

**CHAPTER 7049**  
**MINNESOTA POLLUTION CONTROL AGENCY**  
**WASTEWATER PRETREATMENT**

7049.0100	PURPOSE, OBJECTIVE, AND INTENT.	7049.0550	BASELINE MONITORING REPORT COMPLIANCE SCHEDULE.
7049.0110	APPLICABILITY.	7049.0560	90-DAY COMPLIANCE REPORT.
7049.0120	DEFINITIONS.	7049.0570	PERIODIC REPORTS ON CONTINUED COMPLIANCE.
7049.0130	LOCAL LAW.	7049.0580	POTW MONITORING IN LIEU OF INDUSTRIAL USER SELF-MONITORING.
7049.0140	PRETREATMENT STANDARDS; PROHIBITED DISCHARGES.	7049.0590	CERTIFICATION FOR REPORTS.
7049.0150	AFFIRMATIVE DEFENSE FOR VIOLATIONS.	7049.0600	POTW RESPONSIBILITY TO CONTROL INDUSTRIAL USERS.
7049.0160	CONFIDENTIALITY.	7049.0620	REPORTING.
7049.0161	CRIMINAL VIOLATIONS.	7049.0630	SIGNATORY REQUIREMENTS FOR POTW REPORTS.
7049.0162	RECORD KEEPING.	7049.0640	AGENCY DIRECT REGULATORY ACTION.
7049.0163	INFORMATION, RECORDS, AND ACCESS.	7049.0650	POTW RESPONSIBILITY TO ENFORCE PRETREATMENT STANDARDS.
7049.0200	REPORTING AND MONITORING.	7049.0700	NOTIFICATION.
7049.0210	NOTICE.	7049.0710	MONITORING OF SIGNIFICANT INDUSTRIAL USERS.
7049.0220	SIGNATORY REQUIREMENTS FOR INDUSTRIAL USER REPORTS.	7049.0720	PRETREATMENT ANNUAL REPORT; NONDELEGATED POTWS.
7049.0300	APPLICATION OF NATIONAL CATEGORICAL PRETREATMENT STANDARDS.	7049.0800	POTWS REQUIRED TO DEVELOP PRETREATMENT PROGRAM.
7049.0310	NATIONAL CATEGORICAL PRETREATMENT STANDARDS ADOPTED.	7049.0810	DELEGATED LOCAL POTW PRETREATMENT PROGRAM REQUIREMENTS.
7049.0350	COMBINED WASTE STREAM FORMULA.	7049.0820	LEGAL AUTHORITY.
7049.0360	DEFINITIONS FOR REMOVAL CREDITS.	7049.0830	PROCEDURES.
7049.0370	APPLICATION FOR REMOVAL CREDITS.	7049.0840	FUNDING.
7049.0380	CONDITIONS FOR AUTHORIZATION TO GIVE REMOVAL CREDITS.	7049.0850	LOCAL LIMITS.
7049.0390	CALCULATION OF REVISED DISCHARGE LIMITS WITH REMOVAL CREDITS.	7049.0860	ENFORCEMENT RESPONSE PLAN.
7049.0400	ESTABLISHMENT OF REMOVAL CREDITS; DEMONSTRATION OF CONSISTENT REMOVAL.	7049.0870	SIGNIFICANT INDUSTRIAL USER LIST.
7049.0410	CONSISTENT REMOVAL DATA.	7049.0880	SUBMITTAL FOR PRETREATMENT PROGRAM APPROVAL.
7049.0420	PROVISIONAL REMOVAL CREDITS FOR NEW OR CHANGED FACILITIES.	7049.0890	CONTENTS OF POTW DELEGATED PRETREATMENT PROGRAM SUBMISSION.
7049.0430	CONDITIONAL REMOVAL CREDITS PRIOR TO AGENCY APPROVAL OF POTW PRETREATMENT PROGRAM.	7049.0900	CONTENT OF REMOVAL CREDIT SUBMISSION.
7049.0440	TERMINATION OF CONDITIONAL REMOVAL CREDITS.	7049.0910	REQUEST FOR CONDITIONAL APPROVAL OF POTW PRETREATMENT PROGRAM.
7049.0450	POTW APPLICATION FOR AUTHORIZATION TO GIVE REMOVAL CREDITS AND AGENCY REVIEW.	7049.0920	CONSISTENCY WITH WATER QUALITY MANAGEMENT PLANS.
7049.0460	AUTHORIZATION TO GIVE REMOVAL CREDITS.	7049.0930	AGENCY ACTION.
7049.0470	MODIFICATION OR WITHDRAWAL OF REMOVAL CREDITS.	7049.0940	PUBLIC NOTICE AND OPPORTUNITY FOR HEARING.
7049.0480	NET/GROSS CALCULATION TO ADJUST CATEGORICAL STANDARDS.	7049.0950	REVIEW, APPROVAL, AND DECISION.
7049.0485	FUNDAMENTALLY DIFFERENT FACTORS; VARIANCES TO CATEGORICAL STANDARDS.	7049.0960	APPROVAL OF REQUEST FOR CONDITIONAL APPROVAL.
7049.0490	UPSET AFFIRMATIVE DEFENSE FOR VIOLATIONS OF CATEGORICAL STANDARDS.	7049.0970	MODIFICATION OF POTW PRETREATMENT PROGRAMS.
7049.0495	BYPASS PROVISIONS FOR CATEGORICAL STANDARDS.	7049.0980	SUBSTANTIAL MODIFICATIONS DEFINED.
7049.0500	BASELINE MONITORING REPORT AND APPLICATION FOR INDIVIDUAL CONTROL MECHANISM.	7049.0990	APPROVAL PROCEDURES FOR SUBSTANTIAL MODIFICATIONS.
7049.0510	DUE DATE OF BASELINE MONITORING REPORT AND APPLICATION FOR INDIVIDUAL CONTROL MECHANISM.	7049.1000	APPROVAL PROCEDURES FOR NONSUBSTANTIAL MODIFICATIONS.
7049.0520	CONTENTS OF BASELINE MONITORING REPORT.	7049.1005	INCORPORATION IN PERMIT.
7049.0530	CONTENTS OF APPLICATION FOR PERMIT.	7049.1010	LOCAL LIMITS RE-EVALUATION.
7049.0540	MONITORING FOR BASELINE MONITORING REPORT.	7049.1020	ANNUAL PRETREATMENT REPORTS FOR DELEGATED POTW PRETREATMENT PROGRAMS.

**7049.0100 PURPOSE, OBJECTIVE, AND INTENT.**

This chapter implements the requirements of the federal general pretreatment regulations in Code of Federal Regulations, title 40, part 403, and the pretreatment provisions of national categorical pretreatment regulations in Code of Federal Regulations, title 40, chapter I, subchapter N, and implements the authorities of Minnesota Statutes, section 115.03, subdivision 1, paragraph (e), clause (2). This chapter establishes the responsibilities of the state, local governments, and the public to control pollutants introduced into a publicly owned treatment works (POTW) and prevent the introduction of pollutants into a POTW. This chapter is intended to:

- A. prevent or control the introduction of pollutants that are incompatible with a POTW plant;
- B. prevent the pass-through of pollutants through a POTW plant without adequate treatment; and
- C. prevent interference with a POTW physical plant; collection system; physical, chemical, or biological processes; personnel; or disposal of residuals.

The objective of this chapter is to provide for the prevention or control of pollutants entering a POTW plant that can cause or contribute to the violation by the POTW of any state or federal environmental rule or regulation prohibiting or limiting pollutant release. It is also the intent of this chapter to improve opportunities to recycle and reclaim municipal and industrial wastewaters, sludges, and other residuals.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0110 APPLICABILITY.**

This chapter applies to:

- A. pollutants from nondomestic sources that are discharged into POTWs, transported by truck or rail, or otherwise introduced into POTWs;
- B. nondomestic sources that discharge pollutants into POTWs, transport pollutants by truck or rail, or otherwise introduce pollutants into POTWs; and
- C. POTWs that receive wastewater from nondomestic sources.

This chapter does not apply to sources that introduce pollutants to a sewer not connected to a POTW treatment plant.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0120 DEFINITIONS.**

Subpart 1. **Scope.** The definitions in this part apply to this chapter.

Subp. 2. **Agency.** "Agency" means the Minnesota Pollution Control Agency. Rights and authorities of the agency may be exercised by any member of, employee of, agent of, or consultant to the agency, when authorized by it, upon presentation of credentials.

Subp. 3. **Best management practices or BMPs.** "Best management practices" or "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures, and other management practices to implement the prohibitions listed in part 7049.0140. BMPs include, but are not limited to, treatment requirements, operating procedures, and practices to control plant site runoff, spillage or leaks, sludge or waste disposal, or drainage from raw materials storage.

Subp. 4. **Categorical industrial user.** "Categorical industrial user" means an industrial user that is subject to national categorical pretreatment standards.

Subp. 5. **Categorical pretreatment standards or national categorical pretreatment standards.** "Categorical pretreatment standards" or "national categorical

## 7049.0120 WASTEWATER PRETREATMENT

1239

pretreatment standards" means the pretreatment standards from federal regulations that are incorporated by reference in part 7049.0310.

Subp. 6. **Control authority.** "Control authority" means the following governmental entity that has authority and responsibility to implement specific pretreatment standards for a specific industrial user:

A. the receiving POTW authority is the control authority for purposes of preventing interference or pass-through and for implementing all local pretreatment prohibitions, limitations, or requirements, including limitations required by this chapter; and

B. for the purpose of regulating industrial users subject to the national categorical pretreatment standards, the control authority is the receiving POTW authority if the receiving POTW authority has been delegated pretreatment authority under parts 7049.0800 to 7049.1020. If the receiving POTW authority has not been delegated authority under parts 7049.0800 to 7049.1020, the agency is the control authority for the purpose of implementing national categorical pretreatment standards. The POTW authority remains the control authority for item A.

Subp. 7. **Federal delegated pretreatment program.** "Federal delegated pretreatment program" means a pretreatment program administered by a POTW authority that meets the criteria in parts 7049.0800 to 7049.0870 and has been approved by the agency under parts 7049.0880 to 7049.0960.

Subp. 8. **Indirect discharge or discharge.** "Indirect discharge" or "discharge" means the introduction of pollutants into a POTW, whether by sewer or other means.

Subp. 9. **Industrial user.** "Industrial user" means a nondomestic source of indirect discharge.

Subp. 10. **Interference.** "Interference" means a discharge that, alone or in conjunction with a discharge or discharges from other sources:

A. inhibits or disrupts a POTW plant, its treatment processes or operations, or its sludge processes, use, or disposal; and

B. is, therefore, a cause of a violation, including an increase in the magnitude or duration of a violation, of any permit or rule controlling, prohibiting, or limiting the release of pollutants from the POTW plant into the environment.

Subp. 11. **New source.**

A. "New source" means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed national categorical pretreatment standards under section 307(c) of the Clean Water Act, United States Code, title 33, which will be applicable to the source if the categorical standards are adopted according to that section, provided that:

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

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

(3) the production or wastewater generating processes of the building, structure, facility, or installation are substantially independent of an existing source at the same site. In determining whether these are substantially independent, factors such as the extent to which the new facility is integrated with the existing plant and engaged in the same general type of activity as the existing source shall be considered.

B. Construction on a site at which an existing source is located results in a modification rather than a new source if the construction does not create a new building, structure, facility, or installation meeting the criteria of item A, subitem (2) or (3), but otherwise alters, replaces, or adds to existing process or production equipment.

C. Construction of a new source as defined in this part has commenced if the owner or operator has undertaken any of the following:

(1) begun or caused to begin as part of a continuous on-site construction program:

(a) any placement, assembly, or installation of facilities or equipment; or

(b) significant site preparation work including, but not limited to, clearing, excavation, or removal of existing buildings, structures, or facilities that is necessary for the placement, assembly, or installation of new source facilities or equipment; or

(2) entered into a binding contractual obligation for the purchase of facilities or equipment that are intended to be used in its operation within a reasonable time. Options to purchase or contracts that can be terminated or modified without substantial loss, and contracts for feasibility, engineering, and design studies, do not constitute a contractual obligation under this subpart.

Subp. 12. **Pass-through.** "Pass-through" means a discharge that exits a POTW plant into waters of the state in quantities or concentrations that, alone or in conjunction with a discharge or discharges from other sources, is a cause of violating a requirement of any permit, rule, regulation, or ordinance controlling, prohibiting, or limiting the release of pollutants from the POTW plant into the environment, including an increase in the magnitude or duration of a violation.

Subp. 13. **Pollutant of concern.** "Pollutant of concern" means a pollutant that is or may be discharged by an industrial user to a POTW and that is, or reasonably should be, of concern to the POTW on the basis that it may cause interference or pass-through.

Subp. 14. **POTW authority.** "POTW authority" means the governmental authority that holds the permit for a POTW plant.

Subp. 15. **POTW collection system.** "POTW collection system" means the sewers, pipes, appurtenances, and other conveyances used to convey wastewater to a POTW plant. This definition includes the physical plant and processes of the POTW collection system and the personnel who operate and maintain the POTW collection system.

Subp. 16. **POTW plant.** "POTW plant" means the treatment works that is owned by a municipality, as defined in Minnesota Statutes, section 115.41. This definition includes the physical plant and the physical, chemical, and biological processes used in the storage, treatment, recycling, and reclamation of municipal sewage and sewer industrial waste. This definition includes the POTW collection system and the personnel who operate and maintain the POTW plant.

Subp. 17. **Pretreatment.** "Pretreatment" means the reduction of the amount of pollutants, the elimination of pollutants, or the alteration of the nature of pollutant properties in wastewater before or in lieu of discharging or otherwise introducing pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical, or biological processes, process changes, or other means, except as prohibited by part 7049.0300, subpart 4. Appropriate pretreatment technology includes, but is not limited to, control equipment, such as equalization tanks or facilities, for protection against surges or slug discharges that might interfere with or otherwise be incompatible with the receiving POTW. However, when process effluent limited by categorical pretreatment standards is mixed with wastewater other than those generated by processes limited by the same categorical pretreatment standard, the effluent must meet, after pretreatment, the alternate limits for the combined effluent calculated using the combined waste stream formula as provided in part 7049.0350.

Subp. 18. **Pretreatment requirements.** "Pretreatment requirements" means any substantive or procedural requirement related to pretreatment, other than a pretreatment standard, imposed on an industrial user.

Subp. 19. **Pretreatment standard.** "Pretreatment standard" means any state or local law, rule, or ordinance containing pollutant discharge limits or prohibitions, applicable to discharges to a POTW. Pretreatment standard includes all standards or limits contained in or

required by this chapter. Where more than one standard or limit applies, the most restrictive is controlling.

Subp. 20. **Publicly owned treatment works or POTW.** "Publicly owned treatment works" or "POTW" means a treatment works as defined in Minnesota Statutes, section 115.01, subdivision 21, that is owned by a state or municipality as defined by section 502(4) of the Clean Water Act, United States Code, title 33, section 1362(4), and Minnesota Statutes, section 115.41. This term includes "POTW plant" and "POTW authority."

Subp. 21. **Receiving POTW.** "Receiving POTW" means the POTW that receives the wastewater discharge from an industrial user.

Subp. 22. **Regulated process waste stream or regulated process.** "Regulated process waste stream" or "regulated process" means a wastewater stream or process that is subject to national categorical pretreatment standards.

Subp. 23. **Required pretreatment standard.** "Required pretreatment standard" means a pretreatment standard that a POTW is required to implement and enforce as set forth in part 7049.0650.

Subp. 24. **Significant industrial user.**

A. "Significant industrial user" means an industrial user that:

(1) contributes a process wastewater containing five percent or more of the flow or load of any pollutant of concern to the receiving POTW;

(2) is designated by the agency or the receiving POTW authority as significant on the basis that it has reasonable potential to impact the receiving POTW plant, or violate required pretreatment standards; or

(3) discharges 25,000 gallons per day or more of process wastewater, excluding sanitary, noncontact cooling or boiler blowdown wastewater, to the receiving POTW.

B. An industrial user that meets the criteria in item A may be designated "not significant" by the POTW authority on the basis that it has no reasonable potential to impact the POTW plant and has no reasonable potential to violate required pretreatment standards.

C. An industrial user that is subject to national categorical pretreatment standards shall also be considered a significant industrial user by any POTW authority that operates a federal delegated pretreatment program approved under parts 7049.0800 to 7049.1020, except as provided in item D.

D. The POTW may determine that an industrial user subject to national categorical pretreatment standards is a nonsignificant categorical industrial user rather than a significant industrial user on a finding that the industrial user never discharges more than 100 gallons per day of total categorical wastewater, excluding sanitary, noncontact cooling and boiler blowdown wastewater, unless specifically included in the pretreatment standard, and the industrial user:

(1) prior to the control authority's finding, has consistently complied with all applicable categorical pretreatment standards and requirements;

(2) annually submits the certification statement required in Code of Federal Regulations, title 40, section 403.12(q), together with any additional information necessary to support the certification statement; and

(3) never discharges any untreated concentrated wastewater.

Subp. 25. **Significant noncompliance.** An industrial user is in significant noncompliance if its violation meets one or more of the following criteria:

A. chronic violations of wastewater discharge limits, defined in this part as those in which 66 percent or more of all of the measurements taken during a six-month period exceed, by any magnitude, a numeric pretreatment standard or requirement;

B. technical review criteria (TRC) violations, defined in this part as those in which 33 percent or more of all of the measurements for each pollutant parameter taken during a

six-month period equal or exceed the product of a numeric pretreatment standard or requirement multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

C. any other violation of a pretreatment standard or requirement that the POTW determines has caused, alone or in combination with other discharges, interference or pass-through, including endangering the health of POTW personnel or the general public;

D. any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or the environment or has resulted in the receiving POTW authority's exercise of its emergency authority to halt or prevent such a discharge;

E. failure to meet, within 90 days after the scheduled date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

F. failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

G. failure to accurately report noncompliance; or

H. any other violation or group of violations, which may include a violation of best management practices, that the POTW authority determines will adversely affect the operation or implementation of the local pretreatment program.

Subp. 26. **Slug discharge.** "Slug discharge" means a discharge of a nonroutine, episodic nature, including, but not limited to, an accidental spill or a noncustomary batch discharge, which has a reasonable potential to cause interference or pass-through or in any other way violate the POTW's regulations, local limits, or individual control mechanism conditions.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

#### **7049.0130 LOCAL LAW.**

Industrial users shall comply with the limitations imposed by the receiving POTW. Except as provided in part 7049.0300, subpart 1, and permits issued under that part, industrial users shall report to the receiving POTW. Nothing in this chapter is intended to affect any pretreatment requirements, standards, or prohibitions established by local law, as long as any local requirement is not less stringent than any set forth in this chapter.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

#### **7049.0140 PRETREATMENT STANDARDS; PROHIBITED DISCHARGES.**

Subpart 1. **Scope.** The prohibitions in this part apply to every source of indirect discharge whether or not it is subject to other pretreatment requirements.

Subp. 2. **General prohibitions.** A source of indirect discharge shall not introduce any pollutants that cause pass-through or interference.

Subp. 3. **Specific prohibitions.** In addition to the general prohibitions in subpart 2, the following pollutants shall not be introduced into a POTW:

A. pollutants that create a fire or explosion hazard in a POTW, including, but not limited to, waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit or 60 degrees centigrade using the test methods specified in Code of Federal Regulations, title 40, section 261.21;

B. pollutants that will cause corrosive structural damage to a POTW, but in no case discharges with a pH lower than 5.0, unless the POTW plant is specifically designed to accommodate such discharges;

**7049.0140 WASTEWATER PRETREATMENT**

1243

C. solid or viscous pollutants in amounts that will cause obstruction to the flow in a POTW plant or POTW collection system resulting in interference;

D. any pollutant, including oxygen-demanding pollutants such as biochemical oxygen demand, released in a discharge at a flow rate or pollutant concentration that will cause interference or pass-through at a POTW plant;

E. heat in amounts that will inhibit biological activity in a POTW plant resulting in interference, but in no case heat in such quantities that the temperature at the headworks of the receiving POTW plant, excluding the POTW collection system, exceeds 104 degrees Fahrenheit or 40 degrees centigrade unless the agency, upon request of the POTW authority, approves alternate temperature limits;

F. petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin in amounts that will cause interference or pass-through; or

G. pollutants that result in the presence of toxic gases, vapors, or fumes within a POTW plant in a quantity that may cause acute worker health and safety problems.

Subp. 4. **Discharge.** Wastes trucked or hauled to a POTW shall be discharged only at a point designated by the POTW authority.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0150 AFFIRMATIVE DEFENSE FOR VIOLATIONS.**

An industrial user has an affirmative defense in any action brought against it alleging a violation of the general prohibitions in part 7049.0140, subpart 2, and the specific prohibitions in part 7049.0140, subpart 3, items C to G, when the industrial user can demonstrate that:

A. the industrial user 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

B. (1) a local limit designed to prevent pass-through or interference was developed according to part 7049.0600, subpart 2, or 7049.0850 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

(2) if a local limit designed to prevent pass-through or interference has not been developed according to part 7049.0600, subpart 2, or 7049.0850 for the pollutants 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 receiving POTW was regularly in compliance with the receiving POTW's national pollutant discharge elimination system permit requirements and applicable requirements for sewage sludge use or disposal.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0160 CONFIDENTIALITY.**

Except for data determined to be confidential according to Minnesota Statutes, section 116.075, subdivision 2, all reports required by this chapter must be available for public inspection. Data on indirect discharges is not confidential. To request the agency to maintain data as confidential, the POTW authority or industrial user supplying the information shall comply with part 7000.1300.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0161 CRIMINAL VIOLATIONS.**

Industrial users, significant industrial users, and POTWs under this chapter are subject to Minnesota Statutes, section 609.671.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0162 RECORD KEEPING.**

Subpart 1. **Requirements for monitoring activities.** Anyone required by this chapter to perform any record keeping or monitoring activities shall maintain records of all information required by this chapter, including documentation associated with best management practices. The records shall include for all samples:

- A. the date, exact place, method, and time of sampling and the names of the person or persons taking the samples;
- B. the dates analyses were performed;
- C. who performed the analyses;
- D. the analytical techniques or methods used; and
- E. the results of the analyses.

Subp. 2. **Retention of records.** Anyone subject to monitoring or reporting requirements under this chapter, including documentation associated with best management practices, shall retain for a minimum of three years:

- A. records of monitoring activities and results, whether or not the monitoring activities are required by this subpart; and
- B. reports created, submitted, or required to be submitted under this chapter.

The period of retention shall be extended during the course of any unresolved enforcement action regarding an industrial user or a POTW or when requested by the agency.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0163 INFORMATION, RECORDS, AND ACCESS.**

Subpart 1. **Duty to provide information.** A person who operates a POTW or a source of indirect discharge and is regulated by this chapter has a duty, when requested by the agency, to furnish to the agency any information the person has or may readily obtain that is relevant to the indirect discharge.

Subp. 2. **Examination of records.** The agency may examine and copy any books, papers, paper and electronic records, or memoranda from a person who has a duty to provide information that the person has or may readily obtain and that are relevant to an indirect discharge, pass-through, or interference.

Subp. 3. **Access to premises.** The agency shall have access to property for the purpose of implementing this chapter as provided in Minnesota Statutes, section 115.04, subdivision 3.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0200 REPORTING AND MONITORING.**

Subpart 1. **Reporting requirements for significant industrial users.** Except as provided in part 7049.0570, subpart 2, significant industrial users shall submit to the control authority at least once every six months or as frequently as required by the control authority, 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 control alternative, the industrial user shall submit documentation required by the control authority to determine the compliance status of the industrial user.

Subp. 2. **Monitoring of significant industrial users.** All monitoring performed to provide information on a discharge from a significant industrial user must be representative of the industrial process discharge or the total discharge from the significant industrial user to the receiving POTW, except when monitoring for compliance with categorical pretreatment standards requires that the monitoring be representative of a specific process wastewater. All periodic monitoring reports required by this chapter must be based upon data obtained during the period covered by the report and on sampling and analysis performed in the period covered by the report and must be performed according to the techniques described in Code of Federal Regulations, title 40, part 136, as amended. The data must be representative of conditions occurring during the reporting period.

Subp. 3. **Pollutants to be monitored for.** Except in the case of nonsignificant categorical industrial users, and as provided in parts 7049.0570, subpart 3, and 7049.0710, the reports required in this part and parts 7049.0500 to 7049.0570 shall contain the results of sampling and analysis of the discharge, including the flow and the nature and concentration, or production and mass when requested by the control authority, of pollutants contained therein which are limited by the applicable pretreatment standards.

Subp. 4. **Types of samples.** 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 control authority. When time-proportional composite sampling or grab sampling is authorized by the control authority, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the industrial user's file for that facility or facilities. Using protocols, including appropriate preservation, specified in Code of Federal Regulations, title 40, part 136, and appropriate Environmental Protection Agency 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 and for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures documented in approved Environmental Protection Agency methodologies may be authorized by the control authority, as appropriate. For sampling required in support of baseline monitoring and 90-day compliance reports required in parts 7049.0500 to 7049.0570, a minimum of four 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 control authority may authorize a lower minimum. For the periodic monitoring reports required by this part and part 7049.0570, the control authority shall require the number of grab samples necessary to assess and ensure compliance by industrial users with applicable pretreatment standards and requirements.

Subp. 5. **POTW may monitor in lieu of industrial user.** Sampling and analysis of the discharges from industrial users required by this part may be performed by the POTW in lieu of the industrial user. When the POTW collects all the information required for the report, including flow data, the industrial user is not required to submit the monitoring reports required under parts 7049.0200 to 7049.0590, unless required by the POTW authority.

Subp. 6. **Include all monitoring results.** If an industrial user monitors any regulated pollutant more frequently than required by the control authority, at the appropriate sampling point, using the procedures approved for that monitoring, the results of the monitoring shall be included in the relevant report to the control authority.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0210 NOTICE.**

Subpart 1. **Notice of potential problems; slug discharges.** All industrial users shall notify the receiving POTW immediately of all discharges by the industrial user that could cause problems to the POTW plant, including any slug discharge.

Subp. 2. **Notification and repeat sampling in case of violation.** If sampling performed by an industrial user indicates a violation, the industrial user shall notify its control authority, and its receiving POTW if the POTW is not the control authority, within 24 hours of becoming aware of the violation. The industrial user shall repeat the sampling and analysis and submit the results of the repeat analysis to its control authority within 30 days after becoming aware of the violation. When the POTW has performed the sampling and analysis in lieu of the industrial user, the POTW shall perform the repeat sampling and analysis unless it notifies the industrial user of the violation and requires the industrial user to perform the repeat analysis. Unless directed by the POTW authority, resampling is not required if:

A. the POTW performs sampling at the industrial user at a frequency of at least once per month; or

B. the POTW performs sampling at the industrial user between the time when the initial sampling was conducted and the time when the industrial user or the POTW receives the results of the sampling.

Subp. 3. **Notification of changed discharge.** An industrial user shall promptly notify the receiving POTW in advance of any substantial change in the volume or character of pollutants in the industrial user's discharge, including the listed or characteristic hazardous wastes for which the industrial user has submitted initial notification under subpart 4. When the agency is the control authority, the industrial user shall also notify the agency.

Subp. 4. **Sewered hazardous waste notification.**

A. If an industrial user discharges 15 kilograms or more of a substance in any month into a POTW that, if otherwise disposed of, would be a hazardous waste under chapter 7045, or if an industrial user discharges any amount of a substance into a POTW that, if otherwise disposed of, would be an acute hazardous waste under chapter 7045, the industrial user shall submit a written sewered hazardous waste notification to the receiving POTW, the Environmental Protection Agency regional waste management division director, and the agency hazardous waste program. Any notification under this subpart need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under subpart 3.

B. (1) A sewered hazardous waste notification must include the name of the hazardous waste as set forth in chapter 7045, the Environmental Protection Agency hazardous waste number, and the type of discharge (continuous, batch, or other).

(2) If the industrial user discharges more than 100 kilograms of the waste per calendar month to the receiving POTW, the notification shall also contain the following information to the extent the information is known and readily available to the industrial user:

- (a) an identification of the hazardous constituents contained in the wastes;
- (b) an estimation of the mass and concentration of the constituents in the waste stream discharged during that calendar month; and
- (c) an estimation of the mass of constituents in the waste stream expected to be discharged during the following 12 months.

(3) The industrial user shall also certify that it has a program in place to reduce the volume and toxicity of hazardous wastes generated to the degree it is determined to be economically practical.

**7049.0210 WASTEWATER PRETREATMENT**

1247

C. Industrial users shall provide the sewer hazardous waste notification no later than 180 days after the discharge of:

- (1) more than 15 kilograms of nonacute hazardous wastes in a calendar month; or
- (2) any quantity of acute hazardous wastes as specified in part 7045.0135, subparts 2 and 4.

In the case of any new regulations under chapter 7045 or United States Code, title 42, section 6921, identifying additional characteristics of hazardous waste or listing any additional substance as a hazardous waste, the sewer hazardous waste notification is due within 90 days of the effective date of the regulations.

D. The notification requirement in this subpart does not apply to pollutants already reported in a baseline monitoring report, 90-day compliance report, or periodic report on continued compliance as required in parts 7049.0500 to 7049.0570.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0220 SIGNATORY REQUIREMENTS FOR INDUSTRIAL USER REPORTS.**

A. All required reports must be signed by:

- (1) a responsible corporate officer, if the industrial user is a corporation;
- (2) a general managing partner, if the industrial user is a partnership; or
- (3) the proprietor, if the industrial user is a sole proprietorship.

B. Reports may be signed by a duly authorized representative of an individual designated in item A if the conditions in item D are satisfied.

C. For the purpose of this part, "responsible corporate officer" means:

- (1) 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
- (2) the manager of one or more manufacturing, production, or operating facilities, provided:

- (a) the manager is authorized to make management decisions that 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 ensure long-term compliance with environmental laws and regulations;

- (b) the manager can ensure that the necessary systems are established or actions taken to gather complete and accurate information for control mechanism requirements; and

- (c) authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.

D. Reports may be signed by a duly authorized representative of an individual designated in item A if the authorization:

- (1) is made in writing by the individual described in item A;
- (2) specifies either an individual or a position having responsibility for the overall operation of the facility from which the industrial discharge originates, such as the position of plant manager or a position of equivalent responsibility, or having overall responsibility for environmental matters for the company; and
- (3) is submitted in writing to the control authority.

If an authorization under this item 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 this item must be submitted to the control authority prior to or together with any reports to be signed by an authorized representative.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0300 APPLICATION OF NATIONAL CATEGORICAL PRETREATMENT STANDARDS.**

**Subpart 1. Requirements to comply.**

A. Industrial users that are subject to one or more of the national categorical pretreatment standards listed in part 7049.0310, as described in the relevant applicability sections of the national categorical pretreatment standards, must comply with the appropriate categorical pretreatment standards.

B. Except when the authority to implement these regulations is specifically delegated to the receiving POTW under parts 7049.0800 to 7049.1020, the agency is the control authority for national categorical pretreatment standards and has the authority to enforce categorical pretreatment standards directly on all industrial users subject to them.

C. POTW authorities with delegated pretreatment programs approved under parts 7049.0800 to 7049.1020 are the control authority for industrial users subject to national categorical pretreatment standards for which they are the receiving POTW. The agency retains the authority to oversee the POTW's implementation of national categorical pretreatment standards. The agency also retains the authority to enforce the national categorical pretreatment standards when the POTW fails to do so.

D. Where the agency is the control authority, control shall be implemented via general and individual state disposal system permits or other regulatory documents. Industrial users subject to national categorical pretreatment standards for whom the agency is the control authority shall maintain on-site plans and specifications for pretreatment and pretreatment equipment needed to comply with pretreatment standards.

**Subp. 2. Deadline for compliance with national categorical pretreatment standards.** The deadline for compliance with national categorical pretreatment standards is the compliance date contained in the applicable regulation listed in part 7049.0310, but not later than three years after the effective date of the applicable regulation. A new source shall install, have in operating condition, and start up all pollution control equipment required to meet applicable categorical pretreatment standards before beginning to discharge. Within the shortest feasible time, not to exceed 90 days, a new source must meet all applicable categorical pretreatment standards. Existing sources that become industrial users subsequent to adoption of an applicable categorical pretreatment standard shall be considered existing industrial users, except when the sources meet the definition of a new source.

**Subp. 3. Concentration and mass limits.**

A. Pollutant discharge limits in categorical pretreatment standards are expressed either as concentration or mass limits. Limits in categorical pretreatment standards shall apply to the effluent of the process regulated by the standard, or as otherwise specified by the standard.

B. If the limits in a categorical pretreatment standard are expressed only in terms of mass of pollutant per unit of production, the control authority may convert the limits to equivalent limitations expressed either as mass of pollutant discharged per day or effluent concentration for purposes of calculating effluent limitations applicable to individual industrial users.

C. A control authority calculating equivalent mass-per-day limitations under item B shall calculate the limitations by multiplying the limits in the categorical pretreatment standard by the industrial user's average rate of production. The average rate of production shall be based on a reasonable measure of the industrial user's actual long-term daily production, such as the average daily production during a representative year, and not on

the designed production capacity. For new sources, average production shall be estimated using projected production.

D. A control authority calculating equivalent concentration limitations under item B shall calculate the limitations by dividing the mass limitations derived under item C by the average daily flow rate of the industrial user's regulated process waste stream. The average daily flow rate shall be based on a reasonable measure of the industrial user's actual long-term average flow rate, such as the average daily flow rate during the representative year.

E. When the limits in a categorical pretreatment standard are expressed only in terms of pollutant concentrations, an industrial user may request that the control authority convert the limits to equivalent mass limits. The determination to convert concentration limits to mass limits is within the discretion of the control authority. The control authority may establish equivalent mass limits only if the industrial user meets all the conditions in this item.

(1) To be eligible for equivalent mass limits, the industrial user must:

(a) employ, or demonstrate that it will employ, water conservation methods and technologies that substantially reduce water use during the term of its control mechanism;

(b) currently use control and treatment technologies adequate to achieve compliance with the applicable categorical pretreatment standard and must not have used dilution as a substitute for treatment;

(c) provide sufficient information to establish the facility's actual average daily flow rate for all waste streams, based on data from a continuous effluent flow monitoring device, as well as the facility's long-term average production rate. Both the actual average daily flow rate and long-term average production rate must be representative of current operating conditions;

(d) not have daily flow rates, production levels, or pollutant levels that vary so significantly that equivalent mass limits are not appropriate to control the discharge; and

(e) have consistently complied with all applicable categorical pretreatment standards during the period prior to the industrial user's request for equivalent mass limits.

(2) An industrial user subject to equivalent mass limits shall:

(a) maintain and effectively operate control and treatment technologies adequate to achieve compliance with the equivalent mass limits;

(b) continue to record the facility's flow rates through the use of a continuous effluent flow monitoring device;

(c) continue to record the facility's production rates and notify the control authority whenever production rates are expected to vary by more than 20 percent from its baseline production rates determined in subitem (1), unit (c). Upon notification of a revised production rate, the control authority shall reassess the equivalent mass limit and revise the limit as necessary to reflect changed conditions at the facility; and

(d) continue to employ the same or comparable water conservation methods and technologies as those implemented pursuant to subitem (1), unit (a), so long as it discharges under an equivalent mass limit.

(3) A control authority that chooses to establish equivalent mass limits:

(a) shall calculate the equivalent mass limit by multiplying the actual average daily flow rate of the regulated process of the industrial user by the concentration-based daily maximum and long-term average standard for the applicable categorical pretreatment standard and the appropriate unit conversion factor;

# MINNESOTA RULES 2011

1250

## WASTEWATER PRETREATMENT 7049.0310

(b) upon notification of a revised production rate, shall reassess the equivalent mass limit and recalculate the limit as necessary to reflect changed conditions at the facility; and

(c) may retain the same equivalent mass limit in subsequent control mechanism terms if the industrial user's actual average daily flow rate was reduced solely as a result of the implementation of water conservation methods and technologies and the actual average daily flow rates used in the original calculation of the equivalent mass limit were not based on the use of dilution as a substitute for treatment pursuant to subpart 4. The industrial user must also be in compliance with part 7049.0495, regarding the prohibition of bypass.

(4) The control authority may not express limits in terms of mass for pollutants such as pH, temperature, radiation, or other pollutants which cannot appropriately be expressed as mass.

F. The control authority may convert the mass limits of the categorical pretreatment standards in Code of Federal Regulations, title 40, parts 414, 419, and 455, to concentration limits for purposes of calculating limitations applicable to individual industrial users. When converting such limits to concentration limits, the control authority must use the concentrations listed in the applicable subparts of Code of Federal Regulations, title 40, parts 414, 419, and 455, and document that dilution is not being substituted for treatment as prohibited by subpart 4.

G. Equivalent limitations calculated according to this part are required pretreatment standards for purposes of this chapter. Industrial users shall comply with the equivalent limitations in lieu of the adopted categorical standards from which the equivalent limitations were derived.

H. Many categorical pretreatment standards specify both a maximum daily discharge limitation and a maximum monthly average, or four-day average, limitation. If the standards are being applied, the same production or flow figure shall be used in calculating both types of equivalent limitations.

I. Any industrial user operating under a control mechanism incorporating equivalent mass or concentration limits calculated from a national categorical pretreatment standard that incorporates production-based standards shall notify the control authority within two business days after the industrial user has a reasonable basis to know that the production level will significantly change within the next calendar month. Any industrial user that does not notify its control authority of an anticipated change must meet the mass or concentration limits in its control mechanism that were based on the original estimate of the long-term average production rate.

Subp. 4. **Dilution prohibited.** Except when expressly authorized to do so by an applicable pretreatment standard or requirement, an industrial user shall not increase the use of process water or in any way attempt to dilute a discharge as a partial or complete substitute for adequate treatment to achieve compliance with a pretreatment standard or requirement. The control authority may impose mass limitations on industrial users that have used or are using dilution to meet applicable pretreatment standards or in other cases where the imposition of mass limitations is appropriate.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

### **7049.0310 NATIONAL CATEGORICAL PRETREATMENT STANDARDS ADOPTED.**

Subpart 1. **Adoption.** The pretreatment standards for existing sources, pretreatment standards for new sources, and all supporting provisions relevant to these standards contained in the following federal point source category regulations and all future amendments are adopted by reference and incorporated in this part:

# MINNESOTA RULES 2011

## 7049.0310 WASTEWATER PRETREATMENT

1251

	<b>Point Source Category</b>	<b>CFR Cite</b>
A.	Grain milling	40 CFR 406
B.	Concentrated animal feeding operations	40 CFR 412
C.	Electroplating	40 CFR 413
D.	Organic chemicals, plastics, and synthetic fibers	40 CFR 414
E.	Inorganic chemicals manufacturing	40 CFR 415
F.	Soap and detergent manufacturing	40 CFR 417
G.	Fertilizer manufacturing	40 CFR 418
H.	Petroleum refining	40 CFR 419
I.	Iron and steel manufacturing	40 CFR 420
J.	Nonferrous metal manufacturing	40 CFR 421
K.	Steam electric power generating	40 CFR 423
L.	Ferroalloy manufacturing	40 CFR 424
M.	Leather tanning and finishing	40 CFR 425
N.	Glass manufacturing	40 CFR 426
O.	Asbestos manufacturing	40 CFR 427
P.	Rubber manufacturing	40 CFR 428
Q.	Timber products processing	40 CFR 429
R.	Pulp, paper, and paperboard	40 CFR 430
S.	Builder's paper and board mills	40 CFR 431
T.	Metal finishing	40 CFR 433
U.	Centralized waste treatment	40 CFR 437
V.	Pharmaceutical manufacturing	40 CFR 439
W.	Transportation equipment cleaning	40 CFR 442
X.	Incinerators	40 CFR 444
Y.	Landfills	40 CFR 445
Z.	Paint formulating	40 CFR 446
AA.	Ink formulating	40 CFR 447
BB.	Pesticide chemicals	40 CFR 455
CC.	Battery manufacturing	40 CFR 461
DD.	Metal molding and casting	40 CFR 464
EE.	Coil coating	40 CFR 465
FF.	Porcelain enameling	40 CFR 466
GG.	Aluminum forming	40 CFR 467
HH.	Copper forming	40 CFR 468
II.	Electrical and electronic components	40 CFR 469
JJ.	Nonferrous metal forming and metal powders	40 CFR 471

Subp. 2. **Future pretreatment standards.** Future applicable pretreatment standards for existing sources, pretreatment standards for new sources, and all supporting provisions relevant to these standards in Code of Federal Regulations, title 40, chapter I, subchapter N, are adopted by reference.

Subp. 3. **Category determination.** The applicable category and subcategory for an industrial user may be determined by the control authority at any time. However, a formal category determination request, as provided by Code of Federal Regulations, title 40, part 403.6, which is incorporated by reference, must be submitted to the agency within the deadlines provided.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

#### **7049.0350 COMBINED WASTE STREAM FORMULA.**

##### **Subpart 1. General.**

A. The combined waste stream formula described in this part is used to derive fixed alternative discharge limits to be applied to the mixed effluent when waste streams subject to national categorical pretreatment standards are mixed with waste streams subject to other categorical standards or waste streams not subject to categorical standards. Alternative discharge limits may be derived using the combined waste stream formula by the control authority or by the industrial user with the prior written concurrence of the control authority. Alternative limits must be derived for all applicable limits. When deriving alternative categorical limits, the control authority or industrial user shall calculate both an alternative daily maximum value using the daily maximum values specified in the appropriate categorical pretreatment standards and an alternative consecutive sampling day average value using the monthly average values specified in the appropriate categorical pretreatment standards. The industrial user shall comply with the alternative daily maximum and long-term average limits fixed by the control authority until the control authority modifies the limits or approves an industrial user modification request. Modification is authorized whenever there is a material or significant change in the values used in the calculation to fix alternative limits for the regulated pollutant. An industrial user shall immediately report any material or significant change to the control authority. If appropriate, new alternative categorical limits shall be calculated within 30 days. The industrial user may change monitoring points only after receiving prior written approval from the control authority. The control authority shall ensure that any change in an industrial user's monitoring points will not allow the industrial user to substitute dilution for adequate treatment to achieve compliance with applicable standards.

B. If process effluent is mixed prior to treatment with wastewaters other than those generated by the regulated process, fixed alternative discharge limits shall be derived by the control authority or by the industrial user with the prior written concurrence of the control authority.

C. If a treated regulated process waste stream is combined prior to treatment with wastewaters other than those generated by the regulated process, the industrial user may, with the approval of the control authority, monitor either the segregated process waste stream or the combined waste stream to determine compliance with applicable pretreatment standards. If the industrial user chooses to monitor the segregated process waste stream, the industrial user shall apply the applicable categorical pretreatment standard. If the industrial user chooses to monitor the combined waste stream, the industrial user shall apply an alternative discharge limit calculated using the combined waste stream formula as provided in this part. The industrial user may change monitoring points only after receiving prior written approval from the control authority. The control authority shall ensure that any change in an industrial user's monitoring points will not allow the industrial user to substitute dilution for adequate treatment to achieve compliance with applicable standards.

D. If a regulated process waste stream is combined without treatment with wastewaters other than those generated by the regulated process, the industrial user may, with the



approval of the control authority, monitor either the segregated process waste stream or the combined waste stream to determine compliance with applicable pretreatment standards. If the industrial user chooses to monitor the segregated process waste stream, the industrial user shall apply the applicable categorical pretreatment standard. If the industrial user chooses to monitor the combined waste stream, the industrial user shall apply an alternative discharge limit calculated using the combined waste stream formula as provided in this part. However, when no treatment is provided, all waste streams other than the regulated process waste stream are considered to be dilute waste streams in deriving alternative discharge limits. If more than one regulated process waste stream is present at the chosen monitoring point, the combined waste stream formula shall be applied to each regulated process waste stream separately, with all other waste streams considered to be dilute waste streams, and the most restrictive limit applied, for each pollutant. The industrial user may change monitoring points only after receiving approval from the control authority. The control authority shall ensure that any change in an industrial user's monitoring points will not allow the industrial user to substitute dilution for adequate treatment to achieve compliance with applicable standards.

Subp. 2. **Alternative limit calculation; definitions.** For purposes of the formulas in subpart 3, the following symbols have the meanings specified.

$C_t$  = the alternative concentration limit for the combined waste stream.

$M_t$  = the alternative mass limit for a pollutant in the combined waste stream.

$C_i$  = the categorical pretreatment standard concentration limit for a pollutant in the regulated stream  $i$ .

$M_i$  = the categorical pretreatment standard mass limit for a pollutant in the regulated stream  $i$  (the categorical pretreatment mass limit multiplied by the appropriate measure of production).

$F_i$  = the average daily flow (at least a 30-day average) of stream  $i$  to the extent that it is regulated for the pollutant.

$F_D$  = the average daily flow (at least a 30-day average) of dilute waste streams.

If waste streams contain a significant amount of a pollutant and the combination of the streams, prior to treatment, with an industrial user's regulated process waste streams will result in a substantial reduction of that pollutant, the control authority shall determine whether the streams should be classified as dilute or unregulated. Dilute waste streams include, but are not limited to:

A. boiler blowdown streams, noncontact cooling streams, storm water streams, and demineralizer backwash streams;

B. sanitary waste streams when the streams are not regulated by a categorical pretreatment standard; and

C. process waste streams from processes that were or could have been entirely exempted from categorical pretreatment standards because:

(1) the regulated pollutants are not detectable in the effluent from the industrial user;

(2) the regulated pollutants are present only in trace amounts and are neither causing nor likely to cause toxic effects;

(3) the regulated pollutants are present in amounts too small to be effectively reduced; or

(4) the waste stream contains only pollutants that are compatible with the receiving POTW.

$F_T$  = the total average daily flow through the combined treatment facility (this includes all  $F_i$ ,  $F_D$ , and unregulated streams).

$N$  = the total number of regulated streams.

For purposes of this subpart, "average daily flow" means a reasonable measure of the average daily flow for at least a 30-day period. For new sources, flows shall be estimated using projected values.

Subp. 3. **Alternative limit calculation; formula.** The alternative limit for a specified pollutant is derived by the use of either of the following formulas:

A. alternative concentration limit under Code of Federal Regulations, title 40, section 403.6(e)(1)(i); or

B. alternative mass limit under Code of Federal Regulations, title 40, section 403.6(e)(1)(ii).

Subp. 4. **Alternate limits below detection limit.** An alternative pretreatment limit derived by the combined waste stream formula may not be used if the alternative limit is below the analytical detection limit for any of the regulated pollutants.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

#### **7049.0360 DEFINITIONS FOR REMOVAL CREDITS.**

For the purposes of parts 7049.0360 to 7049.0470:

A. "removal" means a reduction in the amount of a pollutant in a POTW's effluent or alteration of the nature of a pollutant during treatment at the POTW. The reduction or alteration may be obtained by physical, chemical, or biological means and may be:

- (1) the result of specifically designed POTW capabilities; or
- (2) incidental to the operation of the treatment system.

Removal does not mean dilution of a pollutant in the POTW; and

B. "sludge requirements" means the federal statutory provisions, regulations, and permits under Code of Federal Regulations, title 40, section 403.7(a)(1)(ii), and provisions applicable to the use or disposal of solids from POTWs under chapters 7011, 7035, 7041, 7045, and 7050, and permits issued under those chapters.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

#### **7049.0370 APPLICATION FOR REMOVAL CREDITS.**

A POTW receiving wastes from an industrial user to which a categorical pretreatment standard applies may, at its discretion and subject to the conditions of this part, grant removal credits to reflect removal by the POTW plant of pollutants specified in the categorical pretreatment standard. The POTW authority may grant a removal credit equal to or, at its discretion, less than its consistent removal rate. Upon being granted a removal credit, each affected industrial user shall calculate its revised discharge limits according to part 7049.0390. Removal credits may only be given for indicator or surrogate pollutants regulated in a categorical pretreatment standard if the categorical pretreatment standard so specifies.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

#### **7049.0380 CONDITIONS FOR AUTHORIZATION TO GIVE REMOVAL CREDITS.**

A. A POTW authority may give removal credits only if:

(1) the POTW authority applies for, and receives, authorization from the agency to give a removal credit according to part 7049.0450;

(2) the POTW authority demonstrates and continues to achieve consistent removal of the pollutant according to parts 7049.0400 and 7049.0410;

**7049.0380 WASTEWATER PRETREATMENT**

1255

(3) the POTW authority has an approved pretreatment program according to parts 7049.0800 to 7049.1020. A POTW authority that does not have an approved pretreatment program may, pending approval of such a program, conditionally give removal credits as provided in part 7049.0430;

(4) the granting of removal credits will not cause the POTW to violate the local, state, and federal sludge requirements that apply to the sludge management method chosen by the POTW. Alternatively, the POTW authority can demonstrate to the agency that even though it is not presently in compliance with applicable sludge requirements, it will be in compliance when the industrial users to whom the removal credit would apply are required to meet their categorical pretreatment standards as modified by the removal credit. Removal credits may be made available for the following pollutants:

(a) for any pollutant listed in Code of Federal Regulations, title 40, part 403, Appendix G, section I, for the use or disposal practice employed by the POTW, when the requirements in Code of Federal Regulations, title 40, part 503, for that practice are met;

(b) for any pollutant listed in Code of Federal Regulations, title 40, part 403, Appendix G, section II, for the use or disposal practice employed by the POTW when the concentration for a pollutant listed in Appendix G, section II, in the sewage sludge that is used or disposed does not exceed the concentration for the pollutant in Appendix G, section II; and

(c) for any pollutant in sewage sludge when the POTW disposes all of its sewage sludge in a municipal solid waste landfill unit that meets the criteria in part 7035.2535; and

(5) the granting of removal credits will not cause a violation of the POTW's national pollutant discharge elimination system or state disposal system permit limitations or conditions. Alternatively, the POTW authority can demonstrate to the agency that even though it is not presently in compliance with applicable limitations and conditions in its national pollutant discharge elimination system permit, it will be in compliance when the industrial users to whom the removal credit would apply are required to meet their categorical pretreatment standards, as modified by the removal credit provision.

B. Removal credits may not be claimed when an uncontrolled overflow exists between the industrial user and the receiving POTW plant.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0390 CALCULATION OF REVISED DISCHARGE LIMITS WITH REMOVAL CREDITS.**

Revised discharge limits for a specific pollutant must be derived by use of the following formula:

$$y = \frac{x}{1 - r}$$

where:

x = pollutant discharge limit specified in the applicable categorical pretreatment standard;

r = removal credit for that pollutant as established under parts 7049.0400 and 7049.0410 (percentage removal expressed as a proportion, such as a number between 0 and 1); and

y = revised discharge limit for the specified pollutant (expressed in same units as x).

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0400 ESTABLISHMENT OF REMOVAL CREDITS; DEMONSTRATION OF CONSISTENT REMOVAL.**

Subpart 1. **Consistent removal.** Consistent removal is calculated by taking the average of the lowest 50 percent of the removal measured according to part 7049.0410. All sample data obtained for the measured pollutant during the time period prescribed in part 7049.0410 must be reported and used in computing consistent removal.

Subp. 2. **Pollutants not measurable.** If a pollutant is measurable in the influent but not in the effluent, the effluent level may be assumed to be the limit of measurement, and those data may be used to calculate consistent removal by the POTW authority at its discretion and subject to approval by the agency. If the pollutant is not measurable in the influent, the data may not be used to calculate consistent removal. "Measurable" means the ability of the analytical method or protocol to quantify as well as identify the presence of the pollutant in question.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0410 CONSISTENT REMOVAL DATA.**

A. Influent and effluent operational data demonstrating consistent removal shall be submitted for each pollutant for which a discharge limit revision is proposed and shall meet the requirements of this part.

B. Twelve pairs of measurements, influent and effluent, must be taken at approximately equal intervals throughout one full year. Sampling must be evenly distributed over the days of the week to include no-workdays as well as workdays. If the agency determines that this schedule will not be most representative of the actual operation of the POTW plant, an alternative sampling schedule will be approved.

C. Upon agency concurrence, a POTW authority may use a historical database, provided that the data otherwise meet the requirements of this item. For the historical database to be approved, it must present a statistically valid description of daily, weekly, and seasonal receiving POTW loadings and performance for at least one year. The historical data shall be representative of present removal.

D. The data shall be representative of:

- (1) yearly and seasonal conditions to which the POTW is subjected; and
- (2) the quality and quantity of normal wastewater flows.

E. The influent and effluent operational data shall normally be obtained through 24-hour flow-proportional composite samples. Composite sampling may be done manually or automatically and discretely or continuously. For discrete sampling, at least 12 aliquots must be composited. Discrete sampling may be flow-proportioned either by varying the time interval between each aliquot or the volume of each aliquot. All composites must be flow-proportional to each stream flow at the time of collection of influent aliquot or to the total influent flow since the previous influent aliquot. Volatile pollutant aliquots must be combined in the laboratory immediately before analysis. If composite sampling is not an appropriate sampling technique, a grab sample shall be taken to obtain influent and effluent operational data. For example, a grab sample will be required when the parameters being evaluated are those, such as cyanide and phenol, that may not be held for any extended period because of biological, chemical, or physical interactions that take place after sample collection and affect the results. A grab sample is an individual sample collected over a period of time not exceeding 15 minutes.

F. If grab sampling is used to collect data to calculate consistent removal, the collection of influent grab samples must precede collection of effluent samples by approximately one detention period. The detention period shall be based on a 24-hour average daily flow value. The average daily flow used must be based on the average of the daily

**7049.0410 WASTEWATER PRETREATMENT**

1257

flows during the same month of the previous year. If composite sampling is used to collect data to calculate consistent removal, effluent sample collection need not be delayed to compensate for hydraulic detention unless:

- (1) the POTW authority elects to include detention time compensation; or
- (2) the agency requires detention time compensation.

The agency may require that each effluent sample be taken approximately one detention time later than the corresponding influent sample when failure to do so would result in an unrepresentative portrayal of actual POTW operation.

G. The sampling under this part and an analysis of the samples shall be performed according to the techniques prescribed in Code of Federal Regulations, title 40, part 136, as amended. If Code of Federal Regulations, title 40, part 136, does not contain sampling or analytical techniques for the pollutant in question, or if the Environmental Protection Agency regional administrator determines that the Code of Federal Regulations, title 40, part 136, sampling and analytical techniques are inappropriate for the pollutant in question, sampling and analysis shall be performed using validated analytical methods or any other applicable sampling and analytical procedures, including procedures suggested by the POTW authority or other parties, approved by the Environmental Protection Agency regional administrator.

H. All data acquired under this part must be submitted to the agency. Removal for a specific pollutant shall be determined, for each sample, by measuring the difference between the concentrations of the pollutant in the influent and effluent of the POTW and expressing the difference as a percentage of the influent concentration, except when the data cannot be obtained. If the data cannot be obtained, consistent removal may be demonstrated using other data or procedures subject to concurrence by the agency.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0420 PROVISIONAL REMOVAL CREDITS FOR NEW OR CHANGED FACILITIES.**

For pollutants that are not being discharged currently, the POTW authority may apply for authorization to give removal credits prior to the initial discharge of the pollutant, such as for new or modified facilities or production changes. Consistent removal shall be based provisionally on data from treatability studies or demonstrated removal at other treatment facilities when the quality and quantity of influent are similar. Within 18 months after the commencement of discharge of pollutants in question, consistent removal must be demonstrated pursuant to parts 7049.0400 and 7049.0410. If within 18 months after the commencement of the discharge of the pollutant in question the POTW cannot demonstrate consistent removal pursuant to parts 7049.0360 to 7049.0470, the authority to grant provisional removal credits shall be terminated by the agency and all industrial users to whom the revised discharge limits had been applied shall achieve compliance with the applicable categorical pretreatment standards within a reasonable time, not to exceed the period of time prescribed in the applicable categorical pretreatment standards, as may be specified by the agency.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0430 CONDITIONAL REMOVAL CREDITS PRIOR TO AGENCY APPROVAL OF POTW PRETREATMENT PROGRAM.**

A. A POTW authority required to develop a local pretreatment program under part 7049.0800 may conditionally give removal credits pending approval of such a program according to the following terms and conditions:

- (1) all industrial users who are currently subject to a categorical pretreatment standard and who want conditionally to receive a removal credit shall submit to the POTW

baseline monitoring report information, as provided in parts 7049.0500 to 7049.0550, pertaining to the categorical pretreatment standard as modified by the removal credit. The industrial users shall indicate what additional technology, if any, will be needed to comply with the categorical pretreatment standards as modified by the removal credit;

(2) the POTW authority shall submit to the agency a timely application for pretreatment program approval meeting the requirements of parts 7049.0800 to 7049.1020. An application is timely if it does not exceed the time limitation in a compliance schedule for development of a pretreatment program included in the POTW's national pollutant discharge elimination system permit. If a POTW that has not previously been required to develop a pretreatment program under parts 7049.0800 to 7049.1020 requests authority to grant removal credits, the POTW's permit shall be modified to require the development of a delegated pretreatment program under parts 7049.0800 to 7049.1020;

(3) the POTW shall compile and submit data demonstrating its consistent removal according to parts 7049.0400 and 7049.0410;

(4) the POTW shall comply with part 7049.0380; and

(5) the POTW shall submit a complete application for removal credit authority according to part 7049.0450.

B. If a POTW receives authority to grant conditional removal credits and the agency subsequently makes a final determination after appropriate notice that the POTW failed to comply with item A, the authority to grant conditional removal credits shall be terminated by the agency and all industrial users to whom the revised discharge limits had been applied shall achieve compliance with the applicable categorical pretreatment standard within a reasonable time, not to exceed the period of time prescribed in the applicable categorical pretreatment standard, as may be specified by the agency.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

#### **7049.0440 TERMINATION OF CONDITIONAL REMOVAL CREDITS.**

If a POTW authority grants conditional removal credits and the POTW authority or the agency subsequently makes a final determination, after appropriate notice, that the industrial user failed to comply with part 7049.0430, item A, subitem (1), the conditional removal credit shall be terminated by the POTW authority or the agency for the noncomplying industrial user and the industrial user to whom the revised discharge limits had been applied shall achieve compliance with the applicable categorical pretreatment standard within a reasonable time, not to exceed the period of time prescribed in the applicable categorical pretreatment standard, as may be specified by the agency. The conditional removal credit shall not be terminated when a violation of part 7049.0430, item A, subitem (1), results from causes entirely outside the control of the industrial user or the industrial user had demonstrated substantial compliance.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

#### **7049.0450 POTW APPLICATION FOR AUTHORIZATION TO GIVE REMOVAL CREDITS AND AGENCY REVIEW.**

Subpart 1. **Who must apply.** A POTW authority that wants to give a removal credit or modify an existing removal credit shall apply for authorization from the agency. A POTW may apply for authorization to give or modify removal credits at any time. An application for authorization to give removal credits must be supported by the following information:

A. a list of pollutants for which removal credits are proposed;

B. consistent removal data required under part 7049.0410;

C. proposed revised discharge limits for each affected subcategory of industrial users calculated according to part 7049.0390;

**7049.0450 WASTEWATER PRETREATMENT**

1259

D. a certification that the POTW has an approved local pretreatment program or qualifies for the exception to the requirement in part 7049.0430;

E. sludge management certification containing a specific description of the POTW's current methods of using or disposing of its sludge and a certification that the granting of removal credits will not cause a violation of the sludge requirements in part 7049.0380, item A, subitem (4); and

F. a national pollutant discharge elimination system permit limit certification stating that the granting of removal credits will not cause a violation of the POTW's national pollutant discharge elimination system permit limits and conditions as required in part 7049.0380, item A, subitem (5).

Subp. 2. **Assistance.** Nothing in this chapter precludes an industrial user or other interested party from assisting the POTW authority in preparing and presenting the information necessary to apply for authorization. The POTW shall remain solely responsible to the agency for the information contained in the application.

Subp. 3. **Review.** The agency shall review the POTW's application for authorization to give or modify removal credits according to parts 7049.0930 to 7049.0960 and shall, except as provided in this part, have no more than 180 days from public notice of an application to complete review. The agency may elect not to review an application for conditional removal credit authority upon receipt of the application, in which case the conditionally revised discharge limits will remain in effect until reviewed by the agency. This review may occur at any time according to parts 7049.0930 to 7049.0960, but in no event later than the time of any pretreatment program approval or any national pollutant discharge elimination system permit reissuance under those parts.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0460 AUTHORIZATION TO GIVE REMOVAL CREDITS.**

Subpart 1. **Effect of authorization.** When a POTW authority has received authorization to grant removal credits for a particular pollutant regulated in a categorical pretreatment standard, it may automatically extend that removal credit to the same pollutant when it is regulated in other categorical standards, unless granting the removal credit will cause the POTW to violate the sludge requirements identified in part 7049.0380, item A, subitem (4), or its national pollutant discharge elimination system permit limits and conditions as required by part 7049.0380, item A, subitem (5). If a POTW authority elects at a later time to extend removal credits to a certain categorical pretreatment standard, industrial subcategory, or one or more industrial users that initially were not granted removal credits, the POTW shall notify the agency.

Subp. 2. **Inclusion in POTW permit.** When authority is granted, the removal credits shall be included in the POTW's national pollutant discharge elimination system permit as soon as possible and become an enforceable requirement of the POTW's national pollutant discharge elimination system permit. The removal credits remain in effect for the term of the POTW's national pollutant discharge elimination system permit, provided the POTW maintains compliance with the conditions in part 7049.0470.

Subp. 3. **Compliance monitoring.** Following authorization to give removal credits, and at intervals specified by the agency, but in no case less than once per year, the POTW authority shall continue to monitor and report on the POTW plant's removal capabilities. A minimum of one representative sample per month during the reporting period is required and all sampling data must be included in the POTW's compliance report.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0470 MODIFICATION OR WITHDRAWAL OF REMOVAL CREDITS.**

Subpart 1. **Notice of POTW.** The agency shall notify the POTW if, on the basis of pollutant removal capability reports received pursuant to part 7049.0460 or other relevant information available to it, the agency determines that:

A. one or more of the discharge limit revisions made by the POTW, or the POTW itself, no longer meets the requirements of part 7049.0380; or

B. the discharge limit revisions are causing a violation of any conditions or limits contained in the POTW's national pollutant discharge elimination system permit.

Subp. 2. **Corrective action.** If appropriate corrective action is not taken within a reasonable time, not to exceed 60 days unless the POTW authority or the affected industrial users demonstrate that a longer time is reasonably necessary to undertake the appropriate corrective action, the agency shall either withdraw the discharge limits or require modifications in the revised discharge limits.

Subp. 3. **Public notice of withdrawal or modification.** The agency shall not withdraw or modify revised discharge limits, unless it has:

A. provided prior notification to the POTW and all industrial users to whom revised discharge limits have been applied;

B. publicly published the written rationale for the withdrawal or modification; and

C. provided reasonable notice and opportunity for a public hearing.

Subp. 4. **Compliance with modification.** Following notice and withdrawal or modification, all industrial users to whom revised discharge limits had been applied are subject to the modified discharge limits or the discharge limits prescribed in the applicable categorical pretreatment standards, as appropriate, and shall achieve compliance with the limits within a reasonable time, not to exceed the period of time prescribed in the applicable categorical pretreatment standard, as may be specified by the agency.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0480 NET/GROSS CALCULATION TO ADJUST CATEGORICAL STANDARDS.**

A. Categorical pretreatment standards may be adjusted to reflect the presence of pollutants in the industrial user's intake water according to this part. An industrial user wishing to obtain credit for intake pollutants must make application to the control authority. Upon request of the industrial user, the applicable standard shall be calculated on a net basis, such as being adjusted to reflect credit for pollutants in the intake water, if the applicable categorical pretreatment standard specifically provides that they shall be applied on a net basis or if the industrial user demonstrates that the control system it proposes or uses to meet applicable categorical pretreatment standards will, if properly installed and operated, meet the standards in the absence of pollutants in the intake waters.

B. Credit for generic pollutants such as biochemical oxygen demand, total suspended solids, and oil and grease shall not be granted unless:

(1) the industrial user demonstrates that the constituents of the generic measure in the industrial user's effluent are substantially similar to the constituents of the generic measure in the intake water; or

(2) appropriate additional limits are placed on 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 standards, up to a maximum value equal to the influent value. Additional monitoring may be necessary to determine eligibility for credits and compliance with standards adjusted under this part.



## 7049.0480 WASTEWATER PRETREATMENT

1261

D. Credit shall be granted only if the industrial user demonstrates that the intake water is drawn from the same body of water as that into which the receiving POTW releases effluent. The control authority may waive this requirement if it finds that no environmental degradation will result.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

## 7049.0485 FUNDAMENTALLY DIFFERENT FACTORS; VARIANCES TO CATEGORICAL STANDARDS.

Any person who believes that factors relating to an industrial user are fundamentally different from the factors considered during development of a national categorical pretreatment standard applicable to that industrial user and that the existence of those factors justifies a different discharge limit than specified in the applicable categorical pretreatment standard may seek a fundamentally different factors variance to national categorical pretreatment standards under Code of Federal Regulations, title 40, part 403.13, which is incorporated by reference.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

## 7049.0490 UPSET AFFIRMATIVE DEFENSE FOR VIOLATIONS OF CATEGORICAL STANDARDS.

Subpart 1. **Defense.** This part provides an affirmative defense to actions brought for noncompliance with categorical pretreatment standards.

Subp. 2. **Definition.** For the purposes of this part, "upset" means an exceptional incident in which there is unintentional and temporary noncompliance with categorical pretreatment standards because of factors beyond the reasonable control of the industrial user. An upset does not include noncompliance to the extent caused by operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventive maintenance, or careless or improper operation.

Subp. 3. **Effect of upset.** An upset constitutes an affirmative defense to an action brought for noncompliance with categorical pretreatment standards if the requirements of subpart 4 are met.

Subp. 4. **Conditions necessary for demonstration of upset.** An industrial user that asserts the affirmative defense of upset shall demonstrate, through properly signed, contemporaneous operating logs, or other relevant evidence that:

A. an upset occurred and the industrial user can identify the cause of the upset; and

B. the industrial user's facility was at the time being operated in a prudent and professional manner and in compliance with applicable operation and maintenance procedures.

Subp. 5. **Establishing defense.** To establish the affirmative defense of upset, the industrial user shall submit the information in items A to C to the control authority within 24 hours of becoming aware of the upset. If the information is provided orally, a written submission must be provided within five days that includes the following:

A. a description of the indirect discharge and cause of noncompliance;

B. the period of noncompliance, including exact dates and times or, if not corrected, the anticipated time the noncompliance is expected to continue; and

C. steps being taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

Subp. 6. **Burden of proof.** In any enforcement proceeding, the industrial user seeking to establish the occurrence of an upset has the burden of proof.

Subp. 7. **Reviewability of agency consideration of claims of upset.** In the usual exercise of prosecutorial discretion, agency enforcement personnel may review any claims that noncompliance was caused by an upset. No determinations made in the course of the review constitute final agency action subject to judicial review. Industrial users shall have the opportunity for a judicial determination on any claim of upset only in an enforcement action brought for noncompliance with categorical pretreatment standards.

Subp. 8. **Industrial user responsibility in case of upset.** The industrial user shall control production or all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies when, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

#### 7049.0495 BYPASS PROVISIONS FOR CATEGORICAL STANDARDS.

Subpart 1. **Applicability.** This part applies to categorical pretreatment standards.

Subp. 2. **Definitions.** For the purposes of this part, the following meanings apply:

A. "bypass" means the intentional diversion of waste streams from any portion of an industrial user's treatment facility; and

B. "severe property damage" means substantial physical damage to property, damage to the treatment facilities that causes the facilities to become inoperable, or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. Severe property damage does not mean economic loss caused by delays in production.

Subp. 3. **Bypass not violating applicable categorical pretreatment standards or requirements.** An industrial user may allow a bypass to occur if the bypass does not cause categorical pretreatment standards or requirements to be violated and the bypass is for essential maintenance to ensure efficient operation. A bypass under this subpart is not subject to subparts 4 and 5.

Subp. 4. **Notice.**

A. If an industrial user knows in advance of the need for a bypass, the industrial user shall submit prior written notice to the POTW, if possible, at least ten days before the date of the bypass.

B. An industrial user shall submit oral notice of an unanticipated bypass that exceeds applicable pretreatment standards to the POTW within 24 hours from the time the industrial user becomes aware of the bypass. A written submission shall also be provided within five days of the time the industrial user becomes aware of the bypass. The written submission shall contain:

- (1) a description of the bypass and its cause;
- (2) the duration of the bypass, including exact dates and times;
- (3) if the bypass has not been corrected, the anticipated time it is expected to continue; and
- (4) steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass.

C. The control authority may waive the written report under item B on a case-by-case basis if the oral report has been received within 24 hours.

**7049.0495 WASTEWATER PRETREATMENT**

1263

**Subp. 5. Prohibition of bypass; approval of anticipated bypass.**

A. A bypass is prohibited and the control authority may take enforcement action against an industrial user for a bypass, unless:

(1) the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;

(2) there were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This item is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and

(3) the industrial user submitted notices as required in subpart 4.

B. The control authority may approve an anticipated bypass, after considering its adverse effects, if the control authority determines that the bypass will meet the conditions in item A.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0500 BASELINE MONITORING REPORT AND APPLICATION FOR INDIVIDUAL CONTROL MECHANISM.**

Industrial users that are subject to one or more of the national categorical pretreatment standards contained in part 7049.0310 shall submit a baseline monitoring report and application for individual control mechanism to its control authority. If the receiving POTW operates a federal delegated pretreatment program approved under parts 7049.0800 to 7049.1020, the application shall be submitted to the POTW. If the receiving POTW does not operate a federal delegated pretreatment program, the application shall be submitted to the agency with a copy supplied to the receiving POTW.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0510 DUE DATE OF BASELINE MONITORING REPORT AND APPLICATION FOR INDIVIDUAL CONTROL MECHANISM.**

A. The baseline monitoring report and application for individual control mechanism shall be submitted within 180 days after the effective date of a categorical pretreatment standard, or 180 days after the final administrative decision made on a formal category determination submission under part 7049.0310, subpart 2, whichever is later. Existing facilities subject to existing categorical pretreatment standards shall submit a baseline monitoring report and application for individual control mechanism within 180 days after October 27, 2008. At least 90 days prior to commencement of discharge, new sources, and sources that become industrial users subsequent to the adoption of an applicable categorical standard, shall submit a baseline monitoring report to the control authority. If reports containing this information have already been submitted, the industrial user need not submit the information again. The control authority may, at its discretion, alter the dates by which applications for a permit are required.

B. If the categorical pretreatment standard is modified by a removal credit as provided in parts 7049.0360 to 7049.0470, the combined waste stream formula as provided in part 7049.0350, or a fundamentally different factors variance in part 7049.0480, subpart 2, after the industrial user submits the baseline monitoring report, any necessary amendments to the baseline monitoring report shall be submitted by the industrial user to the control authority within 60 days after the modified limit is approved.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0520 CONTENTS OF BASELINE MONITORING REPORT.**

Subpart 1. **Baseline monitoring reports.** Baseline monitoring reports must include the information in this part. New sources must include in the report information describing the method of pretreatment the source intends to use to meet applicable categorical pretreatment standards. New sources shall give estimates of the information requested in subparts 5 and 6.

Subp. 2. **Identifying information.** The industrial user shall submit the name and address of the facility including the name of the operator and owners.

Subp. 3. **Permits.** The industrial user shall submit a list of any environmental control permits held by or for the facility.

Subp. 4. **Description of operations.** The industrial user shall submit a brief description of the nature, average rate of production, and standard industrial classification of the operations carried out by the industrial user. The description shall include a schematic process diagram that indicates points of discharge to the POTW from the regulated processes.

Subp. 5. **Flow measurement.** The industrial user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process waste streams and other streams as necessary to allow use of the combined waste stream formula provided in part 7049.0350. The control authority may allow for verifiable estimates of these flows when justified by cost or feasibility considerations.

Subp. 6. **Measurement of pollutants.** The industrial user shall:

A. identify the categorical pretreatment standards applicable to each regulated process; and

B. submit the results of sampling and analysis identifying the nature and concentration, or mass, when required by the categorical standard or by the control authority, of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration, or mass, when required, shall be reported. The sample shall be representative of daily operations. In cases where the categorical pretreatment standard requires compliance with a best management plan or pollution prevention alternative, the industrial user shall submit documentation as required by the control authority or the applicable categorical pretreatment standards to determine compliance with the standard.

Subp. 7. **Certification.**

A. The industrial user shall submit a certification consisting of a statement, reviewed by an authorized representative of the industrial user, as provided in part 7049.0220, and certified by a qualified professional, indicating whether categorical 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 categorical pretreatment standards and requirements. If the industrial user's categorical pretreatment standard has been modified by a removal credit as provided in parts 7049.0360 to 7049.0470; the combined waste stream formula as provided in part 7049.0350; or a fundamentally different factors variance as provided in part 7049.0480, subpart 2, at the time the industrial user submits the baseline monitoring reports, the certification and the compliance schedule in part 7049.0550 pertain to the modified limits.

B. If an alternate concentration or mass limit has been calculated according to part 7049.0300, subpart 3, the adjusted limit and supporting data shall be included.

C. When the POTW performs the required sampling and analysis in lieu of the categorical industrial user, the categorical industrial user is not required to submit the compliance certification under this subpart.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0530 WASTEWATER PRETREATMENT**

1265

**7049.0530 CONTENTS OF APPLICATION FOR PERMIT.**

In addition to all information required by the control authority, applications by categorical industrial users shall provide the following information:

- A. sufficient information to enable the control authority to determine the correct federal point source category and subcategory for the industrial user;
- B. a description and drawing of the location of the proposed monitoring point;
- C. production data sufficient to determine correct limits, required only for categorical industrial users subject to categories with production-based standards; and
- D. information sufficient to correctly apply the combined waste stream formula, if the monitoring point proposed by the categorical industrial user includes multiple waste streams requiring the use of the combined waste stream formula under part 7049.0350. This may include identification and flows of the waste streams present at the monitoring point, plus engineering, production, sampling and analysis, and other information on each waste stream to allow the control authority to make all determinations necessary to correctly apply the combined waste stream formula.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0540 MONITORING FOR BASELINE MONITORING REPORT.**

- A. Monitoring for the baseline monitoring report must be performed according to this part.
- B. The industrial user shall take a minimum of one representative sample to compile the data necessary to comply with this part.
- C. Samples must be taken immediately downstream from pretreatment facilities, if they exist, or immediately downstream from the regulated wastewater process if no pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to pretreatment, the industrial user shall measure the flows and concentrations necessary to allow use of the combined waste stream formula under part 7049.0350 in order to evaluate compliance with the categorical pretreatment standards.
- D. Sampling and analysis must be performed according to Code of Federal Regulations, title 40, part 136, as amended. If Code of Federal Regulations, title 40, part 136, does not contain sampling or analytical techniques for the pollutant in question, or if the Environmental Protection Agency regional administrator determines that the Code of Federal Regulations, title 40, 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 POTW authority or other parties, approved by the Environmental Protection Agency regional administrator.
- E. The control authority may allow the submission of a baseline report that uses only historical data as long as the data provides information sufficient to determine the need for industrial pretreatment measures.
- F. The baseline report shall indicate the time, date, and place of sampling, and methods of analysis, and shall certify that the sampling and analysis is representative of normal work cycles and expected pollutant discharges to the POTW.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0550 BASELINE MONITORING REPORT COMPLIANCE SCHEDULE.**

- A. An industrial user submitting a baseline monitoring report that shows that the industrial user is not already in compliance with the categorical standard shall submit with the baseline monitoring report the shortest schedule by which the industrial user will provide additional pretreatment or operation and maintenance to comply with the categorical

standard. The completion date in this schedule must not be later than the compliance date established for the applicable categorical pretreatment standard.

B. The schedule must 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, such as hiring an engineer, completing preliminary plans, completing final plans, executing contract for major components, commencing construction, and completing construction.

C. An increment referred to in item B shall not exceed nine months.

D. 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 it complied with the increment of progress to be met on that date and, if not:

- (1) the date on which it expects to comply with the increment of progress;
- (2) the reason for the delay; and
- (3) the steps being taken by the industrial user to return the construction to the schedule established.

In no event may more than nine months elapse between progress reports to the control authority.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

#### **7049.0560 90-DAY COMPLIANCE REPORT.**

Subpart 1. **General.** 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 a POTW, an industrial user subject to national categorical pretreatment standards and requirements shall submit to the control authority a report containing the information in subparts 2 to 6.

Subp. 2. **Identifying information.** The industrial user shall submit the name and address of the facility, including the name of the operator and owners.

Subp. 3. **Flow measurement.** The industrial user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the receiving POTW from regulated process waste streams and other streams as necessary to allow use of the combined waste stream formula in part 7049.0350. The control authority may allow for verifiable estimates of these flows when justified by cost or feasibility considerations.

Subp. 4. **Measurement of pollutants.** The industrial user shall:

A. identify the categorical pretreatment standards applicable to each regulated process; and

B. submit the results of sampling and analysis identifying the nature and concentration, or mass, when required by the categorical pretreatment standard or by the control authority, of regulated pollutants in the discharge from each regulated process. Both daily maximum and average concentration, or mass, when required, shall be reported. The sample shall be representative of daily operations.

Subp. 5. **Certification.** The industrial user shall submit a certification consisting of a statement, reviewed by an authorized representative of the industrial user, as provided in part 7049.0220, and certified by a qualified professional, indicating whether categorical pretreatment standards are being met on a consistent basis. If the industrial user's categorical pretreatment standard has been modified by a removal credit as provided in parts 7049.0360 to 7049.0470; the combined waste stream formula as provided in part 7049.0350; or a fundamentally different factors variance as provided in part 7049.0485, at the time the industrial user submits the 90-day compliance report, the certification and the compliance

## 7049.0560 WASTEWATER PRETREATMENT

1267

schedule in part 7049.0550 pertain to the modified limits. If an alternate concentration or mass limit has been calculated according to part 7049.0300, subpart 3, the adjusted limit and supporting data shall be included.

Subp. 6. **Production rate reporting.** Industrial users subject to national categorical pretreatment standards with limits expressed in terms of allowable pollutant discharge per unit of production, or other measure of operation, shall submit information on their production rate. For industrial users subject to equivalent mass or concentration limits established by the control authority according to part 7049.0300, subpart 2, for categories with production-based categorical pretreatment standards, the report must contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to production-based categorical pretreatment standards, the report must include the user's actual production during the reporting period.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

## 7049.0570 PERIODIC REPORTS ON CONTINUED COMPLIANCE.

Subpart 1. **General requirement.** After the deadline for compliance contained in the categorical pretreatment standard, an industrial user subject to a categorical pretreatment standard shall submit to the control authority periodic reports on continued compliance indicating the nature and concentration of pollutants in the effluent that are limited by categorical pretreatment standards. In cases where the categorical pretreatment standard requires compliance with a best management practice or pollution prevention alternative, the industrial user shall submit documentation required by the control authority or the pretreatment standard necessary to determine the compliance status of the industrial user.

Subp. 2. **Frequency of reports.**

A. Except as required in this subpart, the periodic reports on continued compliance under subpart 1 must be submitted twice per year, unless required more frequently in the categorical pretreatment standard or by the control authority. Unless otherwise specified by the control authority, the reports must be submitted in June and December. At the discretion of the control authority and in consideration of such factors as local high or low flow rates, holidays, and budget cycles, the control authority may agree to alter the months during which the reports in subpart 1 are to be submitted. The control authority may reduce the monitoring frequency to a requirement to report no less frequently than once a year, unless required more frequently in the pretreatment standard or by the agency, when the industrial user meets all of the following conditions:

(1) the industrial user's total categorical wastewater flow does not exceed any of the following:

(a) 0.01 percent of the design dry weather hydraulic capacity of the POTW, or 5,000 gallons per day, whichever is smaller, as measured by a continuous effluent flow monitoring device unless the industrial user discharges in batches;

(b) 0.01 percent of the design dry weather organic treatment capacity of the POTW; and

(c) 0.01 percent of the maximum allowable headworks loading for any pollutant regulated by the applicable categorical pretreatment standard for which approved local limits were developed by a POTW under part 7049.0650;

(2) the industrial user has not been in significant noncompliance at any time in the past two years;

(3) the industrial user does not have daily flow rates, production levels, or pollutant levels that vary so significantly that decreasing the reporting requirement for the industrial user would result in data that are not representative of conditions occurring during the reporting period according to part 7049.0710; and

(4) the industrial user notifies the control authority immediately of any changes at its facility causing it to no longer meet conditions of subitem (1) or (2). Upon notification, the industrial user shall immediately begin reporting twice annually.

B. The POTW authority shall retain documentation to support the control authority's determination that a specific industrial user qualifies for reduced reporting requirements under item A for three years after the expiration of the term of the control mechanism.

**Subp. 3. Monitoring waiver.**

A. Except as provided in this subpart, reports submitted under this part shall include data for all pollutants limited by the applicable categorical standard. The control authority may authorize the industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard if the industrial user has demonstrated through sampling and other technical factors 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 industrial user. A waiver under this item must be issued according to items B to H.

B. The control authority may authorize a waiver when 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 categorical standard and otherwise includes no process wastewater.

C. The monitoring waiver is valid only for the duration of the effective period of the industrial user's individual control mechanism, but in no case longer than five years. The industrial user shall submit a new request for the waiver before the waiver can be granted for each subsequent control mechanism.

D. In making a demonstration that a pollutant is not present, the industrial user must provide data from at least one sampling of the facility's process wastewater prior to any treatment present at the facility that is representative of all wastewater from all processes. The request for a monitoring waiver must be signed according to part 7049.0220 and include the certification statement in part 7049.0590. Nondetectable sample results may only be used as a demonstration that a pollutant is not present if the Environmental Protection Agency-approved method from Code of Federal Regulations, title 40, part 136, with the lowest minimum detection level for that pollutant was used in the analysis.

E. Any grant of the monitoring waiver by the control authority must be included as a condition in the industrial user's control mechanism. The reasons supporting the waiver and any information submitted by the industrial user in its request for the waiver must be maintained by the control authority for three years after expiration of the waiver.

F. Upon approval of the monitoring waiver and revision of the industrial user's control mechanism by the control authority, the industrial user shall certify, with the following statement, on each report that there has been no increase in the pollutant in the industrial user's waste stream due to activities of the industrial user:

"Based on my inquiry of the person or persons directly responsible for managing compliance with the pretreatment standard for 40 CFR ....., [specify applicable national pretreatment standard part(s)], 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 wastewaters due to the activities at the facility since filing of the last periodic report under 40 CFR 403.12(e)(1)."

G. In the event that a waived pollutant is found to be present or is expected to be present based on changes that occur in the industrial user's operations, the industrial user shall immediately comply with the monitoring requirements of part 7049.0570, subparts 1 and 2, or other more frequent monitoring requirements imposed by the control authority, notify the control authority, and monitor for the previously waived pollutant that is found to be present.



**7049.0570 WASTEWATER PRETREATMENT**

1269

H. This subpart does not supersede certification processes and requirements established in categorical pretreatment standards, except as otherwise specified in the categorical pretreatment standard.

Subp. 4. **Flow reporting.** The periodic reports on continued compliance must include a record of measured or estimated average and maximum daily flows for the reporting period for the discharge subject to the categorical standards and any other flows necessary to apply the combined waste stream formula as provided in part 7049.0350. The control authority may require more detailed reporting of flows.

Subp. 5. **Mass reporting.** If the control authority has imposed mass limitations on industrial users, the periodic reports on continued compliance shall indicate the mass of pollutants regulated by categorical pretreatment standards in the discharge from the industrial user.

Subp. 6. **Production rate reporting.** Industrial users subject to national categorical pretreatment standards with limits expressed in terms of allowable pollutant discharge per unit of production, or other measure of operation, shall submit information on their production rate. For industrial users subject to equivalent mass or concentration limits established by the control authority according to part 7049.0300, subpart 2, for categories with production-based categorical pretreatment standards, the report must contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to production-based categorical pretreatment standards, the report must include the user's actual production during the reporting period.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0580 POTW MONITORING IN LIEU OF INDUSTRIAL USER SELF-MONITORING.**

Sampling and analysis for baseline monitoring reports as required by parts 7049.0500 to 7049.0550, 90-day compliance reports as required by part 7049.0560, and periodic reports on continued compliance as required by part 7049.0570 may be performed by the control authority in lieu of the industrial user. If the receiving POTW performs the required sampling and analysis in lieu of the industrial user, the industrial user is not required to submit the compliance certification required with baseline monitoring reports under parts 7049.0500 to 7049.0550 and 90-day compliance reports under part 7049.0560. In addition, if the receiving POTW collects all the information required for baseline monitoring reports under parts 7049.0500 to 7049.0550, 90-day compliance reports under part 7049.0560, and periodic reports on continued compliance under part 7049.0570, including flow data, the industrial user is not required to submit the reports.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0590 CERTIFICATION FOR REPORTS.**

Baseline monitoring reports required by parts 7049.0500 to 7049.0550, 90-day compliance reports required by part 7049.0560, and periodic reports on continued compliance required by part 7049.0570 must include the following certification statement and must be signed by an industrial user's authorized representative as follows:

**CERTIFICATION**

"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 ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete.

I am aware that there are significant penalties under law for submitting false information, including the possibility of fine and imprisonment for knowing violations."

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

#### **7049.0600 POTW RESPONSIBILITY TO CONTROL INDUSTRIAL USERS.**

##### **Subpart 1. General.**

A. It is the responsibility of every POTW authority to control the contribution of industrial users that discharge to the POTW plant to prevent interference or pass-through. Every POTW shall require industrial users that discharge to the POTW plant to comply with the general and specific prohibitions in part 7049.0140 and shall take appropriate action in case of violations.

B. POTW authorities shall control the contribution of their significant industrial users with control mechanisms, such as agreements or permits, issued to individual significant industrial users, except as provided in part 7049.0820, item C, subitem (1).

##### **Subp. 2. Local limits.**

A. In cases where pollutants contributed by industrial users result in interference or pass-through and the violation is likely to recur, the POTW authority shall develop and enforce specific local effluent limits or best management practices for industrial users and all other users, as appropriate, which, together with appropriate changes in the POTW plant's facilities or operation, are necessary to ensure renewed and continued compliance with the POTW's national pollutant discharge elimination system permit or sludge use or disposal practices.

B. Specific local effluent limits must not be developed and enforced without individual notice to persons or groups who have requested such notice and an opportunity to respond.

**Subp. 3. Prohibited individual control mechanisms.** A POTW authority shall not knowingly enter into an agreement with an industrial user or issue a permit to an industrial user that allows the industrial user to discharge wastewater that would cause interference or pass-through or cause a violation of part 7049.0140.

**Subp. 4. Revision of local limits.** If an industrial user causes interference or pass-through without violating the local limits imposed on them by the receiving POTW, so that the affirmative defense of part 7049.0150 may be invoked, the receiving POTW shall re-evaluate and revise relevant local limits to ensure that they are adequately restrictive to protect against pass-through or interference.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

#### **7049.0620 REPORTING.**

A. Every POTW authority that has one or more significant industrial users shall submit a pretreatment annual report to the agency for each calendar year during which it has a significant industrial user. If more than one jurisdiction is involved in the POTW local pretreatment program, the annual report shall report on activities of all participating agencies. Required contents of annual reports are specified in part 7049.1020 for POTWs with pretreatment programs that have been approved under parts 7049.0800 to 7049.0950 and in part 7049.0720 for all other POTWs.

B. Information collected pursuant to this chapter shall be provided to the agency upon request.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0630 WASTEWATER PRETREATMENT**

1271

**7049.0630 SIGNATORY REQUIREMENTS FOR POTW REPORTS.**

Reports submitted to the agency by the POTW according to parts 7049.0600 to 7049.1020 must be signed by a principal executive officer, ranking elected official, or other duly authorized employee. The duly authorized employee must be an individual or position having responsibility for the overall operation of the facility or the pretreatment program. This authorization must be made in writing by the principal executive officer or ranking elected official and submitted to the agency prior to or together with the report being submitted.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0640 AGENCY DIRECT REGULATORY ACTION.**

A. The agency has a regulatory interest in required pretreatment standards and may take direct regulatory action, as provided in item B, to control an industrial user that the receiving POTW is responsible to control if the receiving POTW fails to implement or enforce required pretreatment standards that it is responsible to enforce according to part 7049.0650.

B. If the agency determines that a POTW authority has failed to properly implement pretreatment controls as provided in item A, the agency shall notify the POTW authority and industrial user of the determination, specifying the failures and providing 30 days for the POTW authority to commence appropriate action to correct the failures. If the POTW authority fails to adequately correct the failures cited, the agency may, as appropriate, take enforcement action against the industrial user or impose limitations and requirements in an individual control mechanism issued directly to the industrial user. If the agency issues a determination and takes action under this part, failure to take appropriate action against the industrial user constitutes a violation by the POTW authority.

C. At any time, the agency may perform any of the activities provided in part 7049.0163, subparts 2 and 3.

D. Nothing in this part precludes the agency from taking enforcement action against a POTW for failure to implement pretreatment controls.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0650 POTW RESPONSIBILITY TO ENFORCE PRETREATMENT STANDARDS.**

A. All POTW authorities are responsible for enforcing the general and specific prohibitions in part 7049.0140 and for developing and enforcing any local limits or best management practices needed to implement those prohibitions.

B. For nondelegated POTWs, the conditions under which local limits or best management practices implementing the general prohibitions of part 7049.0140, subpart 2, are required are listed in part 7049.0600, subpart 2.

C. For delegated POTW pretreatment programs approved under parts 7049.0800 to 7049.0960, the conditions under which local limits or best management practices implementing the general prohibitions of part 7049.0140, subpart 2, are required are listed in parts 7049.0600, subpart 2, and 7049.0850.

D. Delegated POTWs are also responsible for enforcing the categorical pretreatment standards in part 7049.0310. The most restrictive limits as between the requirements of items C and D shall apply.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0700 NOTIFICATION.**Subpart 1. **General.**

A. A POTW that is not delegated pretreatment authority under parts 7049.0800 to 7049.1020 shall notify the agency in writing of any:

(1) significant industrial user discharging to the POTW that has not been previously disclosed to the agency;

(2) anticipated or actual changes in the volume or quality of discharge by an industrial user that could result in the industrial user becoming a significant industrial user; and

(3) anticipated or actual changes in the volume or quality of discharge by a significant industrial user that would require changes to the local limits imposed on the significant industrial user by the POTW authority.

B. The notification under this subpart shall be submitted within 30 days of identifying an industrial user as significant. POTWs with existing significant industrial users shall submit a notification within 30 days of October 27, 2008. Changes to local limits imposed on existing significant industrial users shall be submitted prior to changes being made.

Subp. 2. **Contents.** The notification under subpart 1 shall include:

A. the identity of the significant industrial user and a description of the significant industrial user's operation and process;

B. a characterization of the significant industrial user's wastewater discharge;

C. the required limits that will be imposed on the significant industrial user by the POTW authority;

D. a technical justification of the required local limits; and

E. a plan for monitoring the significant industrial user that is consistent with the monitoring requirements in part 7049.0710.

Subp. 3. **Additional requirements.** In addition, upon agency request, the POTW authority shall submit the following:

A. additional information on the significant industrial user and its processes or discharges;

B. a copy of the individual control mechanism used by the POTW authority to impose limitations and requirements on the significant industrial user;

C. a copy of the POTW authority's legal authority to regulate the significant industrial user; or

D. the POTW authority's procedures for enforcing the requirements imposed on the significant industrial user.

Subp. 4. **Agency review.** Notifications required in this part are subject to review by the agency.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0710 MONITORING OF SIGNIFICANT INDUSTRIAL USERS.**

Each POTW authority shall obtain from its significant industrial users specific information on the quality and quantity of each significant industrial user's discharge to the POTW. Except when specifically requested by the POTW authority and approved by the agency, the information shall be obtained by representative monitoring conducted by the POTW or by the significant industrial user under requirements imposed by the POTW in the significant industrial user's individual control mechanism. A request to obtain information using a different method shall demonstrate that the alternate provides adequate information on the discharge from the significant industrial user. Monitoring performed to comply with this

**7049.0710 WASTEWATER PRETREATMENT**

1273

part shall include all pollutants for which the significant industrial user is significant and shall be representative of the significant industrial user's discharge to the POTW. Except as provided in part 7049.0570, subpart 2, POTWs shall obtain significant industrial user monitoring data at least twice annually. The POTW shall require frequency of monitoring necessary to assess and ensure compliance by industrial users with required pretreatment standards and requirements.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0720 PRETREATMENT ANNUAL REPORT; NONDELEGATED POTWS.**

If a nondelegated POTW has a significant industrial user at any time during a calendar year, the POTW authority shall submit a pretreatment annual report on forms provided by the agency or shall submit equivalent information. The pretreatment annual report must include at least the following:

- A. a summary of changes to the POTW's pretreatment program;
- B. a current list of significant industrial users that discharge to the POTW. Additions and deletions shall be noted and reasons shall be given for deletions;
- C. a summary of the discharge monitoring data for each significant industrial user for the reporting year. The summary shall summarize all available data and shall accurately represent the discharge by the industrial user;
- D. a summary of inspections and sampling of significant industrial users performed by the POTW authority;
- E. a summary of violations by industrial users of any required pretreatment standards imposed by the POTW authority and a description of the current compliance status of each significant industrial user;
- F. a summary of enforcement actions taken against significant industrial users by the POTW authority;
- G. a description of any upset, interference, or pass-through incident at the POTW that the POTW authority knows or believes was caused by industrial users of the POTW system. The description shall include the reasons why the incidents occurred, the corrective actions taken, and the industrial users responsible, if known;
- H. an assessment of the effectiveness of the pretreatment program in preventing interference, pass-through of pollutants, and contamination of sludge; and
- I. any other relevant information requested by the agency.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0800 POTWS REQUIRED TO DEVELOP PRETREATMENT PROGRAM.**

A. Any POTW designated by the agency shall develop a federal delegated pretreatment program approvable under parts 7049.0800 to 7049.1020 according to the schedule contained in the respective POTWs national pollutant discharge elimination system permit. Schedules for the development of the POTW pretreatment program shall not exceed one year. A POTW shall be designated to develop a delegated pretreatment program if it has a design flow of five million gallons per day or more and has one or more significant industrial users, or when the agency finds that the nature or volume of the industrial influent, treatment process upsets, violations of POTW effluent limitations, contamination of municipal sludge, or other circumstances warrant in order to prevent interference with the POTW or pass-through.

B. POTWs with federal delegated pretreatment programs meeting the requirements of parts 7049.0810 to 7049.0870 and approved as provided by parts 7049.0880 to 7049.0960 shall maintain and operate their pretreatment programs as approved. The authorities and procedures in the approved program shall at all times be fully and effectively

exercised and implemented. The POTW authority is responsible for administering national categorical pretreatment standards, as well as pretreatment standards implementing the requirements of parts 7049.0140 and 7049.0850.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0810 DELEGATED LOCAL POTW PRETREATMENT PROGRAM REQUIREMENTS.**

To be approvable under parts 7049.0800 to 7049.0960, a POTW pretreatment program shall have the program components described in parts 7049.0820 to 7049.0870.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0820 LEGAL AUTHORITY.**

The POTW authority shall operate pursuant to legal authority that authorizes or enables the POTW authority to apply and enforce the requirements of sections 307(b) and (c) and 402(b)(8) of the Clean Water Act and any regulations implementing those sections. The authority may be contained in a statute, ordinance, or series of contracts or joint powers agreements that the POTW authority is authorized to enact, enter into, or implement and that are authorized by state law. At a minimum, the legal authority shall enable the POTW authority to:

A. deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by industrial users when the contributions do not meet required pretreatment standards and requirements or when the contributions would cause the POTW to violate its national pollutant discharge elimination system permit;

B. require compliance with required pretreatment standards and requirements by industrial users;

C. control contribution to the POTW by each industrial user to ensure compliance with required pretreatment standards and requirements, through permit, order, or similar means. In the case of significant industrial users, the control shall be achieved through permits or equivalent individual control mechanisms issued to each such industrial user, except as follows:

(1) at the discretion of the POTW, the control may include use of general control mechanisms if the following conditions are met. All of the facilities to be covered must:

(a) involve the same or substantially similar types of operations;

(b) discharge the same types of wastes;

(c) require the same effluent limitations;

(d) require the same or similar monitoring; and

(e) in the judgment of the POTW, be more appropriately controlled under a general control mechanism than under individual control mechanisms;

(2) to be covered by the general control mechanism, the significant industrial user must file a written request for coverage that identifies its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general control mechanism, any requests under part 7049.0570, subpart 3, for a monitoring waiver for a pollutant neither present nor expected to be present in the discharge, and any other information the POTW deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general control mechanism until after the POTW has provided written notice to the significant industrial user that such a waiver request has been granted according to part 7049.0570, subpart 3. The POTW must retain a copy of the general control mechanism, documentation to support the POTW's determination that a specific significant industrial user meets the criteria in subitem (1), and a copy of the industrial user's written request for

## 7049.0820 WASTEWATER PRETREATMENT

1275

coverage for three years after the expiration of the general control mechanism. A POTW may not control a significant industrial user through a general control mechanism when the facility is subject to production-based categorical pretreatment standards or categorical pretreatment standards expressed as mass of pollutant discharged per day or for industrial users whose limits are based on the combined waste stream formula under part 7049.0350 or net/gross calculations under part 7049.0480; and

(3) both individual and general control mechanisms must be enforceable and contain, at a minimum, the following conditions:

(a) a statement of duration, which must be no more than five years;

(b) a statement of nontransferability without, at a minimum, prior notification to the POTW authority and provision of a copy of the existing control mechanism to the new owner or operator;

(c) effluent limits, including best management practices, based on applicable required pretreatment standards in part 7049.0650;

(d) self-monitoring, sampling, reporting, notification, and record-keeping requirements, including an identification of the pollutants to be monitored, including the process for seeking a waiver for a pollutant neither present nor expected to be present in the discharge according to part 7049.0570, subpart 3, or a specific waived pollutant in the case of an individual control mechanism; sampling location; sampling frequency; and sample type, based on the applicable required pretreatment standards as specified in part 7049.0650;

(e) a statement of applicable civil and criminal penalties for violation of required pretreatment standards and requirements and any applicable compliance schedule. The schedules may not extend the compliance date beyond applicable federal deadlines; and

(f) requirements to control slug discharges, if determined by the POTW to be necessary;

D. require:

(1) the development of a compliance schedule by each industrial user for the installation of technology required to meet required pretreatment standards and requirements; and

(2) the submission of notices and self-monitoring reports from industrial users as are necessary to assess and ensure compliance by industrial users with required pretreatment standards and requirements, including the reports required in parts 7049.0500 to 7049.0570;

E. carry out all inspection, surveillance, and monitoring procedures necessary to determine, independent of information supplied by industrial users, compliance or noncompliance with required pretreatment standards and requirements by industrial users. Representatives of the POTW authority shall be authorized to enter the premises of an industrial user in which a discharge source or treatment system is located or in which records are kept that are required under parts 7049.0500 to 7049.0590 to ensure compliance with required pretreatment standards. The authority shall be at least as extensive as the authority provided under section 308 of the Clean Water Act;

F. obtain remedies for noncompliance with required pretreatment standards and requirements by industrial users as follows:

(1) all POTW authorities shall have authority to seek injunctive relief for noncompliance with required pretreatment standards and requirements by industrial users. POTW authorities shall also have authority to seek or assess civil or criminal penalties of at least \$1,000 a day for each violation by industrial users of required pretreatment standards and requirements;

(2) pretreatment requirements that may be enforced through the remedies in subitem (1) include, but are not limited to, the duty to allow or carry out inspections, entry, or monitoring activities; any rules, regulations, or orders issued by the POTW authority; any requirements in individual control mechanisms issued by the POTW authority; or any reporting requirements imposed by the POTW authority or this chapter;

(3) the POTW authority shall have authority and procedures, after informal notice to the discharger, to immediately and effectively halt or prevent any discharge of pollutants to the POTW that reasonably appears to present an imminent endangerment to the health or welfare of persons. The POTW shall have authority and procedures, which must include notice to the affected industrial users and an opportunity to respond, to halt or prevent any discharge to the POTW that presents or may present an endangerment to the environment or that threatens to interfere with the operation of the POTW; and

(4) as provided in part 7049.0640, the agency has authority to seek judicial relief and may also use administrative penalty authority when the POTW authority has sought a monetary penalty that the agency believes to be insufficient; and

G. comply with the confidentiality requirements in part 7049.0160.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

#### **7049.0830 PROCEDURES.**

The POTW authority shall develop and implement procedures to ensure compliance with the requirements of the approved POTW pretreatment program. At a minimum, these procedures shall enable the POTW authority to:

A. identify and locate all possible industrial users that might be subject to the POTW pretreatment program;

B. identify the character and volume of pollutants contributed to the POTW by the industrial users identified under item A;

C. notify industrial users identified under item A of applicable required pretreatment standards and any applicable requirements under this chapter and chapter 7045. The notification shall be made within 30 days of the designation of an industrial user as a significant industrial user;

D. receive and analyze self-monitoring reports and other notices submitted by industrial users according to the self-monitoring requirements in parts 7049.0200, 7049.0210, and 7049.0500 to 7049.0570;

E. randomly sample and analyze the effluent from industrial users and conduct surveillance activities to identify, independent of information supplied by industrial users, occasional and continuing noncompliance with required pretreatment standards;

F. inspect and sample the effluent from each significant industrial user at least once a year, except:

(1) when the POTW has authorized the industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard under part 7049.0570, subpart 3, the POTW shall sample for the waived pollutant at least once during the term of the categorical industrial user's control mechanism. In the event that the POTW subsequently determines that a waived pollutant is present or is expected to be present in the industrial user's wastewater based on changes that occur in the industrial user's operations, the POTW shall immediately begin at least annual effluent monitoring of the industrial user's discharge and monitor for the previously waived pollutant that is found to be present;

(2) when the POTW has determined that an industrial user meets the criteria for classification as a nonsignificant categorical industrial user, the POTW shall evaluate, at least once per year, whether an industrial user continues to meet the criteria in part 7049.0120, subpart 24, item D; and



**7049.0830 WASTEWATER PRETREATMENT**

1277

(3) in the case of industrial users subject to reduced reporting requirements under part 7049.0570, subpart 2, the POTW shall randomly sample and analyze the effluent from industrial users and conduct inspections at least once every two years. If the industrial user no longer meets the conditions for reduced reporting in part 7049.0570, subpart 2, the POTW shall immediately begin sampling and inspecting the industrial user at least once a year;

G. evaluate whether each significant industrial user needs a plan or other action to control slug discharges. Significant industrial users shall be evaluated within one year of being designated a significant industrial user. Significant industrial users shall notify the POTW immediately of any changes at its facility affecting potential for a slug discharge. If the POTW authority decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:

(1) a description of discharge practices, including nonroutine batch discharges;

(2) a description of stored chemicals;

(3) procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate part 7049.0140, and procedures for follow-up written notification within five days; and

(4) if necessary, procedures or measures to prevent adverse impact from accidental spills, including but not limited to inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, constructing containment structures or equipment, measures and equipment for containing toxic organic pollutants including solvents, and measures and equipment for emergency response;

H. investigate instances of noncompliance with required pretreatment standards and requirements, as indicated in the reports and notices required under parts 7049.0200, 7049.0210, and 7049.0500 to 7049.0570, or indicated by analysis, inspection, and surveillance activities described in item E. Sample taking and analysis and the collection of other information shall be performed with sufficient care to produce evidence admissible in enforcement proceedings or in judicial actions; and

I. comply with the public participation requirements of Code of Federal Regulations, title 40, part 25, in the enforcement of required pretreatment standards. Public participation procedures shall include provision for at least annual public notification, in one or more newspapers of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, of significant industrial users that, at any time during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements and any industrial users that were in significant noncompliance because of violations of the criteria in part 7049.0120, subpart 25, item C, D, or H.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0840 FUNDING.**

The POTW authority shall have sufficient resources and qualified personnel to carry out the authorities and procedures described in parts 7049.0820 and 7049.0830. In some limited circumstances, funding and personnel may be delayed as provided in part 7049.0910.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0850 LOCAL LIMITS.**

The POTW authority shall develop and enforce specific local limits to implement the prohibitions listed in part 7049.0140. POTWs may develop best management practices

(BMPs) to implement these prohibitions. Any such BMPs are required pretreatment standards. The POTW authority shall continue to develop these limits as necessary or demonstrate that they are not necessary. The POTW authority shall effectively enforce the limits. Specific effluent limits shall not be developed and enforced without individual notice to persons or groups who have requested the notice and an opportunity to respond.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

#### **7049.0860 ENFORCEMENT RESPONSE PLAN.**

Subpart 1. **Plan requirement.** The POTW authority shall develop and implement an enforcement response plan, which is subject to agency approval. The plan shall contain detailed procedures indicating how the POTW authority will investigate and respond to instances of industrial user noncompliance. The plan shall, at a minimum:

- A. describe how the POTW authority will investigate instances of noncompliance;
- B. describe the types of escalating enforcement responses the POTW authority will take in response to all anticipated types of industrial user violations and the time periods within which responses will take place;
- C. identify, by title, the officials responsible for each type of response; and
- D. adequately reflect the POTW authority's primary responsibility to enforce all applicable required pretreatment standards and requirements, as detailed in parts 7049.0820 and 7049.0830.

Subp. 2. **Enforcement.** Following agency approval of the POTW authority's pretreatment program and enforcement response plan, the POTW authority shall implement the approved enforcement response plan.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

#### **7049.0870 SIGNIFICANT INDUSTRIAL USER LIST.**

The POTW authority shall prepare and maintain a list of its industrial users meeting the criteria for being a significant industrial user. The list shall identify the criteria for which each significant industrial user is significant. The list shall also identify the applicable category and subcategory for industrial users subject to national categorical pretreatment standards. The list shall include industrial users that meet the criteria for being a significant industrial user in part 7049.0120, subpart 24, item A, but that have been determined not to be a significant industrial user under part 7049.0120, subpart 24, item B. The initial list must be submitted to the agency with the POTW's submittals as required by parts 7049.0880 to 7049.0920. Modifications to the list must be submitted to the agency with annual reports as required by part 7049.1020.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

#### **7049.0880 SUBMITTAL FOR PRETREATMENT PROGRAM APPROVAL.**

A POTW required to develop a pretreatment program for approval under a schedule established under part 7049.0800 shall submit to the agency three copies of a program description that includes the information in part 7049.0890. A POTW authority may request pretreatment program approval under parts 7049.0800 to 7049.1020 by submitting a request for approval and a pretreatment program description as prescribed in part 7049.0890 whether or not the POTW authority is required by a permit schedule to do so. The agency shall ensure that the submission and any comments on the submission are available to the public for inspection and copying.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0890 WASTEWATER PRETREATMENT**

1279

**7049.0890 CONTENTS OF POTW DELEGATED PRETREATMENT PROGRAM SUBMISSION.**

A POTW authority requesting approval of a POTW pretreatment program shall develop a program submittal that shall be submitted to the agency for program approval according to parts 7049.0930 to 7049.0960. The submittal shall contain the following information:

A. a statement from the local unit of government's legal officer, or the attorney for those POTWs that have independent legal counsel, that the POTW authority has adequate authority to carry out the programs in parts 7049.0810 to 7049.0870. The statement shall:

(1) identify the provision of the legal authority under part 7049.0820 that provides the basis for each procedure under part 7049.0830;

(2) identify the manner in which the POTW authority will implement the program requirements in parts 7049.0810 to 7049.0870 including the means by which required pretreatment standards will be applied to individual industrial users such as by order, permit, or ordinance; and

(3) identify how the POTW authority intends to ensure compliance with required pretreatment standards and requirements and to enforce them in the event of non-compliance by industrial users;

B. a copy of any statutes, ordinances, regulations, agreements, or other authorities relied upon by the POTW authority for its administration of the program. The submission shall include a statement reflecting the endorsement or approval of the local boards or bodies responsible for supervising or funding the POTW pretreatment program if approved;

C. a brief description, including organization charts, of the POTW organization that will administer the pretreatment program. If more than one agency is responsible for administration of the program, the responsible agencies shall be identified, their respective responsibilities delineated, and their procedures for coordination set forth;

D. a description of the funding levels, equipment, and full-time and part-time personnel available to implement the program;

E. a description of program procedures consistent with part 7049.0830, including an enforcement response plan as provided by part 7049.0860; and

F. a technical justification, including any relevant calculations used to justify the proposed local limits or to justify why local limits are not needed.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0900 CONTENT OF REMOVAL CREDIT SUBMISSION.**

A POTW authority that desires to grant removal credits under parts 7049.0360 to 7049.0470 shall submit three copies of a request for authority to revise categorical pretreatment standards that must contain the information required in part 7049.0450.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0910 REQUEST FOR CONDITIONAL APPROVAL OF POTW PRETREATMENT PROGRAM.**

The POTW authority may request conditional approval of the pretreatment program pending the acquisition of funding and personnel for certain elements of the program. The request for conditional approval must meet the requirements in parts 7049.0810 and 7049.0920, unless the submission demonstrates that:

A. a limited aspect of the program does not need to be implemented immediately;

B. the POTW authority has adequate legal authority and procedures to carry out those aspects of the program that will not be implemented immediately; and

C. funding and personnel for the program aspects to be implemented at a later date will be available when needed. The POTW authority shall describe in the submission the mechanism by which the funding will be acquired.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0920 CONSISTENCY WITH WATER QUALITY MANAGEMENT PLANS.**

To be approved, a POTW pretreatment program shall be consistent with any agency-approved basin or watershed plans.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0930 AGENCY ACTION.**

A. Upon receipt of a submission, the agency shall begin its review. Within 60 days after receiving the submission, the agency shall make a preliminary determination of whether the submission meets the requirements of parts 7049.0810 to 7049.0920 and, if appropriate, parts 7049.0360 to 7049.0470.

B. If the agency makes the preliminary determination that the submission meets the requirements referenced in item A, the agency shall:

(1) notify the POTW that the submission has been received and is under review; and

(2) commence the public notice and evaluation activities in parts 7049.0940 to 7049.0960.

C. After review of the submission as provided for in item A, if the agency determines that the submission does not comply with parts 7049.0890 to 7049.0920, the agency shall provide notice in writing to the applying POTW and each person who has requested individual notice. The notification shall identify any defects in the submission and advise the POTW and each person who has requested individual notice of the means by which the POTW can comply with the applicable requirements of parts 7049.0890 to 7049.0920.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0940 PUBLIC NOTICE AND OPPORTUNITY FOR HEARING.**

Subpart 1. **Requirement.** Within 20 working days after making a determination that a submission meets the requirements of parts 7049.0890 to 7049.0910, the agency shall issue a public notice of request for approval of the submission and provide an opportunity for the applicant, an affected state, an interested state or federal agency, or a person or group of persons to request a contested case hearing with respect to the submission.

Subp. 2. **Circulation.** The public notice of request for approval of the submission shall be circulated in a manner designed to inform interested and potentially interested persons of the submission. Procedures for the circulation of public notice shall include:

A. mailing notices of the request for approval of the submission to federal and state fish, shellfish, and wild fish resource agencies, unless the agencies have asked not to be sent the notices, and any other person or group who has requested individual notice, including those on appropriate mailing lists; and

B. publication of a notice of request for approval of the submission in a newspaper of general circulation within the jurisdictions served by the POTW that provides meaningful public notice.

The public notice must provide a period of not less than 30 days following the date of the public notice during which time interested persons may submit their written views on the submission. All written comments submitted during the 30-day comment period must

**7049.0940 WASTEWATER PRETREATMENT**

1281

be retained by the agency and considered in the decision on whether or not to approve the submission. The period for comment may be extended at the discretion of the agency.

**Subp. 3. Hearing.**

A. The agency shall provide an opportunity for the applicant, an affected state, an interested state or federal agency, or a person or group of persons to request a public hearing with respect to the submission.

B. The request for public hearing shall be filed within the 30-day or extended comment period described in subpart 2 and shall indicate the interest of the person filing the request and the reasons why a hearing is warranted.

C. At the request of the POTW authority, the agency shall hold a hearing. In addition, a hearing shall be held if there is a significant public interest in issues relating to whether or not the submission should be approved. Instances of doubt shall be resolved in favor of holding the hearing.

D. Public notice of a hearing to consider a submission, sufficient to inform interested parties of the nature of the hearing and the right to participate, shall be published in the same newspaper as the notice of the original request for approval of the submission under subpart 2. In addition, notice of the hearing shall be sent to those persons requesting individual notice.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0950 REVIEW, APPROVAL, AND DECISION.****Subpart 1. Time for review.**

A. The agency shall have 90 days from the date of the public notice required in part 7049.0940, subpart 2, to review the submission. The agency shall review the submission to determine compliance with parts 7049.0810 to 7049.0870 and, if removal credit authorization is sought, with parts 7049.0360 to 7049.0470. The agency may have up to an additional 90 days to complete the evaluation of the submission if the public comment period provided for in part 7049.0940, subpart 2, is extended beyond 30 days or if a public hearing is held as provided for in part 7049.0940, subpart 3. In no event, however, shall the time for evaluation of the submission exceed a total of 180 days from the date of public notice of the submission.

B. At the end of the 30-day or extended comment period and within the 90-day or extended period provided for in this subpart, the agency shall approve or deny the submission based on the evaluation in part 7049.0930 and take into consideration comments submitted during the comment period and the record of the public hearing, if held. If the agency makes a determination to deny the request, the agency shall notify the POTW and each person who has requested individual notice. The notification shall include suggested modifications and the agency may allow the requester additional time to bring the submission into compliance with applicable requirements.

**Subp. 2. Environmental Protection Agency objections.** A POTW pretreatment program or authorization to grant removal credits must not be approved by the agency if, following the 30-day or extended public notice period provided for in part 7049.0940 and any hearing held pursuant to that notice, the Environmental Protection Agency regional administrator sets forth in writing objections to the approval of the submission and the reasons for the objections. A copy of the Environmental Protection Agency regional administrator's objections shall be provided to the applicant and each person who has requested individual notice. The Environmental Protection Agency regional administrator shall provide an opportunity for written comments and may convene a public hearing on the objections. Unless retracted, the Environmental Protection Agency regional administrator's objections shall constitute a final ruling to deny approval of a POTW pretreatment program or authorization to grant removal credits 90 days after the date the objections are issued.

Subp. 3. **Notification of result.** The agency shall notify persons who submitted comments and participated in the public hearing, if held, of the approval or disapproval of the submission. In addition, the agency shall publish a notice of approval or disapproval in the same newspapers as the original notice of request for approval of the submission was published. The agency shall identify in any notice of POTW pretreatment program approval any authorization to modify categorical pretreatment standards that the POTW authority may make according to parts 7049.0360 to 7049.0470 for removal of pollutants subject to categorical pretreatment standards.

Subp. 4. **Reissuance or modification of POTW permit.** After the POTW's pretreatment program is approved, the POTW's national pollutant discharge elimination system permit shall be reissued or modified by the agency to incorporate the approved program as enforceable conditions of the permit. The modification of a POTW's national pollutant discharge elimination system permit for the purposes of incorporating a POTW pretreatment program approved according to parts 7049.0800 to 7049.0960 is a minor permit modification subject to the procedures in part 7001.1150.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

#### **7049.0960 APPROVAL OF REQUEST FOR CONDITIONAL APPROVAL.**

Upon receipt of a request for conditional approval, the agency shall establish a fixed date for the acquisition of the needed funding and personnel. If funding is not acquired by this date, the conditional approval of the POTW pretreatment program and any removal credits granted to the POTW authority may be modified or withdrawn.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

#### **7049.0970 MODIFICATION OF POTW PRETREATMENT PROGRAMS.**

Either the agency or a POTW with an approved POTW pretreatment program may initiate program modification at any time to reflect changing conditions at the POTW. Program modification is necessary whenever there is a significant change in the operation of a POTW pretreatment program that differs from the information in the POTW's submission, as approved under parts 7049.0800 to 7049.0960.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

#### **7049.0980 SUBSTANTIAL MODIFICATIONS DEFINED.**

Substantial modifications include:

A. modifications that relax POTW legal authorities, as described in part 7049.0820, except for modifications that directly reflect a revision to this chapter and are reported pursuant to part 7049.1000;

B. modifications that relax local limits, except for the modifications to local limits for pH and reallocations of the maximum allowable industrial loading of a pollutant that do not increase the total industrial loadings for the pollutant, which are reported pursuant to part 7049.1000. "Maximum allowable industrial loading" means the total mass of a pollutant that all industrial users of a POTW, or a subgroup of industrial users identified by the POTW authority, may discharge pursuant to limits developed under part 7049.0850;

C. changes to the POTW's control mechanism, as described in part 7049.0890;

D. a decrease in the frequency of self-monitoring or reporting required of industrial users;

E. a decrease in the frequency of industrial user inspections or sampling by the POTW;

F. changes to the POTW's confidentiality procedures; and

**7049.0980 WASTEWATER PRETREATMENT**

1283

G. other modifications designated as substantial modifications by the agency on the basis that the modification could:

- (1) have a significant impact on the operation of the POTW's pretreatment program;
- (2) result in an increase in pollutant loadings at the POTW; or
- (3) result in less stringent requirements being imposed on industrial users of the POTW.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.0990 APPROVAL PROCEDURES FOR SUBSTANTIAL MODIFICATIONS.**

Subpart 1. **Statement.** To request approval of a substantial modification as defined under part 7049.0980, the POTW authority shall submit to the agency a statement of the basis for the desired program modification, a modified program description as required by parts 7049.0880 to 7049.0920, or other documents the agency determines to be necessary under the circumstances.

Subp. 2. **Agency action.** The agency shall approve or disapprove the modification based on the requirements of parts 7049.0810 to 7049.0870 and using the procedures in parts 7049.0930 to 7049.0960, except as provided in items A and B. The modification becomes effective upon approval by the agency.

A. The agency need not publish a notice of decision under this part, provided the notice of request for approval under part 7049.0940 states that the request will be approved if no comments are received by a date specified in the notice, no substantive comments are received, and the request is approved without change.

B. Notices required by this part may be performed by the POTW provided that the agency finds that the POTW's notice otherwise satisfies part 7049.0940.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.1000 APPROVAL PROCEDURES FOR NONSUBSTANTIAL MODIFICATIONS.**

A. The POTW authority shall notify the agency of any nonsubstantial modification at least 45 days prior to implementation by the POTW, in a statement as provided for in part 7049.0990.

B. Within 45 days after the submission of the POTW's statement, the agency shall notify the POTW of its decision to approve or deny the nonsubstantial modification, except as provided in item C.

C. If the agency does not notify the POTW within 45 days of its decision to approve or deny the modification, or to treat the modification as substantial under parts 7049.0980 and 7049.0990, the POTW authority may implement the modification.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.1005 INCORPORATION IN PERMIT.**

Upon approval, modifications to a POTW's pretreatment program will be incorporated into the POTW's national pollutant discharge elimination system permit. The modification of a POTW's national pollutant discharge elimination system permit for the purposes of incorporating modifications to the POTW's pretreatment program approved according to

parts 7049.0970 to 7049.1000 is a minor permit modification subject to the procedures in part 7001.1150.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.1010 LOCAL LIMITS RE-EVALUATION.**

Subpart 1. **Monitoring for local limit pollutants.** The POTW shall, for all pollutants of concern, obtain sufficient data to allow the POTW authority to evaluate the need for local limits and shall set local limits if they are needed. Monitoring shall be done at a sensitivity adequate to evaluate the need for local limits and set local limits if needed.

Subp. 2. **Re-evaluation of local limits.** Each POTW authority shall periodically re-evaluate its local limits and the need for local limits. The re-evaluation shall be done at least once every five years unless otherwise provided in the POTW's national pollutant discharge elimination system permit.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*

**7049.1020 ANNUAL PRETREATMENT REPORTS FOR DELEGATED POTW PRETREATMENT PROGRAMS.**

A POTW authority with an approved delegated pretreatment program approved under parts 7049.0800 to 7049.1005 shall submit a pretreatment annual report to the agency for each calendar year. The report shall be submitted within 60 days after the end of each calendar year, unless a different date is specified in the POTW's national pollutant discharge elimination system permit. A POTW's first annual report meeting the requirements of this part following approval of its pretreatment program under parts 7049.0930 to 7049.0960 shall be submitted no later than one year after approval of the POTW's pretreatment program. The annual report shall describe the POTW's pretreatment activities during the previous calendar year and shall include the following additional information:

A. a summary of changes to the POTW's pretreatment program that have not been previously reported to the agency;

B. an updated list of the POTW authority's significant industrial users, including the summary total of significant industrial users and categorical industrial users, and a list of additions to and deletions from the previously submitted list of significant industrial users, with a brief explanation for each deletion. For each significant industrial user, the following information shall be included:

- (1) the significant industrial user's name;
- (2) the significant industrial user's address;
- (3) the criteria and parameters for which the significant industrial user is significant;
- (4) the category and subcategory of any applicable national categorical pretreatment standards;
- (5) whether or not the significant industrial user's individual control mechanism is current or expired; and
- (6) whether the significant industrial user is subject to local limits only or local limits that are more stringent than the categorical pretreatment standards;

C. a list of categorical industrial users that are considered nonsignificant categorical industrial users as defined in part 7049.0120, subpart 24, item D, or are subject to reduced monitoring requirements under part 7049.0570, subpart 2;

D. a summary of the discharge monitoring data for each significant industrial user for the reporting year. The summary shall include all available data and shall accurately represent the discharge by the industrial user;



## 7049.1020 WASTEWATER PRETREATMENT

1285

E. a summary of the inspection and sampling activities conducted by the POTW during the reporting year to gather information and data regarding industrial users. The summary shall include identification of the industrial users subject to surveillance by the POTW and an indication of the type, such as inspection or sampling, and number of surveillance activities performed;

F. a characterization of the compliance status of each significant industrial user during the reporting year. The compliance characterization shall at least indicate status as follows:

(1) no violations noted with discharge limits, and compliance with monitoring and reporting requirements is sufficient to determine compliance with discharge limitations;

(2) violations were noted with discharge limits or violations of monitoring and reporting requirements that may have impaired the POTW authority's ability to determine compliance with discharge limitations were noted, but the noncompliance does not meet the definition of significant noncompliance;

(3) significant noncompliance; or

(4) status unknown;

G. for each significant industrial user that was out of compliance with required pretreatment standards, a description of the standards or requirements that were violated. For each significant industrial user in significant noncompliance, the reason for the significant noncompliance, if known, and whether the significant industrial user was placed on a compliance schedule for returning to compliance shall be included. If the significant industrial user is on a compliance schedule, the date of final compliance shall be noted;

H. a summary of the enforcement actions taken by the POTW authority during the reporting year. The summary shall include the names and addresses of the industrial users that were the subject of enforcement action, the enforcement action taken, and whether or not the industrial user has returned to compliance. The report shall also list numbers of:

(1) significant industrial users in significant noncompliance with compliance schedules;

(2) formal enforcement actions taken, such as administrative orders or notices of violation;

(3) judicial actions taken against significant industrial users;

(4) significant industrial users with significant noncompliance published; and

(5) significant industrial users that paid penalties;

I. a description of any upset, interference, or pass-through incident at the POTW that the POTW authority knows or suspects were caused by industrial users of the POTW system. The description shall include the reasons why the incidents occurred, the corrective actions taken, and the industrial users responsible, if known. The report shall also include an assessment of the effectiveness of the pretreatment program in preventing interference, pass-through of pollutants, and contamination of sludge;

J. a summary of public participation activities to involve and inform the public. This shall include a copy of the annual publication of significant noncompliance, if the publication was needed to comply with part 7049.0830, item I; and

K. any other relevant information requested by the agency.

**Statutory Authority:** *MS s 115.03*

**History:** *33 SR 696*