

TOWNSHIP OF SOUTH MIDDLETON
CUMBERLAND COUNTY, PENNSYLVANIA

ORDINANCE NO. 93-08

AN ORDINANCE OF THE BOARD OF TOWNSHIP SUPERVISORS IN AND FOR THE TOWNSHIP OF SOUTH MIDDLETON AMENDING ORDINANCE NO. 4 OF 1989 ENACTED APRIL 20, 1989, AND THE "SOUTH MIDDLETON TOWNSHIP PRETREATMENT PROGRAM, JANUARY 1989" (AS SUBSEQUENTLY AMENDED BY ORDINANCE NO. 9 OF 1991, ENACTED DECEMBER 19, 1991) IN VARIOUS RESPECTS TO COMPLY WITH FEDERAL LAW AND REGULATIONS.

NOW, THEREFORE, BE IT ENACTED AND ORDAINED by the Board of Township Supervisors in and for the Township of South Middleton, as follows:

SECTION 1: PREAMBLE AND BACKGROUND. On April 20, 1989, this Board of Township Supervisors enacted Ordinance No. 4 of 1989 which established a wastewater pretreatment program known as "South Middleton Township Pretreatment Program, January 1989". Said program was subsequently amended by Ordinance No. 9 of 1991 enacted on December 19, 1991. Because of various changes in the requirements of superior authorities, it is again necessary to modify and amend said Pretreatment Program. This Ordinance is intended to effect such changes and modifications.

SECTION 2: DEFINITIONS. For the purpose of this Ordinance, the term "Pretreatment Program" shall mean the "South Middleton Township Pretreatment Program, January 1989", as enacted by Ordinance No. 4 of 1989, (as amended by Ordinance No. 9 of 1991). Except as otherwise specifically stated in the context thereof, all references to "Parts" and "Sections" refer to parts and sections of parts in said Pretreatment Program.

SECTION 3: AMENDMENTS TO PRETREATMENT PROGRAM. The Pretreatment Program is hereby amended, modified and changed in the following respects:

A. Part 2 of said Pretreatment Program containing various definitions is amended by the substitution or addition of the following definitions, in proper alphabetical order:

Indirect Discharge or Discharge shall mean the discharge or the introduction of non-domestic Pollutants from any source, including Holding Tank Waste, regulated under Section 307(b), (c) or (d) of the Act (33 U.S.C., Section 1317) into the Sewer System.

Industrial User shall mean a source of Indirect Discharge.

Interference shall mean a Discharge which, alone or in conjunction with a discharge or discharges from other sources, both: (1) inhibits or disrupts the Treatment Works, its treatment processes or operations, or its sludge processes, use or disposal; and (2) therefore is a cause of a violation of any requirement of the Treatment Works' 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 provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Act (33 U.S.C., Section 1345); the Solid Waste Disposal Act (SWDA), 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 SWDA; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research and Sanctuaries Act.

National or Federal Categorical Treatment (Pretreatment) Standard shall mean any National Pretreatment Standard established pursuant to 40 CFR 403.6 and established as separate regulations under 40 CFR Chapter I, Subchapter N, Parts 405-471, which applies to a specific category of Industrial Users.

National Pretreatment Standard or Pretreatment Standard shall mean any regulation containing Pollutant discharge limits promulgated by the EPA in accordance with Section 307(b) and (c) of the Act (33 U.S.C., Section 1317) which applied to Industrial Users.

Pass Through shall mean a Discharge which exits the Treatment Works 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 Treatment Works' NPDES Permit (including an increase in the magnitude or duration of a violation).

Person shall mean any individual, partnership, firm, company, corporation, association, society, estate, trust, any Federal, State or local governmental entity, or any other group or entity, or any legal representative, agent, successor or assign thereof.

B. Part 3, Section 3.1 [General Discharge Prohibitions] is amended by deleting the first sentence thereof and substituting the following therefor:

No User shall contribute or cause to be contributed, directly or indirectly, into the Sewer System any Pollutant or Wastewater which causes Pass Through or Interference.

C. Part 3, Section 3.2 [Federal Categorical Pretreatment Standards] is amended by deleting the text of the entire section and substituting the following therefor:

The National Categorical Pretreatment Standards, located in 40 CFR Chapter I, Subchapter N, Parts 405-471, are hereby incorporated herein.

D. Part 5, Section 5.2 [Reporting Requirements for Users],

Subsections (4) and (6) are amended by deleting said Subsections (4) and (6) and substituting the following therefor:

(4) A User shall report in writing to the Director and to the municipality in which such User is located when the constituents, characteristics or volume of Wastewater will be changed from that previously discharged by such User into the Sewer System. The User shall submit such report at least 90 days prior to the contemplated change to allow sampling of the User's Wastewater.

(6) Signatory/Certification Requirements for Industrial User Permit Applications and Reports. Submissions of all applications for a Permit, as well as all compliance schedules and reports required by this Program, shall be dated and signed by one of the following:

(a) By a responsible corporate officer which includes a president, secretary, treasurer or vice president of the corporation in charge of a principal business function.

(b) By a general partner or proprietor, if a partnership or sole proprietorship exists.

(c) By a duly authorized representative if the authorization is made in writing by an individual described in (a) or (b). The authorization shall specify either an individual or a position having overall responsibility for environmental matters for the facility.

(d) In addition, all such applications, schedules and reports shall comply with all signatory and certification requirements as provided in 40 CFR 403.12(b)(6) and 403.12(1).

E. Part 5, Section 5.3 [Wastewater Discharge Permits], Subsections (2), (3), (5), (6) and (9) are amended by deleting therefrom those portions for which substituted portions are provided herein and by substituting the following therefor:

(2) Permit Application....

(1) An analytical description of the type, constituents and characteristics of Wastewater generated by such activity or process, including a written report of such analysis made by an analytical laboratory acceptable to the Director. The methods and procedures for sampling such Wastewater and for performing such analysis shall be in accordance with the methods and

procedures prescribed in 40 CFR Part 136 which are hereby incorporated herein.

When submitted as herein provided, the application for a Permit shall comply with all signatory/certification requirements contained in Section 5.2(6) of this Program. The signing of the application shall constitute a representation that the individual signing the same is duly authorized to submit the application on behalf of such Industrial User to the Director and to the municipality in which such Industrial User is located.

(3) **Change in Activity, Process or Wastewater.** All SIU's connected to or contributing to the Sewer System shall complete and submit to the Director and to the municipality in which such Industrial Users are located an application for a Permit, accompanied by the applicable fees and including a progress compliance schedule, when required, when a new activity or process generating the Wastewater for which the Permit is applied will be utilized from that previously utilized by such SIU, or when the constituents, characteristics or volume of Wastewater will be changed from that previously discharged by such SIU into the Sewer System.

(5) **Issuance of Permit.** When a SIU has submitted an application for a Permit as herein provided, the Director and the municipality in which such SIU is located shall require all other reports and information prescribed in 40 CFR 403.12(b) which are hereby incorporated herein and may require such other reports and information as may be required in order to properly evaluate such application. After evaluation of such application and such other reports and information required to be submitted, the Director may issue a Permit subject to the terms and conditions contained in this Program.

(6) **Permit Conditions....**

(b) limits on the average and maximum constituents, characteristics and volume of such Wastewater; . . .

(h) requirements for maintaining and retaining an Industrial User's records relating to the discharge of such Wastewater for a minimum of ten years or for such longer period as may be specified by the Director and affording the Township access to such records; . . .

(9) **Reporting Requirements.**

(a) Compliance Data Reports: Within 90 days following the date established for final compliance with the National, State or local Pretreatment Standard or Requirement, or in the case of a change in activity, process or Wastewater following the date when such Wastewater is first discharged into the Sewer System, . . .

F. Part 5, Section 5.7 [Availability of and Confidential Information] is amended by deleting the text thereof and substituting the following therefor:

5.7 Availability of and Confidential Information

(1) All records relating to compliance with Pretreatment Standards and Requirements and any records, reports or information obtained under Section 5 of this Program shall be made available to EPA upon request and without restriction.

(2) All such records, reports and information shall be available to the public and any State and local governmental agency without restriction unless a User or any other Person shall request and shall be able to demonstrate in accordance with Section 308(b) of the Act (33 U.S.C., Section 1318) that such records, reports, or information, or particular portions thereof, if made public would divulge methods or processes entitled to protection as trade secrets of such User or Person. Wastewater constituents and characteristics and other "effluent data" as defined in 40 CFR 2.302(a)(2)(i) shall not be recognized as confidential information and shall be available to the public without restriction.

G. Part 6, Section 6.1 [Harmful Discharges] is amended by deleting the first paragraph thereof and substituting the following therefor:

Wastewater treatment service may be suspended immediately to any User (after informal notice to such User) when such suspension is necessary, in the opinion of the Director, to effectively prevent an actual or threatened discharge which represents or may present an imminent or substantial endangerment to the public health, safety or welfare, to the environment, causes or threatens to cause Interference to any Treatment Works, or causes or threatens to cause the Treatment Works to violate any condition of its NPDES Permit.

H. Part 6, Section 6.2 [Suspension of Wastewater Treatment Service], is amended by deleting Subsections (1) and (2) and substituting the following therefor:

(1) failure of a User to factually report the Wastewater constituents, characteristics or volume of such User's discharge;

(2) failure of a User to report changes in Pretreatment facilities, methods of operation, or Wastewater constituents, characteristics or volume;

I. Part 6, Section 6.3 [Notification of Violation] is amended by deleting the text thereof and substituting the following therefor:

6.3 Notification of Violation

Except as otherwise provided in Section 6.1, whenever the Director determines that any User has violated or is violating this Program or any prohibition, limitation or requirement contained or referred to herein, the Director shall notify in writing such User indicating the nature of the violation. Within 30 days of the date of such notice, such User shall submit a detailed written plan to the Director and to the municipality in which such User is located describing the measures to be taken by such User to satisfactorily correct the violation.

J. Part 6, Section 6.5 [Damages Recoverable by Township from Users for Pretreatment Violation] is amended by deleting the text thereof and substituting the following therefor:

6.5 Damages Recoverable by Township from Users for Pretreatment Program Violations

It is recognized that in the case of significant violations as herein defined by Users, substantial damages of a value not easily ascertainable will be suffered by the Township in excess of penalties which may be imposed by governmental agencies upon the Township. Therefore, in addition to the requirement that any User reimburse the Township for any penalty imposed upon the Township as the result of any violations of the Pretreatment Program by such User, it shall be the obligation of any User committing a significant violation to pay to the Township as liquidated damages the further sum of \$1,000 per day for each day in which such significant violation continues. The liability of any User for such reimbursement for penalties and such payment of liquidated damages is an express condition upon which the Township predicates any User's performance hereunder, and shall be in addition to liability for any penalties and charges, civil or criminal, Federal, State or local to which any User may also be subjected, and to any equitable relief in the nature of an injunction or similar decree which may be appropriate.

K. Part 8, Section 8.4 [Prohibited Discharges] is amended by deleting Subsection (1) and the last paragraph of said Section 8.4 and substituting the following therefor:

(1) Any liquid or vapor having a temperature higher than 59 degrees Centigrade, but in no case shall any discharge, alone or in conjunction with other discharges, cause the Wastewater entering the Treatment Works to exceed 104 degrees Fahrenheit or 40 degrees Centigrade

Nothing contained herein shall be construed as permitting any special arrangement between Carlisle and the Township whereby Industrial Wastes of unusual strength or character may be accepted for treatment as long as such Industrial Wastes do not violate any Pretreatment Standard or Requirement; provided, however, that the costs incident to accepting and treating such Industrial Wastes shall be borne by the industrial establishment so discharging such Wastes, and further provided, however, that no special arrangement or agreement shall become effective until approved by

Carlisle and the Township or their respective municipal authorities, whichever shall operate their respective Sewage Collection Systems.

L. Section 2 of Ordinance 1-89 as amended by Section 4 of Ordinance 10-91 [Penalties] is amended by deleting said Section and substituting therefor the following:

Section 2. Violations and Penalties.

In addition to other liabilities provided for in the Pretreatment Program, any Person as defined therein who shall violate any provision of this Ordinance, including the Pretreatment Program adopted hereby and not excluding requirements and conditions of permits issued thereunder, shall, for each and every such violation, be guilty of a summary offense and be sentenced to pay a fine of not more than One Thousand (\$1,000) Dollars, restitution and costs of prosecution, and in default of payment thereof to imprisonment for not more than thirty (30) days. Each day's continuance of a violation of any such provision shall constitute a separate violation.

SECTION 3: SEVERABILITY. If any provision, section, sentence, clause or portion of this ordinance shall be held invalid or unconstitutional by any court of competent jurisdiction, such invalidity or unconstitutionality shall not affect any other provision, section, sentence, clause or portion of this ordinance which shall continue and remain in full force and effect.

SECTION 4: All prior ordinances or parts of ordinances inconsistent herewith are hereby repealed.

SECTION 5: This ordinance shall become effective as provided by law.

DULY ENACTED AND ORDAINED this 28th day of OCTOBER, 1993, by the said Board of Township Supervisors in lawful session duly assembled.

TOWNSHIP OF SOUTH MIDDLETON

BY Mary C. Lehman
Chairman, Board of Township
Supervisors

ATTEST:
Barbara A. Wilson
Township Secretary