

## ARTICLE B

### Industrial Pretreatment

#### SEC. 9-3-30 PURPOSE AND POLICY.

- (a) The purpose of the rules and regulations in this Article is to set forth uniform requirements for dischargers into the Neenah-Menasha Sewerage Commission's interceptors and Wastewater Treatment System to enable the Commission to protect its property, its wastewater treatment efficiency, and the public health in conformity with all applicable local, state and federal laws relating thereto.
- (b) The policy of these rules and regulations is:
  - (1) To prevent the introduction of pollutants into the Commission's Wastewater Treatment System which will interfere with the normal operation of the system or contaminate the resulting sludge.
  - (2) To prevent the introduction of pollutants into the Commission's Wastewater Treatment System which do not receive adequate treatment in the POTW and which will pass through the system into receiving waters or the atmosphere or otherwise be incompatible with the system.
  - (3) To increase the opportunity to recycle and reclaim wastewater and sludge from the system.
- (c) Accordingly, the rules and regulations of this Article provide for the regulation of discharges into the Commission's wastewater system through the issuance by the Commission of permits to industrial discharges.

#### SEC. 9-3-31 DEFINITIONS.

Unless the text specifically indicates otherwise, the following terms and phrases, as used in this Article, shall be defined as follows:

- (a) **ACT.** The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended (33 U.S.C. 1251, et seq.).
- (b) **BOD.** Biochemical oxygen demand means the quantity of oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedure in five (5) days at twenty (20) degrees Centigrade.
- (c) **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.
- (d) **COMPOSITE SAMPLE.** A series of samples deposited in a common container taken from a waste stream on the basis of flow, such that each discrete sample is taken after an equal volume of flow of the waste stream has passed a given point.
- (e) **COOLING WATER.** The water discharged from any use such as air conditioning, cooling or refrigeration to which the only pollutant added is heat.
- (f) **DISCHARGER; INDUSTRIAL DISCHARGER.** Any nonresidential user who discharges an industrial waste to public sewers and hence to the POTW.

- (g) **GRAB SAMPLE.** A sample which is taken from a waste stream on a one (1) time basis with no regard to the flow rate of the waste stream and without consideration of time.
- (h) **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.
- (i) **INTERFERENCE.** The inhibition or disruption of the POTW treatment process or operations which contributes to a violation of any requirement of the Commission's WPDES permit. Interference occurs when sewage sludge use or disposal by the POTW is not in accordance with Section 405 of the Act (33 U.S.C. 1345) or any criteria, guidelines or regulations developed pursuant to the Solid Waste Disposal Act (SWDA), the Clean Air Act, the Toxic Substance Control Act or more stringent state criteria (including those contained in any state sludge management plan prepared pursuant to Title IV of SWDA) applicable to the method of disposal or use employed by the POTW.
- (j) **NEENAH-MENASHA SEWERAGE COMMISSION OR COMMISSION.** The authority which owns and operates the Neenah-Menasha Wastewater Treatment Plant and certain major interceptors, having been created under Sec. 66.30, Wis. Stats., by virtue of the execution of an Ordinance-Contract on 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. (The abbreviated term "Commission" is used throughout these rules and regulations.)
- (k) **NEW SOURCE.** Any source, the construction of which is commenced after the publication of proposed regulations which are prescribed by Section 307(c) of the Act (33 U.S.C. 1317; i.e., categorical pretreatment standards which will be applicable to such a source), if such standard is thereafter promulgated within one hundred twenty (120) days of proposal in the Federal Register. Where the standard is promulgated later than one hundred twenty (120) days after proposal, a new source means any source, the construction of which is commenced after the date of promulgation of the standard.
- (l) **PERSON.** Any individual, firm, company, association, society, corporation or group.
- (m) **pH.** The logarithm of the reciprocal of the hydrogen ion concentration. The concentration is the weight of hydrogen ions, in grams, per liter of solution.
- (n) **POLLUTANT.** Any dredged spoil, solid waste, incinerator residue, sewage, garbage, sewage sludge, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal and agricultural wastes discharged into water.
- (o) **POTW.** Publicly owned treatment works, specifically the wastewater treatment plant and certain major interceptors owned and operated by the Neenah-Menasha Sewerage Commission.
- (p) **PRETREATMENT.** The elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater to a less harmful state, or the reduction of the amount of pollutants therein prior to or in lieu of discharging or otherwise introducing such pollutants into the POTW.
- (q) **SLUDGELOAD.** Any substance released in a discharge at a rate and/or concentration which causes interference to the POTW.
- (r) **TOXIC POLLUTANTS.** Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator of the U.S. Environmental Protection Agency under the provisions of Section 307(a) of the Act or other Acts.

- (s) **UPSET.** An exceptional incident in which a discharger unintentionally and temporarily is in a state of noncompliance with the standards set forth in applicable appendices hereto due to factors beyond the reasonable control of the discharger, and excluding noncompliance to the extent cause by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance or careless or improper operation thereof.
- (t) **WASTEWATER DISCHARGE PERMIT.** A permit issued by the Commission to industrial dischargers who discharge or are capable of discharging toxic pollutants to the POTW, as well as other industrial users at the discretion of the Commission.
- (u) **WASTEWATER TREATMENT SYSTEM.** Is synonymous with the definition of POTW herein.
- (v) **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.

### **SEC. 9-3-32 GENERAL DISCHARGE PROHIBITIONS.**

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

- (a) Any liquids, solids or gases which, by reason of their nature or quantity, are or may be (either alone or by interaction) sufficient to cause fire or explosion or to be injurious in any other way to the operation of the POTW.
- (b) Solid or viscous substances likely to cause obstruction to the flow in a sewer or other interference with the operation of the Wastewater Treatment System.
- (c) Any wastewater having a pH less than five and one-half (5.5) or greater than ten (10) or having any corrosive property capable of causing damage or hazard to the structures, equipment, appurtenances or personnel of the Wastewater Treatment System.
- (d) Any wastewater containing toxic pollutants in sufficient quantity, either singly or by interaction, to injure or interfere with any wastewater treatment process, constitute a hazard to humans or animals, or to exceed the limitation set forth in a Categorical Pretreatment Standard.
- (e) Any noxious or malodorous liquids, gases or solids, which, either singly or by interaction, are capable of creating a public nuisance or hazard to life or are sufficient to prevent access to the sewers for the purpose of maintenance and repair.
- (f) Any substance which may cause the POTW's effluent or treatment residues, sludges or scums to be unsuitable for reclamation and reuse or to interfere with the reclamation process. (In no case shall any substance discharged to the POTW cause the POTW to be in noncompliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 in the Act; or with any criteria, guidelines or regulations affecting sludge use or disposal developed pursuant to the Solid Waste Disposal Act, the Clean Air Act, the Toxic Substances Control Act, or State of Wisconsin standards applicable to the sludge management method being used.)
- (g) Any substance which will cause or is likely to cause the POTW to violate its Wisconsin Pollutant Discharge Elimination System and/or other disposal system permits.
- (h) Any substance with objectionable color not removed in the treatment process, such as, but not limited to, dye wastes and vegetable tanning solutions.
- (i) Any wastewater having a temperature which will inhibit biological activity in the POTW

treatment plant resulting in interference and, in any case, wastewater with a temperature at its introduction into the POTW exceeding forty (40) degrees Centigrade [one hundred four (104) degrees Fahrenheit].

- (j) Any slugload, which shall mean any pollutant, including oxygen-demanding pollutants (BOD, etc.) released in a single extraordinary discharge episode of such volume or strength as to cause interference to the POTW.
- (k) Any unpolluted water including, but not limited to, non-contact cooling water.
- (l) Any wastewater containing any radioactive wastes or isotopes of such half-life or concentration as exceed limits established by the Commission in compliance with applicable State of Wisconsin or federal regulations.
- (m) Any wastewater which causes a hazard to human life or creates a public nuisance.

**SEC. 9-3-33 LIMITATIONS ON WASTEWATER STRENGTH.**

- (a) **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 dischargers of the regulated industrial categories. An application for modification of the National Categorical Pretreatment Standards may be considered for submittal to the Regional Administrator by the Commission when the Commission's Wastewater Treatment System achieves consistent removal of the pollutants as defined by 40 C.F.R. 403.7.
- (b) **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.
- (c) **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 Section 9-3-30 of these rules and regulations.
- (d) **DILUTION.** No discharger shall increase the use of potable or process water in any way, nor mix separate waste streams for the purposes of diluting a discharge, either as a partial or complete means to achieve compliance with the standards set forth in these rules and regulations.
- (e) **SUPPLEMENTARY LIMITATIONS.** 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</u> <u>(mg/l)</u>	<u>(Mass Limitation)</u>
Cadmium	0.1	Milligrams/liter
Copper	2.0	Milligrams/liter
Cyanide	0.4	Milligrams/liter
Lead	2.0	Milligrams/liter
Mercury	0.02	Milligrams/liter
Nickel	2.0	Milligrams/liter
Total Chromium	8.0	Milligrams/liter
Zinc	4.0	Milligrams/liter

The Commission may impose specific mass limitations on dischargers which are using dilution to meet the Pretreatment Standards or requirements of these rules and regulations, or in cases where the imposition of mass limitations is deemed appropriate by the Commission.

#### **SEC. 9-3-34 ACCIDENTAL DISCHARGES.**

- (a) **PROTECTION FROM ACCIDENTAL DISCHARGES.** Each discharger shall provide protection from accidental discharge or 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. Detailed plans showing facilities and operating procedures necessary to provide such protection shall be submitted to the Commission for review and will be approved by the Commission before construction of the facility. Each existing discharger shall complete its plan and submit the same 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 the same to review and comment on the plan. No discharger who discharges to the POTW after the aforesaid notification and time shall be permitted to introduce pollutants into the system until accidental discharge protection procedures have been approved by the Commission. Review and approval of such plans and operating procedures by the Commission shall not relieve the discharger from the responsibility to modify its facility as necessary to meet the requirements of these rules and regulations.
- (b) **NOTIFICATION OF ACCIDENTAL DISCHARGE.** Each discharger shall immediately notify the Commission upon the occurrence of any slugload or 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 the amount of any fines imposed by the Commission (or on 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.
- (c) **SIGNS.** Prominent signs shall be permanently posted in conspicuous places on discharger's premises, advising employees to immediately call the Commission in the event 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 such a discharge as to the aforesaid immediate notification obligation.

#### **SEC. 9-3-35 PURPOSE - 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:

- (a) **PERMIT FEE.** The Commission shall charge all industrial dischargers that are required to obtain a permit or renewal permit under Sections 9-3-37 through 9-3-43 hereof a wastewater discharge permit fee of Three Hundred Fifty Dollars (\$350.00) each.
- (b) **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. It is estimated that the sampling charge, per site, will be One Hundred Fifty Dollars (\$150.00) per sampling day for twenty-four (24) hour composite samples and will be Thirty Dollars (\$30.00) per grab sample.

- (c) **ANNUAL ADMINISTRATIVE FEE.** The Commission shall assess each permitted industrial discharger an annual administrative fee 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. The estimated administrative fee is to be Two Hundred Twenty-five Dollars (\$225.00) per sampling day for each permitted industrial discharger.
- (d) **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 will be determined by the commercial laboratory retained by the Commission to perform the analysis.
- (e) **ADDITIONAL FEES.** Additional fees as established by the Commission will be charged to industrial users on a case-by-case basis for the following items:
  - (1) Fees for filing appeals.
  - (2) Fees for consistent removal (by the POTW) of pollutants otherwise subject to categorical pretreatment standards.
  - (3) Fees for permit modifications.

### **SEC. 9-3-37 WASTEWATER DISCHARGE PERMITS.**

- (a) **GENERAL PERMITS.** All industrial dischargers that discharge or are capable of discharging toxic pollutants to the POTW, as well as other industrial users at the discretion of the Commission, shall obtain a wastewater discharge permit for a term of five (5) years from the Commission.
- (b) **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 Sections 9-3-35 and 9-3-36 herein. Existing industrial dischargers shall apply for a wastewater discharge permit within sixty (60) days after the effective date of this Article, and future new industrial dischargers shall apply for a permit at least sixty (60) days prior to expiration. No discharge permit or renewal shall be issued unless and until all of the following conditions have been met by the applicant:
  - (1) Disclosure of name, address and location of the discharger.
  - (2) Disclosure of the applicant's Standard Industrial Classification (SIC) number according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended.
  - (3) 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, all as determined by bona fide 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 C.F.R., Part 136, as amended.
  - (4) Disclosure of time and duration of applicant's discharges.
  - (5) 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 otherwise verifiable techniques are approved by the Commission because of cost or non-feasibility.
- (6) 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.
  - (7) 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.
  - (8) 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.
  - (9) 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. As to such time schedule:
    - a. 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 acts necessary to achieve compliance with these rules and regulations.
    - b. The Commission shall not permit a time increment for any single step of such schedule which exceeds nine (9) months.
    - c. 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. In no event shall more than nine (9) months elapse between such progress report to the Commission.
    - d. Disclosure of each product produced by applicant, indicating the type, amount, process or processes employed to produce the same and the rate of production.
    - e. Disclosure of the type and amount of raw materials utilized (average and maximum per day) by applicant.
    - f. All permit applications for new or modified permits and all renewal applications shall be signed by principal executive officer of the applicant.
  - (10) The Commission shall evaluate the application and the data furnished by the applicant and may require additional information. After full evaluation and acceptance of the data furnished, the Commission shall issue a wastewater discharge

permit to applicant subject to the terms and conditions provided herein.

- (c) **PERMIT MODIFICATIONS.** The Commission reserves the right to amend any wastewater discharge permit issued hereunder in order to assure compliance by the Commission with applicable laws and regulations. Within nine (9) months after the promulgation of any new National Categorical Pretreatment Standard, the existing wastewater discharge permit of each discharger 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 Section 9-3-37(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 Section 9-3-37(b)(a) and (0). 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.
- (d) **PERMIT CONDITIONS.** Wastewater discharge permits shall specify the following:
- (1) The fees and charges to be paid by the permittee for the wastewater to be discharged to the POTW, as listed in Sections 9-3-35 and 9-3-36.
  - (2) The limits on the average and maximum wastewater constituents and characteristics regulated thereby.
  - (3) The limits on the average and maximum rate and time of discharge and/or requirements for flow regulations and equalization regulated thereby.
  - (4) The requirements for installation and maintenance of inspection and sampling facilities.
  - (5) The requirements for installation and maintenance of pretreatment facilities.
  - (6) 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 test, as well as a reporting schedule.
  - (7) Compliance schedules.
  - (8) 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.
  - (9) 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.
  - (10) Requirements for permittee maintaining and retaining plant records relating to wastewater discharge and affording Commission access thereto.
  - (11) Requirements for notification by permittee to the Commission of slug discharges.
  - (12) Duration of permit.
  - (13) Any other conditions as deemed appropriate by the Commission to ensure compliance with these rules and regulations.
- (e) **PERMIT DURATION.** All wastewater discharge permits shall be issued for a term of five (5) years subject to amendment or revocation by the Commission as provided in these rules

and regulations.

- (f) **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 transferrable to any other location, without the prior written approval of the Commission.

### **SEC. 9-3-38 REPORTING REQUIREMENTS FOR PERMITTEE.**

- (a) **REPORTING REQUIREMENTS.** All industrial discharges subject to Categorical Pretreatment Standards shall, at a minimum, comply with the reporting requirements contained in 40 C.F.R., Part 403.12, including, but not limited to, baseline monitoring reports, compliance date reports and periodic compliance reports.
- (b) **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 shall 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 certify the report.
- (c) **PERIODIC COMPLIANCE REPORTS.**
  - (1) 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 or less 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 Subsection (b) above. 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.
  - (2) 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 Industrial Pretreatment Program Report. All analyses shall be performed in accordance with 40 C.F.R., Part 136, and amendments thereto. (Comment: Where 40 C.F.R., 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 Effluents 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.)

### **SEC. 9-3-39 PRETREATMENT FACILITIES.**

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

### **SEC. 9-3-40 SUBMISSION OF PLANS.**

Where pretreatment or equalization of wastewater flows prior 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 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 method of operation shall be reported to and be acceptable to the Commission prior to the industrial discharger's initiation of the changes.

### **SEC. 9-3-41 MONITORING FACILITIES.**

- (a) Each discharger shall provide and operate at its own expense a monitoring facility to allow inspection, sampling and flow measurement 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.
- (b) All monitoring facilities shall be constructed and maintained in accordance with applicable local construction standards and specifications.

### **SEC. 9-3-42 INSPECTION AND SAMPLING.**

The Commission may, at any time, inspect the monitoring facilities of any discharger to determine its compliance with the requirements of these rules and regulations. The discharger shall allow the Commission or its representatives to enter upon the 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 Sections 9-3-32 through 9-3-34 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.

#### **SEC. 9-3-43 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 to demonstrate to the 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 set forth in Sec. 19.34, Wis. Stats., as amended.

#### **SEC. 9-3-44 EMERGENCY SUSPENSION OF SERVICE AND WASTEWATER DISCHARGE PERMITS.**

- (a) The Commission may, for good cause, summarily suspend the wastewater treatment service and the wastewater discharge permit of a discharger when it appears to the Commission that an actual or threatened discharge presents or threatens:
  - (1) Imminent substantial danger to the health or welfare of persons;
  - (2) Imminent substantial danger to the environment;
  - (3) Adverse interference with the operation of the POTW;
  - (4) Violation of any pretreatment limits imposed by these rules and regulations; or
  - (5) Violation of any of the provisions of the discharger's wastewater discharge permit issued pursuant to these rules and regulations.
- (b) Any discharger notified of the suspension of the Commission's wastewater treatment service and/or such discharger's wastewater discharge permit shall immediately stop or eliminate the adverse discharge within a period of time determined by the Commission.
- (c) In the event of failure or the reasonable likelihood of failure of the discharger to comply voluntarily with the suspension order within the time specified, the Commission or City may commence judicial proceedings at any time to compel compliance with such order. The Commission or City may reinstate the wastewater discharge permit of the discharger, and/or resume wastewater treatment service, and/or terminate judicial proceedings upon due and satisfactory proof by the discharger of its full elimination of the noncomplying discharge or of the conditions creating the threat of imminent or substantial danger as set forth above.

### **SEC. 9-3-45 GROUNDS FOR REVOCATION OF PERMIT.**

The Commission may revoke the wastewater discharge permit of any discharger which:

- (a) Fails to accurately and fully report the wastewater constituents and characteristics of its discharge;
- (b) Fails to report significant changes in its wastewater constituents or characteristics;
- (c) Refuses reasonable access to the discharger's premises by representatives of the Commission for the purpose of inspection or monitoring; or
- (d) Violates the conditions of its wastewater discharge permit, these rules and regulations or any judicial order entered with respect thereto.

### **SEC. 9-3-46 NOTIFICATION OF VIOLATION.**

Whenever the Commission finds that any discharger has engaged in conduct which justifies revocation of a wastewater discharge permit pursuant to Section 9-3-45 hereof, the Commission shall serve or cause to be served upon such discharger a written notice, either personally or by certified or registered mail, return-receipt requested, stating the nature of the alleged violation. Within fifteen (15) days of the date of receipt of the notice, the discharger shall respond personally or in writing to the Commission advising of its position with respect to the allegations. Thereafter, the parties shall meet to ascertain the validity of the allegations and, where necessary, establish a plan for the satisfactory correction thereof.

### **SEC. 9-3-47 SHOW CAUSE HEARING.**

Where the violation of Section 9-3-45 hereof is not corrected by timely compliance by the discharger, the Commission may order any discharger which causes or allows conduct prohibited by Section 9-3-45 hereof to show cause before the Commission or its duly authorized representative why permit revocation action should not be taken. A written notice shall be served on the discharger specifying the time and place of a hearing to be held by the Commission or its designee regarding the violation, the reasons why the enforcement action is to be taken, the proposed enforcement action and directing the discharger to show cause before the Commission or its designee why the proposed enforcement action should not be taken. The notice of the hearing shall be served no less than ten (10) days before the hearing. Service may be made on any agent, officer or authorized representative of a discharger. The proceedings at the hearing shall be considered by the Commission which shall then enter appropriate orders with respect to the alleged improper activities of the discharger. Appeal of such orders may be taken by the discharger in accordance with applicable local or state law.

### **SEC. 9-3-48 JUDICIAL PROCEEDINGS.**

Before or after the entry of any order by the Commission with respect to the conduct of a discharger contrary to the provisions of Section 9-3-45 hereof, the attorney for the Commission or City of Menasha may, following the authorization of such action by the Commission, commence an action for appropriate legal and/or equitable relief in the Winnebago County Circuit Court.

### **SEC. 9-3-49 ENFORCEMENT ACTIONS -- ANNUAL PUBLICATION OF OFFENDERS.**

A list of all significant dischargers which were the subject of enforcement proceedings under Sections 9-3-44 through 9-3-51 of these rules and regulations during the preceding calendar year and whose violations remained uncorrected for forty-five (45) or more days after notification of noncompliance, or which exhibited a pattern of noncompliance during said calendar year, or which failed to accurately report their noncompliance with these rules and regulations, may be annually published by the Commission in a local newspaper, summarizing the enforcement action taken against said dischargers.

### **SEC. 9-3-50 RIGHT OF APPEAL.**

Any discharger or any interested party shall have the right to request in writing an interpretation or ruling of the Commission on any matter covered by these rules and regulations and shall be entitled to a prompt written reply. In the event that such inquiry is by a discharger and deals with matters of performance, or compliance with these rules and regulations, or deals with a wastewater discharge permit issued hereunder for which enforcement activity relating to an alleged violation is the subject, receipt of a discharger's request shall stay enforcement proceedings until receipt of the aforesaid written reply, unless enforcement proceedings have already begun. Appeal of any final judicial order entered pursuant to these rules and regulations may be taken in accordance with local and state law.

### **SEC. 9-3-51 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 a wastewater discharge permit issued pursuant hereto shall inform the Commission thereof within twenty-four (24) hours of first awareness of the commencement of the upset. Where such information is given orally, a written follow-up report thereof shall be filed by the discharger with the Commission within five (5) days. The report shall specify:

- (a) **DESCRIPTION.** Description of the upset, the cause thereof and the upset's impact on a discharger's compliance status.
- (b) **DURATION.** 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.
- (c) **REMEDIES.** All steps taken or to be taken to reduce, eliminate and prevent recurrence of such an upset or other conditions of noncompliance.

### **SEC. 9-3-52 CIVIL PENALTIES.**

Section 1-1-7 of the Menasha Municipal Code entitled "General Penalties" is hereby adopted by reference.

### **SEC. 9-3-53 RECOVERY OF COSTS AND EXPENSES INCURRED BY THE COMMISSION.**

Any discharger who violates any of the provisions of the rules and regulations in this Article 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 or City. The Commission or City shall bill such discharger for all such costs incurred by the Commission or City 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 Section 9-3-44 through 9-3-51 of these rules and regulations.

#### **SEC. 9-3-54 FALSIFYING INFORMATION.**

Any person who knowingly 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 punished by the imposition of a civil penalty pursuant to Section 9-3-52.

#### **SEC. 9-3-55 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 in behalf of a discharger in connection with its discharge. All records which pertain to matters which are the subject of enforcement or litigation activities brought by the Commission or City 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.

#### **SEC. 9-3-56 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 C.F.R. 403.7.

**SEC. 9-3-57 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.

## APPENDIX A

### TOXIC POLLUTANTS

#### Federal Priority Pollutants

1. Acenaphthene
2. Acrolein
3. Acrylonitrile
4. Benzene
5. Benzidine
6. Carbon tetrachloride (tetrachloromethane)
7. Chlorobenzene
8. 1,2,4-trichlorobenzene
9. Hexachlorobenzene
10. 1,2-dichloroethane
11. 1,1,1-trichloroethane
12. Hexachloroethane
13. 1,1-dichloroethane
14. 1,1,2-trichloroethane
15. 1,1,2,2-tetrachloroethane
16. Chloroethane
17. Bis (chloromethyl) ether
18. Bis (2-chloroethyl) ether
19. 2-chloroethyl vinyl ether (mixed)
20. 2-chloronaphthalene
21. 2,4,6-trichlorophenol
22. Parachlorometacresol
23. Chloroform (trichloromethane)
24. 2-chlorophenol
25. 1,2-dichlorobenzene
26. 1,3-dichlorobenzene
27. 1,4-dichlorobenzene
28. 3,3'-dichlorobenzidine
29. 1,1-dichloroethylene
30. 1,2-trans-dichloroethylene
31. 2,4-dichlorophenol
32. 1,2-dichloropropane
33. 1,3-dichloropropylene
34. 2,4-dimethylphenol
35. 2,4-dinitrotoluene
36. 2,6-dinitrotoluene
37. 1,2-diphenylhydrazine
38. Ethylbenzene
39. Fluoranthene
40. 4-chlorophenyl phenyl ether
41. 4-bromophenyl phenyl ether
42. Bis (2-chloroisopropyl) ether

43. Bis (2-chloroethoxy) methane
44. Methylene chloride (dichloromethane)
45. Methyl chloride (chloromethane)
46. Methyl bromide
47. Bromoform (tribromomethane)
48. Dichlorobromomethane
49. Trichlorofluoromethane
50. Dichlorodifluoromethane
51. Chlorodibromomethane
52. Hexachlorobutadiene
53. Hexachlorocyclopentadiene
54. Isophorone
55. Naphthalene
56. Nitrobenzene
57. 2-nitrophenol
58. 4-nitrophenol
59. 2,4-dinitrophenol
60. 4,6-dinitro-o-cresol
61. N-nitrosodimethylamine
62. N-nitrosodiphenylamine
63. N-nitrosodi-n-propylamine
64. Pentachlorophenol
65. Phenol (4APP method)
66. Bis (2-ethylhexyl) phthalate
67. Butyl benzyl phthalate
68. Di-n-butyl phthalate
69. Di-n-octyl phthalate
70. Diethyl phthalate
71. Dimethyl phthalate
72. Benzo(a)anthracene (1,2 benzanthracene)
73. Benzo(a)pyrene (3,4-benzopyrene)
74. 3,4-benzofluoranthene
75. Benzo(k)fluoranthene (11,12-benzofluoranthene)
76. Chrysene
77. Acenaphthylene
78. Anthracene
79. Benzo(ghi)perylene (1,12-benzoperylene)
80. Fluorene
81. Phenanthrene
82. Dibenzo (a,h) anthracene
83. Indeno (1,2,3-cd) pyrene
84. Pyrene
85. Tetrachloroethylene
86. Toluene
87. Trichloroethylene
88. Vinyl chloride (chloroethylene)
89. Aldrin
90. Dieldrin
91. Chlordane (tech. mixture and metabolites)

92. 4,4' -- DDT
93. 4,4' -- DDE (p,p'-DDX)
94. 4,4' -- DDD (p,p'-TDE)
95. Alpha-endosulfan
96. Beta-endosulfan
97. Endosulfan sulfate
98. Endrin
99. Endrin aldehyde
100. Heptachlor
101. Heptachlor epoxide
102. Alpha-BHC
103. Beta-BHC
104. Gamma-BHC (lindane)
105. Delta-BHC
106. PCB-1242 (Aroclor 1242)
107. PCB-1254 (Aroclor 1254)
108. PCB-1221 (Aroclor 1221)
109. PCB-1232 (Aroclor 1232)
110. PCB-1248 (Aroclor 1248)
111. PCB-1260 (Aroclor 1260)
112. PCB-1016 (Aroclor 1016)
113. Toxaphene
114. Antimony (Total)
115. Arsenic (Total)
116. Asbestos (Fibrous)
117. Beryllium (Total)
118. Cadmium (Total)
119. Chromium (Total)
120. Copper (Total)
121. Cyanide (Total)
122. Lead (Total)
123. Mercury (Total)
124. Selenium (Total)
125. Silver (Total)
126. Thallium (Total)
127. Zinc (Total)
128. 2,3,7,8-tetrachlorodibenzo-p-dioxin (TCDD)