

CHAPTER 29
Sanitary Sewer Use and Wastewater Treatment
(Cr. #40-87)(Am. #19-89)(Am. #17-92)
(Repealed and replaced #1-18)

29.10 Industrial Wastewater Permits
(section title amended #1-18)

(Repealed and replaced #1-18)

(a) Requirement of Permit.

- (1) Users That Need Permits.** An Industrial Wastewater Permit shall be required for the following Users:
 - (A)** Significant Industrial Users.
 - (B)** At the discretion of the Control Authority, any other Industrial User may also be required to obtain an Industrial Wastewater Permit, including Generators of Hauled Waste or Users within another Municipality.
 - (C)** An Industrial Wastewater Permit shall be issued to all Zero-Discharge Industrial Users.
- (2) Permit Application.** New or existing Users who are required by the Control Authority to obtain a Permit shall complete and file with the Control Authority a Permit application in the form prescribed by the Control Authority. Permit applicants shall also submit a Baseline Monitoring Report pursuant to WMC §29.10(b)(1). No Permit shall be issued unless and until the application form is submitted.
- (3) Permit Modifications.**
 - (A)** The Control Authority may modify any Permit to reflect changes in federal, State, or local law, to incorporate the terms of an order, or to reflect changed circumstances.
 - (B)** The Permits of Industrial Users subject to Federal Categorical Pretreatment Standards or Pretreatment Requirements shall be revised within 9 months of the promulgation of such standards or requirements to require compliance within the time frame prescribed by the standards or requirements.
 - (C)** Permitted Industrial Users desiring to increase their Discharge volume, make new Connections to the System or change their Wastewater characteristics shall apply for a modified Permit by filing with the Control Authority a report detailing the proposed

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changes. This report shall be submitted at least 90 days prior to implementation of the proposed changes.

- (4) **Permit Elements.** In addition to the conditions of the Permit, Permitted Industrial Users shall be expressly subject to all provisions and all other applicable regulations, User Charges, and fees established by the City. Permits shall, where applicable, contain the following:
- (A) Effluent limits, including Best Management Practices, based on Prohibited Discharge standards, Categorical Pretreatment Standards, State law, and this Chapter.
 - (B) Limits on the average and maximum rate and time of Discharge or requirements for flow regulation and equalization.
 - (C) Mass limitations, as determined in accordance with WMC §29.08(e)(4), if applicable.
 - (D) Requirements for installation, operation, and maintenance of Pretreatment Facilities.
 - (E) Specifications for Monitoring programs which may include sampling locations, frequency, and method of sampling, number, types, and standards for analyses, and reporting schedule.
 - (F) Compliance schedules.
 - (G) Requirements for submission of technical or Discharge reports.
 - (H) Requirements for maintaining and retaining Facility records relating to Wastewater Discharge as specified by the Control Authority, but in no case less than 3 years, and affording Control Authority access thereto.
 - (I) Requirements for notification to and acceptance by the Control Authority of any new introduction of Wastewater constituents or of any substantial change in the volume or character of the Wastewater constituents being introduced into the System.
 - (J) Requirements to prevent or control Slug or Accidental Discharges, if determined by the Control Authority to be necessary.

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- (K) Requirements for notification of Slug or Accidental Discharges and reporting of Permit violations.
 - (L) Requirements for installation and inspection of a Monitoring Manhole or structure containing flow-measuring, recording, and sampling equipment to assure compliance with this Chapter. Maintenance of Monitoring Manholes, structures or equipment, including flumes or weirs, is the responsibility of the User.
 - (M) Statement of duration.
 - (N) Statement that the Permit is nontransferable without, at a minimum, prior notification to and approval from the Control Authority.
 - (O) Statement of applicable civil and criminal penalties for violation of Pretreatment Standards and requirements.
 - (P) Other conditions as deemed appropriate by the Control Authority to ensure compliance with this Chapter.
- (5) **Permit Duration, Renewal and Fees.** Permits shall continue in effect for a period not to exceed five years, subject to modification, suspension, or revocation as provided in this Chapter. Each Permit shall indicate a specific expiration date and may be renewed. Permittees shall be subject to an annual Permit fee as established in WMC §29.12(f). The annual Permit fee shall be billed effective January 1 for the year. The terms and conditions of the Permit may be subject to modification by the Control Authority. The Permitted Industrial User shall be informed of any proposed changes in the Permit at least 30 days prior to the effective date of the change. Any changes or new conditions in the Permit shall include a reasonable time schedule for compliance.
- (6) **Permit Transfer.** Permits are issued to a specific User for a specific operation. Permits shall not be reassigned or transferred or sold to a new owner, operator or User, different premises, or a new or changed operation without the approval of the Control Authority. Any succeeding owner, operator, or User shall comply with the terms and conditions of the existing Permit. Where the Permit transfer involves only a change in the owner, operator or User without any process modifications that may impact the Wastewater Discharge, the Permit may be transferred without

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changing any of the Permit conditions. In this case, the current or future owner, operator or User shall submit to the Control Authority notification that describes the anticipated transaction, identifies the transfer date, indicates that the new owner, operator or User has no immediate intent to change the Facility operations in a manner that would alter the volume or characteristics of the Process Wastewater Discharge, and indicates that the new owner, operator or User shall abide by all terms and conditions set forth in the Permit. The new owner, operator or User shall notify the Control Authority at least two weeks in advance of any process modifications that may impact the Wastewater Discharge, and may be required to submit a modified Permit application.

- (7) **Facility Decommissioning, Vacating of Premises, and Discontinuance of Service.** Whenever the premises of a Permitted Industrial User connected to the System are to be vacated, upon becoming aware of a decision to vacate or to discontinue service, the User shall notify the Control Authority orally or in writing within 24 hours and shall submit a written closure plan within 5 business days in accordance with the terms of the Permit. The User shall be liable for any damage, contamination, or other detrimental effects to the System resulting from site work or from the introduction of prohibited Pollutants into the System.
- (8) **Suspension or Revocation.** Any Permitted Industrial User who violates the conditions of the Permit or this Chapter or applicable State or federal regulations may be subject to having his or her Permit modified, suspended or revoked in accordance with the Enforcement Response Guidance Plan.
- (b) **Reporting Requirements.** Any User holding an Industrial Wastewater Permit under this Section shall comply with the reporting requirements of the Permit. Any User whose Permit contains production-based limits shall submit all applicable production data needed to calculate both the limits and compliance with the limits. In addition to the reports required by the Permit, the Control Authority may require the User to provide the following additional reports:
- (1) **Baseline Monitoring Report.** New Sources shall submit a BMR at least 90 days prior to the projected date of first Discharge. New or Existing Sources designated by the Control Authority shall submit a new or updated BMR within 90 days of notification. Where an Existing Source becomes Regulated by any Federal Categorical Pretreatment Standard the User shall submit a BMR to the Control Authority within 180 days of the

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promulgation of the Standard. The BMR shall contain the information listed below. New Users shall submit estimates for subsections (b)(1)(D) through (b)(1)(G) where actual data are not yet available.

- (A) The name, address, and location of the User and the name of the owner or operator.
- (B) The nature and average rate of production and the SIC or NAICS code.
- (C) A list of environmental control Permits held by or for the User.
- (D) The nature and concentration of Pollutants in the Discharge, including, but not limited to, those mentioned in WMC §29.08 , as determined by analysis performed by a State certified or registered laboratory in accordance with procedures established by EPA and contained in 40 CFR Part 136, as amended by Wis. Admin. Code Ch. NR 219, or other methods approved by the WDNR. The User shall identify the Pretreatment Standards applicable to each Regulated process. Where data are required to be submitted, the Permitted Industrial User shall:
 - 1. Submit the results of sampling and analysis identifying the nature and concentration of Regulated Pollutants in the Discharge from each Regulated process. Both daily maximum and average concentrations shall be reported where possible. The samples shall be representative of daily operations. Where the Control Authority or a Pretreatment standard requires compliance with a Best Management Practice or a pollution prevention alternative, the User shall submit documentation needed to determine the compliance status of the User.
 - 2. When sampling for pH, cyanide, total phenol, oil and grease, sulfide, and volatile organics, collect a minimum of 4 Grab Samples. For all other Pollutants, 24-hour composite samples shall be obtained through Flow-Proportional composite sampling techniques unless time-proportional or Grab Sampling is authorized by the Control Authority. Where alternative sampling is authorized by the Control Authority, the samples shall be representative of

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the Discharge and the decision to allow alternative methods shall be documented in the User's file. Multiple Grab Samples collected during a 24-hour period may be composited prior to analysis provided appropriate protocols specified in NR 219 and in EPA and WDNR guidance are followed. Samples for cyanide, total phenols and sulfides may be composited in the laboratory or in the field. Samples for volatile organics and oil and grease may be composited in the laboratory. Other samples may be composited using approved methodologies as authorized by the Control Authority.

3. Take a minimum of one representative sample to compile that data necessary to comply with the requirements of this Section. Sampling shall be performed during full Facility production when substances subject to regulation, including those in Batch or periodic Discharges, are likely to be present in maximum concentrations or quantities for the reporting period.
 4. Take samples 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 Categorical Wastewater prior to Pretreatment, the Permitted Industrial User shall measure the flows and concentrations necessary to allow use of the combined wastestream formula of Wis. Admin. Code NR 211.12. Where an alternative concentration or mass limit has been calculated in accordance with NR 211.12, this adjusted limit along with the supporting data shall be submitted to the Control Authority.
 5. The report shall indicate the time, date, and place of sampling, method of analysis, and shall certify that sampling and analysis are representative of normal work cycles and expected Pollutant Discharges to the POTW.
- (E) The time and duration of Discharges.
- (F) The average daily and instantaneous peak Wastewater flow rates from Regulated processes and other Wastewater sources as

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necessary to allow use of the combined wastestream formula, including daily, monthly, and seasonal variations, if any.

- (G) The nature and concentration of any Pollutants or materials prohibited by this Chapter in the Discharge, together with a statement regarding whether or not compliance is being achieved with this Chapter on a consistent basis and, if not, whether additional operation and maintenance activities or additional Pretreatment are required for the User to comply with this Chapter. The statement shall be reviewed by an Authorized Representative of the Permitted Industrial User and certified by a qualified professional.
 - (H) Site plans, floor plans, mechanical and plumbing plans, and details to show all Sewers, Sewer Connections, floor Drains, Process Wastewater sources, points of Process Wastewater Discharge to the POTW, inspection manholes, and Sample Points.
 - (I) A description of activities, Facilities, and processes on the premises, including types of products produced, treated, or serviced.
 - (J) A description of all materials which are or may be Discharged to the System.
 - (K) The type and amount of raw materials utilized (average and maximum per day).
 - (L) The number of employees and hours of operation of Facility and proposed or actual hours of operation of Pretreatment System.
 - (M) Any other information as determined by the Control Authority to be necessary to evaluate the Permit application. The Control Authority shall evaluate the data furnished by the Industrial User and may require additional information. After evaluation and acceptance of the data furnished, the Control Authority may issue a Permit subject to the terms and conditions provided herein.
- (2) **Compliance Date Report.** Within 90 days after the date for final compliance with applicable Categorical Pretreatment Standards or, in the case of a New Source, within 90 days following commencement of the

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Discharge of Wastewater into the City's Wastewater Collection System or Plant, all Permitted Industrial Users shall submit to the Control Authority a report indicating the nature and concentration of all Pollutants in the Discharge from the Regulated process which are limited by Categorical Pretreatment Standards and Pretreatment Requirements, and the average and maximum daily flow for these process units in the User's Facility which are limited by such Categorical Pretreatment Standards and Pretreatment Requirements. The report shall state whether the applicable Categorical Pretreatment Standards and Pretreatment Requirements are being met on a consistent basis and, if not, what additional operation and maintenance or Pretreatment is necessary to bring the User into compliance with any applicable Categorical Pretreatment Standards and Pretreatment Requirements. This statement shall be signed by an Authorized Representative of the User and where required, certified by a registered professional qualified to certify the report.

(3) Periodic Compliance Report.

- (A)** Industrial Users shall be required by Permit to self-monitor Regulated Discharges in the first and third quarter of each year. These Users shall, if required by their Permit, submit a report that shall be due April 30 and October 31. The report shall include all data for the first or third quarter self-Monitoring event(s). Where the User's Permit requires more frequent Monitoring, or where a Batch Discharge is not Discharged during the first or third quarter, the report shall be due 30 days after sample collection. Where a Pretreatment standard, a local limit, or the Control Authority requires compliance with Best Management Practices or a pollution prevention alternative, the User shall submit documentation needed to determine the compliance status of the User. The Control Authority may also require more detailed reporting of flows.
- (B)** For all Wastes subject to Federal Categorical Pretreatment Standards that have been shipped off-site for disposal, all Categorical Users shall submit a report listing the category, manufacturing process, volume, and destination of such Wastes. The report shall be due semi-annually by January 31 and July 31 for Wastes hauled during the previous semi-annual period.

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- (C) All Monitoring results obtained by the Permitted Industrial User shall be contained in the reports required by this Section and shall be certified as to their validity by an Authorized Representative of the User.
 - (D) If a User monitors any Pollutant more frequently than required by the Control Authority using procedures prescribed in WMC §29.10(c)(3), the results of such Monitoring shall be submitted to the Control Authority within 30 days after sample collection.
 - (E) Zero-Discharge Industrial Users shall submit a statement of Zero-Discharge to the Control Authority for the periods January 1 through June 30 and July 1 through December 31 of each year. These statements shall be due April 30 and October 31 of each year.
- (4) **Notification of Violation and Resampling.** If sampling performed by the User indicates a violation, the User shall notify the Control Authority within 24 hours of becoming aware of the violation. The User shall also repeat the sampling and analysis for the parameter(s) in violation and submit the results of this analysis to the Control Authority within 30 days after becoming aware of the violation. Should the violation place the User in Significant Noncompliance, the User shall be subject to a Monitoring schedule as determined by the Control Authority. Where the Control Authority has performed the original sampling and analysis in lieu of the User, the Control Authority shall perform the repeat sampling and analysis unless it notifies the User of the violation and requires the User to perform the repeat analysis.
- (5) **Pretreatment Compliance Schedule.** Where additional Pretreatment or operation and maintenance activities are required to comply with this Chapter, the Permitted Industrial User shall provide a declaration of the shortest schedule by which the User shall provide such additional Pretreatment or implementation of additional operational and maintenance activities. The schedule shall be such that compliance with applicable Federal Categorical Pretreatment Standards is achieved within three years of the promulgation of such standards. For proposed new Dischargers and modifications to existing Discharges, the compliance date shall be the date on which the new or modified Discharge is initiated. For Existing Sources, compliance with new local limits shall be as soon as possible, but not to exceed 18 months from the effective date. The completion date shall

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not be later than the compliance date established for a particular Federal Categorical Pretreatment Standard.

- (A) The schedule shall contain milestone dates for the commencement and completion of major events leading to the construction and operation of additional Pretreatment required for the User to comply with the requirements , including, but not limited to, dates relating to hiring an engineer, hiring other appropriate personnel, completing preliminary plans, completing final plans, executing contracts for major components, commencing construction, completing construction, and all other acts necessary to achieve compliance with this Chapter.
 - (B) Under no circumstance shall the Control Authority allow a time increment for any single step directed toward compliance which exceeds nine months.
 - (C) Not later than 14 days following each milestone date in the schedule or the final date for compliance, the User shall submit a written progress report to the Control Authority. This report shall include a statement as to whether or not the User complied with the increment of progress represented by that milestone date and, if not, the date on which it expects to comply with this increment of progress, the reason for delay, and the steps being taken by the User to return the project to the approved schedule. In no event shall more than nine months elapse between such progress reports to the Control Authority.
- (6) **Other Reports.** In addition to the reports required by this Section, the Control Authority may require that Users submit other reports, Management Plans, or other information where the Control Authority finds that such a requirement is necessary to fulfill the Control Authority's responsibilities under this Chapter or any other federal, State, or local law.
- (7) **Records Retention.** All Permitted Industrial Users shall retain and preserve for no less than 3 years any records, books, documents, memoranda, reports, correspondence, and any and all summaries thereof, relating to Monitoring, sampling, and chemical analyses made by or on behalf of the User in Connection with their Discharge. All records which pertain to matters which are the subject of administrative adjustment or any other enforcement or litigation activities brought by the City pursuant

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hereto shall be retained and preserved by the User until all enforcement activities have concluded and all periods of limitation with respect to any and all appeals have expired. All data on Discharges to the System shall be submitted to the Control Authority, and can be used in enforcement actions.

- (8) Confidential Information.**
- (A)** Information and data furnished to the Control Authority with respect to the nature and frequency of Discharge shall be available to the public or governmental agencies without restriction unless the Person discharging specifically requests and is able to demonstrate to the satisfaction of the Control Authority that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets or proprietary information. A request for confidentiality shall be made by the Discharger at the time of submitting such information to the Control Authority. When requested by the Person furnishing the report, the portions of a report which may disclose trade secrets or secret processes shall not be made available for inspection by the public, but shall be made available upon written request to governmental agencies for uses related to this Chapter, the National Pollutant Discharge Elimination System (NPDES) Permit, WPDES Permit or Pretreatment programs; provided, however, that such portions of a report shall be available for use by the State or any State agency in judicial review or enforcement proceedings involving the Person furnishing the report. Wastewater constituents and characteristics will not be recognized as confidential information.
- (B)** Information accepted by the Control Authority as confidential shall not be transmitted to any governmental agency by the Control Authority until and unless a 10-day notification is given to the Permitted Industrial User.
- (9) Signatory Requirements.** All Industrial Wastewater Permit applications and Permitted Industrial User reports shall contain the following certification statement and be signed by an Authorized Representative of the User. "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

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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.”

- (c) **Monitoring, Analysis, Measurement and Sampling.**
- (1) **Monitoring Facilities.**
- (A) Where determined necessary by the Control Authority, each Person discharging Regulated Wastes into the System shall construct and maintain one or more Monitoring Manholes or access points to facilitate observation, measurement, and sampling of the Regulated Wastes including Domestic Wastewater.
- (B) Monitoring Manholes or Facilities shall be located and constructed in a manner acceptable to the Control Authority. Measuring devices shall be of a type acceptable to the Control Authority. Users shall submit to the Control Authority plans and specifications for construction or modification of Monitoring Facilities at least 30 days before the proposed commencement of construction or modification. If a User constructs or modifies Monitoring Facilities before Control Authority approval or without an inspection by the Control Authority during construction and the Control Authority determines that the Monitoring Facilities are unacceptable, then the User shall reconstruct or modify the Monitoring Facilities according to the requirements of the Control Authority.
- (C) Monitoring Manholes, Facilities, and related equipment shall be installed by the User Discharging the Waste, at the User’s expense, and shall be maintained by the User so as to be in safe condition, accessible and in proper operating condition at all times.
- (D) Requirements for the installation of Monitoring Facilities and manholes shall be a condition of the User’s Permit. The Control Authority may provide general construction detail upon request by the User. Where the User fails to comply with installation

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requirements on a specified date, the Control Authority shall contract to have the structures installed, and the cost billed to the User.

- (2) **Inspection.** The Control Authority may inspect the Monitoring Facilities of any Permitted Industrial User to determine compliance with the requirements. The User shall allow the Control Authority, the State or EPA and its representatives to enter upon the premises of the User at any time, for the purposes of inspection, sampling, or records examination. The Control Authority shall have the right to set up on the User's property any such additional devices as are necessary to conduct sampling, inspection, compliance Monitoring or metering operations.
- (3) **Sample Collection, Preservation, and Analysis.**
- (A) Sampling shall be conducted at the appropriate sampling location and shall be representative of conditions during the reporting period. When sampling, a minimum of 4 Grab Samples shall be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organics. For all other Pollutants, 24-hour composite samples shall be obtained through Flow-Proportional composite sampling techniques unless time-proportional or Grab Sampling is authorized by the Control Authority. Where alternative sampling is authorized by the Control Authority, the samples shall be representative of the Discharge and the decision to allow alternative methods shall be documented in the User's file. Multiple Grab Samples collected during a 24-hour period may be composited prior to analysis provided appropriate protocols specified in NR 219 and in EPA and WDNR guidance are followed. Samples for cyanide may be composited in the laboratory or in the field. Samples for volatile organics and oil and grease may be composited in the laboratory. Other samples may be composited using approved methodologies as authorized by the Control Authority.
- (B) If a User's Discharge is a Batch or is highly variable and if either Flow-Proportional composite sampling is not the appropriate sample collection technique or is not feasible, then the Control Authority may establish in the User's Permit a sampling protocol necessary to ensure a sample representative of the User's daily Discharge. This sampling protocol may involve Time Composite

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Sampling, compositing multiple Grab Samples, or other appropriate techniques.

- (C) The Control Authority may require continuous pH Monitoring when a Categorical Pretreatment Standard includes pH limits or when the Control Authority determines that the pH of a User's Discharge has a potential to be highly variable.
 - (D) The reports required by this Section shall be based upon data obtained through appropriate sampling and analysis performed during the period covered by the report, which data are representative of conditions occurring during the reporting period. The frequency and timing of Monitoring shall be prescribed by the Control Authority and shall be determined on a case-by-case basis. Monitoring frequency shall be sufficient so that the Control Authority can assure compliance by a User with applicable Pretreatment Standards and requirements. All analyses for compliance shall be performed by a WDNR-certified laboratory in accordance with procedures established pursuant to §304(h) of the Act and contained in 40 CFR Part 136 and amendments thereto, with any other test procedures approved by EPA, or in accordance with procedures established pursuant to Wis. Admin. Code Ch. NR 219. Where 40 CFR Part 136 does not include sampling or analytical techniques for Pollutants in question, or where EPA determines that the Part 136 sampling or analytical techniques are inappropriate for the Pollutant in question, sampling and analyses shall be performed using validated analytical methods or any other sampling and analytical procedures, including procedures suggested by the Control Authority or State and approved by the EPA.
 - (E) Records of all samples shall include the date, exact place and time of sampling and names of Person(s) taking samples, dates analyses were performed, who performed the analyses, the analytical techniques used, and the results of such analyses.
- (4) **Techniques Used by the Control Authority to Evaluate Compliance.** For evaluating compliance with this Chapter or with any Pretreatment Standard or requirement, the Control Authority may use any sampling location from which samples will either directly or indirectly represent a User's Discharge. If a sampling location includes dilution such as

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Domestic Wastewater, and if samples at this location violate an applicable limit, then the Control Authority may conclude that Process Wastewater Discharged at an upstream location was the cause of the violation. The Control Authority may use sample collection techniques or analytical methods that bias sample results low as a basis for enforcement action, such as composite samples for Pollutants for which Grab Samples are normally used. The Control Authority may use sampling locations, sample collection techniques, or analytical methods other than those specified in the User's Permit, provided those locations, techniques and methods comply with all applicable State and Federal regulations.

(5) Sampling Variance.

(A) Local Limit Variance. If 75% of the analytical results for a parameter over a two-year period are equal to or less than 10% of the local limit, the Control Authority may grant a sampling variance for that parameter. The Control Authority has the right to require Monitoring for a parameter of concern even if the parameter meets the sampling variance criteria. The sampling variance does not allow the Permittee to exceed those parameters, or any other parameter at any time. The Control Authority may randomly sample for the parameters which have been granted a variance to confirm compliance. The Control Authority has the right to remove the variance at its discretion. No variance may be granted for pH Monitoring. Where 10% of the local limit for an analyte is below the detection limit for the analyte, the Control Authority shall use his or her discretion for granting variances.

(B) Categorical Standard Variance. For a User subject to a Categorical Standard, the Control Authority may authorize a sampling variance for individual Pollutants if the User has demonstrated that the Pollutant is neither present nor expected to be present in the Discharge, or is present only at background levels from intake water and without any increase in the Pollutant due to activities of the User. This authorization is subject to the following conditions:

1. The Control Authority may authorize a variance where a Pollutant is determined to be present solely due to Sanitary Wastewater Discharged from the Facility provided that the Sanitary Wastewater is not Regulated by an applicable

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Categorical Standard and otherwise includes no Process Wastewater.

2. The sampling variance is valid only for the duration of the effective Permit, but in no case longer than 5 years. The User shall submit a new request for the variance before the variance may be granted for each subsequent Permit term.
3. In making a demonstration that a Pollutant is not present, the User shall provide data from at least one sampling of the Facility's Process Wastewater, prior to any Pretreatment, that is representative of all Wastewater from all processes. Non-detectable sample results may only be used as a demonstration that a Pollutant is not present if the EPA approved method from 40 CFR Part 136 with the lowest minimum detection level for that Pollutant was used in the analysis.
4. Any grant of the Monitoring waiver by the Control Authority shall be included as a condition in the User's Permit. The reasons supporting the waiver and any information submitted by the User in its request for the waiver shall be maintained by the Control Authority for 3 years after expiration of the waiver.
5. Along with a request for a sampling variance and upon approval and revision of the Permit by the Control Authority, the User's Authorized Representative shall certify each request with the statement below, that there has been no increase in the Pollutant in its Discharge due to activities of the User:

Based on my inquiry of the Person or Persons directly responsible for managing compliance with the applicable Pretreatment Standards, I certify that, to the best of my knowledge and belief, there has been no increase in the level of [list Pollutant(s)] in the Wastewater Discharge due to the activities at the Facility since filing of the last variance request.

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6. The Control Authority may sample for the Pollutant(s) for which a variance has been granted at least once during the User's Permit term.
7. In the event that a Pollutant for which a variance has been granted is found to be present or is expected to be present based on changes that occur in the User's operations, the User shall immediately notify the Control Authority, and shall comply with the Monitoring requirements specified by the pertinent Categorical Standard and the Control Authority.
8. This Section does not supersede certification processes and requirements established in Categorical Pretreatment Standards, except as otherwise specified in the Categorical Pretreatment Standard.

(d) Operating Upsets and Treatment System Bypasses.

- (1) If the User knows in advance of the need for a Bypass, the User shall provide notice to the Control Authority at least 10 days in advance of the Bypass.
- (2) Any User who experiences an Industrial User Upset in operation or an unanticipated Bypass which places that User in a temporary state of noncompliance with this Chapter shall inform the Control Authority thereof within 24 hours of first awareness of the commencement of the Industrial User Upset or Bypass. Where such information is given vocally, a written follow-up report thereof shall be filed by the User with the Control Authority within 5 days. The report shall specify:
 - (A) A description of the nature of the Discharge, the cause thereof, and the Discharge's impact on the User's compliance status.
 - (B) The duration of the Discharge, including exact dates and times of Discharge and, if the Discharge causes noncompliance, the date and time by which compliance is reasonably expected to be achieved.

CHAPTER 29
Sanitary Sewer Use and Wastewater Treatment
(Cr. #40-87)(Am. #19-89)(Am. #17-92)
(Repealed and replaced #1-18)

29.10 Industrial Wastewater Permits
(section title amended #1-18)

- (C) All steps taken or to be taken to reduce, eliminate, and prevent recurrence of such a Discharge or other conditions of noncompliance.
- (3) A User who wishes to establish the affirmative defense of Industrial User Upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:
 - (A) An Industrial User Upset occurred and the User can identify the cause(s) of the Industrial User Upset;
 - (B) The Facility was at the time being operated in a prudent and workmanlike manner and in compliance with applicable operation and maintenance procedures;
 - (C) The User has submitted the reports as specified in subsection (b) above.
- (4) In any enforcement proceeding, the User seeking to establish the occurrence of an Industrial User Upset shall have the burden of proof.
- (5) The User shall control all Discharges to the extent necessary to maintain compliance with 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.