

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 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*

Published Electronically: *November 6, 2008*