

Industrial Pretreatment Program Provisions

Revised April 10, 2017

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Industrial Pretreatment Program Provisions

Article 1. General Provisions

Section 1.1 Purpose and Policy

These provisions set forth uniform requirements for users of the Authority's sewer system and enable the Authority to comply with all applicable state and federal laws, including the Clean Water Act (33 United States Code [U.S.C.] section 1251 et seq.) and the General Pretreatment Regulations (Title 40 of the Code of Federal Regulations [CFR] Part 403). The objectives of these provisions are:

- a. to prevent the introduction of pollutants into the sewer system that will interfere with the operation of the collection or treatment systems including interference with the use or disposal of the resulting sludge;
- b. to prevent the introduction of pollutants into the sewer system that will pass through the system, inadequately treated, into receiving waters or the atmosphere or otherwise be incompatible with the system;
- c. to prevent the introduction of pollutants into the sewer system that would expose the Authority's personnel to chemical hazards;
- d. to improve the opportunity to recycle and reclaim wastewater and sludge from the system;
- e. to provide for equitable distribution of the cost of the municipal wastewater system; and
- f. to enable the Authority to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the Authority is subject.

These provisions provide for the regulation of all users of the POTW through the issuance of permits to certain non-domestic users and through enforcement of general requirements for the other users. These provisions also authorize monitoring and enforcement activities, require user reporting, assume that existing customer's capacity will not be preempted, and provide for the setting of fees for the equitable distribution of costs resulting from the program established herein.

These provisions shall apply to persons who are, by contract or agreement with the Authority, users of one of the sewage treatment plants of the Authority.

Section 1.2 Administration

Except as otherwise provided herein, the Authority shall administer, implement, and enforce these provisions.

Section 1.3 Abbreviations

BOD – Biochemical Oxygen Demand
BMP – Best Management Practice
BMR – Baseline Monitoring Report
CFR – Code of Federal Regulations
CIU – Categorical Industrial User
COD – Chemical Oxygen Demand

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DEP – Department of Environmental Protection
EPA – Environmental Protection Agency
gpd – gallons per day
IU – Industrial User
mg/L – milligrams per liter
MGD – million gallons per day
MTCIU – Middle-Tier Categorical Industrial User
NPDES – National Pollutant Discharge Elimination System
NSCIU – Non-Significant Categorical Industrial User
PCR – Periodic Compliance Report
POTW – Publicly Owned Treatment Works
RCRA – Resource Conservation and Recovery Act
SIC – Standard Industrial Classification
SIU – Significant Industrial User
SNC – Significant Noncompliance
SWDA – Solid Waste Disposal Act
TRC – Technical Review Criteria
TSS – Total Suspended Solids

Section 1.4 Definitions

ACT: The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et seq.

APPROVAL AUTHORITY: The director in an NPDES state with an approved state pretreatment program and the appropriate regional administrator in a non-NPDES state or NPDES state without an approved state pretreatment program.

APPROVED PRETREATMENT PROGRAM (or “PRETREATMENT PROGRAM”): The program administered by the Authority that meets the criteria established by 40 CFR 403.8 and 403.9 and which has been approved by a regional administrator or state director in accordance with 40 CFR 403.11.

AUTHORITY: The word “Authority”, whenever the same appears herein, means the Municipal Authority of Westmoreland County, a body corporate and politic organized and existing under the laws of the Commonwealth of Pennsylvania.

AUTHORIZED REPRESENTATIVE (or “DULY AUTHORIZED REPRESENTATIVE”): If the user is a corporation, this term shall mean the president, vice president, secretary, or treasurer in charge of a principal business function, or any other person who performs similar policy or decision-making functions. It may also mean the manager of one or more manufacturing, production, or operating facilities, provided the manager 1) 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 initiating and directing other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations, 2) can ensure that the necessary systems are established or actions taken to gather complete and accurate information for individual wastewater discharge

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permit requirements, and 3) has been assigned or delegated the authority to sign documents in accordance with corporate procedures. If the user is a partnership or sole proprietorship, this term shall mean a general partner or proprietor, respectively. If the user is a federal, state, or local government facility, this term shall mean a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee. Any of the individuals described above may designate a duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to the Authority.

BEST MANAGEMENT PRACTICES (BMPs): Schedules of activities, prohibitions of practices, maintenance procedures, and other management practices used to implement the prohibitions listed in these provisions. BMPs also include treatment requirements, operating procedures, and practices to control site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

BIOCHEMICAL OXYGEN DEMAND (BOD): The quantity of oxygen utilized in the biochemical oxidation of the organic matter in sewage or industrial waste under standard laboratory procedure in 5 days at 20°C (under aerobic conditions), expressed in milligrams per liter by weight. It shall be determined by an acceptable method.

BUILDING SEWER: A sewer conveying wastewater from the premises of a user to the wastewater system of the Authority.

CATEGORICAL INDUSTRIAL USER (CIU): An industrial user subject to a categorical pretreatment standard.

CATEGORICAL PRETREATMENT STANDARD (or “**CATEGORICAL STANDARD**”): Any regulation containing pollutant discharge limits promulgated by EPA in accordance with sections 307(b) and (c) of the Act (33 U.S.C. section 1317) that apply to a specific category of users and that appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.

CHEMICAL OXYGEN DEMAND (COD): A measure of the oxygen required to oxidize all compounds, both organic and inorganic, in water.

CONTROL AUTHORITY: The Municipal Authority of Westmoreland County if the Authority has an approved pretreatment program applicable under the provisions of 40 CFR 403.11, or it shall mean the approval authority if the pretreatment program has not been approved.

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

DAILY MAXIMUM LIMIT: The maximum allowable discharge limit of a pollutant during a calendar day. Where daily maximum limits are expressed in units of mass, the daily discharge is the total mass discharged over the course of the day. Where daily maximum limits are expressed

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in terms of a concentration, the daily discharge is the arithmetic average measurement of the pollutant concentration derived from all measurements taken that day.

DIRECT DISCHARGE: The discharge of treated or untreated wastewater directly to the waters of the Commonwealth of Pennsylvania.

DIRECTOR: The chief administrative officer of a state or interstate water pollution control agency with an NPDES permit program approved pursuant to Section 402(b) of the Act and an approved state pretreatment program.

ENVIRONMENTAL PROTECTION AGENCY (EPA): The U.S. Environmental Protection Agency, or where the term may also be used as a designation for the regional water protection division director, the regional administrator, or other duly authorized official of said agency.

EXISTING SOURCE: Any source of discharge that is not a “new source.”

GRAB SAMPLE: A sample that is taken from a waste stream with no regard to the flow in the waste stream and over a period of time not to exceed 15 minutes.

HOLDING TANK WASTE: Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.

INDIRECT DISCHARGE (or “**DISCHARGE**”): The introduction of pollutants into the POTW from any non-domestic source.

INDUSTRIAL USER: Any industry that contributes, causes, or permits the contribution of wastewater into the POTW. A source of indirect discharge.

INSTANTANEOUS LIMIT: 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.

INTERFERENCE: A discharge that, alone or in conjunction with a discharge or discharges from other sources, both:

- a. inhibits or disrupts the POTW, its treatment processes or operations, or its sludge processes, use, or disposal; and
- b. therefore is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation) or of the prevention of sewage sludge use or disposal in compliance with the following statutory provisions and regulations or permits issued thereunder (or more stringent state or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA), and including state regulations contained in any state sludge management plan prepared pursuant to subtitle D of the SWDA), the Clean Air Act, the Toxic Substances Control Act, and the Marine Protection, Research and Sanctuaries Act.

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LOCAL LIMITS: The specific discharge limits developed and enforced by the Authority upon industrial or commercial facilities to implement the general and specific discharge prohibitions listed in 40 CFR 403.5(a)(1) and (b).

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

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

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

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

- a. The building, structure, facility, or installation is constructed at a site at which no other source is located;
- b. The building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
- c. The production of wastewater generating processes of the building, structure, facility or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source should be considered.

Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of this section but otherwise alters, replaces, or adds to existing process or production equipment. Construction of a new source as defined here has commenced if the owner or operator has:

- a. Begun or caused to begin, as part of a continuous onsite construction program:
 - a. Any placement, assembly, or installation of facilities, or equipment; or
 - b. Significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of new source facilities or equipment; or
- b. Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation.

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NONCONTACT COOLING WATER: Water used for cooling that does not come into direct contact with any raw material, intermediate product, waste product, or finished product.

NPDES PERMIT: A permit issued to a POTW pursuant to Section 402 of the Act.

NPDES STATE: A state (as defined in 40 CFR 122.2) or interstate water pollution control agency with an NPDES permit program approved pursuant to Section 402(b) of the Act.

PASS-THROUGH: A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of the POTW's NPDES permit (including an increase in the magnitude or duration of a violation).

PERSON: Any individual, partnership, co-partnership, firm, company, corporation, association, joint stock company, trust, estates, governmental entity, or any other legal entity, or their legal representatives, agents, or assigns. This definition includes all federal, state, and local governmental entities.

pH: The numerical measure of the acidity or basicity of a solution, expressed in standard units, usually measured on a scale of 0 to 14. Neutral solutions have a pH of 7, acidic solutions have a pH lower than 7, and basic solutions have a pH higher than 7. The term pH stands for potential of hydrogen, since pH is effectively a measure of the concentration of hydrogen ions in a substance.

POLLUTANT: Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, 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 (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).

PRETREATMENT: The reduction of the amount of pollutants or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of, introducing such pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical, or biological processes, by process changes, or by other means, except as prohibited by 40 CFR 403.6(d). Appropriate pretreatment technology includes control equipment, such as equalization tanks or facilities, for protection against surges or slug discharges that might interfere with or otherwise be incompatible with the POTW. However, where wastewater from a regulated process is mixed in an equalization facility with unregulated wastewater or with wastewater from another regulated process, the effluent from the equalization facility must meet an adjusted pretreatment limit calculated in accordance with CFR 403.6(e).

PRETREATMENT REQUIREMENT: Any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user.

PRETREATMENT STANDARD: Prohibited discharge standards, categorical pretreatment standards, and local limits.

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PROHIBITED DISCHARGE STANDARDS (or “PROHIBITED DISCHARGES”): Absolute prohibitions against the discharge of certain substances.

PUBLICLY OWNED TREATMENT WORKS (POTW): A treatment works, as defined by Section 212 of the Act (33 U.S.C. section 1292), which is owned by the Authority. This definition includes any devices or systems used in the collection, storage, treatment, recycling, and reclamation of sewage or industrial wastes of a liquid nature and any conveyances that convey wastewater to a treatment plant.

SANITARY SEWAGE: The normal water-carried household and toilet wastes from residences, business buildings, institutions, industrial establishments, and commercial establishments, exclusive of storm water runoff, surface water, or ground water.

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

SEWAGE: A combination of water-carried wastes from residences, business buildings, institutions, industrial establishments, and commercial establishments, together with such ground, surface, or storm water as may be present.

SIGNIFICANT INDUSTRIAL USER (SIU): All industrial users subject to categorical pretreatment standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N and any other industrial user that:

- a. discharges an average of 25,000 gallons per average work day or more of process wastewater to POTW (excluding sanitary, non-contact cooling and boiler blowdown wastewater);
- b. contributes a process wastestream that makes up 5% or more of the average dry weather hydraulic or organic capacity of the sewage treatment plant; or
- c. is designated as such by the Authority on the basis that the industrial user has a reasonable potential for adversely affecting the POTW’s operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).

Upon finding that an industrial user meeting these criteria has no reasonable potential for adversely affecting the POTW’s operation or for violating any pretreatment standard or requirement, the Authority may at any time, on its own initiative or in response to a petition received from an industrial user, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.

SIGNIFICANT NONCOMPLIANCE: A term meaning that a significant industrial user is in violation and meets the criteria listed in Article 12.

SLUG DISCHARGE: Any discharge at a flow rate or concentration that would cause a violation of the prohibited discharge standards in these provisions. It shall also mean 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 Authority’s regulations, local limits, or permit conditions.

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

STORM WATER: Any flow occurring during or following any form of natural precipitation, and resulting therefrom.

TOTAL SUSPENDED SOLIDS (TSS) (or “SUSPENDED SOLIDS”): Solids that either float on the surface or are in suspension in water, sewage, industrial waste, or other liquids that are removable by laboratory filtration.

TOXIC POLLUTANT: Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the EPA under the provisions of the Clean Water Act 307(a) or other Acts.

WASTEWATER: The liquid and water-carried industrial or domestic wastes from dwellings, commercial buildings, industrial and manufacturing facilities, and institutions, whether treated or untreated, which is contributed into or permitted to enter the POTW.

WASTEWATER DISCHARGE PERMIT: A permit as set forth in Article 4.

WASTEWATER TREATMENT PLANT (or “SEWAGE TREATMENT PLANT”): The portion of the POTW designed to provide treatment of municipal sewage and industrial waste.

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

Article 2. General Sewer Use Requirements

Section 2.1 Prohibited Discharge Standards

2.1.1 General Prohibitions

No user shall contribute or cause to be contributed, directly or indirectly, any pollutant or wastewater that will cause pass-through or interference with the operation or performance of the POTW. These general prohibitions apply to all such users of a POTW whether or not the user is subject to National Categorical Pretreatment Standards or any other national, state, or local pretreatment standards or requirements.

2.1.2 Specific Prohibitions

No user shall contribute or cause to be contributed into the POTW any of the following pollutants, substances, or wastewater:

- a. Any liquids, solids, or gases that by reason of their nature or quantity are, or may be, sufficient either alone or by interaction with other substances to cause fire or explosion or be injurious in any way to the POTW or to the operation of the POTW. These substances include, but are not limited to, waste streams with a

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closed cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21. At no time shall two successive readings on an explosion hazard meter at the point of discharge into the system (or at any point in the system) be more than 5% nor any single reading over 10% of the Lower Explosive Limit (LEL) of the meter. Prohibited materials include, but are not limited to, gasoline, kerosene, naphtha, benzene, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides, sulfides, and any other substances that the control authority or approval authority has notified the user is a fire hazard or a hazard to the collection or treatment system.

- b. Solid or viscous substances that may cause obstruction to the flow in a sewer or other interference with the operation of the wastewater treatment facilities including, but not limited to, grease, garbage with particles greater than one-half inch in any dimension, animal guts or tissues, paunch manure, bones, hair, hides, fleshings, entrails, whole blood, feathers, ashes, cinders, sand, spent lime, stone or marble dust, metal, glass, straw, shavings, grass clippings, rags, spent grains, spent hops, waste paper, wood, plastics, gas, tar, asphalt residues, residues from refining or processing of fuel, lubricating oil, mud, and glass grinding or polishing wastes.
- c. Any wastewater having a pH less than 6.0 or wastewater having any other corrosive property capable of causing damage or hazard to structures, equipment, and/or personnel of the POTW.
- d. Any wastewater containing toxic pollutants or pollutants that result in the presence of toxic gases, vapors, or fumes, in sufficient quantity, either singly or by interaction with other pollutants, to injure or interfere with any wastewater treatment process, cause injury or worker health and safety problems, constitute a hazard to humans or animals, create a toxic effect in the receiving waters of the POTW, or exceed the limitation set forth in a Categorical Pretreatment Standard. Toxic pollutants include, but are not limited to, any pollutant identified pursuant to Section 307(a) of the Act.
- e. Any noxious or malodorous liquids, gases, or solids that either singly or by interaction with other wastes are sufficient to create a public nuisance or hazard to life or are sufficient to prevent entry into the sewers for maintenance and repair.
- f. Any substance that may cause the POTW's effluent or any other product of the POTW such as residues, sludge, or scum, to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines, or regulations developed under Section 405 of the Act or any criteria, guidelines, or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or state criteria applicable to the sludge management method being used.
- g. Any substance that will cause the POTW to violate its NPDES and/or State Disposal System Permit or the receiving water quality standards.
- h. Any wastewater with objectionable color not removed in the treatment process, including, but not limited to, dye wastes and vegetable tanning solutions.

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- i. Any wastewater having a temperature that will inhibit biological activity in the POTW resulting in pass-through or interference, but in no case wastewater with a temperature at the introduction into the POTW that exceeds 40°C (104°F), unless EPA has approved alternate limits as requested by the POTW.
- j. Any pollutants, including oxygen-demanding pollutants, released at a flow rate and/or pollutant concentration that a user knows or has reason to know will cause pass-through or interference in the POTW. In no case shall a slug discharge have a flow rate or contain concentration or quantities of pollutants that exceed for any time period longer than 15 minutes more than five times the average 24-hour concentration, quantities, or flow during normal operation.
- k. Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as may exceed limits established by the Authority in compliance with applicable state or federal regulations.
- l. Any wastewater that causes a hazard to human life or creates a public nuisance.
- m. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause pass-through or interference in the POTW.
- n. Any trucked or hauled pollutants, except at discharge points designated by the Authority.
- o. Storm water, surface water, ground water, artesian well water, roof runoff, subsurface drainage, swimming pool drainage, condensate, deionized water, noncontact cooling water, and unpolluted wastewater, unless specifically authorized by the Authority.
- p. Sludge, screenings, or other residues from the pretreatment of industrial wastes.
- q. Medical wastes, except as specifically authorized by the Authority in an individual wastewater discharge permit.
- r. Detergents, surface-active agents, or other substances that might cause excessive foaming in the POTW.

When the Authority determines that a user is contributing to the POTW any of the above substances in such amounts as to cause pass-through or interference in the POTW, the Authority will advise the user of the impact of the contribution on the POTW and develop effluent limitations for such user to correct the problem of pass-through or interference in the POTW. The Authority may pursue an enforcement action, as outlined herein, against the industrial user in the event that the user causes pass-through or interference.

Section 2.2 National Categorical Pretreatment Standards

Users must comply with the categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405-471.

When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Authority shall impose an alternate limit in accordance with 40 CFR 403.6(e).

2.2.1 Adjustments to National Categorical Pretreatment Standards

A CIU may obtain a net/gross adjustment to a categorical pretreatment standard in accordance with the following paragraphs of this section.

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2.2.1.1 Credit for Intake Pollutants

Categorical pretreatment standards may be adjusted to reflect the presence of pollutants in the industrial user's intake water in accordance with this section. Any industrial user wishing to obtain credit for intake pollutants must submit an application to the Authority. Upon request of the industrial user, the applicable standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for pollutants in the intake water) in accordance with the following:

- a. Either the applicable categorical pretreatment standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis or the industrial user demonstrates that the control system it proposes or uses to meet applicable categorical pretreatment standards would, if properly installed and operated, meet the standards in the absence of pollutants in the intake waters.
- b. Credit for generic pollutants such as biochemical oxygen demand (BOD), total suspended solids (TSS), and oil and grease shall not be granted unless the industrial user demonstrates that the constituents of the generic measure in the user's effluent are substantially similar to the constituents of the generic measure in the intake water or unless appropriate additional limits are placed on process water pollutants either at the outfall or elsewhere.
- c. Credit shall be granted only to the extent necessary to meet the applicable categorical pretreatment standards, up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with standards adjusted under this section.
- d. Credit shall be granted only if the user demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The Authority may waive this requirement if it finds that no environmental degradation will result.

2.2.1.2 Conversion to Equivalent Mass Limits

When a categorical pretreatment standard is expressed only in terms of pollutant concentrations, an industrial user may request that the Authority convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the Authority. The Authority may establish equivalent mass limits only if the industrial user meets all of the following conditions:

- a. The industrial user must employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its individual wastewater discharge permit.
- b. The industrial user must currently use control and treatment technologies adequate to achieve compliance with the applicable categorical pretreatment standard and not have used dilution as a substitute for treatment.
- c. The industrial user must provide sufficient information to establish the facility's actual average daily flow rate for all waste streams, based on data from a continuous effluent flow monitoring device, as well as the

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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. The industrial user must not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the discharge.
- e. The industrial user must have consistently complied with all applicable categorical pretreatment standards during the period prior to the industrial user's request for equivalent mass limits.

The Authority will calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated processes of the industrial user by the concentration-based daily maximum and monthly average standard for the applicable categorical pretreatment standard and the appropriate unit conversion factor. 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 limitation.

Once included in its permit, the industrial user must comply with the equivalent limitations developed in lieu of the promulgated categorical standards from which the equivalent limitations were derived. An industrial user that is subject to equivalent mass limits must maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits. The industrial user must continue to employ the same or comparable water conservation methods and technologies so long as it discharges under an equivalent mass limit. The industrial user must continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device. The industrial user must continue to record the facility's production rates and shall notify the Authority within two business days after the user has a reasonable basis to know that the production level will vary by more than 20 percent from its baseline production rates within the next calendar month. Any user not notifying the Authority of such anticipated change will be required to meet the mass or concentration limits in its permit that were based on the original estimate of the long-term average production rate.

Upon notification of a revised production rate, the Authority will reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility. The Authority may retain the same equivalent mass limit in subsequent individual wastewater discharge permit terms if the industrial user's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies, and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment. The industrial user must also be in compliance with the provisions regarding the prohibition of bypass.

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2.2.1.3 Conversion to Equivalent Concentration Limits

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

Section 2.3 Local Limits

The Authority is authorized to establish local limits pursuant to 40 CFR 403.5. The local limits are established to protect against pass-through and interference. No person shall discharge wastewater containing in excess of the local limits. The limits apply to the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for total metal unless indicated otherwise. The Authority may impose mass limitations in addition to the concentration-based limitations. The Authority reserves the right to establish more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives in these provisions.

The Authority may develop Best Management Practices (BMPs), by resolution or in individual wastewater discharge permits, to implement local limits and any other requirements.

Section 2.4 Right of Revision

The Authority reserves the right to establish more stringent limitations or requirements on discharges to the wastewater disposal system if deemed necessary to comply with the objectives of these provisions.

Section 2.5 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 the limitations contained in the national categorical pretreatment standards, or in any other pollutant-specific limitation developed by the Authority or the state. Dilution is permitted only where expressly authorized by an applicable pretreatment standard or requirement. The Authority 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.

Article 3. Pretreatment of Wastewater

Section 3.1 Pretreatment Facilities

Users shall provide necessary wastewater treatment as required to comply with these provisions and shall achieve compliance with all national categorical pretreatment standards within the time limits specified by the pretreatment regulations. Any pretreatment facilities required to pretreat wastewater to a level acceptable to the Authority shall be provided, operated, and maintained at the industrial user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Authority for review, and must be approved by the Authority before construction of the facility. The review of such plans and operating procedures will, in no way, relieve the industrial user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the Authority under these provisions. Any planned changes in the pretreatment facilities or method of operation shall be

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reported to the Authority and must be approved by the Authority prior to the industrial user's initiation of such changes.

Section 3.2 Slug Discharge Control Plans

SIUs shall provide protection from slug discharges of prohibited materials or other substances regulated by these provisions. Facilities to prevent slug discharges shall be provided and maintained at the owner or user's own cost and expense. A Slug Discharge Control Plan showing these facilities and a complete description of operating procedures implemented to provide this protection shall be submitted to the Authority prior to construction. All existing SIUs shall have completed the Slug Discharge Control Plan as required by these provisions. No industrial user who commences contribution to the POTW after the effective date of these provisions shall be permitted to introduce pollutants into the system until the Slug Discharge Control Plan has been approved by the Authority. Review and approval of such plans and operating procedures shall not relieve the industrial user from the responsibility to modify the industrial user's facility as necessary to meet the requirements of these provisions. A Slug Discharge Control Plan must include, but not be limited to, the following:

1. Description of discharge practices, including non-routine batch discharges.
2. Description of stored chemicals.
3. Procedures for immediately notifying the POTW of slug discharges with procedures for follow-up written notification within 5 days.
4. Procedures to prevent adverse effects from any slug discharge. Such procedures include, but are not limited to, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building containment structures or equipment, measures for containing toxic organic pollutants (including solvents), and/or measures and equipment for emergency response.

Section 3.3 Notification Procedure

In the case of any discharge that might cause potential problems for the POTW, the user shall immediately call and notify the Authority 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.

Within five days following such discharge, the user shall, unless waived by the Authority, submit a detailed written 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 might be incurred as a result of 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 these provisions.

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 a discharge described above. Employers shall ensure that all employees who could cause such a discharge to occur are advised of the emergency notification procedure.

SIUs are required to notify the Authority immediately of any changes at the facility affecting the potential for a slug discharge.

Section 3.4 Hauled Wastewater

Septic tank waste may be introduced into the POTW only at locations designated by the Authority and at such times as are established by the Authority. Such waste shall not violate

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these provisions or any other requirements established by the Authority. The Authority may require septic tank waste haulers to obtain individual wastewater discharge permits.

The Authority may require generators and/or haulers of hauled industrial waste to obtain individual wastewater discharge permits. The Authority also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of these provisions.

Industrial waste haulers may discharge loads only at locations designated by the Authority. No load may be discharged without prior consent of the Authority. The Authority may collect samples of each hauled load to ensure compliance with applicable standards. The Authority may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.

Industrial waste haulers must provide a waste-tracking form for every load. This form shall include, at a minimum, the name and address of the industrial waste hauler, permit number, truck identification, names and addresses of sources of waste, and volume and characteristics of waste. The form shall identify the type of industry, known or suspected waste constituents, and whether any wastes are RCRA hazardous wastes.

Article 4. Individual Wastewater Discharge Permits

Section 4.1 Wastewater Analysis

When requested by the Authority, a user must complete and submit an industrial waste survey with information on the nature and characteristics of its wastewater within 60 days of the request. The Authority is authorized to prepare a form for this purpose and may periodically require users to update this information.

Section 4.2 Individual Wastewater Discharge Permit Requirement

No Significant Industrial User shall discharge wastewater into the POTW without first obtaining an individual wastewater discharge permit from the Authority, except that a Significant Industrial User that has filed a timely application may continue to discharge for the time period specified therein.

The Authority may require other industrial users to obtain individual wastewater discharge permits as necessary to carry out the purposes of these provisions.

Any violation of the terms and conditions of an individual wastewater discharge permit shall be deemed a violation of these provisions. Obtaining an individual wastewater discharge permit does not relieve a permittee of its obligation to comply with all federal and state pretreatment standards and requirements or with any other requirements of federal, state, and local law. Compliance with applicable pretreatment standards and requirements by industrial users is mandatory.

Any existing industrial users required to obtain an individual wastewater discharge permit shall apply within 30 days after the effective date of these provisions.

Any proposed new sources required to obtain an individual wastewater discharge permit shall apply at least 90 days prior to connecting to or contributing to the POTW.

Section 4.3 Permit Application Contents

Industrial users required to obtain an individual wastewater discharge permit shall complete and file an application on the form prescribed by the Authority and pay the associated fee as set forth in the Wastewater Service Rate & Fee Schedule. As part of the application, the industrial

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user shall submit, in units and terms appropriate for evaluation, all of the information listed below.

1. Identifying Information
 - a. Name, address, and location of the facility.
 - b. Name of all operators and owners.
 - c. Contact information.
 - d. Description of activities, facilities, and plant production processes on the premises.
2. Environmental Permits
 - a. A list of any environmental control permits held by or for the facility.
3. Description of Operations
 - a. A description of the nature of activities, facilities, and plant processes on the premises including all materials that are or could be discharged.
 - b. SIC number according to the Standard Industrial Classification.
 - c. Each product produced by type, amount, process, and rate of production.
 - d. Type and amount (average and maximum per day) of raw materials processed.
 - e. Number and type of employees, hours of operation, and proposed to actual hours of operation.
 - f. A complete set of site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, sewer connections, and appurtenances by size, location, and elevation.
 - g. The average daily and 30-minute peak wastewater flow rates, including daily, monthly, and seasonal variations, if applicable.
4. Time and Duration
 - a. Time and duration of the discharge of wastewater.
5. Monitoring Location
 - a. The location for monitoring all wastes covered by the permit.
6. Flow Measurement
 - a. Information showing the measured average daily flow and maximum daily flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined waste stream formula set out in 40 CFR 403.6.
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 Authority, of regulated pollutants in the discharge from each regulated process.
 - c. Instantaneous, daily maximum, and long-term average concentrations, or mass where required.
 - d. Sampling and analysis shall be performed in accordance with procedures set out in Article 8 of these provisions. Where the standard requires compliance with a BMP or pollution prevention alternative, the user shall submit documentation as required by the Authority or the applicable standards to determine compliance with the standard.

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8. Requests
 - a. May include a request for a monitoring waiver (or renewal of an approved monitoring waiver) for a pollutant neither present nor expected to be present in the discharge based on 40 CFR 403.12(e)(2).
9. Other Information
 - a. Any other information as may be deemed necessary by the Authority to evaluate the permit application.
10. Certification and Signature
 - a. A certification statement as expressed in 40 CFR 403.6(a)(2)(ii) and the signature of an authorized representative of the industrial user. If the designation of an authorized representative is no longer accurate because a different individual or position has responsibility for the overall operation of the facility or overall responsibility for environmental matters for the company, a new written authorization satisfying the requirements of this section must be submitted to the Authority prior to or together with any reports to be signed by the authorized representative. A facility determined to be a non-significant categorical industrial user by the Authority must annually submit a signed certification statement.

Section 4.4 Permit Decisions

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

The Authority will evaluate the data furnished by the industrial user and may require additional information. After evaluation and acceptance of the data furnished, the Authority may issue a wastewater discharge permit subject to the terms and conditions provided herein.

The Authority may at its discretion deny issuance of a permit to industrial users where such contributions of pollutants do not meet applicable pretreatment standards and requirements or where such contributions would cause the POTW to violate its NPDES permit.

Article 5. Individual Wastewater Discharge Permit Issuance

Section 5.1 Permit Duration

Permits shall be issued for a specified time period, not to exceed five years. A permit may be issued for a period less than a year or may be stated to expire on a specific date.

Section 5.2 Permit Contents

Wastewater discharge permits shall be expressly subject to these provisions, all other applicable regulations, and user charges and fees established by the Authority.

5.2.1 Conditions that Permits Must Contain

Individual wastewater discharge permits must contain the following conditions:

- a. a statement that indicates the wastewater discharge permit issuance date, expiration date, and effective date;
- b. a statement that the wastewater discharge permit is nontransferable without prior notification to the Authority and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
- c. effluent limits, including BMPs, based on applicable pretreatment standards;

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- d. self-monitoring, sampling, reporting, notification, and recordkeeping requirements, including an identification of the pollutants to be monitored, sampling location, sampling frequency, and sample type based upon the applicable general pretreatment standards in 40 CFR 403, categorical pretreatment standards, local limits, and state and local law;
- e. the process for seeking a waiver from monitoring for a pollutant neither present nor expected to be present in the discharge;
- f. a statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule;
- g. requirements to control slug discharges, if determined by the Authority to be necessary; and
- h. any grant of the monitoring waiver by the Authority as a condition, if applicable.

5.2.2 Conditions that Permits May Contain

Individual wastewater discharge permits may contain, but need not be limited to, the following conditions:

- a. the unit charge or schedule of user charges and fees for the wastewater to be discharged to a common sewer;
- b. limits on the average and maximum wastewater constituent and characteristics;
- c. limits on the average and maximum rate and time of discharge requirements for flow regulations and equalization;
- d. requirements for installation and maintenance of inspection and sampling facilities;
- e. specification for monitoring programs, which may include sampling locations, frequency of sampling, number, types, and standards for tests and reporting schedule;
- f. compliance schedules;
- g. requirements for submission of technical reports or discharge reports;
- h. requirements for maintaining and retaining plant records relating to wastewater discharge as specified by the Authority, and affording the Authority access thereto;
- i. requirements for notification of the Authority in advance of any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system;
- j. requirements for notification of slug discharges;
- k. requirements for permit duration;
- l. requirements for permit transfer; and/or
- m. other conditions as deemed appropriate by the Authority to ensure compliance with these provisions.

Section 5.3 Permit Modification

The terms and conditions of the permit may be subject to modification by the Authority during the term of the permit as limitations or requirements are modified, or other just cause exists. The industrial user shall be informed of any proposed changes in the permit at least 30 days prior to the effective date of the change. Any changes or new conditions in the permit shall include a reasonable period of time for compliance.

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Within 90 days of the promulgation of a national categorical pretreatment standard, the wastewater discharge permit of SIUs subject to such standards shall be revised to require compliance with such standard within the time frame prescribed by such standard. Within 60 days after the effective date of a categorical pretreatment standard, or 60 days after the final administrative decision made upon a category determination submission under 40 CFR 403.6(a)(4), whichever is later, existing industrial users subject to such categorical pretreatment standards that are currently discharging to or scheduled to discharge to a POTW shall be required to comply.

Section 5.4 Permit Transfer

Wastewater discharge permits are issued to a specific operation. 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 written approval of the Authority. Any succeeding owner or user shall also comply with the terms and conditions of the existing permit. Permits may be transferred to a new owner or operator only if the permittee gives advance notice of at least 30 days to the Authority and the Authority approves the permit transfer. The notice to the Authority must include a written certification by the new owner or operator that states that the new owner and/or operator has no immediate intent to change the facility's operations and processes, identifies the specific date on which the transfer is to occur, and acknowledges full responsibility for complying with the existing permit. Failure to provide advance notice of a transfer renders the permit void as of the date of facility transfer.

Section 5.5 Permit Revocation

The Authority may revoke an individual wastewater discharge permit for good cause, including, but not limited to, the following reasons:

- a. failure to notify the Authority of significant changes to the wastewater prior to the changed discharge;
- b. failure to provide prior notification to the Authority of changed conditions;
- c. misrepresentation or failure to fully disclose all relevant facts in the permit application;
- d. falsifying self-monitoring reports and certification statements;
- e. tampering with monitoring equipment;
- f. refusing to allow the Authority timely access to the facility premises and records;
- g. failure to meet effluent limits;
- h. failure to pay fines;
- i. failure to pay sewer charges;
- j. failure to meet compliance schedules;
- k. failure to complete an industrial waste survey or a permit application;
- l. failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- m. violation of any pretreatment standard, requirement, these provisions, or any terms of the wastewater discharge permit.

An individual wastewater discharge permit shall be voidable upon cessation of operations or transfer of business ownership, unless a permit transfer has been approved by the Authority. All permits issued to a user are void upon the issuance of a new permit to that user.

Section 5.6 Permit Reissuance

A user with an expiring permit shall apply for permit reissuance by submitting a complete permit application a minimum of 180 days prior to the expiration of the user's existing permit.

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Section 5.7 Regulation of Waste Received from Other Jurisdictions

If another municipality, or a user located within another municipality, contributes wastewater to the POTW, the Authority shall enter into an intermunicipal agreement with the contributing municipality. Prior to entering into an intermunicipal agreement, the Authority shall request a description of the quality and volume of wastewater discharged to the POTW by the contributing municipality, an inventory of all users located within the contributing municipality that are discharging to the POTW, and any other information the Authority may deem necessary. An intermunicipal agreement shall contain the following conditions:

- a. a requirement for the contributing municipality to adopt a sewer use ordinance that is at least as stringent as these provisions and local limits, including required BMRs that are at least as stringent as those set out in these provisions (the requirement shall specify that such ordinance and local limits must be revised as necessary to reflect changes made to these provisions or local limits);
- b. a requirement for the contributing municipality to submit a revised user inventory on at least an annual basis;
- c. a provision specifying which pretreatment implementation activities (including permit issuance, inspection and sampling, and enforcement) will be conducted by the contributing municipality, which of these activities will be conducted by the Authority, and which of these activities will be conducted jointly by the contributing municipality and the Authority;
- d. a requirement for the contributing municipality to provide the Authority with access to all information that the contributing municipality obtains as part of its pretreatment activities;
- e. limits on the nature, quality, and volume of the contributing municipality's wastewater at the point where it discharges to the POTW;
- f. requirements for monitoring the contributing municipality's discharge;
- g. a provision ensuring the Authority has access to the facilities of users located within the contributing municipality's jurisdictional boundaries for the purpose of inspection, sampling, and any other duties deemed necessary by the Authority; and
- h. a provision specifying remedies available for breach of the terms of the intermunicipal agreement.

Article 6. Reporting Requirements

Section 6.1 Baseline Monitoring Report

Each IU that is subject to a categorical pretreatment standard (identified as a CIU) is required to self-monitor and submit a baseline monitoring report (BMR) within 180 days after the effective date of the standard. If a category determination has been requested, the BMR is not due until 180 days after a final administrative decision has been made concerning the industry's inclusion in the category. If a CIU has already submitted the specific information required in a permit application and the information is still current, it need not be reproduced and resubmitted in the BMR. The BMR is a one-time report, unless changes in the federal categorical standards require submission of a new or updated BMR.

At least 90 days before beginning discharge, new sources are required to submit the information required in a BMR, excluding the certification from the qualified professional regarding consistent compliance (because compliance from initial date of discharge is expected)

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and the compliance schedule. New sources must provide information on the treatment method that the source intends to use to meet the applicable pretreatment standards and give estimates of its anticipated flow and quantity of pollutants to be discharged.

BMRs must contain the following information in accordance with the requirements specified in 40 CFR 403.12(b):

1. The name and address of the facility and name(s) of the operator and owners.
2. A list of all environmental control permits held by or for the facility.
3. A description of operations, including the average rate of production, applicable North American Industry Classification System (NAICS) codes, schematic process diagrams, and points of discharge to the POTW from regulated processes.
4. Flow measurements (average daily and maximum daily) for regulated process wastestreams and nonregulated wastestreams, where necessary.
5. Categorical pretreatment standards applicable to each regulated process. In cases where the standard requires compliance with a BMP or pollution-prevention alternative, the CIU must submit documentation as required by the POTW or the applicable standards to determine compliance with the standard.
6. Sampling and analysis results (daily maximum, average concentration, and mass, where applicable).
7. Time, date, and place of sampling; methods of analysis; certification that sampling and analysis are representative of normal work cycles and expected pollutant discharges to the POTW.
8. Certification by a qualified professional, reviewed by an authorized representative of the CIU, of whether applicable pretreatment standards are being met on a consistent basis and, if not, a description of the additional operation and maintenance or pretreatment facilities that are needed to comply with the standards. In cases where the POTW performs the required sampling and analysis in lieu of the IU, the IU will not be required to submit the compliance certification.
9. Schedule for providing the additional operation and maintenance or pretreatment needed by the IU to comply with the applicable pretreatment standards, if required.
10. A certification statement as expressed in 40 CFR 403.6(a)(2)(ii) and the signature of an authorized representative of the industrial user.

Section 6.2 Compliance Schedule Progress Report

A CIU that is not in compliance with applicable categorical standards by the time the standards are effective might have to modify process operations or install treatment facilities to comply. Federal regulations require that the POTW develop and impose a compliance schedule for the CIU to install technology to meet applicable standards. As part of the BMR, a CIU that is unable to comply with the categorical standards must include a schedule for attaining compliance with the discharge standards. The final compliance or completion date in the schedule may not be later than the final compliance date specified in the categorical standards. Where authorized to do so, the POTW may require compliance earlier than the final compliance date specified in the federal regulations.

Compliance schedules must include increments of progress in the form of dates (not to exceed 9 months per event) for beginning and completing major actions leading to construction and operation of a pretreatment system or in-plant process modifications. Major activities could include hiring an engineer, completing preliminary analysis and evaluation, finalizing plans,

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executing a contract for major components, beginning construction, completing construction, or testing operation.

In addition, the CIU must submit progress reports to the POTW no later than 14 days following each date in the compliance schedule (and final date for compliance). In no event shall more than 9 months elapse between such progress reports to the Authority.

Compliance Schedule Progress Reports must contain the following information in accordance with the requirements specified in 40 CFR 403.12(c)(3):

1. A statement of the CIU's status with respect to the compliance schedule.
2. A statement of when the CIU expects to be back on schedule if it is falling behind and the reason for the delay and steps the CIU is taking to return to the established schedule.
3. A certification statement as expressed in 40 CFR 403.6(a)(2)(ii) and the signature of an authorized representative of the industrial user.

Section 6.3 90-Day Compliance Report

CIUs are required to submit the results of the self-monitoring of its wastewater discharge to the Authority in a final compliance report. An existing source must file a final compliance report within 90 days following the final compliance date specified in a categorical regulation or within 90 days of the compliance date specified by the Authority, whichever is earlier. A new source must file a compliance report within 90 days of beginning discharge to the POTW.

90-Day Compliance Reports must contain the following information in accordance with the requirements specified in 40 CFR 403.12(d):

1. Flow measurements (average daily and maximum daily) for regulated process wastestreams and nonregulated wastestreams, where necessary.
2. Categorical pretreatment standards applicable to each regulated process. In cases where the standard requires compliance with a BMP or pollution-prevention alternative, the CIU must submit documentation as required by the POTW or the applicable standards to determine compliance with the standard.
3. Sampling and analysis results (daily maximum, average concentration, and mass, where applicable).
4. Time, date, and place of sampling; methods of analysis; certification that sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.
5. For CIUs subject to equivalent mass or concentration limits established by the POTW, the report must contain a reasonable measure of the CIU's long-term production rate. For CIUs subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or another measure of operation), the report must include the CIU's actual production during the appropriate sampling period.
6. Certification, by a qualified professional, reviewed by a representative of the CIU, of whether applicable pretreatment standards are being met and, if not, a description of the additional operation and maintenance or pretreatment facilities that are needed to comply with the standards. In cases where the POTW performs the required sampling and analysis in lieu of the IU, the IU is not required to submit the compliance certification.
7. A certification statement as expressed in 40 CFR 403.6(a)(2)(ii) and the signature of an authorized representative of the industrial user.

Section 6.4 Periodic Compliance Report: Categorical Industrial Users

After the final compliance date or, in the case of a new source, after beginning the discharge into the POTW, CIUs are required to submit, in June and December, the self-monitoring results

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of their wastewater discharge. The Authority may modify the months in which the reports are to be submitted. In addition, CIUs may need to report more frequently as required in the pretreatment standards, by the POTW, or by the Approval Authority. All results for self-monitoring performed must be reported to the POTW, even if the CIU is monitoring more frequently than required.

Periodic Compliance Reports for Categorical Industrial Users must contain the following information in accordance with the requirements specified in 40 CFR 403.12(e):

1. The nature and concentration of pollutants limited by applicable categorical standards or required by the Authority.
2. Flow data (average and maximum daily) as required by the Authority.
3. Mass of pollutants discharged (applicable to CIUs where mass limits have been imposed).
4. Production rates (applicable to CIUs where equivalent limits have been imposed or where limits imposed are expressed in allowable pollutant discharged per unit of production).
5. Documentation required by the Authority or the pretreatment standard necessary to determine the compliance status of the CIU (applicable to CIUs with pretreatment standards that require compliance with a BMP).
6. A certification statement as expressed in 40 CFR 403.6(a)(2)(ii) and the signature of an authorized representative of the industrial user.

6.4.1 MTCIUs

For a CIU determined by the Authority to be an MTCIU in accordance with 40 CFR 403.12(e)(3), the POTW may reduce the minimum requirement to report from twice a year to once a year, unless more frequent reporting is required in the pretreatment standard or by the Approval Authority. A CIU must immediately resume self-monitoring and reporting at least twice a year if it is determined that it is no longer an MTCIU.

6.4.2 NSCIUs

A CIU that the Authority has classified as an NSCIU is not required to submit the periodic compliance report. Instead, the NSCIU must annually submit a certification statement as expressed in 40 CFR 403.12(q) along with any alternative report required by the Authority.

6.4.3 Monitoring Waiver

The Authority may authorize a CIU subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by that categorical pretreatment standard if the CIU has demonstrated through sampling and other technical factors that the pollutant is neither present nor expected to be present in the discharge, or is present only at background levels from intake water and without any increase in the pollutant resulting from activities of the CIU pursuant to 40 CFR 403.12(e)(2). This authorization is subject to the following conditions:

- a. The monitoring waiver may be authorized where a pollutant is determined to be present solely due to sanitary wastewater discharged from the facility provided that the sanitary wastewater is not regulated by an applicable categorical standard and otherwise includes no process wastewater.
- b. The monitoring waiver is valid only for the duration of the effective period of the permit, but in no case longer than 5 years. The user must submit a new

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request for the waiver before the waiver can be granted for each subsequent permit.

- c. In demonstrating that a pollutant is not present, the industrial user must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes.
- d. The request for a monitoring waiver must be signed by an authorized representative of the industrial user and include a certification statement as expressed in 40 CFR 403.6(a)(2)(ii).
- e. Non-detectable sample results may be used as a demonstration that a pollutant is not present only if the EPA-approved method from 40 CFR Part 136 with the lowest minimum detection level for that pollutant was used in the analysis.
- f. Any grant of the monitoring waiver by the Authority must be included as a condition in the user's permit. The reasons supporting the waiver and any information submitted by the user in its request for the waiver must be maintained by the Authority for 3 years after the expiration of the waiver.
- g. Upon approval of the monitoring waiver and revision of the user's permit by the Authority, the industrial user must certify on each report, using the statement in 40 CFR 403.12(e)(2)(v), that there has been no increase in the pollutant in its waste stream due to activities of the industrial user.
- h. In the event that a waived pollutant is found to be present or is expected to be present because of changes that occur in the user's operations, the user must immediately comply with the monitoring requirements of this section or other more frequent monitoring requirements imposed by the Authority, and notify the Authority.
- i. This provision does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.

Section 6.5 Periodic Compliance Report: Noncategorical SIUs

After the final compliance date, SIUs not subject to categorical pretreatment standards must submit to the Authority at least once every 6 months (on dates specified by the Authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the Authority. All results for self-monitoring performed must be reported to the POTW, even if the SIU is monitoring more frequently than required.

Periodic Compliance Reports for noncategorical SIUs must contain the following information in accordance with the requirements specified in 40 CFR 403.12(h):

1. The nature and concentration of pollutants as required by the Authority.
2. Flow data (average and maximum daily) as required by the Authority.
3. Documentation required by the Authority necessary to determine the compliance status of the SIU (applicable to SIUs with local limits or other requirements that require compliance with a BMP).
4. A certification statement as expressed in 40 CFR 403.6(a)(2)(ii) and the signature of an authorized representative of the industrial user.

Section 6.6 Reports from Unpermitted Users

All users not required to obtain an individual wastewater discharge permit shall provide appropriate reports to the Authority as the Authority may require.

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Section 6.7 Date of Receipt of Reports

Written reports will be deemed to have been submitted on the date postmarked. For reports that are not mailed, the date of receipt of the report shall govern.

Article 7. Notification Requirements

Section 7.1 Notification of Changed Conditions

All IUs shall promptly notify the Authority in advance of any substantial changes in the volume or character of pollutants in their discharge. As a general rule, changes greater than 20 percent are considered substantial. An IU shall notify the Authority immediately of any changes at its facility that affect the potential for a slug discharge.

The Authority may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a new wastewater discharge permit application. The Authority may issue a new wastewater discharge permit or modify an existing permit in response to the changed conditions or anticipated changed conditions.

Any IU operating under a wastewater discharge permit that incorporates equivalent mass or equivalent concentration limits calculated from a production-based standard must notify the Authority within 2 business days after the IU has a reasonable basis to know that the production level will significantly change within the next calendar month.

Where process effluent is mixed before treatment with wastewaters other than those generated by the regulated process, fixed alternative discharge limits may be derived by the Authority or by the IU with the written concurrence of the Authority. An IU must immediately report to the Authority any material or significant change in the values used in the calculation.

In the case that the Authority has authorized a monitoring waiver for a pollutant, and if that waived pollutant is found to be present or is expected to be present because of changes that occur in the IU's operation, the IU must immediately notify the Authority and begin self-monitoring twice per year or more frequently if required by the Authority.

A CIU that the Authority has determined to be an MTCIU must notify the Authority if the CIU no longer meets the conditions that qualify it as a middle-tier user. The CIU must also immediately begin complying with the semiannual self-monitoring and reporting requirements.

Section 7.2 Notification of Potential Problems Including Slug Discharges

All IUs are required to notify the Authority immediately of any discharges that could cause problems. The discharges include spills, slug discharges, or any other discharge that could cause a problem at the POTW.

Section 7.3 Notification of Noncompliance and Repeat Sampling Report

If monitoring performed by an IU indicates noncompliance, the IU is required to notify the Authority within 24 hours of becoming aware of the violation. In addition, the IU must repeat the sampling and analysis for the pollutant in violation and report the results of the resampling within 30 days of becoming aware of the original violation. The repeat sampling is not required if the Authority samples the IU at least once per month or if the Authority samples the IU between the time of the original sample and the time the results of the sampling were received.

Section 7.4 Notification of Discharge of Hazardous Waste

IUs discharging more than 15 kilograms per month of a waste that, if otherwise disposed of, would be a hazardous waste pursuant to the Resource Conservation and Recovery Act (RCRA)

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requirements under 40 CFR Part 261 shall provide a one-time written notification of such discharge to the Authority, state, and EPA. IUs discharging any amount of waste that, if disposed of otherwise, would be an acutely hazardous waste pursuant to RCRA shall also provide the notification. The written notification must contain the EPA hazardous waste number and the type of discharge (i.e., batch, continuous). If the IU discharges more than 100 kilograms per month of the hazardous waste, the written notification must also include, at a minimum, the following:

1. An identification of the hazardous constituent in the IU's discharge.
2. An estimate of the mass and concentration of the constituents in the IU's discharge.
3. An estimate of the mass and concentration of constituents in the IU's discharge in a year.

IUs shall provide a certification accompanying this notification that a waste-reduction program is in place to reduce the volume and toxicity of hazardous wastes to the greatest degree economically practical. Within 90 days of the effective date of the listing of any additional hazardous wastes pursuant to RCRA, IUs shall provide a notification of the discharge of such wastes.

Section 7.5 Notification of Upset

A CIU shall notify the Authority within 24 hours of becoming aware of an upset. If the CIU provides the notification orally, it must also submit a written report within 5 days. Written reports must contain the following information in accordance with the requirements specified in 40 CFR 403.16:

1. A description of the indirect discharge and cause of noncompliance.
2. The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue.
3. Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

CIUs are allowed an affirmative defense for noncompliance with categorical standards if they can demonstrate that the noncompliance was the result of an upset as discussed in Section 16.1. The regulations in 40 CFR 403.16 detail the conditions necessary to demonstrate that an upset has occurred.

Section 7.6 Notification of Bypass

If an IU knows in advance of the need for a bypass, it must submit prior notice to the Authority, if possible at least 10 days before the date of the bypass. If a bypass results in noncompliance, even if it resulted from performing essential maintenance, the IU must submit a written report to the Authority. The IU shall notify the Authority within 24 hours of becoming aware of an unanticipated bypass. If the IU provides the notification orally, it must also submit a written report within 5 days. Written reports must contain the following information in accordance with the requirements specified in 40 CFR 403.17:

1. A description of the bypass and its cause.
2. The duration of the bypass, including exact dates and times.
3. If the bypass has not been corrected, the anticipated time it is expected to continue.
4. The steps taken or planned to reduce, eliminate, and prevent reoccurrence of the bypass.

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Article 8. Sampling and Analytical Requirements

Section 8.1 Sampling Requirements

Samples collected to satisfy reporting requirements must be based on data obtained through appropriate sampling and analysis performed during the period covered by the report, based on data that is representative of conditions and daily operations occurring during the reporting period. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that the sample results are unrepresentative of its discharge.

The user must collect wastewater samples using 24-hour flow proportional composite sampling techniques, unless time proportional sampling or grab sampling is authorized by the Authority. Where time proportional composite sampling or grab sampling is authorized by the Authority, the sample must be representative of the discharge. Using protocols (including appropriate preservation) specified in 40 CFR Part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited in the laboratory 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 Authority, as appropriate. In addition, grab samples may be required to show compliance with instantaneous limits.

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

For sampling required in support of baseline monitoring and 90-day compliance reports required pursuant to 40 CFR 403.12(b) and (d), a minimum of four 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 does not exist. For facilities for which historical sampling data is available, the Authority may authorize a lower minimum. For the reports required pursuant to 40 CFR 403.12(e) and (h), the industrial user is required to collect the number of grab samples necessary to assess and assure compliance with applicable pretreatment standards and requirements.

If a user subject to the reporting requirement monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Authority using the approved procedures, the results of this monitoring shall be included in the report.

Samples shall be taken immediately downstream from pretreatment facilities if they exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater before pretreatment, the IU should measure the flows and concentrations necessary to allow use of the combined wastestream formula presented in 40 CFR 403.6(e) to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated by the IU using the combined wastestream formula, the adjusted limit along with supporting data shall be submitted to the Authority.

Section 8.2 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

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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 shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the Authority or other parties approved by EPA. To demonstrate compliance, IUs shall submit information regarding sample handling and analytical procedures to the Authority upon request.

Article 9. Recordkeeping Requirements

Any industrial user subject to the reporting requirements established in these provisions shall maintain records of all information resulting from any monitoring activities required, additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with BMPs. Such records shall include for all samples:

- a. date and time of sample collection;
- b. name of the person who collected the sample;
- c. exact location of sample collection;
- d. method of sample collection;
- e. date and time of analysis;
- f. name of the person/laboratory who performed the analysis;
- g. analytical techniques/methods used; and
- h. results of the analysis.

Any industrial user subject to the reporting requirement established in these provisions shall be required to retain for a minimum of three years any records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available for inspection and copying by the Authority or the Administrator. This period of retention shall be extended during the course of any unresolved litigation regarding the industrial user, or when requested by the Authority or the Administrator.

Article 10. Compliance Monitoring

The Authority shall sample the discharge and inspect the facilities of any industrial user a minimum of two times per year to determine whether the purpose of these provisions is being met and all requirements are being followed. Owners and occupants of premises where wastewater is created or discharged shall allow the Authority or its representative ready access at all reasonable times to all parts of the premises for inspection, sampling, records examination, or in the performance of any of their duties.

Where an industrial user has security measures in force that require proper identification and clearance before entry into its premises, the industrial user shall make necessary arrangements with their security guards so that, upon presentation of appropriate identification, personnel from the Authority or EPA will be permitted to enter, without delay, for the purposes of performing their duties.

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If the Authority has been refused access to a building, structure, property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of these provisions, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of the Authority designed to verify compliance with these provisions or any permit or order issued hereunder, or to protect the overall public health, safety, and welfare of the community, the Authority may seek issuance of a search warrant from Westmoreland County of PA.

The EPA and the Authority shall have the right to set up on the industrial user's property such devices as are necessary to conduct sampling, inspection, compliance monitoring, and/or metering operations.

The Authority may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated annually by a third party to ensure their accuracy.

The location of the monitoring facility shall provide ample room in or near the monitoring facility to allow accurate sampling and preparation of samples and analysis whether constructed on public or private property. The monitoring facilities should be provided in accordance with the Authority's requirements and all local construction standards and specifications, and such facilities shall be constructed and maintained in such manner so as to enable the Authority to perform independent monitoring activities.

Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Authority and shall not be replaced. The costs of clearing such access shall be borne by the user. Unreasonable delays in allowing the Authority access to the user's premises shall be a violation of these provisions.

Article 11. Confidential Information

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, individual wastewater discharge permits, monitoring programs, and from the Authority's inspection and sampling activities shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the Authority, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable state law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report that might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other effluent data, as defined in 40 CFR 2.302, shall not be recognized as confidential information and shall be available to the public without restriction.

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Article 12. Publication of Users in Significant Noncompliance

The Authority shall annually publish in the Legal Ads Department of the local newspaper a list of the users that were in significant noncompliance with any pretreatment requirements or standards at any time during the previous 12 months in accordance with 40 CFR 403.8(f)(2)(vii). The notification shall also summarize any enforcement actions taken against the users during the same 12 months. The term significant noncompliance shall be applicable to all SIUs (or any other industrial users that violated these provisions) and shall mean:

- a. chronic violations of wastewater discharge limits, defined here as those in which 66% or more of all the measurements taken for the same pollutant parameter during a six-month period exceed (by any magnitude) a numeric pretreatment standard or requirement, including instantaneous limits;
- b. Technical Review Criteria (TRC) violations, defined here as those in which 33% or more of all the 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 criteria (1.4 for BOD, TSS, fats, oil and grease; 1.2 for all other pollutants except pH);
- c. any other violation of a pretreatment standard or requirement (daily maximum, long-term average, instantaneous limits, or narrative standard) that the Authority determines has caused, alone or in combination with other discharges, interference or pass-through, including endangering the health of the Authority personnel or the general public;
- d. any discharge of a pollutant that has caused imminent endangerment to the public or to the environment, or has resulted in the Authority's exercise of its emergency authority to halt or prevent such a discharge;
- e. failure to meet, within 90 days of the scheduled date, a compliance schedule milestone contained in a permit or an enforcement order for starting construction, completing construction, or attaining final compliance;
- f. failure to provide, within 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, or reports on compliance with compliance schedules;
- g. failure to accurately report noncompliance; and/or
- h. any other violation, which may include a violation of BMPs, that the Authority determines will adversely affect the operation or implementation of the local pretreatment program.

Article 13. Administrative Enforcement Remedies

Section 13.1 Enforcement Policy

All violations of pretreatment standards and requirements are instances of noncompliance and will receive a specific enforcement response in accordance with the Authority's enforcement procedures. Pretreatment standards and requirements are a matter of strict liability. Hence, good faith or lack of negligence on the user's part is no defense to a violation of pretreatment standards and/or requirements. The enforcement responses shall range from Notices of Violation to formal civil litigation and/or termination of service, depending upon the severity of the violation. While similar violations will receive similar enforcement responses, some inherent

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discretion exists within each enforcement response selection. For example, some violations will trigger either an administrative action, formal civil litigation, or permit revocation. Selection of the specific enforcement response option shall be at the sole discretion of the Authority.

When making determinations regarding the level of enforcement, the Authority shall take into consideration damage to public facilities and/or natural resources, cost of restoration and abatement, savings to the user as a result of the violation, history of past violations by the user, deterrence of future violations, and other relevant factors as determined by the Authority.

Section 13.2 Notice of Violation

When the Authority finds that a user has violated or is violating these provisions, a wastewater discharge permit, or any other pretreatment standard or requirement, the Authority shall serve upon such user a written notice stating the nature of the violation, which may include the assessment of a civil penalty, and require a written response from the user. As required by the Publicly Owned Treatment Works Penalty Law, such notice shall include the name, address, and telephone number of the person responsible for accepting appeals. Within 30 days from the date of the Notice of Violation, a plan for the satisfactory correction thereof shall be submitted to the Authority by the user.

Section 13.3 Consent Order

The Authority is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the user responsible for the noncompliance. Such consent orders shall include a specific action to be taken by the user to correct the noncompliance within a time period also specified in the consent order. Consent orders shall have the same force and effect as administrative orders issued pursuant to this section.

Section 13.4 Show Cause Hearing

The Authority may order any user who causes or allows a discharge of sewage, industrial waste, or other waste into the POTW in violation of these provisions, a wastewater discharge permit, an order issued hereunder, or any other pretreatment standard or requirement, to show cause before the Authority why the proposed assessment of penalty and/or enforcement action should not be taken. A notice shall be served upon the user specifying the time and place of a hearing to be held by the Authority regarding the alleged violation, setting forth the specific facts and circumstances upon which the proposed enforcement action is to be taken, and directing the user to show cause before the Authority as to why the proposed assessment of penalty and/or enforcement actions should not be taken.

The notice of the hearing shall be served personally or by registered or certified mail (return receipt requested) upon the user, no less than 20 days prior to the hearing. Such notice shall contain the name, address, and telephone number of the person responsible for accepting appeals. Within 15 days from the date of service of the notice, the user shall file with the Authority a verified answer responding to the allegations in the notice. Allegations in the notice that are not specifically denied shall be deemed to have been admitted. Failure to file an answer or to specifically deny the allegations of the notice shall constitute a sufficient basis for the entry of default adjudication upon expiration of said 15 days.

The Authority may itself conduct the hearing and take the evidence, or may designate any of its representatives to issue in the name of the Authority notices of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings, take the evidence, and transmit a report of the evidence and hearing,

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including transcripts and other evidence, together with recommendations to the Authority for action thereon.

At any hearing held pursuant to these provisions, testimony taken must be under oath and recorded stenographically. The transcript so recorded will be made available to any member of the public or any party to the hearing upon payment of the usual charges thereof.

After the Authority and the Board has reviewed the evidence, it may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed or existing treatment facilities, devices, or other related appurtenances are properly operated. Further orders and directives as are necessary and appropriate may be issued, including, but not limited to, injunctive relief and civil penalties.

Section 13.5 Compliance Order

When the Authority finds that a user has violated or is violating these provisions, a wastewater discharge permit, an order issued hereunder, or any other pretreatment standard or requirement, the Authority may issue an order to the user responsible for the discharge directing that, following a specified time period, sewer service shall be discontinued unless adequate treatment facilities, devices, or other related appurtenances have been installed and are properly operated. Orders may also contain such other requirements as might be reasonably necessary and appropriate to address the noncompliance, including the installation of pretreatment technology, additional self-monitoring, and management practices.

Section 13.6 Compliance Schedule

When the Authority finds that a user is in violation of these provisions, a wastewater discharge permit, or any other pretreatment standard or requirement, the Authority may require the user to submit, or may itself issue, a schedule of compliance for the necessary correction. The compliance schedule shall be in accordance with Section 6.2.

Section 13.7 Cease and Desist Order

When the Authority finds that a user has violated or is violating these provisions, a wastewater discharge permit, or any other pretreatment standard or requirement, the Authority shall issue an order to cease and desist all such violations and direct those persons in noncompliance to comply forthwith and take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge. As required by the Publicly Owned Treatment Works Penalty Law, such order shall include the name, address, and telephone number of the person responsible for accepting appeals.

Section 13.8 Emergency Suspensions

The Authority 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 Authority may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW, or which presents, or may present, an endangerment to the environment.

Any user notified of a suspension of its discharge shall immediately stop or eliminate the discharge. In the event of a failure of the user to comply voluntarily with the suspension order, the Authority shall take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW or endangerment to any

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individual or the environment. The Authority may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Authority that the period of endangerment has passed. A detailed written statement from the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrence shall be submitted to the Authority within five days of the date of occurrence.

Section 13.9 Revocation of Permit

Any user who violates one of the following conditions of these provisions or applicable state and federal regulations is subject to having its wastewater discharge permit revoked:

- a. failure of a user to factually report the wastewater constituents and characteristics of its discharge;
- b. failure of a user to report significant changes in operations or wastewater constituents and characteristics;
- c. refusal of reasonable access to the user's premises for the purpose of inspection and/or monitoring; or
- d. violation of conditions of the wastewater discharge permit.

If a wastewater discharge permit is revoked, the Authority may take steps it deems advisable, including severance of the sewer connection, to promote compliance with these provisions.

Section 13.10 Appeals

The user shall have such right of appeal of the Court of Common Pleas having jurisdiction as is provided for under Section 7(b) of the Publicly Owned Treatment Works Penalty Law, the Local Agency Law, 2 Pa. C.S. 101 et. seq., or Judicial Code, 42 Pa. C.S. Section 762.

Article 14. Judicial Enforcement Remedies

Section 14.1 Injunctive Relief

When the Authority finds that a user has violated or is violating these provisions, a wastewater discharge permit, an order issued hereunder, or any other pretreatment standard or requirement, the Authority may petition the Westmoreland Court through the Authority's attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the individual wastewater discharge permit, order, or other requirement imposed by these provisions on activities of the user. The Authority may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

Section 14.2 Civil Penalties

Any user who is found to have violated these provisions, a wastewater discharge permit, an order issued hereunder, or any other pretreatment standard or requirement, whether or not the violation is willful or negligent, may be assessed a civil penalty in an amount not to exceed \$25,000 per day but not less than \$1,000 per day for each violation, regardless of jurisdictional boundaries. Each violation for each separate day shall constitute a separate and distinct offense. The Authority may recover its costs for reestablishing the operation of the POTW, in addition to any civil penalty imposed hereunder. In addition, the Authority may recover attorneys' fees, all court costs, and all other expenses of litigation to the extent permitted by law. In determining the amount of civil liability, the court shall take into account all relevant circumstances, including,

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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 taken by the user, the compliance history of the user, and any other factor as justice requires. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.

14.2.1 Civil Penalty Assessment Policy

This section constitutes the Civil Penalty Assessment Policy required by the Publicly Owned Treatment Works Penalty Law (herein "Penalty Law") Act No. 9 of 1992, 35 P.S. Section 752.1 et. seq. When making determinations on the amount of a civil penalty, the Authority shall take into consideration the damage to public facilities and/or natural resources, cost of restoration and abatement, savings to the user as a result of the violation, history of past violations, deterrence of future violations, and other relevant factors as determined by the Authority.

Consideration of the gravity and length of a violation is important when determining the penalty amount. Removing the economic benefit of noncompliance only places the violating user in the position it would have been had it complied on time. Both deterrence and fundamental fairness require that the civil penalty include an additional amount to ensure that noncompliance is more costly than compliance, and the Authority's policy will be to include such an amount.

14.2.1.1 Damage to Public Facilities and/or Natural Resources

Failure to comply with pretreatments standards and requirements may cause damage to the collection system of the Authority. Damage may also be caused to the natural environment. Therefore, an additional purpose of penalties in pretreatment enforcement shall be to recover for such damages. Specifically, the Authority may require that a violating user pay reparations for any damage caused to the collection system by improper disposal of pollutants. Such a user may also be required to pay for replacement of equipment, facilities, and/or other damaged processes at the POTW caused by pollutant interference.

Pollutants that pass through or interfere with POTW processes may cause damage to natural systems in receiving waters. In addition to assessing penalties to recover for such damages, the Authority may consider requiring mitigation and remediation programs.

The Authority will consider assessing high penalties for violations resulting in actual or potential harm to the environment. Such potential environmental harm occurs whenever a user discharges a pollutant into the sewer system that passes through the POTW inadequately treated and causes a violation of the POTW's NPDES permit (including water quality standards) or has a potentially toxic effect on the receiving waters (e.g., a fish kill).

14.2.1.2 Cost of Restoration and Abatement

Some violations may be negative impacts on the POTW itself. For example, such violations may result in significant increases in treatment costs, interference, harm POTW personnel, equipment, processes, or operations, or cause sludge contamination, resulting in increased disposal costs. When a user's noncompliance harms the POTW, the Authority will assess a larger penalty.

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14.2.1.3 Savings to the User as a Result of Violation

A user that fails to comply with pretreatment standards and requirements in a timely manner may accrue a significant economic benefit. A penalty assessed against the violator will be fixed at a level to at least negate this economic benefit and make it unprofitable for the user to ignore or violate pretreatment requirements. These requirements include installation of pretreatment equipment, one-time expenditures (e.g. land), and operation and maintenance or other annual costs. The economic benefit calculation described in these provisions will be applied to any or all types of pollution control costs.

A user must usually spend money to comply with pretreatment standards and requirements. The user makes initial capital expenditures for pretreatment, equipment, or process changes and incurs subsequent operation, maintenance, and repair costs annually. By delaying or avoiding these costs, the user realizes an economic advantage or benefit over a competitor that complied with pretreatment requirements in a timely manner. Thus the “economic benefit” of noncompliance is defined as the difference between the cost of on-time compliance and delayed compliance. Economic benefits realized by the user that fails to comply by a required deadline can be measured by: 1) the money that the user would expect to earn by delaying the purchase of pretreatment equipment or implementation of process changes and investing the money in more profitable projects, 2) the annual costs that the user avoids, and the expected return on avoided costs, during the period of noncompliance, and/or 3) any competitive advantage the user may gain, such as increased market share over competitors already in compliance, because of cost advantages attributed to delayed compliance.

In these provisions, the economic benefit calculation is focused on the first two benefits. The Guidance Manual for POTW’s to Calculate the Economic Benefit of Noncompliance (U.S. Environmental Protection Agency, September 5, 1990) may be applied in calculating the penalty.

The Authority will avoid allowing one user to realize an economic benefit from noncompliance that would potentially enable it to gain an economic advantage over its competitors. The Authority will strive to eliminate or remove any financial advantage the violator gains.

14.2.1.4 History of Past Violations

The Authority will consider each violation in assessing the significance of user noncompliance. Violations of average effluent limitations will be considered a violation for each day of the averaging period. Therefore, a monthly average violation will be counted as thirty days of violation, a weekly average violation as seven days of violation, and a four-day average as four days of violation. Violations of different parameters at the same discharge point or outfall are counted separately. The amount of the penalty will be increased as the number of violations increases. However, as provided in the Penalty Law, a single operational upset shall only be considered as one violation, even though it may result in simultaneous violations of more than one pretreatment standard.

The Authority shall consider increasing penalty amounts for continuing, long-term violations. Generally, a long-term violation is one that continues for three or more consecutive months. In addition, penalties will be higher for violations that

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have continued for three years than for violations that have occurred for six months.

Significant non-effluent violations will be considered in assessing penalties. Violations in this category include failure to report, late reporting, schedule violations, failure to implement an approved pretreatment program, laboratory analysis deficiencies, unauthorized discharge, operation and maintenance deficiencies, and sludge handling violations.

14.2.1.5 Deterrence of Future Violations

For users that fail to comply with pretreatment requirements, the Authority will set its penalties at a level to remove, at a minimum, the economic benefit from avoided annual costs during its period of violations. The Authority hereby determines that assessing a penalty that at a minimum eliminates the economic benefit of noncompliance (or makes noncompliance more expensive than compliance) will encourage users to remain in compliance.

The intent of these penalties is to deter noncompliance so that pollutant discharges by a user do not have significant negative impacts on the POTW, collection system, or receiving waters. The Authority's policy will be to avoid assessing a penalty that is too small (e.g., less than the economic benefit of noncomplying). This will ensure that the violating user and other users determine that noncompliance is more expensive than compliance.

14.2.1.6 Other Relevant Factors

The Authority will consider increasing the penalty amount when the violating user appears to be acting in "bad faith" (e.g., by not cooperating with the Authority in effecting a timely correction of the violation), when the user experiences unjustified delays in preventing, correcting, or mitigating the violation, when the user has already violated prior administrative orders, compliance agreements, or consent decrees, or when the user fails to provide timely and full information. This recalcitrance factor also may be increased during negotiation if the user continues to resist efforts to settle.

When a user demonstrates that it is unable to pay a settlement penalty, the Authority will independently evaluate the user's ability to pay. When it is determined that the user cannot afford to pay the penalty or that payment of all or part of the penalty will preclude the violator from achieving compliance, the Authority may consider other options. For example, the Authority may consider an installment payment plan with the user paying interest. Only as a last recourse, the Authority may consider reducing the penalty amount. If the user's behavior has been exceptionally culpable, recalcitrant, or threatening to human health and the environment, inability to pay will be disregarded.

The EPA or DEP can take enforcement action against a user violating the Clean Water Act, including national pretreatment standards and regulations. Citizens or citizen groups can also bring civil suits against a user for violating environmental regulations. If the violating user has been sued by the EPA, state regulatory agency, or citizens or citizen groups, and penalties were imposed upon the user from these actions, the Authority may consider reducing the penalty by an amount equal to that which the user already paid for the same violation.

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In order to treat all users fairly and equitably, the Authority will use its best efforts to assess penalties using a consistent methodology. While the amount of the penalty may vary from case to case, the methods used to develop the penalty will be consistent.

Section 14.3 Criminal Prosecution

A user who willfully or negligently violates any of these provisions, a wastewater discharge permit, an order issued hereunder, or any other pretreatment standard or requirement shall, upon conviction, be guilty of a summary offense, punishable by a fine of not more than \$1,000 per day per violation, or imprisonment for no more than 90 days, or both.

A user who willfully or negligently introduces any substance into the POTW that causes personal injury or property damage shall, upon conviction, be guilty of a summary offense and be subject to a fine of not more than \$1,000 per day per violation, or imprisonment for no more than 90 days, or both. This penalty shall be in addition to any other cause of action for personal injury or property damage under Pennsylvania law.

A user who knowingly makes any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to these provisions, a wastewater discharge permit, an order issued hereunder, or any other pretreatment standard or requirement, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under these provisions shall be guilty of a summary offense, and upon conviction, be punishable by a fine of not more than \$1,000 per day per violation, or imprisonment for no more than 90 days, or both.

Section 14.4 Remedies Nonexclusive

The remedies provided for in these provisions are not exclusive. The Authority may take any, all, or a combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with the Authority's enforcement response plan. However, the Authority may take other action against any user when the circumstances warrant. Further, the Authority is empowered to take more than one enforcement action against any noncompliant user.

Section 14.5 Remedies Cumulative and Concurrent

The remedies provided for in these provisions are intended to be concurrent and cumulative, and these provisions shall not abridge or alter any right of action or remedy, now or hereafter existing in law, or under the common law or statutory law, criminal or civil, available to the Authority.

Section 14.6 Penalty Appeals

The user charged with the penalty shall have 30 days to pay the proposed penalty in full, or if the user wishes to contest the amount of the penalty, or the fact of the violation, the user must file an appeal of the action pursuant to the municipal law or home rule character or, in the absence of either of these, within 30 days, pursuant to 2 Pa. C.S. (relating to administrative law and procedure). Failure to appeal within this period shall result in a waiver of all legal rights to contest the violation or amount of the penalty.

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Article 15. Supplemental Enforcement Action

Section 15.1 Penalties for Late Reports

A penalty of \$100 may be assessed to any user for each day that a report required by these provisions, a wastewater discharge permit, or an order issued hereunder is late, beginning five days after the date the report is due. Higher penalties may also be assessed when reports are more than 30-45 days late. Actions taken by the Authority to collect late reporting penalties shall not limit the Authority's ability to initiate other enforcement actions that may include penalties for late reporting violations.

Section 15.2 Performance Bonds

The Authority may decline to issue or reissue an individual wastewater discharge permit to any user who has failed to comply with these provisions, a previous individual wastewater discharge permit, an order issued hereunder, or any other pretreatment standard or requirement, unless the user first files a satisfactory bond, payable to the Authority, in a sum not to exceed a value determined by the Authority to be necessary to achieve consistent compliance.

Section 15.3 Liability Insurance

The Authority may decline to issue or reissue an individual wastewater discharge permit to any user who has failed to comply with these provisions, a previous individual wastewater discharge permit, an order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.

Section 15.4 Payment of Outstanding Fees and Penalties

The Authority may decline to issue or reissue an individual wastewater discharge permit to any user who has failed to pay any outstanding fees, fines, or penalties incurred as a result of failure to comply with these provisions, a previous individual wastewater discharge permit, or an order issued hereunder.

Section 15.5 Water Supply Severance

When the Authority finds that a user has violated or is violating these provisions, a wastewater discharge permit, an order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will recommence, at the user's expense, only after the user has satisfactorily demonstrated its ability to comply.

Section 15.6 Public Nuisances

A violation of any of these provisions, a wastewater discharge permit, an order issued hereunder, or any other pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the Authority. Any user creating a public nuisance shall be responsible for reimbursing the Authority for any costs incurred in removing, abating, or remedying said nuisance.

Article 16. Affirmative Defenses to Discharge Violations

Section 16.1 Upset

For the purposes of this section, upset means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of

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factors beyond the reasonable control of the user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or careless or improper operation.

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

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

- a. An upset occurred and the user can identify the cause of the upset.
- b. The facility was at the time being operated in a prudent and workman-like manner and in compliance with applicable operation and maintenance procedures.
- c. The user notified the Authority within 24 hours of becoming aware of the upset and submitted a written report within 5 days in accordance with Section 7.5.

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

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

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

Section 16.2 Prohibited Discharge Standards

A user shall have an affirmative defense to an enforcement action brought against it for noncompliance with the general prohibitions in these provisions if it can prove that it did not know, or have reason to know, that its discharge, alone or in conjunction with discharges from other sources, would cause pass-through or interference and that either:

- a. a local limit exists for each pollutant discharged and the user was in compliance with each limit directly prior to, and during the pass-through or interference; or
- b. no local limit exists, but the discharge did not change substantially in nature or constituents from the user's prior discharge when the Authority was regularly in compliance with its NPDES permit, and in the case of interference, was in compliance with applicable sludge use or disposal requirements.

Section 16.3 Bypass

For the purpose of this section, bypass means the intentional diversion of wastestreams from any portion of a user's treatment facility. Severe property damage means substantial physical damage to property, damage to the treatment facilities that causes them to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

A user may allow any bypass to occur that does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the following provisions in this section.

Bypass is prohibited, and the Authority may take an enforcement action against a user for a bypass, unless:

- a. the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

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- b. there were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance; and
- c. the user followed the bypass notification procedures as required in Section 7.6.

The Authority may approve an anticipated bypass, after considering its adverse effects, if the Authority determines that it will meet the conditions in this section.

Article 17. Miscellaneous Provisions

Section 17.1 Pretreatment Charges and Fees

It is the purpose of this section to provide for the recovery of costs from industrial users of the Authority's wastewater disposal system for the implementation of the pretreatment program established herein. The applicable charges or fees shall be set forth in the Wastewater Service Rate & Fee Schedule.

The Authority may adopt charges and fees that may include the following:

- a. fees for reimbursement of costs of establishing and operating the Authority's Industrial Pretreatment Program;
- b. fees for monitoring, inspections, and surveillance procedures;
- c. fees for reviewing accidental or slug discharge procedures and construction;
- d. fees for permit applications;
- e. fees for filing appeals;
- f. fees for consistent removal by the Authority of pollutants otherwise subject to federal pretreatment standards; and/or
- g. other fees as the Authority may deem necessary to carry out the requirements contained herein.

These fees relate solely to the matters covered by these provisions and are separate from all other fees chargeable by the Authority.

Section 17.2 Severability

If any paragraph, word, section, or article of these provisions is invalidated by any court of competent jurisdiction, the remaining paragraphs, words, sections, and articles shall not be affected and shall continue in full force and effect.

These provisions shall not affect any act done or liability incurred, nor shall they alter any suit or prosecution pending or to be instituted to enforce any right or penalty or to punish any offense under the authority of any other rules and regulations.

Section 17.3 Conflict

All other rules and regulations inconsistent or conflicting with any part of these provisions are hereby repealed to the extent of such inconsistency or conflict.