

**EASTON AREA JOINT SEWER AUTHORITY
COMMONWEALTH OF PENNSYLVANIA**

RESOLUTION NO. 2022-05-16^A

**RESOLUTION ADOPTING AN AMENDMENT TO THE AUTHORITY'S
INDUSTRIAL PRETREATMENT FEES AND CHARGES - COST
RECOVERY POLICY; ADOPTING A REQUIREMENT THAT A
DELINQUENT INDUSTRIAL USER REIMBURSE THE AUTHORITY
FOR ITS ATTORNEY FEES AND EXPENSE RELATED TO
COLLECTION OF THE DELINQUENT CHARGES AND FEES; AND
CONFIRMING THE AUTHORITY'S COST RECOVERY POLICY, AS
AMENDED**

WHEREAS, Easton Area Joint Sewer Authority Board previously adopted Resolution No. 2006-08-21, which approved a cost recovery policy regarding non-payment of Industrial Pretreatment Program ("IPP") fees and charges, including, without limitation, industrial user fees, permit application fees, routine sampling fees, resampling fees, laboratory analysis charges, surcharges, and fines and penalties (the "2006 IPP Cost Recovery Policy Resolution"), a copy of which is attached hereto as Exhibit "A" and incorporated by reference;

WHEREAS, the prior delinquency of one or more industrial users in the payment of IPP fees and charges has caused the Authority to incur unreimbursed attorney fees and/or expense;

WHEREAS, the Authority Board finds that a delinquent industrial user should be financially responsible for the Authority's attorney fees and other litigation costs, including without limitation, expert witness expense, beginning from the point that the delinquent account is referred to counsel for collection, independent of whether or when actual litigation is commenced, instead of the IPP, and its industrial users generally, having to pay the unreimbursed costs related to a single user's delinquency;

NOW, THEREFORE, BE IT RESOLVED by the Board of the Easton Area Joint Sewer Authority as follows:

1. The 2006 IPP Cost Recovery Policy Resolution is amended to include the following paragraph:

Recovery of Authority Attorney Fees and Expense

A delinquent industrial user shall reimburse the Authority for all of the Authority's reasonable attorney fees and expenses, and any litigation costs, including without limitation, expert witness expense, beginning from the point that the delinquent account is referred to counsel for collection or other action, independent of whether or when actual litigation is commenced. This reimbursement requirement shall apply to all efforts by the Authority's attorney to collect the delinquent IPP fees and charges, including, without limitation, the filing of a municipal lien, collection litigation and permit revocation. The industrial user's reimbursement obligation shall be considered a condition of the industrial user's permit. The industrial user agrees to reimburse the Authority for such costs, and to indemnify the Authority against any loss as result of such costs. The industrial user shall be considered delinquent in its IPP fees and charges until all such costs are paid.

2. The Authority Board hereby confirms the adoption of the 2006 IPP Cost Recovery Policy Resolution, with the amendment contained herein. The 2006 IPP Cost Recovery Policy Resolution, as amended, shall continue in force until further amended or repealed by the Authority Board.

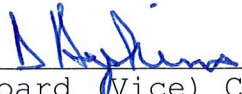
3. Authority Board Resolution # 2010-07-19-B, Industrial Pretreatment Permit Renewal - Cost Recovery Enforcement Policy, shall continue in place, and supplement the 2006 IPP Cost Recovery Policy Resolution, as amended.

4. This Resolution shall be effective immediately.

5. If any section, subsection, sentence, clause or phrase of this Resolution is, for any reason, held to be illegal or unconstitutional, such decision shall not affect the validity of the remaining portions of this Resolution.

ADOPTED this 16th day of May, 2022.

EASTON AREA JOINT SEWER AUTHORITY

By: 
Board (Vice) Chairman


Stephen Riegel, Secretary

(SEAL)



EXHIBIT "A"

2006 IPP COST RECOVERY POLICY RESOLUTION

(attached hereto)

**EASTON AREA JOINT SEWER AUTHORITY
RESOLUTION NO. 2006-08-21**

Industrial Pretreatment Fees and Charges– Cost Recovery Policy

RESOLVED, that this Resolution replaces Resolution 2006-07-19, which addressed cost recovery for surcharges only.

RESOLVED, that the Easton Area Joint Sewer Authority hereby approves a cost recovery policy regarding non-payment of Industrial Pretreatment Program ("IPP") fees and charges, as follows:

The Industrial Pretreatment Cost Recovery fees and charges covered by this policy shall include, without limitation, industrial user fees, permit application fees, routine sampling fees, resampling fees, laboratory analysis charges, surcharges, and fines and penalties.

Surcharge Formula

In order to determine the additional charge for industrial wastes with strength greater than that of domestic sewage, the surcharge formula as adopted by the Authority from time to time shall be used.

Billing Frequency

The industrial waste surcharge, industrial user fees, routine sampling fees, resampling fees, laboratory analysis charges shall be billed quarterly.

Permit application fees and fines and penalties imposed for violations of the Authority's Rules and Regulations shall be billed as they become due.

Calculation of Cost Recovery Amounts Owed by Industrial Users

The Easton Area Joint Sewer Authority shall cause the water meter of each industrial user where the waste water flow determination is based upon metered water consumption, and the waste water meter where the waste water flow determination is based upon waste water

flow measurement, to be read on a quarterly basis, and the Authority shall cause industrial waste surcharge bills to be mailed to the industrial users following each reading:

1. The Authority shall cause periodic sampling of the waste water discharge by each industrial user in accordance with the Authority's Rules and Regulations.

2. Bills for industrial waste surcharge and all other Industrial Pretreatment Program fees and charges shall be mailed to the user's address specified on the Industrial Waste Permit. Failure to receive a bill as a result of incorrect address or otherwise shall not excuse nonpayment of charges or extend the time for payment.

3. Payment shall be due net thirty (30) days. A penalty of five (5%) percent shall be added to bills not paid within thirty (30) days of the date of bill. If the bill is not paid within sixty (60) days, a second penalty of five (5%) percent shall be added to the amount of the bill.

4. Commencing with the sixty-first (61st) day of the unpaid bill, there shall be a carrying charge of one and one-half (1-1/2%) percent per month or fraction of a month of the outstanding balance, added to the amount of the bill. If a bill is not paid within ninety (90) days of the date of the bill, it shall be considered delinquent, and further action, including, without limitation, filing of a municipal lien, collection litigation, and permit revocation, may be taken. In addition, failure to pay within ninety (90) days from the date of the bill shall constitute a violation of the Authority's Rules and Regulations.

Revocation of IPP Permit for Non-Payment of Surcharge Bill

1. If an industrial user holding a Discharge Permit fails to pay a cost recovery invoice within sixty (60) days from date of issuance of such bill, the Authority shall cause to be sent to such user, by certified mail, a written notice of intent to revoke the user's pretreatment Discharge Permit after thirty (30) days from the date of intent to revoke notice.

2. Within thirty (30) days from the date of the notice, the industrial user must either:
(a) pay the invoice in full, including all applicable penalties and interest, or (b) appeal the administrative determination as to the validity of the bill and/or the amount to the invoice owed.

3. All appeals will be heard under the rules of evidence and procedures applicable under the Local Agency Law.

4. All appeals will be heard by a hearing board consisting of three Authority Board members designated by the Authority Chairman.

5. The Hearing Board shall prepare a *proposed adjudication for adoption by the Authority Board*.

6. If the Industrial User is found to be in violation of the Authority's Rules and Regulations for failure to pay cost recovery invoices within the time allowed by this Resolution, the Authority shall immediately, subject to the appeal rights set forth in Paragraph 7, *revoke the User's Discharge Permit*.

7. An Industrial User shall have thirty (30) days from the date of the Authority Board's Adjudication to appeal the Authority's decision to the Court of Common Pleas of Northampton County. In order to perfect such appeal, the Industrial User must deposit 120% of the cost recovery fees and charges due, as determined by the Authority, with the Authority Secretary, in escrow, to perfect the appeal.

8. If no appeal is timely perfected, the Industrial User permit shall be immediately revoked.