

4.4 Industrial Wastewater Discharge Permit Provisions

Industrial Wastewater Discharge Permits shall be issued for a specified time period, not to exceed five (5) years. A permit may be issued for a period less than five years or may be stated to expire on a specific date. The User shall apply for a permit reissuance a minimum of ninety (90) days prior to the expiration of the User's existing permit. The terms and conditions of the Permit may be subject to modification by the WWSA during the term of the Permit as limitations or requirements as identified in section 2 are modified or other just cause exists. The User shall be informed of any proposed changes in the Permit at least 30 days prior to the effective date of change. Any changes or new conditions in the Permit itself shall include a reasonable time schedule for compliance, as determined by the WWSA.

Industrial Wastewater Discharge Permits are issued to a specific User for a specific operation and type of discharge. A Permit shall not be reassigned or transferred or sold to a new owner, new User, different premises, or a new or changed operation without the approval of the WWSA. If approval is granted by the WWSA, any succeeding owner or User shall also comply with the terms and conditions of the existing permit.

Permits shall contain such terms and conditions as the WWSA shall determine as expressed in its Rules and Regulations. Permits may include the following:

- a) Effluent limits and Best Management Practices based on National Categorical Pretreatment Standards, Local Limits, or other applicable discharge standards;
- b) Specifications for monitoring programs which include sampling locations, frequency of sampling, types and standards for tests (including the requirement that all sampling be representative of the discharge) and reporting schedules;
- c) Compliance schedules;
- d) Requirements for submission at specified times to the WWSA of technical reports, laboratory analysis reports, or discharge reports;

e) Requirements for maintaining and retaining plant records relating to Wastewater Discharge as specified by the WWSA, and affording WWSA access thereto at reasonable times for examination and copying;

f) Requirements for notification of the WWSA or any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;

g) Requirements for installation and maintenance of inspection and sampling facilities;

h) Requirements for notification of Slug Discharges as per Section 4.14;

i) Other conditions as deemed appropriate by the WWSA to ensure compliance with this Ordinance and the WWSA Rules and Regulations;

j) Notice of applicable civil and criminal penalties for violation of Pretreatment Standards and Requirements or other provisions of this Ordinance, the Permit, or the Rules and Regulations of WWSA; and

k) A schedule of User charges and fees for the Wastewater to be discharged into the Sanitary Sewer System.

4.5 Permit Application Process

All Industrial Users shall submit to the WWSA an Industrial Wastewater Discharge Questionnaire containing information as set forth in this Ordinance or required by the Rules and Regulations of the WWSA. Other Non-Domestic Users may be requested to submit information at the discretion of WWSA upon review of the notice required by Section 4.3 (b) of this Ordinance.

Users required to obtain an Industrial Wastewater Discharge Permit shall be so notified by the WWSA and shall timely complete and file with the WWSA an application in the form prescribed by the WWSA, and accompanied by the appropriate fee. In support of the application, the User shall submit, in units and terms appropriate for evaluation, the following information, as required by WWSA:

a) Name, address, and location (if different from the address);

b) SIC number according to the Standard Industrial classification Manual, Bureau of the Budget, 1972, as amended;

c) Wastewater constituents and characteristics including but not limited to those mentioned in Section 2 of this Ordinance as determined by an accredited analytical laboratory; sampling and analysis shall be performed in accordance with procedures contained in 40 CFR, Part 136, as amended;

d) Time and duration of discharge;

e) Average daily wastewater flow rates, short term peaks or batch discharge rates, and daily, monthly and seasonal variations, if any;

f) Site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections, and appurtenances by the size, location and elevation;

g) Description of activities, facilities and plant processes on the premises, including all materials which are or could be discharged;

h) Material Safety Data Sheets (MSDS) for all chemicals used on site;

i) Where known, the nature and concentration of any pollutants in the discharge which are limited by any Local, State, or Federal Pretreatment Standards, and a statement regarding whether or not the Pretreatment Standards are being met on a consistent basis and, if not, whether additional Operation and Maintenance (O&M) and/or additional pretreatment facilities are required for the User to meet applicable Pretreatment Standards;

j) If additional pretreatment and/or O&M will be required to meet the Pretreatment Standards, the shortest schedule by which the User will provide such additional pretreatment. The completion date in this schedule shall not be later than the compliance date established for the applicable Pretreatment Standard. The following conditions shall apply to this schedule:

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

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

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

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

l) Type and amount of raw materials processed (average and maximum per day);

m) Number of employees per shift, hours of operation of plant and proposed or actual hours of operation of pretreatment system;

n) Any other information as may be deemed by the WVSA to be necessary to evaluate the permit application.

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

4.6 Modification of Permit

Within three (3) months of the promulgation of a National Categorical Pretreatment Standard, the Industrial Wastewater Discharge Permit of Users subject to such standards shall be revised to require compliance with such standards within the time frame prescribed by such standard. Where a User, subject to a newly promulgated National Categorical Pretreatment Standard had not previously submitted an application for an Industrial Wastewater Discharge Permit as required by Section 4.3, the User shall apply for an Industrial Wastewater Discharge Permit within one hundred eighty (180) days after the promulgation of the applicable National Categorical Pretreatment standard. In addition, the User with an existing Industrial Wastewater Discharge Permit shall submit to the Executive Director, within 180 days after the promulgation of an applicable National Categorical Pretreatment Standard, the information required by Section 4.5 (i) and (j).

4.7 Classifications of Dischargers

Following review of a report submitted under Section 4.3 of this Ordinance, each Non-Domestic User shall be placed into the appropriate classification of Discharger. Said classifications are defined as follows:

- a) A Significant Industrial User shall be a Class I User.
- b) A Class II User shall include Non-Significant Categorical Industrial Users and any Non-Domestic User that discharges any wastes other than Domestic Sewage to the sanitary sewer system in amounts that on a routine basis are determined by the WVSA not to have a significant impact on the treatment system, but may present a potential to impact on the treatment system, such as, but not limited to, Users with Oil and Grease or settleable solids discharges that may present a potential to cause sewer obstructions, and those that have the potential to have Slug Discharges or chemical spills.
- c) A Class III User shall be any Non-Domestic User who discharges only Domestic Sewage or has a dry process, or is considered to have insignificant impact on the treatment system.
- d) A Class IV or Commercial User shall be any Non-Domestic User who discharges Industrial Wastewater of the nature produced by facilities such as vehicle wash facilities, vehicle maintenance shops, fluid change facilities, steam cleaning facilities, restaurants, lounges, etc.

For the purpose of the permit process all Class I Users shall be required to obtain an Industrial Wastewater Discharge Permit from the WVSA. Class II, Class III and Class IV Users may be required to obtain a Permit, as determined by the WVSA.

Whether a User is required to obtain a Permit or not, it may be required to install such facilities as the WVSA or Municipality deems necessary to comply with the provisions of this ordinance.

4.8 Grease and Sediment Traps for Class II and IV Users. Class II and IV Users that discharge or have the potential to discharge significant quantities of Oil and Grease or sediment, as determined by the WVSA, shall install and properly operate and maintain a grease trap or sediment trap (or both when necessary) satisfactory to the WVSA as required by its Rules and Regulations. Proper operation and maintenance of grease and sediment traps includes, but is not limited to, removal

of accumulated grease or sediment on a routine basis and maintenance of documentation of such activity pursuant to Section 4.14. Failure to timely install, or to properly operate or maintain a grease or sediment trap required by this Ordinance shall be a violation of this Ordinance and may result in the rescission or suspension of the right to discharge Wastewater to the Sewer System, whether or not a permit has been issued by the WWSA.

4.9 Standard Designs

Users required or choosing to install grease traps or sediment traps shall apply to the WWSA for a list of standard construction design criteria as prepared by and available through the WWSA's Engineering Department in accordance with current pretreatment design requirements. Users may deviate from standard construction design criteria only with permission of the Executive Director.

4.10 Inspection

The Municipality and the WWSA may inspect the facilities of any Non-Domestic User to ascertain whether the purpose of this Ordinance is being met and all requirements are being complied with. Persons or occupants of premises where Wastewater other than Domestic Sewage is created or discharged shall allow representatives of the Municipality and WWSA ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination and/or copying, or in the performance of any of their duties. The Municipality, WWSA, PADEP and/or the EPA shall have the right to set up on the Non-Domestic User's property such devices as are necessary to conduct sampling, inspection, compliance monitoring and/or metering operations. Where a User has security measures in force which would require proper identification and clearance before entry into its premises, the User shall make necessary arrangements with its security personnel so that upon presentation of suitable identification, representatives of the Municipality, WWSA, PADEP and/or the EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities.

4.11 Operation and Maintenance of Pretreatment Facilities

a) It shall be the responsibility of the Industrial User to maintain its Pretreatment facility in a working order to provide consistent compliance with the limitations set forth in the Industrial Wastewater Discharge Permit and/or the Rules and Regulations of the WWSA. Operation of the pretreatment system shall be undertaken by the User according to the prescribed methods of the manufacturer as approved by the WWSA, to provide consistent compliance with the limitations set

forth in this Ordinance, the Industrial Wastewater Discharge Permit and the Rules and Regulations of the WWSA. The User shall be required to maintain documentation reflecting operations and maintenance of all pretreatment facilities.

b) If required by the WWSA, a User shall develop and implement a slug control plan containing the elements itemized at 40 CFR Section 403.8(f)(2)(vi). The slug control plan shall be submitted to the WWSA for review and approval before implementation.

c) Any User required to install and operate a grease trap or sediment trap shall maintain the equipment in working order to provide consistent compliance with the limitations set forth in any permit issued by the WWSA and/or the Rules and Regulations of the WWSA. Operation of the trap shall be undertaken by the User according to the prescribed methods of the manufacturer as approved by the WWSA, to provide consistent compliance with the limitations set forth in this Ordinance, any permit and the Rules and Regulations of the WWSA. The User shall be required to maintain documentation reflecting operations and maintenance of all grease and sediment traps for a period of three (3) years or for such period of time as may be required by any permit.

4.12 Flow Measurement

The volume of flow used in computing loadings or surcharges shall be based on the total water consumption data as obtained from the permittee or the records of the local water utility. If a User has a substantial portion of the metered water that does not reach the sanitary sewer system the User may, at its own expense, and with approval from the Executive Director, install a separate flow metering device to measure the actual discharge into the sanitary system. If the actual flow to the sanitary system is measured, the equipment used for the measurement of the flow must be maintained in proper working order at all times. A separate written record of calibration and maintenance must be kept for the flow metering device and made readily available for inspection by the WWSA.

4.13 WVSA Monitoring

The WVSA may conduct periodic monitoring of the following types:

a) Scheduled or unscheduled sampling and inspections of the User's facilities and records shall be conducted at all Class I Users at least once each year.

b) Additional sampling or inspections may be conducted whenever the WVSA determines a need to investigate the discharges of a User.

c) Demand sampling and inspections may be performed in response to a complaint or an unusual or emergency situation, such as when the WVSA determines a change in the normal discharge characteristics of the User's wastewater flow, if a violation was detected during sampling or self-monitoring under Section 4.13, if problems that may be attributable to the User's discharge occur in the Sewer System or WVSA Facilities, or if a complaint or report of noncompliance is received by the Municipality or WVSA.

d) If the WVSA performs routine compliance sampling of a User in lieu of the self-monitoring provisions of Section 4.13, the WVSA shall be subject to the repeat sampling requirement of Section 4.13(b) in the case that a violation of any Pretreatment Standard or Requirement is detected.

e) All discharge sampling and analyses conducted by WVSA shall be in accordance with the sampling and analysis requirements for User Self-monitoring in Section 4.14.

4.14 User Self-monitoring

a) Users subject to an Industrial Wastewater Discharge Permit may be required, at the User's expense, to conduct sampling and analyses of their Wastewater on a periodic schedule as established by the Permit. Should the results of said analyses indicate a violation of any provision of the User's permit, the User must:

i) Report the violation to the WVSA within 24 hours of becoming aware of the violation; and

ii) Repeat the sampling and analysis within thirty (30) days of becoming aware of the violation and report the results to the WVSA.

The resampling is not required if:

(A) The WVSA conducts monthly sampling; or

(B) The WVSA conducted compliance sampling between the time when the initial sample was collected and when the laboratory results were received.

b) All Wastewater sampling shall be representative of the Indirect Discharge. Unless otherwise specified in the Wastewater Discharge Permit (and documented in the WVSA files), all samples shall be collected as flow-proportional composite samples over a 24-hour period, except for samples for pH, cyanide, total phenols, Oil and Grease, sulfide, and volatile organic compounds which shall be obtained as grab samples. Grab samples for cyanide, total phenols and sulfides may be obtained as multiple grab samples and composited in the field or the laboratory before analysis; grab samples for Oil and Grease and volatile organic compounds may be obtained as multiple grab samples and composited in the laboratory before analysis. For constituents required to be collected as grab samples, the Permit shall specify the number of grab samples required for each representative analysis.

c) Unless otherwise specified in a Permit all sampling, sample preservation, and laboratory analyses shall be according to the requirements in 40 CFR Part 136.

4.15 User Reporting and Recordkeeping

All Users subject to an Industrial Wastewater Discharge Permit shall be required to submit such reports as required by 40 CFR 403.12 or the Industrial Wastewater Discharge Permit. Said reports include:

a) Baseline Monitoring Reports for all Categorical Industrial Users, as provided by 40 CFR Section 403.12(b); sampling shall be as provided at 40 CFR § 403.12(g)(4), and shall include a minimum of four grab samples for pH, cyanide, total phenols, Oil and Grease, sulfide, and volatile organic compounds for facilities for which historical sampling data do not exist, and a number as established by WVSA for facilities for which historical sampling data are available;

b) Compliance Schedule reports as required by 40 CFR Section 403.12(b)(7) and (c);

c) 90-Day compliance Reports for Categorical Industrial Users, as provided by 40 CFR Section 403.12(d); sampling shall be as provided at 40 CFR § 403.12(g)(4), and shall include a minimum of four grab samples for pH, cyanide, total phenols, Oil and Grease, sulfide, and volatile organic compounds for facilities for which historical sampling data do not exist, and a number as established by WVSA for facilities for which historical sampling data are available;

d) Periodic Reports on Continued Compliance as scheduled in accordance with the User's Industrial Wastewater Discharge Permit and Section 4.14 of this Ordinance;

e) Immediate notice to the WVSA of any discharge that constitutes a Slug Discharge;

f) Immediate notice to the WVSA of any change in the User's facility that could affect the potential to have a Slug Discharge;

g) Notification of any planned changes or modifications to the volume or character of the Industrial Wastewater Discharge, including any changes to listed or characteristic hazardous waste discharges reported under Section 4.16 of this Ordinance;

h) Sampling results and resampling reports as required by Section 4.14 of this Ordinance.

Every Significant Industrial User and any Non-Domestic User which is required, by permit or by request of the WVSA, to institute any monitoring, BMP, sampling, grease or sediment removal, or any other activity which will produce a record (such as flow meter or pH recorder charts, laboratory results, or hauled waste records) shall retain all such records for a period of at least three (3) years. All sampling records of Significant Industrial Users shall include the information as set forth at 40 CFR Section 403.12(o).

All records relating to compliance with Pretreatment Standards shall be made available to officials of the Approval Authority upon request. The reports and other documents required to be submitted or maintained under this section may be subject to the provisions of section 309(c)(4) of the Clean Water Act, as amended, and 18 Pa.C.S.A. Section 4904, as amended, governing false statements, representations, or certifications.

4.16 Reporting of Hazardous Waste Discharge

All Industrial Users shall be required, in accordance with 40 CFR 403.12(p), to report the discharge into the sanitary sewer system of any substance, which if otherwise disposed of, would be a listed or characteristic hazardous waste under 40 CFR Part 261. Said notification shall be in writing to the WVSA, the EPA Regional Waste Management Division Director, and the PADEP hazardous waste authorities, and shall include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of discharge (batch, continuous, or other).

If the User discharges more than 100 kilograms of such waste per calendar month to the WVSA, the notification shall also contain the following:

- a) an identification of the hazardous constituents contained in the wastes;
- b) an estimation of the mass and concentration of such constituents in the wastestream to be discharged in that calendar month;
- c) an estimation of the mass and concentration of such constituents in the wastestream expected to be discharged during the following 12 months.

All notifications must take place within 180 days of the first discharge of said hazardous waste. Any notification under this Section needs to be submitted only once for each hazardous waste discharged, provided that any planned change in the volume or character of the hazardous waste discharge must be reported as provided in Section 4.14 of this Ordinance. The notification requirement does not apply to pollutants already reported under the self-monitoring requirements of this Ordinance.

In the case of any notification made under this Section, the User shall certify that it has in place a program to reduce the volume and toxicity of hazardous wastes generated.

4.17 Signatory Responsibility

All required reports submitted by a User must be signed by an authorized representative, as defined by 40 CFR 403.12(l) to be:

a) a principal executive officer of at least the level of vice president if the User is a corporation;

b) a manager of one or more manufacturing, production or operating facilities, provided that the manager is authorized to make management decisions which govern the operation of the manufacturing facility and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedure;

c) a general partner or proprietor if the User is a partnership or sole proprietorship respectively;

d) a duly authorized representative of the individual designated in (a), (b), or (c) above if the authorization is made in writing by the Person designated in (a), (b) or (c), the authorization specifies either the individual or a position having responsibility for the overall operation of the facility from which the discharge originates; and the authorization is submitted to the WVSA.

Any person who knowingly makes any false statements, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to Federal Pretreatment Regulations and/or this ordinance, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under Federal Pretreatment Regulations or this Ordinance, shall be subject to the civil and criminal penalties as set forth at 40 CFR 403.12(n) governing false statements, representations or certifications in reports required under the Act, as well as 18 Pa.C.S.A. Section 4904, as amended, and other applicable State law.

4.18 Monitoring Location

The WWSA may require to be provided and operated at the User's own expense, monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems from which a discharge flows into the Sewer System. The monitoring facility should normally be situated on the User's premises, but the Municipality may, upon application by the User and when such a location would be impractical or cause undue hardship on the User, allow the facility to be constructed in the public street or sidewalk area and located so that it will not be obstructed by landscaping or parked vehicles.

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

Whether constructed on public or private property, the monitoring facilities shall be provided in accordance with the WWSA's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification of approval of the plans by the WWSA or within such other time as may be authorized by WWSA.

4.19 Classified Information

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

When requested by the person furnishing a report, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public but shall be made available upon written request to governmental agencies for uses related to this Ordinance, the National Pollutant Discharge Elimination System (NPDES) Permit, and the Pretreatment Program; provided, however, that such portions of a report shall be available for use by the state or any state agency in judicial review or enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristic shall not be recognized as confidential information.

Information accepted by the WWSA as confidential, shall not be transmitted to the general public by the WWSA until and unless a ten-day notification is given to the User. Information accepted as confidential by the WWSA shall be made available to governmental agencies. If requested by the User, the EPA and PADER will treat the submitted information as confidential to the extent provided in 40 CFR, Part 2.

4.20 Accidental Discharges

a) Each User shall provide protection from accidental discharge of prohibited materials or other substances regulated by this Ordinance. Facilities to prevent accidental discharge of prohibited materials and to mitigate, reduce, and contain any such discharge shall be provided and maintained at the User's expense. Detailed plans showing facilities and operating procedures to provide this protection shall be submitted to the WWSA for review, and shall be approved by the WWSA before construction of the facility. No User who commences Discharge of Industrial Wastewater to the Sanitary Sewer System after the effective date of this Ordinance shall be permitted to introduce pollutants into the system until accidental discharge protection, containment and countermeasure procedures have been approved by the WWSA. Review and approval of such plans and operating procedures shall not relieve the User from the responsibility to modify the User's facility as necessary to meet the requirements of this Ordinance.

b) In the case of an accidental discharge, it is the responsibility of the User to immediately telephone and notify the WWSA of the incident. The notification shall include location of the discharge, type of waste, concentration and volume, and corrective actions being taken.

c) Within five (5) days following an accidental discharge, the User shall submit to the Executive Director a detailed report describing the cause of the discharge and the measures to be taken by the User to prevent similar future occurrences. Such notification shall not relieve the User of any expense, loss, damage, or other liability which may be incurred as a result of damage to the WWSA, its facilities, or any other person or property; nor shall notification relieve the User of any fines, civil penalties, or other liability which may be imposed by this Ordinance or other applicable law. Failure to notify the Executive Director of an accidental discharge shall constitute a separate and distinct violation of this Ordinance.

d) A notice shall be permanently posted on the User's bulletin board or other prominent place advising employees who to call in the event of an accidental discharge. Employers shall insure that all employees who may be present in an area where an accidental discharge may occur are advised of the emergency notification procedure as well as the containment and countermeasures developed by the User to mitigate and control any such discharge.

4.21 Emergency Discharges

In the case of a Non-Domestic User that, for reasons of emergency maintenance, equipment failure, or other similar unforeseen event beyond the User's reasonable control, must Discharge Prohibited, high strength, or other Wastewater of unusual strength, character or volume, the User may apply to the Executive Director for an Emergency Discharge Permit. The Executive Director may issue such a permit, on terms and conditions as he deems appropriate, upon his review of the information provided and in his sole discretion. No discharge of the unusual Wastewater may be made until and unless an Emergency Discharge Permit has been issued. An Emergency Discharge Permit shall not be issued for longer than thirty (30) days and may be renewed only after a new application has been made.

SECTION 5 - VIOLATIONS AND ENFORCEMENT

5.1 Notification of Violation

Whenever the WWSA finds that any Non-Domestic User has violated or is violating this Ordinance, the Rules and Regulations of the WWSA, its Industrial Wastewater Discharge Permit, or any prohibition, limitation or requirements contained herein, the WWSA may serve upon such person a written Notice of Violation stating the nature of the violation. Within 30 days of the date of the notice, or within such other reasonable time as the Executive Director shall state, a plan for the satisfactory correction thereof shall be submitted to the WWSA by the User.

5.2 Show Cause Hearing

The WWSA may notify any User who is in violation of this Ordinance, an Industrial Wastewater Discharge Permit, or the Rules and Regulations of the WWSA, to show cause before the WWSA Board of Directors (or such other adjudicative body as the WWSA shall select) why a proposed enforcement action should not be taken. The notice shall be served on the User specifying the time and place of a hearing to be held by the WWSA regarding the violation, the reasons why the action is to be taken, the proposed enforcement action, and directing the User to show cause before the WWSA why the proposed enforcement action should not be taken. The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days before the hearing. Service may be made on any agent or officer of a corporation.

A Show Cause Hearing is not subject to the requirements of the Local Agency Law, 2 Pa. C.S.A. Section 551 et seq., but may be conducted as provided in that statute at the discretion of the WWSA Board or adjudicative body.

Within a reasonable time after the conclusion of a Show Cause Hearing, the Board of Directors (or adjudicative body) shall issue an opinion regarding the alleged violation and any enforcement action which it believes is appropriate. The WWSA may then proceed to undertake the recommended enforcement action, if any.

5.3 Other Legal Action

If any person discharges sewage, Industrial Wastewater or other wastes into the Sanitary Sewer System contrary to the provisions of this ordinance, Federal or state Pretreatment Requirements, the WWSA Rules and Regulations, or any Permit issued by the WWSA, the Municipal Solicitor may commence an action for appropriate legal and/or equitable relief in the Courts. When the WWSA determines the need for legal action, said action shall be undertaken by the Municipality within 30 days of notification by the WWSA.

In the alternative, for purposes of enforcement of this Ordinance and the Pretreatment Program, the Municipality hereby appoints the Wyoming Valley Sanitary Authority as its agent and authorizes the WWSA or its duly appointed agents and employees, to undertake any legal action in the name of Municipality, including but not limited to the filing of a Civil Complaint in the Court of Common Pleas of Luzerne County. In the case that WWSA acts in the name of Municipality,

Municipality shall cooperate with and support the WWSA in the prosecution of any civil action as may be necessary.

5.4 Revocation or Suspension of Permit

Any User who violates the following conditions of this Ordinance, applicable State or Federal regulations, or an Industrial Wastewater Discharge Permit is subject to having its Industrial Wastewater Discharge Permit revoked or suspended in accordance with the procedures of this Section:

- a) Failure of a User to factually and accurately report the wastewater constituents and characteristics of its discharge;
- b) Failure of the User to report significant changes in operations, or changes in Industrial Wastewater constituents and characteristics, including but not limited to changes in facilities related to the control of Slug Discharges as required by Section 4.14(f);
- c) Refusal of reasonable access to the User's premises for the purpose of inspection or monitoring; or,
- d) Violation of any condition of the Industrial Wastewater Discharge Permit.

Upon notice of suspension or revocation of an Industrial Wastewater Discharge Permit the User shall immediately cease the discharge of Industrial Wastewater to the Sewer System. Any discharge of Industrial Wastewater to the Sewer System after notice of revocation or suspension shall be a violation of this Ordinance and subject to the penalties provided herein. In the case of a suspension, the Permit shall be reinstated upon a showing that the User has corrected the condition for which the suspension was imposed. In the case of a revocation, the User may only receive a new Permit by going through the application process as stated in Section 4.5 of this Ordinance.

5.5 Suspension of Sewer Service

The Municipality and/or the WVSA may suspend the wastewater treatment service when such suspension is necessary, in the opinion of the WVSA, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons, to the environment, causes Interference or Pass Through at the WVSA's treatment plant or causes the WVSA or Municipality to violate or be in danger of violating any condition of an NPDES Permit or state-issued Water Quality Management Permit.

Any person notified of a suspension of the wastewater treatment service shall immediately stop or eliminate the discharge. In the event of a failure of the person to comply voluntarily with the suspension order, the Municipality may, and the WVSA is authorized to, take such steps as deemed necessary including immediate severance or obstruction of the sewer connection from the User's property, to prevent or minimize damage to the Sewer System or the WVSA Facilities or endangerment to any individuals. The WVSA or the Municipality shall reinstate the wastewater treatment service only upon satisfactory proof of elimination of the non-complying discharge. All costs associated with the severance and/or reconnection of a sewer shall be incurred by the User.

5.6 Civil Penalties

Any User who is found to have violated any provision of this Ordinance, the Rules and Regulations of the WVSA, as amended, or any regulations or permits issued by the WVSA or the Municipality shall be subject to a civil penalty of not less than \$100.00 nor more than \$1,000.00 per each violation. Each day on which a violation shall occur or continue to occur shall be deemed a separate and distinct violation.

Municipality recognizes that the WVSA has independent civil penalty authority under the provisions of the Publicly Owned Treatment Works Penalty Law (Act 9 of 1992, 35 P.S. § 752.1 et seq.). Any violation of this Ordinance shall constitute a violation of the WVSA's EPA-approved industrial pretreatment program and subject an Industrial User to the penalties provided thereunder. Should WVSA choose to assess a civil penalty under its independent authority against a User who violates any provision of this Ordinance, Municipality shall cooperate to the extent necessary to aid WVSA in such an action.

In addition to the civil penalties provided herein, the Municipality and/or the WWSA may recover reasonable attorney's fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this Ordinance, the WWSA rules and regulations, or any permit issued hereunder.

5.7 Right of Appeal

Any User subject to an enforcement action or issuance or denial of an Industrial Wastewater Discharge Permit under this Ordinance may file an appeal with the WWSA within 15 days of receipt of the notice of the enforcement action or permit issuance, revision, or denial. Said appeal shall be conducted by the WWSA as provided in the Local Agency Law, 2 Pa. C.S.A. Section 551, et seq.

5.8 Public Notification

The WWSA shall annually publish in a local newspaper of general circulation, a list of the Significant Industrial Users which were in Significant Non-Compliance with the Pretreatment Standards and Requirements contained herein at least once during the previous calendar year. Significant Non-Compliance shall include any of the following:

a) Chronic Violations, defined as those in which 66 percent or more of all measurements taken for the same pollutant parameter during a six-month period are in excess of an applicable numeric Pretreatment Standard or Requirement, including instantaneous maximum limits;

b) Technical Review Criteria (TRC) Violations, defined as those in which 33 percent or more of all measurements taken for the same pollutant parameter during a six-month period equal or exceed the product of the numeric Pretreatment Standard or Requirement, including instantaneous limits multiplied by the applicable TRC. TRC is 1.4 for BOD, TSS, Oil and Grease, and 1.2 for all other pollutants except pH;

c) Any other violations of a Pretreatment Standard or Requirement, including a narrative standard, which the WWSA determines has caused or contributed to Interference or Pass Through;

d) Any discharge that has caused imminent endangerment to human health and safety or the environment, or has resulted in the WVSA's exercise of its authority to halt or prevent such a discharge under Sections 5.4 or 5.5 of this Ordinance;

e) Failure to meet a compliance schedule milestone within 90 days of the schedule date;

f) Failure to provide within 45 days after the due date, required reports as itemized in Section 4.15 of this Ordinance;

g) Failure to accurately report noncompliance;

h) Any other violation or groups of violations including a violation of a BMP imposed by a permit or implemented as part of a plan developed by the User and approved by the WVSA, which the WVSA determines to adversely affect the operation or implementation of its approved pretreatment program.

The newspaper notice shall also summarize any enforcement actions taken against the User during the same time period.

SECTION 6 - COOPERATION

The Municipality and the WVSA shall cooperate in all matters as they pertain to this Ordinance. Neither the Municipality nor the WVSA shall act in any manner so as to compromise in any way the ability of the other party to administer this Ordinance.

SECTION 7 - SEVERABILITY

The provisions of this Ordinance are severable. If any provision, paragraph, word, or section of this Ordinance is declared to be unconstitutional, illegal, or invalid, the validity of the remaining provisions, paragraphs, words, or sections shall be unaffected thereby and shall be in full force and effect. It is the intention of the Municipality that this Ordinance would have been adopted had such unconstitutional, illegal or invalid part not been included.

SECTION 8 - CONFLICT


This Ordinance repeals in its entirety all Ordinances and parts of other Ordinances which are inconsistent or conflicting with any part of this Ordinance to the extent of such inconsistency or conflict. In particular, and not by way of limitation, the Wastewater Collection and Treatment Ordinance passed by West Wyoming Borough on April 8, 1991, is hereby repealed.

SECTION 9 - EFFECTIVE DATE

This Ordinance shall be in full force and effect from and after its passage, approval and publication, as provided by law.

Enacted by West Wyoming Borough at a regular public meeting on May 14th, 2012.

ATTEST:



Raymond P. Gustave
Borough Secretary

Eleen Cipriani, Chairperson
West Wyoming Borough Council