

1.1 **Pollution Control Agency**

1.2 **Adopted Permanent Rules Relating to Pretreatment**

1.3 **7001.0170 JUSTIFICATION TO COMMENCE MODIFICATION OF PERMIT**
1.4 **OR REVOCATION AND REISSUANCE OF PERMIT.**

1.5 The following constitute justification for the commissioner to commence proceedings
1.6 to modify a permit or to revoke and reissue a permit:

1.7 [For text of items A to G, see M.R.]

1.8 H. if applicable, there exists any justification listed in part 7001.0730, subpart 1,
1.9 7001.1150, or 7001.3550, subpart 2.

1.10 **7001.0190 PROCEDURE FOR MODIFICATION, REVOCATION AND**
1.11 **REISSUANCE, AND REVOCATION WITHOUT REISSUANCE OF PERMITS.**

1.12 [For text of subps 1 and 2, see M.R.]

1.13 Subp. 3. **Minor modification.** Upon obtaining the consent of the permittee, the
1.14 commissioner may modify a permit to make the following corrections or allowances
1.15 without following the procedures in parts 7001.0100 to 7001.0130:

1.16 [For text of items A to C, see M.R.]

1.17 D. if applicable, to make a change as provided in part 7001.0730, subpart 3;
1.18 7001.1150, subpart 2; or 7001.3550, subpart 3.

1.19 [For text of subp 4, see M.R.]

1.20 **7001.1080 ESTABLISHMENT OF SPECIAL CONDITIONS FOR NATIONAL**
1.21 **POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMITS.**

1.22 Subpart 1. **Requirement.** According to part 7001.0150, subpart 2, a national
1.23 pollutant discharge elimination system permit issued by the agency must contain
1.24 conditions necessary for the permittee to achieve compliance with all Minnesota or federal
1.25 statutes or rules. These conditions must be initially established by the commissioner in

2.1 the draft permit but are subject to final issuance by the agency. The conditions to be
2.2 included are given in subparts 2 to 9.

2.3 [For text of subps 2 to 5, see M.R.]

2.4 Subp. 6. **Pretreatment requirements for publicly owned treatment works.** If
2.5 the applicant proposes to own or operate a publicly owned treatment works and if the
2.6 applicant is required by part 7049.0800 to develop a publicly owned treatment works
2.7 pretreatment program, the commissioner shall:

2.8 A. incorporate the provisions of the approved publicly owned treatment works
2.9 pretreatment program into the permit and require the permittee to submit the information
2.10 in part 7049.1020; or

2.11 B. if the publicly owned treatment works does not have an approved
2.12 pretreatment program, incorporate into the permit a compliance schedule for development
2.13 of an approvable pretreatment program. The schedule shall contain increments of progress
2.14 in the form of dates for the commencement and completion of major events leading to the
2.15 development of a pretreatment program. No increment in the schedule shall exceed nine
2.16 months. The permit shall also require the permittee to submit to the commissioner, within
2.17 14 days following each date in the schedule progress, reports stating whether or not the
2.18 permittee has complied with the increment of progress to be met on such date and, if not,
2.19 the date on which the permittee expects to comply with this increment of progress, the
2.20 reason for delay, and the steps taken to return to the schedule. In no event shall more than
2.21 nine months elapse between progress reports to the commissioner.

2.22 [For text of subps 7 to 9, see M.R.]

2.23 **7001.1090 GENERAL CONDITIONS OF NATIONAL POLLUTANT DISCHARGE**
2.24 **ELIMINATION SYSTEM PERMITS.**

2.25 [For text of subps 1 and 2, see M.R.]

3.1 Subp. 3. **Permits for publicly owned treatment works.**

3.2 A. A National Pollutant Discharge Elimination System permit issued by the
3.3 agency to a publicly owned treatment works must require the permittee to control ~~their~~
3.4 contribution to the POTW by each industrial users user and report their significant
3.5 industrial users and pretreatment activities to the agency as required by chapter 7049.

3.6 B. Permits issued to publicly owned treatment works that do not operate a
3.7 federal delegated pretreatment program, as defined in part 7049.0120, subpart 7, shall
3.8 contain or reference the pretreatment requirements applicable to nondelegated publicly
3.9 owned treatment works, which are found in parts 7049.0600 to 7049.0720, and shall
3.10 require the permittee to notify the agency of any of its industrial users that may be subject
3.11 to national categorical pretreatment standards.

3.12 C. Permits issued to publicly owned treatment works that operate a federal
3.13 delegated pretreatment program, as defined in part 7049.0120, subpart 7, shall contain
3.14 pretreatment requirements based on parts 7049.0600 to 7049.0650 and 7049.0800 to
3.15 7049.1020 and the publicly owned treatment work's approved pretreatment program.

3.16 **7001.1150 MODIFICATION, REVOCATION, AND REISSUANCE OF PERMITS.**

3.17 Subpart 1. **Scope.** In addition to parts 7001.0170 and 7001.0190, subparts 2 and 3
3.18 apply to the modification or revocation and reissuance of national pollutant discharge
3.19 elimination system permits.

3.20 Subp. 2. **Additional justification for modification, revocation, and reissuance of**
3.21 **permits.** In addition to the justifications listed in part 7001.0170, the following constitute
3.22 justification for the commissioner to commence proceedings to modify a permit or to
3.23 revoke and reissue a permit:

3.24 A. the commissioner finds that there is a need to put a publicly owned treatment
3.25 works on a compliance schedule for the development of a pretreatment program because

4.1 the addition of pollutants into a publicly owned treatment works by an industrial user or
4.2 combination of industrial users presents a substantial hazard to the functioning of the
4.3 treatment works, the quality of the receiving waters, or the environment;

4.4 B. the commissioner finds that there are grounds to modify the permit under
4.5 section 301(h) or 301(i) of the Clean Water Act, United States Code, title 33, section
4.6 1311(h) or (i);

4.7 C. the commissioner has approved a new or modified publicly owned treatment
4.8 works pretreatment program and the pretreatment program has not yet been incorporated
4.9 into the publicly owned treatment works' national pollutant discharge elimination system
4.10 permit; or

4.11 D. the commissioner has approved a compliance schedule for the development
4.12 of a publicly owned treatment works pretreatment program and the compliance schedule
4.13 has not yet been incorporated into the publicly owned treatment works' national pollutant
4.14 discharge elimination system permit.

4.15 Subp. 3. **Minor modification of permits.** In addition to the corrections or
4.16 allowances listed in part 7001.0190, subpart 3, the commissioner, upon obtaining the
4.17 consent of the permittee, may modify a national pollutant discharge elimination system
4.18 permit without following the procedures in parts 7001.0100 to 7001.0130 to incorporate
4.19 conditions of a publicly owned treatment works pretreatment program or a modification to
4.20 a publicly owned treatment works pretreatment program.

4.21 **GENERAL PROVISIONS**

4.22 **7049.0100 PURPOSE, OBJECTIVE, AND INTENT.**

4.23 This chapter implements the requirements of the federal general pretreatment
4.24 regulations in Code of Federal Regulations, title 40, part 403, and the pretreatment
4.25 provisions of national categorical pretreatment regulations in Code of Federal Regulations,
5.1 title 40, chapter I, subchapter N, and implements the authorities of Minnesota Statutes,

5.2 section 115.03, subdivision 1, paragraph (e), clause (2). This chapter establishes the
5.3 responsibilities of the state, local governments, and the public to control pollutants
5.4 introduced into a publicly owned treatment works (POTW) and prevent the introduction
5.5 of pollutants into a POTW. This chapter is intended to:

5.6 A. prevent or control the introduction of pollutants that are incompatible with a
5.7 POTW plant;

5.8 B. prevent the pass-through of pollutants through a POTW plant without
5.9 adequate treatment; and

5.10 C. prevent interference with a POTW physical plant; collection system; physical,
5.11 chemical, or biological processes; personnel; or disposal of residuals.

5.12 The objective of this chapter is to provide for the prevention or control of pollutants
5.13 entering a POTW plant that can cause or contribute to the violation by the POTW of
5.14 any state or federal environmental rule or regulation prohibiting or limiting pollutant
5.15 release. It is also the intent of this chapter to improve opportunities to recycle and reclaim
5.16 municipal and industrial wastewaters ~~and~~, sludges, and other residuals.

5.17 **7049.0110 APPLICABILITY.**

5.18 This chapter applies to:

5.19 A. pollutants from nondomestic sources that are discharged into POTWs,
5.20 transported by truck or rail, or otherwise introduced ~~to~~ into POTWs;

5.21 B. nondomestic sources that discharge pollutants into POTWs, transport
5.22 pollutants by truck or rail, or otherwise introduce pollutants into POTWs; and

5.23 C. POTWs that receive wastewater from nondomestic sources.

5.24 This chapter does not apply to sources that introduce pollutants to a sewer not
5.25 connected to a POTW treatment plant.

6.1 **7049.0120 DEFINITIONS.**

6.2 Subpart 1. **Scope.** The definitions in this part apply to this chapter.

6.3 Subp. 2. **Agency.** "Agency" means the Minnesota Pollution Control Agency. Rights
6.4 and authorities of the agency may be exercised by any member of, employee of, agent of,
6.5 or consultant to the agency, when authorized by it, upon presentation of credentials.

6.6 Subp. 3. **Best management practices or BMPs.** "Best management practices" or
6.7 "BMPs" means schedules of activities, prohibitions of practices, maintenance procedures,
6.8 and other management practices to implement the prohibitions listed in part 7049.0140.
6.9 BMPs include, but are not limited to, treatment requirements, operating procedures,
6.10 and practices to control plant site runoff, spillage or leaks, sludge or waste disposal,
6.11 or drainage from raw materials storage.

6.12 Subp. 4. **Categorical industrial user.** "Categorical industrial user" means an
6.13 industrial user that is subject to national categorical pretreatment standards.

6.14 Subp. 5. **Categorical pretreatment standards or national categorical**
6.15 **pretreatment standards.** "Categorical pretreatment standards" or "national categorical
6.16 pretreatment standards" means the pretreatment standards from federal regulations that are
6.17 incorporated by reference in part 7049.0310.

6.18 Subp. 6. **Control authority.** "Control authority" means the following governmental
6.19 entity that has authority and responsibility to implement specific pretreatment standards
6.20 for a specific industrial user:

6.21 A. the receiving POTW authority is the control authority for purposes of
6.22 preventing interference or pass-through and for implementing all local pretreatment
6.23 prohibitions, limitations, or requirements, including limitations required by this chapter;
6.24 and

7.1 B. for the purpose of regulating industrial users subject to the national
7.2 categorical pretreatment standards, the control authority is the receiving POTW authority
7.3 if the receiving POTW authority has been delegated pretreatment authority under parts
7.4 7049.0800 to 7049.1020. If the receiving POTW authority has not been delegated
7.5 authority under parts 7049.0800 to 7049.1020, the agency is the control authority for
7.6 the purpose of implementing national categorical pretreatment standards. The POTW
7.7 authority remains the control authority for item A.

7.8 Subp. 7. **Federal delegated pretreatment program.** "Federal delegated
7.9 pretreatment program" means a pretreatment program administered by a POTW authority
7.10 that meets the criteria in parts 7049.0800 to 7049.0870 and has been approved by the
7.11 agency under parts 7049.0880 to 7049.0960.

7.12 Subp. 8. **Indirect discharge or discharge.** "Indirect discharge" or "discharge"
7.13 means the introduction of pollutants into a POTW, whether by sewer or other means.

7.14 Subp. 9. **Industrial user.** "Industrial user" means a nondomestic source of indirect
7.15 discharge.

7.16 Subp. 10. **Interference.** "Interference" means a discharge that, alone or in
7.17 conjunction with a discharge or discharges from other sources:

7.18 A. inhibits or disrupts a POTW plant, its treatment processes or operations, or
7.19 its sludge processes, use, or disposal; and

7.20 B. is, therefore, a cause of a violation, including an increase in the magnitude
7.21 or duration of a violation, of any permit or rule controlling, prohibiting, or limiting the
7.22 release of pollutants from the POTW plant into the environment.

7.23 Subp. 11. **New source.**

7.24 A. "New source" means any building, structure, facility, or installation from
7.25 which there is or may be a discharge of pollutants, the construction of which commenced

8.1 after the publication of proposed national categorical pretreatment standards under section
8.2 307(c) of the Clean Water Act, United States Code, title 33, which will be applicable to
8.3 the source if the categorical standards are adopted according to that section, provided that:

8.4 (1) the building, structure, facility, or installation is constructed at a site at
8.5 which no other source is located;

8.6 (2) the building, structure, facility, or installation totally replaces the process
8.7 or production equipment that causes the discharge of pollutants at an existing source; or

8.8 (3) the production or wastewater generating processes of the building,
8.9 structure, facility, or installation are substantially independent of an existing source at the
8.10 same site. In determining whether these are substantially independent, factors such as the
8.11 extent to which the new facility is integrated with the existing plant and engaged in the
8.12 same general type of activity as the existing source ~~should~~ shall be considered.

8.13 B. Construction on a site at which an existing source is located results in a
8.14 modification rather than a new source if the construction does not create a new building,
8.15 structure, facility, or installation meeting the criteria of item A, subitem (2) or (3), but
8.16 otherwise alters, replaces, or adds to existing process or production equipment.

8.17 C. Construction of a new source as defined in this part has commenced if the
8.18 owner or operator has undertaken any of the following:

8.19 (1) begun or caused to begin as part of a continuous on-site construction
8.20 program:

8.21 (a) any placement, assembly, or installation of facilities or equipment;

8.22 or

8.23 (b) significant site preparation work including, but not limited to,
8.24 clearing, excavation, or removal of existing buildings, structures, or facilities that

9.1 is necessary for the placement, assembly, or installation of new source facilities or
9.2 equipment; or

9.3 (2) entered into a binding contractual obligation for the purchase of facilities
9.4 or equipment that are intended to be used in its operation within a reasonable time.
9.5 Options to purchase or contracts that can be terminated or modified without substantial
9.6 loss, and contracts for feasibility, engineering, and design studies, do not constitute a
9.7 contractual obligation under this subpart.

9.8 Subp. 12. **Pass-through.** "Pass-through" means a discharge that exits a POTW plant
9.9 into waters of the state in quantities or concentrations that, alone or in conjunction with a
9.10 discharge or discharges from other sources, is a cause of violating a requirement of any
9.11 permit, rule, regulation, or ordinance controlling, prohibiting, or limiting the release
9.12 of pollutants from the POTW plant into the environment, including an increase in the
9.13 magnitude or duration of a violation.

9.14 Subp. 13. **Pollutant of concern.** "Pollutant of concern" means a pollutant that is
9.15 or may be discharged by an industrial user to a POTW and that is, or reasonably should
9.16 be, of concern to the POTW on the basis that it may cause interference or pass-through.
9.17 ~~In identifying pollutants of concern, the POTW must consider pollutants specifically~~
9.18 ~~limited, required to be monitored, or otherwise identified as of concern in the POTW's~~
9.19 ~~national pollutant discharge elimination system permit, pollutants that the POTW plant~~
9.20 ~~has a specific finite designed capacity to treat, or pollutants that are specifically identified~~
9.21 ~~by the agency as being in nonattainment with water quality standards in the POTW's~~
9.22 ~~receiving water.~~

9.23 Subp. 14. **POTW authority.** "POTW authority" means the governmental authority
9.24 that holds the permit for a POTW plant.

9.25 Subp. 15. **POTW collection system.** "POTW collection system" means the sewers,
9.26 pipes, appurtenances, and other conveyances used to convey wastewater to a POTW plant.

10.1 This definition includes the physical plant and processes of the POTW collection system
10.2 and the personnel who operate and maintain the POTW collection system.

10.3 Subp. 16. **POTW plant.** "POTW plant" means the treatment works that is owned by
10.4 a municipality, as defined in Minnesota Statutes, section 115.41. This definition includes
10.5 the physical plant and the physical, chemical, and biological processes used in the storage,
10.6 treatment, recycling, and reclamation of municipal sewage and sewer industrial waste.
10.7 This definition includes the POTW collection system and the personnel who operate
10.8 and maintain the POTW plant.

10.9 Subp. 17. **Pretreatment.** "Pretreatment" means the reduction of the amount of
10.10 pollutants, the elimination of pollutants, or the alteration of the nature of pollutant
10.11 properties in wastewater before or in lieu of discharging or otherwise introducing
10.12 pollutants into a POTW. The reduction or alteration may be obtained by physical, chemical,
10.13 or biological processes, process changes, or other means, except as prohibited by part
10.14 7049.0300, subpart 4. Appropriate pretreatment technology includes, but is not limited to,
10.15 control equipment, such as equalization tanks or facilities, for protection against surges or
10.16 slug discharges that might interfere with or otherwise be incompatible with the receiving
10.17 POTW. However, when process effluent limited by categorical pretreatment standards is
10.18 mixed ~~in an equalization facility~~ with wastewater other than those generated by processes
10.19 limited by the same categorical pretreatment standard, the effluent ~~from the equalization~~
10.20 ~~facility~~ must meet, after pretreatment, the alternate limits for the combined effluent
10.21 calculated using the combined waste stream formula as provided in part 7049.0350.

10.22 Subp. 18. **Pretreatment requirements.** "Pretreatment requirements" means any
10.23 substantive or procedural requirement related to pretreatment, other than a pretreatment
10.24 standard, imposed on an industrial user.

10.25 Subp. 19. **Pretreatment standard.** "Pretreatment standard" means any state or local
10.26 law, rule, or ordinance containing pollutant discharge limits or prohibitions, applicable to

11.1 discharges to a POTW. Pretreatment standard includes all standards or limits contained
11.2 in or required by this chapter. Where more than one standard or limit applies, the most
11.3 restrictive is controlling.

11.4 Subp. 20. **Publicly owned treatment works or POTW.** "Publicly owned treatment
11.5 works" or "POTW" means a treatment works as defined in Minnesota Statutes, section
11.6 115.01, subdivision 21, that is owned by a state or municipality as defined by section
11.7 502(4) of the Clean Water Act, United States Code, title 33, section 1362(4), and
11.8 Minnesota Statutes, section 115.41. This term includes "POTW plant" and "POTW
11.9 authority."

11.10 Subp. 21. **Receiving POTW.** "Receiving POTW" means the POTW that receives the
11.11 wastewater discharge from an industrial user.

11.12 Subp. 22. **Regulated process waste stream or regulated process.** "Regulated
11.13 process waste stream" or "regulated process" means a wastewater stream or process that
11.14 is subject to national categorical pretreatment standards.

11.15 Subp. 23. **Required pretreatment standard.** "Required pretreatment standard"
11.16 means a pretreatment standard that a POTW is required to implement and enforce as set
11.17 forth in part 7049.0650.

11.18 Subp. 24. **Significant industrial user.**

11.19 A. "Significant industrial user" means an industrial user that:

11.20 (1) contributes a process wastewater containing five percent or more of the
11.21 flow or load of any pollutant of concern to the receiving POTW;

11.22 (2) is designated by the agency or the receiving POTW authority as
11.23 significant on the basis that it has reasonable potential to impact the receiving POTW
11.24 plant, or violate required pretreatment standards; or

12.1 (3) discharges 25,000 gallons per day or more of process wastewater,
12.2 excluding sanitary, noncontact cooling or boiler blowdown wastewater, to the receiving
12.3 POTW.

12.4 B. An industrial user that meets the criteria in item A may be designated "not
12.5 significant" by the POTW authority on the basis that it has no reasonable potential to
12.6 impact the POTW plant and has no reasonable potential to violate required pretreatment
12.7 standards.

12.8 C. An industrial user that is subject to national categorical pretreatment
12.9 standards shall also be considered a significant industrial user by any POTW authority
12.10 that operates a federal delegated pretreatment program approved under parts 7049.0800 to
12.11 7049.1020, except as provided in item D.

12.12 D. The POTW may determine that an industrial user subject to national
12.13 categorical pretreatment standards is a nonsignificant categorical industrial user rather
12.14 than a significant industrial user on a finding that the industrial user never discharges more
12.15 than 100 gallons per day of total categorical wastewater, excluding sanitary, noncontact
12.16 cooling and boiler blowdown wastewater, unless specifically included in the pretreatment
12.17 standard, and the industrial user:

12.18 (1) prior to the control authority's finding, has consistently complied with
12.19 all applicable categorical pretreatment standards and requirements;

12.20 (2) annually submits the certification statement required in Code of
12.21 Federal Regulations, title 40, section 403.12(q), together with any additional information
12.22 necessary to support the certification statement; and

12.23 (3) never discharges any untreated concentrated wastewater.

12.24 Subp. 25. **Significant noncompliance.** An industrial user is in significant
12.25 noncompliance if its violation meets one or more of the following criteria:

- 13.1 A. chronic violations of wastewater discharge limits, defined in this part as those
13.2 in which 66 percent or more of all of the measurements taken during a six-month period
13.3 exceed, by any magnitude, a numeric pretreatment standard or requirement;
- 13.4 B. technical review criteria (TRC) violations, defined in this part as those in
13.5 which 33 percent or more of all of the measurements for each pollutant parameter taken
13.6 during a six-month period equal or exceed the product of a numeric pretreatment standard
13.7 or requirement multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and
13.8 grease, and 1.2 for all other pollutants except pH);
- 13.9 C. any other violation of a pretreatment standard or requirement that the POTW
13.10 determines has caused, alone or in combination with other discharges, interference or
13.11 pass-through, including endangering the health of POTW personnel or the general public;
- 13.12 D. any discharge of a pollutant that has caused imminent endangerment to
13.13 human health, welfare, or the environment or has resulted in the receiving POTW
13.14 authority's exercise of its emergency authority to halt or prevent such a discharge;
- 13.15 E. failure to meet, within 90 days after the scheduled date, a compliance
13.16 schedule milestone contained in a local control mechanism or enforcement order for
13.17 starting construction, completing construction, or attaining final compliance;
- 13.18 F. failure to provide, within 45 days after the due date, required reports such as
13.19 baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports,
13.20 and reports on compliance with compliance schedules;
- 13.21 G. failure to accurately report noncompliance; or
- 13.22 H. any other violation or group of violations, which may include a violation of
13.23 best management practices, that the POTW authority determines will adversely affect the
13.24 operation or implementation of the local pretreatment program.

14.1 Subp. 26. **Slug discharge.** "Slug discharge" means a discharge of a nonroutine,
14.2 episodic nature, including, but not limited to, an accidental spill or a noncustomary batch
14.3 discharge, which has a reasonable potential to cause interference or pass-through or in
14.4 any other way violate the POTW's regulations, local limits, or ~~permit~~ individual control
14.5 mechanism conditions.

14.6 **7049.0130 LOCAL LAW.**

14.7 Industrial users shall comply with the limitations imposed by the receiving POTW
14.8 ~~that receives their wastewater discharge~~. Except as provided in part 7049.0300, subpart 1,
14.9 and permits issued under that part, industrial users shall report to the receiving POTW.
14.10 Nothing in this chapter is intended to affect any pretreatment requirements, standards, or
14.11 prohibitions established by local law, as long as any local requirement is not less stringent
14.12 than any set forth in this chapter.

14.13 **7049.0140 PRETREATMENT STANDARDS; PROHIBITED DISCHARGES.**

14.14 Subpart 1. **Scope.** The prohibitions in this part apply to every source of indirect
14.15 discharge whether or not it is subject to other pretreatment requirements.

14.16 Subp. 2. **General prohibitions.** ~~An industrial user~~ A source of indirect discharge
14.17 shall not introduce any pollutants that cause pass-through or interference.

14.18 Subp. 3. **Specific prohibitions.** In addition to the general prohibitions in subpart 2,
14.19 the following pollutants ~~must~~ shall not be introduced into a POTW:

14.20 A. pollutants that create a fire or explosion hazard in a POTW, including, but not
14.21 limited to, waste streams with a closed cup flashpoint of less than 140 degrees Fahrenheit
14.22 or 60 degrees centigrade using the test methods specified in Code of Federal Regulations,
14.23 title 40, section 261.21;

15.1 B. pollutants that will cause corrosive structural damage to a POTW, but in no
15.2 case discharges with a pH lower than 5.0, unless the POTW plant is specifically designed
15.3 to accommodate such discharges;

15.4 C. solid or viscous pollutants in amounts that will cause obstruction to the flow
15.5 in a POTW plant or POTW collection system resulting in interference;

15.6 D. any pollutant, including oxygen-demanding pollutants such as biochemical
15.7 oxygen demand, released in a discharge at a flow rate or pollutant concentration that will
15.8 cause interference or pass-through at a POTW plant;

15.9 E. heat in amounts that will inhibit biological activity in a POTW plant resulting
15.10 in interference, but in no case heat in such quantities that the temperature at the headworks
15.11 of the receiving POTW plant, excluding the POTW collection system, exceeds 104
15.12 degrees Fahrenheit or 40 degrees centigrade unless the agency, upon request of the POTW
15.13 authority, approves alternate temperature limits;

15.14 F. petroleum oil, nonbiodegradable cutting oil, or products of mineral oil origin
15.15 in amounts that will cause interference or pass-through; or

15.16 G. pollutants that result in the presence of toxic gases, vapors, or fumes within a
15.17 POTW plant in a quantity that may cause acute worker health and safety problems.

15.18 Subp. 4. **Discharge.** Wastes trucked or hauled to a POTW ~~must only~~ shall be
15.19 discharged only at a point designated by the POTW authority.

15.20 **7049.0150 AFFIRMATIVE DEFENSE FOR VIOLATIONS.**

15.21 An industrial user has an affirmative defense in any action brought against it alleging
15.22 a violation of the general prohibitions in part 7049.0140, subpart 2, and the specific
15.23 prohibitions in part 7049.0140, subpart 3, items C to G, when the industrial user can
15.24 demonstrate that:

16.1 A. the industrial user did not know or have reason to know that its discharge,
16.2 alone or in conjunction with a discharge or discharges from other sources, would cause
16.3 pass-through or interference; and

16.4 B. (1) a local limit designed to prevent pass-through or interference was
16.5 developed according to part 7049.0600, subpart 2, or 7049.0850 for each pollutant in the
16.6 industrial user's discharge that caused pass-through or interference and the industrial user
16.7 was in compliance with each such local limit directly prior to and during the pass-through
16.8 or interference; or

16.9 (2) if a local limit designed to prevent pass-through or interference has not
16.10 been developed according to part 7049.0600, subpart 2, or 7049.0850 for the pollutants
16.11 that caused the pass-through or interference, the industrial user's discharge directly prior
16.12 to and during the pass-through or interference did not change substantially in nature or
16.13 constituents from the industrial user's prior discharge activity when the receiving POTW
16.14 was regularly in compliance with the receiving POTW's national pollutant discharge
16.15 elimination system permit requirements and applicable requirements for sewage sludge
16.16 use or disposal.

16.17 **7049.0160 CONFIDENTIALITY.**

16.18 Except for data determined to be confidential according to Minnesota Statutes,
16.19 section 116.075, subdivision 2, all reports required by this chapter must be available for
16.20 public inspection. ~~Effluent Data~~ on indirect discharges is not confidential. To request the
16.21 agency to maintain data as confidential, the POTW authority or industrial user supplying
16.22 the information ~~must~~ shall comply with part 7000.1300.

16.23 **7049.0161 CRIMINAL VIOLATIONS.**

16.24 Industrial users, significant industrial users, and POTWs under this chapter are subject
16.25 to Minnesota Statutes, section 609.671.

17.1 **7049.0162 RECORD KEEPING.**

17.2 Subpart 1. **Requirements for monitoring activities.** Anyone required by this
17.3 chapter to perform any record keeping or monitoring activities shall maintain records of
17.4 all information required by this chapter, including documentation associated with best
17.5 management practices. The records shall include for all samples:

17.6 A. the date, exact place, method, and time of sampling and the names of the
17.7 person or persons taking the samples;

17.8 B. the dates analyses were performed;

17.9 C. who performed the analyses;

17.10 D. the analytical techniques or methods used; and

17.11 E. the results of the analyses.

17.12 Subp. 2. **Retention of records.** Anyone subject to monitoring or reporting
17.13 requirements under this chapter, including documentation associated with best
17.14 management practices, shall retain for a minimum of three years:

17.15 A. records of monitoring activities and results, whether or not the monitoring
17.16 activities are required by this subpart; and

17.17 B. reports created, submitted, or required to be submitted under this chapter.

17.18 The period of retention shall be extended during the course of any unresolved
17.19 enforcement action regarding an industrial user or a POTW or when requested by the
17.20 agency.

17.21 **7049.0163 INFORMATION, RECORDS, AND ACCESS.**

17.22 Subpart 1. **Duty to provide information.** A person who ~~is operating or responsible~~
17.23 ~~for or who might otherwise have information concerning an indirect discharge~~ operates a
17.24 POTW or a source of indirect discharge and is regulated by this chapter has a duty, when

18.1 requested by the agency, to furnish to the agency any information the person has, ~~may~~
18.2 ~~have~~, or may readily obtain that is relevant to the indirect discharge.

18.3 Subp. 2. **Examination of records.** The agency may examine and copy any books,
18.4 papers, paper and electronic records, or memoranda from a person who has a duty to
18.5 provide information that the person ~~may have~~ has or may readily obtain and that are
18.6 relevant to an indirect discharge, pass-through, or interference.

18.7 Subp. 3. **Access to information and property premises.** The agency, ~~or a member,~~
18.8 ~~employee, or agent authorized by the agency, upon presentation of credentials, may enter~~
18.9 ~~upon any property, public or private, for the purpose of taking any action authorized by~~
18.10 ~~this chapter, including obtaining information from a person who has a duty to provide the~~
18.11 ~~information under subpart 1, examining records, or conducting surveys or investigations~~
18.12 ~~of any indirect discharge shall have access to property for the purpose of implementing~~
18.13 this chapter as provided in Minnesota Statutes, section 115.04, subdivision 3.

18.14 PROVISIONS FOR INDUSTRIAL USERS IN GENERAL

18.15 7049.0200 REPORTING AND MONITORING.

18.16 Subpart 1. **Reporting requirements for significant industrial users.** Except as
18.17 provided in part 7049.0570, subpart 2, significant industrial users shall submit to the
18.18 control authority at least once every six months or as frequently as required by the
18.19 control authority, on dates specified by the control authority, a description of the nature,
18.20 concentration, and flow of the pollutants required to be reported by the control authority.
18.21 In cases where a local limit requires compliance with a best management practice or
18.22 pollution control alternative, the industrial user ~~must~~ shall submit documentation required
18.23 by the control authority to determine the compliance status of the industrial user.

18.24 Subp. 2. **Monitoring of significant industrial users.** All monitoring performed to
18.25 provide information on a discharge from a significant industrial user must be representative
19.1 of the industrial process discharge or the total discharge from the significant industrial

19.2 user to the receiving POTW, except when monitoring for compliance with categorical
19.3 pretreatment standards requires that the monitoring be representative of a specific process
19.4 wastewater. All periodic monitoring reports required by this chapter must be based upon
19.5 data obtained during the period covered by the report and on sampling and analysis
19.6 performed in the period covered by the report and must be performed according to the
19.7 techniques described in Code of Federal Regulations, title 40, part 136, as amended. The
19.8 data must be representative of conditions occurring during the reporting period.

19.9 Subp. 3. **Pollutants to be monitored for.** Except in the case of nonsignificant
19.10 categorical industrial users, and as provided in parts 7049.0570, subpart 3, and 7049.0710,
19.11 the reports required in this part and parts 7049.0500 to 7049.0570 shall contain the
19.12 results of sampling and analysis of the discharge, including the flow and the nature
19.13 and concentration, or production and mass when requested by the control authority, of
19.14 pollutants contained therein which are limited by the applicable pretreatment standards.

19.15 Subp. 4. **Types of samples.** Grab samples must be used for pH, cyanide, total
19.16 phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants,
19.17 24-hour composite samples must be obtained through flow-proportional composite
19.18 sampling techniques, unless time-proportional composite sampling or grab sampling is
19.19 authorized by the control authority. When time-proportional composite sampling or grab
19.20 sampling is authorized by the control authority, the samples must be representative of the
19.21 discharge and the decision to allow the alternative sampling must be documented in the
19.22 industrial user's file for that facility or facilities. Using protocols, including appropriate
19.23 preservation, specified in Code of Federal Regulations, title 40, part 136, and appropriate
19.24 Environmental Protection Agency guidance, multiple grab samples collected during a
19.25 24-hour period may be composited prior to the analysis as follows: for cyanide, total
19.26 phenols, and sulfides, the samples may be composited in the laboratory or in the field and
19.27 for volatile organics and oil and grease, the samples may be composited in the laboratory.
20.1 Composite samples for other parameters unaffected by the compositing procedures

20.2 documented in approved Environmental Protection Agency methodologies may be
20.3 authorized by the control authority, as appropriate. For sampling required in support
20.4 of baseline monitoring and 90-day compliance reports required in parts 7049.0500 to
20.5 7049.0570, a minimum of four grab samples must be used for pH, cyanide, total phenols,
20.6 oil and grease, sulfide, and volatile organic compounds for facilities for which historical
20.7 sampling data do not exist. For facilities for which historical sampling data are available,
20.8 the control authority may authorize a lower minimum. For the periodic monitoring
20.9 reports required by this part and part 7049.0570, the control authority shall require the
20.10 number of grab samples necessary to assess and ensure compliance by industrial users
20.11 with applicable pretreatment standards and requirements.

20.12 Subp. 5. **POTW may monitor in lieu of industrial user.** Sampling and analysis
20.13 of the discharges from industrial users required by this part may be performed by the
20.14 POTW in lieu of the industrial user. When the POTW collects all the information
20.15 required for the report, including flow data, the industrial user is not required to submit
20.16 the monitoring reports required under parts 7049.0200 to 7049.0590, unless required
20.17 by the POTW authority.

20.18 Subp. 6. **Include all monitoring results.** If an industrial user monitors any regulated
20.19 pollutant more frequently than required by the control authority, at the appropriate
20.20 sampling point, using the procedures approved for that monitoring, the results of the
20.21 monitoring shall be included in the relevant report to the control authority.

20.22 **7049.0210 NOTICE.**

20.23 Subpart 1. **Notice of potential problems; slug discharges.** All industrial users shall
20.24 notify the receiving POTW immediately of all discharges by the industrial user that could
20.25 cause problems to the POTW plant, including any slug discharge.

21.1 Subp. 2. **Notification and repeat sampling in case of violation.** If sampling
21.2 performed by an industrial user indicates a violation, the industrial user shall notify its

21.3 control authority, and its receiving POTW if the POTW is not the control authority,
21.4 within 24 hours of becoming aware of the violation. The industrial user shall repeat the
21.5 sampling and analysis and submit the results of the repeat analysis to its control authority
21.6 within 30 days after becoming aware of the violation. When the POTW has performed
21.7 the sampling and analysis in lieu of the industrial user, the POTW ~~must~~ shall perform the
21.8 repeat sampling and analysis unless it notifies the industrial user of the violation and
21.9 requires the industrial user to perform the repeat analysis. Unless directed by the POTW
21.10 authority, resampling is not required if:

21.11 A. the POTW performs sampling at the industrial user at a frequency of at
21.12 least once per month; or

21.13 B. the POTW performs sampling at the industrial user between the time when
21.14 the initial sampling was conducted and the time when the industrial user or the POTW
21.15 receives the results of the sampling.

21.16 Subp. 3. **Notification of changed discharge.** An industrial user shall promptly notify
21.17 the receiving POTW in advance of any substantial change in the volume or character of
21.18 pollutants in the industrial user's discharge, including the listed or characteristic hazardous
21.19 wastes for which the industrial user has submitted initial notification under subpart 4.
21.20 When the agency is the control authority, the industrial user shall also notify the agency.

21.21 Subp. 4. **Sewered hazardous waste notification.**

21.22 A. If an industrial user discharges 15 kilograms or more of a substance in any
21.23 month into a POTW that, if otherwise disposed of, would be a hazardous waste under
21.24 chapter 7045, or if an industrial user discharges any amount of a substance into a POTW
21.25 that, if otherwise disposed of, would be an acute hazardous waste under chapter 7045,
21.26 the industrial user ~~must~~ shall submit a written sewered hazardous waste notification to
22.1 the receiving POTW, the Environmental Protection Agency regional waste management
22.2 division director, and the agency hazardous waste program. Any notification under this

22.3 subpart need be submitted only once for each hazardous waste discharged. However,
22.4 notifications of changed discharges must be submitted under subpart 3.

22.5 B. (1) A sewerer hazardous waste notification must include the name of the
22.6 hazardous waste as set forth in chapter 7045, the Environmental Protection Agency
22.7 hazardous waste number, and the type of discharge (continuous, batch, or other).

22.8 (2) If the industrial user discharges more than 100 kilograms of the waste
22.9 per calendar month to the receiving POTW, the notification shall also contain the
22.10 following information to the extent the information is known and readily available to
22.11 the industrial user:

22.12 (a) an identification of the hazardous constituents contained in the
22.13 wastes;

22.14 (b) an estimation of the mass and concentration of the constituents in
22.15 the waste stream discharged during that calendar month; and

22.16 (c) an estimation of the mass of constituents in the waste stream
22.17 expected to be discharged during the following 12 months.

22.18 (3) The industrial user shall also certify that it has a program in place
22.19 to reduce the volume and toxicity of hazardous wastes generated to the degree it is
22.20 determined to be economically practical.

22.21 C. Industrial users shall provide the sewerer hazardous waste notification no
22.22 later than 180 days after the discharge of:

22.23 (1) more than 15 kilograms of nonacute hazardous wastes in a calendar
22.24 month; or

23.1 (2) any quantity of acute hazardous wastes as specified in part 7045.0135,
23.2 subparts 2 and 4.

23.3 In the case of any new regulations under chapter 7045 or United States Code, title
23.4 42, section 6921, identifying additional characteristics of hazardous waste or listing any
23.5 additional substance as a hazardous waste, the sewerer hazardous waste notification is
23.6 due within 90 days of the effective date of the regulations.

23.7 D. The notification requirement in this subpart does not apply to pollutants
23.8 already reported in a baseline monitoring report, 90-day compliance report, or periodic
23.9 report on continued compliance as required in parts 7049.0500 to 7049.0570.

23.10 **7049.0220 SIGNATORY REQUIREMENTS FOR INDUSTRIAL USER REPORTS.**

23.11 A. All required reports must be signed by:

23.12 (1) a responsible corporate officer, if the industrial user is a corporation;

23.13 (2) a general managing partner, if the industrial user is a partnership; or

23.14 (3) the proprietor, if the industrial user is a sole proprietorship.

23.15 B. Reports may be signed by a duly authorized representative of an individual
23.16 designated in item A if the conditions in item D are satisfied.

23.17 C. For the purpose of this part, "responsible corporate officer" means:

23.18 (1) a president, secretary, treasurer, or vice-president of the corporation in
23.19 charge of a principal business function or any other person who performs similar policy or
23.20 decision-making functions for the corporation; or

23.21 (2) the manager of one or more manufacturing, production, or operating
23.22 facilities, provided:

23.23 (a) the manager is authorized to make management decisions that
23.24 govern the operation of the regulated facility, including having the explicit or implicit
24.1 duty of making major capitol investment recommendations, and initiate and direct other

24.2 comprehensive measures to ensure long-term compliance with environmental laws and
24.3 regulations;

24.4 (b) the manager can ensure that the necessary systems are established
24.5 or actions taken to gather complete and accurate information for control mechanism
24.6 requirements; and

24.7 (c) authority to sign documents has been assigned or delegated to the
24.8 manager in accordance with corporate procedures.

24.9 D. Reports may be signed by a duly authorized representative of an individual
24.10 designated in item A if the authorization:

24.11 (1) is made in writing by the individual described in item A;

24.12 (2) specifies either an individual or a position having responsibility for the
24.13 overall operation of the facility from which the industrial discharge originates, such as
24.14 the position of plant manager or a position of equivalent responsibility, or having overall
24.15 responsibility for environmental matters for the company; and

24.16 (3) is submitted in writing to the control authority.

24.17 If an authorization under this item is no longer accurate because a different
24.18 individual or position has responsibility for the overall operation of the facility or overall
24.19 responsibility for environmental matters for the company, a new authorization satisfying
24.20 the requirements of this item must be submitted to the control authority prior to or together
24.21 with any reports to be signed by an authorized representative.

24.22 **PROVISIONS FOR CATEGORICAL INDUSTRIAL USERS**

24.23 **7049.0300 APPLICATION OF NATIONAL CATEGORICAL PRETREATMENT**
24.24 **STANDARDS.**

24.25 Subpart 1. **Requirements to comply.**

25.1 A. Industrial users that are subject to one or more of the national categorical
25.2 pretreatment standards listed in part 7049.0310, as described in the relevant applicability
25.3 sections of the national categorical pretreatment standards, must comply with the
25.4 appropriate categorical pretreatment standards.

25.5 B. Except when the authority to implement these regulations is specifically
25.6 delegated to the receiving POTW under parts 7049.0800 to 7049.1020, the agency is the
25.7 control authority for national categorical pretreatment standards and has the authority to
25.8 enforce categorical pretreatment standards directly on all industrial users subject to them.

25.9 C. POTW authorities with delegated pretreatment programs approved under
25.10 parts 7049.0800 to 7049.1020 are the control authority for industrial users subject to
25.11 national categorical pretreatment standards for which they are the receiving POTW. The
25.12 agency retains the authority to oversee the POTW's implementation of national categorical
25.13 pretreatment standards. The agency also retains the authority to enforce the national
25.14 categorical pretreatment standards when the POTW fails to do so.

25.15 D. Where the agency is the control authority ~~may~~, control shall be implemented
25.16 via general and individual state disposal system permits or other regulatory documents.
25.17 Industrial users subject to national categorical pretreatment standards for whom the agency
25.18 is the control authority shall maintain on-site plans and specifications for pretreatment and
25.19 pretreatment equipment needed to comply with pretreatment standards.

25.20 Subp. 2. **Deadline for compliance with national categorical pretreatment**
25.21 **standards.** The deadline for compliance with national categorical pretreatment standards
25.22 is the compliance date contained in the applicable regulation listed in part 7049.0310, but
25.23 not later than three years after the effective date of the applicable regulation. A new source
25.24 shall install, have in operating condition, and start up all pollution control equipment
25.25 required to meet applicable categorical pretreatment standards before beginning to
25.26 discharge. Within the shortest feasible time, not to exceed 90 days, a new source must

26.1 meet all applicable categorical pretreatment standards. Existing sources that become
26.2 industrial users subsequent to adoption of an applicable categorical pretreatment standard
26.3 shall be considered existing industrial users, except when the sources meet the definition
26.4 of a new source.

26.5 **Subp. 3. Concentration and mass limits.**

26.6 A. Pollutant discharge limits in categorical pretreatment standards are expressed
26.7 either as concentration or mass limits. Limits in categorical pretreatment standards shall
26.8 apply to the effluent of the process regulated by the standard, or as otherwise specified
26.9 by the standard.

26.10 B. If the limits in a categorical pretreatment standard are expressed only in
26.11 terms of mass of pollutant per unit of production, the control authority may convert the
26.12 limits to equivalent limitations expressed either as mass of pollutant discharged per day
26.13 or effluent concentration for purposes of calculating effluent limitations applicable to
26.14 individual industrial users.

26.15 C. A control authority calculating equivalent mass-per-day limitations under
26.16 item B shall calculate the limitations by multiplying the limits in the categorical
26.17 pretreatment standard by the industrial user's average rate of production. The average
26.18 rate of production shall be based on a reasonable measure of the industrial user's actual
26.19 long-term daily production, such as the average daily production during a representative
26.20 year, and not on the designed production capacity. For new sources, average production
26.21 shall be estimated using projected production.

26.22 D. A control authority calculating equivalent concentration limitations under
26.23 item B shall calculate the limitations by dividing the mass limitations derived under item
26.24 C by the average daily flow rate of the industrial user's regulated process waste stream.
26.25 The average daily flow rate shall be based on a reasonable measure of the industrial

27.1 user's actual long-term average flow rate, such as the average daily flow rate during the
27.2 representative year.

27.3 E. When the limits in a categorical pretreatment standard are expressed only in
27.4 terms of pollutant concentrations, an industrial user may request that the control authority
27.5 convert the limits to equivalent mass limits. The determination to convert concentration
27.6 limits to mass limits is within the discretion of the control authority. The control authority
27.7 may establish equivalent mass limits only if the industrial user meets all the conditions in
27.8 this item.

27.9 (1) To be eligible for equivalent mass limits, the industrial user must:

27.10 (a) employ, or demonstrate that it will employ, water conservation
27.11 methods and technologies that substantially reduce water use during the term of its
27.12 control mechanism;

27.13 (b) currently use control and treatment technologies adequate to
27.14 achieve compliance with the applicable categorical pretreatment standard and must not
27.15 have used dilution as a substitute for treatment;

27.16 (c) provide sufficient information to establish the facility's actual
27.17 average daily flow rate for all waste streams, based on data from a continuous effluent
27.18 flow monitoring device, as well as the facility's long-term average production rate.
27.19 Both the actual average daily flow rate and long-term average production rate must be
27.20 representative of current operating conditions;

27.21 (d) not have daily flow rates, production levels, or pollutant levels
27.22 that vary so significantly that equivalent mass limits are not appropriate to control the
27.23 discharge; and

28.1 (e) have consistently complied with all applicable categorical
28.2 pretreatment standards during the period prior to the industrial user's request for equivalent
28.3 mass limits.

28.4 (2) An industrial user subject to equivalent mass limits ~~must~~ shall:

28.5 (a) maintain and effectively operate control and treatment technologies
28.6 adequate to achieve compliance with the equivalent mass limits;

28.7 (b) continue to record the facility's flow rates through the use of a
28.8 continuous effluent flow monitoring device;

28.9 (c) continue to record the facility's production rates and notify the
28.10 control authority whenever production rates are expected to vary by more than 20 percent
28.11 from its baseline production rates determined in subitem (1), unit (c). Upon notification of
28.12 a revised production rate, the control authority ~~must~~ shall reassess the equivalent mass
28.13 limit and revise the limit as necessary to reflect changed conditions at the facility; and

28.14 (d) continue to employ the same or comparable water conservation
28.15 methods and technologies as those implemented pursuant to subitem (1), unit (a), so long
28.16 as it discharges under an equivalent mass limit.

28.17 (3) A control authority that chooses to establish equivalent mass limits:

28.18 (a) ~~must~~ shall calculate the equivalent mass limit by multiplying
28.19 the actual average daily flow rate of the regulated process of the industrial user by the
28.20 concentration-based daily maximum and ~~monthly~~ long-term average standard for the
28.21 applicable categorical pretreatment standard and the appropriate unit conversion factor;

28.22 (b) upon notification of a revised production rate, ~~must~~ shall reassess
28.23 the equivalent mass limit and recalculate the limit as necessary to reflect changed
28.24 conditions at the facility; and

29.1 (c) may retain the same equivalent mass limit in subsequent control
29.2 mechanism terms if the industrial user's actual average daily flow rate was reduced solely
29.3 as a result of the implementation of water conservation methods and technologies and
29.4 the actual average daily flow rates used in the original calculation of the equivalent
29.5 mass limit were not based on the use of dilution as a substitute for treatment pursuant to
29.6 subpart 4. The industrial user must also be in compliance with part 7049.0495, regarding
29.7 the prohibition of bypass.

29.8 (4) The control authority may not express limits in terms of mass
29.9 for pollutants such as pH, temperature, radiation, or other pollutants which cannot
29.10 appropriately be expressed as mass.

29.11 F. The control authority may convert the mass limits of the categorical
29.12 pretreatment standards in Code of Federal Regulations, title 40, parts 414, 419, and 455,
29.13 to concentration limits for purposes of calculating limitations applicable to individual
29.14 industrial users. When converting such limits to concentration limits, the control
29.15 authority must use the concentrations listed in the applicable subparts of Code of Federal
29.16 Regulations, title 40, parts 414, 419, and 455, and document that dilution is not being
29.17 substituted for treatment as prohibited by subpart 4.

29.18 G. Equivalent limitations calculated according to this part are required
29.19 pretreatment standards for purposes of this chapter. Industrial users ~~must~~ shall comply
29.20 with the equivalent limitations in lieu of the adopted categorical standards from which
29.21 the equivalent limitations were derived.

29.22 H. Many categorical pretreatment standards specify both a maximum daily
29.23 discharge limitation and a maximum monthly average, or four-day average, limitation.
29.24 If the standards are being applied, the same production or flow figure shall be used in
29.25 calculating both types of equivalent limitations.

30.1 I. Any industrial user operating under a control mechanism incorporating
 30.2 equivalent mass or concentration limits calculated from a national categorical pretreatment
 30.3 standard that incorporates production-based standards shall notify the control authority
 30.4 within two business days after the industrial user has a reasonable basis to know that the
 30.5 production level will significantly change within the next calendar month. Any industrial
 30.6 user that does not notify its control authority of an anticipated change must meet the mass
 30.7 or concentration limits in its control mechanism that were based on the original estimate
 30.8 of the long-term average production rate.

30.9 Subp. 4. **Dilution prohibited.** Except when expressly authorized to do so by an
 30.10 applicable pretreatment standard or requirement, an industrial user shall not increase the
 30.11 use of process water or in any way attempt to dilute a discharge as a partial or complete
 30.12 substitute for adequate treatment to achieve compliance with a pretreatment standard or
 30.13 requirement. The control authority may impose mass limitations on industrial users that
 30.14 have used or are using dilution to meet applicable pretreatment standards or in other cases
 30.15 where the imposition of mass limitations is appropriate.

30.16 **7049.0310 NATIONAL CATEGORICAL PRETREATMENT STANDARDS**
 30.17 **ADOPTED.**

30.18 Subpart 1. **Adoption.** The pretreatment standards for existing sources, pretreatment
 30.19 standards for new sources, and all supporting provisions relevant to these standards
 30.20 contained in the following federal point source category regulations and all future
 30.21 amendments are adopted by reference and incorporated in this part:

30.22	Point Source Category	CFR Cite
30.23	A. Grain milling	40 CFR 406
30.24	B. Concentrated animal feeding operations	40 CFR 412
30.25	C. Electroplating	40 CFR 413
30.26	D. Organic chemicals, plastics, and synthetic	
30.27	fibers	40 CFR 414

31.1	E.	Inorganic chemicals manufacturing	40 CFR 415
31.2	F.	Soap and detergent manufacturing	40 CFR 417
31.3	G.	Fertilizer manufacturing	40 CFR 418
31.4	H.	Petroleum refining	40 CFR 419
31.5	I.	Iron and steel manufacturing	40 CFR 420
31.6	J.	Nonferrous metal manufacturing	40 CFR 421
31.7	K.	Steam electric power generating	40 CFR 423
31.8	L.	Ferroalloy manufacturing	40 CFR 424
31.9	M.	Leather tanning and finishing	40 CFR 425
31.10	N.	Glass manufacturing	40 CFR 426
31.11	O.	Asbestos manufacturing	40 CFR 427
31.12	P.	Rubber manufacturing	40 CFR 428
31.13	Q.	Timber products processing	40 CFR 429
31.14	R.	Pulp, paper, and paperboard	40 CFR 430
31.15	S.	Builder's paper and board mills	40 CFR 431
31.16	T.	Metal finishing	40 CFR 433
31.17	U.	Centralized waste treatment	40 CFR 437
31.18	V.	Pharmaceutical manufacturing	40 CFR 439
31.19	W.	Transportation equipment cleaning	40 CFR 442
31.20	X.	Incinerators	40 CFR 444
31.21	Y.	Landfills	40 CFR 445
31.22	Z.	Paint formulating	40 CFR 446
31.23	AA.	Ink formulating	40 CFR 447
31.24	BB.	Pesticide chemicals	40 CFR 455
31.25	CC.	Battery manufacturing	40 CFR 461
31.26	DD.	Metal molding and casting	40 CFR 464
31.27	EE.	Coil coating	40 CFR 465
31.28	FF.	Porcelain enameling	40 CFR 466
31.29	GG.	Aluminum forming	40 CFR 467
31.30	HH.	Copper forming	40 CFR 468

- 32.1 II. Electrical and electronic components 40 CFR 469
 32.2 JJ. Nonferrous metal forming and metal
 32.3 powders 40 CFR 471

32.4 Subp. 2. **Future pretreatment standards.** Future applicable pretreatment standards
 32.5 for existing sources, pretreatment standards for new sources, and all supporting provisions
 32.6 relevant to these standards in Code of Federal Regulations, title 40, chapter I, subchapter
 32.7 N, are adopted by reference.

32.8 Subp. 3. **Category determination.** The applicable category and subcategory for
 32.9 an industrial user may be determined by the control authority at any time. However, a
 32.10 formal category determination request, as provided by Code of Federal Regulations, title
 32.11 40, part 403.6, which is incorporated by reference, must be submitted to the agency within
 32.12 the deadlines provided.

32.13 **7049.0350 COMBINED WASTE STREAM FORMULA.**

32.14 Subpart 1. **General.**

32.15 A. The combined waste stream formula described in this part is used to derive
 32.16 fixed alternative discharge limits to be applied to the mixed effluent when waste streams
 32.17 subject to national categorical pretreatment standards are mixed with waste streams
 32.18 subject to other categorical standards or waste streams not subject to categorical standards.
 32.19 Alternative discharge limits may be derived using the combined waste stream formula
 32.20 by the control authority or by the industrial user with the prior written concurrence of
 32.21 the control authority. Alternative limits must be derived for all applicable limits. When
 32.22 deriving alternative categorical limits, the control authority or industrial user shall calculate
 32.23 both an alternative daily maximum value using the daily maximum values specified
 32.24 in the appropriate categorical pretreatment standards and an alternative consecutive
 32.25 sampling day average value using the monthly average values specified in the appropriate
 32.26 categorical pretreatment standards. The industrial user shall comply with the alternative

33.1 daily maximum and ~~monthly~~ long-term average limits fixed by the control authority
33.2 until the control authority modifies the limits or approves an industrial user modification
33.3 request. Modification is authorized whenever there is a material or significant change in
33.4 the values used in the calculation to fix alternative limits for the regulated pollutant. An
33.5 industrial user ~~must~~ shall immediately report any material or significant change to the
33.6 control authority. If appropriate, new alternative categorical limits shall be calculated
33.7 within 30 days. The industrial user may change monitoring points only after receiving
33.8 prior written approval from the control authority. The control authority shall ensure that
33.9 any change in an industrial user's monitoring points will not allow the industrial user to
33.10 substitute dilution for adequate treatment to achieve compliance with applicable standards.

33.11 B. If process effluent is mixed prior to treatment with wastewaters other than
33.12 those generated by the regulated process, fixed alternative discharge limits shall be
33.13 derived by the control authority or by the industrial user with the prior written concurrence
33.14 of the control authority.

33.15 C. If a treated regulated process waste stream is combined prior to treatment
33.16 with wastewaters other than those generated by the regulated process, the industrial user
33.17 may, with the approval of the control authority, monitor either the segregated process
33.18 waste stream or the combined waste stream to determine compliance with applicable
33.19 pretreatment standards. If the industrial user chooses to monitor the segregated process
33.20 waste stream, the industrial user shall apply the applicable categorical pretreatment
33.21 standard. If the industrial user chooses to monitor the combined waste stream, the
33.22 industrial user shall apply an alternative discharge limit calculated using the combined
33.23 waste stream formula as provided in this part. The industrial user may change monitoring
33.24 points only after receiving prior written approval from the control authority. The control
33.25 authority shall ensure that any change in an industrial user's monitoring points will
33.26 not allow the industrial user to substitute dilution for adequate treatment to achieve
33.27 compliance with applicable standards.

34.1 D. If a regulated process waste stream is combined without treatment with
34.2 wastewaters other than those generated by the regulated process, the industrial user
34.3 may, with the approval of the control authority, monitor either the segregated process
34.4 waste stream or the combined waste stream to determine compliance with applicable
34.5 pretreatment standards. If the industrial user chooses to monitor the segregated process
34.6 waste stream, the industrial user shall apply the applicable categorical pretreatment
34.7 standard. If the industrial user chooses to monitor the combined waste stream, the
34.8 industrial user shall apply an alternative discharge limit calculated using the combined
34.9 waste stream formula as provided in this part. However, when no treatment is provided,
34.10 all waste streams other than the regulated process waste stream are considered to be
34.11 dilute waste streams in deriving alternative discharge limits. If more than one regulated
34.12 process waste stream is present at the chosen monitoring point, the combined waste stream
34.13 formula shall be applied to each regulated process waste stream separately, with all other
34.14 waste streams considered to be dilute waste streams, and the most restrictive limit applied,
34.15 for each pollutant. The industrial user may change monitoring points only after receiving
34.16 approval from the control authority. The control authority shall ensure that any change
34.17 in an industrial user's monitoring points will not allow the industrial user to substitute
34.18 dilution for adequate treatment to achieve compliance with applicable standards.

34.19 Subp. 2. **Alternative limit calculation; definitions.** For purposes of the formulas in
34.20 subpart 3, the following symbols have the meanings specified.

34.21 C_t = the alternative concentration limit for the combined waste stream.

34.22 M_t = the alternative mass limit for a pollutant in the combined waste stream.

34.23 C_i = the categorical pretreatment standard concentration limit for a pollutant in the
34.24 regulated stream i.

34.25 M_i = the categorical pretreatment standard mass limit for a pollutant in the regulated
34.26 stream i (the categorical pretreatment mass limit multiplied by the appropriate measure
34.27 of production).

35.1 F_i = the average daily flow (at least a 30-day average) of stream i to the extent that
35.2 it is regulated for the pollutant.

35.3 F_D = the average daily flow (at least a 30-day average) of dilute waste streams.

35.4 If waste streams contain a significant amount of a pollutant and the combination of
35.5 the streams, prior to treatment, with an industrial user's regulated process waste streams
35.6 will result in a substantial reduction of that pollutant, the control authority shall determine
35.7 whether the streams should be classified as dilute or unregulated. Dilute waste streams
35.8 include, but are not limited to:

35.9 A. boiler blowdown streams, noncontact cooling streams, stormwater streams,
35.10 and demineralizer backwash streams;

35.11 B. sanitary waste streams when the streams are not regulated by a categorical
35.12 pretreatment standard; and

35.13 C. process waste streams from processes that were or could have been entirely
35.14 exempted from categorical pretreatment standards because:

35.15 (1) the regulated pollutants are not detectable in the effluent from the
35.16 industrial user;

35.17 (2) the regulated pollutants are present only in trace amounts and are neither
35.18 causing nor likely to cause toxic effects;

35.19 (3) the regulated pollutants are present in amounts too small to be
35.20 effectively reduced; or

35.21 (4) the waste stream contains only pollutants that are compatible with
35.22 the receiving POTW.

35.23 F_T = the total average daily flow through the combined treatment facility (this
35.24 includes all F_i , F_D , and unregulated streams).

35.25 N = the total number of regulated streams.

36.1 For purposes of this subpart, "average daily flow" means a reasonable measure of
36.2 the average daily flow for at least a 30-day period. For new sources, flows shall be
36.3 estimated using projected values.

36.4 Subp. 3. **Alternative limit calculation; formula.** The alternative limit for a
36.5 specified pollutant is derived by the use of either of the following formulas:

36.6 A. alternative concentration limit under Code of Federal Regulations, title 40,
36.7 section 403.6(e)(1)(i); or

36.8 B. alternative mass limit under Code of Federal Regulations, title 40, section
36.9 403.6(e)(1)(ii).

36.10 Subp. 4. **Alternate limits below detection limit.** An alternative pretreatment limit
36.11 derived by the combined waste stream formula may not be used if the alternative limit is
36.12 below the analytical detection limit for any of the regulated pollutants.

36.13 **7049.0360 DEFINITIONS FOR REMOVAL CREDITS.**

36.14 For the purposes of parts 7049.0360 to 7049.0470:

36.15 A. "removal" means a reduction in the amount of a pollutant in a POTW's
36.16 effluent or alteration of the nature of a pollutant during treatment at the POTW. The
36.17 reduction or alteration may be obtained by physical, chemical, or biological means and
36.18 may be:

36.19 (1) the result of specifically designed POTW capabilities; or

36.20 (2) incidental to the operation of the treatment system.

36.21 Removal does not mean dilution of a pollutant in the POTW; and

36.22 B. "sludge requirements" means the federal statutory provisions, regulations,
36.23 and permits under Code of Federal Regulations, title 40, section 403.7(a)(1)(ii), and
36.24 provisions applicable to the use or disposal of solids from POTWs under chapters 7011,
36.25 7035, 7041, 7045, and 7050, and permits issued under those chapters.

37.1 **7049.0370 APPLICATION FOR REMOVAL CREDITS.**

37.2 A POTW receiving wastes from an industrial user to which a categorical pretreatment
37.3 standard applies may, at its discretion and subject to the conditions of this part, grant
37.4 removal credits to reflect removal by the POTW plant of pollutants specified in the
37.5 categorical pretreatment standard. The POTW authority may grant a removal credit equal
37.6 to or, at its discretion, less than its consistent removal rate. Upon being granted a removal
37.7 credit, each affected industrial user shall calculate its revised discharge limits according to
37.8 part 7049.0390. Removal credits may only be given for indicator or surrogate pollutants
37.9 regulated in a categorical pretreatment standard if the categorical pretreatment standard so
37.10 specifies.

37.11 **7049.0380 CONDITIONS FOR AUTHORIZATION TO GIVE REMOVAL**
37.12 **CREDITS.**

37.13 A. A POTW authority may give removal credits only if:

37.14 (1) the POTW authority applies for, and receives, authorization from the
37.15 agency to give a removal credit according to part 7049.0450;

37.16 (2) the POTW authority demonstrates and continues to achieve consistent
37.17 removal of the pollutant according to parts 7049.0400 and 7049.0410;

37.18 (3) the POTW authority has an approved pretreatment program according
37.19 to parts 7049.0800 to 7049.1020. A POTW authority that does not have an approved
37.20 pretreatment program may, pending approval of such a program, conditionally give
37.21 removal credits as provided in part 7049.0430;

37.22 (4) the granting of removal credits will not cause the POTW to violate the
37.23 local, state, and federal sludge requirements that apply to the sludge management method
37.24 chosen by the POTW. Alternatively, the POTW authority can demonstrate to the agency
37.25 that even though it is not presently in compliance with applicable sludge requirements, it
37.26 will be in compliance when the industrial users to whom the removal credit would apply

38.1 are required to meet their categorical pretreatment standards as modified by the removal
38.2 credit. Removal credits may be made available for the following pollutants:

38.3 (a) for any pollutant listed in Code of Federal Regulations, title 40,
38.4 part 403, Appendix G, section I, for the use or disposal practice employed by the POTW,
38.5 when the requirements in Code of Federal Regulations, title 40, part 503, for that practice
38.6 are met;

38.7 (b) for any pollutant listed in Code of Federal Regulations, title 40,
38.8 part 403, Appendix G, section II, for the use or disposal practice employed by the POTW
38.9 when the concentration for a pollutant listed in Appendix G, section II, in the sewage
38.10 sludge that is used or disposed does not exceed the concentration for the pollutant in
38.11 Appendix G, section II; and

38.12 (c) for any pollutant in sewage sludge when the POTW disposes all
38.13 of its sewage sludge in a municipal solid waste landfill unit that meets the criteria in
38.14 part 7035.2535; and

38.15 (5) the granting of removal credits will not cause a violation of the POTW's
38.16 national pollutant discharge elimination system or state disposal system permit limitations
38.17 or conditions. Alternatively, the POTW authority can demonstrate to the agency that even
38.18 though it is not presently in compliance with applicable limitations and conditions in its
38.19 national pollutant discharge elimination system permit, it will be in compliance when
38.20 the industrial users to whom the removal credit would apply are required to meet their
38.21 categorical pretreatment standards, as modified by the removal credit provision.

38.22 B. Removal credits may not be claimed when an uncontrolled overflow exists
38.23 between the industrial user and the receiving POTW plant.

38.24 **7049.0390 CALCULATION OF REVISED DISCHARGE LIMITS WITH**
 38.25 **REMOVAL CREDITS.**

39.1 Revised discharge limits for a specific pollutant must be derived by use of the
 39.2 following formula:

$$39.3 \quad \quad \quad x$$

$$39.4 \quad y = \frac{\quad}{\quad}$$

$$39.5 \quad \quad \quad 1 - r$$

39.6 where:

39.7 x = pollutant discharge limit specified in the applicable categorical pretreatment
 39.8 standard;

39.9 r = removal credit for that pollutant as established under parts 7049.0400 and
 39.10 7049.0410 (percentage removal expressed as a proportion, such as a number between
 39.11 0 and 1); and

39.12 y = revised discharge limit for the specified pollutant (expressed in same units as x).

39.13 **7049.0400 ESTABLISHMENT OF REMOVAL CREDITS; DEMONSTRATION**
 39.14 **OF CONSISTENT REMOVAL.**

39.15 Subpart 1. **Consistent removal.** Consistent removal is calculated by taking the
 39.16 average of the lowest 50 percent of the removal measured according to part 7049.0410.
 39.17 All sample data obtained for the measured pollutant during the time period prescribed in
 39.18 part 7049.0410 must be reported and used in computing consistent removal.

39.19 Subp. 2. **Pollutants not measurable.** If a pollutant is measurable in the influent but
 39.20 not in the effluent, the effluent level may be assumed to be the limit of measurement, and
 39.21 those data may be used to calculate consistent removal by the POTW authority at its
 39.22 discretion and subject to approval by the agency. If the pollutant is not measurable in the
 39.23 influent, the data may not be used to calculate consistent removal. "Measurable" means
 39.24 the ability of the analytical method or protocol to quantify as well as identify the presence
 39.25 of the pollutant in question.

39.26 **7049.0410 CONSISTENT REMOVAL DATA.**

40.1 A. Influent and effluent operational data demonstrating consistent removal
40.2 shall be submitted for each pollutant for which a discharge limit revision is proposed and
40.3 shall meet the requirements of this part.

40.4 B. Twelve pairs of measurements, influent and effluent, must be taken at
40.5 approximately equal intervals throughout one full year. Sampling must be evenly
40.6 distributed over the days of the week to include no-workdays as well as workdays. If
40.7 the agency determines that this schedule will not be most representative of the actual
40.8 operation of the POTW plant, an alternative sampling schedule will be approved.

40.9 C. Upon agency concurrence, a POTW authority may use a historical database,
40.10 provided that the data otherwise meet the requirements of this item. For the historical
40.11 database to be approved, it must present a statistically valid description of daily, weekly,
40.12 and seasonal ~~sewage treatment plant~~ receiving POTW loadings and performance for at
40.13 least one year. The historical data shall be representative of present removal.

40.14 D. The data shall be representative of:

40.15 (1) yearly and seasonal conditions to which the POTW is subjected; and

40.16 (2) the quality and quantity of normal wastewater flows.

40.17 E. The influent and effluent operational data shall normally be obtained through
40.18 24-hour flow-proportional composite samples. Composite sampling may be done
40.19 manually or automatically and discretely or continuously. For discrete sampling, at least
40.20 12 aliquots must be composited. Discrete sampling may be flow-proportioned either
40.21 by varying the time interval between each aliquot or the volume of each aliquot. All
40.22 composites must be flow-proportional to each stream flow at the time of collection of
40.23 influent aliquot or to the total influent flow since the previous influent aliquot. Volatile
40.24 pollutant aliquots must be combined in the laboratory immediately before analysis. If

40.25 composite sampling is not an appropriate sampling technique, a grab sample shall be
40.26 taken to obtain influent and effluent operational data. For example, a grab sample will
41.1 be required when the parameters being evaluated are those, such as cyanide and phenol,
41.2 that may not be held for any extended period because of biological, chemical, or physical
41.3 interactions that take place after sample collection and affect the results. A grab sample is
41.4 an individual sample collected over a period of time not exceeding 15 minutes.

41.5 F. If grab sampling is used to collect data to calculate consistent removal,
41.6 the collection of influent grab samples must precede collection of effluent samples by
41.7 approximately one detention period. The detention period shall be based on a 24-hour
41.8 average daily flow value. The average daily flow used must be based on the average of the
41.9 daily flows during the same month of the previous year. If composite sampling is used to
41.10 collect data to calculate consistent removal, effluent sample collection need not be delayed
41.11 to compensate for hydraulic detention unless:

41.12 (1) the POTW authority elects to include detention time compensation; or

41.13 (2) the agency requires detention time compensation.

41.14 The agency may require that each effluent sample be taken approximately one
41.15 detention time later than the corresponding influent sample when failure to do so would
41.16 result in an unrepresentative portrayal of actual POTW operation.

41.17 G. The sampling under this part and an analysis of the samples shall be
41.18 performed according to the techniques prescribed in Code of Federal Regulations, title 40,
41.19 part 136, as amended. If Code of Federal Regulations, title 40, part 136, does not contain
41.20 sampling or analytical techniques for the pollutant in question, or if the Environmental
41.21 Protection Agency regional administrator determines that the Code of Federal Regulations,
41.22 title 40, part 136, sampling and analytical techniques are inappropriate for the pollutant in
41.23 question, sampling and analysis shall be performed using validated analytical methods or
41.24 any other applicable sampling and analytical procedures, including procedures suggested

41.25 by the POTW authority or other parties, approved by the Environmental Protection
41.26 Agency regional administrator.

42.1 H. All data acquired under this part must be submitted to the agency. Removal
42.2 for a specific pollutant shall be determined, for each sample, by measuring the difference
42.3 between the concentrations of the pollutant in the influent and effluent of the POTW
42.4 and expressing the difference as a percentage of the influent concentration, except when
42.5 the data cannot be obtained. If the data cannot be obtained, consistent removal may be
42.6 demonstrated using other data or procedures subject to concurrence by the agency.

42.7 **7049.0420 PROVISIONAL REMOVAL CREDITS FOR NEW OR CHANGED**
42.8 **FACILITIES.**

42.9 For pollutants that are not being discharged currently, the POTW authority may apply
42.10 for authorization to give removal credits prior to the initial discharge of the pollutant,
42.11 such as for new or modified facilities or production changes. Consistent removal shall
42.12 be based provisionally on data from treatability studies or demonstrated removal at other
42.13 treatment facilities when the quality and quantity of influent are similar. Within 18
42.14 months after the commencement of discharge of pollutants in question, consistent removal
42.15 must be demonstrated pursuant to parts 7049.0400 and 7049.0410. If within 18 months
42.16 after the commencement of the discharge of the pollutant in question the POTW cannot
42.17 demonstrate consistent removal pursuant to parts 7049.0360 to 7049.0470, the authority
42.18 to grant provisional removal credits shall be terminated by the agency and all industrial
42.19 users to whom the revised discharge limits had been applied shall achieve compliance
42.20 with the applicable categorical pretreatment standards within a reasonable time, not to
42.21 exceed the period of time prescribed in the applicable categorical pretreatment standards,
42.22 as may be specified by the agency.

42.23 **7049.0430 CONDITIONAL REMOVAL CREDITS PRIOR TO AGENCY**
42.24 **APPROVAL OF POTW PRETREATMENT PROGRAM.**

42.25 A. A POTW authority required to develop a local pretreatment program under
42.26 part 7049.0800 may conditionally give removal credits pending approval of such a
42.27 program according to the following terms and conditions:

43.1 (1) all industrial users who are currently subject to a categorical pretreatment
43.2 standard and who want conditionally to receive a removal credit ~~must~~ shall submit to
43.3 the POTW baseline monitoring report information, as provided in parts 7049.0500 to
43.4 7049.0550, pertaining to the categorical pretreatment standard as modified by the removal
43.5 credit. The industrial users shall indicate what additional technology, if any, will be needed
43.6 to comply with the categorical pretreatment standards as modified by the removal credit;

43.7 (2) the POTW authority ~~must~~ shall submit to the agency a timely application
43.8 for pretreatment program approval meeting the requirements of parts 7049.0800 to
43.9 7049.1020. An application is timely if it does not exceed the time limitation in a
43.10 compliance schedule for development of a pretreatment program included in the POTW's
43.11 national pollutant discharge elimination system permit. If a POTW that has not previously
43.12 been required to develop a pretreatment program under parts 7049.0800 to 7049.1020
43.13 requests authority to grant removal credits, the POTW's permit shall be modified to require
43.14 the development of a delegated pretreatment program under parts 7049.0800 to 7049.1020;

43.15 (3) the POTW ~~must~~ shall compile and submit data demonstrating its
43.16 consistent removal according to parts 7049.0400 and 7049.0410;

43.17 (4) the POTW ~~must~~ shall comply with part 7049.0380; and

43.18 (5) the POTW ~~must~~ shall submit a complete application for removal credit
43.19 authority according to part 7049.0450.

43.20 B. If a POTW receives authority to grant conditional removal credits and the
43.21 agency subsequently makes a final determination after appropriate notice that the POTW

43.22 failed to comply with item A, the authority to grant conditional removal credits shall be
43.23 terminated by the agency and all industrial users to whom the revised discharge limits
43.24 had been applied shall achieve compliance with the applicable categorical pretreatment
43.25 standard within a reasonable time, not to exceed the period of time prescribed in the
43.26 applicable categorical pretreatment standard, as may be specified by the agency.

44.1 **7049.0440 TERMINATION OF CONDITIONAL REMOVAL CREDITS.**

44.2 If a POTW authority grants conditional removal credits and the POTW authority or
44.3 the agency subsequently makes a final determination, after appropriate notice, that the
44.4 industrial user failed to comply with part 7049.0430, item A, subitem (1), the conditional
44.5 removal credit shall be terminated by the POTW authority or the agency for the
44.6 noncomplying industrial user and the industrial user to whom the revised discharge limits
44.7 had been applied shall achieve compliance with the applicable categorical pretreatment
44.8 standard within a reasonable time, not to exceed the period of time prescribed in the
44.9 applicable categorical pretreatment standard, as may be specified by the agency. The
44.10 conditional removal credit shall not be terminated when a violation of part 7049.0430,
44.11 item A, subitem (1), results from causes entirely outside the control of the industrial user
44.12 or the industrial user had demonstrated substantial compliance.

44.13 **7049.0450 POTW APPLICATION FOR AUTHORIZATION TO GIVE REMOVAL**
44.14 **CREDITS AND AGENCY REVIEW.**

44.15 Subpart 1. **Who must apply.** A POTW authority that wants to give a removal
44.16 credit or modify an existing removal credit ~~must~~ shall apply for authorization from the
44.17 agency. A POTW may apply for authorization to give or modify removal credits at any
44.18 time. An application for authorization to give removal credits must be supported by
44.19 the following information:

44.20 A. a list of pollutants for which removal credits are proposed;

44.21 B. consistent removal data required under part 7049.0410;

44.22 C. proposed revised discharge limits for each affected subcategory of industrial
44.23 users calculated according to part 7049.0390;

44.24 D. a certification that the POTW has an approved local pretreatment program or
44.25 qualifies for the exception to the requirement in part 7049.0430;

45.1 E. sludge management certification containing a specific description of the
45.2 POTW's current methods of using or disposing of its sludge and a certification that the
45.3 granting of removal credits will not cause a violation of the sludge requirements in part
45.4 7049.0380, item A, subitem (4); and

45.5 F. a national pollutant discharge elimination system permit limit certification
45.6 stating that the granting of removal credits will not cause a violation of the POTW's
45.7 national pollutant discharge elimination system permit limits and conditions as required in
45.8 part 7049.0380, item A, subitem (5).

45.9 Subp. 2. **Assistance.** Nothing in this chapter precludes an industrial user or
45.10 other interested party from assisting the POTW authority in preparing and presenting
45.11 the information necessary to apply for authorization. The POTW shall remain solely
45.12 responsible to the agency for the information contained in the application.

45.13 Subp. 3. **Review.** The agency shall review the POTW's application for authorization
45.14 to give or modify removal credits according to parts 7049.0930 to 7049.0960 and shall,
45.15 except as provided in this part, have no more than 180 days from public notice of an
45.16 application to complete review. The agency may elect not to review an application for
45.17 conditional removal credit authority upon receipt of the application, in which case the
45.18 conditionally revised discharge limits will remain in effect until reviewed by the agency.
45.19 This review may occur at any time according to parts 7049.0930 to 7049.0960, but in no
45.20 event later than the time of any pretreatment program approval or any national pollutant
45.21 discharge elimination system permit reissuance under those parts.

45.22 **7049.0460 AUTHORIZATION TO GIVE REMOVAL CREDITS.**

45.23 Subpart 1. **Effect of authorization.** When a POTW authority has received
45.24 authorization to grant removal credits for a particular pollutant regulated in a categorical
45.25 pretreatment standard, it may automatically extend that removal credit to the same
45.26 pollutant when it is regulated in other categorical standards, unless granting the removal
46.1 credit will cause the POTW to violate the sludge requirements identified in part 7049.0380,
46.2 item A, subitem (4), or its national pollutant discharge elimination system permit limits
46.3 and conditions as required by part 7049.0380, item A, subitem (5). If a POTW authority
46.4 elects at a later time to extend removal credits to a certain categorical pretreatment
46.5 standard, industrial subcategory, or one or more industrial users that initially were not
46.6 granted removal credits, the POTW ~~must~~ shall notify the agency.

46.7 Subp. 2. **Inclusion in POTW permit.** When authority is granted, the removal
46.8 credits shall be included in the POTW's national pollutant discharge elimination system
46.9 permit as soon as possible and become an enforceable requirement of the POTW's national
46.10 pollutant discharge elimination system permit. The removal credits remain in effect for
46.11 the term of the POTW's national pollutant discharge elimination system permit, provided
46.12 the POTW maintains compliance with the conditions in part 7049.0470.

46.13 Subp. 3. **Compliance monitoring.** Following authorization to give removal credits,
46.14 and at intervals specified by the agency, but in no case less than once per year, the POTW
46.15 authority shall continue to monitor and report on the POTW plant's removal capabilities.
46.16 A minimum of one representative sample per month during the reporting period is required
46.17 and all sampling data must be included in the POTW's compliance report.

46.18 **7049.0470 MODIFICATION OR WITHDRAWAL OF REMOVAL CREDITS.**

46.19 Subpart 1. **Notice of POTW.** The agency shall notify the POTW if, on the basis of
46.20 pollutant removal capability reports received pursuant to part 7049.0460 or other relevant
46.21 information available to it, the agency determines that:

46.22 A. one or more of the discharge limit revisions made by the POTW, or the
46.23 POTW itself, no longer meets the requirements of part 7049.0380; or

46.24 B. the discharge limit revisions are causing a violation of any conditions or
46.25 limits contained in the POTW's national pollutant discharge elimination system permit.

47.1 Subp. 2. **Corrective action.** If appropriate corrective action is not taken within
47.2 a reasonable time, not to exceed 60 days unless the POTW authority or the affected
47.3 industrial users demonstrate that a longer time is reasonably necessary to undertake the
47.4 appropriate corrective action, the agency shall either withdraw the discharge limits or
47.5 require modifications in the revised discharge limits.

47.6 Subp. 3. **Public notice of withdrawal or modification.** The agency shall not
47.7 withdraw or modify revised discharge limits, unless it has:

47.8 A. provided prior notification to the POTW and all industrial users to whom
47.9 revised discharge limits have been applied;

47.10 B. publicly published the written rationale for the withdrawal or modification;
47.11 and

47.12 C. provided reasonable notice and opportunity for a public hearing.

47.13 Subp. 4. **Compliance with modification.** Following notice and withdrawal or
47.14 modification, all industrial users to whom revised discharge limits had been applied are
47.15 subject to the modified discharge limits or the discharge limits prescribed in the applicable
47.16 categorical pretreatment standards, as appropriate, and shall achieve compliance with
47.17 the limits within a reasonable time, not to exceed the period of time prescribed in the
47.18 applicable categorical pretreatment standard, as may be specified by the agency.

47.19 **7049.0480 NET/GROSS CALCULATION TO ADJUST CATEGORICAL**
47.20 **STANDARDS.**

47.21 A. Categorical pretreatment standards may be adjusted to reflect the presence
47.22 of pollutants in the industrial user's intake water according to this part. An industrial
47.23 user wishing to obtain credit for intake pollutants must make application to the control
47.24 authority. Upon request of the industrial user, the applicable standard shall be calculated
47.25 on a net basis, such as being adjusted to reflect credit for pollutants in the intake water,
47.26 if the applicable categorical pretreatment standard specifically provides that they shall
48.1 be applied on a net basis or if the industrial user demonstrates that the control system it
48.2 proposes or uses to meet applicable categorical pretreatment standards will, if properly
48.3 installed and operated, meet the standards in the absence of pollutants in the intake waters.

48.4 B. Credit for generic pollutants such as biochemical oxygen demand, total
48.5 suspended solids, and oil and grease shall not be granted unless:

48.6 (1) the industrial user demonstrates that the constituents of the generic
48.7 measure in the industrial user's effluent are substantially similar to the constituents of
48.8 the generic measure in the intake water; or

48.9 (2) appropriate additional limits are placed on process water pollutants
48.10 either at the outfall or elsewhere.

48.11 C. Credit shall be granted only to the extent necessary to meet the applicable
48.12 categorical pretreatment standards, up to a maximum value equal to the influent
48.13 value. Additional monitoring may be necessary to determine eligibility for credits and
48.14 compliance with standards adjusted under this part.

48.15 D. Credit shall be granted only if the industrial user demonstrates that the intake
48.16 water is drawn from the same body of water as that into which the receiving POTW
48.17 releases effluent. The control authority may waive this requirement if it finds that no
48.18 environmental degradation will result.

48.19 **7049.0485 FUNDAMENTALLY DIFFERENT FACTORS; VARIANCES TO**
48.20 **CATEGORICAL STANDARDS.**

48.21 Any person who believes that factors relating to an industrial user are fundamentally
48.22 different from the factors considered during development of a national categorical
48.23 pretreatment standard applicable to that industrial user and that the existence of those
48.24 factors justifies a different discharge limit than specified in the applicable categorical
48.25 pretreatment standard may seek a fundamentally different factors variance to national
49.1 categorical pretreatment standards under Code of Federal Regulations, title 40, part
49.2 403.13, which is incorporated by reference.

49.3 **7049.0490 UPSET AFFIRMATIVE DEFENSE FOR VIOLATIONS OF**
49.4 **CATEGORICAL STANDARDS.**

49.5 Subpart 1. **Defense.** This part provides an affirmative defense to actions brought for
49.6 noncompliance with categorical pretreatment standards.

49.7 Subp. 2. **Definition.** For the purposes of this part, "upset" means an exceptional
49.8 incident in which there is unintentional and temporary noncompliance with categorical
49.9 pretreatment standards because of factors beyond the reasonable control of the industrial
49.10 user. An upset does not include noncompliance to the extent caused by operational error,
49.11 improperly designed treatment facilities, inadequate treatment facilities, lack of preventive
49.12 maintenance, or careless or improper operation.

49.13 Subp. 3. **Effect of upset.** An upset constitutes an affirmative defense to an action
49.14 brought for noncompliance with categorical pretreatment standards if the requirements of
49.15 subpart 4 are met.

49.16 Subp. 4. **Conditions necessary for demonstration of upset.** An industrial user
49.17 that asserts the affirmative defense of upset shall demonstrate, through properly signed,
49.18 contemporaneous operating logs, or other relevant evidence that:

49.19 A. an upset occurred and the industrial user can identify the cause of the upset;
49.20 and

49.21 B. the industrial user's facility was at the time being operated in a prudent
49.22 and professional manner and in compliance with applicable operation and maintenance
49.23 procedures.

49.24 Subp. 5. **Establishing defense.** To establish the affirmative defense of upset, the
49.25 industrial user shall submit the information in items A to C to the control authority within
50.1 24 hours of becoming aware of the upset. If the information is provided orally, a written
50.2 submission must be provided within five days that includes the following:

50.3 A. a description of the indirect discharge and cause of noncompliance;

50.4 B. the period of noncompliance, including exact dates and times or, if not
50.5 corrected, the anticipated time the noncompliance is expected to continue; and

50.6 C. steps being taken or planned to reduce, eliminate, and prevent recurrence of
50.7 the noncompliance.

50.8 Subp. 6. **Burden of proof.** In any enforcement proceeding, the industrial user
50.9 seeking to establish the occurrence of an upset has the burden of proof.

50.10 Subp. 7. **Reviewability of agency consideration of claims of upset.** In the usual
50.11 exercise of prosecutorial discretion, agency enforcement personnel may review any claims
50.12 that noncompliance was caused by an upset. No determinations made in the course of the
50.13 review constitute final agency action subject to judicial review. Industrial users shall have
50.14 the opportunity for a judicial determination on any claim of upset only in an enforcement
50.15 action brought for noncompliance with categorical pretreatment standards.

50.16 Subp. 8. **Industrial user responsibility in case of upset.** The industrial user shall
50.17 control production or all discharges to the extent necessary to maintain compliance
50.18 with categorical pretreatment standards upon reduction, loss, or failure of its treatment

50.19 facility until the facility is restored or an alternative method of treatment is provided.

50.20 This requirement applies when, among other things, the primary source of power of the

50.21 treatment facility is reduced, lost, or fails.

50.22 **7049.0495 BYPASS PROVISIONS FOR CATEGORICAL STANDARDS.**

50.23 Subpart 1. **Applicability.** This part applies to categorical pretreatment standards.

50.24 Subp. 2. **Definitions.** For the purposes of this part, the following meanings apply:

51.1 A. "bypass" means the intentional diversion of waste streams from any portion
51.2 of an industrial user's treatment facility; and

51.3 B. "severe property damage" means substantial physical damage to property,
51.4 damage to the treatment facilities that causes the facilities to become inoperable, or
51.5 substantial and permanent loss of natural resources that can reasonably be expected to
51.6 occur in the absence of a bypass. Severe property damage does not mean economic loss
51.7 caused by delays in production.

51.8 Subp. 3. **Bypass not violating applicable categorical pretreatment standards or**
51.9 **requirements.** An industrial user may allow a bypass to occur if the bypass does not
51.10 cause categorical pretreatment standards or requirements to be violated and the bypass
51.11 is for essential maintenance to ensure efficient operation. A bypass under this subpart is
51.12 not subject to subparts 4 and 5.

51.13 Subp. 4. **Notice.**

51.14 A. If an industrial user knows in advance of the need for a bypass, the industrial
51.15 user shall submit prior written notice to the POTW, if possible, at least ten days before the
51.16 date of the bypass.

51.17 B. An industrial user shall submit oral notice of an unanticipated bypass that
51.18 exceeds applicable pretreatment standards to the POTW within 24 hours from the time the
51.19 industrial user becomes aware of the bypass. A written submission shall also be provided

51.20 within five days of the time the industrial user becomes aware of the bypass. The written
51.21 submission shall contain:

51.22 (1) a description of the bypass and its cause;

51.23 (2) the duration of the bypass, including exact dates and times;

51.24 (3) if the bypass has not been corrected, the anticipated time it is expected
51.25 to continue; and

52.1 (4) steps taken or planned to reduce, eliminate, and prevent recurrence
52.2 of the bypass.

52.3 C. The control authority may waive the written report under item B on a
52.4 case-by-case basis if the oral report has been received within 24 hours.

52.5 **Subp. 5. Prohibition of bypass; approval of anticipated bypass.**

52.6 A. A bypass is prohibited and the control authority may take enforcement action
52.7 against an industrial user for a bypass, unless:

52.8 (1) the bypass was unavoidable to prevent loss of life, personal injury, or
52.9 severe property damage;

52.10 (2) there were no feasible alternatives to the bypass, such as the use of
52.11 auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal
52.12 periods of equipment downtime. This item is not satisfied if adequate back-up equipment
52.13 should have been installed in the exercise of reasonable engineering judgment to prevent
52.14 a bypass that occurred during normal periods of equipment downtime or preventive
52.15 maintenance; and

52.16 (3) the industrial user submitted notices as required in subpart 4.

52.17 B. The control authority may approve an anticipated bypass, after considering
52.18 its adverse effects, if the control authority determines that the bypass will meet the
52.19 conditions in item A.

52.20 **7049.0500 BASELINE MONITORING REPORT AND APPLICATION FOR**
52.21 **PERMIT INDIVIDUAL CONTROL MECHANISM.**

52.22 Industrial users that are subject to one or more of the national categorical pretreatment
52.23 standards contained in part 7049.0310 ~~must~~ shall submit a baseline monitoring report
52.24 and ~~permit~~ application for individual control mechanism to its control authority. If the
52.25 receiving POTW operates a federal delegated pretreatment program approved under parts
53.1 7049.0800 to 7049.1020, the application shall be submitted to the POTW. If the receiving
53.2 POTW does not operate a federal delegated pretreatment program, the application shall be
53.3 submitted to the agency with a copy supplied to the receiving POTW.

53.4 **7049.0510 DUE DATE OF BASELINE MONITORING REPORT AND**
53.5 **APPLICATION FOR PERMIT INDIVIDUAL CONTROL MECHANISM.**

53.6 A. The baseline monitoring report and application for ~~permit~~ individual control
53.7 mechanism shall be submitted within 180 days after the effective date of a categorical
53.8 pretreatment standard, or 180 days after the final administrative decision made on a formal
53.9 category determination submission under part 7049.0310, subpart 2, whichever is later.
53.10 Existing facilities subject to existing categorical pretreatment standards shall submit a
53.11 baseline monitoring report and ~~permit~~ application for individual control mechanism within
53.12 180 days after the effective date of this chapter. At least 90 days prior to commencement
53.13 of discharge, new sources, and sources that become industrial users subsequent to the
53.14 adoption of an applicable categorical standard, shall submit a baseline monitoring report to
53.15 the control authority. If reports containing this information have already been submitted,
53.16 the industrial user need not submit the information again. The control authority may, at its
53.17 discretion, alter the dates by which applications for a permit are required.

53.18 B. If the categorical pretreatment standard is modified by a removal ~~allowance~~
53.19 credit as provided in parts 7049.0360 to 7049.0470, the combined waste stream formula
53.20 as provided in part 7049.0350, or a fundamentally different factors variance in part
53.21 7049.0480, subpart 2, after the industrial user submits the baseline monitoring report,
53.22 any necessary amendments to the baseline monitoring report shall be submitted by the
53.23 industrial user to the control authority within 60 days after the modified limit is approved.

53.24 **7049.0520 CONTENTS OF BASELINE MONITORING REPORT.**

53.25 Subpart 1. **Baseline monitoring reports.** Baseline monitoring reports must include
53.26 the information in this part. New sources must include in the report information describing
54.1 the method of pretreatment the source intends to use to meet applicable categorical
54.2 pretreatment standards. New sources shall give estimates of the information requested
54.3 in subparts 5 and 6.

54.4 Subp. 2. **Identifying information.** The industrial user shall submit the name and
54.5 address of the facility including the name of the operator and owners.

54.6 Subp. 3. **Permits.** The industrial user shall submit a list of any environmental control
54.7 permits held by or for the facility.

54.8 Subp. 4. **Description of operations.** The industrial user shall submit a brief
54.9 description of the nature, average rate of production, and standard industrial classification
54.10 of the operations carried out by the industrial user. The description shall include a
54.11 schematic process diagram that indicates points of discharge to the POTW from the
54.12 regulated processes.

54.13 Subp. 5. **Flow measurement.** The industrial user shall submit information showing
54.14 the measured average daily and maximum daily flow, in gallons per day, to the POTW
54.15 from regulated process waste streams and other streams as necessary to allow use of
54.16 the combined waste stream formula provided in part 7049.0350. The control authority

54.17 may allow for verifiable estimates of these flows when justified by cost or feasibility
54.18 considerations.

54.19 Subp. 6. **Measurement of pollutants.** The industrial user shall:

54.20 A. identify the categorical pretreatment standards applicable to each regulated
54.21 process; and

54.22 B. submit the results of sampling and analysis identifying the nature and
54.23 concentration, or mass, when required by the categorical standard or by the control
54.24 authority, of regulated pollutants in the discharge from each regulated process. Both
54.25 daily maximum and average concentration, or mass, when required, shall be reported.
55.1 The sample shall be representative of daily operations. In cases where the categorical
55.2 pretreatment standard requires compliance with a best management plan or pollution
55.3 prevention alternative, the industrial user shall submit documentation as required by
55.4 the control authority or the applicable categorical pretreatment standards to determine
55.5 compliance with the standard.

55.6 Subp. 7. **Certification.** The industrial user shall submit a certification consisting of a
55.7 statement, reviewed by an authorized representative of the industrial user, as provided in
55.8 part 7049.0220, and certified by a qualified professional, indicating whether categorical
55.9 pretreatment standards are being met on a consistent basis and, if not, whether additional
55.10 operation and maintenance or additional pretreatment is required for the industrial user
55.11 to meet the categorical pretreatment standards and requirements. If the industrial user's
55.12 categorical pretreatment standard has been modified by a removal ~~allowance~~ credit
55.13 as provided in parts 7049.0360 to 7049.0470; the combined waste stream formula as
55.14 provided in part 7049.0350; or a fundamentally different factors variance as provided in
55.15 part 7049.0480, subpart 2, at the time the industrial user submits the baseline monitoring
55.16 reports, the certification and the compliance schedule in part 7049.0550 pertain to the
55.17 modified limits.

55.18 B. If an alternate concentration or mass limit has been calculated according to
55.19 part 7049.0300, subpart 3, the adjusted limit and supporting data shall be included.

55.20 C. When the POTW performs the required sampling and analysis in lieu of the
55.21 categorical industrial user, the categorical industrial user is not required to submit the
55.22 compliance certification under this subpart.

55.23 **7049.0530 CONTENTS OF APPLICATION FOR PERMIT.**

55.24 In addition to all information required by the control authority, applications by
55.25 categorical industrial users shall provide the following information:

56.1 A. sufficient information to enable the control authority to determine the correct
56.2 federal point source category and subcategory for the industrial user;

56.3 B. a description and drawing of the location of the proposed monitoring point;

56.4 C. production data sufficient to determine correct limits, required only for
56.5 categorical industrial users subject to categories with production-based standards; and

56.6 D. information sufficient to correctly apply the combined waste stream formula,
56.7 if the monitoring point proposed by the categorical industrial user includes multiple waste
56.8 streams requiring the use of the combined waste stream formula under part 7049.0350.
56.9 This may include identification and flows of the waste streams present at the monitoring
56.10 point, plus engineering, production, sampling and analysis, and other information on
56.11 each waste stream to allow the control authority to make all determinations necessary to
56.12 correctly apply the combined waste stream formula.

56.13 **7049.0540 MONITORING FOR BASELINE MONITORING REPORT.**

56.14 A. Monitoring for the baseline monitoring report must be performed according
56.15 to this part.

56.16 B. The industrial user shall take a minimum of one representative sample to
56.17 compile the data necessary to comply with this part.

56.18 C. Samples ~~should~~ must be taken immediately downstream from pretreatment
56.19 facilities, if they exist, or immediately downstream from the regulated process if no
56.20 pretreatment exists. If other wastewaters are mixed with the regulated wastewater prior to
56.21 pretreatment, the industrial user shall measure the flows and concentrations necessary to
56.22 allow use of the combined waste stream formula under part 7049.0350 in order to evaluate
56.23 compliance with the categorical pretreatment standards.

56.24 D. Sampling and analysis must be performed according to Code of Federal
56.25 Regulations, title 40, part 136, as amended. If Code of Federal Regulations, title 40, part
57.1 136, does not contain sampling or analytical techniques for the pollutant in question,
57.2 or if the Environmental Protection Agency regional administrator determines that the
57.3 Code of Federal Regulations, title 40, part 136, sampling and analytical techniques are
57.4 inappropriate for the pollutant in question, sampling and analysis shall be performed
57.5 by using validated analytical methods or any other applicable sampling and analytical
57.6 procedures, including procedures suggested by the POTW authority or other parties,
57.7 approved by the Environmental Protection Agency regional administrator.

57.8 E. The control authority may allow the submission of a baseline report that uses
57.9 only historical data as long as the data provides information sufficient to determine the
57.10 need for industrial pretreatment measures.

57.11 F. The baseline report shall indicate the time, date, and place of sampling, and
57.12 methods of analysis, and shall certify that the sampling and analysis is representative of
57.13 normal work cycles and expected pollutant discharges to the POTW.

57.14 **7049.0550 BASELINE MONITORING REPORT COMPLIANCE SCHEDULE.**

57.15 A. An industrial user submitting a baseline monitoring report that shows that
57.16 the industrial user is not already in compliance with the categorical standard ~~must~~ shall
57.17 submit with the baseline monitoring report the shortest schedule by which the industrial
57.18 user will provide additional pretreatment or operation and maintenance to comply with the

57.19 categorical ~~regulation~~ standard. The completion date in this schedule must not be later
57.20 than the compliance date established for the applicable categorical pretreatment standard.

57.21 B. The schedule must contain increments of progress in the form of dates for
57.22 the commencement and completion of major events leading to the construction and
57.23 operation of additional pretreatment required for the industrial user to meet the applicable
57.24 categorical pretreatment standards, such as hiring an engineer, completing preliminary
57.25 plans, completing final plans, executing contract for major components, commencing
57.26 construction, and completing construction.

58.1 C. An increment referred to in item B shall not exceed nine months.

58.2 D. Not later than 14 days following each date in the schedule and the final date
58.3 for compliance, the industrial user shall submit a progress report to the control authority
58.4 including, at a minimum, whether or not it complied with the increment of progress to
58.5 be met on that date and, if not:

58.6 (1) the date on which it expects to comply with the increment of progress;

58.7 (2) the reason for the delay; and

58.8 (3) the steps being taken by the industrial user to return the construction to
58.9 the schedule established.

58.10 In no event may more than nine months elapse between progress reports to the
58.11 control authority.

58.12 **7049.0560 90-DAY COMPLIANCE REPORT.**

58.13 Subpart 1. **General.** Within 90 days following the date for final compliance with
58.14 applicable categorical pretreatment standards or, in the case of a new source, following
58.15 commencement of the introduction of wastewater into a POTW, an industrial user subject
58.16 to national categorical pretreatment standards and requirements shall submit to the control
58.17 authority a report containing the information in subparts 2 to 6.

58.18 Subp. 2. **Identifying information.** The industrial user shall submit the name and
58.19 address of the facility, including the name of the operator and owners.

58.20 Subp. 3. **Flow measurement.** The industrial user shall submit information showing
58.21 the measured average daily and maximum daily flow, in gallons per day, to the receiving
58.22 POTW from regulated process waste streams and other streams as necessary to allow use
58.23 of the combined waste stream formula in part 7049.0350. The control authority may allow
58.24 for verifiable estimates of these flows when justified by cost or feasibility considerations.

58.25 Subp. 4. **Measurement of pollutants.** The industrial user shall:

59.1 A. identify the categorical pretreatment standards applicable to each regulated
59.2 process; and

59.3 B. submit the results of sampling and analysis identifying the nature and
59.4 concentration, or mass, when required by the categorical pretreatment standard or by the
59.5 control authority, of regulated pollutants in the discharge from each regulated process.
59.6 Both daily maximum and average concentration, or mass, when required, shall be
59.7 reported. The sample shall be representative of daily operations.

59.8 Subp. 5. **Certification.** The industrial user shall submit a certification consisting
59.9 of a statement, reviewed by an authorized representative of the industrial user, as
59.10 provided in part 7049.0220, and certified by a qualified professional, indicating whether
59.11 categorical pretreatment standards are being met on a consistent basis. If the industrial
59.12 user's categorical pretreatment standard has been modified by a removal ~~allowance~~ credit
59.13 as provided in parts 7049.0360 to 7049.0470; the combined waste stream formula as
59.14 provided in part 7049.0350; or a fundamentally different factors variance as provided in
59.15 part 7049.0485, at the time the industrial user submits the 90-day compliance report,
59.16 the certification and the compliance schedule in part 7049.0550 pertain to the modified
59.17 limits. If an alternate concentration or mass limit has been calculated according to part
59.18 7049.0300, subpart 3, the adjusted limit and supporting data shall be included.

59.19 Subp. 6. **Contents Production rate reporting.** For industrial users subject to
59.20 equivalent mass or concentration limits established by the control authority according to
59.21 part 7049.0300, subpart 2, for categories with production-based standards, the report
59.22 must contain a reasonable measure of the user's long-term production rate. For all other
59.23 industrial users subject to categorical pretreatment standards expressed in terms of
59.24 allowable pollutant discharge per unit of production, or other measure of operation, the
59.25 report must include the user's actual production during the appropriate sampling period.
59.26 Industrial users subject to national categorical pretreatment standards with limits expressed
60.1 in terms of allowable pollutant discharge per unit of production, or other measure of
60.2 operation, shall submit information on their production rate. For industrial users subject to
60.3 equivalent mass or concentration limits established by the control authority according to
60.4 part 7049.0300, subpart 2, for categories with production-based categorical pretreatment
60.5 standards, the report must contain a reasonable measure of the user's long-term production
60.6 rate. For all other industrial users subject to production-based categorical pretreatment
60.7 standards, the report must include the user's actual production during the reporting period.

60.8 **7049.0570 PERIODIC REPORTS ON CONTINUED COMPLIANCE.**

60.9 Subpart 1. **General requirement.** After the deadline for compliance contained in the
60.10 categorical pretreatment standard, an industrial user subject to a categorical pretreatment
60.11 standard shall submit to the control authority periodic reports on continued compliance
60.12 indicating the nature and concentration of pollutants in the effluent that are limited by
60.13 categorical pretreatment standards. In cases where the categorical pretreatment standard
60.14 requires compliance with a best management practice or pollution prevention alternative,
60.15 the industrial user shall submit documentation required by the control authority or the
60.16 pretreatment standard necessary to determine the compliance status of the industrial user.

60.17 Subp. 2. **Frequency of reports.**

60.18 A. Except as required in this subpart, the periodic reports on continued
60.19 compliance under subpart 1 must be submitted twice per year, unless required more
60.20 frequently in the categorical pretreatment standard or by the control authority. Unless
60.21 otherwise specified by the control authority, the reports must be submitted in June and
60.22 December. At the discretion of the control authority and in consideration of such factors
60.23 as local high or low flow rates, holidays, and budget cycles, the control authority may
60.24 agree to alter the months during which the reports in subpart 1 are to be submitted. The
60.25 control authority may reduce the monitoring frequency to a requirement to report no less
61.1 frequently than once a year, unless required more frequently in the pretreatment standard
61.2 or by the agency, when the industrial user meets all of the following conditions:

61.3 (1) the industrial user's total categorical wastewater flow does not exceed
61.4 any of the following:

61.5 (a) 0.01 percent of the design dry weather hydraulic capacity of the
61.6 POTW, or 5,000 gallons per day, whichever is smaller, as measured by a continuous
61.7 effluent flow monitoring device unless the industrial user discharges in batches;

61.8 (b) 0.01 percent of the design dry weather organic treatment capacity
61.9 of the POTW; and

61.10 (c) 0.01 percent of the maximum allowable headworks loading for any
61.11 pollutant regulated by the applicable categorical pretreatment standard for which approved
61.12 local limits were developed by a POTW under part 7049.0650;

61.13 (2) the industrial user has not been in significant noncompliance at any
61.14 time in the past two years;

61.15 (3) the industrial user does not have daily flow rates, production levels, or
61.16 pollutant levels that vary so significantly that decreasing the reporting requirement for
61.17 the industrial user would result in data that are not representative of conditions occurring
61.18 during the reporting period according to part 7049.0710; and

61.19 (4) the industrial user notifies the control authority immediately of any
61.20 changes at its facility causing it to no longer meet conditions of subitem (1) or (2). Upon
61.21 notification, the industrial user ~~must~~ shall immediately begin reporting twice annually.

61.22 B. The POTW authority ~~must~~ shall retain documentation to support the control
61.23 authority's determination that a specific industrial user qualifies for reduced reporting
61.24 requirements under item A for three years after the expiration of the term of the control
61.25 mechanism.

62.1 Subp. 3. **Monitoring waiver.**

62.2 A. Except as provided in this subpart, reports submitted under this part shall
62.3 include data for all pollutants limited by the applicable categorical standard. The control
62.4 authority may authorize the industrial user subject to a categorical pretreatment standard
62.5 to forego sampling of a pollutant regulated by a categorical pretreatment standard if the
62.6 industrial user has demonstrated through sampling and other technical factors that the
62.7 pollutant is neither present nor expected to be present in the discharge or is present only
62.8 at background levels from intake water and without any increase in the pollutant due to
62.9 activities of the industrial user. A waiver under this item must be issued according to
62.10 items B to H.

62.11 B. The control authority may authorize a waiver when a pollutant is determined
62.12 to be present solely due to sanitary wastewater discharged from the facility provided
62.13 that the sanitary wastewater is not regulated by an applicable categorical standard and
62.14 otherwise includes no process wastewater.

62.15 C. The monitoring waiver is valid only for the duration of the effective period of
62.16 the ~~permit or other equivalent~~ industrial user's individual control mechanism, but in no
62.17 case longer than five years. The industrial user ~~must~~ shall submit a new request for the
62.18 waiver before the waiver can be granted for each subsequent control mechanism.

62.19 D. In making a demonstration that a pollutant is not present, the industrial user
62.20 must provide data from at least one sampling of the facility's process wastewater prior
62.21 to any treatment present at the facility that is representative of all wastewater from all
62.22 processes. The request for a monitoring waiver must be signed according to part 7049.0220
62.23 and include the certification statement in part 7049.0590. Nondetectable sample results
62.24 may only be used as a demonstration that a pollutant is not present if the Environmental
62.25 Protection Agency-approved method from Code of Federal Regulations, title 40, part 136,
62.26 with the lowest minimum detection level for that pollutant was used in the analysis.

63.1 E. Any grant of the monitoring waiver by the control authority must be included
63.2 as a condition in the industrial user's control mechanism. The reasons supporting the
63.3 waiver and any information submitted by the industrial user in its request for the waiver
63.4 must be maintained by the control authority for three years after expiration of the waiver.

63.5 F. Upon approval of the monitoring waiver and revision of the industrial user's
63.6 control mechanism by the control authority, the industrial user ~~must~~ shall certify, with the
63.7 following statement, on each report that there has been no increase in the pollutant in the
63.8 industrial user's waste stream due to activities of the industrial user:

63.9 "Based on my inquiry of the person or persons directly responsible for managing
63.10 compliance with the pretreatment standard for 40 CFR [specify applicable
63.11 national pretreatment standard part(s)], I certify that, to the best of my knowledge
63.12 and belief, there has been no increase in the level of [list pollutant(s)] in the
63.13 wastewaters due to the activities at the facility since filing of the last periodic report
63.14 under 40 CFR 403.12(e)(1)."

63.15 G. In the event that a waived pollutant is found to be present or is expected to
63.16 be present based on changes that occur in the industrial user's operations, the industrial
63.17 user ~~must~~ shall immediately comply with the monitoring requirements of part 7049.0570,
63.18 subparts 1 and 2, or other more frequent monitoring requirements imposed by the control

63.19 authority, notify the control authority, and monitor for the previously waived pollutant
63.20 that is found to be present.

63.21 H. This subpart does not supersede certification processes and requirements
63.22 established in categorical pretreatment standards, except as otherwise specified in the
63.23 categorical pretreatment standard.

63.24 Subp. 4. **Flow reporting.** The periodic reports on continued compliance must
63.25 include a record of measured or estimated average and maximum daily flows for the
63.26 reporting period for the discharge subject to the categorical ~~regulations~~ standards and any
64.1 other flows necessary to apply the combined waste stream formula as provided in part
64.2 7049.0350. The control authority may require more detailed reporting of flows.

64.3 Subp. 5. **Mass reporting.** If the control authority has imposed mass limitations on
64.4 industrial users, the periodic reports on continued compliance shall indicate the mass
64.5 of pollutants regulated by categorical pretreatment standards in the discharge from the
64.6 industrial user.

64.7 Subp. 6. **Production rate reporting.** ~~Industrial users shall report the user's~~
64.8 ~~production rate for the reporting period. If the limitations imposed on an industrial user~~
64.9 ~~are calculated using production, the report shall be a reasonable measure of the user's~~
64.10 ~~long-term production rate. Industrial users subject to national categorical pretreatment~~
64.11 ~~standards with limits expressed in terms of allowable pollutant discharge per unit of~~
64.12 ~~production, or other measure of operation, shall submit information on their production~~
64.13 ~~rate. For industrial users subject to equivalent mass or concentration limits established~~
64.14 ~~by the control authority according to part 7049.0300, subpart 2, for categories with~~
64.15 ~~production-based categorical pretreatment standards, the report must contain a reasonable~~
64.16 ~~measure of the user's long-term production rate. For all other industrial users subject to~~
64.17 ~~production-based categorical pretreatment standards, the report must include the user's~~
64.18 ~~actual production during the reporting period.~~

64.19 **7049.0580 POTW MONITORING IN LIEU OF INDUSTRIAL USER**
64.20 **SELF-MONITORING.**

64.21 Sampling and analysis for baseline monitoring reports as required by parts 7049.0500
64.22 to 7049.0550, 90-day compliance reports as required by part 7049.0560, and periodic
64.23 reports on continued compliance as required by part 7049.0570 may be performed by
64.24 the control authority in lieu of the industrial user. If the receiving POTW performs the
64.25 required sampling and analysis in lieu of the industrial user, the industrial user is not
64.26 required to submit the compliance certification required with baseline monitoring reports
64.27 under parts 7049.0500 to 7049.0550 and 90-day compliance reports under part 7049.0560.
65.1 In addition, if the receiving POTW collects all the information required for baseline
65.2 monitoring reports under parts 7049.0500 to 7049.0550, 90-day compliance reports under
65.3 part 7049.0560, and periodic reports on continued compliance under part 7049.0570,
65.4 including flow data, the industrial user is not required to submit the reports.

65.5 **7049.0590 CERTIFICATION FOR REPORTS.**

65.6 Baseline monitoring reports required by parts 7049.0500 to 7049.0550, 90-day
65.7 compliance reports required by part 7049.0560, and periodic reports on continued
65.8 compliance required by part 7049.0570 must include the following certification statement
65.9 and must be signed by an industrial user's authorized representative as follows:

65.10 CERTIFICATION

65.11 "I certify under penalty of law that this document and all attachments were prepared
65.12 under my direction or supervision in accordance with a system designed to ensure that
65.13 qualified personnel properly gather and evaluate the information submitted. Based
65.14 on my inquiry of the person or persons who manage the system, or those persons
65.15 directly responsible for gathering the information, the information submitted is, to
65.16 the best of my knowledge and belief, true, accurate, and complete. I am aware that
65.17 there are significant penalties under law for submitting false information, including
65.18 the possibility of fine and imprisonment for knowing violations."

65.19

PROVISIONS FOR POTWS IN GENERAL65.20 **7049.0600 POTW RESPONSIBILITY TO CONTROL INDUSTRIAL USERS.**65.21 Subpart 1. **General.**

65.22 A. It is the responsibility of every POTW authority to control the contribution of
65.23 industrial users that discharge to the POTW plant to prevent interference or pass-through.
65.24 Every POTW shall require industrial users that discharge to the POTW plant to comply
66.1 with the general and specific prohibitions in part 7049.0140 and shall take appropriate
66.2 action in case of violations.

66.3 B. POTW authorities shall control the contribution of their significant industrial
66.4 users with control mechanisms, such as agreements or permits, issued to individual
66.5 significant industrial users, except as provided in part 7049.0820, item C, subitem (1).

66.6 Subp. 2. **Local limits.**

66.7 A. In cases where pollutants contributed by industrial users result in interference
66.8 or pass-through and the violation is likely to recur, the POTW authority shall develop and
66.9 enforce specific local effluent limits or best management practices for industrial users and
66.10 all other users, as appropriate, which, together with appropriate changes in the POTW
66.11 plant's facilities or operation, are necessary to ensure renewed and continued compliance
66.12 with the POTW's national pollutant discharge elimination system permit or sludge use or
66.13 disposal practices.

66.14 B. Specific local effluent limits must not be developed and enforced without
66.15 individual notice to persons or groups who have requested such notice and an opportunity
66.16 to respond.

66.17 Subp. 3. **~~Prohibited agreements and permits~~ individual control mechanisms.** A
66.18 POTW authority shall not knowingly enter into an agreement with an industrial user or

66.19 issue a permit to an industrial user that allows the industrial user to discharge wastewater
66.20 that would cause interference or pass-through or cause a violation of part 7049.0140.

66.21 Subp. 4. **Revision of local limits.** If an industrial user causes interference or
66.22 pass-through without violating the local limits imposed on them by the receiving POTW,
66.23 so that the affirmative defense of part 7049.0150 may be invoked, the receiving POTW
66.24 shall re-evaluate and revise relevant local limits to ensure that they are adequately
66.25 restrictive to protect against pass-through or interference.

67.1 **7049.0620 REPORTING.**

67.2 A. Every POTW authority that has one or more significant industrial users shall
67.3 submit a pretreatment annual report to the agency for each calendar year during which it
67.4 has a significant industrial user. If more than one jurisdiction is involved in the POTW
67.5 local pretreatment program, the annual report shall report on activities of all participating
67.6 agencies. Required contents of annual reports are specified in part 7049.1020 for POTWs
67.7 with pretreatment programs that have been approved under parts 7049.0800 to 7049.0950
67.8 and in part 7049.0720 for all other POTWs.

67.9 B. Information collected pursuant to this chapter shall be provided to the agency
67.10 upon request.

67.11 **7049.0630 SIGNATORY REQUIREMENTS FOR POTW REPORTS.**

67.12 Reports submitted to the agency by the POTW according to parts 7049.0600 to
67.13 7049.1020 must be signed by a principal executive officer, ranking elected official, or
67.14 other duly authorized employee. The duly authorized employee must be an individual or
67.15 position having responsibility for the overall operation of the facility or the pretreatment
67.16 program. This authorization must be made in writing by the principal executive officer
67.17 or ranking elected official and submitted to the agency prior to or together with the
67.18 report being submitted.

67.19 **7049.0640 AGENCY DIRECT REGULATORY ACTION.**

67.20 A. The agency has a regulatory interest in required pretreatment standards and
67.21 may take direct regulatory action, as provided in item B, to control an industrial user that
67.22 the receiving POTW is responsible to control if the receiving POTW fails to implement
67.23 or enforce required pretreatment standards that it is responsible to enforce according
67.24 to part 7049.0650.

68.1 B. If the agency determines that a POTW authority has failed to properly
68.2 implement pretreatment controls as provided in item A, the agency shall notify the POTW
68.3 authority and industrial user of the determination, specifying the failures and providing
68.4 30 days for the POTW authority to commence appropriate action to correct the failures.
68.5 If the POTW authority fails to adequately correct the failures cited, the agency may, as
68.6 appropriate, take enforcement action against the industrial user or impose limitations
68.7 and requirements in an individual control mechanism issued directly to the industrial
68.8 user. If the agency issues a determination and takes action under this part, failure to take
68.9 appropriate action against the industrial user constitutes a violation by the POTW authority.

68.10 C. At any time, the agency may perform any of the activities provided in part
68.11 7049.0163, subparts 2 and 3.

68.12 D. Nothing in this part precludes the agency from taking enforcement action
68.13 against a POTW for failure to implement pretreatment controls.

68.14 **7049.0650 POTW RESPONSIBILITY TO ENFORCE PRETREATMENT**
68.15 **STANDARDS.**

68.16 A. All POTW authorities are responsible for enforcing the general and specific
68.17 prohibitions in part 7049.0140 and for developing and enforcing any local limits or best
68.18 management practices needed to implement those prohibitions.

68.19 B. For nondelegated POTWs, the conditions under which local limits or best
68.20 management practices implementing the general prohibitions of part 7049.0140, subpart
68.21 2, are required are listed in part 7049.0600, subpart 2.

68.22 C. For delegated POTW pretreatment programs approved under parts 7049.0800
68.23 to 7049.0960, the conditions under which local limits or best management practices
68.24 implementing the general prohibitions of part 7049.0140, subpart 2, are required are listed
68.25 in parts 7049.0600, subpart 2, and 7049.0850.

69.1 D. Delegated POTWs are also responsible for enforcing the categorical
69.2 pretreatment standards in part 7049.0310. The most restrictive limits as between the
69.3 requirements of items C and D shall apply.

69.4 PROVISIONS FOR NONDELEGATED POTWS

69.5 7049.0700 NOTIFICATION.

69.6 Subpart 1. General.

69.7 A. A POTW that is not delegated pretreatment authority under parts 7049.0800
69.8 to 7049.1020 shall notify the agency in writing of any:

69.9 (1) significant industrial user discharging to the POTW that has not been
69.10 previously disclosed to the agency;

69.11 (2) anticipated or actual changes in the volume or quality of discharge by
69.12 an industrial user that could result in the industrial user becoming a significant industrial
69.13 user; and

69.14 (3) anticipated or actual changes in the volume or quality of discharge by a
69.15 significant industrial user that would require changes to the local limits imposed on the
69.16 significant industrial user by the POTW authority.

69.17 B. The notification under this subpart shall be submitted ~~as soon as possible and,~~
69.18 ~~when changes are proposed, must be submitted prior to changes being made.~~ within 30

69.19 days of identifying an industrial user as significant. POTWs with existing significant
69.20 industrial users shall submit a notification within 30 days of the effective date of this
69.21 part. Changes to local limits imposed on existing significant industrial users shall be
69.22 submitted prior to changes being made.

69.23 Subp. 2. **Contents.** The notification under subpart 1 shall include:

70.1 A. the identity of the significant industrial user and a description of the
70.2 significant industrial user's operation and process;

70.3 B. a characterization of the significant industrial user's wastewater discharge;

70.4 C. the required limits that will be imposed on the significant industrial user
70.5 by the POTW authority;

70.6 D. a technical justification of the required local limits; and

70.7 E. a plan for monitoring the significant industrial user that is consistent with the
70.8 monitoring requirements in part 7049.0710.

70.9 Subp. 3. **Additional requirements.** In addition, upon agency request, the POTW
70.10 authority shall submit the following:

70.11 A. additional information on the significant industrial user and its processes
70.12 or discharges;

70.13 B. a copy of the individual control mechanism used by the POTW authority to
70.14 impose limitations and requirements on the significant industrial user;

70.15 C. a copy of the POTW authority's legal authority to regulate the significant
70.16 industrial user; or

70.17 D. the POTW authority's procedures for enforcing the requirements imposed
70.18 on the significant industrial user.

70.19 Subp. 4. **Agency review.** Notifications required in this part are subject to review
70.20 by the agency.

70.21 **7049.0710 MONITORING OF SIGNIFICANT INDUSTRIAL USERS.**

70.22 Each POTW authority shall obtain from its significant industrial users specific
70.23 information on the quality and quantity of each significant industrial user's discharge to
70.24 the POTW. Except when specifically requested by the POTW authority and approved by
71.1 the agency, the information shall be obtained by representative monitoring conducted
71.2 by the POTW or by the significant industrial user under requirements imposed by the
71.3 POTW in the significant industrial user's individual control mechanism. A request to
71.4 obtain information using a different method shall demonstrate that the alternate provides
71.5 adequate information on the discharge from the significant industrial user. Monitoring
71.6 performed to comply with this part shall include all pollutants for which the significant
71.7 industrial user is significant and shall be representative of the significant industrial user's
71.8 discharge to the POTW. Except as provided in part 7049.0570, subpart 2, POTWs shall
71.9 obtain significant industrial user monitoring data at least twice annually. The POTW shall
71.10 require frequency of monitoring necessary to assess and ensure compliance by industrial
71.11 users with required pretreatment standards and requirements.

71.12 **7049.0720 PRETREATMENT ANNUAL REPORT; NONDELEGATED POTWS.**

71.13 If a nondelegated POTW has a significant industrial user at any time during a calendar
71.14 year, the POTW authority shall submit a pretreatment annual report on forms provided
71.15 by the agency or shall submit equivalent information. The pretreatment annual report
71.16 must include at least the following:

71.17 A. a summary of changes to the POTW's pretreatment program;

71.18 B. a current list of significant industrial users that discharge to the POTW.

71.19 Additions and deletions shall be noted and reasons shall be given for deletions;

71.20 C. a summary of the discharge monitoring data for each significant industrial
 71.21 user for the reporting year. The summary shall summarize all available data and shall
 71.22 accurately represent the discharge by the industrial user;

71.23 D. a summary of inspections and sampling of significant industrial users
 71.24 performed by the ~~permittee~~ POTW authority;

72.1 E. a summary of violations by industrial users of any required pretreatment
 72.2 standards imposed by the ~~permittee~~ POTW authority and a description of the current
 72.3 compliance status of each significant industrial user;

72.4 F. a summary of enforcement actions taken against significant industrial users by
 72.5 the ~~permittee~~ POTW authority;

72.6 G. a description of any upset, interference, or pass-through incident at the POTW
 72.7 that the ~~permittee~~ POTW authority knows or believes ~~were~~ was caused by industrial
 72.8 users of the POTW system. The description shall include the reasons why the incidents
 72.9 occurred, the corrective actions taken, and the industrial users responsible, if known;

72.10 H. an assessment of the effectiveness of the pretreatment program in preventing
 72.11 interference, pass-through of pollutants, and contamination of sludge; and

72.12 I. any other relevant information requested by the agency.

72.13 **PROVISIONS FOR DELEGATED POTWS**

72.14 **7049.0800 POTWS REQUIRED TO DEVELOP PRETREATMENT PROGRAM.**

72.15 A. Any POTW designated by the agency shall develop a federal delegated
 72.16 pretreatment program approvable under parts 7049.0800 to 7049.1020 according to the
 72.17 schedule contained in the respective POTWs national pollutant discharge elimination
 72.18 system permit. Schedules for the development of the POTW pretreatment program shall
 72.19 not exceed one year. A POTW shall be designated to develop a delegated pretreatment
 72.20 program if it has a design flow of five million gallons per day or more and has one or

72.21 more significant industrial users, or when the agency finds that the nature or volume of
72.22 the industrial influent, treatment process upsets, violations of POTW effluent limitations,
72.23 contamination of municipal sludge, or other circumstances warrant in order to prevent
72.24 interference with the POTW or pass-through.

73.1 B. POTWs with federal delegated pretreatment programs meeting the
73.2 requirements of parts 7049.0810 to 7049.0870 and approved as provided by parts
73.3 7049.0880 to 7049.0960 shall maintain and operate their pretreatment programs as
73.4 approved. The authorities and procedures in the approved program shall at all times be
73.5 fully and effectively exercised and implemented. The POTW authority is responsible
73.6 for administering national categorical pretreatment standards, as well as pretreatment
73.7 standards implementing the requirements of parts 7049.0140 and 7049.0850.

73.8 **7049.0810 DELEGATED LOCAL POTW PRETREATMENT PROGRAM**
73.9 **REQUIREMENTS.**

73.10 To be approvable under parts 7049.0800 to 7049.0960, a POTW pretreatment
73.11 program shall have the program components described in parts 7049.0820 to 7049.0870.

73.12 **7049.0820 LEGAL AUTHORITY.**

73.13 The POTW authority shall operate pursuant to legal authority that authorizes or
73.14 enables the POTW authority to apply and enforce the requirements of sections 307(b)
73.15 and (c) and 402(b)(8) of the Clean Water Act and any regulations implementing those
73.16 sections. The authority may be contained in a statute, ordinance, or series of contracts or
73.17 joint powers agreements that the POTW authority is authorized to enact, enter into, or
73.18 implement and that are authorized by state law. At a minimum, the legal authority shall
73.19 enable the POTW authority to:

73.20 A. deny or condition new or increased contributions of pollutants, or changes in
73.21 the nature of pollutants, to the POTW by industrial users when the contributions do not

73.22 meet required pretreatment standards and requirements or when the contributions would
73.23 cause the POTW to violate its national pollutant discharge elimination system permit;

73.24 B. require compliance with required pretreatment standards and requirements
73.25 by industrial users;

74.1 C. control contribution to the POTW by each industrial user to ensure
74.2 compliance with required pretreatment standards and requirements, through permit,
74.3 order, or similar means. In the case of significant industrial users, the control shall be
74.4 achieved through permits or equivalent individual control mechanisms issued to each such
74.5 industrial user, except as follows:

74.6 (1) at the discretion of the POTW, the control may include use of general
74.7 control mechanisms if the following conditions are met. All of the facilities to be covered
74.8 must:

74.9 (a) involve the same or substantially similar types of operations;

74.10 (b) discharge the same types of wastes;

74.11 (c) require the same effluent limitations;

74.12 (d) require the same or similar monitoring; and

74.13 (e) in the ~~opinion~~ judgment of the POTW, be more appropriately
74.14 controlled under a general control mechanism than under individual control mechanisms;

74.15 (2) to be covered by the general control mechanism, the significant industrial
74.16 user must file a written request for coverage that identifies its contact information,
74.17 production processes, the types of wastes generated, the location for monitoring all wastes
74.18 covered by the general control mechanism, any requests under part 7049.0570, subpart 3,
74.19 for a monitoring waiver for a pollutant neither present nor expected to be present in the
74.20 discharge, and any other information the POTW deems appropriate. A monitoring waiver
74.21 for a pollutant neither present nor expected to be present in the discharge is not effective in

74.22 the general control mechanism until after the POTW has provided written notice to the
74.23 significant industrial user that such a waiver request has been granted according to part
74.24 7049.0570, subpart 3. The POTW must retain a copy of the general control mechanism,
74.25 documentation to support the POTW's determination that a specific significant industrial
75.1 user meets the criteria in subitem (1), and a copy of the industrial user's written request for
75.2 coverage for three years after the expiration of the general control mechanism. A POTW
75.3 may not control a significant industrial user through a general control mechanism when
75.4 the facility is subject to production-based categorical pretreatment standards or categorical
75.5 pretreatment standards expressed as mass of pollutant discharged per day or for industrial
75.6 users whose limits are based on the combined waste stream formula under part 7049.0350
75.7 or net/gross calculations under part 7049.0480; and

75.8 (3) both individual and general control mechanisms must be enforceable
75.9 and contain, at a minimum, the following conditions:

75.10 (a) a statement of duration, which must be no more than five years;

75.11 (b) a statement of nontransferability without, at a minimum, prior
75.12 notification to the POTW authority and provision of a copy of the existing control
75.13 mechanism to the new owner or operator;

75.14 (c) effluent limits, including best management practices, based on
75.15 applicable required pretreatment standards in part 7049.0650;

75.16 (d) self-monitoring, sampling, reporting, notification, and
75.17 record-keeping requirements, including an identification of the pollutants to be monitored,
75.18 including the process for seeking a waiver for a pollutant neither present nor expected to
75.19 be present in the discharge according to part 7049.0570, subpart 3, or a specific waived
75.20 pollutant in the case of an individual control mechanism; sampling location; sampling
75.21 frequency; and sample type, based on the applicable required pretreatment standards
75.22 as specified in part 7049.0650;

75.23 (e) a statement of applicable civil and criminal penalties for violation
75.24 of required pretreatment standards and requirements and any applicable compliance
75.25 schedule. The schedules may not extend the compliance date beyond applicable federal
75.26 deadlines; and

76.1 (f) requirements to control slug discharges, if determined by the POTW
76.2 to be necessary;

76.3 D. require:

76.4 (1) the development of a compliance schedule by each industrial user
76.5 for the installation of technology required to meet required pretreatment standards and
76.6 requirements; and

76.7 (2) the submission of all notices and self-monitoring reports from industrial
76.8 users as are necessary to assess and ensure compliance by industrial users with required
76.9 pretreatment standards and requirements, including, ~~but not limited to,~~ the reports required
76.10 in parts 7049.0500 to 7049.0570;

76.11 E. carry out all inspection, surveillance, and monitoring procedures necessary
76.12 to determine, independent of information supplied by industrial users, compliance or
76.13 noncompliance with required pretreatment standards and requirements by industrial
76.14 users. Representatives of the POTW authority shall be authorized to enter the premises
76.15 of an industrial user in which a discharge source or treatment system is located or in
76.16 which records are kept that are required under parts 7049.0500 to 7049.0590 to ensure
76.17 compliance with required pretreatment standards. The authority shall be at least as
76.18 extensive as the authority provided under section 308 of the Clean Water Act;

76.19 F. obtain remedies for noncompliance with required pretreatment standards and
76.20 requirements by industrial users as follows:

76.21 (1) all POTW authorities shall have authority to seek injunctive relief for
76.22 noncompliance with required pretreatment standards and requirements by industrial users.
76.23 POTW authorities shall also have authority to seek or assess civil or criminal penalties
76.24 of at least \$1,000 a day for each violation by industrial users of required pretreatment
76.25 standards and requirements;

77.1 (2) pretreatment requirements that may be enforced through the remedies in
77.2 subitem (1) include, but are not limited to, the duty to allow or carry out inspections, entry,
77.3 or monitoring activities; any rules, regulations, or orders issued by the POTW authority;
77.4 any requirements in individual control mechanisms issued by the POTW authority; or any
77.5 reporting requirements imposed by the POTW authority or this chapter;

77.6 (3) the POTW authority shall have authority and procedures, after informal
77.7 notice to the discharger, to immediately and effectively halt or prevent any discharge of
77.8 pollutants to the POTW that reasonably appears to present an imminent endangerment to
77.9 the health or welfare of persons. The POTW shall have authority and procedures, which
77.10 must include notice to the affected industrial users and an opportunity to respond, to halt
77.11 or prevent any discharge to the POTW that presents or may present an endangerment to
77.12 the environment or that threatens to interfere with the operation of the POTW; and

77.13 (4) as provided in part 7049.0640, the agency has authority to seek judicial
77.14 relief and may also use administrative penalty authority when the POTW authority has
77.15 sought a monetary penalty that the agency believes to be insufficient; and

77.16 G. comply with the confidentiality requirements in part 7049.0160.

77.17 **7049.0830 PROCEDURES.**

77.18 The POTW authority shall develop and implement procedures to ensure compliance
77.19 with the requirements of a the approved POTW pretreatment program. At a minimum,
77.20 these procedures shall enable the POTW authority to:

77.21 A. identify and locate all possible industrial users that might be subject to the
77.22 POTW pretreatment program;

77.23 B. identify the character and volume of pollutants contributed to the POTW by
77.24 the industrial users identified under item A;

78.1 C. notify industrial users identified under item A of applicable required
78.2 pretreatment standards and any applicable requirements under this chapter and chapter
78.3 7045. The notification shall be made within 30 days of the designation of an industrial
78.4 user as a significant industrial user;

78.5 D. receive and analyze self-monitoring reports and other notices submitted
78.6 by industrial users according to the self-monitoring requirements in parts 7049.0200,
78.7 7049.0210, and 7049.0500 to 7049.0570;

78.8 E. randomly sample and analyze the effluent from industrial users and conduct
78.9 surveillance activities to identify, independent of information supplied by industrial users,
78.10 occasional and continuing noncompliance with required pretreatment standards;

78.11 F. inspect and sample the effluent from each significant industrial user at least
78.12 once a year, except:

78.13 (1) when the POTW has authorized the industrial user subject to a
78.14 categorical pretreatment standard to forego sampling of a pollutant regulated by a
78.15 categorical pretreatment standard under part 7049.0570, subpart 3, the POTW ~~must~~ shall
78.16 sample for the waived pollutant at least once during the term of the categorical industrial
78.17 user's control mechanism. In the event that the POTW subsequently determines that a
78.18 waived pollutant is present or is expected to be present in the industrial user's wastewater
78.19 based on changes that occur in the industrial user's operations, the POTW ~~must~~ shall
78.20 immediately begin at least annual effluent monitoring of the industrial user's discharge
78.21 ~~and inspection~~ and monitor for the previously waived pollutant that is found to be present;

78.22 (2) when the POTW has determined that an industrial user meets the criteria
78.23 for classification as a nonsignificant categorical industrial user, the POTW ~~must~~ shall
78.24 evaluate, at least once per year, whether an industrial user continues to meet the criteria in
78.25 part 7049.0120, subpart 24, item D; and

79.1 (3) in the case of industrial users subject to reduced reporting requirements
79.2 under part 7049.0570, subpart 2, the POTW ~~must~~ shall randomly sample and analyze the
79.3 effluent from industrial users and conduct inspections at least once every two years. If the
79.4 industrial user no longer meets the conditions for reduced reporting in part 7049.0570,
79.5 subpart 2, the POTW ~~must~~ shall immediately begin sampling and inspecting the industrial
79.6 user at least once a year;

79.7 G. evaluate whether each significant industrial user needs a plan or other action
79.8 to control slug discharges. ~~For industrial users identified as significant prior to November~~
79.9 ~~14, 2005, this evaluation must have been conducted at least once by October 14, 2006.~~
79.10 ~~Other~~ Significant industrial users ~~must~~ shall be evaluated within one year of being
79.11 designated a significant industrial user. Significant industrial users ~~must~~ shall notify the
79.12 POTW immediately of any changes at its facility affecting potential for a slug discharge.
79.13 If the POTW authority decides that a slug control plan is needed, the plan shall contain, at
79.14 a minimum, the following elements:

79.15 (1) a description of discharge practices, including nonroutine batch
79.16 discharges;

79.17 (2) a description of stored chemicals;

79.18 (3) procedures for immediately notifying the POTW of slug discharges,
79.19 including any discharge that would violate part 7049.0140, and procedures for follow-up
79.20 written notification within five days; and

79.21 (4) if necessary, procedures or measures to prevent adverse impact from
79.22 accidental spills, including but not limited to inspection and maintenance of storage areas,

79.23 handling and transfer of materials, loading and unloading operations, control of plant site
79.24 run-off, worker training, constructing containment structures or equipment, measures
79.25 and equipment for containing toxic organic pollutants including solvents, and measures
79.26 and equipment for emergency response;

80.1 H. investigate instances of noncompliance with required pretreatment standards
80.2 and requirements, as indicated in the reports and notices required under parts 7049.0200,
80.3 7049.0210, and 7049.0500 to 7049.0570, or indicated by analysis, inspection, and
80.4 surveillance activities described in item E. Sample taking and analysis and the collection
80.5 of other information shall be performed with sufficient care to produce evidence
80.6 admissible in enforcement proceedings or in judicial actions; and

80.7 I. comply with the public participation requirements of Code of Federal
80.8 Regulations, title 40, part 25, in the enforcement of required pretreatment standards.
80.9 Public participation procedures shall include provision for at least annual public
80.10 notification, in one or more newspapers of general circulation that provides meaningful
80.11 public notice within the jurisdictions served by the POTW, of significant industrial users
80.12 that, at any time during the previous 12 months, were in significant noncompliance with
80.13 applicable pretreatment standards and requirements and any industrial users that were in
80.14 significant noncompliance because of violations of the criteria in part 7049.0120, subpart
80.15 25, item C, D, or H.

80.16 **7049.0840 FUNDING.**

80.17 The POTW authority shall have sufficient resources and qualified personnel to
80.18 carry out the authorities and procedures described in parts 7049.0820 and 7049.0830. In
80.19 some limited circumstances, funding and personnel may be delayed as provided in part
80.20 7049.0910.

80.21 **7049.0850 LOCAL LIMITS.**

80.22 The POTW authority shall develop and enforce specific local limits to implement the
80.23 prohibitions listed in part 7049.0140. POTWs may develop best management practices
80.24 (BMPs) to implement these prohibitions. Any such BMPs are required pretreatment
80.25 standards. The POTW authority shall continue to develop these limits as necessary or
80.26 demonstrate that they are not necessary. The POTW authority shall effectively enforce
81.1 the limits. Specific effluent limits shall not be developed and enforced without individual
81.2 notice to persons or groups who have requested the notice and an opportunity to respond.

81.3 **7049.0860 ENFORCEMENT RESPONSE PLAN.**

81.4 Subpart 1. Plan requirement. The POTW authority shall develop and implement an
81.5 enforcement response plan, which is subject to agency approval. The plan shall contain
81.6 detailed procedures indicating how a the POTW authority will investigate and respond to
81.7 instances of industrial user noncompliance. The plan shall, at a minimum:

81.8 A. describe how the POTW authority will investigate instances of
81.9 noncompliance;

81.10 B. describe the types of escalating enforcement responses the POTW authority
81.11 will take in response to all anticipated types of industrial user violations and the time
81.12 periods within which responses will take place;

81.13 C. identify, by title, the officials responsible for each type of response; and

81.14 D. adequately reflect the POTW authority's primary responsibility to enforce
81.15 all applicable required pretreatment standards and requirements, as detailed in parts
81.16 7049.0820 and 7049.0830.

81.17 Subp. 2. Enforcement. Following agency approval of the POTW authority's
81.18 pretreatment program and enforcement response plan, the POTW authority shall
81.19 implement the approved enforcement response plan.

81.20 **7049.0870 SIGNIFICANT INDUSTRIAL USER LIST.**

81.21 The POTW authority shall prepare and maintain a list of its industrial users meeting
81.22 the criteria for being a significant industrial user. The list shall identify the criteria for
81.23 which each significant industrial user is significant. The list shall also identify the
81.24 applicable category and subcategory for industrial users subject to national categorical
81.25 pretreatment standards. The list shall include industrial users that meet the criteria for
82.1 being a significant industrial user in part 7049.0120, subpart 24, item A, but that have
82.2 been determined not to be a significant industrial user under part 7049.0120, subpart 24,
82.3 item B. The initial list must be submitted to the agency with the POTW's submittals as
82.4 required by parts 7049.0880 to 7049.0920. Modifications to the list must be submitted to
82.5 the agency with annual reports as required by part 7049.1020.

82.6 **7049.0880 SUBMITTAL FOR PRETREATMENT PROGRAM APPROVAL.**

82.7 A POTW required to develop a pretreatment program for approval under a schedule
82.8 established under part 7049.0800 shall submit to the agency three copies of a program
82.9 description that includes the information in part 7049.0890. A POTW authority may
82.10 request pretreatment program approval under parts 7049.0800 to 7049.1020 by submitting
82.11 a request for approval and a pretreatment program description as prescribed in part
82.12 7049.0890 whether or not the POTW authority is required by a permit schedule to do so.
82.13 The agency shall ensure that the submission and any comments on the submission are
82.14 available to the public for inspection and copying.

82.15 **7049.0890 CONTENTS OF POTW DELEGATED PRETREATMENT PROGRAM**
82.16 **SUBMISSION.**

82.17 A POTW authority requesting approval of a POTW pretreatment program shall
82.18 develop a program submittal that shall be submitted to the agency for program approval
82.19 according to parts 7049.0930 to 7049.0960. The submittal shall contain the following
82.20 information:

82.21 A. a statement from the local unit of government's legal officer, or the attorney
82.22 for those POTWs that have independent legal counsel, that the POTW authority has
82.23 adequate authority to carry out the programs in parts 7049.0810 to 7049.0870. The
82.24 statement shall:

82.25 (1) identify the provision of the legal authority under part 7049.0820 that
82.26 provides the basis for each procedure under part 7049.0830;

83.1 (2) identify the manner in which the POTW authority will implement the
83.2 program requirements in parts 7049.0810 to 7049.0870 including the means by which
83.3 required pretreatment standards will be applied to individual industrial users such as by
83.4 order, permit, or ordinance; and

83.5 (3) identify how the POTW authority intends to ensure compliance with
83.6 required pretreatment standards and requirements and to enforce them in the event of
83.7 noncompliance by industrial users;

83.8 B. a copy of any statutes, ordinances, regulations, agreements, or other
83.9 authorities relied upon by the POTW authority for its administration of the program.
83.10 The submission shall include a statement reflecting the endorsement or approval of the
83.11 local boards or bodies responsible for supervising or funding the POTW pretreatment
83.12 program if approved;

83.13 C. a brief description, including organization charts, of the POTW organization
83.14 that will administer the pretreatment program. If more than one agency is responsible for
83.15 administration of the program, the responsible agencies shall be identified, their respective
83.16 responsibilities delineated, and their procedures for coordination set forth;

83.17 D. a description of the funding levels, equipment, and full-time and part-time
83.18 personnel available to implement the program;

83.19 E. a description of program procedures consistent with part 7049.0830, including
83.20 an enforcement response plan as provided by part 7049.0860; and

83.21 F. a technical justification, including any relevant calculations used to justify the
83.22 proposed local limits or to justify why local limits are not needed.

83.23 **7049.0900 CONTENT OF REMOVAL ALLOWANCE CREDIT SUBMISSION.**

84.1 A POTW authority that desires to grant removal credits under parts 7049.0360
84.2 to 7049.0470 shall submit three copies of a request for authority to revise categorical
84.3 pretreatment standards that must contain the information required in part 7049.0450.

84.4 **7049.0910 REQUEST FOR CONDITIONAL APPROVAL OF POTW**
84.5 **PRETREATMENT PROGRAM.**

84.6 The POTW authority may request conditional approval of the pretreatment program
84.7 pending the acquisition of funding and personnel for certain elements of the program. The
84.8 request for conditional approval must meet the requirements in parts 7049.0810 and
84.9 7049.0920, unless the submission demonstrates that:

84.10 A. a limited aspect of the program does not need to be implemented immediately;

84.11 B. the POTW authority has adequate legal authority and procedures to carry out
84.12 those aspects of the program that will not be implemented immediately; and

84.13 C. funding and personnel for the program aspects to be implemented at a later
84.14 date will be available when needed. The POTW authority shall describe in the submission
84.15 the mechanism by which the funding will be acquired.

84.16 **7049.0920 CONSISTENCY WITH WATER QUALITY MANAGEMENT PLANS.**

84.17 To be approved, a POTW pretreatment program shall be consistent with any
84.18 agency-approved basin or watershed plans.

84.19 **7049.0930 AGENCY ACTION.**

84.20 A. Upon receipt of a submission, the agency shall begin its review. Within 60
84.21 days after receiving the submission, the agency shall make a preliminary determination of
84.22 whether the submission meets the requirements of parts 7049.0810 to 7049.0920 and, if
84.23 appropriate, parts 7049.0360 to 7049.0470.

84.24 B. If the agency makes the preliminary determination that the submission meets
84.25 the requirements referenced in item A, the agency shall:

85.1 (1) notify the POTW that the submission has been received and is under
85.2 review; and

85.3 (2) commence the public notice and evaluation activities in parts 7049.0940
85.4 to 7049.0960.

85.5 C. After review of the submission as provided for in item A, if the agency
85.6 determines that the submission does not comply with parts 7049.0890 to 7049.0920, the
85.7 agency shall provide notice in writing to the applying POTW and each person who has
85.8 requested individual notice. The notification shall identify any defects in the submission
85.9 and advise the POTW and each person who has requested individual notice of the means
85.10 by which the POTW can comply with the applicable requirements of parts 7049.0890
85.11 to 7049.0920.

85.12 **7049.0940 PUBLIC NOTICE AND OPPORTUNITY FOR HEARING.**

85.13 Subpart 1. **Requirement.** Within 20 working days after making a determination that
85.14 a submission meets the requirements of parts 7049.0890 to 7049.0910, the agency shall
85.15 issue a public notice of request for approval of the submission and provide an opportunity
85.16 for the applicant, an affected state, an interested state or federal agency, or a person or
85.17 group of persons to request a contested case hearing with respect to the submission.

85.18 Subp. 2. **Circulation.** The public notice of request for approval of the submission
85.19 shall be circulated in a manner designed to inform interested and potentially interested
85.20 persons of the submission. Procedures for the circulation of public notice shall include:

85.21 A. mailing notices of the request for approval of the submission to federal and
85.22 state fish, shellfish, and wild fish resource agencies, unless the agencies have asked not to
85.23 be sent the notices, and any other person or group who has requested individual notice,
85.24 including those on appropriate mailing lists; and

86.1 B. publication of a notice of request for approval of the submission in ~~the largest~~
86.2 daily a newspaper of general circulation within the jurisdictions served by the POTW that
86.3 provides meaningful public notice.

86.4 The public notice must provide a period of not less than 30 days following the date of
86.5 the public notice during which time interested persons may submit their written views on
86.6 the submission. All written comments submitted during the 30-day comment period must
86.7 be retained by the agency and considered in the decision on whether or not to approve the
86.8 submission. The period for comment may be extended at the discretion of the agency.

86.9 Subp. 3. **Hearing.**

86.10 A. The agency shall provide an opportunity for the applicant, an affected state,
86.11 an interested state or federal agency, or a person or group of persons to request a public
86.12 hearing with respect to the submission.

86.13 B. The request for public hearing shall be filed within the 30-day or extended
86.14 comment period described in subpart 2 and shall indicate the interest of the person filing
86.15 the request and the reasons why a hearing is warranted.

86.16 C. At the request of the POTW authority, the agency shall hold a hearing. In
86.17 addition, a hearing shall be held if there is a significant public interest in issues relating to
86.18 whether or not the submission should be approved. Instances of doubt ~~should~~ shall be
86.19 resolved in favor of holding the hearing.

86.20 D. Public notice of a hearing to consider a submission, sufficient to inform
86.21 interested parties of the nature of the hearing and the right to participate, shall be published
86.22 in the same newspaper as the notice of the original request for approval of the submission
86.23 under subpart 2. In addition, notice of the hearing shall be sent to those persons requesting
86.24 individual notice.

86.25 **7049.0950 REVIEW, APPROVAL, AND DECISION.**

87.1 Subpart 1. **Time for review.**

87.2 A. The agency shall have 90 days from the date of the public notice required
87.3 in part 7049.0940, subpart 2, to review the submission. The agency shall review the
87.4 submission to determine compliance with parts 7049.0810 to 7049.0870 and, if removal
87.5 credit authorization is sought, with parts 7049.0360 to 7049.0470. The agency may have
87.6 up to an additional 90 days to complete the evaluation of the submission if the public
87.7 comment period provided for in part 7049.0940, subpart 2, is extended beyond 30 days
87.8 or if a public hearing is held as provided for in part 7049.0940, subpart 3. In no event,
87.9 however, shall the time for evaluation of the submission exceed a total of 180 days from
87.10 the date of public notice of the submission.

87.11 B. At the end of the 30-day or extended comment period and within the 90-day
87.12 or extended period provided for in this subpart, the agency shall approve or deny the
87.13 submission based on the evaluation in part 7049.0930 and take into consideration
87.14 comments submitted during the comment period and the record of the public hearing, if
87.15 held. If the agency makes a determination to deny the request, the agency shall notify
87.16 the POTW and each person who has requested individual notice. The notification shall
87.17 include suggested modifications and the agency may allow the requester additional time to
87.18 bring the submission into compliance with applicable requirements.

87.19 Subp. 2. **Environmental Protection Agency objections.** A POTW pretreatment
87.20 program or authorization to grant removal allowanees credits must not be approved

87.21 by the agency if, following the 30-day or extended public notice period provided for
87.22 in part 7049.0940 and any hearing held pursuant to that notice, the Environmental
87.23 Protection Agency regional administrator sets forth in writing objections to the approval
87.24 of the submission and the reasons for the objections. A copy of the Environmental
87.25 Protection Agency regional administrator's objections shall be provided to the applicant
87.26 and each person who has requested individual notice. The Environmental Protection
88.1 Agency regional administrator shall provide an opportunity for written comments and
88.2 may convene a public hearing on the objections. Unless retracted, the Environmental
88.3 Protection Agency regional administrator's objections shall constitute a final ruling to deny
88.4 approval of a POTW pretreatment program or authorization to grant removal ~~allowances~~
88.5 credits 90 days after the date the objections are issued.

88.6 Subp. 3. **Notification of result.** The agency shall notify persons who submitted
88.7 comments and participated in the public hearing, if held, of the approval or disapproval of
88.8 the submission. In addition, the agency shall publish a notice of approval or disapproval
88.9 in the same newspapers as the original notice of request for approval of the submission
88.10 was published. The agency shall identify in any notice of POTW pretreatment program
88.11 approval any authorization to modify categorical pretreatment standards that the POTW
88.12 authority may make according to parts 7049.0360 to 7049.0470 for removal of pollutants
88.13 subject to categorical pretreatment standards.

88.14 Subp. 4. **Reissuance ~~on~~ or modification of POTW permit.** After the POTW's
88.15 pretreatment program is approved, the POTW's national pollutant discharge elimination
88.16 system permit shall be reissued or modified by the agency to incorporate the approved
88.17 program as enforceable conditions of the permit. The modification of a POTW's national
88.18 pollutant discharge elimination system permit for the purposes of incorporating a POTW
88.19 pretreatment program approved according to parts 7049.0800 to 7049.0960 is a minor
88.20 permit modification subject to the procedures in part 7001.1150.

88.21 **7049.0960 APPROVAL OF REQUEST FOR CONDITIONAL APPROVAL.**

88.22 Upon receipt of a request for conditional approval, the agency shall establish a fixed
88.23 date for the acquisition of the needed funding and personnel. If funding is not acquired by
88.24 this date, the conditional approval of the POTW pretreatment program and any removal
88.25 ~~allowances~~ credits granted to the POTW authority may be modified or withdrawn.

88.26 **7049.0970 MODIFICATION OF POTW PRETREATMENT PROGRAMS.**

89.1 Either the agency or a POTW with an approved POTW pretreatment program may
89.2 initiate program modification at any time to reflect changing conditions at the POTW.
89.3 Program modification is necessary whenever there is a significant change in the operation
89.4 of a POTW pretreatment program that differs from the information in the POTW's
89.5 submission, as approved under parts 7049.0800 to 7049.0960.

89.6 **7049.0980 SUBSTANTIAL MODIFICATIONS DEFINED.**

89.7 Substantial modifications include:

89.8 A. modifications that relax POTW legal authorities, as described in part
89.9 7049.0820, except for modifications that directly reflect a revision to this chapter and
89.10 are reported pursuant to part 7049.1000;

89.11 B. modifications that relax local limits, except for the modifications to local
89.12 limits for pH and reallocations of the maximum allowable industrial loading of a pollutant
89.13 that do not increase the total industrial loadings for the pollutant, which are reported
89.14 pursuant to part 7049.1000. "Maximum allowable industrial loading" means the total
89.15 mass of a pollutant that all industrial users of a POTW, or a subgroup of industrial users
89.16 identified by the POTW authority, may discharge pursuant to limits developed under
89.17 part 7049.0850;

89.18 C. changes to the POTW's control mechanism, as described in part 7049.0890;

89.19 D. a decrease in the frequency of self-monitoring or reporting required of
89.20 industrial users;

89.21 E. a decrease in the frequency of industrial user inspections or sampling by
89.22 the POTW;

89.23 F. changes to the POTW's confidentiality procedures; and

89.24 G. other modifications designated as substantial modifications by the agency
89.25 on the basis that the modification could:

90.1 (1) have a significant impact on the operation of the POTW's pretreatment
90.2 program;

90.3 (2) result in an increase in pollutant loadings at the POTW; or

90.4 (3) result in less stringent requirements being imposed on industrial users
90.5 of the POTW.

90.6 **7049.0990 APPROVAL PROCEDURES FOR SUBSTANTIAL MODIFICATIONS.**

90.7 Subpart 1. **Statement.** To request approval of a substantial modification as defined
90.8 under part ~~7049.0890~~ 7049.0980, the POTW authority shall submit to the agency
90.9 a statement of the basis for the desired program modification, a modified program
90.10 description as required by parts 7049.0880 to 7049.0920, or other documents the agency
90.11 determines to be necessary under the circumstances.

90.12 Subp. 2. **Agency action.** The agency shall approve or disapprove the modification
90.13 based on the requirements of parts 7049.0810 to 7049.0870 and using the procedures in
90.14 parts 7049.0930 to 7049.0960, except as provided in items A and B. The modification
90.15 becomes effective upon approval by the agency.

90.16 A. The agency need not publish a notice of decision under this part, provided
90.17 the notice of request for approval under part 7049.0940 states that the request will be
90.18 approved if no comments are received by a date specified in the notice, no substantive
90.19 comments are received, and the request is approved without change.

90.20 B. Notices required by this part may be performed by the POTW provided that
90.21 the agency finds that the POTW's notice otherwise satisfies part 7049.0940.

90.22 **7049.1000 APPROVAL PROCEDURES FOR NONSUBSTANTIAL**
90.23 **MODIFICATIONS.**

91.1 A. The POTW authority shall notify the agency of any nonsubstantial
91.2 modification at least 45 days prior to implementation by the POTW, in a statement as
91.3 provided for in part 7049.0990.

91.4 B. Within 45 days after the submission of the POTW's statement, the agency
91.5 shall notify the POTW of its decision to approve or deny the nonsubstantial modification,
91.6 except as provided in item C.

91.7 C. If the agency does not notify the POTW within 45 days of its decision to
91.8 approve or deny the modification, or to treat the modification as substantial under parts
91.9 7049.0980 and 7049.0990, the POTW authority may implement the modification.

91.10 **7049.1005 INCORPORATION IN PERMIT.**

91.11 Upon approval, modifications to a POTW's pretreatment program will be incorporated
91.12 into the POTW's national pollutant discharge elimination system permit. The modification
91.13 of a POTW's national pollutant discharge elimination system permit for the purposes of
91.14 incorporating modifications to the POTW's pretreatment program approved according to
91.15 parts 7049.0970 to 7049.1000 is a minor permit modification subject to the procedures
91.16 in part 7001.1150.

91.17 **7049.1010 LOCAL LIMITS RE-EVALUATION.**

91.18 Subpart 1. **Monitoring for local limit pollutants.** The POTW shall, for all pollutants
91.19 of concern, obtain sufficient data to allow the POTW authority to evaluate the need for
91.20 local limits and shall set local limits if they are needed. Monitoring shall be done at a
91.21 sensitivity adequate to evaluate the need for local limits and set local limits if needed.

91.22 Subp. 2. **Re-evaluation of local limits.** Each POTW authority shall periodically
91.23 re-evaluate its local limits and the need for local limits. The re-evaluation shall be done at
91.24 least once every five years unless otherwise provided in the POTW's national pollutant
91.25 discharge elimination system permit.

92.1 **7049.1020 ANNUAL PRETREATMENT REPORTS FOR DELEGATED POTW**
92.2 **PRETREATMENT PROGRAMS.**

92.3 A POTW authority with an approved delegated pretreatment program approved
92.4 under parts 7049.0800 to 7049.1005 shall submit a pretreatment annual report to the
92.5 agency for each calendar year. The report shall be submitted within 60 days after the
92.6 end of each calendar year, unless a different date is specified in the POTW's national
92.7 pollutant discharge elimination system permit. A POTW's first annual report meeting the
92.8 requirements of this part following approval of its pretreatment program under parts
92.9 7049.0930 to 7049.0960 shall be submitted no later than one year after approval of the
92.10 POTW's pretreatment program. The annual report shall describe the POTW's pretreatment
92.11 activities during the previous calendar year and shall include the following additional
92.12 information:

92.13 A. a summary of changes to the POTW's pretreatment program that have not
92.14 been previously reported to the agency;

92.15 B. an updated list of the ~~permittee's~~ POTW authority's significant industrial
92.16 users, including the summary total of significant industrial users and categorical industrial
92.17 users, and a list of additions to and deletions from the previously submitted list of
92.18 significant industrial users, with a brief explanation for each deletion. For each significant
92.19 industrial user, the following information shall be included:

92.20 (1) the significant industrial user's name;

92.21 (2) the significant industrial user's address;

92.22 (3) the criteria and parameters for which the significant industrial user
92.23 is significant;

92.24 (4) the category and subcategory of any applicable national categorical
92.25 pretreatment standards;

93.1 (5) whether or not the significant industrial user's ~~permit~~ individual control
93.2 mechanism is current or expired; and

93.3 (6) whether the significant industrial user is subject to local limits only or
93.4 local limits that are more stringent than the categorical pretreatment standards;

93.5 C. a list of categorical industrial users that are considered nonsignificant
93.6 categorical industrial users as defined in part 7049.0120, subpart 24, item D, or are subject
93.7 to reduced monitoring requirements under part 7049.0570, subpart 2;

93.8 D. a summary of the discharge monitoring data for each significant industrial
93.9 user for the reporting year. The summary shall include all available data and shall
93.10 accurately represent the discharge by the industrial user;

93.11 E. a summary of the inspection and sampling activities conducted by the POTW
93.12 during the reporting year to gather information and data regarding industrial users. The
93.13 summary shall include identification of the industrial users subject to surveillance by the
93.14 POTW and an indication of the type, such as inspection or sampling, and number of
93.15 surveillance activities performed;

93.16 F. a characterization of the compliance status of each significant industrial user
93.17 during the reporting year. The compliance characterization shall at least indicate status
93.18 as follows:

93.19 (1) no violations noted with discharge limits, and compliance with
93.20 monitoring and reporting requirements is sufficient to determine compliance with
93.21 discharge limitations;

93.22 (2) violations were noted with discharge limits or violations of monitoring
93.23 and reporting requirements that may have impaired the ~~permittee's~~ POTW authority's
93.24 ability to determine compliance with discharge limitations were noted, but the
93.25 noncompliance does not meet the definition of significant noncompliance;

94.1 (3) significant noncompliance; or

94.2 (4) status unknown;

94.3 G. for each significant industrial user that was out of compliance with required
94.4 pretreatment standards, a description of the standards or requirements that were violated.
94.5 For each significant industrial user in significant noncompliance, the reason for the
94.6 significant noncompliance, if known, and whether the significant industrial user was placed
94.7 on a compliance schedule for returning to compliance shall be included. If the significant
94.8 industrial user is on a compliance schedule, the date of final compliance shall be noted;

94.9 H. a summary of the enforcement actions taken by the POTW authority during
94.10 the reporting year. The summary shall include the names and addresses of the industrial
94.11 users that were the subject of enforcement action, the enforcement action taken, and
94.12 whether or not the industrial user has returned to compliance. The report shall also list
94.13 numbers of:

94.14 (1) significant industrial users in significant noncompliance with
94.15 compliance schedules;

94.16 (2) formal enforcement actions taken, such as administrative orders or
94.17 notices of violation;

94.18 (3) judicial actions taken against significant industrial users;

94.19 (4) significant industrial users with significant noncompliance published;

94.20 and

94.21 (5) significant industrial users that paid penalties;

94.22 I. a description of any upset, interference, or pass-through incident at the POTW
94.23 that the POTW authority knows or suspects were caused by industrial users of the
94.24 POTW system. The description shall include the reasons why the incidents occurred, the
94.25 corrective actions taken, and the industrial users responsible, if known. The report shall
95.1 also include an assessment of the effectiveness of the pretreatment program in preventing
95.2 interference, pass-through of pollutants, and contamination of sludge;

95.3 J. a summary of public participation activities to involve and inform the public.
95.4 This shall include a copy of the annual publication of significant noncompliance, if the
95.5 publication was needed to comply with part 7049.0830, item I; and

95.6 K. any other relevant information requested by the agency.