

# Pretreatment Program Structure and Procedures

United States Environmental  
Protection Agency  
Administrative Order

Order: CWA-02-2013-3058 and  
Amended Order: CWA-02-2014-3049

City of Middletown  
New York

May 2015



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# Section 1

## Introduction

### 1.1 Background

The City of Middletown, NY (City) owns and operates an 8.5 mgd wastewater treatment plant located at 159 Dolson Avenue, Middletown, NY. The treatment plant discharges to the Wallkill River.

The City's Sewage Treatment Plant (STP) was originally constructed in 1929. The current treatment process includes preliminary treatment (screening and grit removal), primary treatment (primary clarifiers), secondary treatment (fine bubble aeration and secondary clarification) and tertiary treatment (seasonal ultraviolet (UV) disinfection).

On, September 26, 2013 the City was issued an Administrative Order by the United States Environmental Protection Agency (USEPA) related to the implementation of an pretreatment program that complies with the General Pretreatment Regulations at 40 CFR Part 403. This report has been prepared in partial fulfillment of the requirements of that Administrative Order.

### 1.2 Objective and Scope

As required under 40 CFR 403.8(f)(2) the City shall develop and implement procedures to ensure compliance with the requirements of a Pretreatment Program.

## Section 2

# Program and Procedures

## 2.1 Program

The limited number Industrial Users (IUs) in the City of Middletown reduces the overall scale of the Industrial Pretreatment Program (IPP). Given the reduced program size, the POTW will utilize existing resources and allocate staff to fill multiple roles to establish this IPP.

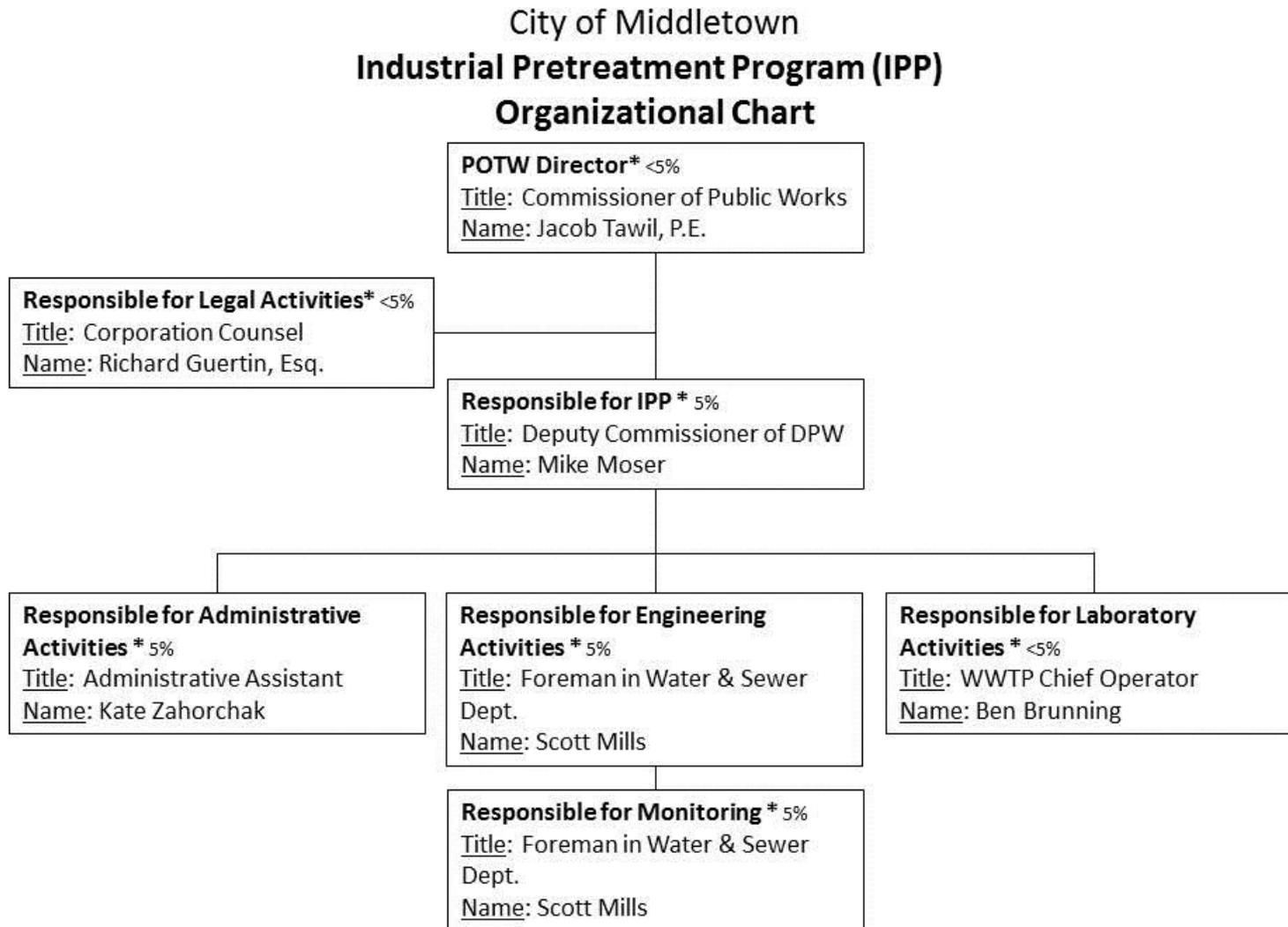
### 2.1.1 Organizational Plan

The following activities are addressed in the organizational chart:

- Sampling and inspection
- Laboratory analysis
- Technical assistance
- Legal assistance
- Program administration

Please see Figure 1 for proposed organizational plan for the City of Middletown's IPP.

Figure 1 - City of Middletown's Industrial Pretreatment Program's Organizational Plan



\*Part-time positions with associated estimated overall percentage of time commitment to IPP

### 2.1.2 Staff Responsibilities and Qualifications

Due to reduced scale of IPP, the organization can be managed using limited individual staff members that fill multiple roles. The overall time commitment of the City's staff to the IPP is indicated in Figure 1. This level of commitment is based on the current program size and the City will ensure adequate staff resources are made available based on the program needs. The following are the duties and qualifications for each role required in the organization of the IPP:

Commissioner of Public Works (Commissioner)– See definition in Sewer Use Ordinance §389-1. Responsible for the overall administration of the IPP. Qualifications include experience in municipal government, communication with IUs, municipal finances and accounting, personnel, and public participation.

Corporation Counsel – Responsible for legal activities and matters providing legal assistance to the City related to interpretation of regulations and other legal documents that affect pretreatment program operations and prepare contracts or other agreements. This person also will initiate formal Legal actions against violators, including injunctive relief when necessary. Qualified individuals should be authorized to practice as an attorney and counselor-at-law in the State of New York.

Administrative Assistant – Responsible for administrative activities and providing assistance to the Commissioner of Public Works and the Assistant Commissioner of DPW and Sewer. Qualifications include experience in municipal government and data management.

Deputy Commissioner of DPW(Deputy Commissioner)- Responsible for engineering activities and coordination of monitoring. Duties include evaluating data submitted by IUs to the City, and reviewing monitoring and sample analysis conducted by the POTW. This individual will be responsible for staffing and supervising field monitoring activities. Qualifications for this role include experience in field monitoring and sampling, wastewater treatment, and sewer collection systems.

Foreman Water and Sewer Department – Responsible for assisting the Deputy Commissioner in executing the engineering activities and monitoring associated with the Pretreatment Program. Duties include collecting data submitted by IUs, field monitoring activities, coordinating with the Chief Operator regarding laboratory activities. Qualifications for this role include experience in field monitoring and sampling, wastewater treatment, and sewer collection systems.

Chief Operator – Responsible for laboratory activities and analysis. Qualifications include familiarity with sampling techniques and coordination with sampling laboratories. Sampling will be contracted through a commercial laboratory for analytical services. Laboratories must be certified by the State of New York and conduct tests in accordance with EPA approved methods.

### 2.1.3 Coordination with Other Departments

The administration of this program will be led by the Commissioner. Coordination of information and requirements will be led by the Commissioner who oversees the City's Building Department and POTW.

The Commissioner is also available to offer comment to the Common Council and Planning Board on matters related to pretreatment requirements.

### 2.1.4 Major Equipment used in Program

The program will utilize existing City-owned vehicles for transportation during monitoring activities. In addition, the City may utilize Isco samplers for required data collections from IUs and additional sampling required for the IPP.

## 2.2 Procedures

As required under 40 CFR 403.8(f)(2) the City shall develop and implement procedures to ensure compliance with the requirements of a Pretreatment Program. Where applicable, the related reference to the City of Middletown's Sewer Use Ordinance (SUO) is noted.

For information of funding levels and program costs please see separate document entitled Funding Plan.

The City has also developed Standard Operating Procedures which provide more detail regarding the items listed below and additional aspects of the program.

### 2.2.1 Identify Industrial Users

CFR Reference: 40 CFR 403.8(f)(2)(i)

SUO Reference: §389-44 [out-of-City only]

The City of Middletown (City) has created an inventory of Industrial Users (IUs) that discharge to the City of Middletown's Wastewater Treatment Plant. This list will be updated by the Deputy Commissioner when new IUs are identified, or when existing IUs cease operation.

The current inventory of IUs can be made available upon request.

The identification of industrial users is described further in Section 2 of the City's Pretreatment Program Standard Operating Procedures (SOPs).

### 2.2.2 Identify Pollutants by Industrial Users

CFR Reference: 40 CFR 403.8(f)(2)(ii)

SUO Reference: §389-50

The City has distributed a Commercial/Industrial Wastewater Discharge Questionnaire to all IUs. The questionnaire asked for the quantities and concentrations of pollutants discharged by the IU. This questionnaire will be distributed by Deputy Commissioner when new IUs are identified.

### 2.2.3 Notification of Industrial Users

CFR Reference: 40 CFR 403.8(f)(2)(iii)

SUO Reference: §389-53

Pursuant to the requirements of the Code of Federal Regulations, IUs will be notified by the City's Commissioner of any applicable Pretreatment Standards and any applicable requirements under

sections 204(b)<sup>1</sup> and 405<sup>2</sup> of the Clean Water Act and subtitles C<sup>3</sup> and D<sup>4</sup> of the Resource Conservation and Recovery Act.

Within 30 days of an approval of the list of Significant Industrial Users (SIUs) the City's Administrative Assistant will notify SIUs of their status as such and of all requirements applicable to it as an SIU.

Notification requirements are also discussed in Section 4 of the City's Pretreatment Program SOPs.

<sup>1</sup>Section 204(b) of the Clean Water Act refers to applicable user charges

<sup>2</sup>Section 405 of the Clean Water Act refers to disposal of sewage sludge

<sup>3</sup>Subtitle C of the Resource Conservation and Recovery Act refers to hazardous waste.

<sup>4</sup>Subtitle D of the Resource Conservation and Recovery Act refers to solid waste.

## 2.2.4 Permit Issuance

### 2.2.4.1 General

All permits applications submitted to the City shall be initially checked for completeness and consistency by the City's Administrative Assistant and then verified by the Commissioner. If the permit application is found incomplete or discrepancies are discovered, the Deputy Commissioner will contact the SIU and provide guidance necessary to resubmit the application.

Once the permit application is deemed administratively complete, the Deputy Commissioner will complete a technical review of the SIU's application. Laboratory results will be included in the Deputy Commissioner's review of the permit application. The Deputy Commissioner must reference the City's local limits and Discharge Screening Levels found in Appendix C of this SOP. Parameters in excess of discharge screening levels must be analyzed further for potential inclusion in the SIU's Wastewater Discharge Permit as limit or monitoring requirement.

If discrepancies are found in the data or information provided by the SIU, the Deputy Commissioner will coordinate with the Commissioner prior to responding to the SIU.

### 2.2.4.2 Sampling Frequency

All parameters believed present in IU's discharge shall be sampled twice a year. If IU's discharge is found to be variable, sampling will be required four times a year. A discharge is considered variable if flows are greater than 5,000 gpd and constituents found in wastewater vary over time or days. The annual sampling frequency is as follows:

Discharge Type	Sampling Frequency (per year)
Consistent	2
Variable	4

EPA's policy is that all local limits are included in permits and that for those pollutants that are believed absent, that the monitoring frequency can be once every three years or the life of the permit (whichever is less).

### 2.2.4.3 Final Approval

The Commissioner will have 30 days from the date the application was deemed administratively complete to determine whether to issue an Individual Wastewater Discharge Permit. Once the permit has been drafted by the Deputy Commissioner, the SIU will be issued a permit number and date. The permit duration will be a maximum of 5 years or less as determined by the Commissioner.

A final copy of the permit will be provided to the SIU for their files. The permit will include, but is not limited to, the following information:

- statement of permit duration (no more than 5 years);
- statement of non-transferability of permit without prior notification to the City and provision of a copy of the existing control mechanism to the new owner/operator;
- local discharge limits;
- statement of applicable civil and criminal penalties for violation of pretreatments standards and requirements;
- and self-monitoring, reporting, notification and record keeping requirements.

The SIU will be asked to resubmit the permit application 180 days prior to permit expiration to include any facility changes or new discharges.

An example of a Wastewater Discharge Permit can be found in Appendix D of the Standard Operating Procedures.

### 2.2.5 Self-Monitoring Reports

CFR Reference: 40 CFR 403.8(f)(2)(iv)

SUO Reference: Section §389-51

The Deputy Commissioner will receive and analyze the self-monitoring reports, and any other documents submitted by the Industrial Users.

Reporting requirements are also discussed in Section 4 of the City's Pretreatment Program SOPs.

### 2.2.6 Random Sampling by City

CFR Reference: 40 CFR 403.8(f)(2)(v)

SUO Reference: Section §389-38

The Deputy Commissioner or Water/Sewer Department Foreman will conduct random sampling of IUs. The random sampling will be conducted at least once a year. The Commissioner may require more frequent monitoring and inspection at his discretion.

Random Sampling is also discussed in Section 5 of the City's Pretreatment Program SOPs.

### 2.2.7 Slug Discharges

CFR Reference: 40 CFR 403.8(f)(2)(vi)

SUO Reference: Section §389-49C and §389-51F

The Commissioner will evaluate SIUs to determine if they need a Slug Discharge Control Plan at least once every two(2) years.

If required, a Slug Discharge Control Plan shall be prepared and will include the following:

- Description of discharge practices, including non-routine batch discharges;
- Description of stored chemicals;
- Procedures for immediately notifying the Deputy Commissioner of a Slug Discharge; and
- Procedures for prevention of Slug Discharges as presented in 40 CFR 403.8(f)(2)(vi)(D)

SIUs are required to immediately notify the Deputy Commissioner in the event a Slug Discharge occurs. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the SIU. In addition, an SIU is required to notify the Deputy Commissioner immediately if any changes to its facility could affect the potential for a Slug Discharge.

Slug discharge reporting by IUs is described further in Section 4.3.2 of the City's SOPs.

### 2.2.8 Investigate Instances of Noncompliance

CFR Reference: 40 CFR 403.8(f)(2)(vii)

SUO Reference: Section §389-39 and §389-51(section relates to reporting but may trigger instances of noncompliance)

The City's Commissioner and the Corporation Counsel will investigate instances of noncompliance with the SUO or in random sampling described in Section 2.2.5 above. Sampling and analysis conducted following the instance of noncompliance will be performed in order to produce evidence required for legal action.

### 2.2.9 Public Notification

CFR Reference: 40 CFR 403.8(f)(2)(viii) and 40 CFR Part 25

SUO Reference: Section §389-52

The City's IPP program will comply with the public notification requirements of 40 CFR Part 25 (Public Participation in Programs under the Resource Conservation and Recovery Act, The Safe Drinking Water Act, and the Clean Water Act).

With regard to public notification, the City's Administrative Assistant will assist the Commissioner in publishing a list IUs found to have significant noncompliance with applicable pretreatment requirements over the past year. The publication will be in the Times Herald-Record.

An event of significant noncompliance by an IU includes any of the following:

- Chronic violation of wastewater discharge limits- This is an event where 66% of the same pollutant is measured to exceed the Pretreatment Standard or Requirement over the course of 6-months.
- Technical Review Criteria (TRC) violations- This is an event where 33% of the same pollutant is measured to exceed the Pretreatment Standard or Requirement multiplied by an applicable TRC value over the course of 6-months. The TRC=1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH.
- Any violation of a Pretreatment Standard or Requirement that the City's IPP program determines has caused Interference or Pass-Through. This violation can be caused alone by an IU or in combination with other discharges.
- A discharge of a pollutant that has caused the endangerment to human health, welfare of the environment or has resulted in the City's exercise of its emergency authority.
- Failure to meet a compliance schedule milestone of 90 days after schedule date of starting construction, completing construction or attaining final compliance.
- Failure to meet a compliance schedule milestone of 30 days after schedule date for required reports.
- Failure to report noncompliance.
- Any other violation the Commissioner and his IPP staff determine has an adverse effect on the operation of their local Pretreatment program.

Requirements related to findings of significant noncompliance are discussed further in Section 5 of the City's Pretreatment Program SOPs.

# Appendix A

## Final Attorney's Statement

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June 30, 2015

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Re: Order CWA-02-2013-3058, City of Middletown, SPDES Permit No. NY0026328;  
Legal Authority for City of Middletown to Implement of Pretreatment Program

Dear Mr. McKenna and Ms. Anderson:

I am the Corporation Counsel for the City of Middletown, New York (“City of Middletown”), owner and operator of a wastewater treatment plant located at 159 Dolson Avenue, Middletown, New York (“the POTW”), and the following statement is submitted pursuant to the requirements contained in the Code of Federal Regulations (CFR), Title 40, Section 403.9(b)(1) regarding legal authority for the City of Middletown to implement the City of Middletown Pretreatment Program.

It is my opinion that the City of Middletown has adequate authority to carry out the program described in 40 CFR Section 403.8, based on authority granted to it by: 40 CFR Section 403.8, the Charter of the City of Middletown, and the City of Middletown’s Sewer Use Ordinance, codified as Chapter 389: Sewers of the Code of the City of Middletown.

Douglas McKenna, Chief  
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The following references to the legal authority requirements of 40 CFR 403.8(f)(1) are correlated with the appropriate sections of the City of Middletown's Sewer Use Ordinance, codified as Chapter 389: Sewers of the Code of the City of Middletown ("the Ordinance") which provide the required authority. Where the authority is not apparent from a reading of the Ordinance provision, an explanation is provided.

General - - Sections 389-5, 389-10, 389-13 and 389-24 of the Ordinance provide that all connections of lateral or other sewer lines to the sewerage system of the POTW service area, whether within or without the City of Middletown, shall be made subject to such terms and conditions as the City of Middletown may prescribe. Pursuant to this authority, the Common Council of the City of Middletown has adopted the Ordinance setting forth the terms and conditions upon which industrial users may connect to the system.

403.8 (f) (1) (i) - - New contributions to the public sewerage system may not be made without an industrial user first obtaining a Sewer Use Permit (Sections 389-33 and 389-50 (A) (1) and (3)) which may contain various conditions and prohibitions as set forth in those sections. Existing industrial users (those connected to the system prior to the effective date of the Ordinance shall be required by the City of Middletown's Commissioner of Public Works ("the Commissioner") to obtain a Sewer Use Permit (Section 389-50 (A) (2)). If there has been an increase or change in an industrial user's contribution to the system, the discharger is required to reapply for a permit to cover those changes (Sections 389-50 (B) (3) and 389-51 (E) (1)), and the Commissioner may change the conditions of any Sewer Use Permits as circumstances may require (Section 389-51 (E) (2)).

403.8 (f) (1) (ii) -- In order to require compliance with applicable Pretreatment Standards, the City of Middletown POTW must be able to require compliance with EPA's listed general prohibitions (403.5(a)), specific prohibitions (403.5(b)), and local limits developed to implement the general and specific standards (403.6). Sections 389-3 and 389-27 of the Ordinance prohibit any discharge to a sewer which will result in a nuisance, or contamination or pollution of receiving waters. Sections 389-27 (A), 389-30 (B) and 389-50 (A) (1) prohibit conditions which violate any statute, rule, regulation or ordinance of any public agency (including EPA). Section 389-27 (A) and (B) prohibit those discharges prohibited by EPA regulations. These three sections (389-27, 389-30 and 389-50, as noted) empower the City of Middletown to enforce the general and specific prohibitions contained in 40 CFR 403.5 (a) and (b). When local discharge limits are developed pursuant to 403.5 (c) and (d), they may be imposed by the Commissioner as a permit condition pursuant to Ordinance Section 389-30. National categorical pretreatment standards may also be imposed as a permit condition per Ordinance Sections 389-29 and

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389-50 (A) (3), which empower the Commissioner to regulate discharges regulated by EPA.

403.8(f)(1)(iii) - - The City of Middletown POTW has control via a permit system authorized by Ordinance Section 389-50(a permit application form appears in Section 2 Appendix B of the City of Middletown Pretreatment Program).

403.8(f)(1)(iv)(A) - - The Commissioner may, to remedy or avoid a violation of the Ordinance or sewer use permit, require a user to develop a compliance schedule for installation of control technology under Ordinance Section 389-49 (A) and (B). Additionally, the Commissioner may require a compliance schedule as part of the required information under Ordinance Sections 389-49 (C) and 389-51 (A) and (B), as a condition of obtaining a sewer use permit.

403.8(f)(1)(iv)(B) - - The Commissioner may require a user to submit all notices and self-monitoring reports required by EPA regulations through authority granted in Ordinance Section 389-51 (A), (B) and (C).

403.8(f)(1)(v) - - The Commissioner may carry out inspection, surveillance and monitoring procedures under authority granted in Ordinance Section 389-38 (A) and (B).

403.8(f)(1)(vi)(A) - - The City of Middletown may seek remedies for noncompliance with pretreatment standards and requirements in Sections 389-39 and 389-41. As a matter of general law, the City of Middletown may seek injunctive relief for noncompliance since any such noncompliance might result in irreparable harm to the POTW, to the health and safety of POTW workers, and to the environment; and since damages at law would not be an adequate remedy. The Ordinance Section 389-41 (D) provides that intentional violation of the Ordinance is a violation which is punishable by a fine not to exceed \$1,000.00, imprisonment not to exceed fifteen days, or both. Additionally, a civil liability is imposed by Ordinance Sections 389-39 (F) and 389-41 (C) for intentional or negligent violation of the City of Middletown requirements relating to (1) pretreatment of industrial waste which would otherwise be detrimental to the POTW or its operation, and (2) the prevention of entry of such waste into the collection system or POTW. The civil liability may equal a sum not exceed \$1,000.00 per day per violation.

403.8(f)(1)(vi)(B) - The Commissioner may, under Ordinance Section 389-39 (E) and (G), temporarily suspend a sewer use permit or impose temporary restrictions on discharges where continued discharges would jeopardize the ability of the POTW to meet water quality standards, threaten damage to the sewerage system, or cause a nuisance or an unsafe condition to

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occur. Usually, a 48-hour period must pass before a suspension or restriction is effective. The waiting period may be dispensed with in emergency situations relating to public health and safety or a significant impairment of the treatment process. Ordinance Sections 389-39 (E) and (G) and 389-41 (B) require compliance with restrictions or cessation of discharges at the effective times of such action.

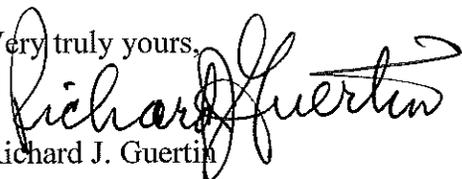
403.8(f)(1)(vii) - - Confidentially requirements are provided for in Ordinance Section 389-52, “ Information Available to General Public; Confidential Information.”

As stated above, the City of Middletown will implement the requirements of its pretreatment program and apply pretreatment standards to individual industrial users through use of a sewer use permit system, and by direct enforcement of the Ordinance. A description of the exact procedures to be used in implementing the pretreatment program is provided in the Program and Procedures and Standard Operating Procedures portions of the City of Middletown Pretreatment Program.

The City of Middletown intends to ensure compliance with pretreatment standards and requirements through an inspection and sampling program authorized under Section 389-38 (A) and (B) of the Ordinance, which would allow for the determination of non-compliance with discharge limitations and requirements independent of information supplied by the industrial user. The inspection and sampling program is described in the Standard Operating Procedures portion of this submission (particularly Appendix I).

Those violating permit conditions will be ordered to “Cease and Desist” (Ordinance Section 389-39 (E)), and are subject to having service terminated (Section 389-39 (H)) and their permit revoked (Section 389-39 (C) and (H)). As authorized by Ordinance Section 389-41, the City of Middletown is prepared to take court action where necessary to enforce compliance with its Ordinance, permits or orders.

Please let me know if you have any questions.

Very truly yours,  
  
Richard J. Guertin

RJG:jg

cc: Hon. Joseph M. DeStefano, Mayor  
Jacob Tawil, Commissioner of Public Works