

**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*

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