

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.

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*

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