

**BOROUGH OF ALBURTIS
LEHIGH COUNTY, PENNSYLVANIA**

Ordinance No. 485

(Duly Adopted August 26, 2009)

AN ORDINANCE AMENDING CHAPTER 65 OF THE ALBURTIS CODIFIED ORDINANCES (RELATING TO SANITARY SEWER) TO CONFORM TO RECENT AMENDMENTS OF THE CITY OF ALLENTOWN SEWAGE AND INDUSTRIAL WASTES ORDINANCE WHICH WERE ENACTED TO COMPLY WITH FEDERAL LAW APPLICABLE TO THE ADMINISTRATION AND OPERATION OF ITS PRETREATMENT PROGRAM (TO WHICH THE BOROUGH IS REQUIRED TO CONFORM BY AGREEMENTS RELATING TO THE TREATMENT OF WASTES DISCHARGED INTO THE BOROUGH'S SANITARY SEWER SYSTEM AT THE CITY'S TREATMENT PLANT) AND MAKING RELATED CHANGES, INCLUDING: REPLACING THE TERM "SLUDGE" WITH "BIOSOLIDS"; REPLACING "MANAGER OF WATER RESOURCES" WITH "CITY DIRECTOR OF PUBLIC WORKS"; REVISING AND ADDING DEFINITIONS; REVISING PROVISIONS FOR ADMINISTRATIVE CHARGES AND FEES AND EXCEPTIONAL STRENGTH CHARGES; REVISING PROHIBITED DISCHARGE STANDARDS AND PROHIBITING THE DISCHARGE OF HAZARDOUS WASTES; REVISING NATIONAL CATEGORICAL PRETREATMENT STANDARDS AND PROVISIONS FOR EQUIVALENT LIMITS; REVISING PROVISIONS RELATED TO LOCAL LIMITS; PROVIDING FOR THE DEVELOPMENT, IMPLEMENTATION, AND COMPLIANCE REPORTING OF BEST MANAGEMENT PRACTICES; ELIMINATING PROVISIONS FOR SPECIAL AGREEMENTS; REVISING PROVISIONS RELATED TO SLUG DISCHARGES AND HAULED WASTEWATER; REVISING PROVISIONS RELATED TO WASTEWATER DISCHARGE PERMIT APPLICATIONS AND CONTENTS; REVISING REQUIREMENTS FOR BASELINE MONITORING REPORTS, REPORTS OF CHANGED CIRCUMSTANCES, REPORTS OF POTENTIAL PROBLEMS, AND REPORTS AND CERTIFICATIONS FROM USERS NOT REQUIRED TO OBTAIN A WASTEWATER DISCHARGE PERMIT; REVISING PROVISIONS RELATING TO SAMPLE COLLECTION AND POLLUTANT ANALYSES; REVISING PROVISIONS RELATING TO ADMINISTRATIVE ENFORCEMENT REMEDIES AND ADDING NEW PROVISIONS RELATING TO WATER SUPPLY SEVERANCE, COSTS TO RE-ESTABLISH POTW OPERATIONS, EMERGENCY SUSPENSION OF DISCHARGE, AND TERMINATION OF DISCHARGE; AND REVISING PROVISIONS RELATING TO CIVIL PENALTIES IN JUDICIAL ENFORCEMENT PROCEEDINGS.

WHEREAS, Chapter 65 of the Alburdis Codified Ordinances provides various rules and regulations concerning the use of the Borough's public sanitary sewer system; and

WHEREAS, the Borough's sanitary sewer collection system discharges into the Western Lehigh Interceptor of the Lehigh County Authority for ultimate transportation to the City of Allentown's sewer system and treatment at the City of Allentown's publicly owned treatment works, all pursuant to various agreements among the Borough, Lehigh County Authority, the City of Allentown, and other municipal entities; and

WHEREAS, under paragraphs 2 and 4 of an Agreement dated November 27, 1985 among the City of Allentown, the Coplay-Whitehall Sewer Authority, the Lehigh County Authority, the Township of Salisbury, the Township of South Whitehall, and the Borough of Emmaus, to which the Borough of Alburdis joined in, consented to, and agreed to be bound by through action of Borough Council on January 13, 1988, the Borough of Alburdis is obligated to amend its sewer ordinances relating to the administration and operation of the pretreatment program for the City's treatment works in accordance with 40 CFR Part 403 whenever the City of Allentown amends its ordinances to comply with state and federal pollution laws and regulations; and

WHEREAS, the City of Allentown so amended and restated its sewage and industrial wastes ordinances (Article 941) on February 23, 2009 (Ordinance No. 14686); and

WHEREAS, Borough Council desires to amend its sewer ordinances to conform to City of Allentown Ordinance No. 14686 and make related changes;

NOW, THEREFORE, be it **ORDAINED** and **ENACTED** by the Borough Council of the Borough of Alburdis, Lehigh County, Pennsylvania, that Chapter 65 of the Codified Ordinances (relating to Sanitary Sewer) is hereby amended by revising §§ 65-102, 65-206, 65-208, 65-221, 65-226, 65-229, 65-232, 65-234, 65-243, 65-245, 65-249, 65-260, 65-261, 65-264, 65-265, 65-502, 65-503, 65-510, 65-601, 65-602, 65-604, 65-605, 65-703, 65-801, 65-802, 65-803, 65-804, 65-901, 65-902, 65-903, 65-904, 65-905, 65-906, 65-907, 65-908, 65-909, 65-1001, 65-1002, 65-1003, 65-1004, 65-1005, 65-1006, 65-1007,

65-1008, 65-1009, 65-1010, 65-1011, 65-1013, 65-1101, 65-1102, 65-1103, 65-1201, 65-1202, 65-1203, 65-1204, 65-1205, 65-1206, 65-1207, 65-1208, 65-1210, 65-1301, 65-1302, 65-1304, 65-1401, 65-1402, 65-1403, and 65-1502, adding new §§ 65-206.1, 65-210.1, 65-212.1, 65-213.1, 65-218.1, 65-218.2, 65-227.1, 65-236.1, 65-236.2, 65-240.1, 65-240.2, 65-1208.1, 65-1211, 65-1212, and 65-1213, and deleting §§ 65-215, 65-262, 65-267, and 65-607, as follows (with deletions indicated by ~~strike-outs~~ and insertions indicated by double underlining):

Chapter 65 — Sanitary Sewer

Article I — Title and Purpose

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§ 65-102 Purpose.

* * *

(c) To protect both Publicly Owned Treatment Works personnel who may be affected by Wastewater and ~~sludge~~ biosolids in the course of their employment and the general public;

(d) To promote reuse and recycling of industrial Wastewater and ~~sludge~~ biosolids from the City's Publicly Owned Treatment Works;

* * *

(f) To enable the City to comply with its National Pollutant Discharge Elimination System permit conditions, ~~sludge~~ biosolids use and disposal requirements, and any other federal or state laws to which the City's Publicly Owned Treatment Works is subject.

Article II — Definitions

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§ 65-206 Authorized Representative of the User.

The term “Authorized Representative of the User” means—

(a) If the User is a corporation:

* * *

(2) The manager of one or more manufacturing, production, or operation operating facilities ~~employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding Twenty-five Million Dollars (\$25,000,000) (in second-quarter 1980 dollars),~~ 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 if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

* * *

(d) The individuals described in subsections (a) through (c) above may designate another ~~authorized representative~~ Authorized Representative of the User 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 and the City Director of Public Works.

(e) If the designation of an Authorized Representative of the User is no longer accurate because a different individual or position has respon-

sibility for the overall operation of the facility or the overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this Section must be submitted to the Borough and the City Director of Public Works prior to or together with any reports or certifications required to be signed by an Authorized Representative of the User.

§ 65-206.1 Best Management Practices or BMPs.

The term “Best Management Practices” or “BMPs” means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions in § 65-601(b) and (c) (40 CFR 403.5(a)(1) and (b)). BMPs include treatment requirements, operating procedures, management plans, and practices to control the discharge of Pollutants.

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§ 65-208 Biochemical Oxygen Demand or BOD.

The term “Biochemical Oxygen Demand” or “BOD” is an abbreviation for “biochemical oxygen demand”, which means the quantity of oxygen, expressed in parts per million or mg/l, utilized in the biochemical oxidation of organic matter under standard laboratory procedures 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 Wastewater* published by the American Public Health Association.

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§ 65-210.1 Categorical Industrial User.

The term “Categorical Industrial User” means an Industrial User subject to a Categorical Pretreatment Standard or Categorical Standard.

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§ 65-212.1 Chemical Oxygen Demand or COD.

The term “Chemical Oxygen Demand” or “COD” means a measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

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§ 65-213.1 City Director of Public Works.

The term “City Director of Public Works” means 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 Wastes Ordinance, City Ordinances Article 941. The term also includes a duly authorized representative of the City Director of Public Works.

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§ 65-215 COD. [RESERVED]

The term “COD” means Chemical Oxygen Demand.

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§ 65-218.1 Daily Maximum.

The term “Daily Maximum” means the arithmetic average of all effluent samples for a Pollutant collected during a calendar day.

§ 65-218.2 Daily Maximum Limit.

The term “Daily Maximum Limit” means 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.

* * *

§ 65-221 Existing Source.

The term “Existing Source” means any source of Discharge, ~~the construction or operation of which commenced prior to the publication by EPA of proposed Categorical Pretreatment Standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Clean Water Act~~ that is not a New Source.

* * *

§ 65-226 Indirect Discharge or Discharge.

The term “Indirect Discharge” or “Discharge” means the introduction of Pollutants into the POTW from any nondomestic source ~~regulated under Section 307(b), (c), or (d) of the Clean Water Act.~~

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§ 65-227.1 Industrial User.

See § 65-269.

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§ 65-229 Instantaneous ~~Maximum Allowable Discharge~~ Limit.

The term “Instantaneous ~~Maximum Allowable Discharge~~ Limit” means the maximum concentration of a Pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sampling event.

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§ 65-232 Interference.

The term “Interference” means 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 ~~sludge~~ 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 ~~sludge~~ biosolids use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent state or local regulations: Section 405 of the Clean Water Act; the Solid Waste Disposal Act, including Title II, commonly referred to as the Resource Conservation and Recovery Act (RCRA); and any state regulations contained in any state ~~sludge~~ 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.

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§ 65-234 Manager of Water Resources Local Limit.

~~The term “Manager of Water Resources” means 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 Wastes Ordinance, City Ordinances Section 941.~~

The term “Local Limit” means specific discharge limits developed and enforced by the City or the Borough upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

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§ 65-236.1 Monthly Average.

The term “Monthly Average” means the sum of all “daily discharges” measured during a calendar month divided by the number of “daily discharges” measured during that month.

§ 65-236.2 Monthly Average Limit.

The term “Monthly Average Limit” means 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.

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§ 65-240.1 Non-Significant Categorical Industrial User or NSCIU.

The term “Non-Significant Categorical Industrial User” or “NSCIU” means an Industrial User which is not considered a Significant Industrial User under § 65-260.

§ 65-240.2 North American Industry Classification System or NAICS.

The term “North American Industrial Classification System” or “NAICS” means a classification pursuant to the North American Industry Classification System Manual issued by the United States Office of Management and Budget.

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§ 65-243 Person.

The term “Person” means any individual, partnership, copartnership, 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, including all federal, state, and local governmental entities.

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§ 65-245 Pollutant.

The term “Pollutant” means dredged spoil, solid waste, incinerator residue, filter backwash, Sewage, garbage, sewage ~~sludge~~ 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).

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§ 65-249 Pretreatment Standard or Standards.

The term “Pretreatment Standards” or “Standards” means Prohibited Discharge Standards, Categorical Pretreatment Standards, and ~~local limits~~ Local Limits.

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§ 65-260 Significant Industrial User.

(a) ~~Except as provided in subsections (b) and (c), the~~ The term “Significant Industrial User” means—

~~(a)~~ (1) A An Industrial User subject to Categorical Pretreatment Standards; or

~~(b)~~ (2) A An Industrial User that:

~~(1)~~ (A) Discharges an average of twenty-five thousand (25,000) gpd or more of process Wastewater to the POTW (excluding sanitary, Noncontact Cooling Water, and boiler blowdown Wastewater);

~~(2)~~ (B) Contributes a process wastestream which makes up five percent (5%) or more of the average dry weather hydraulic or organic capacity of the POTW Treatment Plant; or

~~(3)~~ (C) Is designated as such by the City or 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.

(b) The Borough and the City 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 100 gallons per day of total categorical Wastewater (excluding sanitary, Noncontact Cooling Water, and boiler blowdown Wastewater, unless specifically included in the Pretreatment Standard) and the following conditions are satisfied:

(1) The Industrial User, prior to the finding of the Borough and the City, has consistently complied with all applicable Categorical Pretreatment Standards and Requirements;

(2) The Industrial User annually submits the certification statement required under § 65-1007(b) (see 40 CFR 403.12(q)), together with any additional information necessary to support the certification statement; and

(3) The Industrial User never discharges any untreated concentrated Wastewater.

(c) Upon a finding that a User meeting the criteria in subsection (b) (a)(2) has no reasonable potential for adversely affecting the POTW's operation or for violating any Pretreatment Standard or Requirement, the Borough and the City may at any time, on its their 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.

§ 65-261 Slug Load or Slug Discharge.

The term "Slug Load" or "Slug Discharge" means any Discharge at a flow rate or concentration which could cause a violation of the Prohibited Discharge Standards in § 65-601. 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.

§ 65-262 Standard Industrial Classification (SIC) Code. [RESERVED]

The term "Standard Industrial Classification (SIC) Code" or "SIC Code" means a classification pursuant to the *Standard Industrial Classification Manual* issued by the United States Office of Management and Budget.

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§ 65-264 Suspended Solids, Total Suspended Solids, or TSS.

The term “Suspended Solids,” “Total Suspended Solids,” or “TSS,” means the total suspended matter that floats on the surface of, or is suspended (but not dissolved) in, water, Wastewater, or other liquids, and which is removable by laboratory filtering, as determined by appropriate procedures found in the latest edition of *Standard Methods for the Examination of Water and Wastewater* published by the American Public Health Association.

§ 65-265 ~~Total Solids~~ Total Kjeldahl Nitrogen or TKN.

~~The term “Total Solids” means all solids as determined by appropriate procedures found in the latest edition of *Standard Methods for the Examination of Water and Wastewater* published by the American Public Health Association.~~

The term “Total Kjeldahl Nitrogen” or “TKN” means the sum of free ammonia and of organic nitrogen compounds which are converted to an ammonium sulfate $(\text{NH}_4)_2\text{SO}_4$ under conditions specified by *Standard Methods 20th Edition*, Method 4500, or EPA Method 351.

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§ 65-267 ~~TSS.~~ [RESERVED]

~~The term “TSS” means Total Suspended Solids.~~

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Article V — Sewer Rental & System Usage Fees

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§ 65-502 Charges for Dwelling Units, Commercial Establishments, and Institutional Establishments.

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(d) Exceptional Strength Charges. The sewer rentals or charges for Sanitary Sewage and Industrial Wastes discharged from any Improved Property constituting a Commercial Establishment or Institutional Establishment shall be increased above the base charges set forth in the preceding subsections of this Section by an exceptional strength charge if the wastes discharged have BOD greater than 210 mg/l, TSS greater than 230 mg/l, or TKN greater than 40 mg/l. The exceptional strength charges shall be equal to the amount of exceptional strength charges required to be imposed by the Borough on the Improved Property under agreements relating to the Interceptor System and/or the Treatment Plant to which the Borough is bound (or, if greater, the additional charges to the Borough by the County Authority and/or the City for exceptional strength discharges from the Improved Property), plus any additional costs for accelerated deterioration of the Borough Sewer System as may be established by resolution of Borough Council or in an agreement or arrangement with the Owner of the Improved Property.

§ 65-503 Charges for Industrial Establishments.

* * *

(c) Exceptional Strength Charges. The sewer rentals or charges for Sanitary Sewage and Industrial Wastes discharged from any Improved Property constituting an Industrial Establishment shall be increased above the base charges set forth in subsection (b) by an exceptional strength charge if the wastes discharged have BOD greater than 210 mg/l, ~~Suspended Solids~~ TSS greater than 230 mg/l, or ~~total Kjeldahl nitrogen~~ TKN greater than 40 mg/l. The exceptional strength charges shall be equal to

the amount of exceptional strength charges required to be imposed by the Borough on the Improved Property under agreements relating to the Interceptor System and/or the Treatment Plant to which the Borough is bound (or, if greater, the additional charges to the Borough by the County Authority and/or the City for exceptional strength discharges from the Improved Property), plus any additional costs for accelerated deterioration of the Borough Sewer System as may be established by resolution of Borough Council or in an agreement or arrangement under § 65-607 with the Owner of the Improved Property.

~~(d) **Special Agreements.** Notwithstanding any provision to the contrary in this Article, this Borough shall have the right, based upon good reasons and circumstances existing, to enter into special agreements with the Owner of any Improved Property, which Improved Property shall constitute an Industrial Establishment, with respect to terms and conditions upon which Sanitary Sewage and/or Industrial Wastes may be discharged into the Sewer System and with respect to payments to be made to this Borough in connection therewith. In such event, such service and payments with respect thereto shall be governed by terms and conditions of such special agreement.~~

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§ 65-510 Administrative Charges and Fees.

(a) **Authorization.** The Borough may adopt, by Resolution, reasonable fees for reimbursement of costs of setting up and operating the Borough's industrial Wastewater discharge program, which may include—

(1) Fees for Wastewater Discharge Permit applications, including the cost of processing such applications;

(2) Fees for monitoring, inspection, and surveillance procedures, including the cost of collecting and analyzing a User's discharge, and reviewing monitoring reports and certifications submitted by Users;

~~(e)~~ (3) Fees for reviewing and responding to accidental discharge procedures and construction;

~~(3)~~ (4) Fees for filing appeals;

~~(4)~~ (5) Reimbursement of costs imposed on the Borough by the City or the County Authority in setting up and operating their industrial Wastewater discharge programs; and

(6) Fees to recover administrative and legal costs associated with the enforcement activity taken by the Borough and/or the City to address User noncompliance with the requirements of this Chapter;

~~(5)~~ (7) Other fees as the Borough may deem necessary to carry out the requirements of this Chapter. These fees relate solely to the matters covered by this Chapter and are separate from all other fees, fines, and penalties chargeable by the Borough.

Until such a Resolution is adopted, and thereafter to the extent not covered by such a Resolution, the Borough hereby establishes fees and costs for the items set forth in paragraphs (1), (2), (3), (5), and (6) above at a rate equal to the costs reasonably incurred by the Borough for such items from its outside contractors and consultants and/or the County Authority or the City, plus the time incurred by Borough employees for such items at the hourly cost to the Borough for such employees (including but not limited to compensation, benefits, and taxes). A tentative fee for a Wastewater Discharge Permit application shall be paid at the time the application is filed, based on the Borough's reasonable estimate of the ultimate charge; any additional amount due shall be payable within fifteen (15) days of any monthly billing by the Borough and before issuance of the Permit, and any excess amount shall be refunded promptly after withdrawal of the application or issuance of the Permit.

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Article VI — General Sewer Use Requirements

§ 65-601 Prohibited Discharge Standards.

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(c) **Specific Prohibitions.** Except as provided in § 65-607, no No User or other Person shall introduce or cause to be introduced into the POTW the following Pollutants, substances, or Wastewater:

~~(1) Waste having BOD greater than three hundred (300) mg/l. Waste having BOD greater than two hundred ten (210) mg/l shall not be introduced into the Sewer System without the express written approval of the Borough;~~

~~(2) Waste having a content of Suspended Solids greater than three hundred sixty (360) mg/l. Waste having Suspended Solids greater than two hundred thirty (230) mg/l shall not be introduced into the Sewer System without the express written approval of the Borough;~~

~~(3) Waste having a content of total Kjeldahl nitrogen greater than eighty five (85) mg/l. Waste having total Kjeldahl nitrogen greater than forty (40) mg/l shall not be introduced into the Sewer System without the express written approval of the Borough;~~

(1) Waste having BOD greater than two hundred ten (210) mg/l, TSS greater than two hundred thirty (230) mg/l, or TKN greater than forty (40) mg/l, unless specifically authorized by the Borough in writing;

(2) Waste having BOD greater than three hundred (300) mg/l, TSS greater than three hundred sixty (360) mg/l, or TKN greater than eighty-five (85) mg/l, whenever the City Director of Public Works shall deem it necessary for the protection and safe, economical, and efficient management of the POTW that the User or other Person provide at its own expense such facilities for preliminary treatment and processing of Sewage and/or Industrial Wastes as may be necessary to satisfy this requirement;

(3) [RESERVED]

(4) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140° F (60° 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;

(5) Wastewater having a pH less than 5.0 or more than ~~12.0~~ 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;

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(9) 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~~ Treatment Plant to exceed 104° F (40° C). Wastewater having a temperature higher than one hundred fifty degrees Fahrenheit (150° F.) shall not be introduced into the Sewer System without the express written approval of the Borough;

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(16) Artesian well water, significant quantities of condensate, deionized water, Noncontact Cooling Water, or unpolluted water, unless specifically authorized by the ~~Manager of Water Resources~~ City Director of Public Works and the Borough;

(17) ~~Sludges~~ Biosolids, screenings, or other residues from the pretreatment of Industrial Wastes;

(18) Medical wastes, except as specifically authorized by ~~the Manager of Water Resources~~ in a Wastewater Discharge Permit, and by the Borough and the City Director of Public Works in writing;

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(21) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 200 mg/l; and

(22) Any substance which is a hazardous waste under 40 CFR Part 261; and

~~(22)~~ (23) Pollutants, substances, or Wastewater prohibited in the POTW by any federal or state permit.

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§ 65-602 National Categorical Pretreatment Standards

(a) **In General.** Users must comply with the The Categorical Pretreatment Standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471, which are hereby incorporated into this Section.

~~(b) Standard Expressed in Mass or Concentration, but not Both.~~ Where a Categorical Pretreatment Standard is expressed only in terms of either the mass or the concentration of a Pollutant in Wastewater, the Borough and the Manager of Water Resources may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(e).

(b) Standard Expressed in Mass per Unit of Production—
Conversion to Equivalent Mass per Day or Concentration.

(1) In General. When the limits in a Categorical Pretreatment Standard are expressed only in terms of mass of Pollutant per unit of production, the City Director of Public Works may convert the limits to equivalent limitations expressed either as mass of Pollutant discharged per day or effluent concentrations for purposes of calculating effluent limitations applicable to individual Users.

(2) Calculation of Equivalent Mass per Day. When calculating equivalent mass-per-day limitations under this subsection (b), the City Director of Public Works shall calculate the limitations by multiplying the limits in the Standard by the User's average rate of production. This average rate of production shall be based not upon the designed production capacity but rather upon a reasonable measure of the User's actual long-term daily production, such as the average daily production during a

representative year. For New Sources, actual production shall be estimated using projected production.

(3) Calculation of Equivalent Concentrations. When calculating equivalent concentration limits under this subsection (b), the City Director of Public Works shall calculate such limitations by dividing the mass limitations derived under paragraph (2) of this subsection by the average daily flow rate of the User's regulated process Wastewater. This average daily flow rate shall be based upon a reasonable measure of the User's actual long-term average flow rate, such as the average daily flow rate during the representative year.

(c) Standard Expressed in Concentrations Only—Conversion to Equivalent Mass Limits.

(1) In General. When a Categorical Pretreatment Standard is expressed only in terms of Pollutant concentrations, an Eligible User may request the City Director of Public Works to convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits for an Eligible User is within the discretion of the City Director of Public Works.

(2) Eligible User. For purposes of this subsection (c), an "Eligible User" is a User which—

(A) employs, or demonstrates that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its Wastewater Discharge Permit;

(B) currently uses control and treatment technologies adequate to achieve compliance with the applicable Categorical Pretreatment Standard, and has not used dilution as a substitute for treatment;

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

(D) does not have daily flow rates, production levels, or Pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the Discharge; and

(E) has consistently complied with all applicable Categorical Pretreatment Standards during the period prior to the User's request for equivalent mass limits.

(3) Calculation of Equivalent Mass Limits.

(A) The City Director of Public Works must calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process(es) of the User by the concentration-based Daily Maximum and Monthly Average Standard for the applicable Categorical Pretreatment Standard and the appropriate unit conversion factor.

(B) Upon notification of a revised production rate, the City Director of Public Works must reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility.

(C) The City Director of Public Works may retain the same equivalent mass limit in subsequent Wastewater Discharge Permit terms if the 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 § 65-605. The User must also be in compliance with § 65-1403 (relating to the prohibition of Bypass).

(4) Requirements for Users Subject to Equivalent Mass Limits. A User subject to equivalent mass units under this subsection (c) 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 City Director of Public Works whenever production rates are expected to vary by more than twenty percent (20%) from its baseline production rates determined under paragraph (2)(C) of this subsection (c). Upon notification of a revised production rate, the City Director of Public Works must reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility (see paragraph (3)(B)); and

(D) continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to paragraph (2)(A) of this subsection (c) so long as it discharges under an equivalent mass limit.

(d) Standard Expressed in Mass Only—Conversion to Equivalent Concentration Limits.

(1) In General. The City Director of Public Works 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 Users. The conversion is at the discretion of the City Director of Public Works.

(2) Calculation of Equivalent Concentration Limits. When converting mass limits to concentration limits under this subsection (d), the City Director of Public Works must 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 § 65-605 (see 40 CFR 403.6(d)).

(e) Consistent Calculation of Multiple Equivalent Limits for a Given Standard. Many Categorical Pretreatment Standards specify one limit for calculating maximum daily discharge limitations and a second limit for calculating maximum Monthly Average, or 4-day average, limitations. Where such Standards are being applied, the same production or flow figure shall be used in calculating both the average and the maximum equivalent limitations under subsections (b), (c), and (d). (See 40 CFR 403.6(c)(8)).

(f) Documentation of Equivalent Limits. The City Director of Public Works must document how the equivalent limits under subsections (b), (c), and (d) were derived and make this information publicly available.

(g) Effect of Equivalent Limits. Equivalent limits calculated in accordance with subsections (b), (c), and (d) are deemed Pretreatment Standards for purposes of this Chapter. Once incorporated into its Wastewater Discharge Permit, the User must comply with the equivalent limitations in lieu of the promulgated Categorical Standards from which the equivalent limitations were derived. (See 40 CFR 403.6(c)(7)).

(h) Notification of Change in User's Production Level. Any User operating under a Wastewater Discharge Permit incorporating equivalent mass or concentration limits calculated from a production based Standard shall notify the City Director of Public Works 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 City Director of Public Works of such anticipated change will be required to meet the mass or concentration limits in its Wastewater Discharge Permit that were based on the original estimate of the long term average production rate. (See 40 CFR 403.6(c)(9)).

(e) (i) ~~Mixed Wastewater Whose Components are Subject to Different Standards~~ Combined Wastestreams. When Wastewater subject to a Categorical Pretreatment Standard is mixed with Wastewater not regulated by the same standard ~~Standard~~, the ~~Borough and the Manager of Water Resources~~ City Director of Public Works shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).

(d) (j) Variances. A User, the City Director of Public Works, the EPA, or other interested person may ~~obtain~~ request the EPA to grant a variance from the limits specified in a Categorical Pretreatment Standard as it applies to a particular User ~~if the User can prove~~, pursuant to the procedural and substantive provisions of 40 CFR 403.13, if data specific to that User indicates that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the Categorical Pretreatment Standard, and that the existence of those factors justi-

fies a different discharge limit than specified in the applicable Categorical Pretreatment Standard.

~~(e)~~ **(k) Net-Gross Net/Gross Adjustments.** A User may obtain a ~~net-gross~~ net/gross adjustment to a Categorical Pretreatment Standard in accordance with 40 CFR 403.15.

* * *

§ 65-604 Local Limits Established or Revised by City POTW.

(a) In General. The City Director of Public Works is authorized to establish Local Limits pursuant to 40 CFR 403.5(c).

~~(a)~~ **(b) City Limits.** Limits for discharging Pollutants which are of concern to the POTW will be made by the City using headworks loading analyses which have been reviewed and approved by the Allentown Approval Authority. 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 under § 65-902 *et seq.*, 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 and the Manager of Water Resources~~ City Director of Public Works may impose mass limitations in addition to, or in place of, the concentration-based limitations above.

(c) BMPs. The City Director of Public Works may develop Best Management Practices to implement § 65-601 and Local Limits, which shall be considered Local Limits and Pretreatment Standards for the purposes of this Chapter.

~~(b)~~ **(d) Revisions.** The City retains the right to establish, by ordinance, inter-municipal agreement, or in Wastewater Discharge Permits, more stringent standards or requirements on discharges to the POTW.

§ 65-605 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 or the Manager of Water Resources~~ City Director of Public Works 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.

* * *

~~§ 65-607 Special Agreements.~~

~~Nothing contained in this Article shall be construed as prohibiting any special agreement or arrangement between this Borough, the City, and any Person whereby wastes of unusual strength or character may be admitted into the Sewer System and the POTW by this Borough and the City either before or after preliminary treatment. However, no such special agreement or arrangement shall allow violation of federal Pretreatment Requirements, or any other applicable federal or state requirements. Whenever the Approval Authority shall deem it necessary for the protection and safe, economical, and efficient management of the POTW, the Owner of an Improved Property shall provide at the Owner's expense such facilities for preliminary treatment and processing of Industrial Waste as may be necessary to reduce BOD to three hundred (300) mg/l, Suspended Solids to three hundred sixty (360) mg/l, and total Kjeldahl nitrogen to eighty five (85) mg/l.~~

Article VII — Admission of Industrial Wastes—In General

* * *

§ 65-703 Flow Equalization.

* * *

(b) **Additional Requirements.** The Borough or the ~~Manager of Water Resources~~ City Director of Public Works may require any Person discharging into the POTW to install and maintain, on his property and at his expense, a suitable storage and flow control facility to ensure equalization of flow, even if such facility would not be required under subsection (a). A Wastewater Discharge Permit may be issued solely for flow equalization.

* * *

Article VIII — Pretreatment of Wastewater

§ 65-801 Pretreatment Facilities.

(a) **Required Facilities.** Users shall provide Wastewater treatment as necessary to comply with this Chapter and shall achieve compliance with all Categorical Pretreatment Standards, ~~City limits~~ Local Limits, Borough limits, and the prohibitions set forth in § 65-601 within the time limitations specified by EPA, the Commonwealth of Pennsylvania, the ~~Manager of Water Resources~~ City Director of Public Works, or the Borough, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the User's expense.

(b) **Plans, Specifications, etc.** Detailed plans describing a User's proposed Wastewater pretreatment facilities and operating procedures shall be submitted to the ~~Manager of Water Resources~~ City Director of Public Works and the Borough for review, and shall be acceptable to the City Director of Public Works and the Borough ~~and approval~~ before such facilities are constructed. Review and ~~approval~~ acceptance of plans are not an endorsement of the effectiveness of any facilities set forth therein and neither the City nor the Borough shall be held liable or responsible 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~~ Discharge acceptable to the Borough under the provisions of this Chapter and to the City under corresponding City ordinances.

* * *

§ 65-802 Additional Pretreatment Measures.

(a) **In General.** Whenever deemed necessary, the Borough or the ~~Manager of Water Resources~~ City Director of Public Works may require Users to restrict their discharge during peak flow periods, designate that certain Wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate Sewage wastestreams from Industrial Wastestreams, and such other conditions as may be necessary to protect the Sewer System and the POTW and determine the User's compliance with the requirements of this Chapter.

(b) **Grease, Oil, and Sand Interception.** Grease, oil, and sand interceptors shall be provided when, in the opinion of the Borough or the ~~Manager of Water Resources~~ City Director of Public Works, 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 the ~~Manager of Water Resources~~ City Director of Public Works, 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 the User's expense.

* * *

§ 65-803 Accidental Discharge/Slug Control Plans.

(a) **Requirement of Plan.** ~~At least once every two (2) years, the~~ The Manager of Water Resources City Director of Public Works and/or

the Borough shall evaluate whether each Significant Industrial User needs an accidental discharge/Slug control plan or other action to control Slug discharge. The Borough or the ~~Manager of Water Resources~~ City Director of Public Works may require any User to develop, submit for approval to both the Borough and the ~~Manager of Water Resources~~ City Director of Public Works, and implement such a plan, or take such other action that may be necessary to control Slug discharges. Alternatively, the ~~Borough or the Manager of Water Resources~~ City Director of Public Works (or the Borough, with the approval of the City Director of Public Works) may develop such a plan for any User, which shall be implemented by the User.

(b) Content of Plan. An accidental discharge/Slug control plan shall address, at a minimum, the following:

* * *

(3) Procedures for immediately notifying the ~~Manager of Water Resources~~ City Director of Public Works and the Borough of any accidental or Slug discharge, as required by § 65-1006; and

* * *

§ 65-804 Hauled Wastewater.

(a) Tank Trucks and Equipment. Any tank truck or any equipment used or intended to be used for the removal, transportation, and disposal of Sewage and Industrial Wastes shall conform to the following requirements:

* * *

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

(5) The outlet connections shall be so constructed that no material will leak out or run out to 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.

~~(5)~~ (6) No connection shall be made at 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.

* * *

Article IX – Wastewater Discharge Permits

§ 65-901 Wastewater Analysis.

When requested by the Borough or the ~~Manager of Water Resources~~ City Director of Public Works, a User must submit information on the nature and characteristics of its Wastewater within ninety (90) days of the request. The Borough Engineer and the ~~Manager of Water Resources~~ City Director of Public Works are authorized to prepare a form for this purpose and may periodically require Users to update this information.

§ 65-902 Wastewater Discharge Permit Requirement.

(a) Users Required to Obtain Permit.

(1) **Significant Industrial Users.** No Significant Industrial User shall discharge Wastewater into the Sewer System or the POTW without first obtaining a Wastewater permit from the Borough and the ~~Manager of Water Resources~~ City Director of Public Works, *except* that a Significant Industrial User that has filed a timely application pursuant to subsection (b)(1) may continue to discharge for the time period specified therein.

(2) **Other Users.** The Borough or the ~~Manager of Water Resources~~ City Director of Public Works may require other Users to obtain Wastewater Discharge Permits as necessary to carry out the purposes of this Chapter.

(b) Time by Which Permit Is Required.

(1) Existing Connections. Any User required to obtain a Wastewater Discharge Permit who was discharging Wastewater into the Sewer System and the POTW prior to the effective date of this Section and who wishes to continue such discharges in the future shall, within ninety (90) days after said date, apply to the Borough and the ~~Manager of Water Resources~~ City Director of Public Works for a Wastewater Discharge Permit in accordance with § 65-903, and shall not cause or allow discharges to the Sewer System or the POTW to continue after one hundred eighty (180) days following the effective date of this Section except in accordance with a Wastewater Discharge Permit issued by the Borough and the ~~Manager of Water Resources~~ City Director of Public Works.

* * *

* * *

§ 65-903 Wastewater Discharge Permit Application.

(a) Contents of Application. All Users required to obtain a Wastewater Discharge Permit must submit a permit application. The Borough and the ~~Manager of Water Resources~~ City Director of Public Works may require all Users to submit as part of an application the following information:

(1) Identifying Information. ~~All information required by § 65-1001(e);~~

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

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

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

(3) Description of Operations.

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

(B) Types of wastes generated, and a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the Sewer System and the POTW;

~~(3)~~ **(C)** Number and type of employees and proposed or actual hours of operation;

~~(4)~~ Each product produced by type, amount, process or processes, and rate of production;

~~(5)~~ **(D)** Type and amount of raw materials processed (average and maximum per day);

~~(6)~~ **(E)** Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;

~~(7)~~ **(4) Time and Duration.** Time and duration of discharges; and,

(5) Monitoring Location. The location for monitoring all wastes covered by the permit.

(6) Flow Measurement. Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from the regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in § 65-602(i) (see 40 CFR 403.6(e)).

(7) Measurement of Pollutants.

(A) The Categorical Pretreatment Standards applicable to each regulated process and any new categorically regulated processes for Existing Sources.

(B) The results of sampling and analysis identifying the nature and concentration and/or mass, where required by the Standard or by the City Director of Public Works, of regulated Pollutants in the Discharge from each regulated process.

(C) Instantaneous, Daily Maximum, and long-term average concentrations (or mass, where required) shall be reported.

(D) The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 65-1010. Where the Standard requires compliance with a BMP or Pollution prevention alternative, the User shall submit documentation as required by the City Director of Public Works or the applicable Standards to determine compliance with the Standard.

(E) Sampling must be performed in accordance with procedures set out in § 65-1011.

(8) Other Information. Any other information as may be deemed necessary by the Borough or the ~~Manager of Water Resources~~ City Director of Public Works to evaluate the Wastewater Discharge Permit application.

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

(b) Signatures and Certification. All Wastewater Discharge Permit applications and User reports and certifications must be signed by an Authorized Representative of the User and contain the following certification statement:

“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. I make this certification subject to the penalties of 18 PA. CONS. STAT. § 4904 (relating to unsworn falsification to authorities.)”

§ 65-904 Determination on Permit Applications; Reconsideration; Appeals.

(a) **Decisions on Permit Applications.** The Borough and the ~~Manager of Water Resources~~ City Director of Public Works 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 and the ~~Manager of Water Resources~~ City Director of Public Works will determine whether or not to issue a Wastewater Discharge Permit. The Borough and the ~~Manager of Water Resources~~ City Director of Public Works may deny any application for a Wastewater Discharge Permit. The Borough or the ~~Manager of Water Resources~~ City Director of Public Works shall provide public notice of the issuance of a Wastewater Discharge Permit.

(b) **Petition for Reconsideration.** Any Person, including the User, may petition the Borough and the ~~Manager of Water Resources~~ City Director of Public Works to reconsider the terms of a Wastewater Discharge Permit, within thirty (30) days after notice of its issuance. Failure to submit a timely petition for reconsideration shall be deemed to be a waiver of the administrative appeal. 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. If the Borough and the ~~Manager of Water Resources~~ City Director of Public Works fail to act within thirty (30) days after the filing of a petition for reconsideration, the request for reconsideration shall be deemed to be denied.

* * *

§ 65-905 Duration of Permits.

(a) **In General.** A Wastewater Discharge Permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A Wastewater Discharge Permit may be issued for a period less than five (5) years, at the discretion of the Borough and the ~~Manager of Water Resources~~ City Director of Public Works. Each Wastewater Discharge Permit will indicate a specific date upon which it will expire.

* * *

§ 65-906 Content of Permits.

(a) **In General.** A Wastewater Discharge Permit shall include such conditions as are deemed reasonably necessary by the Borough and the ~~Manager of Water Resources~~ City Director of Public Works to prevent Pass Through or Interference, protect the quality of the water body receiving the Treatment Plant's effluent, protect worker health and safety, facilitate ~~sludge~~ biosolids management and disposal, and protect against damage to the POTW.

(b) **Required Provisions.** Wastewater Discharge Permits must contain:

(1) A statement that indicates Wastewater Discharge Permit ~~duration, which in no event shall exceed five (5) years~~ issuance date, expiration date, and effective date;

* * *

(3) Effluent limits, including Best Management Practices, based on applicable Pretreatment Standards;

(4) Self monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of Pollutants and/or Best Management Practices to be monitored,

sampling location, sampling frequency, and sample type based on federal, state, and local law; ~~and~~

(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; and

(6) Requirements to control Slug discharge, if determined by the Borough or the City Director of Public Works to be necessary.

(c) **Optional Provisions.** Wastewater Discharge Permits may contain, but need not be limited to, the following conditions:

* * *

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

* * *

(8) Other conditions as deemed appropriate by the Borough or the ~~Manager of Water Resources~~ City Director of Public Works to ensure compliance with this Chapter and federal, state, and local laws, rules, and regulations.

§ 65-907 Modification of Permits.

The Borough and the ~~Manager of Water Resources~~ City Director of Public Works may modify a Wastewater Discharge Permit for good cause, including, but not limited to, the following reasons:

* * *

(d) To respond to information indicating that the permitted discharge poses a threat to the POTW, personnel, biosolids, or the receiving waters;

* * *

§ 65-908 Transfer of Permits.

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 ~~Manager of Water Resources~~ City Director of Public Works, and the Borough and the ~~Manager of Water Resources~~ City Director of Public Works approves the Wastewater Discharge Permit transfer. Failure to provide advance notice of a transfer renders the Wastewater Discharge Permit void as of the date of the facility transfer. The notice must include a written certification by the new owner or operator which:

* * *

§ 65-909 Revocation of Permits.

The Borough or the ~~Manager of Water Resources~~ City Director of Public Works may revoke a Wastewater Discharge Permit for good cause, including, but not limited to, the following reasons:

(a) Failure to notify the Borough and the ~~Manager of Water Resources~~ City Director of Public Works of significant changes to the Wastewater prior to the changed discharge;

(b) Failure to provide prior notification to the Borough and the ~~Manager of Water Resources~~ City Director of Public Works of changed conditions pursuant to § 65-1005;

* * *

(d) Falsifying self-monitoring reports and certification statements;

* * *

(f) Refusing to allow the Borough or the ~~Manager of Water Resources~~ City Director of Public Works timely access to the facility premises and records;

* * *

* * *

Article X — Reporting Requirements

§ 65-1001 Baseline Monitoring Reports.

(a) **Existing Users.** 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~~ Categorical Industrial Users currently discharging to or scheduled to discharge to the POTW shall submit to the Borough and the ~~Manager of Water Resources~~ City Director of Public Works a report which contains the information listed in subsection (c).

(b) **New Sources and New Categorical Users.** At least ninety (90) days prior to commencement of their discharge, ~~new sources~~ New Sources, and sources that become categorical Users subsequent to the promulgation of an applicable Categorical Standard, shall submit to the Borough and the ~~Manager of Water Resources~~ City Director of Public Works a report which contains the information listed in subsection (c). 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.

(c) **Required Information.** Users described in subsections (a) and (b) shall submit the following information:

(1) **Identifying Information.** ~~The name and address of the facility, including the name of the operator and owner.~~ All information required in § 65-903(a)(1)(A).

(2) **Environmental Permits.** ~~A list of any environmental control permits held by or for the facility.~~ All information required in § 65-903(a)(2).

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

~~the Sewer System and the POTW from the regulated processes. All information required in § 65-903(a)(3)(A).~~

~~(4) **Flow Measurement.** Information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e). All information required in § 65-903(a)(6).~~

~~(5) **Measurement of Pollutants.**~~

~~(A) The Categorical Pretreatment Standards applicable to each regulated process.~~

~~(B) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard, the Borough, or the Manager of Water Resources, of regulated Pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with the procedures set out in § 65-1010.~~

~~(C) Sampling must be performed in accordance with the procedures set out in § 65-1011.~~

~~(A) The User shall provide the information required in subparagraphs (A) through (D) of § 65-903(a)(7).~~

~~(B) The User shall take a minimum of one representative sample to compile that data necessary to comply with the requirements of this paragraph (2).~~

~~(C) Samples should be taken immediately downstream from pretreatment facilities if such exist, or immediately downstream from the regulated process if no pretreatment exists. If other Wastewaters are mixed with the regulated Wastewater prior to pretreatment, the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula in 40 CFR 403.6(e) (see § 65-602(i)) 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 and the City.

(D) Sampling and analysis shall be performed in accordance with § 65-1011.

(E) The Borough and the City Director of Public Works may allow the submission of a baseline report which utilizes only historical data so long as the data provides information sufficient to determine the need for industrial pretreatment measures.

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

(6) ~~Statement of Compliance.~~ Compliance Certification.

A statement, reviewed by the ~~User's~~ an Authorized Representative of the User 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 and/or additional pretreatment is required to meet the Pretreatment Standards and Requirements.

* * *

§ 65-1002 Compliance Schedule Progress Reports.

Every User who submits a compliance schedule under § 65-1001(c)(7) shall submit a progress report to the Borough and the ~~Manager of Water Resources~~ City Director of Public Works no later than fourteen (14) days following each date in the schedule and the final date of compliance. The progress report shall include, at a minimum, whether or not the User has 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. In no event shall more than nine (9) months elapse between progress reports. All such progress reports must be signed and certified in accordance with § 65-903(b).

§ 65-1003 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 and the ~~Manager of Water Resources~~ City Director of Public Works a report containing the information described in ~~§ 65-1001(e)(4)-(6)~~ §§ 65-903(a)(6) (relating to flow measurement), 65-903(a)(7) (relating to measurement of pollutants), and 65-1001(b)(5) (relating to measurement of pollutants). For Users subject to equivalent mass or concentration limits established in accordance with the procedures in ~~40-CFR 403.6(e)~~ § 65-602, 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 sampling will be done in conformance with § 65-1011. All compliance reports must be signed and certified in accordance with § 65-903(b).

§ 65-1004 Periodic Compliance Reports

(a) **In General.** All Significant Industrial Users shall, at a frequency determined by the Borough and the ~~Manager of Water Resources~~ City Director of Public Works but in no case less than twice per year (in June and December), or on dates specified, submit a report indicating the nature and concentration of Pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flows for the reporting period. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (BMP) or Pollution prevention alternative, the User must submit documentation required by the City Director of Public Works or the Pretreatment Standard necessary to determine the compliance status of the User. All periodic compliance reports must be signed and certified in accordance with § 65-903(b).

* * *

(c) **Reporting of Additional Voluntary Monitoring.** If a User subject to the reporting requirement in this Section monitors any Pollutant more frequently than required by the Borough and the ~~Manager of Water Resources~~ City Director of Public Works, using the procedures prescribed in §§ 65-1010 and 65-1011, the results of this monitoring shall be included in the report.

§ 65-1005 Reports of Changed Circumstances.

(a) **Notification.** Each User must notify the Borough and the ~~Manager of Water Resources~~ City Director of Public Works of any planned significant changes to the User's operations or system which might alter the nature, quality, or volume of its Wastewater at least ninety (90) days before the change.

(b) **Submission of Information.** The Borough or the ~~Manager of Water Resources~~ City Director of Public Works 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 § 65-903.

(c) **New or Modified Permits.** The Borough and the ~~Manager of Water Resources~~ City Director of Public Works may issue a Wastewater Discharge Permit under ~~§ 65-904~~ § 65-910 or modify an existing Wastewater Discharge Permit under § 65-907 in response to changed conditions or anticipated changed conditions.

(d) **“Significant” Changes.** For purposes of this Section, “significant” changes include, but are not limited to, flow increases of twenty percent (20%) or greater, loading increases of twenty percent (20%) or greater, and the discharge of any previously unreported Pollutants.

§ 65-1006 Reports of Potential Problems.

(a) **Initial Notification.** In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a Slug Load, that may

cause potential problems for the POTW, the User shall immediately telephone and notify the Borough and the ~~Manager of Water Resources~~ City Director of Public Works of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the User.

(b) Written Report. Within five (5) days following such discharge, the User shall, unless waived by the Borough and the ~~Manager of Water Resources~~ City Director of Public Works, 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 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 Chapter.

* * *

(d) Potential Slug Discharge. Each Significant Industrial User is required to notify the Borough and the City Director of Public Works immediately of any changes at its facility affecting the potential for a Slug Discharge.

§ 65-1007 Reports and Certifications from Unpermitted Users Not Required to Obtain a Permit.

(a) Reports. All Users not required to obtain a Wastewater Discharge Permit shall provide appropriate reports to the Borough and the ~~Manager of Water Resources~~ City Director of Public Works as the Borough or the ~~Manager of Water Resources~~ City Director of Public Works may require. All such reports must be accompanied by a certification statement in accordance with subsection (c), signed by an Authorized Representative of the User.

(b) Annual Certification. A facility determined to be a Non-Significant Categorical Industrial User by the Borough and the City Director of Public Works pursuant to § 65-620(b) must annually submit the

certification statement set forth in subsection (c), signed by an Authorized Representative of the User.

(c) **Form of Certification Statement.** The certification statements required by this Section shall be in the following form:

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

(a) The facility described as _____ {facility name} met the definition of a Non-Significant Categorical Industrial User as described in Alburdis Codified Ordinances § 65-620(b);

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

(c) 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: _____:

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. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations. I make this certification subject to the penalties of 18 PA. CONS. STAT. § 4904 (relating to unsworn falsification to authorities).

§ 65-1008 Notice of Violation/Repeat Sampling and Reporting.

If sampling performed by a User indicates a violation, the User must notify the Borough and the ~~Manager of Water Resources~~ City 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 ~~Manager of Water Resources~~ City Director of Public Works within thirty (30) days after becoming aware of the violation. The User is not required to resample if the Borough or the ~~Manager of Water Resources~~ City performs sampling at the User's facility at least once a month, if the Borough or the City samples between the User's initial sampling and when the User receives the results of this sampling performs sampling at the User between the time when the initial sampling was conducted and the time when the User, the Borough, or the City receives the results of this sampling, or if the Borough or the City has performed the sampling an analysis in lieu of the User.

§ 65-1009 Notification of the Discharge of Hazardous Wastes.

Although hazardous wastes are specifically prohibited in § 65-601(c)(22), if any User accidentally discharges a hazardous waste, the User shall adhere to the reporting requirements set forth in 40 CFR 403.12(p)(1).

~~(a) **Initial Notification.** Any User who commences the discharge of—~~

~~(1) hazardous wastes greater than fifteen (15) kilograms in any calendar month; or~~

~~(2) any hazardous waste which is an acute hazardous waste as specified in 40 CFR 261.30(d) and 261.33(e),~~

~~shall notify the Borough, the County Authority, the Manager of Water Resources, the EPA Regional Waste Management Division Director, and Pennsylvania state hazardous waste authorities, in writing, of any discharge into the POTW of any substance which, if otherwise disposed of, would be a hazardous waste under 40 CFR Part 261.—Such notification~~

~~must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (continuous, batch, or other). Any notification under this subsection (a) need be submitted only once for each hazardous waste discharged. All notifications must take place no later than one hundred eighty (180) days after the discharge commences.~~

~~**(b) Additional Information for Large Quantity Dischargers.** If a User discharges more than one hundred (100) kilograms of hazardous waste per calendar month to the POTW, the notification shall also contain the following information to the extent such information is known and reasonably available to the User:~~

~~**(1)** an identification of the hazardous constituents contained in the wastes;~~

~~**(2)** an estimation of the mass and concentration of such constituents in the wastestream discharged during that calendar month; and~~

~~**(3)** an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months.~~

~~**(c) Notification in the Event of New RCRA Regulations.** If any new regulations under section 3001 of RCRA identify additional characteristics of hazardous waste or list any additional substance as a hazardous waste, a User described in subsection (a) shall notify the Borough, the County Authority, the Manager of Water Resources, the EPA Regional Waste Management Division Director, and Pennsylvania state hazardous waste authorities, in writing, of any discharge into the POTW of any substance not previously reported which, if otherwise disposed of, would be a hazardous waste under the new regulations. The notification shall be in the form prescribed in subsection (a) and, if applicable, subsection (b). All notifications must take place no later than ninety (90) days after the effective date of the new regulations.~~

~~**(d) Certification of Hazardous Waste Program.** In the case of any notification made under this Section, the User shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.~~

~~(e) **Notifications of Changed Circumstances.** Submission of one-time reports under this Section does not relieve a User from the obligation to submit a Notice of Changed Circumstances when required under § 65-1005.~~

~~(f) **Exception.** The notification requirements in this Section do not apply to Pollutants already reported by Users subject to Categorical Pretreatment Standards under the self-monitoring requirements of §§ 65-1001, 65-1003, and 65-1004.~~

~~(g) **No Additional Rights Conferred.** Nothing in this Section shall be construed to create a right to discharge any substance not otherwise permitted to be discharged under this Chapter, any permit issued under this Chapter, or any applicable federal or state law.~~

§ 65-1010 Analytical Requirements.

All Pollutant analyses, including sampling techniques, to be submitted as part of a Wastewater Discharge Permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136 and amendments thereto, unless otherwise specified in an applicable Categorical Pretreatment Standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the Pollutant in question, or where the EPA determines that the Part 136 sampling and analytical techniques are inappropriate for the Pollutant in question, sampling and analyses must be performed in accordance with procedures by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the City Director of Public Works or other parties, approved by the EPA.

§ 65-1011 Sample Collection.

(a) **In General.** Samples collected to satisfy reporting requirements under this Chapter 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.

(b) Flow Proportional Compositing. Except as otherwise provided in this Section, the User must collect Wastewater samples using 24-hour flow proportional composite collection techniques.

~~(b)~~ **(c) Authorized Alternatives.** ~~In the event flow proportional sampling is not feasible, the The Borough and the Manager of Water Resources City Director of Public Works may authorize the use of time proportional sampling or a minimum of four (4) Grab Samples where the User demonstrates that this will provide a representative sample of the effluent being discharged grab sampling rather than flow proportional sampling, but the samples must be representative of the User's Discharge.~~

(d) Compositing. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides, the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Borough and the City, as appropriate.

~~(e)~~ **(e) Instantaneous Discharge Limits.** ~~In addition to the sampling described in subsections (a) and (b), Grab Samples may be required to show compliance with instantaneous discharge limits Instantaneous Limits.~~

~~(d)~~ **(f) Required Grab Samples.**

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

(2) For sampling required in support of baseline monitoring and 90-day compliance reports required in § 65-1001 and § 65-1003 (see 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 and the City Director of Public Works may authorize a lower minimum.

(3) For reports required by § 65-1004 (relating to periodic compliance reports; see 40 CFR 403.12(e) and 403.12(h)), the User is required to collect the number of grab samples necessary to assess and assure compliance with applicable Pretreatment Standards and Requirements.

* * *

§ 65-1013 Record Keeping.

Users subject to the reporting requirements of this Chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Chapter, ~~and~~ any additional records of information obtained pursuant to monitoring activities undertaken by the User independent of such requirements, and documentation associated with Best Management Practices established under § 65-604(c). Records shall include the date, exact place, method, and time of sampling; the name(s) of the person(s) taking the samples; the dates analyses were performed; the person(s) performing the analyses; the analytical techniques or methods ~~use~~ 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, the City, or the Borough, or where the User has been specifically notified of a longer retention period by the Borough or the ~~Manager of Water Resources~~ City Director of Public Works.

Article XI – Monitoring & Confidentiality

§ 65-1101 Access to Improved Properties.

(a) **In General.** The Borough and the ~~Manager of Water Resources~~ City Director of Public Works shall have the right to enter any part of any Improved Property connected to the POTW to determine whether a User or other Person owning, operating, or using the Improved Property is complying with all requirements of this Chapter and any Wastewater Discharge Permit or order issued under this Chapter. Users and other Persons shall allow the Borough and the ~~Manager of Water Resources~~ City Director of Public Works 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.

(b) **Security Forces.** 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 or the ~~Manager of Water Resources~~ City Director of Public Works will be permitted to enter without delay for the purposes of performing specific responsibilities.

(c) **Monitoring Equipment.** The Borough and the ~~Manager of Water Resources~~ City Director of Public Works 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 and other devices as are necessary to conduct sampling and/or metering of the User's or other Person's operations. The facility's sampling and monitoring equipment and other devices 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) **Obstructions to Access.** Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled under this Section shall be promptly removed by the User or other Person at the written or verbal request of the Borough or the ~~Manager of~~

~~Water Resources~~ City Director of Public Works and shall not be replaced. The costs of clearing such access shall be borne by the User or other Person.

* * *

§ 65-1102 Search Warrants.

If the Borough or the ~~Manager of Water Resources~~ City Director of Public Works 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 Chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Borough or the City designed to verify compliance with this Chapter or any permit or order issued under this Chapter, or to protect the overall public health, safety, and welfare of this community, then the Borough or the ~~Manager of Water Resources~~ City Director of Public Works may seek issuance of a search warrant from the appropriate issuing authority.

§ 65-1103 Confidentiality.

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 inspection and sampling activities conducted under this Chapter, 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 and the ~~Manager of Water Resources~~ City Director of Public Works that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable law. Any such request must be asserted at the time the information or data is submitted. 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 gov-

ernmental 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.

Article XII — Administrative Enforcement Remedies

§ 65-1201 Notification of Violation.

(a) **Notice.** When the Borough’s enforcement official or the ~~Manager of Water Resources~~ City Director of Public Works finds that a User or other Person has violated, or continues to violate, any provision of this Chapter, a Wastewater Discharge Permit or order issued under this Chapter, or any other Pretreatment Standard or Requirement, the official or the ~~Manager of Water Resources~~ City Director of Public Works may serve upon that User or other Person a written Notice of Violation.

(b) **Response.** The User or other Person receiving a written Notice of Violation shall submit a response to the Notice, including an explanation of the alleged violation and a plan for the satisfactory correction and prevention of violations (including specific required actions), to the Borough and the ~~Manager of Water Resources~~ City Director of Public Works within twenty (20) days after receipt of the Notice. 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.

(c) **Notice Not Required.** Nothing in this Section shall limit the authority of the Borough or the ~~Manager of Water Resources~~ City Director of Public Works to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.

§ 65-1202 Publication of Uses in Significant Noncompliance.

The Borough or the ~~Manager of Water Resources~~ City Director of Public Works shall publish annually, in ~~the largest daily newspaper in the Borough~~ a newspaper of general circulation that provides meaningful public notice within the jurisdictions 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 subsections (c), (d), or (h) of this Section), and shall mean:

(a) Chronic violations of Wastewater discharge limits, defined as those in which sixty-six percent (66%) or more of ~~Wastewater~~ all the measurements taken for the same Pollutant parameter during a six (6) month period exceed (by any magnitude) the daily maximum limit or average limit for the same Pollutant parameter by any amount a numeric Pretreatment Standard or Requirement, including Instantaneous Limits;

(b) Technical Review Criteria 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 ~~daily maximum limit or average limit~~ numeric Pretreatment Standard or Requirement (including Instantaneous Limits) multiplied by the applicable criteria (1.4 for BOD, ~~total Suspended Solids~~ 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 (Daily Maximum, long-term average, Instantaneous Limit, or narrative standard) that the Borough or the ~~Manager of Water Resources~~ City Director of Public Works ~~believes~~ determines has caused, alone or in conjunction with other discharges, Interference or Pass Through, including endangering the health of POTW personnel or the general public;

(d) Any discharge of Pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the exercise of emergency authority by the Borough or the ~~Manager of Water Resources~~ City Director of Public Works to halt or prevent such a discharge;

* * *

(f) Failure to provide, within ~~thirty (30)~~ 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;

* * *

(h) Any other violation(s), which may include a violation of Best Management Practices, which the Borough or the ~~Manager of Water Resources~~ City Director of Public Works determines will adversely affect the operation or implementation of the local pretreatment program.

§ 65-1203 Consent Agreements Orders.

The Borough and/or the ~~Manager of Water Resources~~ City Director of Public Works may enter into consent agreements 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 shall have the same force and effect as the administrative orders issued pursuant to § 65-1205 and § 65-1206 and shall be judicially enforceable.

§ 65-1204 Show Cause Meeting Hearing.

(a) **In General.** The Borough's enforcement official or agent, or the ~~Manager of Water Resources~~ City Director of Public Works, may order a User which has violated, or continues to violate, any provision of this Chapter, a Wastewater Discharge Permit or order issued under this Chapter, or any other Pretreatment Standard or Requirement, to appear before that person or entity and show cause which the proposed enforcement action should not be taken.

(b) **Notice.** Notice of a ~~meeting~~ hearing under subsection (a) shall be served on the User specifying the time and place for the ~~meeting~~ hearing, the proposed enforcement action, the reasons for such action, and a

request that the User show cause why the proposed enforcement action should not be taken. The notice shall be served on any Authorized Representative of the User personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the ~~meeting~~ hearing.

(c) **Meeting Hearing Not Required.** A ~~meeting~~ hearing under this Section shall not be a bar against, or a prerequisite for, the Borough or the City taking any other action against the User.

§ 65-1205 Compliance Orders.

(a) **In General.** When the Borough's enforcement official or agent, or the ~~Manager of Water Resources~~ City Director of Public Works, finds that a User has violated, or continues to violate, any provision of this Chapter, a Wastewater Discharge Permit or order issued under this Chapter, or any other Pretreatment Standard or Requirement, the Borough's enforcement official or agent, or the ~~Manager of Water Resources~~ City Director of Public Works may issue an order to the User responsible for the discharge directing that the User come into compliance within a specified time. 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 POTW.

* * *

(e) **Failure to Comply.** If the User does not come into compliance with a Compliance Order within the time specified, the Borough may discontinue Sewer service to the User unless and until adequate treatment facilities, devices, and other related appurtenances are installed and properly operated.

§ 65-1206 Cease & Desist Orders.

(a) **In General.** When the Borough's enforcement official or agent, or the ~~Manager of Water Resources~~ City Director of Public Works, finds that a User has violated, or continues to violate, any provision of this Chapter, a Wastewater Discharge Permit or order issued under this Chap-

ter, 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, or the ~~Manager of Water Resources~~ City Director of Public Works may issue an order to the User directing it to cease and desist all such violations and directing the User to:

* * *

* * *

§ 65-1207 Performance Bonds.

The Borough or the ~~Manager of Water Resources~~ City Director of Public Works may decline to issue or reissue a Wastewater Discharge Permit to any User who has failed to comply with any provision of this Chapter, a previous Wastewater Discharge Permit, or order issued under this Chapter, 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 or the ~~Manager of Water Resources~~ City Director of Public Works to be necessary to achieve consistent compliance.

§ 65-1208 Liability Insurance.

The Borough or the ~~Manager of Water Resources~~ City Director of Public Works may decline to issue or reissue a Wastewater Discharge Permit to any User who has failed to comply with any provision of this Chapter, a previous Wastewater Discharge Permit, or order issued under this Chapter, 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 POTW caused by its discharge.

§ 65-1208.1 Water Supply Severance.

Whenever a User has violated or continues to violate any provision of this Chapter, a Wastewater Discharge Permit, or order issued under this Chapter, or any other Pretreatment Standard or Requirement, the Borough

may sever water service to the User. Service will recommence, at the User's expense, only after the User has demonstrated satisfactorily its ability to comply.

* * *

§ 65-1210 Administrative Civil Penalties.

* * *

(b) Relationship to City Administrative Penalties. The authority granted in subsection (a) is in addition to the separate authority of the ~~Manager of Water Resources~~ City Director of Public Works or other City officials to impose administrative civil penalties under City ordinances. However, in no case shall the total of the penalties imposed under subsection (a) and the administrative civil penalties imposed by the City exceed \$25,000 per violation, per day.

(c) Amount of Penalty. The amount of the civil penalty shall be assessed in accordance with the following official Borough 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:

* * *

(5) Other Factors. The User shall be assessed between 1 and 5 additional points based on the severity of other factors, including, without limitation, damage to the POTW, willfulness, ~~and~~ concealment of the violation, and endangerment to the public and/or POTW personnel.

* * *

* * *

§ 65-1211 Costs to Re-Establish POTW Operations.

The Borough and the City shall charge a User for all costs for re-establishing the operation of the POTW after the User has violated, or continues to violate, any provision of this Chapter, a Wastewater Discharge Permit, any order issued under this Chapter, or any other Pretreatment Standard or Requirement. These costs shall be paid by the 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 the assessment of civil penalties. (See § 65-1210(e).) Any User not paying the assessment in a timely manner shall pay an additional penalty of five percent (5%) of the penalty per month or any part thereof.

§ 65-1212 Emergency Suspensions of Discharge.

(a) In General. The Borough or the City Director of Public Works 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 or the City Director of Public Works may also immediately suspend a User's Discharge, after notice and an opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

(b) Immediate Response. 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 comply voluntarily and immediately with the suspension order, the Borough or the City Director of Public Works may take such steps as deemed necessary, including immediate severance of the connection to the Sewer System, to prevent or minimize damage to the POTW or its receiving stream, or endangerment to any individuals.

(c) Recommencement. The Borough and the City Director of Public Works may allow the User to recommence its Discharge when the User has demonstrated to the satisfaction of the Borough and the City Director of Public Works that the period of endangerment has passed, unless

termination proceedings have been initiated against the User under § 65-1213.

(d) **Report.** 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 and the City Director of Public Works prior to the date of any show cause hearing under § 65-1204 or termination hearing under § 65-1213.

(e) **No Prior Hearing Required.** Nothing in this Section shall be interpreted as requiring a hearing prior to any emergency suspension under this Section.

§ 65-1213 Termination of Discharge.

(a) **In General.** In addition to the provisions of § 65-909 (relating to Revocation of Wastewater Discharge Permit), a User is subject to termination of its Discharge to the Sewer System for any of the following reasons:

- (1) **violation of Wastewater Discharge Permit conditions;**
- (2) **failure to accurately report the Wastewater constituents and characteristics of its Discharge;**
- (3) **failure to report significant changes in operations or Wastewater volume, constituents, and characteristics prior to Discharge;**
- (4) **refusal of reasonable access to the User's premises for the purpose of inspection, monitoring, or sampling; or**
- (5) **violation of the Pretreatment Standards in Article VI of this Chapter.**

(b) **Due Process.** A User will be notified of the proposed termination of its Discharge and be offered an opportunity to show cause under § 65-1204 why the proposed action should not be taken.

(c) **Termination Not Required.** Termination of Discharge to the Sewer System under this Section shall not be a bar to, or a prerequisite for, the Borough or the City taking any other action against the User.

Article XIII — Judicial Enforcement Remedies

§ 65-1301 Injunctive Relief.

(a) **In General.** When the Borough's enforcement official or agent or the ~~Manager of Water Resources~~ City Director of Public Works finds that a User has violated, or continues to violate, any provision of this Chapter, a Wastewater Discharge Permit or order issued under this Chapter, or any other Pretreatment Standard or Requirement, the enforcement official or agent, or the ~~Manager of Water Resources~~ City Director of Public Works, may petition the Lehigh County Court of Common Pleas 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 Chapter 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.

* * *

§ 65-1302 Civil Penalties and Remedies.

(a) **In General.** In addition to all other enforcement remedies provided in this Chapter, the Borough and/or the City may file an action in a court of competent jurisdiction against any Person for any and all costs, expenses, damages, and penalties for which the Person may be liable under this Chapter or applicable law, together with reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of actual damages incurred by the Borough or the City.

(b) **Court-Imposed Civil Penalty.** A User who has violated, or continues to violate, any provision of this Chapter, a Wastewater Discharge Permit, or order issued under this Chapter, or any other Pretreatment Standard or Requirement shall be liable to the Borough for a maximum civil penalty of \$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 violation. 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 factors as justice requires.

(c) **Civil Action Not Required.** Filing a suit for civil penalties under this Section shall not be a bar against, or a prerequisite for, the Borough or the City taking any other action against a User.

* * *

§ 65-1304 Remedies Nonexclusive.

The remedies provided for in this Chapter are not exclusive. The Borough, the Borough's enforcement official or agent, or the ~~Manager of Water Resources~~ City Director of Public Works may take any, all, or any combination of these actions against a noncompliant Person.

Article XIV — Affirmative Defenses to Discharge Violations

§ 65-1401 Upset.

* * *

(b) Affirmative Defense. An upset shall constitute an affirmative defense to an action brought for noncompliance with Categorical Pretreatment Standards if the User shall demonstrate, through properly signed, contemporaneous operating logs or other relevant evidence, that—

* * *

(3) The User has submitted the following information to the Borough and the ~~Manager of Water Resources~~ City Director of Public Works 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:

* * *

* * *

§ 65-1402 Prohibited Discharge Standards.

A User shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in § 65-601(b) or the specific prohibitions in ~~§ 65-601(e)(1)-(3),(6)-(22)~~ paragraph (6) or any of paragraphs (8) through (21) of § 65-601(c), if the User 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—

(a) A ~~local limit~~ Local Limit exists for each Pollutant discharged and the User was in compliance with each limit directly prior to, and during, the Pass Through or Interference; or

(b) No ~~local limit~~ Local Limit exists, but the discharge did not change substantially in nature or constituents from the User's prior discharge when the City was regularly in compliance with its NPDES permit, and in the case of Interference, was in compliance with applicable sludge biosolids use or disposal requirements.

§ 65-1403 Bypass.

* * *

(c) Notice.

(1) If a User knows in advance of the need for a Bypass, it shall submit prior notice to the Borough and the ~~Manager of Water Resources~~ City Director of Public Works at least ten (10) days before the date of the Bypass, if possible.

(2) A User shall submit oral notice to the Borough and the ~~Manager of Water Resources~~ City Director of Public Works of an unanticipated Bypass that exceeds applicable Pretreatment Standards within

twenty-four (24) hours after the time the User becomes aware of the Bypass. A written submission shall also be provided within five (5) calendar days after the time the User 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 and the ~~Manager of Water Resources~~ City Director of Public Works on a case-by-case basis.

* * *

(d) Prohibition; Justification.

(1) Bypass is prohibited, and the Borough or the ~~Manager of Water Resources~~ City Director of Public Works may take enforcement action against a User for a Bypass, *unless*—

* * *

(2) The Borough and the ~~Manager of Water Resources~~ City Director of Public Works may approve an anticipated Bypass, after considering its adverse effects, if the Borough and the ~~Manager of Water Resources~~ City Director of Public Works determines that it will meet the three conditions listed in paragraph (1).

Article XV — Administration of Pretreatment Program

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§ 65-1502 Powers, Rights, Privileges, and Obligations Relating to the City or the ~~Manager of Water Resources~~ City Director of Public Works.

(a) **Waiver or Delegation.** The City or the ~~Manager of Water Resources~~ City Director of Public Works, as the case may be, may, by agreement, resolution, motion, or policy, waive or delegate to the Borough and/or the County Authority some or all of the administrative and enforcement powers, rights, privileges assigned to the City or the ~~Manager of Water Resources~~ City Director of Public Works in the Borough's In-

dustrial Waste Pretreatment Program as described in Articles VI through XIV of this Chapter.

(b) Review by Borough Council. Any Person aggrieved by a decision of the City or the ~~Manager of Water Resources~~ City Director of Public Works under this Chapter may appeal that decision to Borough Council by filing a Notice of Appeal with the Borough Secretary (with a copy to the City or the ~~Manager of Water Resources~~ City Director of Public Works, as the case may be) within ten (10) days after service of notice of the ~~City's or Manager's~~ decision of the City or City Director of Public Works, *unless* the City or ~~Manager of Water Resources~~ City Director of Public Works has authority to render such decision independent of the grant of authority from the Borough under this Chapter, in which case appeals shall be in accordance with applicable City ordinances.

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DULY ORDAINED and **ENACTED** by the Borough Council of the Borough of Alburtis, this 26th day of August, 2009, in lawful session duly assembled.

BOROUGH COUNCIL
BOROUGH OF ALBURTIS

Steven R. Hill, President

Attest:

Sharon Trexler, Executive Secretary

AND NOW, this 26th day of August, 2009, the above Ordinance is hereby AP-
PROVED.

Robert W. Mader, Mayor