuous pretreatment before discharge into the sewerage system. However, no such waste of unusual strength or character shall allow violation of Federal pretreatment requirements.

2. The surcharge shall be reviewed annually, and shall be initially determined by the following formula:

$$\text{Quarterly Surcharge} = 8.34 Q [(BOD - 300) \$0.085 + (SS - 360) \$0.076 + (TKN - 85) \$0.1841]$$

Where: 8.34 is a constant used to convert waste strength expressed in mg/l of BOD and/or SS and/or TKN into pounds of BOD and/or SS and/or TKN per million gallons of waste. Q is the quarterly waste flow from an improved property expressed in millions of gallons. BOD is the biochemical oxygen demand of the waste in mg/l.

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

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

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

4. Whenever the Borough shall deem it necessary for the protection and safe, economical and efficient management of the POTW, a user shall provide at their expense such facilities for preliminary treatment and processing of industrial waste as may be necessary to reduce:

A. BOD to three hundred (300) mg/l.

B. Suspended solids to three hundred sixty (360) mg/l, and 48.

C. Total Kjeldahl nitrogen to eighty-five (85) mg/l.

(Ord. 1097, 5/6/2013, Art. I, §398)

§397. Notice to Borough Users, Delegation of Authority and Interpretation.

1. At Articles 941.10.0 and 941.11.0 respectively, Ordinance 14686 of the City provides for enforcement through a series of administrative and judicial remedies to be implemented by the City's Director of Public Works, and in this regard the Director's authority extends beyond the jurisdictional boundaries of the City. Accordingly, the Borough hereby delegates to the City as the Control Authority under Ordinance 14686 and its Director of Public Works or other duly authorized person the authority to act under circumstances in which this Part or Ordinance 14686 requires or authorizes action by the Borough and the Borough does not so act.

2. Wherever a provision of this Part shall require or authorize action by the Borough or a duly appointed Borough official or agent, this Part shall be interpreted and applied to also authorize such action by the City, its Director of Public Works or other duly authorized person.

3. This Part shall be interpreted in *pari materia* with Ordinance 14686 of the City, and whenever there shall be a conflict between the requirements of this Part and Ordinance 14686, the more stringent requirement shall control and be applied.

(Ord. 1097, 5/6/2013, Art. I, §399)

Schedule 3-332-A

SAMPLE WASTEWATER DISCHARGE PERMIT APPLICATION

BOROUGH OF EMMAUS
LEHIGH COUNTY, PENNSYLVANIA

Date: _____

Name: _____

Address: _____

Address of
Discharge point: _____

Contact at address
of discharge: _____

(Name and telephone number)

Average daily volume of wastewater to be discharged (gallons):

Process: _____

Non-contact Cooling: _____

Sanitary: _____

Other: _____

North American Industry Classification System (NAICS) Code(s):

Primary: _____

Secondary: _____

Raw materials, process additives, cleaning materials, by-products, etc. used or generated at
this facility:

Material to be discharged:

ATTACH A COPY OF YOUR CITY OF ALLENTOWN DISCHARGE PERMIT

Borough Use Only

Copy of City of Allentown Discharge Permit attached: Yes No

Borough Permit Approved (Date): _____, 20____
SCHEDULE 331(A)

SAMPLE DISCHARGE PERMIT

**BOROUGH OF EMMAUS
LEHIGH COUNTY, PENNSYLVANIA**

**PERMIT TO
DISCHARGE WASTEWATER INTO
THE BOROUGH OF EMMAUS WASTEWATER SYSTEM**

Permit No.: _____

Permit Date: _____, 20____

You are hereby permitted to discharge the following materials into the Borough of Emmaus wastewater system:

Special notation/limitations: _____

This Permit shall terminate on the same day that your City of Allentown Wastewater Discharge Permit (attached hereto) expires or is otherwise terminated or revoked.

Borough of Emmaus

Part 4

Assessment of Construction Costs

§401. Procedure.

1. Plans shall be submitted to the Borough Council by the Health and Sanitation Committee recommending extensions to the sewer system.

2. Specifications shall be prepared for such extensions with such engineering detail as the Health and Sanitation Committee deems necessary.

3. Borough Council may approve of such plans and specifications by Resolution.

4. When such plans and specifications have been approved, the cost of the assessable sewers to be charged against properties benefited, improved or accommodated shall be calculated.

5. Borough Council may charge part or all of the cost of assessable sewers by Resolution against properties benefited, improved or accommodated thereby by assessment according to the front foot rule.

6. A copy of the plans and the specifications and the accompanying Resolutions shall be kept on file by the Borough Manager at the Municipal Building of the Borough, where the same may be inspected by interested persons.

(Ord. 667, 7/1/1985, §1)

