

Chapter 262

SEWERS AND SEWAGE DISPOSAL

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[HISTORY: Adopted by the Borough Council of the Borough of East Washington as indicated in article histories. Amendments noted where applicable.]

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GENERAL REFERENCES

Washington-East Washington Joint Authority — See Ch.
7, Art. I.
Board of Code Enforcement Appeals — See Ch. 16.

Street excavations — See Ch. 291, Part 3.
Subdivision and land development — See Ch. 295.
Zoning — See Ch. 340.

ARTICLE I

Regulations and Rates**[Adopted 6-17-1953 by Ord. No. 266]****§ 262-1. Definitions.**

As used in this article, the following words and terms shall be construed as follows:

AGREEMENT — The agreement, dated as of June 1, 1953, between the Borough and the Authority.

AUTHORITY — The Washington-East Washington Joint Authority, as presently or hereafter constituted.

PERSON — Includes natural persons, partnerships, organizations and corporations.

REGULATIONS OF THE AUTHORITY — Such rules and regulations as the Authority may from time to time adopt and promulgate with respect to any matter affecting the maintenance and operation of the sewerage system and with respect to the collection of sewer rentals imposed by this article.

SEWER — All sanitary sewers, all lateral sewer service connections and all main collecting sewers and trunk lines included in the sewerage system.

SEWERAGE SYSTEM — The existing sewerage facilities within the service area of the Authority, together with all renewals, replacements, additions, extensions and enlargements from time to time made with respect thereto but does not include stormwater sewers.

USERS — All persons owning or occupying property having connections to the sewerage system.

WATER COMPANY — The Citizens Water Company of Washington, Pennsylvania, and any successor thereto.

§ 262-2. Connection required.

All persons owning improved property within the Borough which abuts on or adjoins any street or right-of-way in which there now is or shall hereafter be a sewer shall at their own expense, within three months after the effective date of this article or within three months after the construction of any new sewer, make connection with such sewer in the manner prescribed by this article or in accordance with the regulations of the Authority for the purpose of discharge into such sewer such drainage or waste matter as is specified in this article or as may from time to time be specified by the regulations of the Authority.

§ 262-3. Unlawful discharges.

From and after the effective date of this article, it shall be unlawful for any person to discharge or to permit to be discharged into any sewer any roof or surface water; or the flow from any groundwater collection system; or any matter determined by the regulations of the Authority to be dangerous or harmful to or the discharge of which into a sewer would adversely affect the sewerage system or the functioning thereof or the process of sewage treatment and disposal; or to discharge or to permit to be discharged into any sewer any industrial or process waste which is not preliminarily treated in the manner from time to time prescribed by the regulations of the Authority in order to make it reasonably harmless to the sewerage system and to the processes of sewage treatment and disposal.

§ 262-4. Rates. [Amended 6-21-1982 by Ord. No. 393; 6-19-1984 by Ord. No. 399; 5-19-1986 by Ord. No. 406; 5-16-1988 by Ord. No. 416; 2-19-1990 by Ord. No. 428; 3-16-1992 by Ord. No. 437]

On and after March 1, 1992, all users shall pay annual sewer rentals for the sewerage service furnished by the Authority, based on the following schedule of rates and in accordance with the classifications and other provisions below set forth and with the regulations of the Authority:

- A. Basis for determination of amount of sewerage service. Except as otherwise hereinafter provided, the amount of sewerage service furnished to each user shall be deemed to be equal to the amount of water supplied to such user by the water company, and the consumption of sewerage service, expressed in terms of gallons per month or gallons per quarter shall, except as otherwise hereinafter provided, be equal to the consumption of water as metered by the water company.
- B. Rates for users.
 - (1) Sewer rentals shall be computed by multiplying the usage in 1,000 gallons as determined in Subsection A above by the rates that apply in Schedule I, by the rates that apply in Schedule II, by the rates in Schedule III, and by the rates that apply in Schedule IV, and then adding the products of these four calculations for the total bill.
 - (2) Sewer rentals shall be due at these monthly or quarterly rates from all users who discharge sewage containing no process or industrial wastes or other matter more concentrated than domestic sewage as determined in the regulations of the Washington-East Washington Joint Authority.

**Schedule I
Debt Service Rate**

	Per Month	Per Quarter
Minimum Charge	\$7.62	\$16.64

Usage Block	Per Thousand Gallons
First 5,000 gallons per month or 15,000 gallons per quarter, or any part thereof	\$1.80
Next 5,000 gallons per month or 15,000 gallons per quarter, or any part thereof	\$1.17
All usage in excess of 15,000 gallons per month or 45,000 gallons per quarter, or any part thereof	\$0.74

**Schedule II
Operation And Maintenance Rate**

	Per Thousand Gallons
For usage of 1,000 gallons per month or quarter or any usage in excess of 1,000 gallons per month or quarter	\$1.16

**Schedule III
Pump Or Lift Station Rate**

	Per Thousand Gallons
For customers whose sewage must be pumped through the use of a pump or lift station into the normal gravity sewage collection system of the Authority, per thousand-gallons usage	\$0.43

**Schedule IV
Grinder Pump Rate**

	Per Thousand Gallons
For customers in districts that are to be charged for the use of sewer grinder pumps, per thousand-gallons usage	\$1.41

- C. Adjustment of sewer rental for wastes stronger than sanitary sewage. For users discharging wastes having a higher concentration of settleable solids and organic matter than domestic sewage, as determined by the regulations of the Authority, the rates set forth in Subsection B shall be adjusted for concentration in accordance with the regulations of the Authority.
- D. Users using private water supplies. For users using water, all or part of which is from a source other than the water company, there shall be a sewer rental separate from and in addition to any sewer rental based upon the consumption of water from the water company. Such separate and additional sewer rental shall be measured by the quantity of

water from the private sources which is discharged into the sewerage system and shall be at the same rate as is set forth in Subsection B. Each such user shall at his own expense install a meter or meters to measure the quantity of water received from sources other than the water company which are discharged into the sewerage system. No meter shall be installed or used for such purpose without approval of the Authority. If such user fails to install an approved meter or measuring device, the Authority shall determine the amount of the waste discharged to the sewerage system and shall impose charges based upon such determination.

- E. Water not discharged into the sewerage system. Whenever a user uses water from the water company, but such water is not discharged into the sewerage system, the quantity of such water shall be excluded in determining the sewer rental payable by such user. The quantity of such water shall be measured by a device or devices approved by the Authority and installed by the user and without cost to the Authority; provided, however, that, in reference to industrial and commercial users, where in the Authority's opinion it is impractical to install a measuring device continuously to determine the quantity of such water, the Authority may determine said quantity in such manner as it may prescribe.
- F. Observation facilities. Where required by the Authority, any user other than a domestic user shall install a suitable manhole to facilitate observation, sampling and measuring of wastes. Such manhole, when required, shall be accessibly and safely located and shall be constructed in accordance with plans approved by the Authority. The manhole shall be installed by the user at his expense and shall be maintained by him/her in a safe condition at all times.
- G. Inspection. The Authority or its authorized agent shall be permitted to enter upon all properties for the purpose of inspection, observation, measurements, sampling and testing in accordance with the regulations of the Authority.
- H. Notice of change in character of waste. Any user who discharges industrial or process wastes into any sewer and who shall change his methods of operation so as to alter the type of waste previously discharged shall notify the Authority 10 days previous to such change in order that the Authority may have the opportunity to sample the wastes and determine whether or not such wastes will be injurious to the sewerage system.
- I. User charge system; operations and maintenance. In accordance with the rules and regulations of the United States Environmental Protection Agency, Title 40, EPA 35.935-13, the user charge set forth in Schedule II, Operation and Maintenance Rate, is subject to annual review and revision as necessary.

§ 262-5. Owners liable for payment.

The owners of properties served by the sewerage system and the users of water in or on said properties shall be jointly and severally liable for the payment of the sewer rentals and penalties hereby imposed.

§ 262-6. Authority to collect rates.

The Authority is hereby authorized, empowered and appointed, for and on behalf and as agent of the Borough, to collect the sewer rentals and penalties hereby imposed, either from the owners of the properties receiving sewerage service or from the users of water upon said properties, or from both the owners and the water users, and to enforce the payment of such sewer rentals and penalties in any manner now or hereafter authorized by law.

§ 262-7. Rental as lien.

The sewer rentals and penalties hereby imposed shall be a lien on the property served, and all delinquent bills therefor shall be entered as a lien against such property, and such lien shall be filed in the Office of the Prothonotary of Washington County, Pennsylvania, and collected in the manner provided by law for the filing and collection of municipal claims.

§ 262-8. Violations and penalties. [Amended 9-16-1985 by Ord. No. 404; 11-7-2005 by Ord. No. 481]

Any person, firm or corporation who shall violate any provision of this article shall, upon conviction thereof, be sentenced to pay a fine of not more than \$1,000 and/or to imprisonment for a term not to exceed 90 days.

ARTICLE II**Shutoff Provisions**

[Adopted 8-13-1973 by Ord. No. 352]

§ 262-9. Failure to pay.

In any case where the Washington-East Washington Joint Authority has certified to the Borough of East Washington, Pennsylvania, that an owner or occupant of premises served by Western Pennsylvania Water Company-Washington District has neglected or failed to pay for a period of 30 days or more from the due date thereof, any rental, rate or charge for sewer, sewerage or sewage treatment service imposed by the Borough of East Washington and authorized by the Borough of East Washington to be collected by the Washington-East Washington Joint Authority, said Western Pennsylvania Water Company-Washington District is hereby authorized and required, at the request and direction of the Borough of East Washington when the Washington-East Washington Joint Authority shall have assigned its claim for such service to the Borough of East Washington, to shut off the supply of water to such premises until all such overdue rentals, rates and charges, together with any penalties and interest thereon, shutoff fees, restoration fees, and estimated loss of water revenues for which the Borough of East Washington may become responsible to pay to the said water company shall be paid by the owner or occupant of said premises.

§ 262-10. Notice.

In no case shall the water supply be shut off to any premises until 10 days have elapsed after written notice of an intention so to do has been mailed by the Washington-East Washington

Joint Authority, acting as agent for the Borough of East Washington, to the owner, occupant or other person liable for payment of the said rentals, rates or charges, and in addition thereto, there has been posted by said Authority a written notice of said intention at a main entrance to the premises.

§ 262-11. Refusal to pay.

If during such ten-day period the owner, occupant or other person liable for the payment of the rentals, rates or charges delivers to the Western Pennsylvania Water Company a written statement under oath or affirmation, stating that he or she has a just defense to the claim, or to part of it, for such rentals, rates or charges, then the water supply shall not be shut off until the claim has been judicially determined. Such statement shall also contain a declaration under oath or affirmation that such statement was not executed for the purpose of delay.

§ 262-12. Fees payable by Borough.

The Borough of East Washington, Pennsylvania, shall pay to Western Pennsylvania Water Company-Washington District the sum of \$10 to cover the water company's reasonable additional clerical and other expenses incurred by it in shutting off the water supply to each such premises. In addition, the Borough of East Washington shall pay to said water company, upon its request therefor, the further sum of \$10 to cover the said water company's cost of restoring water service to each such premises. In the event that more than one hour is required for the shutoff or restoration of water service to any such premises, the Borough of East Washington shall pay the actual cost thereof to the water company based on time, material, transportation and other fixed charges. In addition, the Borough of East Washington shall pay to said water company the estimated loss of water revenues resulting from such shutoff based upon the actual period of time during which the supply of water is shut off in each instance. The aforesaid shutoff and restoration fees and the stated loss of water revenues shall be collected by the Borough of East Washington, through the Washington-East Washington Joint Authority, as part of the charges and costs for restoration of services from the owner, occupant or other person liable for the payment of the rentals, rates and charges aforesaid before restoration of said water service.

§ 262-13. Washington-East Washington Joint Authority to enforce.

For the purpose of collecting the aforesaid fees, rentals, rates, charges, estimated loss of water revenues or other costs incurred by the Borough of East Washington in carrying out the provisions of this article, the Borough of East Washington does hereby authorize and designate the Washington-East Washington Joint Authority to be its agent in carrying out the provisions of this article. Furthermore, the Mayor is hereby directed to enter into an agreement on behalf of the Borough of East Washington, Pennsylvania, with the Western Pennsylvania Water Company-Washington District to carry out the intents and purposes of this article, which agreement shall be made subject to the approval of the Pennsylvania Public Utility Commission, and any and all agreements heretofore made in accordance herewith are ratified and confirmed.

§ 262-14. PUC to arbitrate.

In the event a dispute arises between the Western Pennsylvania Water Company-Washington District and the Borough of East Washington, Pennsylvania, regarding the cost of such services, the amount of such revenues lost, or regarding provisions of any agreement between the Borough of East Washington and said water company, such dispute shall be submitted by either the Borough of East Washington or said water company to the Pennsylvania Public Utility Commission, whose decision, unless reversed on appeal, shall be final.

ARTICLE III**Reserve Capacity Charge**

[Adopted 8-8-1977 by Ord. No. 372]

§ 262-15. Reserve capacity charge imposed.

There is hereby imposed a reserve capacity charge upon the users of the sewage works of the Washington-East Washington Joint Authority within the Borough for connections made to the sewage works after March 15, 1977, excepting, however, connections to the sewage works for buildings, dwellings and other structures: erected or constructed on or before March 15, 1977; or erected or constructed on any lot or parcel of land which is part of a plan of lots or plan of land subdivision recorded on or before March 14, 1977, in the Office of the Recorder of Deeds of Washington County, Pennsylvania; or erected or constructed on any lot or parcel of land of record on March 14, 1977, containing one acre or less.

§ 262-16. Charge per unit.

The reserve capacity charge shall be based on an equivalent dwelling unit which shall be equal to 400 gallons of wastewater flow per day. A single-family residence is equal to one equivalent dwelling unit. The reserve capacity charge per equivalent domestic unit shall be in the amounts for each of the years as set forth in the table below:

Reserve Capacity Charge Per Equivalent Dwelling Unit	Fiscal Year Ending June 30
\$100.66	1978
\$105.02	1979
\$109.38	1980
\$113.74	1981
\$118.10	1982
\$122.46	1983
\$126.82	1984
\$131.18	1985
\$135.54	1986
\$139.90	1987
\$144.26	1988
\$148.62	1989

Reserve Capacity Charge Per Equivalent Dwelling Unit	Fiscal Year Ending June 30
\$152.98	1990
\$157.34	1991
\$161.70	1992
\$166.06	1993
\$170.42	1994
\$174.78	1995
\$179.14	1996
\$183.50	1997
\$187.86	1998
\$192.22	1999
\$196.58	2000
\$200.94	2001
\$205.30	2002
\$209.66	2003
\$214.02	2004
\$218.38	2005
\$222.74	2006
\$227.10	2007 and thereafter

§ 262-17. Authority to collect.

The Borough hereby authorizes, empowers and appoints the Authority for and on behalf and as agent of the Borough to collect the reserve capacity charge under this article, and to deposit the same to the credit of the operating fund held by the trustee under the first supplemental agreement dated as of May 1, 1977, between the Washington-East Washington Joint Authority and the Borough of East Washington, amending and supplementing the agreement dated as of July 1, 1962.

ARTICLE IV **Pretreatment Standards** **[Adopted 10-13-2008 by Ord. No. 500]**

A. General Provisions.

§ 262-18. Purpose and policy.

This article sets forth uniform requirements for users of the publicly owned treatment works owned by the Washington-East Washington Joint Authority (hereinafter the “Authority”) and enables the Authority in cooperation with the Borough of East Washington to comply with all applicable State and Federal laws, including the Clean Water Act (33 U.S.C. § 1251 *et seq.*) and the General Pretreatment Regulations (40 CFR, Part 403). This article is intended to replace the

existing pretreatment ordinance, Ord. No. 447, adopted on February 20, 1995. The objectives of this article are:

- A. To prevent the introduction of pollutants into the publicly owned treatment works that will interfere with its operations.
- B. To prevent the introduction of pollutants into the publicly owned treatment works that will pass through the publicly owned treatment works, inadequately treated, into receiving waters, or otherwise be incompatible with the publicly owned treatment works.
- C. To protect both publicly owned treatment works personnel who may be affected by wastewater and sludge in the course of their employment and the general public.
- D. To promote reuse and recycling of industrial wastewater and sludge from the publicly owned treatment works.
- E. To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the publicly owned treatment works.
- 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 publicly owned treatment works is subject.

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

§ 262-19. Administration.

Except as otherwise provided herein, the Manager of the Authority shall administer, implement, and enforce the provisions of this article. Any powers granted to or duties imposed upon the Manager may be delegated by the Manager to other Borough or Authority personnel.

§ 262-20. Abbreviations.

The following abbreviations, when used in this article, shall have the designated meanings:

BOD	biochemical oxygen demand
CFR	Code of Federal Regulations
COD	chemical oxygen demand
EPA	U.S. Environmental Protection Agency
gpd	gallons per day
mg/l	milligrams per liter
NPDES	National Pollutant Discharge Elimination System
POTW	publicly owned treatment works
RCRA	Resource Conservation and Recovery Act
SIC	Standard Industrial Classification

TSS total suspended solids
U.S.C. United States Code

§ 262-21. Definitions.

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this article, shall have the meanings hereinafter designated.

ACT or “THE ACT”–The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. § 1251 *et seq.*

APPROVAL AUTHORITY–The Regional Administrator of Environmental Protection Agency (EPA).

AUTHORITY–The Washington-East Washington Joint Authority, an authority created under the Municipal Authorities Act of 1945 which has authority over indirect discharges to and discharges from its publicly owned treatment works.

AUTHORIZED REPRESENTATIVE OF THE USER–

- (1) If the user is a corporation:
 - (a) The president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation.
 - (b) The manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second-quarter 1980 dollars), if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
- (2) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
- (3) If the user is a Federal, State, or local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
- (4) The individuals described in Subsections (1) through (3), above may designate another 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.

BIOCHEMICAL OXYGEN DEMAND or BOD–The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20° centigrade, usually expressed as a concentration (e.g., mg/l).

BEST MANAGEMENT PRACTICES or BMP–The schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in § 262-22A and B [40 CFR 403.5(a)(1) and (b)]. BMPs include treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks,

sludge or waste disposal, or drainage from raw material storage.

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. § 1317) which apply to a specific category of users and which appear in 40 CFR, Chapter I, Subchapter N, Parts 405–471.

ENVIRONMENTAL PROTECTION AGENCY or EPA—The U.S. Environmental Protection Agency or, where appropriate, the Regional Water Protection Division Director, or other duly authorized official of said agency.

EXISTING SOURCE—Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with § 307 of the Act.

GRAB SAMPLE—A sample which is taken from a wastestream without regard to the flow in the wastestream and over a period of time not to exceed 15 minutes.

INDIRECT DISCHARGE or DISCHARGE—The introduction of pollutants into the POTW from any nondomestic source regulated under § 307(b), (c), or (d) of the act.

INDUSTRIAL USER—An establishment which discharges or introduces industrial waste into a publicly owned treatment works.

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

LOCAL LIMITS—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).

MANAGER—The person designated by the Authority to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this article, or a duly authorized representative.

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

MUNICIPALITY—Borough of East Washington, Pennsylvania.

NEW SOURCE—

- (1) Any building, structure, facility, or installation from which there is (or may be) a discharge of pollutants, the construction of which commenced after the publication of proposed pretreatment standards under § 307(c) or 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 any existing source.
 - (c) The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the existing source, should be considered.
- (2) Construction on 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 Subsection (1)(b) or (c) above but otherwise alters, replaces, or adds to the existing process or production equipment.
- (3) Construction of a new source as defined under this Subsection has commenced if the owner or operator has:
 - (a) Begun, or caused to begin, as part of a continuous onsite construction program.
 - [1] Any placement, assembly, or installation of facilities or equipment.
 - [2] Significant site preparation work including clearing, excavation, or removal of existing building, structures, or facilities which is necessary for the placement, assembly or installation of new source facilities or equipment.
 - (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this Subsection.

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

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 Authority's NPDES permit, including an increase in the magnitude or duration of a violation.

PERSON—Any individual, partnership, copartnership, firm, company, corporation, association,

joint stock company, trust, estate, governmental entity, or any other legal representatives, agents, or assigns. This definition includes all Federal, State, and local governmental entities.

pH—A measure of the acidity or alkalinity of a solution, expressed in standard units.

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

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

PRETREATMENT STANDARDS or STANDARDS—Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards, and local limits.

PROHIBITED DISCHARGE STANDARDS or PROHIBITED DISCHARGES—Absolute prohibitions against the discharge of certain substances; these prohibitions appear in § 262-22 of this article.

PUBLICLY OWNED TREATMENT WORKS or POTW—A publicly owned treatment works as defined by § 212 of the Federal Water Pollution Control Act (62 Stat. 1155, 33 U.S.C. § 1251 *et seq.*) which is owned by a state, municipality or authority, as defined by § 502(4) of the Federal Water Pollution Control Act. The term includes devices and systems used in the storage, treatment, recycling and reclamation of municipal sewage or industrial wastes of liquid nature. It also includes all sewers, pipe and other conveyances that convey wastewater to the POTW plant. The term also means:

- (1) A municipality, as defined in § 502(4) of the Federal Water Pollution Control Act, which has jurisdiction over indirect discharges to and discharges from this type of treatment works.
- (2) An authority created under the act of May 2, 1945 (P.L. 382, No. 164), known as the Municipality Authorities Act of 1945, which has jurisdiction over indirect discharges to and discharges from this type of treatment works.

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

SEWAGE—Human excrement and gray water (household showers, dishwashing operations, etc.).

SIGNIFICANT INDUSTRIAL USER—

- (1) A user subject to categorical pretreatment standards.
- (2) A user that:
 - (a) Discharges an average of 25,000 gpd or more of process wastewater to the

POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater).

- (b) Contributes a process wastestream which makes up 5% or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant.
 - (c) Is designated as such by Authority on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
- (3) Upon a finding that a user meeting the criteria in Subsection (2) 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 a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.

SLUG LOAD or SLUG—Any discharge of a non-routine, episodic nature, including, but not limited to, an accidental spill or non-customary batch discharge which has reasonable potential to cause Interference or pass through, or in any other way violate the POTW's regulations, local limits, or permit conditions.

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

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

SUSPENDED SOLIDS—The total suspended matter that floats on the surface of, or is suspended in, water, wastewater, or other liquid, and which is removable by laboratory filtering.

USER—A source of indirect discharge.

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

WASTEWATER TREATMENT PLANT or TREATMENT PLANT—That portion of the POTW which is designated to provide treatment of municipal sewage and industrial waste.

B. General Sewer Use Requirements.

§ 262-22. Prohibited discharge standards.

- A. General prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or local pretreatment standards or requirements.
- B. Specific prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

- (1) Pollutants which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-up flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21.
- (2) Wastewater having a pH less than 5.0, or otherwise causing corrosive structural damage to the POTW or equipment.
- (3) Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in interference; but in no case solids greater than one-half inch in any dimension.
- (4) Pollutants, including oxygen-demanding pollutants (BOD, etc.) released in a discharge at a flow rate and/or pollutant concentration which, either singly or by interaction with other pollutants, will cause interference with the POTW.
- (5) Wastewater having a temperature greater than 104°F (40°C), or which will inhibit biological activity in the treatment plant resulting in interference, but in no case wastewater which causes the temperature at the introduction into the collection system to exceed 104°F (40°C).
- (6) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through.
- (7) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems.
- (8) Trucked or hauled pollutants, except at discharge points designated by the Manager in accordance with § 262-30 of this article.
- (9) Noxious or malodorous liquids, gases, solids, or other wastewater which, either singly or by interaction with other wastes, are sufficient to create a public nuisance or a hazard to life, or to prevent entry into the sewers for maintenance or repair.
- (10) Wastewater which imparts color which cannot be removed by the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating the Authority's NPDES permit.
- (11) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable State or Federal regulations.
- (12) Stormwater, 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 Manager.
- (13) Any substance which may cause the POTW's effluent or any other product of the POTW such as residues, sludges, or scums, 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 non-compliance with sludge use or disposal criteria, guidelines or regulations developed under § 405 of the Act; 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.

- (14) Medical wastes, except as specifically authorized by the Manager in a wastewater discharge permit.
- (15) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a toxicity test.
- (16) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW.
- (17) Fats, oils, or greases of animal or vegetable origin in concentrations greater than 150 mg/l.
- (18) Wastewater causing two readings on an explosion hazard meter at the point of discharge into the POTW, or at any point in the POTW, of two successive readings to exceed 5% or any single reading over 10% of the lower explosive limit of the meter.

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

§ 262-23. National categorical pretreatment standards.

The categorical pretreatment standards found at 40 CFR, Chapter 1, Subchapter N, Parts 405–471, are hereby incorporated by reference as if fully set forth herein.

- A. Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Manager may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- B. When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Manager shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).
- C. A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
- D. A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

§ 262-24. Local limits.

- A. The following pollutant limits are established to protect against pass through and interference. All non-domestic wastewater permits issued by the Washington-East Washington Joint Authority taken together shall not exceed the aggregate sum stated herein for any of the following pollutants:

Total Headworks Loading for Industrial Discharges
2.3834 #/day arsenic
0.3329 #/day cadmium

Total Headworks Loading for Industrial Discharges
0.7068 #/day total chromium
1.5655 #/day copper
0.0456 #/day cyanide
1.1073 #/day lead
0.0389 #/day mercury
4.8296 #/day nickel
0.7427 #/day silver
1.7225 #/day zinc

Permit limits based upon the above maximum allowances apply at the point where the waste is discharged into the POTW. All mass discharges for metallic substances are for “total” metal unless indicated otherwise.

- B. The Authority may develop best management practices (BMPs), by ordinance or in individual wastewater discharge permits, to implement local limits and the requirements of § 262-22.

§ 262-25. Borough’s and Authority’s right of revision.

The Authority reserves the right to establish, by ordinance or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

§ 262-26. Dilution.

No user shall ever increase the use of process water, or in any way attempt to dilute a discharge, as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Manager may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirement, or in other cases when the imposition of mass limitations is appropriate.

C. Pretreatment of Wastewater.

§ 262-27. Pretreatment facilities.

Users shall provide wastewater treatment as necessary to comply with this article and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in § 262-22 of this article within the time limitations specified by EPA, the State, or the Manager, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user’s expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Manager for review, and shall be acceptable to the Manager before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the Authority under the provisions of this

article.

§ 262-28. Additional pretreatment measures.

- A. Whenever deemed necessary, the Manager may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharges only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this article.
- B. The Manager may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
- C. Grease, oil and sand interceptors shall be provided when, in the opinion of the Manager, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the Manager and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned and repaired regularly, as needed, by the user at their expense.
- D. Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

§ 262-29. Accidental discharge/slugs control plans.

Each significant industrial user shall submit to the Authority for approval an accidental discharge/slugs control plan. Each significant industrial user shall provide and maintain facilities and operating procedures to prevent accidental discharge of prohibited materials which shall be provided and maintained at user's cost and expense such accidental discharge/slugs control plan shall address, at a minimum, the following:

- A. Description of discharge practices, including nonroutine batch discharges.
- B. Description of stored chemicals.
- C. Procedures for immediately notifying the Manager of any accidental or slug discharge, as required by § 262-49 of this article.
- D. Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

No significant industrial user who commences contribution to the POTW after the effective date of this article shall be permitted to introduce pollutants into the system until accidental discharge procedures and slug control plan have been approved by the Authority.

§ 262-30. Hauled wastewater.

- A. Septic tank waste may be introduced into the POTW only at locations designated by the Manager, and at such times as are established by the Manager. Such waste shall not violate §§ 262-22 through 262-26 of this article or any other requirements established by the Authority. The Authority may require septic tank waste haulers to obtain wastewater discharge permits.
- B. The Manager shall require haulers of industrial waste to obtain wastewater discharge permits. The Manager may require generators of hauled industrial waste to obtain wastewater discharge permits. The Manager also may prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this article.
- C. Industrial waste haulers may discharge loads only at locations designated by the Manager. No load may be discharged without prior consent of the Manager. The Manager may collect samples of each hauled load to ensure compliance with applicable standards. The Manager may require the industrial waste hauler to provide a waste analysis of any load prior to discharge.
- D. 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.

D. Wastewater Discharge Permit Application.**§ 262-31. Wastewater analysis.**

When requested by the Manager, a user must submit information on the nature and characteristics of its wastewater within 30 days of the request. The Manager is authorized to prepare a form for this purpose and may periodically require users to update this information.

§ 262-32. Wastewater discharge permit requirement.

- A. No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Manager.
- B. The Manager may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this article.
- C. Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this article and subjects the wastewater discharge permittee to the sanctions set out in §§ 262-62 through 262-76 of this article. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State and local law.

§ 262-33. Wastewater discharge permitting: existing permit holders.

All significant industrial users, presently holding valid wastewater discharge permits issued by the Authority shall be permitted to continue to discharge wastewater into the POTW in accord with the existing permit requirements for up to 150 days. However, all such users shall, within 30 days of the effective date of this article, apply for reissuance of their current permit by submitting an application in accord with § 262-35 of this article. Said application shall be approved or denied by the Authority within 90 days of said application date. Provided, however, that should the Manager fail to take any action during said 90-day period, the user shall be permitted to discharge wastewater in accord with existing permit requirements. The terms and conditions of any existing permit are subject to modification at the time of reissuance, as long as the user is informed of any proposed changes in permit requirements at least 30 days prior to the effect date of the change. Any changes or new conditions may include a reasonable time scheduled for compliance.

§ 262-34. Wastewater discharge permitting: new connections.

Any user required to obtain a wastewater discharge permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the continuance or recommencing of such discharge. An application for such wastewater discharge permit, in accordance with § 262-35 of this article, must be filed at least 90 days prior to the date upon which any discharge will begin or recommence.

§ 262-35. Wastewater discharge permit application contents.

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

- A. All information required by § 262-44B of this article.
- B. Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW.
- C. Number and type of employees, hours of operation, and proposed or actual hours of operations.
- D. Each product produced by type, amount, process or processes, and rate of production.
- E. Type and amount of raw materials processed (average and maximum per day).
- F. Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge.
- G. Time and duration of discharges.
- H. Any other information as may be deemed necessary by the Manager to evaluate the wastewater discharge permit application.

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

§ 262-36. Application signatories and certification.

All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

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

§ 262-37. Wastewater discharge permit decisions.

The Manager will evaluate the data furnished by the user and may require additional information. Within 90 days of receipt of a complete wastewater discharge permit application, the Manager will determine whether or not to issue a wastewater discharge permit. The manager may deny any application for a wastewater discharge permit.

E. Wastewater Discharge Permit Issuance Process.

§ 262-38. Wastewater discharge permit duration.

A wastewater discharge permit shall be issued for specified time period, not to exceed five years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five years, at the discretion of the Manager. Each wastewater discharge permit will indicate a specific date upon which it will expire.

§ 262-39. Wastewater discharge permit contents.

A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Manager to, prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.

A. Wastewater discharge permits must contain.

- (1) A statement that indicates wastewater discharge permit duration, which in no event shall exceed five years.
- (2) A statement that the wastewater discharge permit is nontransferable without prior notification to the Manager in accordance with § 262-42 of this article, and provision for furnishing the new owner or operator with a copy of the existing wastewater discharge permit.
- (3) Effluent limits, including best management practices, based on applicable pretreatment standards.
- (4) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and

local law.

- (5) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law.
 - (6) Requirements to control slug discharge, if determined by the Manager to be necessary.
- B. Wastewater discharge permits may contain, but need not be limited to, the following conditions:
- (1) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization.
 - (2) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works.
 - (3) Requirements for the development and implementation of spill control plans or other special conditions including management practices necessary to adequately prevent accidental, unanticipated, or nonroutine discharges.
 - (4) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW.
 - (5) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW.
 - (6) Requirements for installation and maintenance of inspection and sampling facilities and equipment.
 - (7) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit.
 - (8) Other conditions as deemed appropriate by the Manager to ensure compliance with this article, and State and Federal laws, rules and regulations.

§ 262-40. Wastewater discharge permit appeals.

The Manager shall provide public notice of the issuance with a wastewater discharge permit. Any significant industrial user aggrieved by the issuance of its wastewater discharge permit may seek judicial review of any term or condition by filing a complaint with the Court of Common Pleas of Washington County within 30 days in accordance with the provisions and procedures of the Local Agency Law, 2 Pa.C.S. §§ 551–555, 751–754.

§ 262-41. Wastewater discharge permit modification.

The Manager may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:

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

requirements.

- B. To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance.
- C. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge.
- D. Information indicating that the permitted discharge poses a threat to the Authority's POTW, Authority personnel, or the receiving waters.
- E. Violation of any terms or conditions of the wastewater discharge permit.
- F. Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting.
- G. Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13.
- H. To correct typographical or other errors in the wastewater discharge permit.
- I. To reflect a transfer of the facility ownership or operation to a new owner or operator. However, modification for this purpose may not be allowed unless the permit is transferable as provided in § 262-42.

§ 262-42. Wastewater discharge permit transfer.

Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least 30 days advance notice to the Manager and the Manager approves the wastewater discharge permit transfer. The notice to the Manager must include a written certification by the new owner or operator which:

- A. States that the new owner and/or operator has no immediate intent to change the facility's operations and processes.
- B. Identifies the specific date on which the transfer is to occur.
- C. Acknowledges full responsibility for complying with the existing wastewater discharge permit.

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

§ 262-43. Wastewater discharge permit revocation.

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

- A. Failure to notify the Manager of significant changed conditions to the changed discharge.
- B. Failure to provide prior notification to the Manager of changed conditions pursuant to § 262-48 of this article.
- C. Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application.

- D. Falsifying self-monitoring reports or tampering with monitoring equipment.
- E. Refusing to allow the Manager timely access to the facility premises and records.
- F. Failure to meet effluent limitations or compliance schedules.
- G. Failure to pay fines or sewer charges.
- H. Failure to complete a wastewater survey or the wastewater discharge permit application.
- I. Failure to provide advance notice of the transfer of business ownership of a permitted facility.
- J. Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this article.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

F. Reporting Requirements.

§ 262-44. Baseline monitoring reports.

- A. Within either 180 days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later, existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Manager a report which contains the information listed in Subsection B, below. At least 90 days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an application standard, shall submit to the Manager a report which contains the information listed in Subsection B, below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
- B. Users described above shall submit the information set forth below.
 - (1) Identifying information. The name and address of the facility, including the name of the operator and owner.
 - (2) Environmental permits. A list of any environmental control permits held by or for the facility.
 - (3) Description of operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operations(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.
 - (4) Flow measurement. Information showing the measured average daily and maximum daily flow in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).
 - (5) Measurement of pollutants.

- (a) The categorical pretreatment standards applicable to each regulated process.
- (b) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Manager, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in § 262-53 of this article.
- (c) Sampling must be performed in accordance with procedures set out in § 262-54 of this article.
- (6) Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
- (7) Compliance schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in § 262-45 of this article.
- (8) Signature and certification. All baseline monitoring reports must be signed and certified in accordance with § 262-36 of this article.

§ 262-45. Compliance schedule progress reports.

The following conditions shall apply to the compliance schedule required by § 262-44B(7) of this article:

- A. The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation).
- B. No increment referred to above shall exceed nine months.
- C. The user shall submit a progress report to the Manager no later than 14 days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule.
- D. In no event shall more than nine months elapse between such progress reports to the Manager.

§ 262-46. Reports on compliance with categorical pretreatment standard deadline.

Within 90 days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencements of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Manager a report containing the information described in § 262-44B(4)–(6) of this article. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operations), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with § 262-36 of this article.

§ 262-47. Periodic compliance reports.

- A. All significant industrial users shall, at a frequency determined by the Manager but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by pretreatment standards and the measured or estimated average and maximum daily flow for the reporting period. In cases where the pretreatment standard requires compliance with a best management practice (BMP) or pollution prevention alternative, the user must submit documentation required by the manager or the pretreatment standard necessary to determine the compliance status of the user. All periodic compliance reports must be signed and certified in accordance with § 262-36 of this article.
- B. All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
- C. If a user to the reporting requirement in this section monitors any pollutant more frequently than required by then Manager, using the procedures prescribed in § 262-54 of this article, the results of this monitoring shall be included in the report.

§ 262-48. Reports of changed conditions.

Each user must notify the Manger of any planned significant changes to the user's operations or system which might alter the nature, quality, or volume of its wastewater at least 90 days before the change.

- A. The Manager may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under § 262-35 of this article.
- B. The Manager may issue a wastewater discharge permit under § 262-37 of this article or modify an existing wastewater discharge permit under § 262-41 of this article in response to changed conditions or anticipated changed conditions.
- C. For purposes of this requirement, significant changes include, but are not limited to, flow

increases of 20% or greater, and the discharge of any previously unreported pollutants.

§ 262-49. Reports of potential problems.

- A. In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the Manager of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
- B. Within five days following such discharge, the user shall, unless waived by the Manager, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this article.
- C. A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in Subsection A, above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
- D. Significant industrial users are required to notify the Manager immediately of any changes at its facility affecting the potential for a slug discharge.

§ 262-50. Reports from unpermitted users.

All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Manager as the Manager may require.

§ 262-51. Notice of violation/repeat sampling and reporting.

If sampling performed by a user indicates a violation, the user must notify the Manager within 24 hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Manager within 30 days after becoming aware of the violation. Resampling by the industrial user if the Authority performs sampling at the user's facility at least once a month, or if the Authority performs sampling at the user between the time that the initial sampling was conducted and the time when the user or Authority receives the results of the sampling, or if the Authority has performed the sampling and analysis in lieu of the industrial user.

§ 262-52. Notification of the discharge of hazardous waste.

- A. Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW of a substance which, if otherwise disposed of, would be hazardous waste under 40 CFR, Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR, Part 261, the EPA

hazardous waste number, and the type of discharge (continuous, batch, or other). If the user discharges more than 100 kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: an identification of the hazardous constituents contained in the wastes, an estimation of the mass and concentration of such constituents in the wastestream discharged during the calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following 12 months. All notifications must take place no later than 180 days after the discharge commences. Any notification under this Subsection need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under § 262-48 of this article. The notification requirement in this section does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of §§ 262-44, 262-46 and 262-47 of this article.

- B. Dischargers are exempt from the requirements of Subsection A, above, during a calendar month in which they discharge no more than 15 kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than 15 kilograms of nonacute hazardous wastes in a calendar month, or of any quantity of acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e), requires a one-time notification. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
- C. In the case of any new regulations under § 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as hazardous waste, the user must notify the Manager, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations.
- D. In the case of any notification made under this section, the user shall certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it has determined to be economically practical.
- E. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this article, a permit issued thereunder, or any applicable Federal or State law.

§ 262-53. Analytical requirements.

All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR, Part 136, 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, sampling and analyses must be performed in accordance with procedures approved by EPA.

§ 262-54. Sample collection.

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 was representative of conditions occurring during the reporting period.

- A. Except as indicated in Subsections B and C below, the user must collect wastewater samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, the Manager may authorize the use of time proportional sampling or a minimum of four grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. Using protocols (including appropriate preservation) specified in 40 CFR, Part 136, and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Authority, as appropriate. In addition, grab samples may be required to show compliance with instantaneous discharge limits.
- B. Samples for oil and grease, temperature, pH, cyanide, phenols, sulfides, and volatile organic compounds must be obtained using grab collection techniques.
- C. For sampling required in support of baseline monitoring and 90-day compliance reports required in §§ 262-44 and 262-46 [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 do not exist; for facilities for which historical sampling data are available, the Manager may authorize a lower minimum. For the reports required by § 262-47 (40 CFR 403.12(e) and 403.12(h)), the industrial user is required to collect the number of grab samples necessary to assess and assure compliance by with applicable pretreatment standards and requirements.

§ 262-55. Timing.

Written reports will be deemed to have been submitted on the date postmarked. For reports that are not mailed, postage prepaid, into mail facility services by the United States Postal Service, the date of receipt of the report shall govern.

§ 262-56. Record keeping.

Users subject to the reporting requirements of this article shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this article, any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements, and documentation associated with best management practices established under § 262-25C. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three years. This period shall be automatically extended for the duration of any litigation concerning the user or the Authority, or where the user has been specifically notified of a longer retention period by the Manager.

§ 262-57. Certification statements.

Certification of permit applications, user reports and initial monitoring waiver. The following certification statement is required to be signed and submitted by users submitting permit applications in accordance with § 262-37; users submitting baseline monitoring reports under § 262-44B(5); users submitting reports on compliance with the categorical Pretreatment Standard deadlines under § 262-46; users submitting periodic compliance reports required by § 262-47A–D and users submitting an initial request to forego sampling of a pollutant on the basis of § 262-47B(4). The following certification statement must be signed by an authorized representative as defined in § 262-20C:

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

G. Compliance Monitoring.**§ 262-58. Right of entry; inspection and sampling.**

The Manager shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this article and any wastewater discharge permit or order issued hereunder. Users shall allow the Manager ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.

- A. Where a user has security measures in force which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Manager will be permitted to enter without delay for the purposes of performing specific responsibilities.
- B. The Manager shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
- C. The Manager 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 to ensure their accuracy.
- D. Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Manager and shall not be replaced. The costs of clearing such access shall be born by the user.
- E. Unreasonable delays in allowing the Manager access to the user's premises shall be a violation of this article.

§ 262-59. Search warrants.

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

H. Confidential Information.**§ 262-60. Confidential information.**

Information and data on a user obtained from reports, survey, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the manager'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 Manager 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 which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

I. Publication of Users in Significant Noncompliance.**§ 262-61. Publication of users in significant noncompliance.**

The Manager shall publish annually, in the largest daily newspaper published in the municipality where the POTW is located, a list of the users which, during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements, and shall summarize any enforcement actions taken against such users. The term significant noncompliance shall mean:

- A. Chronic violations of wastewater discharge limits, defined here as those in which 66% or more of wastewater measurements taken during a six-month period exceeded the daily maximum limit or average limit for the same pollutant parameter by any amount, including instantaneous limits.
- B. Technical review criteria (TRC) violations, defined here as those in which 33% or more of wastewater measurements taken for each pollutant parameter during a six-month period equals or exceeds the product of the instantaneous maximum limit, daily maximum limit or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and

grease, and 1.2 for all other pollutants except pH).

- C. Any other discharge violation that the Manager believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public.
- D. Any discharge of pollutants that has caused imminent endangerment to the public or to the environment, or has resulted in the Manager'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 wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance.
- F. Failure to provide within 30 days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules.
- G. Failure to accurately report noncompliance.
- H. Any other violation(s) that the Manager determines will adversely affect the operation or implementation of the local pretreatment program.

J. Administrative Enforcement Remedies.

§ 262-62. Notification of violation.

When the Manager finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Manager shall serve upon that user a written notice of violation. Within 15 days of the receipt of this notice, an explanation of the violation and, a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Manager. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the notice of violation. Nothing in this section shall limit the authority of the Manager to take any action, including emergency actions or any other enforcement action, without first issuing a notice of violation.

§ 262-63. Consent orders.

The Manager may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any user responsible for noncompliance. Such documents will include specific action to be taken by the user to correct the noncompliance within a time period specified by the document. Such documents shall have the same force and effect as the administrative orders issued pursuant to §§ 262-65 and 262-66 of this article and shall be judicially enforceable.

§ 262-64. Show cause hearing.

- A. The Manager may order a user which has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Manager and show cause why

the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least 10 days prior to the hearing. Such notice may be serviced on any authorized representative of the user.

- B. The Authority may itself conduct the hearing and take the evidence, or may designate any of its members or any officer or employee of the Authority to:
 - (1) Issue in the name of the Authority notice of hearings requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings.
 - (2) Take evidence.
 - (3) Transmit a report of the evidence and hearing, including transcripts and other evidence together with recommendations to the Authority Board for action thereon.
 - (4) At any hearing held pursuant to this article, the testimony taken may be under oath and recorded stenographically, the transcript, so recorded, will be made available to any members of the public or any party to the hearing upon payment of the usual charges thereof.
- C. After the Authority has reviewed the evidence, it may issue all necessary and appropriate orders, including, but not limited to, consent orders, cease and desist orders, compliance orders, and discharge suspension or termination orders.
- D. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the user.

§ 262-65. Compliance orders.

When the Manager finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Manager may issue an order to the user responsible for the discharge directing that the user come into compliance within a specified time. If the user does not come into compliance within the time provided, sewer service may be discontinued unless adequate treatment facilities, devices, or other related appurtenances are installed and properly operated. Compliance orders also may contain other requirements to address the noncompliance, including additional self-monitoring and management practices designed to minimize the amount of pollutants discharged to the sewer. A compliance order may not extend the deadline for compliance established for a pretreatment standard or requirement, nor does a compliance order relieve the user of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or prerequisite for, taking any other action against the user.

§ 262-66. Cease and desist orders.

When the Manager finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit or order issued hereunder, or any other pretreatment

standard or requirement, or that the user's past violations are likely to recur, the Manager may issue an order to the user directing it to cease and desist all such violations and directing the user to:

- A. Immediately comply with all requirements.
- B. Take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and/or terminating the discharge.

Issuance of a cease and desist order shall not be a bar against, or a prerequisite for, taking any other action against the user.

§ 262-67. Emergency suspensions.

The Manager 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 Manager 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.

- A. Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Manager may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Manager may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Manager that the period of endangerment has passed, unless the termination proceedings in § 262-69 of this article are initiated against the user.
- B. A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measure taken to prevent any future occurrence, to the Manager prior to the date of any show cause or termination hearing under § 262-64 or 262-69 of this article.

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

§ 262-68. Termination of discharge.

In addition to the provisions in § 262-43 of this article, any user who violates the following conditions is subject to discharge termination:

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

monitoring, or sampling.

E. Violation of the pretreatment standards in §§ 262-22 through 262-26 of this article.

Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under § 262-64 of this article why the proposed action should not be taken. Exercise of this option by the Manager shall not be a bar to, or a prerequisite for, taking any other action against the user.

K. Judicial Enforcement Remedies.

§ 262-69. Injunctive relief.

- A. When the Manager finds that a user has violated, or continues to violate, any provision of this article, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Manager may petition the Court of Common Pleas of Washington County through the Authority's solicitor for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this article on activities of the user. The Manager may also seek such other action as is appropriate for legal and/or equitable relief, including requirement for the user to conduct environmental remediation.
- B. A petition for injunctive relief shall not be a bar against, or prerequisite for taking any other action against a user.
- C. Injunctive relief shall be granted against an industrial user, pursuant to the Publicly Owned Treatment Works Civil Penalty Law, set forth at 35 P.S. § 752.1 *et seq.*, upon the showing of one or more of the following:
 - (1) A discharge from an industrial user presents an imminent danger or substantial harm to the POTW or the public.
 - (2) A discharge from an industrial user presents an imminent or substantial endangerment to the environment.
 - (3) A discharge from an industrial user causes the POTW to violate any condition of its discharge permit.
 - (4) An industrial user has shown a lack of ability or intention to comply with a pretreatment standard.
- D. An injunction affecting an industrial operation not directly related to the condition or violation in question may be issued if the court determines that other enforcement procedures would not be adequate to affect prompt correction of the condition or violation. In addition to an injunction, the court in any such proceedings may levy civil penalties in accordance with § 262-70.
- E. The Authority's power to seek injunctive relief shall apply to all industrial users regardless of jurisdictional boundaries. Injunctive proceedings may be prosecuted in the Court of Common Pleas of Washington County or where the activity has taken place, the condition exists or the public is affected.

§ 262-70. Civil penalties.

- A. Any industrial user who has violated, or continues to violate, any provision of this article shall be liable to the Authority for a maximum civil penalty in an amount not to exceed \$25,000 per violation, per day in accord with the Publicly Owned Treatment Works Civil Penalty Law set forth at 35 P.S. § 752.1 *et seq.* In the case of monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of violation.
- B. In the event a single operational upset occurs which leads to simultaneous violations of more than one pretreatment standard or requirement, such event shall be treated as one violation as required by the Federal Water Pollution Control Act.
- C. Any such penalties shall be assessed in accord with the Authority's formal, written civil penalty assessment policy, a copy of which has been supplied to all significant industrial users. In determining the amount of civil liability, the Authority shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, deterrence of future violations, and any other factor as justice requires. A penalty may be assessed whether or not the violation was willful or negligent.
- D. The Authority shall serve on the industrial user a notice of assessment which shall include a description of the applicable appeals process to be followed, including the name, address and telephone number of the person responsible for accepting such appeal. Any industrial user aggrieved by the imposition of a civil penalty may request a hearing in accord with the Local Agency Law, 2 Pa.C.S. §§ 551–555, at which the industrial user shall have an opportunity to rebut the finding of a violation and present evidence of circumstances beyond the industrial user's control which resulted in the violation. The Authority shall keep a record of the evidence presented and shall provide the user with a written notice of the Authority's final decision or action.
- E. Any industrial user assess with a penalty pursuant to this section shall have 30 days to pay the proposed penalty in full, or, if the industrial user wishes to contest either the amount or imposition of the penalty, the industrial user must file an appeal with the Court of Common Pleas of Washington County in accord with the provisions and procedures of the Local Agency Law, 2 Pa.C.S. §§ 751–754.
- F. The Manager may recover reasonable attorney's fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by the Authority. In the event of an operational upset, the Authority may recover its cost for re-establishing the operation of the POTW, in addition to any civil penalty.
- G. Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.
- H. Civil penalties collected pursuant to this section shall be placed in a restricted account and shall only be used by the Authority for the repair of damage and any additional maintenance needed or any additional costs imposed as a result of the violation for which the penalty was imposed, to pay any penalties imposed on the Authority by the State or Federal government for violation of standards, for the costs incurred by the publicly owned

treatment works to investigate and take the enforcement action that resulted in a penalty being imposed, for the monitoring of discharges in the pretreatment program and for capital improvements to the treatment works, including sewage collection lines, which may be required by the pretreatment program. Any remaining funds may be used for capital improvements to the treatment works, including collection lines.

§ 262-71. Criminal prosecution.

- A. A user who willingly or negligently violates any provision of this article, or fails to carry out duties and responsibilities imposed by this article or any person who impedes or interferes with any action undertaken to enforce this article shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not more than \$1,000 per violation, per day, or imprisonment for not more than 90 days, or both.
- B. A user who violates this article by willfully or negligently introducing any substance into the POTW which causes personal injury or property damage shall, upon conviction, be guilty of a misdemeanor and be subject to a penalty of not more than \$1,000, or be subject to imprisonment for not more than 90 days, or both. This penalty shall be in addition to any cause of action for personal injury or property damage available under State law. Each day that the violation continues shall be a separate offense.
- C. A user who knowingly make any false statements, representations, or certifications in any application, record, report, plan, or other documentation filed, or required to be maintained, pursuant to this article, wastewater discharge permit, or order issued hereunder, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under this article shall, upon conviction, be punished by a fine of no more than \$1,000 per violation, per day, or imprisonment for not more than 90 days, or both.
- D. Any person aggrieved by any decision of the Borough may file an appeal with the Court of Common Pleas of Washington County in accordance with the Rules of Criminal Procedure.

§ 262-72. Remedies nonexclusive.

The remedies provided for in this article are not exclusive. The Manager may take any, all, or any 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 Manager is empowered to take more than one enforcement action against any noncompliant user.

L. Supplemental Enforcement Action.

§ 262-73. Performance bonds.

The Manager may decline to issue or reissue wastewater discharge permit to any user who has failed to comply with any provision of this article, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless such user first files a satisfactory bond, payable to the Authority, in a sum not to exceed a value determined by

the Manager to be necessary to achieve consistent compliance.

§ 262-74. Liability insurance.

The Manager may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this article, a previous wastewater discharge permit, or 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.

§ 262-75. Public nuisances.

A violation of any provision of this article, a wastewater discharge permit, or 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 Manager. Any person(s) creating a public nuisance shall be subject to the provisions of the Borough Code governing such nuisances, including reimbursing the Borough for any costs incurred in removing, abating, or remedying said nuisance.

§ 262-76. Contract listing.

Users, which have not achieved compliance with applicable pretreatment standards and requirements, are not eligible to receive a contractual award for the sale of goods or services to the Borough or the Authority.

M. Miscellaneous Provisions.

§ 262-76.1. Pretreatment charges and fees.

The Authority may adopt reasonable fees for reimbursement of costs of setting up and operating the Authority's pretreatment program, which may include:

- A. Fees for reimbursement of costs of operating the Authority's pretreatment program.
- B. Fees for wastewater discharge permit applications including the cost of processing such applications.
- C. Fees for monitoring, inspection, and surveillance procedures including the cost of collection and analyzing a user's discharge, and reviewing monitoring reports submitted by users.
- D. Fees for reviewing and responding to accidental discharge procedures and construction.
- E. Fees for filing appeals and instituting legal action, including attorney's fees.
- F. Fees for consistent removal by the Authority of pollutants otherwise subject to Federal pretreatment standards.
- G. Other fees as the Authority may deem necessary to carry out the requirements contained herein.
- H. These fees relate solely to the matters covered by this article and are separate from all other fees, fines, and penalties chargeable by the Authority.

ARTICLE V

Dye Tests**[Adopted 7-16-2001 by Ord. No. 468]****§ 262-77. Findings and purposes.**

The Council of the Borough of East Washington find that excessive stormwaters and/or surface waters are illegally routed into the sanitary sewer systems within the Borough, thus requiring increased and unnecessary treatment capacity and activity and thus curtailing the availability of tap-ins and treatment to other users who need sanitary sewage treatment. Council finds that the procedures, fees and penalties provided for herein are necessary to achieve the purposes of this article.

§ 262-78. Short title.

This article may be known and cited as the "Dye Test Ordinance."

§ 262-79. Definitions.

Unless the context specifically and clearly indicates otherwise, the meaning of terms used in this article shall be as follows:

BOROUGH — Borough of East Washington, Pennsylvania.

CODE — Borough of East Washington Code, as the same may be from time to time amended.

DOCUMENT OF CERTIFICATION — An official statement from the Borough stating that there are no illegal stormwater or surface water connections into the sanitary sewer connections on the property to be sold which violate any section of the Code of the Borough of East Washington.

ILLEGAL STORM OR SURFACE WATER CONNECTIONS — The discharge of basement seepage or groundwater or the connection of downspouts, roof drainage or surface or areaway drainage into the sanitary sewer system.

MUNICIPAL LIEN AND PROPERTY TAX VERIFICATION — A written letter from the Borough Secretary concerning municipal liens and property taxes.

PERSON — Any person, syndicate, association, partnership, firm, corporation, institution, agency, authority or other entity recognized by law as the subject of rights and duties.

TEMPORARY DOCUMENT OF CERTIFICATION — A temporary statement of certification from the Borough issued pursuant to the terms of § 262-81 of this article.

§ 262-80. Sale of real estate without document of certification prohibited.

After the effective date of this article, it shall be unlawful for any person to sell or purchase real estate within the Borough on which a building or improvement exists without first

delivering to the purchaser a document of certification or a temporary document of certification from the Borough.

§ 262-81. Document of certification application.

- A. Any person selling real estate located as defined in § 262-77 of this article that is located within the Borough (hereinafter referred to as "applicant") shall make application on a form furnished by the Borough at least 21 days before the date of closing the sale. The applicant shall then cause to have performed a dye test on the property to be sold. All dye tests shall be performed by an inspector appointed by the Borough of East Washington or the Washington-East Washington Joint Authority (hereinafter referred to as "inspector").
- B. The inspection fee shall be in an amount set by resolution of Council. The inspection fee shall be paid to the Borough at the time of making the application referred to in this section.
- C. Such inspector shall complete the appropriate portions on the form and certify that the property has been dye tested and certify the results of such test. In the event there are no illegal stormwater or surface water connections, the Borough Secretary or his/her designate shall issue a document of certification upon payment of such fee as set by resolution of Borough Council. When an illegal stormwater or surface water connection is discovered by means of the above-mentioned dye test, no document of certification will be issued until the illegal connections are removed and certification of such removal by an inspector is received. An additional inspection fee shall be paid by the applicant for each inspection subsequent to the first inspection referred to in Subsection A above.

§ 262-82. Duration of document of certification.

A document of certification shall be valid for a period of one year from the date of issuance. Real estate may be sold during the one-year effective life of such document without further dye testing or certification.

§ 262-83. Instances when document of certification not required.

A document of certification shall not be required in the following instances:

- A. When property is refinanced but no conveyance takes place.
- B. When an improvement to real estate has been recently constructed in accordance with a valid building permit and has been inspected by the Code Enforcement Officer and has not been formerly occupied. If such property is sold after one year of the date of the certificate of occupancy, or the inspections referred to in this subsection, compliance with this article is mandatory.
- C. Individual apartment-type units within a single condominium building may be sold without individual certification, provided that the building in which the units are located

has been certified no longer than one-year previous to the date of the sale of the individual condominium unit.

- D. When the real estate is such that tap-in to the sanitary sewer system is not required by law or ordinance.

§ 262-84. Temporary document of certification.

A temporary document of certification may be issued at the Borough's sole discretion when, either:

- A. The applicant proves that dye testing cannot be performed because of weather conditions. When such is the case, the applicant shall provide the Borough with security in such amount as Council by resolution shall establish to guarantee that the dye test will be performed. The applicant will cause to have the dye test performed within 14 days of written notification from the Borough or the Washington-East Washington Joint Authority, which will be given at such time as weather conditions make the dye test possible. In addition, the applicant shall provide a signed, written acknowledgment from the purchaser agreeing to correct, at purchaser's sole cost and expense, any violations that may be discovered as a result of subsequent dye tests. Nothing in this subsection shall prohibit any purchaser from requiring the applicant to reimburse purchaser for any costs incurred; provided, however, that primary liability shall run with the land and no such agreement shall affect Borough's enforcement powers or excuse the current owner from compliance with this article; or
- B. When an illegal stormwater or surface water connection is discovered and the necessary remedial activities to correct such connection would require a length of time such as to create a practical hardship for the applicant, applicant may apply to the Borough Secretary for a temporary document of certification, which may only be issued when the applicant provides the Borough with all of the following: a bona fide executed contract between the applicant and an inspector to complete the necessary remedial work with the Borough listed therein as a third-party beneficiary; and cash security in the amount of said contract is posted with the Borough; and a written agreement by the purchaser to be responsible for all cost overruns and extras related to the remedial work together with a written license to enter upon the property to complete work in case of default of the contractor referred to above. The Borough Secretary shall determine when such Temporary document certification shall expire. Upon expiration, the security shall be forfeited and the Borough may use the security to have the necessary remedial work completed.

§ 262-85. Municipal lien and tax certification letters.

- A. A request for a municipal lien or tax certification letter must be accompanied by a valid document of certification and payment of the required fees, which shall be delivered to the Borough Secretary at least seven days before such letters are to be provided. The amount of the fee for each item shall be established by resolution of Borough Council.

- B. Where requested by a property owner or his agent and subject to time availability as determined solely by the Borough, the Borough may issue municipal lien and tax certification letters on two days' notice upon the payment of an expedition fee in addition to the fees set forth above. The amount of the expedition fee shall be established by resolution of the Council of the Borough of East Washington.

§ 262-86. Regulations.

The Borough Secretary is hereby empowered to undertake the duties imposed by this article, including, but not limited to:

- A. Establishing acceptable forms of security or guarantees.
- B. Establishing the form of applications, purchaser acknowledgment and inspector certifications.
- C. Limiting the times of year in which the temporary document of certification is available for reasons of weather.

§ 262-87. Adjustment of fees.

Council of the Borough may, by resolution, change from time to time the fees authorized in this article.

§ 262-88. Conflict with general police powers.

Nothing in this article shall limit in any fashion whatsoever the Borough's right to enforce its ordinances or the laws of the commonwealth. Nothing in this article shall be a defense to any citation issued by any municipal corporation or the commonwealth pursuant to any other law or ordinance.

§ 262-89. Violations and penalties; enforcement.

- A. Any person who violates any of the provisions of this article may be charged with such violation and, upon conviction thereof, shall be sentenced to pay a fine of not more than \$500 for each violation or, alternatively, sentenced to pay a fine of not more than the maximum permitted under Pennsylvania law as the same may be from time to time amended and in effect as of the date of conviction. In default of payment of imposed fines, the offender may be imprisoned for a term not to exceed 30 days.
- B. Whenever any person violating any of the provisions of this article is notified of such violation in writing by the Borough Secretary, each day or portion thereof a violation occurs or continues to occur shall constitute a separate violation.
- C. In addition to and not in lieu of the foregoing, the Borough may seek equitable and legal relief to compel compliance with this article.