

**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 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*

**Published Electronically:** *November 6, 2008*