

CITY OF SOUTH MILWAUKEE
CHAPTER 11
WASTEWATER TREATMENT SYSTEM

SUBCHAPTER I - GENERAL

- 11.01 Purpose and Policy
- 11.02 Administration
- 11.03 Abbreviations
- 11.04 Definitions

SUBCHAPTER II - REGULATIONS

- 11.10 General Sewer Use Requirements
- 11.11 National Categorical Pretreatment Standards
- 11.12 Modification of National Categorical Pretreatment Standards
- 11.13 State Pretreatment Standards
- 11.14 Local Limits
- 11.15 South Milwaukee's Right of Revision
- 11.16 Dilution
- 11.17 Variance Provisions
- 11.18 Accidental Discharges
- 11.19 Acceptance of Hauled Waste

SUBCHAPTER III - PRETREATMENT OF WASTEWATER

- 11.20 Pretreatment Facilities
- 11.21 Monitoring Facilities
- 11.22 Additional Pretreatment Measures
- 11.23 Accidental Discharge/Slug Control Plans
- 11.24 Centralized Waste Treaters

SUBCHAPTER IV - ADMINISTRATION

- 11.30 Wastewater Discharge Permit Application
- 11.31 Wastewater Discharge Permit Issuance Process
- 11.32 Reporting Requirements
- 11.33 Compliance Monitoring
- 11.34 Confidential Information
- 11.35 Publication of Users in Significant Noncompliance

SUBCHAPTER V - ENFORCEMENT

- 11.40 Administrative Enforcement Remedies
- 11.41 Judicial Enforcement Remedies
- 11.42 Supplemental Enforcement Action
- 11.43 Affirmative Defenses to Discharge Violations

SUBCHAPTER VI - FEES

- 11.50 Wastewater Treatment Rates
- 11.51 Miscellaneous Provisions
- 11.52 Effective Date

SECTION 1 - PROVISIONS**SUBCHAPTER I - GENERAL PROVISIONS****11.01 PURPOSE AND POLICY**

- (1) This chapter sets forth uniform requirements for users of the Publicly Owned Treatment Works for the City of South Milwaukee and enables the City of South Milwaukee to comply with all applicable State and Federal laws, including the Clean Water Act (33 United States Code § 1251 *et seq.*), the General Pretreatment Regulations (40 Code of Federal Regulations Part 403), and the General Pretreatment Requirements (Chapter NR 211). The objectives of this chapter are:
 - (a) To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will interfere with its operation;
 - (b) To prevent the introduction of pollutants into the Publicly Owned Treatment Works that will pass through the Publicly Owned Treatment Works, inadequately treated, into receiving waters, or otherwise be incompatible with the Publicly Owned Treatment Works;
 - (c) To protect both Publicly Owned Treatment Works personnel who may be affected by wastewater and sludge in the course of their employment and the general public;
 - (d) To promote reuse and recycling of industrial wastewater and sludges from the Publicly Owned Treatment Works;
 - (e) To provide for fees for the equitable distribution of the cost of operation, maintenance, and improvement of the Publicly Owned Treatment Works; and
 - (f) To enable South Milwaukee to comply with its National Pollutant Discharge Elimination System permit conditions, sludge use and disposal requirements, and any other Federal or State laws to which the Publicly Owned Treatment Works is subject.
- (2) This chapter shall apply to all users of the Publicly Owned Treatment Works. The chapter authorizes the issuance of wastewater discharge permits; provides for monitoring, compliance, and enforcement activities; establishes administrative review procedures; requires user reporting; and provides for the setting of fees for the equitable distribution of costs resulting from the program established herein.

11.02 ADMINISTRATION**(1) Superintendent**

Except as otherwise provided herein, the Superintendent shall administer, implement, and enforce the provisions of this chapter. Any powers granted to or duties imposed upon the Superintendent may be delegated by the Superintendent to other South Milwaukee personnel or authorized representative.

(2) **Wastewater Commission – See Sec. 4.08**

11.03 ABBREVIATIONS. The following abbreviations shall have the designated meanings:

- (1) BOD - Biochemical Oxygen Demand
- (2) CFR - Code of Federal Regulations. (40 CFR, Part 403, is Title 40 of the Code of Federal Regulations, Part 403)
- (3) COD - Chemical Oxygen Demand
- (4) EPA - Environmental Protection Agency
- (5) gpd - Gallons per day
- (6) l - Liter
- (7) mg - Milligrams
- (8) mg/l - Milligrams per liter
- (9) POTW - Publicly Owned Treatment Works
- (10) RCRA - Resource Conservation and Recovery Act
- (11) SIC - Standard Industrial Classification
- (12) SWDA - Solid Waste Disposal Act, 42 U.S.C. 6901, et. seq.
- (13) TSS - Total Suspended Solids
- (14) USC - United States Code
- (15) UST- Underground Storage Tank
- (16) VOCs- Volatile Organic Compounds
- (17) WPDES - Wisconsin Pollutant Discharge Elimination System

11.04 DEFINITIONS

Unless a provision specifically states otherwise, the following terms and phrases, as used in this chapter, shall have the meanings hereinafter designated.

- (1) **ACCIDENTAL DISCHARGE.** Accidental or unintentional discharge of wastewater from an industrial user, which contains indirect discharge, pollutants or sludges which are not normally discharged by the industrial user. An accidental discharge may also be an unintentional slug loading of wastes normally discharged by the industrial user, which causes the industrial user to exceed its wastewater discharge permit limitations.
- (2) **ACT OR "THE ACT".** The Federal Water Pollution Control Act, also known as the Clean Water Act, as amended, 33 U.S.C. 1251, et. seq.
- (3) **APPROVAL AUTHORITY.** Wisconsin Department of Natural Resources (DNR)
- (4) **AUTHORIZED REPRESENTATIVE OF THE USER.**

CITY OF SOUTH MILWAUKEE

11-4

11.04

- (a) If the user is a corporation: a manager having the authority to make capital investment decisions and assure long term environmental compliance.
 - (b) If the user is a partnership or sole proprietorship: a general partner or proprietor, respectively.
 - (c) If the user is a Federal, State, or Local governmental facility: a director or highest official appointed or designated to oversee the operation and performance of the activities of the government facility, or their designee.
 - (d) The individuals described in paragraphs a through c, above, may designate another duly authorized representative if the authorization is in writing, the authorization specifies the individual or position responsible for the overall operation of the facility from which the discharge originates or having overall responsibility for environmental matters for the company, and the written authorization is submitted to South Milwaukee.
- (5) **BEST MANAGEMENT PRACTICES or BMPs.** Management or operational procedures, schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to prevent or reduce pollution.
 - (6) **BIOCHEMICAL OXYGEN DEMAND or (BOD).** The quantity of for oxygen utilized in the biochemical oxidation of organic matter under standard laboratory procedures, five (5) days at 20 degrees Celsius expressed in terms of weight and concentration (milligrams per liter [mg/l]).
 - (7) **BUILDING SEWER.** A sewer conveying wastewater from the premises of a user to the sanitary sewer.
 - (8) **CATEGORICAL STANDARDS OR CATEGORICAL PRETREATMENT STANDARDS.** Any regulation containing pollutant discharge limits promulgated by EPA in accordance with Sections 307(b) and (c) of the Act (33 U.S.C. § 1317) which apply to a specific category of users and which appear in 40 CFR Chapter I, Subchapter N, Parts 405-471.
 - (9) **CHEMICAL OXYGEN DEMAND.** The quantity of oxygen required for chemical oxidation of organic matter in wastewater.
 - (10) **CITY.** The City of South Milwaukee, the Common Council of South Milwaukee or its delegated representative.
 - (11) **COMMERCIAL WASTEWATER.** Non-toxic, non-hazardous wastewater from commercial facilities which is usually similar in composition to domestic wastewater, but may occasionally have one or more of its constituents exceed typical domestic ranges. Included in this definition are wastewaters from commercial food service operations, commercial laundry facilities, animal holding facilities (such as kennels, veterinary hospitals).
 - (12) **COOLING WATER.** The water discharged from any use such as air conditioning, cooling or refrigeration, or to which the only pollutant added is heat.
 - (13) **DIRECT DISCHARGE.** The discharge of treated or untreated wastewater directly to the waters of the State of Wisconsin.
 - (14) **DOMESTIC OR SANITARY WASTEWATER.** Wastewater discharged from the sanitary conveniences of dwellings (including apartment houses and hotels), office buildings, factories, commercial establishments, institutions, and free from storm surface water, cooling water, commercial kitchen waste, and industrial waste. "Normal domestic wastewater" shall be considered to contain 200 mg/l BOD, 200 mg/l total suspended solids and 5 mg/l of total phosphorus.

CITY OF SOUTH MILWAUKEE

11-5

11.04

- (15) ENVIRONMENTAL PROTECTION AGENCY OR EPA. The US Environmental Protection Agency, or where appropriate, the Regional Water Management Division Director term may also be used as a designation for the administrator or other duly authorized official of said agency.
- (16) EXISTING SOURCE. Any source of discharge, the construction or operation of which commenced prior to the publication by EPA of proposed categorical pretreatment standards, which will be applicable to such source if the standard is thereafter promulgated in accordance with Section 307 of the Act.
- (17) GARBAGE. Solid wastes from the domestic and commercial preparation, cooking and dispensing of food, and from the handling, storage and sale of produce.
- (18) GENERATOR. A generator is the person who owns or causes wastewater, leachate or groundwater to be generated.
- (19) GRAB SAMPLE. A sample taken from a waste stream without regard to the flow in the waste stream, and over a period of time not to exceed (15) minutes.
- (20) HOLDING TANK WASTE. Any waste from holding tanks such as vessels, chemical toilets, campers, trailers, septic tanks, and vacuum-pump tank trucks.
- (21) INDIRECT DISCHARGE. The introduction of pollutants including hauled waste discharges into the POTW from non-domestic source regulated under Section 307(b), (c) or (d) of the Act.
- (22) INDUSTRIAL USER. A source of indirect discharge.
- (23) INDUSTRIAL WASTEWATER. Any liquid substance rejected or escaping from any industrial, manufacturing, trade or business process as distinct from domestic wastewater.
- (24) INSTANTANEOUS MAXIMUM ALLOWABLE DISCHARGE LIMIT. The maximum concentration of a pollutant allowed to be discharged at any time, determined from the analysis of any discrete or composited sample collected, independent of the industrial flow rate and the duration of the sample event.
- (25) INTERFERENCE. A discharge, which alone or in conjunction with a discharge or discharges from other sources, inhibits or disrupts the POTW, its treatment processes or operations or its sludge processes, use or disposal; and therefore, is a cause of a violation of South Milwaukee's WPDES Permit (including an increase in the magnitude or duration of the violation), or of the prevention of sewage sludge use or disposal in compliance with any of the following statutory/regulatory provisions or permits issued thereunder, or any more stringent State or local regulations: Section 405 of the Act; the Solid Waste Disposal Act, including title II commonly referred to as the Resource Conservation and Recovery Act (RCRA); any State regulations contained in any State Sludge Management Plan prepared pursuant to Subtitle D of the solid Waste Disposal Act; the Clean Air Act; the Toxic Substances Control Act; and the Marine Protection, Research, and Sanctuaries Act.
- (26) LEACHATE. Leachate is defined as the water that has been generated by a solid waste facility, which is the result of precipitation, infiltration or dewatering where water has been in contact with solid waste.
- (27) LUST WATER. Groundwater or purged water from response to a leaking underground storage tank.

CITY OF SOUTH MILWAUKEE

11-6

11.04

(28) 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 sources if such standards are thereafter promulgated in accordance with that section, provided that:

(i) The building, structure, facility or installation is constructed at a site at which no other source is located; or

(ii) The building, structure, facility or installation totally replaces the process or production equipment that causes the discharge of pollutants at an existing source; or

(iii) The production of 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 of 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 (a)(ii) or (iii) above 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:

(i) Begun, or caused to begin, as part of a continuous on-site construction program:

(A) Any placement, assembly or installation of facilities or equipment; or

(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

(ii) Entered into a binding contractual obligation for the purchase of facilities or equipment, which are 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.

(29) NONCONTACT COOLING WATER. Water used for cooling, which does not come into direct contact with any raw material, intermediate product, waste product or finished product.

(30) NON-SIGNIFICANT CATEGORICAL INDUSTRIAL USER OR (NSCIU). A user that discharges no more than 100 gallons per day of total categorical wastewater, and does not discharge untreated concentrated wastes.

CITY OF SOUTH MILWAUKEE

11-7

11.04

- (31) **PASS THROUGH.** A discharge which exits the POTW into waters of the United States in quantities or concentrations which, alone or in conjunction with a discharge or discharges from other sources, is a cause of a violation of any requirement of South Milwaukee's WPDES permit, including an increase in the magnitude or duration of a violation.
- (32) **PERSON.** Any individual, partnership, copartnership, firm, company, trust, estate, governmental entity, public or private corporation, individual, partnership, or other entity including but not limited to association, commission or any interstate body, or other legal entity; or their legal representatives, agents or assigns. This definition includes all Federal, State and local governmental entities.
- (33) **pH.** A measure of the acidity or alkalinity of a solution, expressed in grams per liter of solution in standard units.
- (34) **PHOSPHORUS.** The quantity of total phosphorus expressed in milligrams per liter (mg/l).
- (35) **POLLUTANT.** Dredged spoil, solid waste, incinerator residue, filter backwash, sewage, garbage, sewage sludge, munitions, medical wastes, chemical wastes, biological materials, radioactive materials, heat, wrecked or discharged equipment, rock, sand, cellar dirt and industrial, municipal and agricultural wastes and certain characteristics of wastewater (e.g., pH, temperature, TSS, turbidity, color, BOD, COD, toxicity, or odor).
- (36) **POLLUTION.** The man-made or man-induced alteration of the chemical, physical, biological and radiological integrity of water.
- (37) **PRETREATMENT.** The reduction of the amount of pollutants, the elimination of pollutants or the alteration of the nature of pollutant properties in wastewater prior to, or in lieu of introducing such pollutants into a POTW. The reduction or alteration can be obtained by physical, chemical or biological processes, by process changes or by other means, except by diluting the concentration of the pollutants unless allowed by an applicable pretreatment standard.
- (38) **PRETREATMENT REQUIREMENTS.** Any substantive or procedural requirement related to pretreatment imposed on a user, other than a pretreatment standard.
- (39) **PRETREATMENT STANDARDS OR STANDARDS.** Pretreatment standards shall mean prohibited discharge standards, categorical pretreatment standards and local limits.
- (40) **PRIVATE SEWER.** A sewer not owned by the City of South Milwaukee.
- (41) **PROHIBITIVE DISCHARGE STANDARD OR PROHIBITIVE DISCHARGES.** Absolute prohibitions against the discharge of certain substances; these prohibitions appear in Subsection 11.10.
- (42) **PROPERLY SHREDDED GARBAGE.** Garbage which has been shredded to such a degree that all particles will be carried freely under the flow conditions normally prevailing in public sewers with no particle greater than one-half inch in any dimension.
- (43) **PUBLICLY OWNED TREATMENT WORKS (POTW).** A "treatment works" as defined by Section 212 of the Act (33 U.S.C. 1292) which is owned by South Milwaukee. This definition includes any devices or systems used in the collection, storage treatment, recycling and reclamation of sewage or industrial waste of a liquid nature and other conveyances which convey wastewater to a treatment plant.
- (44) **PUBLIC SEWER.** A sewer owned and controlled by the City of South Milwaukee.

CITY OF SOUTH MILWAUKEE

11-8

11.04

- (45) **QUALIFIED PROFESSIONAL.** Any person who is recognized in the field of wastewater treatment as a professional by others in the field of wastewater treatment.
- (46) **SANITARY SEWER.** A sewer which carries domestic wastewater and industrial wastewater and to which storm, surface, ground and unpolluted cooling or process waters are not intentionally admitted.
- (47) **SEWAGE.** Human excrement and gray water (household showers, dishwashing operations, etc.)
- (48) **SEWER.** A pipe or conduit for carrying wastewater.
- (49) **SHALL** is mandatory - **MAY** is permissive.
- (50) **SIGNIFICANT INDUSTRIAL USER.**
 - (a) A user subject to categorical pretreatment standards, with the exception of those users meeting the definition of a non-significant categorical industrial user (NSCIU) and so designated by the Superintendent; or
 - (b) A user that:
 - (i) Discharges an average of twenty-five thousand (25,000) gpd or more of process wastewater to the POTW (excluding sanitary, noncontact cooling, and boiler blowdown wastewater).
 - (ii) Contributes a process wastestream which makes up five (5) percent or more of the average dry weather hydraulic or organic capacity of the POTW treatment plant; or
 - (iii) Is designated as such by South Milwaukee on the basis that it has a reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement.
 - (c) Upon a finding that a user meeting the criteria in (b) above has no reasonable potential for adversely affecting the POTW's operation or for violating any pretreatment standard or requirement, South Milwaukee may at any time, on its own initiative or in response to a petition received from a user, and in accordance with procedures in 40 CFR 403.8(f)(6), determine that such user should not be considered a significant industrial user.
- (51) **SLUG LOAD OR SLUG.** Any discharge at a flow rate or concentration, which could cause a violation of the prohibited discharge standards in Subsection 11.10 of this chapter.
- (52) **STANDARD INDUSTRIAL CLASSIFICATION (SIC).** A classification pursuant to the *Standard Industrial Classification Manual* issued by the Office of Management and Budget.
- (53) **STATE.** State of Wisconsin.
- (54) **STORM SEWER OR STORM DRAIN.** A sewer, which carries storm water, surface water, drainage and unpolluted industrial water discharger, such as cooling and air conditioning water, but excludes wastewater.
- (55) **STORM WATER.** Any flow occurring during or following any form of natural precipitation and resulting from such precipitation, including snowmelt.
- (56) **SUPERINTENDENT.** The person designated by South Milwaukee to supervise the operation of the POTW, and who is charged with certain duties and responsibilities by this chapter or a duly authorized representative.

- (57) **SUSPENDED SOLIDS or 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.
- (58) **TOTAL SOLIDS.** The sum of suspended and dissolved solids.
- (59) **TOXIC POLLUTANT.** Any pollutant or combination of pollutants listed as toxic in regulations promulgated by the Administrator or the Environmental Protection Agency under the provision of Section 307(2) of the Act or other Acts.
- (60) **UNPOLLUTED WATER.** Water of quality equal to or better than the effluent criteria in effect, or water that is of sufficient quality that it would not be in violation of federal or state water quality standards, if such water were discharged into navigable waters of the state.
- (61) **UPSET.** An exceptional incident in which a discharger is unintentionally and temporarily in a state of noncompliance with the standards set forth in this chapter 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.
- (62) **USER OR INDUSTRIAL USER.** A source of indirect discharge.
- (63) **WASTEWATER.** Liquid and water-carried industrial wastes and sewage from residential dwellings, commercial buildings, industrial facilities and manufacturing, and institutions, whether treated or untreated, which are contributed to the POTW.
- (64) **WASTEWATER DISCHARGE PERMIT.** As set forth in Subsection 11.31 of this chapter.
- (65) **WASTEWATER TREATMENT PLANT OR TREATMENT PLANT.** That portion of the POTW, which is designed to provide treatment of municipal sewage and industrial waste.
- (66) **WASTEWATER COMMISSION.** See Sec. 4.08
- (67) **WATERS OF THE STATE.** All streams, lakes, ponds, marshes, watercourses, waterways, wells, springs, reservoirs, aquifers, irrigation systems, drainage systems and all other bodies or accumulations of water, surface or underground, natural or artificial, public or private, which are contained within, flow through, or border upon the state or any portion thereof.
- (68) **WISCONSIN POLLUTANT DISCHARGE ELIMINATION SYSTEM (WPDES) PERMIT.** Any permit or requirement issued by the Department of Natural Resources (DNR) pursuant to the Federal Water Pollution Control Act, as amended (33 U.S.C. 1251 et. seq.), for the purpose of controlling sewage, industrial wastes or other wastes under the authority of Section 402 of the Act.

SUBCHAPTER II - REGULATIONS

11.10 - GENERAL SEWER USE REQUIREMENTS

- (1) **Prohibited Discharge Standards**
 - (a) General Prohibitions. No user shall introduce or cause to be introduced into the POTW any pollutant or wastewater which causes pass through or interference. These general prohibitions apply to all users of the POTW whether or not they are subject to categorical pretreatment standards or any other National, State, or Local pretreatment standards or requirements.
 - (b) Specific Prohibitions. No user shall introduce or cause to be introduced into the POTW the following pollutants, substances, or wastewater:

CITY OF SOUTH MILWAUKEE

11-10

11.10

- (i) Pollutants which create a fire or explosion hazard in the POTW including, but not limited to, wastestreams with a closed-cup flashpoint of less than 140° F (60°C) using the test methods specified in 40 CFR 261.21;
- (ii) Wastewater having a pH less than 5.0 or more than 10.0 or otherwise causing corrosive structural damage to the POTW or equipment;
- (iii) Solid or viscous substances which may cause obstruction to the flow in a sewer or other interference with the operation of the Wastewater Treatment Facilities such as but not limited to grease, garbage with particles greater than one-half inch (1/2") in any dimension, animal guts or tissues, paunch manure, bones, hair, hides or fleshings, entrails, whole blood, feathers, ashes, glass, straw, shavings, grass clippings, rags, tar, asphalt residues, chemical residues, paint residues, residues from refining, or processing of fuel or lubricating oil, mud, or glass grinding or polishing wastes.
- (iv) Any pollutants, including oxygen demanding pollutants (BOD, etc.) released at a flow rate and/or pollutant concentration, which a user knows or has reason to know will cause interference to the POTW. In no case shall a slug load have a flow rate or contain concentration or mass of pollutants that exceed for any time period longer than fifteen (15) minutes more than five (5) times the average twenty-four (24) hour concentration, quantities, or flow during normal operation.
- (v) Any wastewater having a temperature which will inhibit biological activity in the POTW Treatment Plant resulting in interference, but in no case wastewater with a temperature at the introduction into the POTW Treatment Plant which exceeds 40 Degrees Celsius (104 Degrees Fahrenheit). An industrial user must limit the temperature range of its discharge to the POTW to between 65.6 Degrees Celsius (150 Degrees Fahrenheit) and 0 Degrees Celsius (32 Degrees Fahrenheit). The Wastewater System Superintendent is further authorized to limit the upper temperature to less than 65.6 Degrees Celsius (150 Degrees Fahrenheit) if the temperature of the wastewater entering the Wastewater
- (vi) Treatment Plant inhibits or interferes with biological activity in the treatment process.
- (vii) Petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin, in amounts that will cause interference or pass through;
- (viii) Pollutants which result in the presence of toxic gases, vapors, or fumes within the POTW in a quantity that may cause acute worker health and safety problems;
- (ix) Trucked or hauled pollutants, except at discharge points designated by the Superintendent in accordance with Subsection 11.24 of this chapter;
- (x) A noxious or malodorous liquids, gases, solids or other wastewater which either singly or by interaction with other wastes are sufficient to create a public nuisance or a hazard to life or to prevent entry into the sewers for maintenance and repair;
- (xi) Wastewater which imparts color which cannot be removed by the treatment process such as, but not limited to, ink wastes, dye wastes and vegetable tanning solutions, which consequently imparts color to the treatment plant's effluent, thereby violating South Milwaukee's WPDES permit;

CITY OF SOUTH MILWAUKEE

11-11

11.10

- (xii) Wastewater containing any radioactive wastes or isotopes except in compliance with applicable state or federal regulations;
 - (xiii) An unpolluted water including but not limited to cooling water, stormwater or groundwater;
 - (xiv) Sludges, screenings or other residues from the pretreatment of industrial wastes.
 - (xv) Wastewater causing, alone or in conjunction with other sources, the treatment plant's effluent to fail a Whole Effluent Toxicity test;
 - (xvi) Any substance, which may cause the POTW's effluent, or any other product of the POTW such as residues, sludges, or scums to be unsuitable for reclamation and reuse or to interfere with the reclamation process. In no case shall a substance discharged to the POTW cause the POTW to be in non-compliance with sludge use or disposal criteria, guidelines or regulations developed under Section 405 of the Act; or 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 criteria applicable to the sludge management method being used.
 - (xvii) Any substance, which will cause the POTW to violate its WPDES Permit or the receiving water quality standards.
 - (xviii) Wastewater containing inert suspended solids (such as but not limited to Fullers earth, lime slurries and lime residues) or dissolved solids (such as but not limited to sodium chloride and sodium sulfate) in such quantities that they would cause interference with the wastewater disposal system.
 - (xix) Detergents, surface-active agents, or other substances which may cause excessive foaming in the POTW;
 - (xx) A wastewater containing fats, wax, grease or oils, whether emulsified or not, in excess of 100 mg/l which may solidify or become viscous at temperatures
 - (xxi) between 0 Degrees Celsius (32 Degrees Fahrenheit) and 65.6 Degrees Celsius (150 Degrees Fahrenheit);
 - (xxii) Wastewater causing two readings on an explosion hazard meter, at the point of discharge into the POTW or at any point in the POTW, of more than five percent (5%) or any single reading over ten percent (10%) of the Lower Explosive Limit (LEL) of the meter. Prohibited materials include but are not limited to gasoline, kerosene, naphtha, benzene, fuel oil, toluene, xylene, ethers, alcohols, ketones, aldehydes, peroxides, chlorates, perchlorates, bromates, carbides, hydrides and sulfides, and any other substances which the city, the state or EPA has notified the user is a fire hazard or a hazard to the system.
 - (xxiii) In no case shall the requirements of this chapter require a wastewater quality that is in excess of the quality of the local potable water supply.
- (2) Pollutants, substances, or wastewater prohibited by this subsection shall not be processed or stored in such a manner that they could be discharged to the POTW. When the Wastewater System Superintendent determines that an industrial user or other user is contributing to the POTW any of the above-enumerated substances in such amounts causing interference with the operation of the POTW, the Wastewater System Superintendent shall:
- (a) Advise the industrial user(s) or other user(s) of the impact of the contribution on the POTW.

CITY OF SOUTH MILWAUKEE

11-12

11.10

- (b) Develop effluent limitation(s) for such industrial user(s) or other user(s) to correct the interference with the POTW.

11.11 NATIONAL CATEGORICAL PRETREATMENT STANDARDS. The categorical pretreatment standards found at 40 CFR Chapter I, Subchapter N, Parts 405 through 471 are hereby incorporated.

- (1) Deadlines for compliance with categorical pretreatment standards by existing sources and new sources shall be in accordance with 40 CFR 403.6(b).
- (2) Where a categorical pretreatment standard is expressed only in terms of either the mass or the concentration of a pollutant in wastewater, the Superintendent may impose equivalent concentration or mass limits in accordance with 40 CFR 403.6(c).
- (3) When wastewater subject to a categorical pretreatment standard is mixed with wastewater not regulated by the same standard, the Superintendent shall impose an alternate limit using the combined wastestream formula in 40 CFR 403.6(e).
- (4) A user may obtain a variance from a categorical pretreatment standard if the user can prove, pursuant to the procedural and substantive provisions in 40 CFR 403.13, that factors relating to its discharge are fundamentally different from the factors considered by EPA when developing the categorical pretreatment standard.
- (5) A user may obtain a net gross adjustment to a categorical standard in accordance with 40 CFR 403.15.

11.12 MODIFICATION OF NATIONAL CATEGORICAL PRETREATMENT STANDARDS.

- (1) Where the City's Wastewater Treatment System achieves consistent removal of pollutants limited by categorical pretreatment standards, the city may apply to the Approval Authority for modification of specific limits in the Categorical Pretreatment Standards. "Consistent Removal" shall mean reduction in the amount of a pollutant or alteration of the nature of a pollutant in the influent to a POTW to a less toxic or harmless state in the effluent which is achieved by that POTW measured according to the procedures set forth in 40 CFR, Part 403, promulgated pursuant to the act. The city may then modify pollutant discharge limits in the Categorical Pretreatment Standards if the requirements contained in 40 CFR, Part 403, are fulfilled and prior approval from the Approval Authority is obtained.
- (2) The Superintendent may use concentration-based limits in lieu of flow-based mass limits for users subject to the Organic Chemicals, Plastics, and Synthetic Fibers (OCPSF) (40 CFR part 414), Petroleum Refining (40 CFR part 419), and Pesticide Chemicals (40 CFR part 455) categories, as established in 40 CFR 403.6(c)(6). The Superintendent may use equivalent mass-based limits in lieu of promulgated concentration-based limits for categorical users to facilitate the adoption of water-conserving technologies, per the conditions established in 40 CFR 403.6(c)(5).
- (3) Any user meeting the definition of a NSCIU and so designated by the Superintendent, will not be subject to wastewater discharge permit requirements, but must certify annually to the Superintendent that the user still meets the definition of a NSCIU and meets compliance requirements with applicable pretreatment standards, after having met Baseline Monitoring Report requirements. If the Superintendent determines that an existing NSCIU no longer meets the definition of a NSCIU or requirements to be in consistent compliance with pretreatment standards, then the user shall be classified as a SIU.

11.13 STATE PRETREATMENT STANDARDS. The State of Wisconsin Pretreatment Standards found in the Wisconsin Administrative Code NR220 through NR297 are hereby incorporated.

CITY OF SOUTH MILWAUKEE

11-13

11.14

11.14 LOCAL LIMITS. The following pollutant limits are established to protect against pass through and interference. No person shall discharge wastewater containing in excess of the following maximum 24-hour average limit:

<u>Pollutant</u>	<u>Concentration (mg/l)</u>
Arsenic	0.44
Cadmium	0.1
Chromium	12.0
Copper	1.9
Cyanide (total)	0.28
Lead	0.45
Mercury	0.01
Molybdenum	0.4
Nickel	1.1
Selenium	0.15
Silver	0.4
Zinc	3.5

The above limits apply at the point where the wastewater is discharged to the POTW. All concentrations for metallic substances are for "total" metal unless indicated otherwise. The Superintendent may impose mass limitations in addition to, or in place of, the concentration-based limitations above, upon request by the user. The Superintendent may also impose Best Management Practices (BMPs) as an alternative to numeric local limits in accordance with 40 CFR 403.5. Examples of BMP use includes, but is not limited to, to prevent pollution through dental facility amalgam mercury capture, or photoprocessor silver reclaim. Users subject to BMPs shall provide documentation, as required by the Superintendent, to demonstrate compliance with the BMP.

11.15 SOUTH MILWAUKEE'S RIGHT OF REVISION. The City reserves the right to establish, by chapter, or in wastewater discharge permits, more stringent standards or requirements on discharges to the POTW.

11.16 DILUTION. No user shall ever increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a discharge limitation unless expressly authorized by an applicable pretreatment standard or requirement. The Superintendent may impose mass limitations on users who are using dilution to meet applicable pretreatment standards or requirements, or in other cases when the imposition of mass limitations is appropriate.

11.17 VARIANCE PROVISIONS.

- (1) To the extent consistent with the applicable provisions of the Act and the Wisconsin Toxic and Pretreatment Effluent Standards, Section 147.07, Wisconsin Statutes, and regulations promulgated thereunder, the Wastewater Commission may grant individual variances beyond the limitations prescribed in Subsections 11.10, 11.11, 11.12, 11.13, and 11.14 of this chapter whenever it is found, upon presentation of adequate proof, that compliance with the provisions of said sections result in an unnecessary hardship.
- (2) A variance may be allowed only upon written request for a variance submitted to the Wastewater Commission and subsequent public hearing and issuance of a variance by the Wastewater Commission. In granting or denying a variance, the Wastewater Commission shall file a written report setting forth the findings of fact based on the evidence presented.
- (3) The Wastewater Commission shall not vary the regulations of this chapter unless findings are made based on the evidence presented in each case that:
 - (a) Because of the particular physical characteristics of the property involved, a particular hardship to the owner would result as distinguished from a mere inconvenience if the strict letter of the regulations were to be carried out.

CITY OF SOUTH MILWAUKEE

11-14

11.17

- (b) The conditions upon which the variance is sought are unique to the property involved and are not applicable generally to other property.
 - (c) The variance shall not be granted solely on the basis of economic gain or loss.
 - (d) The variance shall not be granted unless it is shown that the variance will not be contrary to the public interest and will not be detrimental to the public welfare, health, and safety.
 - (e) The variance shall not be granted for a self-created hardship.
- (4) In granting a variance, the Wastewater Commission may impose such conditions, exceptions, time limitations, duration, and other limitations as the policies of this chapter, the applicable Wisconsin Statutes, and the Act may require.
 - (5) Any variance granted by the Wastewater Commission shall not exceed five (5) years and shall be granted upon the condition that the person who receives such variance shall make periodic progress reports as the Wastewater Commission shall specify. Such variance may be extended from year to year by the Wastewater Commission but only if satisfactory progress has been shown.
 - (6) If the limits of a variance are exceeded or if the person granted a variance violates any of the terms of a variance, a violation of this chapter is deemed to have occurred and the permit variance may be revoked on thirty (30) days notice.

11.18 ACCIDENTAL DISCHARGES.

- (1) Each industrial or other user shall provide protection from accidental discharge of prohibited materials or other substances regulated by this chapter. Facilities to prevent accidental discharge of prohibited materials shall be provided and maintained at the owner or industrial or other user's cost and expense.
- (2) A notice shall be permanently posted on the industrial user's bulletin board or other prominent place advising employees whom to call in the event of a dangerous discharge. Employers shall insure that all employees who may cause such a dangerous discharge to occur or who may suffer from such a discharge are advised of the emergency notification procedure.

11.19 ACCEPTANCE OF HAULED WASTE

- (1) No person in the business of gathering and disposing of septic tank sludge or holding tank sewage shall transfer such waste into any disposal area or public sewer located within the City of South Milwaukee unless written approval for disposal has been first obtained from the Superintendent. Written application for this approval shall be made to the Superintendent and shall state the name and address of the applicant; number of its disposal units; and the make, model, and license number of each unit. Approval shall be non-transferable, except in the case of replacement of the disposal unit for which the Superintendent shall have designated a permit. The Superintendent may impose such conditions as deemed necessary on any approval granted. Any hauled waste approved by the Superintendent may only be disposed at points designated by the Superintendent.
- (2) No persons may discharge hauled leachate or contaminated groundwater to the City of South Milwaukee Treatment Facility unless a Permit for Discharge has first been obtained from the Wastewater Superintendent. Written application for this Permit shall be completed by the Generator of the leachate or groundwater on application forms provided by the City. Permit applications shall include all information described in the Hauled Leachate and Groundwater Policy. Permits shall be non-transferable. The Superintendent may impose such conditions as deemed necessary on any approval granted.

CITY OF SOUTH MILWAUKEE

11-15

11.19

- (3) Any person or party disposing of septic tank sludge, holding tank sewage, leachate or contaminated groundwater, agrees to carry public liability insurance in an amount not less than One Hundred Thousand Dollars (\$100,000) to protect any and all persons or property from injury and/or damage caused in any way or manner by an act, or the failure to act, by any of his employees. The person(s) shall furnish a certificate certifying such insurance will be in full force and effect.
- (4) All waste disposed of into the treatment system shall be of domestic or commercial origin, or compatible pollutants only, and an approved Hauler agrees that he will comply with the provisions of any and all applicable chapters of the City of South Milwaukee and shall not deposit or drain any gasoline, oil, acid, alkali, grease, rags, waste, volatile or inflammable liquids, or other deleterious substances into any manhole, nor allow any earth, sand, or other solid material to pass into any part of the wastewater collection and treatment facilities. No hauled waste of industrial origin shall be disposed into the sewer collection system or treatment system, including waste generated by the farming or dairy industry.
- (5) All wastes shall be only as the Superintendent determines will not harm the POTW or its workers, and shall be subject to all the limitations imposed upon industrial users of the system. The Superintendent may require a test to confirm compatibility. The amount of waste accepted shall not exceed that necessary to conduct this test, and no person allowed to deposit waste into the POTW shall have any right to deposit any waste in the system, other than such as may from time to time during this trial period, be specifically agreed to by the Superintendent in writing prior to the deposit.
- (6) The person(s) disposing waste agrees to indemnify and hold harmless the City from any and all liability and claims for damages arising out of or resulting from work and labor performed.
- (7) The superintendent may request sampling and analysis of hauled wastes. It will be the responsibility of the hauler to reimburse the City of South Milwaukee Treatment Facility for any monitoring and/or analytical costs.

SUBCHAPTER III - PRETREATMENT OF WASTEWATER

11.20 PRETREATMENT FACILITIES. Users shall provide wastewater treatment as necessary to comply with this chapter and shall achieve compliance with all categorical pretreatment standards, local limits, and the prohibitions set out in Subsection 11.10 of this chapter within the time limitations specified by EPA, the State, or the Superintendent, whichever is more stringent. Any facilities necessary for compliance shall be provided, operated, and maintained at the user's expense. Detailed plans describing such facilities and operating procedures shall be submitted to the Superintendent for review, and shall be acceptable to the Superintendent before such facilities are constructed. The review of such plans and operating procedures shall in no way relieve the user from the responsibility of modifying such facilities as necessary to produce a discharge acceptable to the City under the provisions of this chapter.

11.21 MONITORING FACILITIES.

- (1) The City shall require to be provided and operated at the industrial user's own expense monitoring facilities to allow inspection, sampling, and flow measurement of the building sewer and/or internal drainage systems. The monitoring facility normally should be situated on the industrial user's premises, but the City may, when such a location would be impractical or cause undue hardship on the industrial user, allow the facility to be constructed in the public street or sidewalk area, and located so that it will not be obstructed by landscaping or parked vehicles.
- (2) There shall be ample room in or near such sampling manhole or facility to allow accurate sampling and preparation of samples for analysis. The facility, sampling, and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expenses of the industrial user.

CITY OF SOUTH MILWAUKEE

11-16

11.21

- (3) Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with the City's requirements and all applicable local construction standards and specifications. Construction shall be completed within 90 days following written notification that the City requires a sampling manhole unless the City otherwise grants a time extension.
- (4) Monitoring facilities shall be constructed and maintained in accordance with the specifications for a gauging manhole as detailed in the most current edition of "Standard Specifications for Sewer and Water Construction in Wisconsin".
- (5) When more than one industrial user can discharge into a common sewer, the Superintendent may require installation of separate monitoring equipment for each industrial user. When there is a significant difference in wastewater constituents and characteristics produced by different operations of a single industrial user, the Superintendent may require that separate monitoring facilities be installed for each separate discharge.

11.22 ADDITIONAL PRETREATMENT MEASURES.

- (1) Whenever deemed necessary, the Superintendent may require users to restrict their discharge during peak flow periods, designate that certain wastewater be discharged only into specific sewers, relocate and/or consolidate points of discharge, separate sewage wastestreams from industrial wastestreams, and such other conditions as may be necessary to protect the POTW and determine the user's compliance with the requirements of this chapter.
- (2) The Superintendent may require any person discharging into the POTW to install and maintain, on their property and at their expense, a suitable storage and flow-control facility to ensure equalization of flow. A wastewater discharge permit may be issued solely for flow equalization.
- (3) Grease, oil, and sand interceptors shall be provided when, in the opinion of the Superintendent, they are necessary for the proper handling of wastewater containing excessive amounts of grease and oil, or sand; except that such interceptors shall not be required for residential users. All interception units shall be of type and capacity approved by the Superintendent and shall be so located to be easily accessible for cleaning and inspection. Such interceptors shall be inspected, cleaned, and repaired regularly, as needed, by the user at their expense.
- (4) Users with the potential to discharge flammable substances may be required to install and maintain an approved combustible gas detection meter.

11.23 ACCIDENTAL DISCHARGE/SLUG CONTROL PLANS. At least once, the Superintendent shall evaluate whether each significant industrial user needs an accidental discharge/slug control plan. The Superintendent may require any user to develop, submit for approval, and implement such a plan. Alternatively, the Superintendent may develop such a plan for any user. The Superintendent shall review the need for said plan, or other actions, as part of the ongoing oversight of the user. An accidental discharge/slug control plan shall address, at a minimum, the following:

- (1) Description of discharge practices, including nonroutine batch discharges;
- (2) Description of stored chemicals;
- (3) Procedures for immediately notifying the Superintendent of any accidental or slug discharge, as required by Subsection 11.32(6) of this chapter; and
- (4) Procedures to prevent adverse impact from any accidental or slug discharge. Such procedures include, but are not limited to, inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site runoff, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants, including solvents, and/or measures and equipment for emergency response.

11.24 CENTRALIZED WASTE TREATERS.

- (1) Initial Report. At least one hundred eighty (180) days before the commencement of discharge, a new centralized waste treater shall provide the Superintendent with the following information:
 - (a) Name, location, mailing address, and names of the owner and operator;
 - (b) A description of the treatment equipment and processes, a schematic diagram and a discussion of performance capabilities;
 - (c) The types of waste the centralized waste treater intends to treat, identified by industrial category and manufacturing process, and estimated volumes for each type of waste;
 - (d) A description of the waste acceptance procedures developed according to part (3) of this section;
 - (e) A description of effluent monitoring plans developed according to part (4) of this section;
 - (f) Any other information required by the Superintendent.
- (2) New Wastestream Report. At least sixty (60) days before accepting wastes from an industrial category or manufacturing process not included in the report required by part (A) of this section, a centralized waste treater shall submit to the Superintendent the following information for the new type of waste:
 - (a) A description of the waste, including industrial category and manufacturing process;
 - (b) Estimates for the volume of waste; and
 - (c) The equipment and processes that will be used for treatment.
- (3) Waste Acceptance Procedures. Each centralized waste treater shall implement waste acceptance procedures sufficient to ensure that wastes accepted for treatment are within the centralized waste treater's treatment capabilities and have no characteristics that could reasonably be expected to prevent compliance with the applicable pretreatment standards and requirements. These acceptance procedures shall include sampling and analysis, treatability studies and any other procedures necessary to identify the source and character of the waste.
- (4) Effluent Monitoring. Sampling and analysis of the centralized waste treater effluent shall be sufficient to assess consistent compliance with the applicable pretreatment standards and requirements. Samples shall be analyzed according to section 11.32(10) of this chapter.
- (5) Periodic Compliance Reports. On a schedule established by the Superintendent, each centralized waste treater shall provide to the Superintendent the following information for all wastes treated since the previous report:
 - (a) The name and address of the generator of each waste received by the centralized waste treater;
 - (b) The volume and arrival date of each wastewater shipment to the centralized waste treater, and the name and address of the transporter;
 - (c) The applicable pretreatment standards, including the generator's production data, if production based standards apply;
 - (d) Effluent volume and effluent sampling and analysis results; and

- (e) Any other information requested by the Superintendent.
- (6) Combined Waste Streams.
 - (a) When waste streams regulated by different categorical pretreatment standards are combined prior to treatment, alternative discharge limits shall be derived according to section 11.11(3), except as provided in parts 11.24(6)(b) and (c).
 - (b) (i) The centralized waste treater shall comply with alternative discharge limits determined by the Superintendent when:
 - (A) The Superintendent determines that the calculation of alternative discharge limits according to section 11.11(3) are not practical; and
 - (B) The DNR has approved the Superintendent's determination and alternative limits, which have been developed according to section 11.24(6)(b)(ii) as follows.
 - (ii) Alternative limits developed according to this subsection shall assure treatment equivalent to that prescribed in the categorical standards, which apply to the contributing waste streams. Alternative limits shall be based on the most stringent categorical limit for each pollutant or the best available treatment technologies for the contributing waste streams.
 - (c) Neither dilution nor mixing may be used in lieu of treatment to achieve compliance with applicable limitations, the Superintendent shall require segregated treatment of waste streams.
- (7) Additional Requirements. Centralized waste treaters shall submit reports to the Superintendent according to section 11.32

SUBCHAPTER IV - ADMINISTRATION

11.30 WASTEWATER DISCHARGE PERMIT APPLICATION. When requested by the Superintendent, a user must submit information on the nature and characteristics of its wastewater within 30 days of the request. The Superintendent is authorized to prepare a form for this purpose and may periodically require users to update this information.

- (1) Wastewater Discharge Permit Requirement
 - (a) No significant industrial user shall discharge wastewater into the POTW without first obtaining a wastewater discharge permit from the Superintendent, except that a significant industrial user that has filed a timely application pursuant to Subsection 11.30(2) of this chapter may continue to discharge for the time period specified therein.
 - (b) The Superintendent may require other users to obtain wastewater discharge permits as necessary to carry out the purposes of this chapter.
 - (c) Any violation of the terms and conditions of a wastewater discharge permit shall be deemed a violation of this chapter and subjects the wastewater discharge permittee to the sanctions set out in Subchapter V of this chapter. Obtaining a wastewater discharge permit does not relieve a permittee of its obligation to comply with all Federal and State pretreatment standards or requirements or with any other requirements of Federal, State, and local law.

CITY OF SOUTH MILWAUKEE

11-19

11.30

- (2) **Wastewater Discharge Permitting: Existing Connections.** Any user required to obtain a wastewater discharge permit who was discharging wastewater into the POTW prior to the effective date of this chapter and who wishes to continue such discharges in the future, shall, within 90 days after said date, apply to the Superintendent for a wastewater discharge permit in accordance with Subsection 11.30(4) of this chapter, and shall not cause or allow discharges to the POTW to continue after 90 days of the effective date of this chapter except in accordance with a wastewater discharge permit issued by the Superintendent.
- (3) **Wastewater Discharge Permitting: New Connections.** Any user required to obtain a wastewater discharge permit that proposes to begin or recommence discharging into the POTW must obtain such permit prior to the beginning or recommencing of such discharge. An application for this wastewater discharge permit, in accordance with Subsection 11.30(4) of this chapter, must be filed at least 60 days prior to the date upon which any discharge will begin or recommence.
- (4) **Wastewater Discharge Permit Application Contents.** All users required to obtain a wastewater discharge permit must submit a permit application. The Superintendent may require all users to submit as part of an application the following information:
 - (a) All information required by Subsection 11.32(1)(b) of this chapter;
 - (b) Description of activities, facilities, and plant processes on the premises, including a list of all raw materials and chemicals used or stored at the facility which are, or could accidentally or intentionally be, discharged to the POTW;
 - (c) Number and type of employees, hours of operation, and proposed or actual hours of operation;
 - (d) Each product produced by type, amount, process or processes, and rate of production;
 - (e) Type and amount of raw materials processed (average and maximum per day);
 - (f) Site plans, floor plans, mechanical and plumbing plans, and details to show all sewers, floor drains, and appurtenances by size, location, and elevation, and all points of discharge;
 - (g) Time and duration of discharges; and
 - (h) Any other information as may be deemed necessary by the Superintendent to evaluate the wastewater discharge permit application.

Incomplete or inaccurate applications will not be processed and will be returned to the user for revision.

- (5) **Application Signatories and Certification.** All wastewater discharge permit applications and user reports must be signed by an authorized representative of the user and contain the following certification statement:

“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

- (6) Wastewater Discharge Permit Decisions. The Superintendent will evaluate the data furnished by the user and may require additional information. Within ninety-days (90-days) of receipt of a complete wastewater discharge permit application; the Superintendent will determine whether or not to issue a wastewater discharge permit. The Superintendent may deny any application for a wastewater discharge permit.

11.31 WASTEWATER DISCHARGE PERMIT ISSUANCE PROCESS

- (1) Wastewater Discharge Permit Duration. A wastewater discharge Permit shall be issued for a specified time period, not to exceed five (5) years from the effective date of the permit. A wastewater discharge permit may be issued for a period less than five (5) years, at the discretion of the Superintendent. Each wastewater discharge permit will indicate a specific date upon which it will expire.
- (2) Wastewater Discharge Permit Contents. A wastewater discharge permit shall include such conditions as are deemed reasonably necessary by the Superintendent to prevent pass through or interference, protect the quality of the water body receiving the treatment plant's effluent, protect worker health and safety, facilitate sludge management and disposal, and protect against damage to the POTW.
- (a) Wastewater discharge permits must contain:
- (i) A statement that indicates wastewater discharge permit duration, which in no event shall exceed 5 years;
 - (ii) A statement that the wastewater discharge permit is nontransferable without prior notification to South Milwaukee in accordance with Subsection 11.31(5) of this chapter, and provisions for furnishing the new owner or operator with a copy of the existing wastewater discharge permit;
 - (iii) Effluent limits based on applicable pretreatment standards;
 - (iv) Self-monitoring, sampling, reporting, notification, and record-keeping requirements. These requirements shall include an identification of pollutants to be monitored, sampling location, sampling frequency, and sample type based on Federal, State, and local law;
 - (v) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements, and any applicable compliance schedule. Such schedule may not extend the time for compliance beyond that required by applicable Federal, State, or local law; and
 - (vi) Provisions to prevent accidental, unanticipated, non-routine, or slug discharges, when it is determined by the Superintendent that such provisions are necessary.
- (b) Wastewater discharge permits may contain, but need not be limited to, the following conditions:
- (i) Limits on the average and/or maximum rate of discharge, time of discharge, and/or requirements for flow regulation and equalization;
 - (ii) Requirements for the installation of pretreatment technology, pollution control, or construction of appropriate containment devices, designed to reduce, eliminate, or prevent the introduction of pollutants into the treatment works;
 - (iii) Development and implementation of waste minimization plans to reduce the amount of pollutants discharged to the POTW;

CITY OF SOUTH MILWAUKEE

11-21

11.31

- (iv) The unit charge or schedule of user charges and fees for the management of the wastewater discharged to the POTW;
 - (v) Requirements for installation and maintenance of inspection and sampling facilities and equipment;
 - (vi) A statement that compliance with the wastewater discharge permit does not relieve the permittee of responsibility for compliance with all applicable Federal and State pretreatment standards, including those which become effective during the term of the wastewater discharge permit; and
 - (vii) Other conditions including a Best Management Practice condition as deemed appropriate by the Superintendent to insure compliance with the chapter and State and Federal laws, rules and regulations.
- (3) Wastewater Discharge Permit Appeals. The Superintendent shall provide public notice of the issuance of a wastewater discharge permit. Any person, including the user, may petition the Superintendent to reconsider the terms of a wastewater discharge permit within 30 days of notice of its issuance.
- (a) Failure to submit a timely petition for review shall be deemed to be a waiver of the administrative appeal.
 - (b) In its petition, the appealing party must indicate the wastewater discharge permit provisions objected to, the reasons for this objection, and the alternative condition, if any, it seeks to place in the wastewater discharge permit.
 - (c) The effectiveness of the wastewater discharge permit shall not be stayed pending the appeal.
 - (d) If the Superintendent fails to act within 30 days, a request for reconsideration shall be deemed to be denied. Decisions not to reconsider a wastewater discharge permit, not to issue a wastewater discharge permit, or not to modify a wastewater discharge permit shall be considered final administrative actions for purposes of judicial review.
 - (e) Aggrieved parties seeking judicial review of the final administrative wastewater discharge permit decision must do so by filing a complaint with the Milwaukee County Court.
- (4) Wastewater Discharge Permit Modification.
- Superintendent may modify a wastewater discharge permit for good cause, including, but not limited to, the following reasons:
- (a) To incorporate any new or revised Federal, State, or Local pretreatment standards or requirements;
 - (b) To address significant alterations or additions to the user's operation, processes, or wastewater volume or character since the time of wastewater discharge permit issuance;
 - (c) A change in the POTW that requires either a temporary or permanent reduction or elimination of the authorized discharge;
 - (d) Information indicating that the permitted discharge poses a threat to South Milwaukee's POTW, South Milwaukee's personnel, or the receiving waters;
 - (e) Violation of any terms or conditions of the wastewater discharge permit;

CITY OF SOUTH MILWAUKEE

11-22

11.31

- (f) Misrepresentations or failure to fully disclose all relevant facts in the wastewater discharge permit application or in any required reporting;
 - (g) Revision of or a grant of variance from categorical pretreatment standards pursuant to 40 CFR 403.13;
 - (h) To correct typographical or other errors in the wastewater discharge permit; or
 - (i) To reflect a transfer of the facility ownership or operation to a new owner or operator.
- (5) Wastewater Discharge Permit Transfer. Wastewater discharge permits may be transferred to a new owner or operator only if the permittee gives at least 30 days advance notice to the Superintendent and the Superintendent approves the wastewater discharge permit transfer. The notice to the Superintendent must include a written certification by the new owner or operator which:
- (a) States that the new owner and/or operator have no immediate intent to change the facility's operations and processes;
 - (b) Identifies the specific date on which the transfer is to occur; and
 - (c) Acknowledges full responsibility for complying with the existing wastewater discharge permit.
- Failure to provide advance notice of a transfer renders the wastewater discharge permit void as of the date of facility transfer.
- (6) Wastewater Discharge Permit Revocation. The Superintendent may revoke a wastewater discharge permit for good cause, including, but not limited to, the following reasons:
- (a) Failure to notify the Superintendent of significant changes to the wastewater prior to the changed discharge;
 - (b) Failure to provide prior notification to the Superintendent of changed conditions pursuant to Subsection 11.32(5) of this chapter;
 - (c) Misrepresentation or failure to fully disclose all relevant facts in the wastewater discharge permit application;
 - (d) Falsifying self-monitoring reports;
 - (e) Tampering with monitoring equipment;
 - (f) Refusing to allow the Superintendent timely access to the facility premises and records;
 - (g) Failure to meet effluent limitations;
 - (h) Failure to pay fines;
 - (i) Failure to pay sewer charges;
 - (j) Failure to meet compliance schedules;
 - (k) Failure to complete a wastewater survey or the wastewater discharge permit application;

CITY OF SOUTH MILWAUKEE

11-23

11.31

- (l) Failure to provide advance notice of the transfer of business ownership of a permitted facility; or
- (m) Violation of any pretreatment standard or requirement, or any terms of the wastewater discharge permit or this chapter.

Wastewater discharge permits shall be voidable upon cessation of operations or transfer of business ownership. All wastewater discharge permits issued to a particular user are void upon the issuance of a new wastewater discharge permit to that user.

- (7) **Wastewater Discharge Permit Reissuance.** A user with an expiring wastewater discharge permit shall apply for wastewater discharge permit reissuance by submitting a complete permit application, in accordance with Subsection 11.30(4) of this chapter, a minimum of 90 days prior to the expiration of the user's existing wastewater discharge permit.

11.32 REPORTING REQUIREMENTS

- (1) **Baseline Monitoring Report**
 - (a) Within either one hundred eighty (180) days after the effective date of a categorical pretreatment standard, or the final administrative decision on a category determination under 40 CFR 403.6(a)(4), whichever is later existing categorical users currently discharging to or scheduled to discharge to the POTW shall submit to the Superintendent a report which contains the information listed in paragraph b, below. At least ninety (90) days prior to commencement of their discharge, new sources, and sources that become categorical users subsequent to the promulgation of an applicable categorical standard, shall submit to the Superintendent a report which contains the information listed in paragraph b, below. A new source shall report the method of pretreatment it intends to use to meet applicable categorical standards. A new source also shall give estimates of its anticipated flow and quantity of pollutants to be discharged.
 - (b) Users described above shall submit the information set forth below.
 - (i) Identifying Information. The name and address of the facility, including the name of the operator and owner.
 - (ii) Environmental Permits. A list of any environmental control permits held by or for the facility.
 - (iii) Description of Operations. A brief description of the nature, average rate of production, and standard industrial classifications of the operation(s) carried out by such user. This description should include a schematic process diagram, which indicates points of discharge to the POTW from the regulated processes.
 - (iv) Flow Measurement. Information showing the measured average daily, maximum daily, and 30 minute peak flow, in gallons per day, to the POTW from regulated process streams and other streams, as necessary, to allow use of the combined wastestream formula set out in 40 CFR 403.6(e).
 - (v) Measurement of Pollutants.
 - (A) The categorical pretreatment standards applicable to each regulated process.

CITY OF SOUTH MILWAUKEE

11-24

11.32

- (B) The results of sampling and analysis identifying the nature and concentration, and/or mass, where required by the standard or by the Superintendent, of regulated pollutants in the discharge from each regulated process. Instantaneous, daily maximum, and long-term average concentrations, or mass, where required, shall be reported. The sample shall be representative of daily operations and shall be analyzed in accordance with procedures set out in Subsection 11.32(10) of this chapter.
 - (C) Sampling must be performed in accordance with procedures identified in Subsection 11.32(11) of this chapter as set out in 40 CFR 403.12(b)5(iii).
 - (D) A minimum of one representative sample is required to compile the data necessary to comply with the requirements for each regulated process.
 - (E) Samples should be taken immediately downstream from pretreatment facilities if such exist or immediately downstream from the regulated process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the User should measure the flows and concentrations necessary to allow use of the combined wastestream formula of 40 CFR 403.6(e) in order to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with 40 CFR 403.6(e), this adjusted limit along with supporting data shall be submitted to the Superintendent.
- (vi) Certification. A statement, reviewed by the user's authorized representative and certified by a qualified professional, indicating whether pretreatment standards are being met on a consistent basis, and, if not, whether additional operation and maintenance (O&M) and/or additional pretreatment is required to meet the pretreatment standards and requirements.
 - (vii) Compliance Schedule. If additional pretreatment and/or O&M will be required to meet the pretreatment standards, the shortest schedule by which the user will provide such additional pretreatment and/or O&M. The completion date in this schedule shall not be later than the compliance date established for the applicable pretreatment standard. A compliance schedule pursuant to this section must meet the requirements set out in Subsection 11.32(2) of this chapter.
 - (viii) Signature and Certification. All baseline monitoring reports must be signed and certified in accordance with Subsection 11.30(5) of this chapter.
- (2) Compliance Schedule Progress Reports. The following conditions shall apply to the compliance schedule required by Subsection 11.32(1)(b)(vii) of this chapter:
- (a) The schedule shall contain progress increments in the form of dates for the commencement and completion of major events leading to the construction and operation of additional pretreatment required for the user to meet the applicable pretreatment standards (such events include, but are not limited to, hiring an engineer, completing preliminary and final plans, executing contracts for major components, commencing and completing construction, and beginning and conducting routine operation);
 - (b) No increment referred to above shall exceed nine (9) months;

CITY OF SOUTH MILWAUKEE

11-25

11.32

- (c) The user shall submit a progress report to the Superintendent no later than fourteen (14) days following each date in the schedule and the final date of compliance including, as a minimum, whether or not it complied with the increment of progress, the reason for any delay, and, if appropriate, the steps being taken by the user to return to the established schedule; and
 - (d) In no event shall more than nine (9) months elapse between such progress reports to the Superintendent.
 - (3) Ninety-Day (90-Day) Compliance Report. Within ninety (90) days following the date for final compliance with applicable categorical pretreatment standards, or in the case of a new source following commencement of the introduction of wastewater into the POTW, any user subject to such pretreatment standards and requirements shall submit to the Superintendent a report containing the information described in Subsection 11.32(1)(b)(iv-vi) of this chapter. For users subject to equivalent mass or concentration limits established in accordance with the procedures in 40 CFR 403.6(c), this report shall contain a reasonable measure of the user's long-term production rate. For all other users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production (or other measure of operation), this report shall include the user's actual production during the appropriate sampling period. All compliance reports must be signed and certified in accordance with Subsection 11.30(5) of this chapter.
 - (4) Periodic Compliance Reports
 - (a) All significant industrial users shall at a frequency determined by the Superintendent but in no case less than twice per year (in June and December), submit a report indicating the nature and concentration of pollutants in the discharge which are limited by Pretreatment Standards and the measured or estimated average and maximum daily flow for the reporting period daily flows. All periodic compliance reports must be signed and certified in accordance with Subsection 11.30(5) of this chapter.
 - (b) All wastewater samples must be representative of the user's discharge. Wastewater monitoring and flow measurement facilities shall be properly operated, kept clean, and maintained in good working order at all times. The failure of a user to keep its monitoring facility in good working order shall not be grounds for the user to claim that sample results are unrepresentative of its discharge.
 - (c) If a user subject to the reporting requirement in this subsection monitors any pollutant more frequently than required by the Superintendent, using the procedures prescribed in Subsection 11.32(11) of this chapter, the results of this monitoring shall be included in the report.
 - (5) Reports of Changed Conditions. Each user must notify the Superintendent of any planned significant changes to the user's operations or system, which might alter the nature, quality, or volume of its wastewater at least 20 days before the change.
 - (a) The Superintendent may require the user to submit such information as may be deemed necessary to evaluate the changed condition, including the submission of a wastewater discharge permit application under Subsection 11.30(4) of this chapter.
 - (b) The Superintendent may issue a wastewater discharge permit under Subsection 11.30(6) of this chapter or modify an existing wastewater discharge permit under Subsection 11.31(4) of this chapter in response to changed conditions or anticipated changed conditions.

CITY OF SOUTH MILWAUKEE

11-26

11.32

- (c) For purposes of this requirement, significant changes include, but are not limited to, flow increases of 20 percent or greater, and the discharge of any previously unreported pollutants.
- (6) Reports of Potential Problems or Upset
 - (a) In the case of any discharge, including, but not limited to, accidental discharges, discharges of a nonroutine, episodic nature, a noncustomary batch discharge, or a slug load, that may cause potential problems for the POTW, the user shall immediately telephone and notify the Superintendent of the incident. This notification shall include the location of the discharge, type of waste, concentration and volume, if known, and corrective actions taken by the user.
 - (b) Within five (5) days following such discharge, the user shall, unless waived by the Superintendent, submit a detailed written report describing the cause(s) of the discharge and the measures to be taken by the user to prevent similar future occurrences. Such notification shall not relieve the user of any expense, loss, damage, or other liability which may be incurred as a result of damage to the POTW, natural resources, or any other damage to person or property; nor shall such notification relieve the user of any fines, penalties, or other liability which may be imposed pursuant to this chapter.
 - (c) A notice shall be permanently posted on the user's bulletin board or other prominent place advising employees whom to call in the event of a discharge described in paragraph a, above. Employers shall ensure that all employees, who may cause such a discharge to occur, are advised of the emergency notification procedure.
- (7) Reports from Unpermitted Users. All users not required to obtain a wastewater discharge permit shall provide appropriate reports to the Superintendent as the Superintendent may require.
- (8) Notice of Violation\repeat Sampling and Reporting. If sampling performed by a user indicates a violation, the user must notify the Superintendent within twenty-four (24) hours of becoming aware of the violation. The user shall also repeat the sampling and analysis and submit the results of the repeat analysis to the Superintendent within thirty (30) days after becoming aware of the violation. The user is not required to resample if the Superintendent monitors at the user's facility at least once a month, or if the Superintendent samples between the user's initial sampling and when the user receives the results of this sampling.
- (9) Notification of the Discharge of Hazardous Waste

CITY OF SOUTH MILWAUKEE

11-27

11.32

- a) Any user who commences the discharge of hazardous waste shall notify the POTW, the EPA Regional Waste Management Division Director, and State hazardous waste authorities, in writing, of any discharge into the POTW 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 user discharges more than one hundred (100) kilograms of such waste per calendar month to the POTW, the notification also shall contain the following information to the extent such information is known and readily available to the user: 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 (12) months. All notifications must take place no later than one hundred and eighty (180) days after the discharge commences. Any notification under this paragraph need be submitted only once for each hazardous waste discharged. However, notifications of changed conditions must be submitted under Subsection 11.32(5) of this chapter. The notification requirement in this subsection does not apply to pollutants already reported by users subject to categorical pretreatment standards under the self-monitoring requirements of Subsections 11.32(1), (3) and (4) of this chapter.
- (b) Dischargers are exempt from the requirements of paragraph a, above, during a calendar month in which they discharge no more than fifteen (15) 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 (15) kilograms of nonacute 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. Subsequent months during which the user discharges more than such quantities of any hazardous waste do not require additional notification.
- (c) 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 user must notify the Superintendent, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within ninety (90) days of the effective date of such regulations.
- (d) In the case of any notification made under this subsection, the user 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.
- (e) This provision does not create a right to discharge any substance not otherwise permitted to be discharged by this chapter, a permit issued thereunder, or any applicable Federal or State law.
- (10) Analytical Requirements. All pollutant analyses, including sampling techniques, to be submitted as part of a wastewater discharge permit application or report shall be performed in accordance with the techniques prescribed in 40 CFR Part 136, unless otherwise specified in an applicable categorical pretreatment standard. If 40 CFR Part 136 does not contain sampling or analytical techniques for the pollutant in question, sampling and analyses must be performed in accordance with procedures approved by EPA.
- (11) Sample Collection
- (a) Except as indicated in Paragraph (b), below, the user must collect wastewater samples using 24-hour flow proportional composite sampling techniques. In the event flow proportional sampling is infeasible, the Superintendent may authorize the use of time proportional sampling or composited grab samples, where the user demonstrates that this will provide a representative sample of the effluent being discharged. In addition, grab samples may be required to show compliance with instantaneous discharge limits.

- (b) Samples for oil and grease, temperature, pH, cyanide, phenols, sulfide, and volatile organic compounds must be obtained using grab collection techniques. A minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics for new users and users that make changes or install new treatment equipment. The Superintendent may authorize a single grab sample for these parameters for existing users periodic compliance reports.
 - (c) The Superintendent may authorize the significant user to forgo sampling for a pollutant if the user demonstrates through sampling and a technical evaluation of its facility operations, that a given pollutant is neither present nor expected to be present in the discharge, or is only present at background levels from intake water without any increase in the pollutant due to the activities of the user.
- (12) **Timing.** Written reports will be deemed to have been submitted on the date postmarked. For reports, which are not mailed, postage prepaid, into a mail facility serviced by the United States Postal Service, the date of receipt of the report shall govern.
- (13) **Recordkeeping.** Users subject to the reporting requirements of this chapter shall retain, and make available for inspection and copying, all records of information obtained pursuant to any monitoring activities required by this chapter and any additional records of information obtained pursuant to monitoring activities undertaken by the user independent of such requirements. Records shall include the date, exact place, method, and time of sampling, and the name of the person(s) taking the samples; the dates analyses were performed; who performed the analyses; the analytical techniques or methods used; and the results of such analyses. These records shall remain available for a period of at least three (3) years. This period shall be automatically extended for the duration of any litigation concerning the user or South Milwaukee, or where the Superintendent has specifically notified the user of a longer retention period.

11.33 COMPLIANCE MONITORING

- (1) **Right of Entry: Inspection and Sampling.** The Superintendent shall have the right to enter the premises of any user to determine whether the user is complying with all requirements of this chapter and any wastewater discharge permit or order issued hereunder. Users shall allow the Superintendent ready access to all parts of the premises for the purposes of inspection, sampling, records examination and copying, and the performance of any additional duties.
- (a) Where a user has security measures in force, which require proper identification and clearance before entry into its premises, the user shall make necessary arrangements with its security guards so that, upon presentation of suitable identification, the Superintendent will be permitted to enter without delay for the purposes of performing specific responsibilities.
 - (b) The Superintendent shall have the right to set up on the user's property, or require installation of, such devices as are necessary to conduct sampling and/or metering of the user's operations.
 - (c) The Superintendent may require the user to install monitoring equipment as necessary. The facility's sampling and monitoring equipment shall be maintained at all times in a safe and proper operating condition by the user at its own expense. All devices used to measure wastewater flow and quality shall be calibrated as recommended by the manufacturer to ensure their accuracy.
 - (d) Any temporary or permanent obstruction to safe and easy access to the facility to be inspected and/or sampled shall be promptly removed by the user at the written or verbal request of the Superintendent and shall not be replaced. The costs of clearing such access shall be born by the user.

CITY OF SOUTH MILWAUKEE

11-29

11.33

- (e) Unreasonable delays in allowing the Superintendent access to the user's premises shall be a violation of this chapter.
- (2) Search Warrants. If the Superintendent has been refused access to a building, structure, or property, or any part thereof, and is able to demonstrate probable cause to believe that there may be a violation of this chapter, or that there is a need to inspect and/or sample as part of a routine inspection and sampling program of South Milwaukee designed to verify compliance with this chapter or any permit or order issued hereunder, or to protect the overall public health, safety and welfare of the community, then the Superintendent may seek issuance of a search warrant from the Milwaukee County Court.

11.34 CONFIDENTIAL INFORMATION.

Information and data on a user obtained from reports, surveys, wastewater discharge permit applications, wastewater discharge permits, and monitoring programs, and from the Superintendent's inspection and sampling activities, shall be available to the public without restriction, unless the user specifically requests, and is able to demonstrate to the satisfaction of the Superintendent, that the release of such information would divulge information, processes, or methods of production entitled to protection as trade secrets under applicable State law. Any such request must be asserted at the time of submission of the information or data. When requested and demonstrated by the user furnishing a report that such information should be held confidential, the portions of a report which might disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available immediately upon request to governmental agencies for uses related to the NPDES program or pretreatment program, and in enforcement proceedings involving the person furnishing the report. Wastewater constituents and characteristics and other "effluent data" as defined by 40 CFR 2.302 will not be recognized as confidential information and will be available to the public without restriction.

11.35 PUBLICATION OF USERS IN SIGNIFICANT NONCOMPLIANCE. The Superintendent shall publish annually, in any paper of general circulation within the jurisdiction served by the POTW that provides meaningful public notice, a list of the significant users, which during the previous twelve (12) months, were in significant noncompliance with applicable pretreatment standards and requirements. The term significant noncompliance shall mean:

- (1) Chronic violations of wastewater discharge limits, defined here as those in which sixty-six percent (66%) or more of wastewater measurements taken during a six- (6) month period exceed the daily maximum limit, numeric limit, instantaneous limit, narrative limit, or average limit for the same pollutant parameter by any amount;
- (2) Technical Review Criteria (TRC) violations, defined here as those in which thirty-three percent (33%) or more of wastewater measurements taken for each pollutant parameter during a six- (6) month period equals or exceeds the product of the daily maximum limit, numeric limit, instantaneous limit, narrative limit, or the average limit multiplied by the applicable criteria (1.4 for BOD, TSS, fats, oils and grease, and 1.2 for all other pollutants except pH);
- (3) Any other discharge violation applicable to all users that the Superintendent believes has caused, alone or in combination with other discharges, interference or pass through, including endangering the health of POTW personnel or the general public;
- (4) Any discharge of pollutants applicable to all users that has caused imminent endangerment to the public or to the environment, or has resulted in the Superintendent's exercise of its emergency authority to halt or prevent such a discharge;
- (5) Failure to meet, within ninety (90) days of the scheduled date, a compliance schedule milestone contained in a wastewater discharge permit or enforcement order for starting construction, completing construction, or attaining final compliance;

- (6) Failure to provide within forty-five (45) days after the due date, any required reports, including baseline monitoring reports, reports on compliance with categorical pretreatment standard deadlines, periodic self-monitoring reports, and reports on compliance with compliance schedules;
- (7) Failure to accurately report noncompliance; or
- (8) Any other violation(s), including but not limited to operational standards, which the Superintendent determines, will adversely affect the operation or implementation of the local pretreatment program.

SUBCHAPTER V - ENFORCEMENT

11.40 ADMINISTRATIVE ENFORCEMENT REMEDIES

- (1) **Notice of Noncompliance.** When the Superintendent finds that a user is not in compliance, the Superintendent may serve upon the user a written Notice of Noncompliance. Within 30 days from the date of written notification, unless a shorter timeframe is necessary due to the nature of the noncompliance, a plan and timeframe for industry resampling and/or correction of the noncompliance, or other provisions that return the user to compliance, shall be submitted by the user to the Superintendent.
- (2) **Notification of Violation.** When the Superintendent finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, the Superintendent may serve upon that user a written Notice of Violation. Within 30 days of the receipt of the notice, an explanation of the violation and a plan for the satisfactory correction and prevention thereof, to include specific required actions, shall be submitted by the user to the Superintendent. Submission of this plan in no way relieves the user of liability for any violations occurring before or after receipt of the Notice of Violation. Nothing in this subsection shall limit the authority of the Superintendent to take any action, including emergency actions or any other enforcement action, without first issuing a Notice of Violation.
- (3) **Special Order.** The City may issue an order requiring that a violation be remedied within a specified time period. If authorized in the order, the industry may meet with the Superintendent within 30 days of the date of receipt of the order to discuss the allegations and, where necessary, establish a corrective action plan. The issuance of a compliance order shall not be a bar against, or a prerequisite for, taking any other action against the user.
- (4) **Show Cause Hearing.** The Superintendent may order a user which has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit or order issued hereunder, or any other pretreatment standard or requirement, to appear before the Wastewater Commission and show cause why the proposed enforcement action should not be taken. Notice shall be served on the user specifying the time and place for the meeting, the proposed enforcement action, the reason for such action, and a request that the user show cause why the proposed enforcement action should not be taken. The notice of the meeting shall be served personally or by registered or certified mail (return receipt requested) at least ten (10) days prior to the hearing. Such notice may be served on any authorized representative of the user.
- (5) **Emergency Suspensions.** The Superintendent may immediately suspend a user's discharge, after informal notice to the user, whenever such suspension is necessary to stop an actual or threatened discharge, which reasonably appears to present, or cause an imminent or substantial endangerment to the health or welfare of persons. The Superintendent may also immediately suspend a user's discharge, after notice and opportunity to respond, that threatens to interfere with the operation of the POTW or which presents, or may present, an endangerment to the environment.

- (a) Any user notified of a suspension of its discharge shall immediately stop or eliminate its contribution. In the event of a user's failure to immediately comply voluntarily with the suspension order, the Superintendent may take such steps as deemed necessary, including immediate severance of the sewer connection, to prevent or minimize damage to the POTW, its receiving stream, or endangerment to any individuals. The Superintendent may allow the user to recommence its discharge when the user has demonstrated to the satisfaction of the Superintendent that the period of endangerment has passed, unless the termination proceedings in Subsection 11.40(6) of this chapter are initiated against the user.
- (b) A user that is responsible, in whole or in part, for any discharge presenting imminent endangerment shall submit a detailed written statement, describing the causes of the harmful contribution and the measures taken to prevent any future occurrence, to the Superintendent prior to the date of any show cause or termination hearing under Subsections 11.40(4) or 11.40(6) of this chapter.

Nothing in this subsection shall be interpreted as requiring a hearing prior to any emergency suspension under this subsection.

- (6) Termination of Discharge. In addition to the provisions in Subsection 11.31(5) of this chapter, any user who violates the following conditions of this chapter is subject to discharge termination:
 - (a) Violation of wastewater discharge permit conditions;
 - (b) Failure to accurately report the wastewater constituents and characteristics of its discharge;
 - (c) Failure to report significant changes in operations or wastewater volume, constituents, and characteristics prior to discharge;
 - (d) Refusal of reasonable access to the user's premises for the purpose of inspection, monitoring, or sampling; or
 - (e) Violation of the pretreatment standards in Subchapter II of this chapter.
 - (f) Such user will be notified of the proposed termination of its discharge and be offered an opportunity to show cause under Subsection 11.40(4) of this chapter why the proposed action should not be taken. Exercise of this option by the Superintendent shall not be a bar to, or a prerequisite for, taking any other action against the user.

11.41 JUDICIAL ENFORCEMENT REMEDIES

- (1) Injunctive Relief. When the Superintendent finds that a user has violated, or continues to violate, any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, the Superintendent may petition the Milwaukee County Court through South Milwaukee Attorney for the issuance of a temporary or permanent injunction, as appropriate, which restrains or compels the specific performance of the wastewater discharge permit, order, or other requirement imposed by this chapter on activities of the user. The Superintendent may also seek such other action as is appropriate for legal and/or equitable relief, including a requirement for the user to conduct environmental remediation. A petition for injunctive relief shall not be a bar against, or a prerequisite for, taking any other action against a user.

- (2) **Civil Penalties.**
- (a) A user who has violated or continues to violate any provision of this chapter, a wastewater discharge permits or order issued hereunder or any other pretreatment standard or requirement shall be liable to South Milwaukee for a forfeiture not less than \$1,000 per violation, per day. Each day on which a violation shall occur or continue shall be deemed a separate and distinct offense. In addition to the penalties provided herein, the city may recover its damages, reasonable attorney's fees, court costs, court reporters' fees and other expenses of litigation by appropriate suit at law against the person found to have violated this chapter or the orders, rules, regulations and permits issued hereunder. The superintendent is authorized to issue a municipal citation for any offense under this chapter. In the case of a monthly or other long-term average discharge limit, penalties shall accrue for each day during the period of the violation.
 - (b) The Superintendent may recover reasonable attorneys' fees, court costs, and other expenses associated with enforcement activities, including sampling and monitoring expenses, and the cost of any actual damages incurred by South Milwaukee.
 - (c) In determining the amount of civil liability, the Court shall take into account all relevant circumstances, including, but not limited to, the extent of harm caused by the violation, the magnitude and duration of the violation, any economic benefit gained through the user's violation, corrective actions by the user, the compliance history of the user, and any other factor as justice requires.
 - (d) Filing a suit for civil penalties shall not be a bar against, or a prerequisite for, taking any other action against a user.
- (3) **Criminal Prosecution.** Penalties shall be as provided by State Statutes.
- (4) **Remedies Nonexclusive.** The remedies provided for in this chapter are not exclusive. The Superintendent may take any, all, or any combination of these actions against a noncompliant user. Enforcement of pretreatment violations will generally be in accordance with South Milwaukee enforcement response plan. However, the Superintendent may take other action against any user when the circumstances warrant. Further, the Superintendent is empowered to take more than one enforcement action against any noncompliant user.

11.42 SUPPLEMENTAL ENFORCEMENT ACTION

- (1) **Liability Insurance.** The Superintendent may decline to issue or reissue a wastewater discharge permit to any user who has failed to comply with any provision of this chapter, a previous wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, unless the user first submits proof that it has obtained financial assurances sufficient to restore or repair damage to the POTW caused by its discharge.
- (2) **Water Supply Severance.** Whenever a user has violated or continues to violate any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement, water service to the user may be severed. Service will only recommence, at the user's expense, after it has satisfactorily demonstrated its ability to comply.
- (3) **Public Nuisances.** A violation of any provision of this chapter, a wastewater discharge permit, or order issued hereunder, or any other pretreatment standard or requirement is hereby declared a public nuisance and shall be corrected or abated as directed by the Superintendent. Any person(s) creating a public nuisance shall be subject to the provisions of State law governing such nuisances, including reimbursing South Milwaukee for any costs incurred in removing, abating, or remedying said nuisance.

- (4) Informant Rewards. The Superintendent may pay up to 1,000 dollars (\$1,000) for information leading to the discovery of noncompliance by a user.

11.43 AFFIRMATIVE DEFENSE TO DISCHARGE VIOLATIONS.

(1) **Upset**

- (a) An upset shall constitute an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of paragraph (b)(iii)(C), below, are met.
- (b) A user who wishes to establish the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (i) An upset occurred and the user can identify the cause(s) of the upset;
 - (ii) The facility was at the time being operated in a prudent and workman_like manner and in compliance with applicable operation and maintenance procedures; and
 - (iii) The user has submitted the following information to the Superintendent within twenty-four (24) hours of becoming aware of the upset if this information is provided orally, a written submission must be provided within five (5) days:
 - (A) A description of the indirect discharge and cause of noncompliance;
 - (B) The period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and;
 - (C) Steps being taken and/or planned to reduce, eliminate, and prevent recurrence of the noncompliance.
- (c) In any enforcement proceeding, the user seeking to establish the occurrence of an upset shall have the burden of proof.
- (d) Users will have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.
- (e) Users shall control production of all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies in the situation where, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

(2) **Bypass**

- (a) For the purposes of this subsection,
 - (i) "Bypass" means the intentional diversion of wastestreams from any portion of a user's treatment facility.

- (ii) "Severe property damage" means 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.
- (b) A user may allow any bypass to occur which does not cause pretreatment standards or requirements to be violated, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to the provision of paragraphs (c) and (d) of this subsection.
 - (c) (i) If a user knows in advance of the need for a bypass, it shall submit prior notice to the Superintendent, at least ten (10) days before the date of the bypass, if possible.
 - (ii) A user shall submit oral notice to the Superintendent of an unanticipated bypass that exceeds applicable pretreatment standards within twenty-four (24) hours from the time it becomes aware of the bypass. A written submission shall also be provided within five (5) days of the time the 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, eliminate, and prevent reoccurrence of the bypass. The superintendent may waive the written report on a case-by-case basis if the oral report has been received within twenty-four (24) hours.
 - (d) (i) Bypass is prohibited, and the Superintendent may taken an enforcement action against a user for a bypass, unless
 - (A) Bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
 - (B) There were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventive maintenance; and
 - (C) The user submitted notices as required under paragraph (c) of this subsection.
 - (ii) The Superintendent may approve an anticipated bypass, after considering its adverse effects, if the Superintendent determines that it will meet the three conditions listed in paragraph (d)(i) of this subsection.

SUBCHAPTER VI - FEES

11.50 WASTEWATER TREATMENT RATES

- (1) Purpose. It is the purpose of this section to provide for the recovery of costs from the users of the City's POTW for the development and implementation of the program established herein. The applicable charges or fees shall be set forth in the SOP, to be revised from time to time, by the Superintendent and approved by the Wastewater Commission.
- (2) Pretreatment Program Charges and Fees

CITY OF SOUTH MILWAUKEE

11-35

11.50

(a) Fees

- (i) Wastewater Discharge Permit Processing Fee. The City will charge significant industries a wastewater discharge permit fee to cover the costs of processing the wastewater discharge permit applications.
 - (ii) Administrative Fee. This will cover the cost of general administration of the Pretreatment Program, which will be assessed to all significant users.
 - (iii) Sampling Fee. This will cover the cost of administration of the sampling and laboratory analysis portions of the Pretreatment Program and will be based on the number of sampling days and parameters required by the City to monitor the significant users, or other users as determined to be necessary by the Superintendent.
 - (iv) Surcharge Fee. A charge in addition to the basic quantity flow charge shall be levied to any user for wastes which are found to be in excess of domestic or sanitary wastewater concentration for BOD, TSS, or phosphorus. Users discharging wastes in excess of domestic wastewater concentration for BOD, TSS, or phosphorus may be required to perform self-monitoring testing and/or flow metering on a schedule established by the Superintendent.
- (2) Septage Sludge, Holding Tank, Wastewater, Contaminated Groundwater and Leachate Chargers and Fees. Persons with a permit for disposal of septic tank sludge and/or holding tank sewage, leachate or contaminated groundwater into the wastewater collection and treatment facilities shall be charged fees as established from time to time by the Wastewater Commission.

11.51 MISCELLANEOUS PROVISIONS

(1) Severability

If any provision of this chapter is invalidated by any court of competent jurisdiction, the remaining provisions shall not be effected and shall continue in full force and effect.

11.52 EFFECTIVE DATE

This chapter shall be in full force and effect immediately following its passage, approval, and publication, as provided by law.

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