

section, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist; for facilities for which historical sampling data are available, the Village may authorize a lower minimum. For the reports required by paragraphs (E) and (H) of this section, the Village shall require the number of grab samples necessary to assess and assure compliance by Industrial Users with Applicable Pretreatment Standards and Requirements.

- D. With the exception of the pollutants specified in paragraph (C) of this subdivision, the user shall take a minimum of 1 representative sample to compile the data necessary to comply with the requirements of this sub-rule.
- E. Samples should be taken immediately downstream from pretreatment facilities if the facilities exist or immediately downstream from the regulated process if pretreatment facilities do not exist. If other wastewaters are mixed with the regulated wastewater before pretreatment, the industrial user should measure the flows and concentrations necessary to allow use of the combined wastewater formula specified in R 323.2311(7) to evaluate compliance with the pretreatment standards. Where an alternate concentration or mass limit has been calculated in accordance with R 323.2311(5), the adjusted limit and supporting data shall be submitted to the control authority.
- F. Sampling and analysis shall be performed in accordance with the techniques prescribed in 40 CFR part 136. Where 40 CFR part 136, does not contain sampling or analytical techniques for the pollutant in question, or where the E.P.A. determines that part 136 sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed by using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the publicly owned treatment works or other parties, approved by the E. P. A.
- G. The control authority may allow the submission of a baseline report that utilizes only historical data if the data provides information sufficient to determine the need for industrial pretreatment measures.

- H. The baseline report shall indicate the time, date, and place of sampling and the methods of analysis and shall certify that the sampling and analysis is representative of normal work cycles and expected pollutant discharges to the publicly owned treatment works.
- (6) A statement, reviewed by an authorized representative of the industrial user 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 or additional pretreatment is required for the industrial user to meet the pretreatment standards and requirements.
- (7) If additional pretreatment or operation and maintenance will be required to meet the pretreatment standards, the shortest schedule by which the industrial user will provide such additional pretreatment or operation and maintenance. The completion date in the schedule shall not be later than the compliance date established for the applicable pretreatment standard. All of the following conditions shall apply to the compliance schedules:
 - A. The schedule shall contain increments of progress 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 industrial user to meet the applicable categorical pretreatment standards. The events may include any of the following:
 - (a) The hiring of an engineer
 - (b) Completing preliminary plans
 - (c) Completing final plans
 - (d) Executing contracts for major components
 - (e) Commencing construction
 - (f) Completing construction
 - (g) Other similar major events
 - (h) An increment referred to in this subrule shall not be more than 9 months.
 - (i) Not later than 14 days following each date in the schedule and the final date for compliance, the industrial user shall submit a progress report to the control authority, including, at a minimum, whether or not the user complied with the increment of progress to be met on a particular date and, if not, the date on which the user expects to comply with the increment of progress, the reason for delay, and the steps being taken by the industrial user to return the construction to the schedule established. Not more than 9 months shall elapse between progress reports to the control authority.

- (8) Where the industrial user's categorical pretreatment standard has been modified by a removal allowance under R 323.2313(a), the combined waste stream formula under R 323.2311(7), or fundamentally different factors variance under R 323.2313(b) at the time the industrial user submits the report required by this ordinance, the information required shall pertain to the modified limits. Any changes to information requested under this ordinance shall be submitted by the industrial user to the Council or its designated representative or appointee within sixty days.
- (9) SIC number, according to the Standard Industrial Classification Manual, Bureau of the Budget, 1972, as amended.
- (10) Wastewater constituents and characteristics, including, but not limited to, those mentioned in Sections 51.07 to 51.21 as determined by a reliable analytical laboratory. Sampling and analysis shall be performed in accordance with the procedures and methods detailed in: 40 CFR 136.
- (11) Time and duration of contribution.
- (12) Average daily and maximum daily flows from regulated process streams and other wastewater streams as necessary to allow use for the combined waste stream formula (CWF). The Council may allow for verifiable estimated flows which are justified by cost or feasibility.
- (13) For industries identified as significant industries, or which are subject to the National Categorical Pretreatment Standards, or those required to do so by the Council, site plans, floor plans, mechanical and plumbing plans and details to show all sewers, sewer connections and appurtenances by size, location and elevation.
- (14) A description of activities, facilities and plant processes on the premises, including all materials which are or could be discharged. The points of discharge to the POTW and from which process discharges originate must also be included.
- (15) Each product produced by type, amount processed, and the average rate of production.
- (16) The type and amount of raw materials processed, average and maximum per day.
- (17) The number and type of employees, hours of operation of the plant and proposed or actual hours of operation of the pretreatment system.
- (18) Any other information as may be deemed by the Council to be necessary to evaluate the impact of the discharge on the sewage

works.

- (19) Any user shall, upon request of Council, or its appointed representative, submit a ten-day compliance report.

(b) Discharge Conditions. Wastewater discharges shall be expressly subject to all provisions of this chapter and all other applicable regulations, user charges and fees established by the Council. The Council may:

- (1) Set unit charges or a schedule of user charges and fees for the wastewater to be discharged to the sewage works, in order to be reimbursed for costs of setting up and operating the pretreatment program as well as costs for maintenance, inspection and surveillance procedures;

- (2) Limit the average and maximum wastewater constituents and characteristics;

- (3) Limit the average and maximum rate and time of discharge, or make requirements for flow regulations and equalization;

- (4) Require the installation and maintenance of inspection and sampling facilities;

- (5) Establish specifications for monitoring programs, which may include sampling locations, the frequency of sampling, the number, types and standards for tests and the reporting schedule;

- (6) Establish compliance schedules;

- (7) Require submission of technical reports or discharge reports;

- (8) Require the maintaining, retaining and furnishing of plant records relating to wastewater discharge; monitoring activities, and results, as specified by the Council, and affording the Council access thereto, and copying thereof, for a period of three years, unless there is unresolved litigation involving the industrial user or the POTW, or if requested by the state or the EPA. If there is unresolved litigation involving the industrial user or the POTW, this period shall be extended. All information shall be made available to the EPA and the MDEQ, upon request.

- (9) Require notification of the Council, and the POTW for any new introduction of wastewater constituents or any substantial change in the volume or character of the wastewater constituents being introduced into the wastewater treatment system at least sixty days prior to such change. Further, the Council shall evaluate all new or changed discharges with respect to the general and specific prohibitions in R 2303 before acceptance into the POTW;

- (10) Require immediate notification of slug discharges and accidental spills followed by written notification within five (5) days or as otherwise indicated under this ordinance;

(11) Require other conditions as deemed appropriate by the Board to ensure compliance with this chapter.

(c) Spill Prevention and Slug Control Plans.

(1) Industrial users shall provide protection from accidental discharges of materials which may interfere with the sewage works by developing spill prevention plans. Facilities necessary to implement these plans shall be provided and maintained at the owner's or industrial user's expense. Spill prevention plans, including the facilities and the operating procedures, shall be approved by the Council before construction of the facility.

(2) Industrial users who store hazardous substances shall not contribute to the sewage works after the effective date of this chapter unless a spill prevention plan has been approved by the Council. Approval of such plans shall not relieve the industrial user from complying with all other laws and regulations governing the use, storage and transportation of hazardous substances, nor constitutes an affirmative defense in the case of accidental spills or slugs.

(3) The Council shall evaluate each significant industrial user, and other industrial users as necessary, within one year of being designated a Significant Industrial User or one year from adoption of the Sewer Use Ordinance, whichever is later, to determine if the Significant Industrial User needs a plan or other action to control Slug Discharges. Each such User will continue to be evaluated for the need of a slug control plan at least once every two years. If the Council decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

A. A description of discharge practices, including non-routine batch discharges;

B. A description of stored chemicals;

C. Procedures for immediately notifying the Council of slug discharges, including any discharge that would violate a prohibition provided for in Section 51.14, with procedures for follow-up written notification within five days;

D. If necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, building of containment structures or equipment, measures for containing toxic organic pollutants (including solvents) and/or measures and equipment for emergency response.

E. Any user designated as a Significant Industrial User shall notify the publicly owned treatment works supervisor of any changes that occur at the facility which may affect the potential of a slug discharge. Upon such notification, the POTW shall reevaluate the need for a slug control plan or other actions to prevent such discharges.

F. If the Council determines that a slug plan is required, the Wastewater Permit will be modified to include a requirement to develop and implement a plan to control slug discharges.

51.23 WASTEWATER CONTRIBUTION PERMIT REQUIREMENTS.

The following requirements will be contained in the industrial user permit:

- (a) A statement of duration (not greater than five years), including issuance and expiration dates.
- (b) A statement requiring compliance with requirements of applicable pretreatment standards and requirements or local limits imposed.
- (c) Effluent limitations based on the more stringent of categorical pretreatment standards, local limits as established by this chapter and State law.
- (d) General and specific discharge prohibitions as established by this chapter.
- (e) A schedule of fees for the discharge of wastewater to the sewage works.
- (f) Limitations on the average and maximum rate and time of discharges, or requirements for flow regulation and equalization.
- (g) Installation and maintenance of inspection and sampling facilities.
- (h) Specifications for monitoring programs, including sampling locations, frequency, number and types of samples, based upon applicable standards, state and local law.
- (i) Compliance schedules.
- (j) Submission of technical reports, discharge reports or certification statements. These include any reporting requirements contained in a National Categorical Pretreatment Standard or pretreatment requirement.
- (k) Collecting, retaining and providing access to plant records relating to the user's discharge and for providing entry for sampling and inspection.
- (l) Notification of any new introduction of wastewater constituents or any substantial change in the volume or character of the discharge.
- (m) Notification of spills and potential problems to the sewage works, including slug loadings, upsets or violations.
- (n) Installation, operation and maintenance of pollution control equipment.
- (o) Develop and implement spill and slug control plans if one is required.

(p) Other conditions as deemed appropriate by the sewage works to ensure compliance with this chapter and State and Federal pretreatment standards and requirements.

(q) A statement of applicable civil and criminal penalties for violation of pretreatment standards and requirements.

(r) A statement of non-transferability, without, at a minimum, prior notification to the POTW, and a copy of the permit to the new owner/operator.

(s) Conditions for modification or revocation of a permit.

(t) Requirement that the Industrial User must reapply for a new permit no later than 90 days before the expiration of the current permit.

51.24 REPORTING REQUIREMENTS FOR USERS.

(a) Report on compliance with categorical pretreatment standard deadline. Within 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 Industrial User subject to Pretreatment Standards and Requirements shall submit to the Control Authority a report containing the information described in Section 51.22. New sources shall also be required to include in this report information on the method of pretreatment the source intends to use to meet applicable pretreatment standards. New sources shall give estimates of the information requested in Section 51.22.

(b) *Periodic reports on continued compliance.*

(1) Any Industrial User subject to a categorical Pretreatment Standard after the compliance date of such Pretreatment Standard, or, in the case of a New Source, after commencement of the discharge into the POTW, shall submit to the Control Authority during the months of June and December, unless required more frequently in the Pretreatment Standard or by the Control Authority or the Approval Authority, a report indicating the nature and concentration of pollutants in the effluent which are limited by such categorical Pretreatment Standards. In addition, this report shall include a record of measured or estimated average and maximum daily flows for the reporting period for the Discharge reported in paragraph Section 51.22 except that the Control Authority may require more detailed reporting of flows. In cases where the Pretreatment Standard requires compliance with a Best Management Practice (or pollution prevention alternative), the User shall submit documentation required by the Control Authority or the Pretreatment Standard necessary to determine the compliance status of the User. At the discretion of the Control Authority and in

consideration of such factors as local high or low flow rates, holidays, budget cycles, etc., the Control Authority may modify the months during which the above reports are to be submitted.

(i) For Industrial Users subject to equivalent mass or concentration limits established by the Control Authority in accordance with the procedures in §403.6(c), the report required by paragraph (e)(1) shall contain a reasonable measure of the User's long-term production rate. For all other Industrial Users subject to categorical Pretreatment Standards expressed only in terms of allowable pollutant discharge per unit of production (or other measure of operation), the report required by paragraph (e)(1) shall include the User's actual average production rate for the reporting period.

(c) Notice of potential problems, including slug loading. All categorical and non-categorical industrial Users shall notify the POTW immediately of all discharges that could cause problems to the POTW, including any slug loadings, as defined in §403.5(b), by the Industrial User.

(d) *Monitoring and analysis to demonstrate continued compliance.*

(1) The reports required in Section 51.22(a) and Section 51.24(a), (b) and (h) shall contain the results of sampling and analysis of the Discharge, including the flow and the nature and concentration, or production and mass where requested by the Village, of pollutants contained therein which are limited by the applicable Pretreatment Standards. This sampling and analysis may be performed by the Village in lieu of the Industrial User. Where the POTW performs the required sampling and analysis in lieu of the Industrial User, the User will not be required to submit the compliance certification required under paragraphs (b)(6) and (d) of this section. In addition, where the POTW itself collects all the information required for the report, including flow data, the Industrial User will not be required to submit the report.

(2) If sampling performed by an Industrial User indicates a violation, the User shall notify the Village within 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 Village within 30 days after becoming aware of the violation. Where the Village has performed the sampling and analysis in lieu of the Industrial User, the Village must perform the repeat sampling and analysis unless it notifies the User of the violation and requires the User to perform the repeat analysis. Resampling is not required:

- (i) The Village performs sampling at the Industrial user at a frequency of at least once per month; or
- (ii) The Village performs sampling at the User between the time when the initial sampling was conducted and the time when the User or the Village receives the results of this sampling.

(3) The reports required under Section 52.22(a) and Section 51.24(a). (b) and (h) must 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 Village Council shall require that frequency of monitoring necessary to assess and assure compliance by Industrial Users with applicable Pretreatment Standards and Requirements. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the Village Council. Where time-proportional composite sampling or grab sampling is authorized by the Village Council, the samples must be representative of the Discharge and the decision to allow the alternative sampling will be documented in the Industrial User file for that facility or facilities. Using protocols (including appropriate preservation) specified in 40 CFR part 136 and appropriate EPA guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: For cyanide, total phenols, and sulfides the samples may be composited in the laboratory or in the field; for volatile organics and oil & grease the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures as documented in approved EPA methodologies may be authorized by the Village Council, as appropriate.

(4) For sampling required in support of baseline monitoring and 90-day compliance reports required in paragraphs (b) and (d) of this section, a minimum of four (4) grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide and volatile organic compounds for facilities for which historical sampling data do not exist. For the reports required by paragraphs (e) and (h) of this section, the Village Council shall require the number of grab samples necessary to assure compliance by Industrial Users with Applicable Pretreatment Standards and Requirements.

(5) All analyses shall be performed in accordance with procedures established by the Administrator pursuant to section 304(h) of the Act and contained in 40 CFR part 136 and amendments thereto or with any other test procedures approved by the Administrator. (See, §§ 136.4 and 136.5.) Sampling shall be performed in accordance with the techniques approved by the Administrator. Where 40 CFR part 136 does not include sampling or analytical techniques for the pollutants in question, or where the Administrator determines that the part 136 sampling and 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 POTW or other parties, approved by the Administrator.

(6) If an Industrial User subject to the reporting requirement in paragraph (e) or (h) of this section monitors any regulated pollutant at the appropriate sampling location more frequently than required by the Control Authority, using the procedures prescribed in paragraph (g)(5) of this section, the results of this

monitoring shall be included in the report.

(e) *Reporting requirements for Industrial Users not subject to categorical Pretreatment Standards.* The Control Authority must require appropriate reporting from those Industrial Users with Discharges that are not subject to categorical Pretreatment Standards. Significant Non-Categorical Industrial Users must submit to the Control Authority at least once every six months (on dates specified by the Control Authority) a description of the nature, concentration, and flow of the pollutants required to be reported by the Control Authority. In cases where a local limit requires compliance with a Best Management Practice or pollution prevention alternative, the User must submit documentation required by the Control Authority to determine the compliance status of the User. These reports must be based on sampling and analysis performed in the period covered by the report, and in accordance with the techniques described in part 136 and amendments thereto. This sampling and analysis may be performed by the Control Authority in lieu of the significant non-categorical Industrial User.

(f) *Notification of changed Discharge.* All Industrial Users shall promptly notify the Village and the POTW in advance of any substantial change in the volume or character of pollutants in their Discharge, including the listed or characteristic hazardous wastes for which the Industrial User has submitted initial notification under paragraph (p) of this section.

(g) *Signatory requirements for Industrial User reports.* The reports required by Section 51.22(a) and Section 51.24(a), (b) and (h) shall include 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 upon 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.

And shall be signed as follows:

(1) By a responsible corporate officer, if the Industrial User submitting the reports required by paragraphs (b), (d), and (e) of this section is a corporation. For the purpose of this paragraph, a responsible corporate officer means:

- (i) A president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy- or decision-making functions for the corporation; or
- (ii) The manager of one or more manufacturing, production, or operating facilities,⁴⁰ provided, the manager is authorized to

make management decisions which govern the operation of the regulated facility including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to assure long-term environmental compliance with environmental laws and regulations; can ensure that the necessary systems are established or actions taken to gather complete and accurate information for wastewater permit requirements; and where authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

(2) By a general partner or proprietor if the Industrial User submitting the reports required by paragraphs (b), (d), and (e) of this section is a partnership, or sole proprietorship respectively.

(3) By a duly authorized representative of the individual designated in paragraph (l)(1) and (l)(2) of this section if:

- (i) The authorization is made in writing by the individual described in paragraph (l)(1) or (l)(2);
- (ii) The authorization specifies either an individual or a position having responsibility for the overall operation of the facility from which the Industrial Discharge originates, such as the position of plant manager, operator of a well, or well field superintendent, or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and
- (iii) the written authorization is submitted to the Village Council.

(4) If an authorization under paragraph (l)(3) of this section is no longer accurate because a different individual or position has responsibility for the overall operation of the facility, or overall responsibility for environmental matters for the company, a new authorization satisfying the requirements of paragraph (l)(3) of this section must be submitted to the Village Council prior to or together with any reports to be signed by an authorized representative.

(h) *Provisions Governing Fraud and False Statements:* The reports and other documents required to be submitted or maintained under this section shall be subject to:

(1) The provisions of 18 U.S.C. section 1001 relating to fraud and false statements;

(2) The provisions of sections 309(c)(4) of the Act, as amended, governing false statements, representation or certification; and

(3) The provisions of section 309(c)(6) regarding responsible corporate

officers.

(i) *Record-keeping requirements.*

(1) Any Industrial User subject to the reporting requirements established in this section shall maintain records of all information resulting from any monitoring activities required by this section, including documentation associated with Best Management Practices. Such records shall include for all samples:

- (i) The date, exact place, method, and time of sampling and the names of the person or persons taking the samples;
- (ii) The dates analyses were performed;
- (iii) Who performed the analyses;
- (iv) The analytical techniques/methods use; and
- (v) The results of such analyses.

(2) Any Industrial User subject to the reporting requirements established in this section (including documentation associated with Best Management Practices) shall be required to retain for a minimum of 3 years any records of monitoring activities and results (whether or not such monitoring activities are required by this section) and shall make such records available or inspection and copying by the Director and the Regional Administrator. This period of retention shall be extended during the course of any unresolved litigation regarding the Industrial User or POTW or when requested by the Director or the Regional Administrator.

(3) The Village will retain reports submitted by the Industrial User pursuant to the requirements of this section for a minimum of 3 years and shall make such reports available for inspection and copying by the Director and the Regional Administrator. This period of retention shall be extended during the course of any unresolved litigation regarding the discharge of pollutants by the Industrial User or the operation of the POTW Pretreatment Program or when requested by the Director or the Regional Administrator.

(k) The Control Authority that chooses to receive electronic documents must satisfy the requirements of 40 CFR Part 3--(Electronic reporting).

51.25 HAZARDOUS WASTE NOTIFICATION.

(a) Any industrial user, except as specified in subsection (e) hereof, who discharges to the sewage works any substance which, if otherwise disposed of, would be a listed or characteristic hazardous waste under 40 CFR, Part 261, shall notify the Council, in writing, of such discharge.

(b) All hazardous waste notifications shall include:

- (1) The name of the hazardous waste as set forth in 40 CFR, Part 261;
- (2) The EPA hazardous waste number;
- (3) The type of discharge (continuous, batch or other); and
- (4) A certification that the user 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.

(c) In addition to the information submitted in subsection (b) hereof, hazardous waste notifications from industrial users discharging more than 100 kilograms of hazardous waste per calendar month to the sewage works shall contain, to the extent such information is known and readily available to the industrial user:

- (1) An identification of the hazardous constituents contained in the waste;

(2) An estimation of the mass and concentration of such constituents in the waste stream discharged during that calendar month; and

(3) An estimation of the mass of constituents in the waste stream expected to be discharged during the following twelve months.

(d) Hazardous waste notifications shall be submitted no later than 180 days from the discharge of the wastes. Any notification submitted according to this section need be submitted only once for each hazardous waste discharged, although notifications of changed discharges must be submitted as required by this chapter.

(e) Industrial users are exempt from this hazardous waste notification requirement during a calendar month in which they discharge fifteen kilograms or less of non-acute hazardous wastes. Discharges of fifteen kilograms of nonacute hazardous waste in a calendar month, or any quantity of acute hazardous waste, as specified in 40 CFR 261.30(d) and 261.33(e), require a one-time notification.

(f) 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 Industrial User must notify the POTW, the EPA Regional Waste Management Waste Division Director, and State hazardous waste authorities of the discharge of such substance within 90 days of the effective date of such regulations

51.26 MONITORING FACILITIES.

The Council may require, to be provided and operated at the user's own expense, monitoring facilities to allow inspection, sampling and flow measurement of the building sewer and/or internal drainage systems. The facility, sampling and measuring equipment shall be maintained at all times in a safe and proper operating condition at the expense of the user. Whether constructed on public or private property, the sampling and monitoring facilities shall be provided in accordance with plans and specifications submitted to and approved by the Council and with all applicable local construction standards and specifications. Construction shall be completed within ninety days following written notification by the Council.

51.27 INSPECTION AND SAMPLING.

(a) The Village shall be authorized to enter any premises where a discharge source or treatment system is located. The Village, through its designated appointee, shall inspect the facilities of any user to ascertain whether the purpose of this chapter is being met and all requirements are being complied with. Persons or occupants of premises where wastewater is generated or discharged shall allow the Council or its representative ready access at all reasonable times to all parts of the premises for the purposes of inspection, sampling, records examination, records copying or in the performance of any of

their duties. The Council, the Michigan Department of Environmental Quality (MDEQ) and the EPA shall have the right to set-up on the user's property such devices as are necessary to conduct sampling inspection, compliance monitoring and/or metering operations. Where a user has security measures in force which would 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, personnel from the Village, MDEQ or the EPA will be permitted to enter, without delay, for the purposes of performing their specific responsibilities. The MDEQ and EPA are authorized to conduct inspections, as deemed necessary by the MDEQ and EPA, and shall have full right to entry onto premises to do so.

(b) While performing the necessary work on private properties referred to in subsection (a) hereof, the duly authorized employees of the Village shall observe all safety rules applicable to the premises established by the company. The company shall be held harmless for injury or death to Village employees, and the Village shall indemnify the company against loss or damage to its property by Village employees and against liability claims and demands for personal injury or property damage asserted against the company and growing out of the gauging and sampling operation, except as such may be caused by negligence or failure of the company to maintain safe conditions as required in Section 51.26.

51.28 PRETREATMENT.

(a) Industrial users shall provide necessary wastewater treatment as required to comply with this chapter and shall achieve compliance with all pretreatment standards and requirements within the time limitations as specified by the Federal pretreatment regulations and as required by the Council. Any facilities required to pretreat wastewater to a level acceptable to the Council shall be provided, operated and maintained at the user's expense. Detailed plans showing the pretreatment facilities and operating procedures shall be submitted to the Council for review, and shall be approved by the Council before construction of the facility. The review of such plans and operating procedures will in no way relieve the user from the responsibility of modifying the facility as necessary to produce an effluent acceptable to the Council under the provisions of this chapter. Any subsequent changes in the pretreatment facilities or method of operation shall be reported to and be acceptable to the Council prior to the user's initiation of the changes.

(b) The Council shall annually publish in the largest daily newspaper circulated in the municipality where the POTW is located a list of categorical users that were at any time during the past twelve months, in significant noncompliance, as defined in this ordinance, violating any applicable pretreatment requirements or standards during the twelve previous months. The notification shall also summarize any enforcement actions taken against the user(s) during the same twelve months.

(c) All records relating to compliance with pretreatment standards shall be made available to officials of the EPA or MDEQ upon request.

(d) New sources will be required to install and start up technology prior to discharge and to achieve compliance within the shortest time feasible, such time period not to exceed ninety days after commencement of discharge.

(e) Net/Gross Calculation

(1) Application - Categorical Pretreatment Standards may be adjusted to reflect the presence of pollutants in the Industrial User's intake water in accordance with this section. Any Industrial User wishing to obtain credit for intake pollutants must make application to the Village. Upon request of the Industrial User, the applicable Standard will be calculated on a "net" basis (i.e., adjusted to reflect credit for the pollutants in the intake water) if the requirements of this section are met. This section shall automatically be modified to comply with the requirements of 40 CFR 403.15.

(2) Criteria - (A) Either:

(i) The applicable categorical Pretreatment Standards contained in 40 CFR subchapter N specifically provide that they shall be applied on a net basis; or

(ii) The Industrial User demonstrates that the control system it proposes or uses to meet applicable categorical Pretreatment Standards would, if properly installed and operated, meet the Standards in the absence of the pollutants in the intake water.

(B) Credit for generic pollutants such as biochemical oxygen demand (BOD), total suspended solids (TSS), and oil and grease should not be granted unless the Industrial User demonstrates that the constituents of the generic measure in the User's effluent are substantially similar to the intake water or unless appropriate additional limits are placed on the process water pollutants either at the outfall or elsewhere.

(C) Credit shall be granted only to the extent necessary to meet the applicable categorical Pretreatment Standard(s), up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with Standard(s) adjusted under this section.

(D) Credit shall be granted only if the User demonstrates that the intake water is drawn from the same body of water as that into which the POTW discharges. The Village may waive this requirement if it finds that no environmental degradation will result.

51.29 BYPASSES.

(a) Bypasses Not in Violation of Applicable Pretreatment Standards or Requirements. An industrial user may allow any bypass to occur which does not violate pretreatment standards or requirements, but only if it also is for essential maintenance to assure efficient operation. These bypasses are not subject to

Section 51.29(b) and (c).

(b) Notice.

(1) If an industrial user knows in advance of the need for a bypass, it shall submit prior notice to the Council, if possible, at least ten days before the date of the bypass.

(2) An industrial user shall orally notify the Council of an unanticipated bypass that exceeds applicable pretreatment standards or requirements within twenty-four hours of becoming aware of the bypass. A written submission shall also be provided within five days of becoming aware of the bypass. The written submission shall contain a description of the bypass and its cause; the duration of the bypass, including exact times and dates, 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 recurrence of the bypass.

(c) Prohibited Bypasses.

(1) Bypass is prohibited and the Council may take enforcement action against an individual 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 bypass, such as the use of auxiliary treatment facilities, retention of wastes or preventative maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed to prevent bypass which occurred during normal periods of equipment downtime or preventative maintenance; and

C. The industrial user submitted notices as required under Subsection (b) provided for in Section 51.29(b).

(2) The Council may approve an anticipated bypass, after considering its adverse effects, if the Council determines that it will meet the three conditions listed in paragraph (c)(1) hereof.

51.30 CONFIDENTIAL INFORMATION.

(a) Any information submitted by a user pursuant to this ordinance that is obtained from reports, questionnaires, permit applications, permits, monitoring programs and inspections shall be available to the public or other governmental agencies without restriction, unless the user specifically requests and is able to demonstrate in accordance with 40 CFR Part 2 to the satisfaction of the Council that the release of such information would divulge information, processes or methods of production entitled to protection as trade secrets of the user. A claim of confidentiality by the user must be asserted at the time the information is

submitted.

- (i) Information and data provided to the Control Authority pursuant to this part which is effluent data shall be available to the public without restriction.
- (ii) All other information which is submitted to the Village shall be available to the public at least to the extent provided by 40 CFR 2.302.

(b) When a claim of confidentiality has been asserted for information that may disclose trade secrets or secret processes, that information shall be treated in accordance with the procedures in 40 CFR Part 2. Information for which a claim has been made 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 NPDES Permit or the pretreatment programs. However, 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.

(c) Information accepted by the Council as confidential shall not be transmitted to any governmental agency or to the general public by the Council, except as required to the EPA or the MDEQ, until and unless a ten-day notification is given to the user.

51.31 ENFORCEMENT.

(a) Harmful Contributions. The Council may suspend wastewater treatment service when such suspension is necessary, in the opinion of the Council, in order to stop an actual or threatened discharge which presents or may present an imminent or substantial endangerment to the health or welfare of persons or to the environment, or which causes interference to the sewage works or causes the sewage works to violate any condition of its NPDES Permit.

Any person notified of a suspension of the wastewater treatment service shall immediately stop or terminate the contribution. In the event of a failure of the person to comply voluntarily with the suspension order, the Council shall take such steps as are deemed necessary, including immediate disconnection of the sewer connection, to prevent or minimize damage to the sewage works system or endangerment to any individuals. The Council shall reinstate the wastewater treatment service upon proof of the elimination of the noncomplying discharge. A detailed written statement submitted by the user describing the causes of the harmful contribution and the measures taken to prevent any future occurrences shall be submitted to the Council within five days of the date of occurrence.

(b) Notification of Violation. Whenever the Council finds that any user has violated or is violating this chapter, an industrial user's permit or any

prohibition, limitation or requirement contained herein, the Council may serve upon such person a verbal or written notice stating the nature of the violation. The notice given by the Council shall conform to the standards adopted under Section 4.1 of the Enforcement Response Plan, as adopted by the Village of Quincy, and may include a verbal warning, a written warning, or require an informal meeting. Council may also give notice of violation under Section 4.2 of the Enforcement Response Plan under Section 4.2; and/or assess administrative Fines under Section 4.3 of the Enforcement Response Plan. Council may issue a cease and desist order, requiring the user to immediately cease and desist from any discharges, in whole, or in part, as determined appropriate by the Council. Within thirty days of the date of the notice, a plan for the satisfactory correction thereof shall be submitted to the Council by the user. Within 30 days the Council will approve, disapprove, approve in part, or request modification of the plan.

The Village Manager, upon direction from the Village Council, may utilize any, or all, of the enforcement options adopted under Section 4.4 of the Enforcement Response Plan.

(c) Consent Orders. The Superintendent is hereby empowered to enter into consent orders, assurances of voluntary compliance, or other similar documents establishing an agreement with the Industrial User responsible for the noncompliance. Such orders will include compliance schedules, stipulated fines or remedial actions, and signatures of the Superintendent and industry representatives. Consent Orders shall have the same force and effect as administrative orders issued pursuant to the Enforcement Response Plan, or this Ordinance.

(d) Show Cause Hearing.

(1) Any user subject to enforcement action under the provisions of this chapter may request a hearing before the Manager within ten days of the receipt of notification of the proposed enforcement action. A hearing is to be held by the Manager concerning the violation, the reasons why the action is to be taken and the proposed enforcement action, and directing the user to show cause before the Manager why the proposed enforcement action should not be taken.

(2) The Manager may conduct the hearing and take the evidence, or may designate any officer or employee to:

A. Issue, in the name of the Council, notices of hearing requesting the attendance and testimony of witnesses and the production of evidence relevant to any matter involved in such hearings;

B. Take the evidence; and

C. Transmit a report of the evidence and hearing, including transcripts and other evidence, together with recommendations to the Council for action thereon.

(3) At any hearing held pursuant to this chapter, testimony taken must be under oath and recorded stenographically. The transcript, so recorded, will be

made available to any member of the public or any party to the hearing upon payment of the usual charges therefore.

(4) After the Manager has reviewed the evidence, he or she may issue an order to the user responsible for the discharge directing that, following a specified time period, the sewer service be discontinued unless adequate treatment facilities, devices or other related appurtenances shall have been installed on existing treatment facilities, and that said devices or other related appurtenances are properly operated.

(5) The Village shall also establish appropriate surcharges or fees to reimburse the Village for the additional cost of operation and maintenance of the wastewater treatment works due to the violations of this chapter.

(6) Any action by the Manager may be appealed to the Council.

(e) Cease and Desist Orders. When the Superintendent finds that an Industrial User has violated or continues to violate any Chapter of this Ordinance or any permit or order issued hereunder, the Superintendent may issue an order to cease and desist all illegal or unauthorized discharges immediately.

(1) In an emergency, the order to cease and desist may be given by telephone.

(2) In non-emergency situations, the cease and desist order may be used to suspend or permanently revoke any permits.

(3) The cease and desist order may direct the Industrial User to take such appropriate remedial or preventive action as may be needed to properly address a continuing or threatened violation, including halting operations and terminating the discharge.

(4) The Village shall be notified of and receive copies of all orders issued pursuant to this Section

(f) Emergency Suspensions.

(1) The Superintendent may suspend the Wastewater treatment service and/or Wastewater permit of an Industrial User whenever such suspension is necessary in order to stop an actual or threatened discharge presenting or causing an imminent or substantial endangerment to the health or welfare of persons, the POTW, or the environment.

(2) Any Industrial User notified of a suspension of the Wastewater treatment service and/or Wastewater permit shall immediately stop or eliminate its contributions. In the event of an Industrial User's failure to immediately comply voluntarily with the suspension order, the Superintendent shall 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 shall allow the Industrial

User to recommence its discharge when the endangerment has passed, unless the termination proceedings under this ordinance are initiated against the Industrial User.

(3) An Industrial User which is responsible, in whole or in part, for such imminent or substantial 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 on or before such response deadline date as the Superintendent shall specify.

(g) Termination of Permit Significant Industrial Users proposing to discharge into the POTW, must first obtain a Wastewater Discharge Permit from the Superintendent. Any Industrial User who violates the following conditions of this Ordinance or a Wastewater Contribution Permit or order, or any applicable State or Federal law, is subject to permit termination:

(1) Violation of permit conditions.

(2) Failure to accurately report the Wastewater constituents and characteristics of its discharge.

(3) Failure to report significant changes in operation or Wastewater constituents and characteristics.

(4) Refusal of reasonable access to the Industrial User's premises for the purpose of inspection, monitoring, or sampling.

Noncompliant Industrial Users will be notified by the Superintendent of the proposed termination of their Wastewater Discharge permit and be offered an opportunity to show cause why the proposed action should not be taken. Notice shall also be given to the Village at the same time that notice is given to the Industrial User.

(h) Affirmative Defenses. An Industrial User shall have an affirmative defense as outlined in any action brought against it alleging a violation of the general prohibitions established in R323.2303.1 and the specific prohibitions in R323.2303(2)(c), R323.2303(2)(d), R 323.2303(2)(e) and R323.2303(2)(f), where the Industrial User can demonstrate that:

(1) It did not know or have reason to know that its discharge, alone or in conjunction with a discharge or discharges from other sources, would cause Pass-Through or Interference; and

(2) (A) A local limit designed to prevent Pass-Through and/or Interference, as the case may be, was developed in accordance with 40 CFR 403.5(c) for each Pollutant in the Industrial User's discharge that caused Pass-Through or Interference, and the Industrial User was in compliance with each such local limit directly prior to and during the Pass-Through or Interference; or.

(B) If a local limit designed to prevent Pass-Through and/or Interference,

as the case may be, has not been developed in accordance with 40 CFR 403.5(c) for the Pollutant(s) that caused the Pass-Through or Interference, the Industrial User's discharge directly prior to and during the Pass-Through or Interference did not change substantially in nature or constituents, from the Industrial User's prior discharge activity when the POTW was regularly in compliance with its NPDES permit requirements and, in the case of Interference, applicable requirements for sewage Sludge use or disposal.

(i) Right of Appeal. Any decision relating to the enforcement of this Ordinance may be appealed to the Village Council on the written request of any Person. Thereafter, the Village Council shall then act to uphold or modify the decision. The action of the Village Council shall be final and binding on all Persons.

(j) Recovery of Costs. Any Person violating any of the provisions of this Ordinance shall become liable to the Superintendent and the Village for any expense, loss, or damage occasioned the Superintendent or the Village by reason of such violation, including reasonable attorney fees and court costs.

(k) Legal Action. If any person or user discharges sewage, industrial wastes or other wastes into the Village wastewater disposal system contrary to the provisions of this chapter, the user's permit, Federal or State pretreatment requirements, or any order of the Council, or its designated appointee or representative, the Council may commence an action for appropriate legal and/or equitable relief.

(l) Protection from Damage. No unauthorized person shall maliciously, willfully, or negligently break, damage, destroy, uncover, deface, or tamper with any structure, appurtenance or equipment which is part of the municipal sewage works. Any person violating this provision shall be subject to immediate arrest under the charge of disorderly conduct, and prosecuted pursuant to the Codified Ordinances of the Village of Quincy.

51.32 JUDICIAL REMEDIES.

If any person discharges sewage, industrial wastes, or other wastes into the POTW contrary to the provisions of this Ordinance or any order or permit issued hereunder, the Superintendent, with the prior concurrence of the Village and through the Village Attorney, may commence an action for appropriate legal and/or equitable relief in a court of appropriate jurisdiction.

(a) Injunctive Relief. Whenever an Industrial User has violated or continues to violate the provisions of this Ordinance or a permit or order issued thereunder, the Superintendent with the prior written concurrence of the Village, through the Village Attorney, may petition the Court for the issuance of a preliminary or permanent injunction or both (as may be appropriate) which restrains or compels the activities on the part of the User.

(b) Civil Penalties.

(1) Any User who violated or continues to violate this Ordinance or any order or permit issued hereunder, shall to the extent permitted by law, be liable to the Village for a civil fine of at least \$1,000 or the maximum allowable under state law or a civil penalty of not more than the maximum allowable under state law, plus actual damages incurred by the Superintendent and/or the POTW per violation per day for as long as the violation continues. In addition to the above described penalty and damages, the Superintendent and/or the POTW may recover reasonable attorney fees, court costs, engineering and other expenses associated with the enforcement investigation, surveillance and/or activities, including sampling, monitoring and analysis expenses including the time devoted by administrative and other Superintendent and/or POTW staff.

(2) The Superintendent shall petition the court to impose, assess, and recover such sums. In determining amount of 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, 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.

(c) Criminal Prosecution.

Any User who willfully or negligently violates any provision of this Ordinance or any orders or permits issued hereunder shall, upon conviction, be guilty of a misdemeanor, punishable by a fine of not less than \$500 or the maximum allowable under state law per violation per day or imprisonment for not more than 90 days or both.

(d) Rules for Continuing Violations.

(1) A separate violation occurs for each Pollutant that exceeds an applicable Pretreatment Standard and for each report that is late;

(2) Each day on which a violation occurs is a separate violation;

(3) Any noncompliance with, or violation of, any Pretreatment Standard that is a monthly average, 30-day average, or 4-day average, shall be deemed a violation for each day of the averaging period;

(4) If for any period a User has violated both a maximum and an average Pretreatment Standard for a particular Pollutant, then the total number of violations is the sum of the days on which the maximum standard was violated plus the number of the averaging periods for which the maximum standard was violated; and

(5) One violation occurs on:

1. Each day (including each additional day) that a report is late; and

2. Each day after an action required to be completed is not completed.

(e) Annual Publication of Industrial Users in Significant Noncompliance. The Superintendent shall publish, at least annually, a description of those Categorical Industrial Users which are found to be in Significant Noncompliance, as defined in this Ordinance, with any provisions of this Ordinance or any permit or order issued thereunder during the period since the previous publication.

51.33 FALSIFICATION OF INFORMATION; TAMPERING WITH EQUIPMENT.

No person shall knowingly make any false statements, representations or certifications in any application, record, report, plan or other document filed or required to be maintained pursuant to this chapter, or falsify, tamper with or knowingly render inaccurate any monitoring device or method required under this chapter. A violation of this section shall be a misdemeanor, and penalties shall be applied pursuant to Section 51.99 below.

51.34 SUPPLEMENTAL ENFORCEMENT REMEDIES.

(a) Performance Bonds. The Superintendent may decline to reissue a permit to any Industrial User which has failed to comply with the provisions of this Ordinance or any order or previous permit issued thereunder unless such Industrial User first files with it a satisfactory bond, payable to the Village in a sum not to exceed a value determined by the Village to be necessary to achieve consistent compliance.

(b) Liability Insurance. The Superintendent may decline to reissue a permit to any Industrial User which has failed to comply with the provisions of this Ordinance or any order or previous permit issued thereunder, unless the Industrial User first submits proof that it has obtained financial assurances sufficient to restore or repair POTW damage caused by its discharge.

(c) Water Supply Severance. Whenever an Industrial User has violated or continues to violate the provisions of this Ordinance or an order or permit issued thereunder, the Village may sever water service to the Industrial User and service will only recommence, at the Industrial User's expense, after it has satisfactorily demonstrated its ability to comply.

(d) Public Nuisances. Any violation of the prohibitions or effluent restrictions of this Ordinance or any permit or order issued thereunder, is hereby declared a public Nuisance and shall be corrected or abated as directed by the Village. Any Person(s) creating a public Nuisance shall be subject to the provisions of Village Ordinance governing Nuisances, including reimbursing the Village for any costs incurred in removing, abating, or remedying said Nuisance.

(e) Contractor Listing.

(1) Industrial Users which have not achieved consistent compliance with applicable Pretreatment Standards and requirements are not

eligible to receive a contractual award for the sale of goods or services to the Village.

(2) Existing contracts for the sale of goods or services to the Village held by an Industrial user found to be in Significant Noncompliance of the Pretreatment standards may be terminated at the discretion of the Village.

51.35 RECOVERY OF DELINQUENT FINES, ASSESSMENTS AND OTHER COSTS.

All fines, assessments, charges and collection costs, including attorney's fees, shall be a lien on the user's premises to which the sewer services are supplied. Where charges are delinquent for six months or more, the fact of such delinquency shall, pursuant to Act 94 of the Public Acts of Michigan, 1933, as amended, be certified by the Manager or his or her designee, on or before April 1 of each year, to the assessing officer of the Village, whereupon such charges shall be entered upon the next tax roll as a charge against such premises and shall be collected and the lien thereof enforced in the same manner as general Village taxes against such premises are collected and the lien thereof enforced.

51.36 SEVERABILITY

Should any provision or section of this ordinance be held unconstitutional or invalid, such holding shall not be construed as affecting the validity of the remaining provisions or sections, which shall remain in full force and effect.

51.37 CONFLICT

Should any provision of this ordinance be found to be in conflict with any other provision of the Codified Ordinances of the Village of Quincy, the provision in this ordinance shall be deemed the controlling provision.

51.99 PENALTY.

(a) Any person found to be violating any provision of this chapter except § 51.32 (e), and 51.33, shall be served by the Village Council with written notice stating the nature of the violation. The user shall cease all violations within the time stated in the notice.

(b) Notwithstanding any other provision of this chapter, any user who is found to have violated any provision of this ordinance, except Section 51.32(e) and 51.33, shall be deemed to have committed a civil infraction. The fines for the civil infraction shall be as follows: Each offense, a fine of up to \$1,000.00.

(c) Violations of Section 51.33, shall be considered a misdemeanor, punishable by a fine of not less than \$100.00 and a maximum fine of not less than \$500.00, plus restitution, and, further, shall be subject to incarceration in the county jail for a period of up to 90 days.

(d) Each day a violation continues shall be deemed a separate and distinct offense and subject to a separate and distinct fine, as well as incarceration, as indicated above.

(e) None of the foregoing sanctions or costs shall prohibit the Village from seeking injunctive or other civil remedies against an alleged or convicted violator, nor prohibit the Village from terminating public water or sewer services to the violator's premises.

(f) Any person violating any of the provisions of this chapter shall become liable to the Village for any expense, loss, or damage occasioned the Village by reason of such violation.

This ordinance shall become effective 21 days after the publication in a newspaper of general circulation.

Ayes: _____

Nays: _____
