

CHAPTER 116

WASTEWATER COLLECTION AND
WATER POLLUTION CONTROL

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[HISTORY: Adopted by the Board of Supervisors of the Township of Findlay 9-26-94 as Ord. No. 237. Amendments noted where applicable.]

General References

Definitions; Rules of Interpretation - See Ch. 3

ARTICLE I

General Provisions

§ 1.1. Purpose and Policy.

This Chapter sets forth uniform requirements for users of the wastewater collection and Publicly Owned Treatment Works ("POTW")

of the Moon Township Municipal Authority ("MTMA") and enables the MTMA 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). The objectives of this Chapter are:

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

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

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

1.1.4. To insure that the quality of the POTW wastewater and sludge is maintained at a level which allows its use and disposal in compliance with applicable statutes and regulations;

1.1.5. To promote reuse and recycling of industrial wastewater and sludge from the POTW;

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

1.1.7. To enable the MTMA to comply with its NPDES permit conditions, sludge use and disposal requirements, and any other federal or state laws to which the POTW is subject.

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

§ 1.2. Administration.

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

§ 1.3. Abbreviations.

The following abbreviations, when used in this Chapter, 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

§ 1.4. Definitions.

Unless a provision explicitly states otherwise, the following terms and phrases, as used in this Chapter, 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 the U.S. EPA, Region 3, or his designee.

AUTHORIZED REPRESENTATIVE OF THE INDUSTRIAL USER -

- (1) If the Industrial 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; or
 - (b) The manager of one or more manufacturing, production, or operation facilities employing more than two hundred fifty (250) persons or having gross annual sales or expenditures exceeding twenty-five (25) million dollars (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 Industrial User is a partnership or sole proprietorship: a general partner or proprietor, respectively.
- (3) If the user is a Federal, State, or local government 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 paragraphs 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 MTMA.

AUTHORITY - The Moon Township Municipal Authority ("MTMA") or the Board of Directors of the MTMA.

BIOCHEMICAL OXYGEN DEMAND OR BOD - The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five (5) days at 20° centigrade, usually expressed as a concentration (e.g., mg/l).

CATEGORICAL PRETREATMENT STANDARD OR CATEGORICAL STANDARD - Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and © 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.

COMPOSITE SAMPLE - The sample resulting from the combination of individual wastewater samples taken at selected intervals based on an increment of either flow or time.

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

EXISTING SOURCE - Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed CATEGORICAL PRETREATMENT STANDARDS, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the 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 fifteen (15) minutes.

INDIRECT DISCHARGE OR DISCHARGE - The introduction of pollutants into the POTW from any nondomestic source regulated under Section 307(b), ©, or (d) of the ACT.

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 MTMA's NPDES permit or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions for permits issued thereunder, or any more stringent State or Local regulations: Section 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.

MANAGER - The duly appointed Manager of the MTMA who has been or will be appointed by the Board of Directors of the AUTHORITY.

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

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 Section 307[©] of the ACT which will be applicable to such source if such standards are thereafter promulgated in accordance with that section, provided that:
 - (a) The building, structure, facility, or installation is constructed at a site at which no other source is located; or
 - (b) The building, structure, facility, or installation totally replaces the process or production equipment that causes the DISCHARGE of pollutants at an EXISTING SOURCE; or
- © The production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an

EXISTING SOURCE at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant, and the extent to which the new facility is engaged in the same general type of activity as the EXISTING SOURCE, should be considered.

- (2) Construction on a site at which an EXISTING SOURCE is located results in a modification rather than a NEW SOURCE if the construction does not create a new building, structure, facility, or installation meeting the criteria of Section (1)(b) or © above but otherwise alters, replaces, or adds to existing process or production equipment.
- (3) Construction of a NEW SOURCE as defined under this paragraph has commenced if the owner or operator has:
 - (a) Begun, or caused to begin, as part of a continuous onsite construction program
 - (I) any placement, assembly, or installation of facilities or equipment; or
 - (ii) significant site preparation work including clearing, excavation, or removal of existing buildings, structures, or facilities which is necessary for the placement, assembly, or installation of NEW SOURCE facilities or equipment; or
 - (b) Entered into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used in its operation within a reasonable time. Options to purchase or contracts which can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies do not constitute a contractual obligation under this paragraph.

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

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

pH - 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 Section 116.5 of this Chapter.

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

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

SEWAGE - Human excrement and gray water (and wastes of a similar nature).

SIGNIFICANT INDUSTRIAL USER -

- (1) A user subject to CATEGORICAL PRETREATMENT STANDARDS; or
- (2) A user that:
 - (a) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, NONCONTACT COOLING, and boiler blowdown wastewater);
 - (b) Contribute a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - ⊙ Is designated as such by MTMA 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, MTMA 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 at a flow rate or concentration which could cause a violation of the PROHIBITED DISCHARGE STANDARDS in Section 116.5 of this Chapter, or any DISCHARGE of a non-routine, episodic nature, including, but not limited to, an accidental spill or a non-customary batch DISCHARGE.

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

STORM WATER - 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.

TOXIC POLLUTANT - One of the one hundred and twenty six (126) POLLUTANTS, or combination of those POLLUTANTS, listed as toxic in regulations promulgated by the EPA under the provision of §307 (33 U.S.C. 1317) of the ACT.

TREATMENT PLANT EFFLUENT - Any DISCHARGE or POLLUTANTS from the POTW into waters of the Commonwealth.

USER OR INDUSTRIAL USER - A source of INDIRECT DISCHARGE.

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

WASTEWATER TREATMENT PLANT OR TREATMENT PLANT - That portion of the POTW which is designed to provide treatment of municipal SEWAGE and industrial waste.

The use of the word "shall" indicates that the action is mandatory; the use of the word "may" indicates that the action is

permissive or discretionary. The use of the singular shall be construed to include the plural and the plural shall be construed to include the singular as indicated by the context.

ARTICLE II
General Sewer Use Requirements

§ 1.5. PROHIBITED DISCHARGE STANDARDS.

1.5.1. General Prohibitions. No INDUSTRIAL USER shall introduce or cause to be introduced into the POTW any POLLUTANT or WASTEWATER which causes PASS THROUGH or INTERFERENCE. These general prohibitions shall apply to all INDUSTRIAL 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 established by the MTMA.

1.5.2. Specific Prohibitions. No INDUSTRIAL USER shall introduce or cause to be introduced into the POTW the following POLLUTANTS, substances, or WASTEWATER:

1.5.2.1. POLLUTANTS which create a fire or explosive hazard in the POTW, including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140°F (60°C) using the test methods specified in 40 CFR 261.21;

1.5.2.2. WASTEWATER having a pH less than 5.0, or otherwise causing corrosive structural damage to the POTW or equipment, or endangering AUTHORITY personnel;

1.5.2.3. Solid or viscous substances in amounts which will cause obstruction of the flow in the POTW resulting in INTERFERENCE;

1.5.2.4. 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, or which will constitute a hazard to AUTHORITY personnel;

1.5.2.5. WASTEWATER 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 treatment plant to exceed 104°F (40°C);

1.5.2.6. Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin, in amounts that will cause INTERFERENCE or PASS THROUGH;

1.5.2.7. 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.

1.5.2.8. Trucked or hauled POLLUTANTS, except at discharge points designated by the MANAGER in accordance with Section 116.13 of this Chapter;

1.5.2.9. 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;

1.5.2.10. WASTEWATER containing any radioactive wastes or isotopes except in compliance with the applicable State or Federal regulations;

1.5.2.11. STORM WATER, surface water, ground water, artesian well water, roof runoff, subsurface drainage;

1.5.2.12. Sludges, screenings, or other residues from the PRETREATMENT of industrial wastes.

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.

§ 1.6. Federal CATEGORICAL PRETREATMENT STANDARDS.

The CATEGORICAL PRETREATMENT STANDARDS found at 40 CFR Chapter I, Subchapter N, Parts 405-471 are hereby incorporated as though

the same were more fully set forth at length herein.

1.6.1. 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^o.

1.6.2. 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).

1.6.3. 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.

1.6.4. A USER may obtain a net gross adjustment to a CATEGORICAL STANDARD in accordance with 40 CFR 403.15.

116.6.5. Where the applicable categorical Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User shall submit documentation required by the MTMA or the Pretreatment Standard necessary to determine the compliance status of the user. At the discretion of the MTMA, and in consideration of such factors as local high or low flow rates, holidays, etc., the MTMA may modify the months during which reports are to be submitted.

§ 1.7. Specific POLLUTANT Limitations.

Specific POLLUTANT limitations shall be controlled by each SIGNIFICANT USER'S nondomestic WASTEWATER DISCHARGE permit. Concentrations or masses of each pollutant shall apply at the point designated as the discharge point in the user's nondomestic wastewater permit. All concentrations for metallic substances are for "total metal" unless otherwise specified in the user's nondomestic wastewater discharge permit.

The Moon Township Municipal Authority shall not issue nondomestic wastewater permits, which in total aggregate exceed the following masses for each pollutant shown:

<u>Pollutant</u>	<u>Maximum Allowable Mass</u>
Arsenic	0.3561 lbs/day
Cadmium	0.1392 lbs/day
Chromium	32.7980 lbs/day
Copper	1.3583 lbs/day
Cyanide	1.5773 lbs/day
Lead	1.1912 lbs/day
Mercury	0.1100 lbs/day
Molybdenum	1.3371 lbs/day
Nickel	2.4599 lbs/day
Selenium	0.4500 lbs/day
Silver	3.7590 lbs/day
Zinc	10.4799 lbs/day

[Amended 9-12-07 by Ord. No. 347]

§ 1.8. AUTHORITY'S Right of Revision.

The AUTHORITY reserves the right to establish in WASTEWATER DISCHARGE permits, more stringent standards or requirements on DISCHARGES to the POTW if deemed necessary to comply with the objectives presented in Section 116.1 of this Chapter or the general and specific prohibitions in Section 116.5 of this Chapter.

§ 1.9. Dilution.

No INDUSTRIAL USER shall ever increase the use of process water, or in any way attempt to dilute a DISCHARGE, as a partial or complete substitute or 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 INDUSTRIAL USERS who are using dilution to meet applicable PRETREATMENT STANDARDS or REQUIREMENTS, or in other cases when the imposition of mass limitations is appropriate.

**ARTICLE III
PRETREATMENT of WASTEWATER**

§ 1.10. PRETREATMENT Facilities.

INDUSTRIAL USERS shall provide WASTEWATER treatment as necessary to comply with this Chapter and shall achieve compliance with all CATEGORICAL PRETREATMENT STANDARDS, local limits established by MTMA, and the prohibitions set out in Section 116.5 of this Chapter within the time limitations specified by EPA, the State, or MTMA, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the INDUSTRIAL USER'S expense. Detailed plans describing such facilities and operating procedures shall be submitted to MTMA for review, and shall be acceptable to MTMA before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the INDUSTRIAL USER from the responsibility of modifying such facilities as necessary to produce a DISCHARGE acceptable to MTMA under the provisions of this Chapter.

§ 1.11. Additional PRETREATMENT Measures.

1.11.1. Whenever deemed necessary, MTMA may require INDUSTRIAL USERS to restrict their DISCHARGE during peak flow periods, designate that certain WASTEWATER be discharged only into specific sewers, relocate and/or consolidate points of DISCHARGE, separate SEWAGE wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect POTW and determine the INDUSTRIAL USER'S compliance with the requirements of this Chapter.

1.11.2. MTMA 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.

1.11.3. Grease, oil, and sand interceptors shall be provided when, in the opinion of MTMA, 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 MTMA and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, and/or as required by MTMA,

by the INDUSTRIAL USER at their expense.

1.11.4. INDUSTRIAL USERS with potential to discharge flammable substances may be required by MTMA to install and maintain an approved combustible gas detection meter.

§ 1.12. Accidental DISCHARGE/SLUG Control Plans.

At least once every two (2) years, MTMA shall evaluate whether each SIGNIFICANT INDUSTRIAL USER needs an accidental DISCHARGE/SLUG control plan. MTMA may require any USER to develop, submit for approval, and implement such a plan. An accidental DISCHARGE/SLUG control plan, if required by MTMA, shall address, at a minimum, the following:

1.12.1. Description of DISCHARGE practices, including non-routine batch DISCHARGES;

1.12.2. Description of stored chemicals;

1.12.3. Procedures for immediately notifying MTMA of any accidental or SLUG DISCHARGE, as required by Section 116.35 of this Chapter; and

1.12.4. 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.

§ 1.13. Hauled WASTEWATER.

1.13.1. SEPTIC TANK WASTE may be introduced into the POTW only at locations designated by MTMA, and at such times as are established by MTMA. Such waste shall not violate Article II of this Chapter or any other requirements established or adopted by MTMA. MTMA may require SEPTIC TANK WASTE haulers to obtain WASTEWATER DISCHARGE permits.

1.13.2. MTMA shall require haulers of industrial waste to obtain WASTEWATER DISCHARGE permits. MTMA may require

generators of hauled industrial waste to obtain WASTEWATER DISCHARGE permits. MTMA may also prohibit the disposal of hauled industrial waste. The discharge of hauled industrial waste is subject to all other requirements of this Chapter.

1.13.3. Industrial waste haulers may discharge loads only at locations designated by MTMA. No load may be discharged without prior consent of MTMA as to each location of DISCHARGE and specific time of DISCHARGE. MTMA may collect samples of each hauled load to ensure compliance with applicable standards. MTMA may require the industrial waste hauler to provide a waste analysis of any load prior to discharge, which analysis shall be conducted at the expense of the industrial waste hauler.

1.13.4. 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.

§ 1.14. Tenant Responsibility.

Where an owner of property leases premises to any other PERSON as a tenant under any rental or lease agreement, if either the owner or the tenant is an INDUSTRIAL USER, either or both may be held responsible for compliance with the provisions of this Chapter.

ARTICLE IV
WASTEWATER DISCHARGE Permit Eligibility

§ 1.15. WASTEWATER Analysis.

When requested by MTMA, an INDUSTRIAL USER must submit information on the nature and characteristics of its WASTEWATER with sixty (60) days of the request. MTMA is authorized to prepare a form for this purpose and may periodically require INDUSTRIAL USERS to update this information. Failure to submit the requested WASTEWATER information within sixty (60) days of the request shall be considered a violation of this Chapter and MTMA may terminate service to the INDUSTRIAL USER for failure to comply with this provision.

§ 1.16. WASTEWATER DISCHARGE Permit Requirement.

1.16.1. No SIGNIFICANT INDUSTRIAL USER shall discharge WASTEWATER into the POTW without first obtaining a WASTEWATER DISCHARGE permit from MTMA, except that a SIGNIFICANT INDUSTRIAL USER that has filed a timely application pursuant to Section 116.17 of this Chapter may continue to discharge for the time period specified therein.

1.16.2. MTMA may require other INDUSTRIAL USERS to obtain WASTEWATER DISCHARGE permits as necessary to carry out the purpose of this Chapter.

1.16.3. Any violation of the terms and conditions of a WASTEWATER DISCHARGE permit shall be deemed a violation of this Chapter and of MTMA PRETREATMENT STANDARDS and/or REQUIREMENTS and subjects the WASTEWATER DISCHARGE permittee to the sanctions set forth in Articles X through XI of this Chapter. 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.

§ 1.17. WASTEWATER DISCHARGE Permitting: Existing Connections.

Any INDUSTRIAL USER required to obtain a WASTEWATER DISCHARGE permit who was discharging WASTEWATER into the POTW prior to the effective date of this Chapter and who wishes to continue such

DISCHARGES in the future, shall, within ninety (90) days after said date, apply to MTMA for a WASTEWATER DISCHARGE permit in accordance with Section 116.19 of this Chapter, and shall not cause or allow DISCHARGES to the POTW to continue after one hundred eighty (180) days of the effective date of this Chapter except in accordance with a WASTEWATER DISCHARGE permit issued by MTMA.

§ 1.18. WASTEWATER DISCHARGE Permitting: New Connections.

Any INDUSTRIAL USER required to obtain a WASTEWATER DISCHARGE permit who proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such DISCHARGE. An application for this WASTEWATER DISCHARGE permit, in accordance with Section 116.19 of this Chapter, must be filed at least ninety (90) days prior to the date upon which any DISCHARGE will begin or recommence.

§ 1.19. WASTEWATER DISCHARGE Permit Application Contents.

All INDUSTRIAL USERS required to obtain a WASTEWATER DISCHARGE permit must submit a permit application. MTMA may require all INDUSTRIAL USERS required to obtain a WASTEWATER DISCHARGE permit to submit, as part of the permit application, the following information:

1.19.1. All information required by Section 116.30.2 of this Chapter;

1.19.2. 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;

1.19.3. Number and type of employees, hours of operation and proposed or actual hours of operation;

1.19.4. Each product produced by type, amount, process or processes and rate of production;

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

1.19.6. 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;

1.19.7. Time and duration of DISCHARGES; and

1.19.8. Any other information as may be deemed necessary by MTMA to evaluate the WASTEWATER DISCHARGE permit application.

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

§ 1.20. Application Signatories and Certification.

All WASTEWATER DISCHARGE permit applications and INDUSTRIAL USER reports must contain the following certification statement and be signed by an AUTHORIZED REPRESENTATIVE OF THE INDUSTRIAL USER:

"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 violation."

§ 1.21. WASTEWATER DISCHARGE Permit Decisions.

MTMA will evaluate the data furnished by the INDUSTRIAL USER and may require additional information. Within sixty (60) days of receipt of a complete WASTEWATER DISCHARGE permit application, MTMA will determine whether or not to issue a WASTEWATER DISCHARGE permit. MTMA may deny any application for a WASTEWATER DISCHARGE permit.

**ARTICLE V
WASTEWATER DISCHARGE Permit Issuance Process**

§ 1.22. WASTEWATER DISCHARGE Permit Duration.

A WASTEWATER DISCHARGE permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A WASTEWATER DISCHARGE permit may be issued for a period of less than five (5) years, at the discretion of MTMA. Each WASTEWATER DISCHARGE permit will indicate a specific date upon which it will expire.

§ 1.23. WASTEWATER DISCHARGE Permit Contents.

A WASTEWATER DISCHARGE permit shall include such conditions, constituting PRETREATMENT STANDARDS and/or REQUIREMENTS, as are deemed reasonably necessary by MTMA 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.

1.23.1. WASTEWATER DISCHARGE permits must contain:

1.23.1.1. A statement that indicates WASTEWATER DISCHARGE permit duration, which in no event shall exceed five (5) years;

1.23.1.2. A statement that the WASTEWATER DISCHARGE permit is nontransferable without prior notification to, and approval by, MTMA in accordance with Section 116.27 of this Chapter, and provisions for furnishing the new owner or operator with a copy of the existing WASTEWATER DISCHARGE permit;

1.23.1.3. Effluent limits based on applicable PRETREATMENT STANDARDS;

1.23.1.4. 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; and

1.23.1.5. A statement of applicable civil,

criminal and administrative penalties for the violation of PRETREATMENT STANDARDS and/or REQUIREMENTS.

1.23.2. WASTEWATER DISCHARGE permits may contain, but need not be limited to:

1.23.2.1. Limits on the average and/or maximum rate of DISCHARGE, time of DISCHARGE and/or requirements for flow regulation and equalization;

1.23.2.2. Limits on the instantaneous, daily and monthly average and/or maximum concentration, mass or other measure of identified WASTEWATER POLLUTANTS or properties;

1.23.2.3. 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;

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

1.23.2.5. Development and implementation of waste minimization plans to reduce the amount of POLLUTANTS discharged to the POTW;

1.23.2.6. The unit charge or schedule of INDUSTRIAL USER charges and fees for the management of the WASTEWATER discharged to the POTW;

1.23.2.7. Requirements for installation and maintenance of inspection and sampling facilities and equipment;

1.23.2.8. 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; and

1.23.2.9. Other conditions as deemed appropriate by MTMA to ensure compliance with this Chapter, the PRETREATMENT STANDARDS and REQUIREMENTS established by MTMA and State and Federal laws, rules and regulations.

§ 1.24. WASTEWATER DISCHARGE Permit Reconsideration.

Any PERSON, including the INDUSTRIAL USER, may petition MTMA to reconsider the terms of a WASTEWATER DISCHARGE permit or the denial of issuance of a WASTEWATER DISCHARGE permit within thirty (30) days of notice of the issuance or denial.

1.24.1. Failure to submit a timely petition to reconsider shall be deemed to be a waiver of any right to further review and administrative appeal.

1.24.2. In its petition to reconsider, the petitioner must indicate the WASTEWATER DISCHARGE permit provisions objected to, the reasons for the objection(s), and the alternative condition(s), if any, it seeks to place in the WASTEWATER DISCHARGE permit.

1.24.3. The effectiveness of the WASTEWATER DISCHARGE permit shall not be stayed pending the reconsideration.

1.24.4. If the MTMA fails to act within sixty (60) days following the submission of a timely petition to reconsider, the request for reconsideration shall be deemed to be denied.

§ 1.25. WASTEWATER DISCHARGE Permit Appeals.

Any aggrieved PERSON, including the INDUSTRIAL USER, may, subsequent to petitioning for reconsideration as set forth in Section 116.24 of this Chapter, appeal from a denial of reconsideration to MTMA and shall receive a hearing before the MTMA Board, at which hearing the appealing party shall have an opportunity to present evidence before the Board on its behalf. A notice of appeal requesting a hearing date must be submitted to MTMA within thirty (30) days of the issuance of a denial of reconsideration, or within thirty (30) days of an effective denial of reconsideration pursuant to Section 116.24.4 of this Chapter.

1.25.1. Failure to submit a timely notice of appeal shall be deemed to be a waiver of the administrative appeal.

1.25.2. The notice of appeal need only indicate that the appellant desires to appeal from the denial of reconsideration and that the appellant requests that a hearing date be set.

1.25.3. The effectiveness of the WASTEWATER DISCHARGE permit shall not be stayed pending the appeal.

1.25.4. A hearing date will subsequently be set by MTMA, and the appealing party shall be provided with adequate notice of the hearing date.

1.25.5. All testimony at such hearing shall be stenographically recorded at the expense of the appealing party, and a full and complete record shall be kept of the proceedings.

1.25.6. Within sixty (60) days following the hearing date, the MTMA Board shall issue its final adjudication of the matter. Such adjudication shall be in writing, shall contain findings and the reasons for the adjudication, and shall be served upon all parties or their counsel personally, or by mail pursuant to 2 Pa.C.S.A. §555.

1.25.7. Aggrieved parties seeking judicial review of the final administrative adjudication of the MTMA Board must do so by filing a Petition for Review in the Court of Common Pleas of Allegheny County, Pennsylvania within thirty (30) days of the issuance of the final adjudication of the MTMA Board pursuant to 2 Pa.C.S.A. §752, 42 Pa.C.S.A. §933 and Pa.R.A.P. 1512(a)(1).

§ 1.26. WASTEWATER DISCHARGE Permit Modification.

MTMA may modify a WASTEWATER DISCHARGE permit for a good cause, including, but not limited to, the following reasons:

1.26.1. To incorporate any new or revised Federal, State or local PRETREATMENT STANDARDS or REQUIREMENTS;

1.26.2. To address significant alterations or additions to the INDUSTRIAL USER'S operation, processes or WASTEWATER

volume or character since the time of WASTEWATER DISCHARGE permit issuance;

1.26.3. A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized DISCHARGE;

1.26.4. Information indicating that the permitted DISCHARGE poses a threat to MTMA's POTW, personnel, or the receiving waters;

1.26.5. Violation of any terms or conditions of the WASTEWATER DISCHARGE permit; ;

1.26.6. Misrepresentations or failure to fully disclose all relevant facts in the WASTEWATER DISCHARGE permit application or in any required reporting;

1.26.7. Revision of or a grant of variance from CATEGORICAL PRETREATMENT STANDARDS pursuant to 40 CFR 403.13;

1.26.8. To correct typographical or other errors in the WASTEWATER DISCHARGE permit; or

1.26.9. To reflect a transfer by the permittee of the facility ownership or operation to a new owner or operator in accordance with the provisions of this Chapter.

§ 1.27. WASTEWATER DISCHARGE Permit Transfer.

WASTEWATER DISCHARGE permits may be transferred to a new owner or operator only if the permittee gives at least sixty (60) days' advance notice to MTMA and MTMA approves the WASTEWATER DISCHARGE permit transfer in writing. The notice to MTMA must include a written certification by the new owner or operator which:

1.27.1. States that the new owner and/or operator has not immediate intent to change the facility's operations and processes;

1.27.2. Identifies the specific date on which the transfer is to occur; and

1.27.3. 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 facility transfer.

§ 1.28. WASTEWATER DISCHARGE Permit Revocation.

MTMA may revoke a WASTEWATER DISCHARGE permit for a good cause, including, but not limited to, the following reasons:

1.28.1. Failure to notify MTMA of significant changes to the WASTEWATER prior to the changed DISCHARGE;

1.28.2. Failure to provide prior notification to MTMA of changed conditions pursuant to Section 116.34 of this Chapter.

1.28.3. Misrepresentation or failure to fully disclose all relevant facts in the WASTEWATER DISCHARGE permit application;

1.28.4. Falsifying self-monitoring reports;

1.28.5. Tampering with monitoring equipment;

1.28.6. Refusing to allow MTMA timely access to the facility premises and records;

1.28.7. Failure to meet effluent limitation;

1.28.8. Failure to pay fines;

1.28.9. Failure to pay sewer charges;

1.28.10. Failure to meet compliance schedules;

1.28.11. Failure to complete a WASTEWATER survey of the WASTEWATER DISCHARGE permit application;

1.28.12. Failure to provide advance notice of the transfer of business ownership of a permitted facility; or

1.28.13. Violation of any PRETREATMENT STANDARD or REQUIREMENT, or any terms of the WASTEWATER DISCHARGE permit or this Chapter.

WASTEWATER DISCHARGE permits shall be voidable upon cessation of operations or transfer of business ownership. All WASTEWATER DISCHARGE permits issued to a particular INDUSTRIAL USER are void upon the issuance of a new WASTEWATER DISCHARGE permit to that INDUSTRIAL USER.

§ 1.29. WASTEWATER DISCHARGE Permit Reissuance.

An INDUSTRIAL USER with an expiring WASTEWATER DISCHARGE permit shall apply for WASTEWATER DISCHARGE permit reissuance by submitting a complete permit application, in accordance with Section 116.19 of this Chapter, a minimum of ninety (90) days prior to the expiration of the INDUSTRIAL USER'S existing WASTEWATER DISCHARGE permit.

**ARTICLE VI
Reporting Requirements**

§ 1.30. Baseline Monitoring Reports.

1.30.1. Within either one hundred eighty (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 SIGNIFICANT INDUSTRIAL USERS subject to such CATEGORICAL PRETREATMENT STANDARDS and currently discharging to or scheduled to discharge to the POTW shall submit to MTMA a report which contains the information listed in Section 116.30.2 below. At least ninety (90) days prior to commencement of their DISCHARGE, NEW SOURCES, and sources that become SIGNIFICANT INDUSTRIAL USERS subsequent to the promulgation of an applicable CATEGORICAL STANDARD shall submit to MTMA a report which contains the information listed in Section 116.30.2 below. A NEW SOURCE shall report the method of PRETREATMENT it intends to use to meet applicable PRETREATMENT STANDARDS. A NEW SOURCE also shall give estimates of its anticipated flow and quantity of POLLUTANTS to be discharged.

1.30.2. USERS described above shall submit the information set forth below.

1.30.2.1. Identifying information. The name and address of the facility, including the name of the operator and owner.

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

1.30.2.3. Description of operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such INDUSTRIAL USER. This description should include a schematic process diagram which indicates points of DISCHARGE to the POTW from the regulated processes.

1.30.2.4. 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).

1.30.2.5. Measurement of POLLUTANTS.

1.30.2.5.1. Identify the CATEGORICAL PRETREATMENT STANDARDS applicable to each regulated process.

1.30.2.5.2. Submit the results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by MTMA, 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 Section 116.39 of this Chapter.

1.30.2.5.3. Sampling must be performed in accordance with procedures set out in Section 116.40 of this Chapter.

1.30.2.6. Certification. A statement, reviewed

by the INDUSTRIAL 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.

1.30.2.7. Compliance schedule. If additional PRETREATMENT and/or O&M will be required to meet the PRETREATMENT STANDARDS, the shortest schedule by which the INDUSTRIAL 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 Section 116.31 of this Chapter.

1.30.2.8. Signature and certification. All baseline monitoring reports must be signed and certified in accordance with Section 116.20 of this Chapter.

§ 1.31. Compliance Schedule Progress Reports.

The following conditions shall apply to the compliance schedule required by Section 116.30.2.7 of this Chapter:

1.31.1. 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 INDUSTRIAL 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);

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

1.31.3. The INDUSTRIAL USER shall submit a progress report to MTMA no later than fourteen (14) days following each date in the schedule and the final date of compliance

including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the USER to return to the established schedule; and

1.31.4. In no event shall more than nine (9) months elapse between such progress reports to MTMA.

§ 1.32. Reports on Compliance with CATEGORICAL PRETREATMENT STANDARD Deadline.

Within ninety (90) days following the date for final compliance with applicable CATEGORICAL PRETREATMENT STANDARDS, or in the case of a NEW SOURCE following commencement of the introduction of WASTEWATER into the POTW, any INDUSTRIAL USER subject to such PRETREATMENT STANDARDS and REQUIREMENTS shall submit to MTMA a report containing the information described in Sections 116.30.2.4 through 116.30.2.6 of this Chapter. For INDUSTRIAL USERS subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6^o, this report shall contain a reasonable measure of the INDUSTRIAL USER'S long-term production rate. For all other INDUSTRIAL USERS subject to CATEGORICAL PRETREATMENT STANDARDS expressed in terms of allowable POLLUTANT DISCHARGE per unit of production (or other measure of operation), this report shall include the INDUSTRIAL USER'S actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Section 116.20 of this Chapter.

§ 1.33. Periodic Compliance Reports.

1.33.1. All SIGNIFICANT INDUSTRIAL USERS shall, at a frequency determined by MTMA 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 measure or estimated average and maximum daily flows for the reporting period. All periodic compliance reports must be signed and certified in accordance with Section 116.20 of this Chapter.

1.33.2. All WASTEWATER samples must be representative of the INDUSTRIAL 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 an INDUSTRIAL USER to keep its monitoring facility in good working order shall not be grounds for the INDUSTRIAL USER to claim that sample results are unrepresentative of its DISCHARGE.

116.33.3. Where the applicable categorical Pretreatment Standard requires compliance with a Best Management Practice (BMP) or pollution prevention alternative, the User shall submit documentation required by the MTMA or the Pretreatment Standard necessary to determine the compliance status of the User. At the discretion of the MTMA and in consideration of such factors as local high or low flow rates, holidays, etc., the MTMA, may modify the months during which reports are to be submitted.

[Amended 9-12-07 by Ord. No. 347]

116.33.4. If an INDUSTRIAL USER subject to the reporting requirements in this section monitors any POLLUTANT more frequently than required by MTMA, using the procedures prescribed in Section 6.11 of this Resolution, the results of this monitoring shall be included in the report.

[Amended 9-12-07 by Ord. No. 347]

§ 1.34. Reports of Changed Conditions.

Each INDUSTRIAL USER must notify MTMA of any planned significant changes to the INDUSTRIAL USER'S operations or system which might alter the nature, quality, or volume of its WASTEWATER at least sixty (6) days before the change.

1.34.1. MTMA may require the INDUSTRIAL 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 Section 116.19 of this Chapter.

1.34.2. MTMA may issue a WASTEWATER DISCHARGE permit under Section 116.21 of this Chapter or modify an existing WASTEWATER DISCHARGE permit under Section 116.26 of this Chapter in response to changed conditions or anticipated changed conditions.

1.34.3. For purposes of this requirement, significant changes include, but are not limited to, flow increases which are determined significant by MTMA and the DISCHARGE of previously unreported POLLUTANTS.

§ 1.35. Reports of Potential Problems.

1.35.1. In the case of any DISCHARGE, including, but not limited to, accidental DISCHARGES, DISCHARGES of a non-routine, episodic nature, a non-customary batch DISCHARGE, or a SLUG LOAD that may cause potential problems for the POTW, any INDUSTRIAL USER shall immediately telephone and notify MTMA 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 INDUSTRIAL USER.

1.35.2. Failure to notify MTMA of potential problem DISCHARGES shall be deemed a separate violation of this Chapter and the rules, regulations and requirements established by MTMA.

1.35.3. A notice shall be permanently posted on the INDUSTRIAL USER'S bulletin board or other prominent place advising employees who to call in the event of a DISCHARGE described in Section 116.35.1, above. Employers shall ensure that all employees who may cause such a DISCHARGE to occur are advised of the emergency notification procedure.

§ 1.36. Reports From Non-Permitted USERS.

All INDUSTRIAL USERS not required to obtain a WASTEWATER DISCHARGE permit shall provide appropriate reports to MTMA as MTMA may require.

§ 1.37. Notice of Violation/Repeat Sampling and Reporting.

If sampling performed by an INDUSTRIAL USER indicates a violation of this Chapter and/or PRETREATMENT STANDARDS and/or REQUIREMENTS, the USER must notify MTMA within twenty-four (24) hours of becoming aware of the violation. The INDUSTRIAL USER shall also repeat the sampling and analysis and submit the results of the repeat analysis to MTMA within thirty (30) days after

becoming aware of the violation. The INDUSTRIAL USER is not required to resample if MTMA monitors at the INDUSTRIAL USER'S facility at least once a month, or if MTMA samples between the INDUSTRIAL USER'S initial sampling and when the INDUSTRIAL USER receives the results of this sampling.

§ 1.38. Notification of the DISCHARGE of Hazardous Waste.

1.38.1. 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 a hazardous waste under 40 CFR Part 261. Such notification must include the name of the hazardous waste as set forth in 40 CFR Part 261, the EPA hazardous waste number, and the type of DISCHARGE (continuous, batch, other). If the INDUSTRIAL USER DISCHARGES more than one hundred (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 INDUSTRIAL 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 that calendar month, and an estimation of the mass of constituents in the wastestream expected to be discharged during the following twelve (12) months. All notifications must take place no later than one hundred and eight (180) days after the DISCHARGE commences. Any notification under this section need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Section 116.34 of this Chapter. The notification requirement in this section does not apply to POLLUTANTS already reported by INDUSTRIAL USERS subject to CATEGORICAL PRETREATMENT STANDARDS under the self-monitoring requirements of Sections 116.30, 116.32 and 116.33 of this Chapter.

1.38.2. Dischargers are exempt from the requirements of Section 116.38.1 above during a calendar month in which they discharge no more than fifteen (15) kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(3). Discharge of more than fifteen (15) kilograms of non-acute 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.

1.38.3. In the case of any new regulations under Section 3001 of RCRA identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the INDUSTRIAL USER must notify MTMA, the EPA Regional Waste Management Waste Division Director and State hazardous waste authorities of the DISCHARGE of such substance within ninety (90) days of the effective date of such regulations.

1.38.4. 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.

1.38.5. This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this Chapter and/or any PRETREATMENT STANDARDS and/or REQUIREMENTS, a permit issued pursuant to this Chapter or any applicable Federal or State law.

§ 1.39. 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.

§ 1.40. Sample Collection.

1.40.1. Except as indicated in Section 116.40.2 below, the INDUSTRIAL USER must collect WASTEWATER samples using flow proportional composite collection techniques. In the event flow proportional sampling is infeasible, MTMA may authorize the use of time proportional sampling or a minimum of four (4) GRAB SAMPLES where the USER demonstrates that this will

provide a representative sample of the effluent being discharged. In addition, GRAB SAMPLES may be required to show compliance with instantaneous DISCHARGE limits.

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

§ 1.41. Timing.

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

§ 1.42. Record Keeping.

INDUSTRIAL USERS subject to the reporting requirements set forth in this Chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this Chapter and any additional records of information obtained pursuant to monitoring activities undertaken by the INDUSTRIAL USER independent of such requirements. 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 (3) years. This period shall be automatically extended for the duration of any litigation concerning the INDUSTRIAL USER or MTMA, or where the INDUSTRIAL USER has been specifically notified of a longer retention period by MTMA.

**ARTICLE VII
Compliance Monitoring**

§ 1.43. Right of Entry: Inspection and Sampling.

MTMA shall have the right to enter the premises of any INDUSTRIAL USER to determine whether the INDUSTRIAL USER is complying with all PRETREATMENT STANDARDS and/or REQUIREMENTS of

this Chapter, including any WASTEWATER DISCHARGE permit or order issued hereunder. INDUSTRIAL USERS shall allow MTMA 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.

1.43.1. Where an INDUSTRIAL USER has security measures in force which require proper identification and clearance before entry into its premises, the INDUSTRIAL USER shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, MTMA personnel will be permitted to enter without delay for the purposes of performing specific responsibilities.

1.43.2. MTMA shall have the right to set up on the INDUSTRIAL USER'S property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the INDUSTRIAL USER'S operations.

1.43.3. MTMA may require the INDUSTRIAL 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 INDUSTRIAL USER at its own expense. All devices used to measure WASTEWATER flow and quality shall be calibrated periodically to ensure their accuracy.

1.43.4. 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 INDUSTRIAL USER at the written or verbal request of MTMA and shall not be replaced. The costs of clearing such access shall be borne by the INDUSTRIAL USER.

1.43.5. Unreasonable delays in allowing MTMA access to the INDUSTRIAL USER'S premises shall be a violation of this Chapter.

§ 1.44. Search Warrants.

If MTMA has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this Chapter and/or any PRETREATMENT STANDARD and/or REQUIREMENT, or that there is a need to inspect and/or sample as part of a routine inspection

and/or sampling program of MTMA designed to verify compliance with this Chapter and/or PRETREATMENT STANDARDS and/or REQUIREMENTS or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then, upon application by the Solicitor for MTMA to the appropriate Justice of the Peace in the Magisterial District where the property is located, a search warrant shall be sought by MTMA requesting that a search be permitted and that a seizure be made by any POLLUTANTS or samples of the same which are necessary to verify whether there are any violations of this Chapter and/or any PRETREATMENT STANDARD and/or REQUIREMENTS.

ARTICLE VIII
Confidential Information

§ 1.45. Confidential Information.

Information and data on an INDUSTRIAL USER obtained from reports, surveys, WASTEWATER DISCHARGE permit applications, WASTEWATER DISCHARGE permits and monitoring programs, and from MTMA's inspection and sampling activities, shall be available to the public without restriction, unless the INDUSTRIAL USER specifically requests, and is able to demonstrate to the satisfaction of MTMA 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 date. When requested and demonstrated by the INDUSTRIAL 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 the NPDES program or PRETREATMENT program, and in enforcement proceedings involving the PERSON furnishing the report. WASTEWATER constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

ARTICLE IX

Publication of INDUSTRIAL USERS in Significant Noncompliance

§ 1.46. Publication of INDUSTRIAL USERS in Significant Noncompliance.

1.46.1. Chronic violations of WASTEWATER DISCHARGE limits, defined here as sixty-six percent (66%) or more of all of the measurements taken for the same pollutant parameter during a six month period exceed (by any magnitude) a numeric Pretreatment Standard or Requirement including instantaneous limits as defined by Section 1.4 L of this Resolution;

1.46.2. Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of all the measurements taken for the same POLLUTANT parameter during a six month period equal or exceed the product of the numeric Pretreatment Standard or Requirement including instantaneous limits as defined by Section 1.4 L of this Resolution, multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other POLLUTANTS except pH);

1.46.3. Any other violation of the Pretreatment Standard or Requirement as defined by 40 CFR 403.3 (1) (daily maximum, long-term average, instantaneous limit, or narrative Standard) that the POTW determines has caused, alone or in combination with other Discharges, Interferences or Pass Through (including endangering the health of POTW personnel or the general public);

1.46.4. Any DISCHARGE of POLLUTANTS that has caused imminent endangerment to the public or to the environment, or has resulted in MTMA's exercise of its emergency authority to halt or prevent such a DISCHARGE;

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

1.46.6. Failure to provide within thirty (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;

1.46.7. Failure to accurately report noncompliance; or

1.46.8. Any other violation(s) which MTMA determines will adversely affect the operation or implementation of the local PRETREATMENT program.

[Amended 9-12-07 by Ord. No. 347]

ARTICLE X
Administrative and Judicial Enforcement Remedies

§ 1.47. Notification of Violation.

When MTMA finds that an INDUSTRIAL USER has violated, or continues to violate any provision of this Chapter and/or any PRETREATMENT STANDARD and/or REQUIREMENT, including the provisions of a WASTEWATER DISCHARGE permit or order issued hereunder, MTMA may serve upon that INDUSTRIAL USER a written Notice of Violation.

Within thirty (30) 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 INDUSTRIAL USER to MTMA. Submission of this plan in no way relieves the INDUSTRIAL 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 MTMA to take any action, including emergency action or any other enforcement action, without first issuing a Notice of Violation.

§ 1.48. Consent Orders.

MTMA may enter into Consent Orders, assurances of voluntary compliance, or other similar documents establishing an agreement with any INDUSTRIAL USER responsible for noncompliance. Such documents will include specific action to be taken by the INDUSTRIAL 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 Sections 116.50 and 116.51 of this Chapter and shall be judicially enforceable.

§ 1.49. Show Cause Hearing.

MTMA may order an INDUSTRIAL USER which has violated, or continues to violate, any provision of this Chapter and/or PRETREATMENT STANDARD and/or REQUIREMENT, including the provisions of a WASTEWATER DISCHARGE permit or order issued hereunder, to appear before MTMA and show cause why the proposed enforcement action should not be taken. Notice shall be served on the INDUSTRIAL USER specifying the time and place for the meeting, the proposed enforcement action, the reasons for such action, and a request that the INDUSTRIAL 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 ten (10) days prior to the hearing. Such notice may be served on any AUTHORIZED REPRESENTATIVE OF THE INDUSTRIAL USER. A show cause hearing shall not be a bar against, or prerequisite for, taking any other action against the INDUSTRIAL USER.

§ 1.50. Compliance Orders.

When MTMA finds that an INDUSTRIAL USER has violated, or continues to violate, any provision of this Chapter and/or PRETREATMENT STANDARD and/or REQUIREMENT, including the provisions of a WASTEWATER DISCHARGE permit or order issued hereunder, MTMA may issue an order to the INDUSTRIAL USER responsible for the DISCHARGE directing that the INDUSTRIAL USER come into compliance within a specified time. If the INDUSTRIAL 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 INDUSTRIAL USER of liability for any violation, including any continuing violation. Issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the INDUSTRIAL USER.

§ 1.51. Cease and Desist Orders.

When MTMA finds that an INDUSTRIAL USER has violated, or continues to violate, any provision of this Chapter and/or PRETREATMENT STANDARD and/or REQUIREMENT, including the provisions of a WASTEWATER DISCHARGE permit or order issued hereunder, or that the INDUSTRIAL USER'S past violations are likely to recur, MTMA may issue an order to the INDUSTRIAL USER directing it to cease and desist all such violations and directing the INDUSTRIAL USER to:

- 1.51.1. Immediately comply with all provisions of this Chapter and all PRETREATMENT STANDARDS and/or REQUIREMENTS

and;

1.51.2. 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 prerequisite for, taking any other action against the INDUSTRIAL USER.

§ 1.52. Civil Penalties.

1.52.1. In addition to proceeding under any other remedy available at law or equity for violation of this Chapter and/or PRETREATMENT STANDARDS and/or REQUIREMENTS, MTMA may assess a civil penalty upon an INDUSTRIAL USER for a violation of any provision of this Chapter and/or PRETREATMENT STANDARDS and/or REQUIREMENTS, including the provisions of any INDUSTRIAL USER'S DISCHARGE permit. The penalty may be assessed whether or not the violation was willful or negligent. The civil penalty shall not exceed Twenty-Five Thousand (\$25,000) Dollars per day for each violation. Each violation for each separate day shall constitute a separate and distance defense under this Section. (35 P.S. §752.4).

1.52.2. In assessing a civil penalty upon an INDUSTRIAL USER, MTMA shall serve a Notice of Assessment, either personally or by registered or certified mail, within thirty (30) days of the violation. The Notice of Assessment shall indicate which provision(s) of this Chapter and/or PRETREATMENT STANDARDS and/or REQUIREMENTS, including provisions of a DISCHARGE permit or order, were violated, a description of the violation, the date(s) of the violation(s) and the amount of the civil penalty assessed. All civil penalties shall be calculated in accordance with the MTMA written civil penalty assessment policy. The Notice of Assessment shall also 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, pursuant to 35 P.S. §752.4.

1.52.3. MTMA may recover, as part of its Civil Penalty Assessment, reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses and the cost of any actual

damages sustained by MTMA.

1.52.4. Unless an appeal is filed to a Civil Penalty Assessment, the Assessment must be paid in full to MTMA within thirty (30) days of MTMA's issuance of the Notice of Assessment.

§ 1.53. Civil Penalty Assessment Appeals.

Any INDUSTRIAL USER which has been assessed a civil penalty by MTMA for violation of this Chapter and/or PRETREATMENT STANDARDS and/or REQUIREMENTS may appeal the assessment and receive a hearing before the MTMA Board, at which hearing the appealing party shall have an opportunity to present evidence before the Board on its behalf. A Notice of Appeal requesting a hearing date must be submitted to MTMA within thirty (30) days of the issuance of the Notice of Assessment by MTMA.

1.53.1. Failure to submit a timely Notice of Appeal shall be deemed to be a waiver of the administrative appeal.

1.53.2. Notice of Appeal must contain a description of the appellant's defenses to the assessment and must describe, generally, the evidence which it intends to present at the hearing. The Notice of Appeal must also indicate that the appellant requests that a hearing date be set.

1.53.3. A hearing date will subsequently be set by MTMA, and the appealing party shall be provided with adequate notice of the hearing date.

1.53.4. All testimony at such hearings shall be stenographically recorded at the expense of the appealing party, and a full and complete record shall be kept of the proceedings.

1.53.5. Within sixty (60) days following the hearing date, the MTMA Board shall issue its final adjudication of the matter. Such adjudication shall be in writing, shall contain findings and the reasons for the adjudication, and shall be served upon all parties or their counsel personally, or by mail pursuant to 2 Pa. C.S.A. §555.

1.53.6. Aggrieved parties seeking judicial review of the

final administrative adjudication of the MTMA Board must do so by filing a Petition for Review in the Court of Common Pleas of Allegheny County, Pennsylvania within thirty (30) days of the issuance of the final adjudication of the MTMA Board pursuant to 2 Pa. C.S.A. §752, 42 Pa. C.S.A. §933 and Pa. R.A.P. 1512(a)(1).

§ 1.54. Criminal Prosecution.

In addition to proceeding under any other remedy available at law or equity for violation of this Chapter and/or PRETREATMENT STANDARDS and/or REQUIREMENTS, if the violation also constitutes a violation of the Clear Streams Law of the Commonwealth of Pennsylvania, the MANAGER may request the District Attorney of Allegheny County to file appropriate criminal charges under said Law against the USER.

§ 1.55. Emergency Suspensions.

MTMA may immediately suspend an INDUSTRIAL USER'S DISCHARGE, after formal notice to the INDUSTRIAL 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. MTMA may also immediately suspend an INDUSTRIAL USER'S DISCHARGE, after notice and opportunity to respond, that threatens to interfere with the operation of POTW, or which presents, or may present, an endangerment to the environment.

1.55.1. Any INDUSTRIAL USER notified of a suspension of its DISCHARGE shall immediately stop or eliminate its contribution. In the event of an INDUSTRIAL USER'S failure to immediately comply voluntarily with the suspension order, MTMA 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. MTMA may allow the INDUSTRIAL USER to recommence its DISCHARGE when the USER has demonstrated to the satisfaction of MTMA that the period of endangerment has passed, unless the termination proceedings in Section 116.56 of this Chapter are initiated against the INDUSTRIAL USER.

1.55.2. An INDUSTRIAL USER that is responsible, in whole

or in part, for any DISCHARGE presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to MTMA prior to the date of any show cause or termination hearing under Sections 116.49 or 116.56 of this Chapter.

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

§ 1.56. Termination of DISCHARGE.

In addition to the provisions in Section 116.28 of this Chapter, any INDUSTRIAL USER who violates the following conditions is subject to DISCHARGE termination:

1.56.1. Violation of WASTEWATER DISCHARGE permit conditions;

1.56.2. Failure to accurately report the WASTEWATER constituents and characteristics of its DISCHARGE;

1.56.3. Failure to report significant changes in operations or WASTEWATER volume, constituents and characteristics prior to DISCHARGE;

1.56.4. Refusal of reasonable access to the INDUSTRIAL USER'S premises for the purpose of inspection, monitoring or sampling; or

1.56.5. Violation of applicable PRETREATMENT STANDARDS and/or REQUIREMENTS as set forth in this Chapter.

Such INDUSTRIAL USER will be notified of the proposed termination of its DISCHARGE and be offered an opportunity to show cause as set forth in Section 116.49 of this Chapter why the proposed action should not be taken. Exercise of this option by MTMA shall not be a bar to, or a prerequisite for, taking any other action against the INDUSTRIAL USER.

§ 1.57. Injunctive Relief.

When MTMA finds that an INDUSTRIAL USER has violated, or continues to violate any provision of this Chapter and/or

PRETREATMENT STANDARDS and/or REQUIREMENTS, MTMA may petition the Court of Common Pleas of Allegheny County, Pennsylvania, through the AUTHORITY'S Solicitor, for the issuance of a temporary or permanent injunction, or both, as appropriate, which restrains or compels the adherence to the provisions of this Chapter and/or PRETREATMENT STANDARDS and/or REQUIREMENTS. In addition to an injunction, MTMA may request, and the Court may grant in such proceedings the levying of civil penalties in accordance with 35 P.S. §752.4. Such other action as appropriate for legal and/or equitable relief may also be sought by the AUTHORITY. A petition or complaint for injunctive relief need not be filed as a prerequisite to taking any other action against an INDUSTRIAL USER.

§ 1.58. Remedies Nonexclusive.

The remedies set forth in this Chapter are not exclusive. MTMA may take any, all, or any combination of these actions against a noncompliant INDUSTRIAL USER. Enforcement of PRETREATMENT and/or REQUIREMENT violations will generally be in accordance with MTMA's enforcement response plan. However, MTMA may take other action against any INDUSTRIAL USER when the circumstances warrant. Further, MTMA is empowered to take more than one enforcement action against any noncompliant INDUSTRIAL USER.

**ARTICLE XI
Supplemental Enforcement Action**

§ 1.59. Performance Bonds.

MTMA may decline to issue or reissue a WASTEWATER DISCHARGE permit to any INDUSTRIAL USER who has failed to comply with any provision of this Chapter and/or PRETREATMENT STANDARD and/or REQUIREMENT, including the provisions of a previous WASTEWATER DISCHARGE permit or order issued hereunder, unless such INDUSTRIAL USER first files a satisfactory bond, payable to MTMA in a sum not to exceed a value determined by MTMA to be necessary to achieve consistent compliance.

§ 1.60. Liability Insurance.

MTMA may decline to issue or reissue a WASTEWATER DISCHARGE

permit to any INDUSTRIAL USER who has failed to comply with any provision of this Chapter and/or PRETREATMENT STANDARD and/or REQUIREMENT, including the provisions of a previous WASTEWATER DISCHARGE permit or order issued hereunder, unless the INDUSTRIAL USER first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its DISCHARGE.

§ 1.61. Water Supply Severance.

Whenever an INDUSTRIAL USER has violated or continues to violate any provision of this Chapter and/or PRETREATMENT STANDARD and/or REQUIREMENT, including the provisions of a WASTEWATER DISCHARGE permit or order issued hereunder, water service to the INDUSTRIAL USER may be severed. Service will only recommence, at the INDUSTRIAL USER'S expense, after it has satisfactorily demonstrated its ability to comply.

§ 1.62. Public Nuisances.

Any violation of a provision of this Chapter and/or PRETREATMENT STANDARD and/or REQUIREMENT, including the provisions of a WASTEWATER DISCHARGE permit or order issued hereunder, is hereby declared a public nuisance and shall be corrected or abated as directed by MTMA.

**ARTICLE XII
Affirmative Defenses to DISCHARGE Violations**

§ 1.63. Upset.

1.63.1. For the purposes of this section, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with CATEGORICAL PRETREATMENT STANDARDS because of factors beyond the reasonable control of the INDUSTRIAL USER. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance or careless or improper operation.

1.63.2. An upset shall constitute an affirmative defense to an action brought for noncompliance with CATEGORICAL PRETREATMENT STANDARDS if the REQUIREMENTS of Section 116.63.3 below are met.

1.63.3. An INDUSTRIAL USER who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

1.63.3.1. An upset occurred and the INDUSTRIAL USER can identify the cause(s) of the upset;

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

1.63.3.3. The INDUSTRIAL USER has submitted the following information to MTMA within twenty-four (24) hours of becoming aware of the upset:

116.63.3.3.1. A description of the indirect DISCHARGE and cause of noncompliance;

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

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

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

1.63.5. INDUSTRIAL USERS will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with CATEGORICAL PRETREATMENT STANDARDS.

1.63.6. INDUSTRIAL USERS shall control production of all DISCHARGES to the extent necessary to maintain compliance

with CATEGORICAL PRETREATMENT STANDARDS upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost or fails.

§ 1.64. Bypass.

1.64.1. For the purposes of this section,

1.64.1.1. "Bypass" means the intentional diversion of wastestreams from any portion of an INDUSTRIAL USER'S treatment facility.

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

1.64.2. An INDUSTRIAL USER may allow any bypass to occur which does not cause PRETREATMENT STANDARDS or REQUIREMENTS to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of Sections 116.64.3 and 116.64.4 of the Chapter.

1.64.3.

1.64.3.1. If an INDUSTRIAL USER knows in advance of the need for a bypass, it shall submit prior notice to MTMA at least ten (10) days before the date of the bypass, if possible.

1.64.3.2. An INDUSTRIAL USER shall submit oral notice to MTMA of an unanticipated bypass that exceeds applicable PRETREATMENT STANDARDS within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the INDUSTRIAL USER becomes aware of the bypass. The written submission shall contain a

description of the bypass and its cause; the duration of the bypass, including exact dates and times, and, if the bypass has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate and prevent reoccurrence of the bypass. MTMA may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.

1.64.4.

1.64.4.1. Bypass is prohibited, and MTMA may take enforcement action against an INDUSTRIAL USER for a bypass, unless:

1.64.4.1.1. Bypass was unavoidable to prevent loss of life, personal injury or severe property damage;

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

1.64.4.1.3. The INDUSTRIAL USER submitted notices as required under Section 116.64.3 of this Chapter.

1.64.4.2. MTMA may approve an anticipated bypass, after considering its adverse effects, if MTMA determines that it will meet the three conditions listed in Section 116.64.4.1 of this Chapter.

ARTICLE XIII
Miscellaneous Provisions

§ 1.65. Severability.

If any provisions of this Chapter and/or PRETREATMENT STANDARD and/or REQUIREMENT is invalidated by any court of competent jurisdiction, the remaining provisions shall not be affected and shall continue in full force and effect.

§ 1.66. Conflicts.

All other Chapters and parts of other Chapters inconsistent or conflicting with any part of this Chapter are hereby repealed to the extent of the inconsistency or conflict.