

## **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;

(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*

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