

## TABLE OF CONTENTS

### TOWN OF MENASHA MUNICIPAL CODE

#### **Chapter 25 - Industrial Pretreatment Rules & Regulations of the Neenah-Menasha Sewerage Commission**

- 25.01 General Provisions - Purpose and Policy
- 25.02 Definitions
- 25.03 Abbreviations
- 25.04 Regulations - General Discharge Prohibitions
- 25.05 Specific Discharge Prohibitions
- 25.06 Limitations on Wastewater Strength
- 25.07 Accidental Discharges
- 25.08 Fees and Charges - Purpose
- 25.09 Fees and Charges
- 25.10 Wastewater Discharge Permits
- 25.11 Reporting Requirements for Permittee
- 25.12 Pretreatment Facilities
- 25.13 Submission of Plans
- 25.14 Monitoring Facilities
- 25.15 Inspection and Sampling
- 25.16 Confidential Information
- 25.17 Emergency Suspension of Wastewater Discharge Permit and Suspension of Service
- 25.18 Grounds for Revocation, Termination or Reissuance Refusal of Permit
- 25.19 Notification of Violation and Suspension or Revocation
- 25.20 Complaint
- 25.21 Show Cause Hearing
- 25.22 Hearings Requested by Interested Party or Discharger; Time Limit
- 25.23 Hearing Witnesses; Subpoenas
- 25.24 Judicial Proceedings
- 25.25 Injunctive Relief
- 25.26 Final Orders
- 25.27 Annual Publication of Offenders
- 25.28 Rule Interpretation
- 25.29 Right to Appeal
- 25.30 Operating Upsets
- 25.31 Bypass Provisions
- 25.32 Civil Penalties
- 25.33 Recovery of Costs and Expenses Incurred by the Commission

TOWN OF MENASHA CODE

- 25.34 Falsifying Information
- 25.35 Records Retention
- 25.36 Removal Credits
- 25.37 Hauled Materials
- 25.38 Right of Revision
- 25.39 Severability
- 25.40 Conflict
- 25.41 Required Reports, Notification and Schedules

**CHAPTER 25**

**INDUSTRIAL PRETREATMENT RULES AND REGULATIONS OF THE NEENAH-MENASHA SEWERAGE COMMISSION**

**25.01 GENERAL PROVISIONS - PURPOSE AND POLICY**

The purpose of these rules and regulations is to establish uniform requirements for Industrial Users of the Neenah-Menasha Sewerage Commission's (NMSC) interceptors and Wastewater Treatment System to enable the Commission to protect its sewage transport and treatment facilities, its wastewater treatment process efficiency, its ability to continue land disposal of conformity with applicable local, State and Federal laws.

The policy of these rules and regulations is:

- (1) To establish uniform requirements for direct and indirect contributors to the wastewater collection and treatment system owned and operated by NMSC and to enable NMSC to comply with applicable State and Federal laws including the General Pretreatment Regulations (40 CFR, Part 403).
- (2) To prevent the introduction of pollutants into the NMSC's wastewater system which would:
  - (a) Interfere with the operation of the system.
  - (b) Cause the treatment plant to violate its WPDES Permit.
  - (c) Contaminate the sludge and/or make it unsuitable for land disposal.
  - (d) Pass through the system, inadequately treated, into receiving waters or the atmosphere.
  - (e) Pose a health threat to sewer workers.
  - (f) Be otherwise incompatible with the system.
- (3) To improve the opportunity to recycle and reclaim wastewaters and sludge from the system.

Accordingly, these rules and regulations are promulgated and ordained by the NMSC to provide for the regulation of discharges into the Commission's wastewater system through issuance by the Commission of discharge permits to Industrial Users.

**25.02 DEFINITIONS**

Unless the text specifically indicates otherwise, the following terms and phrases, as used in these rules and regulations, shall be defined as follows:

**Act:** The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended (33 U.S.C. 1251 et. seq).

***Authorized Representatives of Industrial User:***

- (a) In the case of a corporation, a responsible corporate officer, including a president, secretary, treasurer, or a vice-president of the corporation in charge of a principal business function, or any other person who regularly engages in making major corporate policy or regularly engages in major decision-making for the corporation; or the manager of one or more manufacturing, production, or operation facilities employing more than 250 persons or having gross annual sales or expenditures exceeding \$25,000,000 (in second quarter 1980 dollars), if authority to sign documents has been assigned or delegated to such manager in accordance with corporate procedures.
- (b) In the case of a partnership or proprietorship, a general partner or proprietor.
- (c) If the permittee submitting a report is a federal, state, or local governmental entity, or their agent, the principal executive officer or director having responsibility for the overall operation of the discharging facility.
- (d) By a duly authorized representative of the individual designated in subparagraph 1, 2, or 3 of this section if:
  - 1. The authorization is made in writing by the individual described in subparagraph 1, 2, or 3.
  - 2. The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the Industrial Discharge originates, such as the position of plant manager, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the permittee; and
  - 3. The written authorization is submitted to the NMSC.

***Biochemical Oxygen Demand (BOD):*** The quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures for five days at 20 degrees centigrade, expressed in terms of weight and concentration (milligrams per liter (mg/l)).

***Bypass:*** The intentional diversion of wastestreams from any portion of an Industrial User's treatment facility.

TOWN OF MENASHA CODE

**Categorical Pretreatment Standards:** National pretreatment standards specifying quantities or concentrations of pollutants or pollutant properties which may be discharged or introduced into the POTW by specific Industrial Dischargers. The Categorical Pretreatment Standards contain pollutant discharge limits promulgated by the United States Environmental Protection Agency in accordance with section 307 (b) and (c) of the Act and which apply to a specific category of Industrial Users.

**Cooling Water:** The water discharged from any use such as air conditioning, cooling or refrigeration, to which the only pollutant added is heat.

**Discharger; Industrial Discharger; User; or Industrial User:** Any person or firm, which introduces pollutants into a POTW from any non-domestic source regulated under the Act, State law or local ordinance.

**Flow Composite Sample:** A series of samples deposited in a common container taken from a wastestream on the basis of flow, such that each discrete sample is taken after an equal volume of flow of the wastestream has passed a given point.

**Grab Sample:** A sample which is taken from a wastestream on a one-time basis with no regard to the flow rate of the wastestream and without consideration of time.

**Industrial Waste:** Solid, liquid, or gaseous waste resulting from any industrial, manufacturing, trade, or business process or from the development, recovery or processing of natural resources.

**Interference:** A discharge which, alone or in conjunction with a discharge or discharges from other sources, both:

1. Inhibits or disrupts the POTW, its processes or operations, or its sludge processes, use or disposal; and
2. Therefore is a cause of a violation of any requirements of the POTW's WPDES 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 the following statutory provisions and regulations or permits issued thereunder (or more stringent State or local regulations): Section 405 of the Clean Water Act, the Solid Waste Disposal Act (SWDA) (including Title II, more commonly referred to as the Resource Conservation and Recovery Act (RCRA)), and including 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.

**Neenah-Menasha Sewerage Commission (NMSC) or Commission:** The authority which owns and operates the Neenah-Menasha wastewater treatment plant and facilities

and certain major sewage transport interceptors, having been created under Wisconsin Statutes, section 66.30, by virtue of the joint execution and enactment of an Ordinance-Contract, dated September 28, 1982, by and among the following Wisconsin municipalities: City of Menasha; City of Neenah; Town of Neenah Sanitary District No. 1, Sanitary District No. 1-1, and Sanitary District No. 2; Town of Menasha Sanitary District No. 4; Town of Harrison, Waverly Sanitary District; Town of Neenah; Town of Menasha; and Town of Harrison. Also known herein as the POTW.

**WPDES or State Discharge Permit:** A permit issued pursuant to Section 402 of the Federal Water Pollution Control Act (33 U.S.C. 1342), and Ch. 147, WI Stats.

**New Source:**

- (a) 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(c) of the Act which will be applicable to such source if such Standards are thereafter promulgated in accordance with that section, provided that:
  1. The building, structure, facility or installation is constructed at a site at which no other source is located; or
  2. The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or
  3. 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.
- (b) 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 paragraphs N. 1. b. or N. 1. c. of this section but otherwise alters, replaces, or adds to existing process or production equipment.
- (c) Construction of a new source as defined under this paragraph has commenced if the owner or operator has:
  1. Begun, or caused to begin as part of a continuous onsite construction program:
    - (a) Any placement, assembly, or installation of facilities or equipment; or

TOWN OF MENASHA CODE

- (b) 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
2. Entered into a binding contractual obligation for the purchase of facilities or equipment which is 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.

**Pass-Through:** A discharge which exits the POTW into waters of the State 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 POTW's WPDES permit (including an increase in the magnitude or duration of a violation).

**Person:** Any individual, partnership, firm, company, corporation, association, joint stock company, trust, estate, governmental entity or any other legal entity, or their legal representatives, agents or assigns. The masculine gender shall include the feminine, the singular shall include the plural where indicated by the context.

**pH:** A measure of acidity or alkalinity of a solution, expressed in standard units, which is the logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution.

**Pollutant:** Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, chemical wastes, biological materials, radioactive materials, heat, wrecked or discarded equipment, rock, sand, cellar dirt, and industrial, municipal, and agricultural wastes discharged into water, and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity or odor).

**POTW:** Publicly owned treatment works, specifically the wastewater treatment plant and facilities and certain major sewage transport interceptors owned and operated by the Neenah-Menasha Sewerage Commission.

**Pretreatment or Treatment:** The reduction, elimination, or alteration of pollutant properties to a less harmful state prior to or in lieu of discharge or introduction into a POTW. This can be accomplished by physical, chemical or biological processes, process changes, or other means, except as prohibited by 40 CFR Section 403.6(d).

**Severe Property Damage:** 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 economic loss caused by delays in production.

**Significant Industrial User:**

- (a) Except as provided in subparagraph 2 below, the term Significant Industrial User means:
  - 1. All industrial users subject to Categorical Pretreatment Standards under 40 CFR 403.6 and 40 CFR Chapter I, Subchapter N; and
  - 2. Any other industrial user that: discharges an average of 25,000 gallons per day or more of process wastewater to the POTW (excluding sanitary, noncontact cooling and boiler blowdown wastewater); contributes a process wastestream which makes up 5 percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or is designated as such by the Control Authority as defined in 40 CFR 403.12(a) on the basis that the industrial user has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement (in accordance with 40 CFR 403.8(f)(6)).
- (b) Upon a finding that an industrial user meeting the criteria in paragraph V. 1. b. of this section has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirements, the Control Authority (as defined in 40 CFR 403.12(a)) may at any time, on its own initiative or in response to a petition received from an industrial user or POTW, and in accordance with 40 CFR 403.8(f)(6), determine that such industrial user is not a significant industrial user.

**Slugload:** Any substance released in a discharge at a rate and/or concentration which causes interference to the POTW, or which could cause a violation of the prohibited discharge standards in Section 3.02 of this ordinance.

**State:** State of Wisconsin.

**Total Suspended Solids:** The total suspended matter that floats on the surface of, or is suspended in water, wastewater or other liquids, and which is removable by laboratory filtering.

**Toxic Pollutant:** Any pollutant or combination of pollutants identified as toxic pursuant to Section 307(a) of the Federal Water Pollution Control Act or other Federal Statutes or in regulations promulgated by the State under state law.

**Upset:** An exceptional incident in which a Discharger unintentionally and temporarily is in a state of non-compliance with the standards set forth in this ordinance due to factors beyond the reasonable control of the Discharger, and excluding noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation thereof.

**Wastewater:** The liquid and water-carried industrial or domestic wastes from dwellings, institutions, commercial buildings, and industrial facilities institutions, whether treated or untreated.

**Wastewater Discharge Permit:** A permit issued by the Commission to a Significant Industrial User that is subject to Categorical Pretreatment Standards, or that has a reasonable potential for adversely affecting the POTW's operation, or any other industrial user at the discretion of the Commission.

**Wastewater Treatment System:** Is synonymous with the definition of POTW herein.

**Waters of the State:**

- (a) Both surface and underground waters within the boundaries of the State of Wisconsin which are subject to its jurisdiction, including but not limited to all ponds, lakes, rivers, streams, public ditches, tax ditches, and public drainage systems within this State, other than those designed and used to collect, convey, or dispose of sanitary sewage; and
- (b) The flood plain of free-flowing waters determined by the Wisconsin Department of Natural Resources on the basis of 10-year flood frequency.

**WPDES:** Wisconsin Pollutant Discharge Elimination System. Any permit or requirement issued by the Wisconsin Department of Natural Resources pursuant to the Act for the purpose of controlling sewage, Industrial Wastes, or other wastes under the authority of Section 402 of the Act, and Ch. 147, WI Stats.

**25.03 ABBREVIATIONS**

The following abbreviations shall have the designated meanings herein:

- BOD - Biochemical Oxygen Demand
- CFR - Code of Federal Regulations
- COD - Chemical Oxygen Demand
- EPA - Environmental Protection Agency
- gpd - Gallons per day
- l - Liter
- mg - Milligrams
- mg/l - Milligrams per liter
- NPDES - National Pollutant Discharge Elimination System
- POTW - Publicly Owned Treatment Works
- SIC - Standard Industrial Classification

- SWDA - Solid Waste Disposal Act, 42 U.S.C. 6901, et. seq.
- TSS - Total Suspended Solids
- USC - United States Code
- WDNR - Wisconsin Department of Natural Resources
- WPDES - Wisconsin Pollutant Discharge Elimination System

**25.04 REGULATIONS - GENERAL DISCHARGE PROHIBITIONS**

No user shall contribute or cause to be contributed, directly or indirectly, any substance, pollutant, or wastewater into the Wastewater Treatment System or the facilities of the Commission which causes pass through or interference. This general prohibition and the specific prohibitions in section 3-02 apply to each user discharging to the facilities of the Commission, whether or not the user is subject to other National Pretreatment Standards or any national, State, or local Pretreatment Requirements.

**25.05 SPECIFIC DISCHARGE PROHIBITIONS**

No Discharger shall contribute or otherwise cause to be discharged, directly or indirectly, any of the following substances, pollutants, or wastewater into the Wastewater Treatment System or the facilities of the Commission:

- (1) Wastewater whose temperatures and volumes will inhibit biological activity in the NMSC treatment facility resulting in interference, but in no case heat in such quantities that the temperature at the NMSC treatment plant exceeds (40°C), one hundred four (104°F) degrees Fahrenheit, unless WDNR or EPA, upon request of the NMSC, approves alternate temperature limits.
- (2) Wastewater containing any gasoline, benzene, naphtha, fuel oil or other flammable or explosive liquids, solids or gases; and in no case pollutants with a closed cup flashpoint of less than one-hundred forty (140°) degrees Fahrenheit, (60°C), using the test methods specified in 40 CFR 261.21, as amended, or pollutants which cause an exceedance of 10 percent of the lower explosive limit (LEL) at any point within the NMSC system.
- (3) Wastewater containing any ashes, cinders, sand, mud, straw, shavings, metal, glass, rags, feathers, tar, plastics, wood, paunch, manure, or any other solid or viscous substances capable of causing obstruction or other interference with the proper operation of the sewer system.
- (4) Wastewater having a pH lower than 5.5 or higher than 10.0, or having any other corrosive property capable of causing damage or hazards to structures, equipment or personnel of the sewer system.

- (5) Wastewater containing toxic or poisonous components in sufficient quantity to injure or interfere with any wastewater treatment process, to constitute hazards to humans or animals, or to create any hazard in waters which receive treated effluent from the sewer system treatment plant. Toxic wastes shall include, but are not limited to, wastes containing cyanide, chromium, cadmium, mercury, copper, and nickel ions.
- (6) Wastewater containing noxious or malodorous gases or components capable of creating a public nuisance; including pollutants, which result in the presence of toxic gases, vapors, or fumes.
- (7) Solid substances of such character and quantity, that special and unusual attention is required for their handling.
- (8) Wastewater containing any component which may affect the treatment plant's effluent and cause violation of the WPDES permit requirements.
- (9) Wastewater containing any component which would cause the treatment plant to be in noncompliance with sludge use, recycle or disposal criteria pursuant to guidelines or regulations developed under Section 405 of the Federal Clean Water Act, the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act or other regulations or criteria for sludge management and disposal as required by the State of Wisconsin or E.P.A.
- (10) Wastewater containing color which is not removed in the NMSC treatment processes.
- (11) Wastewater containing any medical or infectious wastes.
- (12) Wastewater containing any radioactive wastes or isotopes.
- (13) Pollutants, including BOD pollutants, released at a flow rate and/or pollutant concentration which would cause interference with the treatment plant.
- (14) Petroleum oil, non-biodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass through.
- (15) Pollutants which result in the presence of toxic gases, vapors, or fumes within the NMSC Wastewater Treatment System in a quantity that may cause acute worker health and safety problems.
- (16) Any trucked or hauled pollutants, except at discharge points designated by the NMSC.

**25.06 LIMITATIONS ON WASTEWATER STRENGTH**

No Discharger shall discharge wastewater containing concentrations or mass, which fail to comply with the following:

- (1) **National Categorical Pretreatment Standards.** The National Categorical Pretreatment Standards promulgated by the U. S. Environmental Protection Agency (EPA) pursuant to the Act shall be met by all Significant Industrial Users to which the regulated industrial categories apply. Compliance with the Categorical Pretreatment Standards includes compliance with (i) national pretreatment standards specifying quantities or concentrations of pollutants or pollutant properties which may be discharged to a POTW industrial subcategories as established under the appropriate subpart of 40 CFR Chapter I, subchapter N; and (ii) all applicable pretreatment standards and requirements as set forth in 40 CFR 403.6, including subparts (a) (Category Determination Request), (b) (Deadline for Compliance with Categorical standards), (c) (Concentration and Mass Limits), (d) (Dilution Prohibited as Substitute for Treatment), and (e) (Combined Wastestream Formula). The categorical standards may be modified by (i) 40 CFR 403.7 (Removal Credits) and (ii) 40 CFR 403.13 (Variances from Categorical Pretreatment Standards for Fundamentally Different Factors).
- (2) **State Requirements.** State of Wisconsin requirements and limitations on discharges to the POTW shall be met by all Dischargers which are subject to such standards in any instance in which they are more stringent than federal law requirements and limitations or those of this or any other applicable ordinance or law.
- (3) **NMSC Local Limitations.**
  - (a) **Local Metal Limits.** No Discharger shall discharge wastewater containing concentrations and/or mass limitations of the following enumerated materials, exceeding the following values:

<u>Material</u>	<u>Concentration (milligrams/liter)</u>
Cadmium (total)	0.1
Copper (total)	2.0
Cyanide (total)	0.4
Lead (total)	2.0
Mercury (total)	0.02
Nickel (total)	2.0
Total Chromium (total)	8.0
Zinc (total)	4.0

The Commission may impose specific mass limitations on Dischargers where deemed appropriate by the Commission.

- (b) **Local pH Limitations.**

TOWN OF MENASHA CODE

- (1) Limitation. All Discharges shall meet a pH range not less than 5.5 minimum and not more than 10.0 maximum.
- (2) pH Variance Authorization.
  - (a) Supplemental Definitions.
    - (1) Normality: A normal solution contains one gram molecular weight of the dissolved substance divided by the hydrogen equivalent of the substance (that is, one gram equivalent) per liter of solution.
    - (2) Milliequivalents (MEQ): A milliequivalent is equal to the normality times the milliliters.
    - (3) Contracting Municipality: Shall mean any of the Wisconsin municipalities enumerated in Chapter 2, section 2.01 L, herein.
    - (4) pH Test Procedures: Shall mean those pH neutralization test procedures which are set forth in detail in this chapter.
  - (b) Obtaining PH Variance Authorization. The NMSC may approve and authorize a variance to the upper pH limit set forth under section 3.01, C, hereof, regarding the effluent proposed to be discharged to the Wastewater Treatment System by an Industrial Discharger, provided the following conditions are met:
    - (1) A written request for such variance, indicating the extent of pH variance requested and the specific reason for such request, is made to the NMSC.
    - (2) The Contracting Municipality within which nonconforming effluent is proposed to be discharged approves such nonconforming discharge in writing.
    - (3) The Industrial Discharger adequately demonstrates and establishes to the satisfaction of NMSC by the pH neutralization test procedures described below that the MILLIEQUIVALENTS of acid required to lower the maximum pH of the discharge at maximum effluent flow conditions to pH 10 is less than the MILLIEQUIVALENTS of caustic required to raise the pH of the wastewater in the receiving sewer at minimum flow conditions to pH 10.
    - (4) That any pH variance authorized by the NMSC shall be conditioned upon amendment and modification of the Industrial Discharger's wastewater permit to incorporate the variance and any limitations or conditions to which the variance has been made subject by the NMSC. If the Industrial Discharger does not hold a permit, the Industrial Discharger shall be required to obtain a discharge permit from the NMSC before any pH variance may be exercised.
  - (5) Any pH variance granted by the NMSC shall be limited to the life of the permit of such Industrial Discharger. At the time of permit renewal, the NMSC, at its sole discretion, may incorporate the pH variance into the renewed permit or may require the Industrial Discharger to submit a new variance request.
- (c) Termination of pH Variance Authorization. The NMSC may terminate pH variance authorization to any Industrial Discharger, at the sole discretion of the Commission, should the Commission determine that discharge under such variance is detrimental to the Wastewater Treatment System in any way. Termination of pH variance authority shall become effective upon 90-day written notice by the NMSC to the Industrial Discharger, made by registered U. S. mail, or equivalent, return receipt requested. Following such notice the Industrial Discharger shall: (i) report the actions the Industrial Discharger intends to take to insure that its future effluent discharge is not at variance with the upper pH limit established in subsection 3.01r C, herein; (ii) furnish the NMSC with a compliance schedule implementing such proposed action. Provided such action and compliance schedule are approved by the NMSC, the Industrial Discharger may continue pH variance discharge pursuant to the approved schedule. Failing approval by NMSC of either the proposed compliance action or schedule, all variable discharge by the Industrial Discharger shall cease upon the expiration of 90 days from its receipt of the termination notice.
- (d) Neutralization Test Procedures. As part of the pH variance authority application to NMSC by an Industrial Discharger seeking pH variance authority, the following pH test procedures shall be performed by a commercial testing laboratory certified by the State of Wisconsin, the results of which shall be submitted in writing to NMSC as an attachment to the application for pH variance authority:



- (1) Determination of Applying Industrial Discharger's Maximum Discharge pH. The Industrial Discharger applicant shall have a commercial laboratory continuously monitor the Industrial Discharger's flow and pH for a consecutive two-week period at the place or places of discharge concerning which pH variance is requested. The daily maximum and average pH value and flows (GPM) shall be reported to NMSC.
- (2) Grab Sample. The Industrial Discharger applicant shall cause a commercial laboratory to collect a grab sample of its wastewater when the maximum pH value is achieved. The following test shall be conducted of such sample.
  - (a) A 100 milliliter aliquot of sample shall be titrated with 0.25N Hydrochloric acid to pH 10.
  - (b) The milliequivalents (MEQ) of acid to lower the maximum discharge flow to pH 10 shall be calculated as follows: (MEQ of acid = mls of acid for 100 ml aliquot x acid normality x 37.5 x maximum flow [gallons per minute])
- (3) Upstream Monitoring. The Industrial Discharger applicant shall cause such commercial laboratory to monitor the receiving sewer flow immediately upstream of the applicant's discharge point(s) for a two-week period. Flow data (GPM) to be reported to NMSC shall include daily minimum, daily maximum and average flows.
- (4) Upstream Grab Sample. Such commercial laboratory shall collect a grab sample of wastewater from the receiving sewer immediately upstream of applicant's discharge point(s). The following test shall be conducted of the sample:
  - (a) A 100 milliliter aliquot of sample shall be titrated with 0.25N Sodium Hydroxide to pH 10.
  - (b) The milliequivalents (MEQ) of caustic to raise the minimum sewerage flow in the receiving sewer to pH 10 shall be calculated as follows: (MEQ) of acid = mls of NaOH for 100 ml aliquot x NaOH normality x 37.5 x minimum flow [gallons per minute]
  - (c) NMSC Industrial User Contracting Requirements. In accordance with the September 28, 1982 Ordinance-Contract, (adopted by five local municipalities to jointly reorganize the Neenah-Menasha Sewerage Commission), any industrial user shall become a Contracting Industrial User if its annual average flow exceeds 640,000 gallons per day, or its annual average five day biochemical oxygen demand (BOD) exceeds 898 pounds per day, or its annual average suspended solids (SS) exceeds 795 pounds per day. A Contracting Industrial User must negotiate a commitment with the NMSC, in contract form, regarding use by such industry of the NMSC sewerage system and regarding payment by such industry of costs in accordance with section 507 of the Ordinance-Contract.
- (4) **Dilution.** The discharger shall not utilize any technique which has as its purpose or likely result the dilution of its effluent, including but not limited to, increasing the use of potable or process water, mixing separate wastestreams, collecting and temporarily containing a wastestream for later discharge, or, in any way, attempting to dilute an effluent as a partial or complete substitute for adequate treatment to achieve compliance with the limitations contained in this ordinance. NMSC may impose mass limitations on discharger if, in the opinion of NMSC, discharger may be using dilution to meet applicable pretreatment standards or requirements, or in such cases where imposition of mass limitations is deemed appropriate by NMSC.

**25.07 ACCIDENTAL DISCHARGES**

- (1) **Protection from Accidental Discharges.** Each Discharger shall carefully survey its facilities, no less than annually, and shall provide, where reasonably necessary, adequate protection against accidental discharge or discharge of prohibited or regulated materials or substances established by these rules and regulations. Where necessary, facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the Discharger's cost and expense. The NMSC, at its discretion, when it determines such to be necessary, may mandate the construction and maintenance of such facilities and operating procedures by a Discharger when it neglects or refuses to do so. Detailed plans and specifications showing the facilities and operating procedures proposed to provide needed protection, together with a proposed compliance schedule, shall be submitted to the Commission for its review, and shall be approved by the Commission before construction of the facility may begin. A Discharger shall complete its plan and compliance schedule and submit them to the Commission within ninety (90) days of written notification of need from the Commission. The Commission shall have sixty (60) days from receipt of same to review and comment on the plan and the compliance schedule and to mandate any changes in either. Provided the Discharger faithfully observes the foregoing provisions, including the compliance schedule as approved by the Commission, it may at all times, continue its discharge to the sewer system, subject to these rules and regulations. Review and approval of such plans and operating procedures by the Commission and construction of such facilities by

Discharger shall not relieve it of the responsibility to further modify its facility as necessary to meet the requirements of these rules and regulations.

- (2) **Notification of Accidental Discharge.** Each Discharger shall immediately notify the Commission upon the occurrence of any Slugload, or any accidental discharge of substances prohibited by these rules and regulations. Such notification shall include information regarding the location of the discharge, the date and time thereof, the type of waste, the concentration and volume, and all corrective actions taken. Any Discharger who discharges a Slugload of prohibited materials shall be liable for any expense, loss or damage to the POTW resulting therefrom, in addition to payment of any fines imposed by the Commission (or upon the Commission) as the result thereof under local, State, or Federal law. Within five (5) days of the date of occurrence, the Discharger shall submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the Discharger to prevent similar future occurrences.
- (3) **Signs.** Prominent signs shall be permanently posted and maintained in multiple conspicuous places on Discharger's premises, advising its employees to immediately telephone the Commission in the event of occurrence of a Slugload or accidental discharge. No less frequently than annually, every Discharger shall instruct all of its employees who are in a position to cause or discover a Slugload or accidental discharge of Discharger's immediate notification obligation.

**25.08 FEES AND CHARGES - PURPOSE**

It is the purpose of this chapter to provide for payment of fees to the Commission from Industrial Dischargers to the Wastewater Treatment System, and thus to compensate the Commission for the cost of administration of the pretreatment program established herein. These fees relate solely to the matters covered by these rules and regulations and are separate from all other fees chargeable by the Commission.

**25.09 FEES AND CHARGES**

The Commission hereby adopts a system of fees and charges, including a permit fee, a sampling charge, an annual administrative fee and a laboratory analysis charge, to-wit:

- (1) **Permit Fee.** The Commission shall charge all Industrial Dischargers that are required under Chapter 5 to obtain a permit or renewal permit a Wastewater Discharge Permit fee in an amount set forth in Appendix B Fee Schedule, reference this code section. *[Amended 11/28/05]*
- (2) **Sampling Charge.** The Commission shall assess an Industrial Discharger a charge for Commission sampling of its wastewater, such charge to be based on

the actual cost to the Commission.

- (3) **Annual Administrative Fee.** The Commission shall assess each permitted Industrial Discharge and annual administrative fee, as determined by the Commission from time to time, for reviewing Discharger-submitted reports and plans, maintaining and updating the Discharger's file, coordinating the Commission's sampling/inspection program, and other related responsibilities.
- (4) **Laboratory Analysis Charge.** The Commission shall assess an Industrial Discharger a laboratory analysis charge to recover the Commission's expenses for analyzing such Discharger's wastewater samples for specific pollutants. The charges for toxic organic pollutants and toxic inorganic pollutants shall be determined by the commercial laboratory retained by the Commission to perform the analysis.
- (5) **Additional Fees.** Additional fees as established by the Commission shall be charged to industrial users on a case by case basis for the following items:
  - (a) Fees for filing appeals.
  - (b) Fees for consistent removal (by NMSC) of pollutants otherwise subject to Categorical Pretreatment Standards.
  - (c) Fees for permit modifications.

**25.10 WASTEWATER DISCHARGE PERMITS**

- (1) **Permit Requirement.** Each Significant Industrial User that discharges or is, in the Commission's opinion, capable of discharging Toxic Pollutants to the POTW, as well as such other industrial users as the Commission shall designate, shall obtain from the Commission a Wastewater Discharge Permit, which shall extend for a term of three (3) years. Within 180 days of the effective date of this ordinance, it shall be unlawful for a Significant Industrial User or any other user directed to apply for a permit by NMSC to discharge wastewater into the POTW except in accordance with the terms and conditions of a Wastewater Discharge Permit.
- (2) **Permit Application.** All Industrial Dischargers required to obtain a Wastewater Discharge Permit shall complete and file with the Commission a permit application in the form prescribed by the Commission and accompanied by the appropriate fee established in Chapter 4 herein. Existing Industrial Dischargers shall apply for a Wastewater Discharge Permit within ninety (90) days after the effective date of this Ordinance, and future new Industrial Dischargers shall apply for a permit at least ninety (90) days prior to connecting to the POTW. Permit holders shall apply for renewal of their Wastewater Discharge Permit at least ninety (90) days prior to expiration. No discharge permit or renewal shall be issued unless and

TOWN OF MENASHA CODE

until such Industrial Discharger has satisfactorily completed a permit application which shall include, but not be limited to, the following conditions:

- (a) Disclosure of Discharger's name, address, and location.
- (b) Disclosure of the applicant's standard industrial classification (SIC) number according to the Standard Industrial Classification manual, Bureau of the Budget, 1972, as amended.
- (c) Disclosure of the constituents and characteristics of the wastewater discharged by the applicant, including but not limited to those mentioned in these rules and regulations, including Appendix A, as appropriate, all as determined by bonafide chemical and biological analyses. Sampling and analysis shall be performed in accordance with procedures established by the U. S. EPA as set forth in 40 CFR, Part 136, as amended, or other methods specified by NMSC.
- (d) Disclosure of time and duration of applicant's discharges.
- (e) Disclosure of applicant's average daily wastewater flow rates, stated in gallons per day, including daily, monthly, and seasonal variations, if any. All flows shall be measured unless other verifiable techniques are approved by the Commission because of cost or non-feasibility.
- (f) Disclosure of site plans, floor plans, mechanical and plumbing plans, and details of applicant's premises showing all sewers, sewer connections, inspection manholes, sampling chambers and appurtenances by size, location and elevation.
- (g) Description of the activities, facilities and plant processes on the premises of applicant, including all materials which are or may be discharged to the sewers or works of the Commission.
- (h) Disclosure of the nature and concentration of any pollutants or materials prohibited by these rules and regulations and contained in the discharge of applicant, together with a statement indicating whether or not compliance by applicant is being achieved with these rules and regulations on a consistent basis and, if not, whether additional operation and maintenance activities and/or additional Pretreatment is required for the applicant to comply with these rules and regulations.
- (i) Where additional Pretreatment and/or operation and maintenance activities will be required to comply with these rules and regulations, the applicant shall provide a declaration of the shortest time schedule within which it will provide either such additional Pretreatment and/or implement additional operational and

maintenance activities, which proposed schedule shall be subject to NMSC alteration and approval. As to such time schedule:

- (1) The schedule shall contain milestone dates regarding the commencement and completion of major events leading to the construction and operation of additional Pretreatment facilities required by applicant to comply with the requirements of these rules and regulations; these milestone dates shall include, but not be limited to, dates relating to hiring an engineer, hiring other appropriate personnel, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, and all other all other acts necessary to achieve compliance with these rules and regulations.
- (2) The Commission shall not permit a time increment for any single step of such schedule which exceeds nine (9) months.
- (3) Not later than fourteen (14) days after each milestone date in the schedule, including the final date for compliance, the applicant shall submit a progress report to the Commission, including a statement indicating at least whether or not applicant has complied with the increment of progress represented by such milestone date; and, if not, the date on which it expects to comply with such increment of progress, the reason for delay, and the steps being taken by the applicant to return the construction to schedule.
- (j) Disclosure of each product produced by applicant, indicating the type, amount, process or processes employed to produce same and the rate of production.
- (k) Disclosure of the type and amount of raw materials utilized (average and maximum per day) by applicant.
- (l) All permit applications for new or modified permit, and all renewal applications, shall include the certification statement put forth in 40 CFR 403.6(a)(2)(ii), and shall be signed by an Authorized Representative of the applicant. The Commission shall evaluate the application and the data furnished by the applicant, and may require additional information. After the NMSC has determined that applicant has fulfilled all permit requirements, the Commission shall issue a Wastewater Discharge Permit to applicant subject to the terms and conditions provided herein and such other terms and conditions as the Commission shall reasonably determine to be appropriate.

(3) **Permit Extension or Modification.**

(a) **Permit Extension.** Provided permittee has submitted a complete permit application to NMSC ninety (90) days or more prior to the expiration date of its permit, and provided any failure to reissue the permit is not due to any act or failure to act on the part of permittee, such permit may be extended, at NMSC discretion, for a specified additional term by letter notice provided to permittee by NMSC, provided that the original and extended permit terms together do not exceed five (5) years.

(b) **Permit Modification or Amendment.** At NMSC's discretion, it may modify or amend any permit issued pursuant to this ordinance for any of the following reasons:

- (1) To incorporate any new or revised Federal, State, or local pretreatment standards or requirements.
- (2) To reflect material or substantial alterations or additions to a permittee's operation processes, or in its discharge volume or character, which were not considered in drafting the existing permit.
- (3) To reflect a change in any condition as to either a permittee or the NMSC which requires either a temporary or permanent reduction or elimination of the authorized discharge.
- (4) Receipt by NMSC of information indicating that a permitted discharge poses a threat to the NMSC's collection and treatment systems, personnel or the receiving waters.
- (5) Violation of any terms or conditions of a permit.
- (6) Misrepresentation or failure to disclose fully all relevant facts in a permit application or in any required report.
- (7) Revision of or a grant of variance from categorical standards pursuant to federal regulation 40 CFR 403.13.
- (8) To correct typographical or other errors in a permit.
- (9) To reflect transfer of a permittee's facility ownership and/or operation to a new owner/operator .
- (10) Upon request of a permittee, provided such request, if granted, will not create a violation of any applicable requirements, standards, laws, or rules and regulations.

(11) Such other reason(s) as the Commission, from time to time, may determine to be appropriate and/or necessary for the effective, efficient and proper operation of its wastewater treatment facilities, protection of the public health or welfare or protection of the environment.

(a) **Permittee Appeals.** Should a permit be suspended, terminated or revoked by the NMSC, Permittee shall have those rights set forth in Chapter 6. The terms of any permit issued or reissued by the NMSC, or the modification or amendment of any permit by the NMSC, shall be subject to appeal to the NMSC, provided a written, sworn petition of appeal is filed with the NMSC by Permittee within thirty (30) days of the date of permit issuance, reissuance, modification or amendment. Failure to submit a timely petition of appeal shall constitute an irrevocable waiver by Permittee of its right to appeal. An appeal petition shall indicate the permit provisions objected to, the specific reasons for such objection, and the alternative condition(s), if any, Permittee seeks to have placed in the permit; or the objectionable NMSC action affecting the permit, and the specific reason for such objection. Effectiveness of the permit as issued, reissued, modified, or amended shall not be stayed pending consideration of the appeal by the NMSC. After considering Permittee's appeal petition and its arguments, and the arguments of NMSC's general manager and/or its attorney, the NMSC shall make a determination in writing within thirty (30) days of receipt of the appeal petition. Should the NMSC uphold the appeal in whole or in part, it shall remand the permit to its general manager for action consistent with its determination. A NMSC decision not to consider a permit appeal or denying the appeal in whole or in part shall be considered final administrative action for purposes of judicial review. A Permittee seeking judicial review of final NMSC action may do so by filing a complaint with the circuit court for Winnebago County within thirty (30) days of the NMSC's written decision.

(b) **Permittee's Request to Alter Permit Shall Not Stay Permit Conditions.** Should a permittee file a request for appeal from a permit modification or amendment, permit revocation and reissuance, or permit termination, or

TOWN OF MENASHA CODE

should a permittee notify NMSC of any planned facility or process changes and anticipated resulting permit non-compliance, such request or notice shall not stay any permit conditions.

- (c) **Compliance Deadline.** Within nine (9) months after the promulgation of any new National Categorical Pretreatment Standard, the existing Wastewater Discharge Permit of each permittee subject to such standard shall be revised to require compliance with such standard within the time prescribed by the standard. All National Categorical Pretreatment Standards adopted after the promulgation of these rules and regulations shall be deemed adopted by the Commission as part of these rules and regulations. Where a Discharger, subject to a National Categorical Pretreatment Standard, has not previously submitted an application for a Wastewater Discharge Permit as required by 5.01 B, such Discharger shall apply for a Wastewater Discharge Permit from the Commission within ninety (90) days after the promulgation of the applicable National Categorical Pretreatment Standard by the U. S. EPA. A Discharger with an existing Wastewater Discharge Permit shall submit to the Commission, within ninety (90) days after the promulgation of an applicable National Categorical Pretreatment Standard, the information required by paragraphs (8) and (9) of Section 5.01 B. A Discharger shall be informed by the Commission of any proposed change in his permit authority and/or conditions at least thirty (30) days prior to the effective date of such change. Any permit change or new condition shall be based upon a reasonable time schedule for compliance.
- (4) **Permit Conditions.** Wastewater Discharge Permits may specify the following:
  - (a) The fees and charges to be paid by the permittee for the wastewater to be discharged to the POTW, as listed in Chapter 4.
  - (b) The limits on the average and maximum wastewater constituents and characteristics regulated thereby.
  - (c) The limits on the average and maximum rate and time of discharge and/or requirements for flow regulations and equalization regulated thereby.
  - (d) The requirements for installation and

maintenance of inspection and sampling facilities.

- (e) The requirements for installation and maintenance of Pretreatment facilities.
- (f) Such special conditions, if any, which the Commission may reasonably require regarding a specific type of discharge, including sampling locations, frequency of sampling, and the number, type and standards for tests, as well as a reporting schedule.
- (g) Compliance schedules.
- (h) The requirement, if any, for submission to the Commission by permittee of special technical reports or discharge reports if different from those prescribed by these rules and regulations.
- (i) Requirements for notification by the permittee to the Commission of the introduction of any new wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system.
- (j) Requirements for permittee maintaining and retaining plant records relating to wastewater discharge, and affording Commission access thereto.
- (k) Requirements for notification by permittee to the Commission of slug discharges.
- (l) Duration of permit.
- (m) Any other conditions as reasonably deemed appropriate by the Commission to ensure compliance with these rules and regulations.
- (5) **Permit Duration.** All Wastewater Discharge Permits shall be issued for a term of three (3) years subject to amendment or revocation by the Commission as provided in these rules and regulations.
- (6) **Limitations on Permit Transfer.** Wastewater Discharge Permits are issued to a specific Discharger for a specific operation and are not assignable to another discharger, or transferable to any other location, without the prior written approval of the Commission.

**25.11 REPORTING REQUIREMENTS FOR PERMITTEE**

- (1) **Reporting Requirements.** All Industrial Dischargers subject to Categorical Pretreatment Standards, at a minimum, shall comply with the reporting requirements contained in 40 CFR, Part 403.12, including, but not limited to those subparts entitled Baseline Monitoring Reports, Compliance Date

Reports, and Periodic Compliance Reports. All reports required of an Industrial Discharger by this Ordinance shall be signed by an authorized representative of the Discharger and accompanied by a chain of custody record for any laboratory data reported.

(2) **Compliance Date Report.** Within ninety (90) days following the date for final compliance by the Discharger with applicable Pretreatment standards set forth in these rules and regulations, or within ninety (90) days following commencement of the introduction of wastewater into the POTW by a new Discharger, such Discharger subject to these rules and regulations all submit to the Commission a report indicating the nature and concentration of all prohibited or regulated substances contained in its discharge, and the average and maximum daily flow in gallons. The report shall state whether the applicable Pretreatment standards or requirements are being met on a consistent basis and, if not, what additional operation and maintenance and/or Pretreatment is necessary to bring the Discharger into compliance with the applicable Pretreatment standards or requirements. This statement shall be signed by an authorized representative of the Discharger, and certified by a registered professional qualified to do so.

(3) **Periodic Compliance Reports.**

- (a) Any Discharger subject to a Pretreatment standard or Pretreatment requirements, after the compliance date of such Pretreatment standard, or, in the case of a new Discharger, after commencement of the discharge to the POTW, shall submit to the Commission during the months of June and December each year, unless required more frequently by the Commission, a report indicating the nature and concentration of prohibited or regulated effluent substances which are limited by the Pretreatment standards hereof. In addition, this report shall include a record of all measured or estimated average and maximum daily flows previously reported under Section 5.02 B. The Commission, for good cause shown considering such factors as local high or low flow rates, holidays, budget cycles, or other extenuating factors, may authorize the submission of said reports in months other than those specified above.
- (b) Reports of permittees shall contain the full results of all sampling and analysis of the discharge, including the flow, the nature and concentration thereof, and production and mass when required by the Commission. The frequency of monitoring by the Discharger shall be as prescribed in the applicable Categorical Pretreatment Standards. Where such Standards do not specify the frequency of monitoring, the Discharger shall perform the required monitoring as specified in the Commission's Pretreatment

Program Implementation Procedures Manual. All analyses shall be performed in accordance with 40 CFR, Part 136 and amendments thereto (Comment: Where 40 CFR, Part 136 does not include a sampling or analytical technique for the pollutant in question sampling and analysis shall be performed in accordance with the procedures set forth in the EPA publication, Sampling and Analysis Procedures for Screening of Industrial Effluent for Priority Pollutants, April 1977, and amendments thereto, or with any other sampling and analytical procedures approved by the Administrator of the U. S. EPA). A minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques where feasible. The NMSC may waive flow-proportional composite sampling for any industrial user that demonstrates that flow-proportional sampling is infeasible. In such cases, samples may be obtained through time-proportional composite sampling techniques or through a minimum of four (4) grab samples where the user demonstrates that this will provide a representative sample of the effluent being discharged. All sampling shall be done during days when industrial discharges are occurring at normal to maximum levels.

- (c) If the results of the discharger's wastewater analysis indicate a violation has occurred, the discharger shall notify the NMSC within 24 hours of becoming aware of the violation and repeat the sampling and pollutant analysis and submit, in writing, the results of this repeat analysis within 30 days after becoming aware of the violation.

(4) **Notification of Hazardous Waste in Discharge.**

- (a) The Discharger shall notify the NMSC, the EPA Region V Waste Management Division Director, and the DNR Bureau of Solid and Hazardous Wastes in writing of any discharge by Discharger to the NMSC system 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, or other). If the Discharger discharges more than 100 kilograms of such waste per calendar month to the NMSC, the notification shall also contain the following information to the extent such information is known and readily available to the Discharger: 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 months. A Discharger shall provide such notification no later than 180 days after the discharge of the listed or characteristic hazardous waste. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notification of changed discharges must be submitted under 40 CFR 403.12(j). The notification requirements in this section do not apply to pollutants already reported under the self-monitoring requirements of 40 CFR 403.12(b), (d), and (e).

- (b) Dischargers are exempt from the requirements of this section during a calendar month in which they discharge no more than fifteen kilograms of hazardous wastes, unless the wastes are acute hazardous wastes as specified in 40 CFR 261.30(d) and 261.33(e). Discharge of more than fifteen 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.
- (c) Subsequent months during which the Discharger discharges more than such quantities of any hazardous waste do not require additional notification.
- (d) 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 Discharger must notify the NMSC, the EPA Region V Waste Management Division Director, and the DNR Bureau of Solid and Hazardous Wastes of the discharge of such substance within 90 days of the effective date of such regulations.
- (e) In the case of any notification made under this section, the Discharger 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.

**25.12 PRETREATMENT FACILITIES**

Industrial Dischargers shall provide necessary wastewater Pretreatment as required to comply with these rules and regulations and shall achieve compliance with all Categorical Pretreatment Standards or Pretreatment requirements within the limitations as specified by the federal Categorical Pretreatment Regulations. Any facilities required to pretreat wastewater to a level acceptable to the Commission shall be provided, operated and maintained efficiently and in good operating condition at the Industrial Discharger's sole expense.

**25.13 SUBMISSION OF PLANS**

Where Pretreatment or equalization of wastewater flows to discharge into any part of the wastewater treatment system is required, plans, specifications, operating procedures, and other pertinent data or information relating to such Pretreatment flow-control facilities shall first be submitted by the Industrial Discharger to the Commission for review, comment, revision and/or approval. The review of such plans and operating procedure will in no way relieve the Industrial Discharger from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the commission under the provisions of these rules and regulations. Any subsequent changes to such Pretreatment or flow-control facilities or methods of operation shall be reported to and be approved by the Commission prior to the Industrial Dischargers initiation of the changes.

**25.14 MONITORING FACILITIES**

At the Commission's discretion and direction, a Discharger shall provide and operate at its own expense; a monitoring facility to allow inspection, sampling and flow measurements of each sewer discharge to the public sewer and POTW. Each monitoring facility shall be situated on the Discharger's premises, unless to do so would be impractical or cause undue hardship to the Discharger, in which event the Commission may allow the facility to be constructed in the public street or sidewalk area provided it is so located that it will not be obstructed by landscaping or parked vehicles. There shall be ample room in or near each monitoring facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measurement equipment shall be maintained at all times in safe and proper operating condition, at the expense of the Discharger.

All monitoring facilities shall be constructed and maintained in accordance with applicable local construction standards and specifications.

**25.15 INSPECTION AND SAMPLING**

The Commission, Wisconsin DNR and US EPA may at any time inspect the monitoring facilities of any Discharger to determine its Compliance with these rules and regulations. The Discharger shall allow the Commission or its representatives to enter upon Premises of the Discharger for the purposes of inspection, sampling, or records examination. The Commission shall have the right to set up on the Discharger's property, at any time, such devices as are necessary to independently conduct sampling, inspection, compliance monitoring and/or metering operations. Sampling of industrial wastewater for the purpose of compliance determinations with respect to Chapter 3 prohibitions and limitations shall be done at such intervals as the Commission may designate. However, it is the intention of the Commission to conduct compliance sampling or cause such sampling to be conducted, at least once every year, for all Industrial Dischargers whose wastewater contribution may significantly impact the Commission's wastewater treatment system.

**25.16 CONFIDENTIAL INFORMATION**

Information and data furnished to the Commission with respect to the nature and frequency of discharge shall be available to the public or any governmental agency without restriction unless the Discharger specifically requests and is able demonstrate to the reasonable satisfaction of the Commission that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets or proprietary information of the Discharger. When requested by a Discharger furnishing a report, the portions of a report which may disclose trade secrets or secret processes shall not be made available for inspection by the public; provided, however, that such portions of a report shall be available for use by the State or any State agency in judicial review or enforcement proceedings involving the Discharger furnishing the report. Wastewater constituents and characteristics shall not be recognized as confidential information. In no event shall any information be withheld from the public that is by definition a public record as defined in section 19.34, WI Stats., as amended.

**25.17 EMERGENCY SUSPENSION OF WASTEWATER DISCHARGE PERMIT AND SUSPENSION OF SERVICE**

For good cause the Commission may suspend and cut-off the wastewater treatment service and the Wastewater Discharge Permit of any Discharger when the Commission determines that such Discharger's actual or threatened conduct or discharge presents or threatens: (i) imminent substantial danger to the health or welfare of any person; (ii) imminent substantial danger to the environment; (iii) adverse Interference with the operation of the Neenah-Menasha Sewerage Commission sewage treatment plant or facilities; (iv) violation of any Pretreatment limits imposed by these rules and regulations; (v) violation of any of the provisions of the Discharger's Wastewater Discharge Permit issued pursuant to these rules and regulations; (vi) violation of the Commission WPDES or State discharge permit; or (vii) the Commission determines any of the reasons exist set forth in Section 6.02. Any Discharger notified by the NMSC of suspension of its wastewater treatment service and suspension of its Wastewater Discharge Permit, and the cause therefore, shall immediately cease or eliminate its adverse discharge, or correct its noncompliant conduct, within a time period determined by the Commission and specified in the notice of suspension. Such a notice shall be deemed an order issued by the NMSC, as the term "order" is employed in this Chapter. In the Commission's discretion, prior to hearing, such a suspension order may be summarily implemented by an immediate service cut-off, if reasonably required to prevent or halt an emergency due to imminent danger to the public health or welfare, or imminent danger to the environment, or imminent danger of POTW Interference, created by the affected Discharger's actual or threatened discharge or conduct. The Commission may reinstate the Wastewater Discharge Permit and resume wastewater treatment service to the Discharger, and

terminate any judicial proceedings, upon due and satisfactory proof by the Discharger of its full elimination of any noncomplying conduct or discharge and of any conditions creating a threat of imminent danger, including, at the Commission's discretion, posting with the Commission and maintenance by the Discharger of a performance bond or a liability insurance policy in a form and amount determined by the NMSC.

**25.18 GROUNDS FOR REVOCATION, TERMINATION OR REISSUANCE REFUSAL OF PERMIT**

The Commission may revoke, terminate or refuse to reissue or extend the Wastewater Discharge Permit of any Discharger who: (i) has failed to properly collect, maintain or retain any information or records required hereunder or by any permit issued hereunder; (ii) has falsified any information or records which it is required to collect, maintain, retain or submit to NMSC in accordance with either this ordinance or any permit issued hereunder; (iii) has failed to timely, accurately and/or fully make any report, notice or schedule required by this ordinance or any permit issued hereunder, including, but not limited to, reports pertaining to the wastewater constituents and characteristics of its discharge; or (iv) has failed to timely report significant changes in its wastewater constituents or characteristics; or (v) refuses NMSC or its agents reasonable access to the Discharger's premises for the purpose of inspecting, monitoring and determining Discharger's compliance with its permit and this ordinance; or (vi) violates the conditions or provisions of its Wastewater Discharge Permit; or (vii) violates these rules and regulations, including but not limited to, failure to pay fines, to pay sewer charges or to timely meet compliance schedules; or (viii) violates any NMSC or judicial order entered with respect thereto; or (ix) when changed circumstances require the NMSC to effect temporary or permanent reduction or elimination of a permitted discharge.

**25.19 NOTIFICATION OF VIOLATION AND SUSPENSION OR REVOCATION**

When the Commission ascertains that any Discharger has engaged in, or threatens to engage in, conduct which justifies NMSC suspension of wastewater treatment service and suspension, revocation, termination or refusal to reissue or extend its Wastewater Discharge Permit, pursuant to either Section 6.01 or 6.02 hereof, the Commission shall serve or cause to be served notice of the alleged actual or threatened violation; (ii) cites the legal authority of the NMSC to terminate service and suspend or revoke Discharger's Wastewater Discharge Permit; (iii) describes the method for terminating treatment service; and (iv) specifies the date and time of service termination. Such a notice shall be deemed an order issued by the NMSC, as the term "order" is employed in this Chapter. Within a time period specified in such notice, the Discharger shall respond in writing to the NMSC, advising of its position with respect to the matters set forth in the



notice. Thereafter, the parties or their designees appointed in writing shall meet to discuss the actual or threatened violations and, where necessary, to establish a plan for satisfactory correction thereof. If the matter is not resolved at such meeting, or if the Discharger refuses to meet, and if a hearing has not previously been scheduled by the NMSC, the NMSC may schedule a show cause hearing or the Discharger may request a show cause hearing pursuant to the provisions of section 6.05.

**25.20 COMPLAINT**

- (1) Issuance. NMSC may issue and serve in the manner described in Section 6.03 a written complaint when reasonable grounds exist to believe that the Discharger to whom the complaint is directed has violated:
  - (a) The provisions of this ordinance; or
  - (b) Any rule or regulation of the NMSC adopted pursuant to this ordinance; or
  - (c) Any NMSC order or permit issued pursuant to this ordinance.
- (2) Contents of Complaint. A complaint issued under this section shall:
  - (a) Specify the permit and/or ordinance provision or provisions that allegedly have been violated.
  - (b) State the alleged facts that constitute the violation.
- (3) Issuance of Notice or Order. Concurrently or following service of a complaint upon a Discharger the NMSC may:
  - (a) Issue and serve in the manner described in Section 6.03 an order that requires the Discharger to whom the order is directed to file a written report indicating its position regarding the charges set forth in the complaint.
  - (b) Issue and serve in the manner described in Section 6.03 an order that requires the Discharger to whom the order is directed to take specified corrective action within a time specified in the order.
  - (c) Issue and serve in the manner described in Section 6.03 an order that requires the Discharger to whom the order is directed:
    - (1) To appear at a hearing before the NMSC or its designee at a time and place scheduled to answer the charges set forth in the complaint; or
    - (2) To file a written report indicating its position regarding the charges set forth in the complaint and also to appear at a hearing before the NMSC or its designee, at a time and place specified in such order,

to answer the charges set forth in the complaint.

**25.21 SHOW CAUSE HEARING**

When any violation of Section 6.01 or 6.02 is not timely corrected by the Discharger as ordered by the NMSC, the Commission may order such Discharger to show cause, before the Commission or its designee, why the Wastewater Discharge Permit of Discharger should not be suspended or revoked, or other appropriate enforcement action taken. The Commission may also order such a show cause hearing when it deems it desirable to ensure compliance with this ordinance, any NMSC rules or regulations, or any Wastewater Discharge Permit issued hereunder, or compliance with state or federal laws, rules or regulations. A written notice shall be served on the Discharger specifying the time and place of the hearing, setting forth the violation or threatened violation or providing a copy of any pertinent NMSC order, indicating the nature of and enumerating the reasons why enforcement action, if any, is to be taken, and directing the Discharger to show cause before the Commission or its designee why the alleged violation or threatened violation or threatened violation should not cease or why the proposed enforcement action should not be taken, or both. The notice of hearing shall be served no less than ten (10) days before the hearing. Service of the notice shall be made upon any agent, officer, or authorized representative of the Discharger. The proceedings at the hearing shall be conducted in a format determined by the Commission or its designee and reasonably calculated to determine the pertinent facts. A permanent record of the hearing shall be made and retained by the NMSC. After review and consideration of the proceedings, the Commission shall issue any appropriate order regarding the actual or threatened improper conduct or discharge by the Discharger, which may provide for payment of any hearing costs by the Discharger, including the Commission's legal expense.

**25.22 HEARINGS REQUESTED BY INTERESTED PARTY OR DISCHARGER; TIME LIMIT**

Within 10 days after service of a Section 6.12 Commission interpretation or ruling or of a Commission order, the interested person or discharger upon whom such service has been made may demand in writing a show cause hearing before the Commission or its designee, which shall be served in the manner set forth in Section 6.03, upon either the secretary or the general manager of the NMSC. At such hearing the interested person or Discharger shall show cause why the NMSC's interpretation or ruling should not stand, or why the NMSC's order should not be enforced and obeyed.

**25.23 HEARING WITNESSES; SUBPOENAS**

In Connection with any hearing conducted by the NMSC under this chapter, NMSC may:

- (1) Subpoena over its attorney's signature any person to give evidence and subpoena any documents pertaining to the issues to be heard, pursuant to the rules of WI Stats., Chapter 804, as amended. A subpoena deuces tecum may be returnable either at the time of the hearing or any date before or after the hearing.
- (2) Order any witness appearing before the NMSC to give evidence. Any witness may be subpoenaed to appear for a pre-hearing discovery deposition pursuant to the rules of WI Stats., Chapter 804.

A subpoenaed witness shall receive the same fees and mileage reimbursement as would a witness subpoenaed pursuant to WI Stats., Section 814.67.

**25.24 JUDICIAL PROCEEDINGS**

Before or after the entry of any order by the Commission with respect to the conduct, or threatened conduct, of a Discharger contrary to the provisions of this ordinance or any permit issued thereunder, the attorney for the Commission may, following the authorization of such action by the Commission, commence an action against a Discharger for appropriate legal and/or equitable relief in the Winnebago County Circuit Court, in the name of the NMSC.

**25.25 INJUNCTIVE RELIEF**

The NMSC may bring an action for injunctive relief in the Winnebago County Circuit Court against any person who violates any provision of this ordinance or any rule, regulation, order, or permit adopted or issued under this ordinance. In any action seeking injunctive relief under this section, any hearing findings of the NMSC shall be prima facie evidence of the facts so determined.

**25.26 FINAL ORDERS**

Unless the person or Discharger served with a NMSC order makes a due and timely request of the NMSC for a hearing, or the NMSC schedules a hearing, any order of the NMSC is a final order. If a person to whom a NMSC order has been directed and served makes a due and timely request for a hearing, the order becomes a final corrective order when the NMSC renders a decision following the hearing. This section shall not prevent the NMSC from taking action against a violator in the Winnebago County Circuit Court before time limits or schedules in any pertinent NMSC order have expired.

**25.27 ANNUAL PUBLICATION OF OFFENDERS**

Pursuant to the mandatory provisions of 40 CFR 403.8(f)(2)(vii), a list of all industrial users which were in significant non-compliance with applicable pretreatment requirements during the twelve (12) previous months shall be annually published by NMSC in the largest daily newspaper within its service area. Accordingly, the Discharger is hereby apprised that its noncompliance with this permit may lead to an enforcement action and may result in publication of its name as a permit violator in an appropriate newspaper in accordance with this section.

**25.28 RULE INTERPRETATION**

Any Discharger or any interested person shall have the right to request in writing an interpretation or ruling by the Commission as to any matter covered by these rules and regulations and shall be entitled to a prompt written determination. In the event that such request is made by a Discharger and pertains to its performance or compliance with these rules and regulations, or pertains to a Wastewater Discharge Permit issued hereunder for which enforcement activity relating to an alleged violation is the subject, receipt by NMSC of such request shall stay any enforcement proceedings until receipt by Discharger of the Commission's written determination, unless enforcement proceedings have previously begun.

**25.29 RIGHT TO APPEAL**

Appeal of any NMSC interpretation or ruling, or of any NMSC final order issued pursuant to this ordinance, may be taken interested party to whom such ruling or order is directed. An appeal from an interpretation or ruling by the Commission shall be based upon the document requesting it and the Commission's written determination. An appeal from any Commission order concerning which a hearing has been held shall be based on the transcript of such hearing, without trial de novo. Any appeal shall be preceded by written notice specifying what parts of the interpretation, ruling or order are being appealed, which shall be served upon the secretary or general manager of the NMSC and filed with the Winnebago County Clerk of Courts within 30 days of Discharger's receipt of the interpretation, ruling or order.

**25.30 OPERATING UPSETS**

Any Discharger which experiences an upset in operations which places the Discharger in a temporary state of noncompliance with these rules and regulations, or with its Wastewater Discharge Permit, shall inform the Commission within 24 hours of Dischargers awareness of the Upset. If such notice is orally provided to the NMSC, a written follow-up report shall be filed by the Discharger with the Commission within five (5) days of the Upset. The report shall specify:

- (1) Description. A description of the Upset, the cause thereof and the Upset's impact on the Discharger's compliance status.

- (2) Duration. The duration of noncompliance, including exact dates and times of noncompliance, and if the noncompliance continues, the time by which compliance is reasonably expected to occur.
- (3) Remedies. All steps taken or to be taken by Discharger to reduce or prevent recurrence of such Upset or any other condition of noncompliance.

periods of equipment downtime or preventative maintenance.

- (3) The Industrial User has submitted notices as required under paragraph A of this section.
  - (a) The NMSC may approve an anticipated bypass, after considering its adverse effects, if the NMSC determines that it will meet the three conditions listed in paragraph B. 1. of this section.

**25.31 BYPASS PROVISIONS**

An Industrial User may allow a Bypass to occur which does not cause Pretreatment Standards or Requirements to be violated, but only if it is also done in furtherance of essential maintenance by Discharger to assure efficient operation. Such a Bypass is subject to the provisions of paragraphs A. and B. of this section.

(1) **Notice.**

- (a) If an Industrial User knows in advance of the need a Bypass, it shall submit prior written notice to the NMSC, if possible at least ten days before the date of intended bypass.
- (b) An Industrial User shall submit oral notice of an unanticipated Bypass that exceeds applicable Pretreatment Standards to the NMSC within 24 hours from the time the Industrial User becomes aware of the Bypass. A written submission shall also be provided within 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 or prevent recurrence of a Bypass. The NMSC may waive the written report on a case-by-case basis if an oral report has been received within 24 hours.

(2) **Prohibition of Bypass.**

- (a) Bypass is prohibited and the NMSC may take enforcement action against an Industrial User for a Bypass, unless:
  - (1) The Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage, as defined in section 2.01.
  - (2) There were no feasible alternatives to the Bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or Discharger's performance of maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment could have been installed in the exercise of reasonable engineering judgment to prevent a Bypass which occurred during normal

**25.32 CIVIL PENALTIES**

Any Discharger who is determined by a court of competent jurisdiction: (i) to have violated an order of the Commission; or (ii) to have failed to comply with any provision of these rules and regulations, or any permit issued hereunder, upon conviction shall be subject to imposition of a civil penalty set forth in Appendix C Fines and Penalties, reference this code section, for each day such violation exists. Each and every day of a continuing violation shall be subject to daily penalty. *[Amended 11/28/05]*

**25.33 RECOVERY OF COSTS AND EXPENSES INCURRED BY THE COMMISSION**

Any discharger who violates any of the provisions of these rules and regulations, or who discharges or causes a discharge producing a deposit or obstruction, or who causes damage to or impairs the Commission's wastewater disposal system shall be liable to the Commission for any expense, loss, or damage caused by such Violation, discharge or impairment, including any attendant legal or consulting expense of the Commission. The Commission shall bill such Discharger for all such costs incurred by the Commission and for any cleaning, repair or replacement work necessitated by the violation or discharge. Refusal of a Discharger to pay the assessed costs within thirty (30) days of billing shall constitute a violation of these rules and regulations enforceable under the provisions of Chapter 6 of these rules and regulations.

**25.34 FALSIFYING INFORMATION**

Any Person who knowingly or negligently makes any false statement, representation or certification in any application, record, report, plan or other document filed or required to be maintained pursuant to these rules and regulations, or who falsifies, tampers with, or knowingly renders inaccurate any monitoring device or method required under these rules and regulations, upon conviction, shall be subject to imposition of a civil penalty set forth in Appendix C Fines and Penalties, reference this code section, for each such violation. *[Amended 11/28/05]*

**25.35 RECORDS RETENTION**

All Dischargers subject to these rules and regulations shall retain and preserve for no less than three (3) years, any records, books, documents, memoranda, reports, correspondence and, any and all summaries thereof, relating to monitoring, sampling and chemical analyses made by or on behalf of a Discharger in connection with its wastewater discharge. All records which pertain to matters which are the subject of enforcement or litigation activities brought by the Commission pursuant hereto, shall be retained and preserved by the Discharger until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired.

**25.36 REMOVAL CREDITS**

Where applicable, the Commission may elect to initiate a program of removal credits as part of these rules and regulations to reflect the POTW's ability to remove pollutants in accordance with 40 CFR 403.7.

**25.37 HAULED MATERIALS**

The Commission may allow wastewater, which is hauled via truck or other conveyance, to be discharged to the POTW. Prior to such discharge, the Commission may require a written report from the hauler describing the quantity, source of wastewater, laboratory analysis of the pollutant constituents, and other information as deemed necessary by the Commission. The Commission shall require that written permission and discharge conditions be issued by the Commission to the hauler prior to discharge of any hauled wastewater.

**25.38 RIGHT OF REVISION**

The Commission reserves the right to amend these rules and regulations to provide for more stringent limitations or requirements as to discharges to the POTW when deemed necessary by it to comply with the policies set forth in Chapter 1 of these rules and regulations.

**25.39 SEVERABILITY**

If any provision, paragraph, word, section or chapter of these rules and regulations is invalidated by any court of competent jurisdiction, the remaining provisions, paragraphs, words, sections, and chapters shall not be affected and shall continue in full force and effect.

**25.40 CONFLICT**

All other ordinances and parts of other ordinances inconsistent or conflicting with any part of these rules and regulations are hereby repealed to the extent of such inconsistency or conflict.

**25.41 REQUIRED REPORTS, NOTIFICATION AND SCHEDULES**

The following sections of this ordinance require submission to the NMSC by Users of reports, notifications and schedules and are listed here for the convenience of Users:

- (1) 3.03 A. - Protection from Accidental Discharges.
- (2) 3.03 B. - Notification of Accidental Discharge.
- (3) 5.02 A. - Baseline Monitoring Reports, Compliance Date Reports, Periodic Compliance Reports.
- (4) 5-02 B. - Compliance Date Report.
- (5) 5-02 C. - Periodic Compliance Reports.
- (6) 5.02 D. - Notification of Hazardous Waste in Discharge.
- (7) 5.02 C.3.-Notification of Violation.
- (8) 5.01 D. - Notification of Changes.
- (9) 6.15 - Notification of Bypass.

Additional reporting requirements may be set forth in any permit issued hereunder.