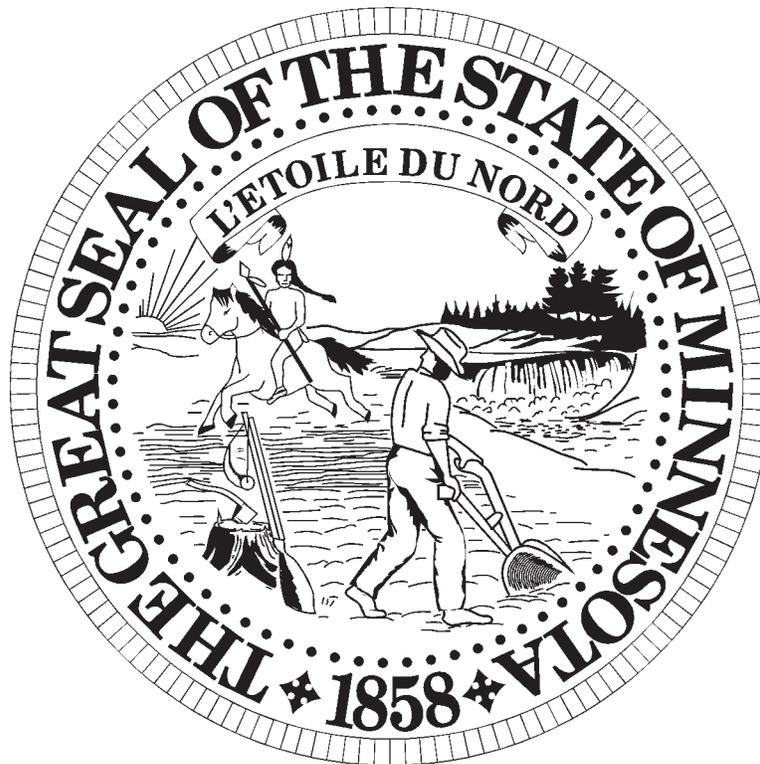


State of Minnesota

State Register



**Rules, Executive Orders, Appointments,
Commissioners' Orders, Revenue Notices, Official Notices, Grants,
State Contracts & Loans, Non-State Bids, Contracts & Grants**

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State Register

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The *State Register* is the official publication of the State of Minnesota, published weekly to fulfill the legislative mandate set forth in *Minnesota Statutes* § 14.46. The *State Register* contains:

- rules of state agencies
- commissioners' orders
- state grants and loans
- executive orders of the governor
- revenue notices
- contracts for professional, technical and consulting services
- non-state public bids, contracts and grants
- appointments
- official notices

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# 22	Monday 26 November	NOON MONDAY 19 NOVEMBER	Noon Wednesday 14 November
# 23	Monday 3 December	Noon Tuesday 27 November	Noon Wednesday 21 November
# 24	Monday 10 December	Noon Tuesday 4 December	Noon Wednesday 28 November
# 25	Monday 17 December	Noon Tuesday 11 December	Noon Wednesday 5 December

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Minnesota Rules: Amendments and Additions

NOTICE: How to Follow State Agency Rulemaking in the State Register

The *State Register* is the official source, and only complete listing, for all state agency rulemaking in its various stages. State agencies are required to publish notice of their rulemaking action in the *State Register*. Published every Monday, the *State Register* makes it easy to follow and participate in the important rulemaking process. Approximately 80 state agencies have the authority to issue rules. Each agency is assigned specific **Minnesota Rule** chapter numbers. Every odd-numbered year the **Minnesota Rules** are published. The current 1999 set is a 13-volume bound collection of all adopted rules in effect at the time. Supplements are published to update this set of rules. Generally speaking, proposed and adopted exempt rules do not appear in this set because of their short-term nature, but are published in the *State Register*.

An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* §§ 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, or within 60 days of the effective date of any new statutory grant of required rulemaking.

When rules are first drafted, state agencies publish them as **Proposed Rules**, along with a notice of hearing, or a notice of intent to adopt rules without a hearing in the case of noncontroversial rules. This notice asks for comment on the rules as proposed. Proposed emergency rules and withdrawn proposed rules are also published in the *State Register*. After proposed rules have gone through the comment period, and have been rewritten into their final form, they again appear in the *State Register* as **Adopted Rules**. These final adopted rules are not printed in their entirety in the *State Register*, only the changes made since their publication as Proposed Rules. To see the full rule, as adopted and in effect, a person simply needs two issues of the *State Register*, the issue the rule appeared in as proposed, and later as adopted. For a more detailed description of the rulemaking process, see the most current edition of the *Minnesota Guidebook to State Agency Services*.

The *State Register* features partial and cumulative listings of rules in this section on the following schedule: issues #1-13 inclusive; issues #14-25 inclusive; issue #26 cumulative for issues #1-26; issues #27-38 inclusive; issue #39, cumulative for issues #1-39; issues #40-51 inclusive; and issues #1-52 (or 53 in some years), cumulative for issues #1-52 (or 53). An annual subject matter index for rules was separately printed usually in August, but starting with Volume 19 now appears in the final issue of each volume. For copies or subscriptions to the *State Register*, contact Minnesota's Bookstore, 660 Olive Street (one block east of I-35E and one block north of University Ave), St. Paul, MN 55155 (612) 297-3000, or toll-free 1-800-657-3757.

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Comments on Planned Rules or Rule Amendments. An agency must first solicit Comments on Planned Rules or Comments on Planned Rule Amendments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency (*Minnesota Statutes* §§ 14.101). It does this by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking.

Rules to be Adopted After a Hearing. After receiving comments and deciding to hold a public hearing on the rule, an agency drafts its rule. It then publishes its rules with a notice of hearing. All persons wishing to make a statement must register at the hearing. Anyone who wishes to submit written comments may do so at the hearing, or within five working days of the close of the hearing. Administrative law judges may, during the hearing, extend the period for receiving comments up to 20 calendar days. For five business days after the submission period the agency and interested persons may respond to any new information submitted during the written submission period and the record then is closed. The administrative law judge prepares a report within 30 days, stating findings of fact, conclusions and recommendations. After receiving the report, the agency decides whether to adopt, withdraw or modify the proposed rule based on consideration of the comments made during the rule hearing procedure and the report of the administrative law judge. The agency must wait five days after receiving the report before taking any action.

Rules to be Adopted Without a Hearing. Pursuant to *Minnesota Statutes* § 14.22, an agency may propose to adopt, amend, suspend or repeal rules without first holding a public hearing. An agency must first solicit **Comments on Planned Rules** or **Comments on Planned Rule Amendments** from the public. The agency then publishes a notice of intent to adopt rules without a public hearing, together with the proposed rules, in the *State Register*. If, during the 30-day comment period, 25 or more persons submit to the agency a written request for a hearing of the proposed rules, the agency must proceed under the provisions of §§ 14.14-14.20, which state that if an agency decides to hold a public hearing, it must publish a notice of intent in the *State Register*.

KEY: Proposed Rules - Underlining indicates additions to existing rule language. ~~Strikeouts~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **Adopted Rules** - Underlining indicates additions to proposed rule language. ~~Strikeout~~ indicates deletions from proposed rule language.

Minnesota Pollution Control Agency

Environmental Analysis & Outcomes Division

Proposed Permanent Rules Relating to Pretreatment of Wastewater

Proposed New Rules Relating to Pretreatment of Wastewater from Industrial Users to be Codified in *Minnesota Rules* Chapter 7049, and Revisions to *Minnesota Rules* Chapter 7001 Relating to Water Quality Permitting

DUAL NOTICE: Notice of Intent to Adopt Rules Without a Public Hearing Unless 25 or More Persons Request a Hearing, and Notice of Hearing if 25 or More Requests for Hearing are Received

Introduction. The Minnesota Pollution Control Agency (MPCA) intends to adopt rules without a public hearing following the procedures set forth in the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310, and the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28. If, however, 25 or more persons submit a written request for a hearing on the rules by 4:30 p.m. on December 28, 2007, public video-conference hearings will be held at the MPCA office locations listed below from 9:00 a.m. to 4:30 p.m. on January 29, 2008. The Administrative Law Judge may elect to close the hearing sooner than the listed time on the date for the hearing if no more speakers are present. To find out whether the rules will be adopted without a hearing or if the hearing will be held, you should contact the MPCA contact person after December 28, 2007, and before January 29, 2008. All visitors to MPCA offices will be asked to sign-in and must provide photo identification, such as a driver's license, for building security purposes.

The hearing if required will be held in the 1st Floor Video Conference Room at the MPCA, 520 Lafayette Road North, St. Paul, Minnesota 55155.

The hearing can be viewed through video conference links at the following locations:

MPCA-St. Paul: 1st Floor Conference Room, 520 Lafayette Road North, St. Paul, Minnesota 55155

MPCA-Duluth: 525 Lake Avenue South, Suite 400, Duluth, Mn 55802

MPCA-Brainerd: 7678 College Road-Suite 105, Baxter, Mn 55802

MPCA-Willmar: 1601 East Highway 12 E, Suite 1, Willmar, Mn 56201

MPCA-Marshall: 1420 East College Drive, Suite 900, Marshall, Mn 56258

MPCA-Mankato: 1230 South Victory Drive, Mankato, Mn 56001

MPCA-Rochester: 18 Wood Lake Drive Southeast, Rochester, Mn 55904

MPCA-Detroit Lakes: 714 Lake Avenue, Suite 220, Detroit Lakes, MN 56501

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Video conference links are provided for the convenience of the public and are designed to allow the public an opportunity to participate in the hearings (i.e., provide testimony and enter relevant documents into the rule record). The 1st floor Video Conference Room location in St. Paul will be the location of the hearing record. The MPCA will be able to display any written documents presented at the hearing at all video conference sites. The hearing will not be rescheduled in the event that the video conferencing links to one or more regional office fails.

MPCA Contact Person. Comments or questions on the rules and written requests for a public hearing on the rules must be submitted to the MPCA contact person. The MPCA contact person is Randy Dunnette, Minnesota Pollution Control Agency, Water Quality Division, 520 Lafayette Road North, St. Paul, MN 55155-4194; telephone number: 651-296-8006 or toll free 1-800-657-3864; facsimile number: (651) 296-8717; and email: randall.dunnette@pca.state.mn.us. TTY users may call the MPCA at TTY (651) 292-5332 or 1-800-657-3864.

Subject of the Rules. The MPCA is proposing to create a new chapter of state water rules for the pretreatment regulatory program, to be codified in *Minnesota Rules*, chapter 7049, and to make minor revisions to *Minnesota Rules*, chapter 7001. The proposed new rules contain provisions to control the wastewater discharge from users of publicly owned treatment works (POTWs). The new rule will include requirements for POTWs to control industrial users (IUs), prohibitions and limitations applicable to IUs of POTWs, and reporting requirements for POTWs and IUs. The MPCA is proposing minor modifications to the existing rules governing water quality permits, *Minnesota Rules*, chapter 7001, by adding pretreatment related modifications to the lists of reasons to modify POTW permits.

Statutory Authority. The statutory authority to develop and adopt the proposed rules is set forth in *Minnesota Statutes*, chapter 115, and in federal regulations. Specifically, *Minnesota Statutes*, section 115.03, subdivision 1(e) and (g) provides the MPCA specific rulemaking authority for promulgating pretreatment rules. Additional authority is set forth in *Minnesota Statutes*, section 115.03, subdivision 5 which grants the MPCA the authority to promulgate rules needed to administer the National Pollutant Discharge Elimination System (NPDES) program. The MPCA is also the delegated Minnesota state agency to implement and administer the Clean Water Act pretreatment program. Under that delegation, the MPCA has duties, obligations, and authorities under Title 40 Code of Federal Regulations, part 403. Under the above cited statutes, the MPCA has the necessary statutory authority to adopt the proposed rules.

Availability of Rules. A copy of the proposed rules is published in the *State Register* and attached to this notice, or they can be viewed at the following MPCA Web site: <http://www.pca.state.mn.us/news/data/index.cfm?PN=1>. A free copy of the proposed rules is also available upon request by contacting Randy Dunnette at (651) 296-8006 or toll free at 1-800-657-3864. Only one free copy will be sent per request.

You have until 4:30 p.m. on December 28, 2007, to submit written comments in support of or in opposition to the proposed rule amendments. Your comments must be in writing and received by the MPCA contact person by the due date. Written comments may be submitted to the MPCA comment person at the address, facsimile number, or email address listed above. Comments are encouraged.

Your comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change desired. Any comments that you would like to make on the legality of the proposed rules must also be made during this comment period.

Request for a Hearing. In addition to submitting comments, you may also request that a hearing be held on the rules. Your request for a public hearing must be in writing and must be received by the MPCA contact person by 4:30 p.m. on December 28, 2007. Your written request for a public hearing must include your name and address. You must identify the portion of the proposed rules to which you object or state that you oppose the entire set of proposed rule amendments. Any request that does not comply with these requirements is not valid and cannot be counted by the MPCA when determining whether a public hearing must be held. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

Withdrawal of Requests. If 25 or more persons submit a valid written request for a hearing, the public hearing, scheduled above, will be held unless a sufficient number withdraw their requests in writing. If enough requests for a hearing are withdrawn to reduce the number below 25, the MPCA must give written notice of this to all persons who requested a hearing, explain any actions the MPCA took to effect the withdrawal, and invite written comments on this action. If a public hearing is required, the MPCA will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

Alternative Format/Accommodation. Upon request, this Dual Notice can be made available in an alternative format, such as large

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print, Braille, or cassette tape. To make such a request, or if you need an accommodation to make this hearing accessible, please contact the MPCA contact person at the address, telephone number, or email address listed above.

Modifications. The proposed rules may be modified, either as a result of public comment or as a result of the rule hearing process. Modifications must be supported by data and views submitted to the MPCA or presented at the hearing and the adopted rules may not be substantially different than these proposed rules, unless the procedure under *Minnesota Rules*, part 1400.2110, has been followed. If the proposed rules affect you in any way, you are encouraged to participate in the rulemaking process.

Cancellation of Hearing. The hearing scheduled for January 29, 2008, as indicated above, will be canceled if the MPCA does not receive timely requests from 25 or more persons that a hearing be held on the rules. If you requested a public hearing, the MPCA will notify you before the scheduled hearing whether or not the hearing will be held. You may also call the MPCA contact person, Randy Dunnette, at (651) 296-8006 after December 28, 2007, to find out whether the hearing will be held.

Notice of Hearing. If 25 or more persons submit valid written requests for a public hearing on the rules by 4:30 p.m. on December 28, 2007, a hearing will be held following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The hearing will be held on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard. Administrative Law Judge Eric L. Lipman is assigned to conduct the hearing. Judge Lipman can be reached at the Office of Administrative Hearings, P. O. Box 64620, St. Paul, Minnesota, 55164-0620, telephone number (651) 361-7842, and facsimile (651) 361-7936.

Hearing Procedure. If a hearing is held, you and all interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time before the close of the hearing record. All evidence presented should relate to the proposed rules. You may also submit written material to the Administrative Law Judge to be recorded in the hearing record for five working days after the public hearing ends. This five-day comment period may be extended for a longer period not to exceed 20 calendar days, if ordered by the Administrative Law Judge at the hearing. Following the comment period, there is a five-working-day rebuttal period during which the MPCA and any interested person may respond in writing to any new information submitted. No additional evidence may be submitted during the five-day rebuttal period. All comments and responses submitted to the Administrative Law Judge must be received at the Office of Administrative Hearings no later than 4:30 p.m. on the due date. All comments or responses received will be available for review at the Office of Administrative Hearings. This rule hearing procedure is governed by *Minnesota Rules*, parts 1400.2000 to 1400.2240, and *Minnesota Statutes*, sections 14.131 to 14.20. Questions about procedure may be directed to the Administrative Law Judge.

The MPCA requests that any person submitting written views or data to the Administrative Law Judge prior to the hearing or during the comment or rebuttal period also submit a copy of the written views or data to the MPCA contact person at the address stated above.

Statement of Need and Reasonableness. A statement of need and reasonableness (SONAR) is available from the MPCA by contacting Randy Dunnette at (651-296-8006). This SONAR contains a summary of the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. Copies of the SONAR may be obtained at the cost of reproduction from the MPCA. In addition, the MPCA has placed a copy of the SONAR on its Web site at: <http://www.pca.state.mn.us/news/data/index.cfm?PN=1>.

Lobbyist Registration. *Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. Questions regarding this requirement may be directed to the Campaign Finance and Public Disclosure Board at: Suite 190, Centennial Building, 658 Cedar Street, St. Paul, MN 55155, telephone number (651) 296-5148 or 1-800-657-3889.

Request to Have MPCA Citizens' Board Make Decision on Rule if No Hearing is Required. If a hearing is required, the MPCA Citizens' Board will make the final decision on whether to adopt the proposed rules. However, even if a hearing is not required, you may submit a request to the MPCA Commissioner or an MPCA Citizens' Board member to have the MPCA Citizens' Board make the decision on whether to adopt the proposed rule amendments. Your request must be in writing, must state to whom it is directed, and must be received by the MPCA contact person by 4:30 p.m. December 28, 2007. Under *Minnesota Statutes*, section 116.02, when a public hearing is not required, the MPCA Citizens' Board will only make the decision on the rule if the MPCA Commissioner grants your request or if an MPCA Citizens' Board member makes a timely request that the decision be made by the MPCA Citizens' Board.

Adoption Procedure if No Hearing. If no hearing is required, the MPCA may adopt the rules after the end of the 30-day comment period. The rules and supporting documents will then be submitted to the Office of Administrative Hearings for review for legality. You

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may ask to be notified of the date the rules are submitted to the office. If you want to be so notified, or want to receive a copy of the adopted rules, or want to register with the MPCA to receive notice of future rule proceedings, submit your request to the MPCA contact person listed above.

Adoption Procedure After a Hearing. If a hearing is held, after the close of the hearing record, the Administrative Law Judge will issue a report on the proposed rules. You may ask to be notified of the date the Administrative Law Judge's report will become available, and can make this request at the hearing or in writing to the Administrative Law Judge. You may also ask to be notified of the date on which the MPCA adopts the rules and the rules are filed with the Secretary of State, and can make this request at the hearing or in writing to the MPCA contact stated above.

Order. I order that the rulemaking hearing be held at the date, time and location listed above.

Dated: November 14, 2007

Brad Moore, Commissioner
Minnesota Pollution Control Agency

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

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

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

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

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

For text of subs 1 and 2, see M.R.

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

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

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

For text of subp 4, see M.R.

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

Subpart 1. **Requirement.** According to part 7001.0150, subpart 2, a national pollutant discharge elimination system permit issued by the agency must contain conditions necessary for the permittee to achieve compliance with all Minnesota or federal statutes or rules. These conditions must be initially established by the commissioner in the draft permit but are subject to final issuance by the agency. The conditions to be included are given in ~~subpart subparts~~ 2 to 9.

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

Subp. 6. **Pretreatment requirements for publicly owned treatment works.** If the applicant proposes to own or operate a publicly owned treatment works and if the applicant is required by ~~Code of Federal Regulations, title 40, section 403.8~~ part 7049.0800 to develop a publicly owned treatment works pretreatment program, the commissioner shall:

A. incorporate the provisions of the approved publicly owned treatment works pretreatment program into the permit and shall require the permittee to submit the information set forth in Code of Federal Regulations, title 40, section 403.12: part 7049.1020; or

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

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

7001.1090 GENERAL CONDITIONS OF NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMITS.

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

Subp. 3. Permits for publicly owned treatment works.

A. A National Pollutant Discharge Elimination System permit issued by the agency to a publicly owned treatment works must require the permittee to report the following to the commissioner as soon as possible: control their industrial users and report their significant industrial users and pretreatment activities to the agency as required by chapter 7049.

A. the new introduction of pollutants into the publicly owned treatment works from an indirect discharger that would be subject to the requirements of section 301 or 306 of the Clean Water Act, *United States Code*, title 33, section 1311 or 1316 as amended if it were directly discharging those pollutants;

B. a substantial change in the volume or character of pollutants being introduced into the publicly owned treatment works by a source that was introducing pollutants into the publicly owned treatment works at the time the permit was issued; and Permits issued to publicly owned treatment works that do not operate a federal delegated pretreatment program, as defined in part 7049.0120, subpart 7, shall contain or reference the pretreatment requirements applicable to nondelegated publicly owned treatment works, which are found in parts 7049.0600 to 7049.0720, and shall require the permittee to notify the agency of any of its industrial users that may be subject to national categorical pretreatment standards.

C. the quantity and quality of the additional or changed effluent being received by the publicly owned treatment works and the anticipated impact on the effluent to be discharged by the publicly owned treatment works Permits issued to publicly owned treatment works that operate a federal delegated pretreatment program, as defined in part 7049.0120, subpart 7, shall contain pretreatment requirements based on parts 7049.0600 to 7049.0650 and 7049.0800 to 7049.1020 and the publicly owned treatment work's approved pretreatment program.

7001.1150 MODIFICATION, REVOCATION, AND REISSUANCE OF PERMITS.

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

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

A. the commissioner finds that there is a need to put a publicly owned treatment works on a compliance schedule for the development of a pretreatment program because the addition of pollutants into a publicly owned treatment works by an industrial user or combination of industrial users presents a substantial hazard to the functioning of the treatment works, the quality of the receiving waters, or the environment;

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

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

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

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

GENERAL PROVISIONS

7049.0100 PURPOSE, OBJECTIVE, AND INTENT.

This chapter implements the requirements of the federal general pretreatment regulations in *Code of Federal Regulations*, title 40, part 403, and the pretreatment provisions of national categorical pretreatment regulations in *Code of Federal Regulations*, title 40, chapter I, subchapter N, and implements the authorities of *Minnesota Statutes*, section 115.03, subdivision 1, paragraph (e), clause (2). This chapter establishes the responsibilities of the state, local governments, and the public to control pollutants introduced into a publicly owned treatment works (POTW) and prevent the introduction of pollutants into a POTW. This chapter is intended to:

A. prevent the introduction of pollutants that are incompatible with a POTW plant;

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

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

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

7049.0110 APPLICABILITY.

This chapter applies to:

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

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

C. POTWs that receive wastewater from nondomestic sources.

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

7049.0120 DEFINITIONS.

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

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

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

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

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

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

A. the receiving POTW authority is the control authority for purposes of preventing interference or passthrough and for implementing all local pretreatment prohibitions, limitations, or requirements, including limitations required by this chapter; and

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

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

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

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

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

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

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

Subp. 11. **New source.**

A. "New source" means any building, structure, facility, or installation from which there is or may be a discharge of pollutants, the construction of which commenced after the publication of proposed national categorical pretreatment standards under section 307(c) of the Clean Water Act, *United States Code*, title 33, which will be applicable to the source if the categorical standards are adopted according to that section, provided that:

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

(2) the building, structure, facility, or installation totally replaces the process or production equipment that causes the discharge of

pollutants at an existing source; or

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

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

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

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

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

(b) significant site preparation work including, but not limited to, clearing, excavation, or removal of existing buildings, structures, or facilities that is necessary for the placement, assembly, or installation of new source facilities or equipment; or

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

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

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

Subp. 14. **POTW authority.** “POTW authority” means the governmental authority that holds the permit for a POTW plant.

Subp. 15. **POTW collection system.** “POTW collection system” means the sewers, pipes, appurtenances, and other conveyances used to convey wastewater to a POTW plant. This definition includes the physical plant and processes of the POTW collection system and the personnel who operate and maintain the POTW collection system.

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

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

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

Subp. 19. **Pretreatment standard.** “Pretreatment standard” means any state or local law, rule, or ordinance containing pollutant discharge limits or prohibitions, applicable to discharges to a POTW.

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

Subp. 21. **Receiving POTW.** “Receiving POTW” means the POTW that receives the wastewater discharge from an industrial user.

Subp. 22. **Regulated process waste stream or regulated process.** “Regulated process waste stream” or “regulated process” means a wastewater stream or process that is subject to national categorical pretreatment standards.

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Subp. 23. Required pretreatment standard. “Required pretreatment standard” means a pretreatment standard that a POTW is required to implement and enforce as set forth in part 7049.0650.

Subp. 24. Significant industrial user.

A. “Significant industrial user” means an industrial user that:

(1) contributes five percent or more of the flow or load of any pollutant of concern to the receiving POTW;

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

(3) discharges 25,000 gallons per day or more of process wastewater to the receiving POTW.

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

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

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

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

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

(3) never discharges any untreated concentrated wastewater.

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

A. chronic violations of wastewater discharge limits, defined in this part as those in which 66 percent or more of all of the measurements taken during a six-month period exceed, by any magnitude, a numeric pretreatment standard or requirement;

B. technical review criteria (TRC) violations, defined in this part as those in which 33 percent or more of all of the measurements for each pollutant parameter taken during a six-month period equal or exceed the product of a numeric pretreatment standard or requirement multiplied by the applicable TRC (TRC = 1.4 for BOD, TSS, fats, oil, and grease, and 1.2 for all other pollutants except pH);

C. any other violation of a pretreatment standard or requirement that the POTW determines has caused, alone or in combination with other discharges, interference or pass-through, including endangering the health of POTW personnel or the general public;

D. any discharge of a pollutant that has caused imminent endangerment to human health, welfare, or the environment or has resulted in the receiving POTW authority’s exercise of its emergency authority to halt or prevent such a discharge;

E. failure to meet, within 90 days after the scheduled date, a compliance schedule milestone contained in a local control mechanism or enforcement order for starting construction, completing construction, or attaining final compliance;

F. failure to provide, within 45 days after the due date, required reports such as baseline monitoring reports, 90-day compliance reports, periodic self-monitoring reports, and reports on compliance with compliance schedules;

G. failure to accurately report noncompliance; or

H. any other violation or group of violations, which may include a violation of best management practices, that the POTW authority determines will adversely affect the operation or implementation of the local pretreatment program.

Subp. 26. Slug discharge. “Slug discharge” means a discharge of a nonroutine, episodic nature, including, but not limited to, an accidental spill or a noncustomary batch discharge, which has a reasonable potential to cause interference or pass-through or in any other way violate the POTW’s regulations, local limits, or permit conditions.

7049.0130 LOCAL LAW.

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

7049.0140 PRETREATMENT STANDARDS; PROHIBITED DISCHARGES.

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

Subp. 2. General prohibitions. An industrial user shall not introduce any pollutants that cause pass-through or interference.

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

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

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

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

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

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

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

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

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

7049.0150 AFFIRMATIVE DEFENSE FOR VIOLATIONS.

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

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

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

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

7049.0160 CONFIDENTIALITY.

Except for data determined to be confidential according to *Minnesota Statutes*, section 116.075, subdivision 2, all reports required by this chapter must be available for public inspection. Effluent data is not confidential. To request the agency to maintain data as confidential, the POTW authority or industrial user supplying the information must comply with part 7000.1300.

7049.0161 CRIMINAL VIOLATIONS.

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

7049.0162 RECORD KEEPING.

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

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

B. the dates analyses were performed;

C. who performed the analyses;

D. the analytical techniques or methods used; and

E. the results of the analyses.

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

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

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

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

7049.0163 INFORMATION, RECORDS, AND ACCESS.

Subpart 1. Duty to provide information. A person who is operating or responsible for or who might otherwise have information concerning an indirect discharge has a duty, when requested by the agency, to furnish to the agency any information the person has, may have, or may readily obtain that is relevant to the indirect discharge.

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

Subp. 3. Access to information and property. The agency, or a member, employee, or agent authorized by the agency, upon presentation of credentials, may enter upon any property, public or private, for the purpose of taking any action authorized by this chapter, including obtaining information from a person who has a duty to provide the information under subpart 1, examining records, or conducting surveys or investigations of any indirect discharge.

PROVISIONS FOR INDUSTRIAL USERS IN GENERAL

7049.0200 REPORTING AND MONITORING.

Subpart 1. Reporting requirements for significant industrial users. Significant industrial users shall submit to the control authority at least once every six months or as frequently as required by the control authority, on dates specified by the control authority, a description of the nature, concentration, and flow of the pollutants required to be reported by the control authority. In cases where a local limit requires compliance with a best management practice or pollution control alternative, the industrial user must submit documentation required by the control authority to determine the compliance status of the industrial user.

Subp. 2. Monitoring of significant industrial users. All monitoring performed to provide information on a discharge from a significant industrial user must be representative of the industrial process discharge or the total discharge from the significant industrial user to the receiving POTW, except when monitoring for compliance with categorical pretreatment standards requires that the monitoring be representative of a specific process wastewater. All periodic monitoring reports required by this chapter must be based upon data obtained during the period covered by the report and on sampling and analysis performed in the period covered by the report and must be performed according to the techniques described in *Code of Federal Regulations*, title 40, part 136, as amended. The data must be representative of conditions occurring during the reporting period.

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

Subp. 4. Types of samples. Grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds. For all other pollutants, 24-hour composite samples must be obtained through flow-proportional composite sampling techniques, unless time-proportional composite sampling or grab sampling is authorized by the control authority. When time-proportional composite sampling or grab sampling is authorized by the control authority, the samples must be representative of the discharge and the decision to allow the alternative sampling must be documented in the industrial user's file for that facility or facilities. Using protocols, including appropriate preservation, specified in *Code of Federal Regulations*, title 40, part 136, and appropriate Environmental Protection Agency guidance, multiple grab samples collected during a 24-hour period may be composited prior to the analysis as follows: for cyanide, total phenols, and sulfides, the samples may be composited in the laboratory or in the field and for volatile organics and oil and grease, the samples may be composited in the laboratory. Composite samples for other parameters unaffected by the compositing procedures documented in approved Environmental Protection Agency methodologies may be authorized by the control authority, as appropriate. For sampling required in support of baseline monitoring and 90-day compliance reports required in parts 7049.0500 to 7049.0570, a minimum of four grab samples must be used for pH, cyanide, total phenols, oil and grease, sulfide, and volatile organic compounds for facilities for which historical sampling data do not exist. For facilities for which historical sampling data are available, the control authority may authorize a lower minimum. For the periodic monitoring reports required by this part and part 7049.0570, the control authority shall require the number of grab samples necessary to assess and ensure compliance by industrial users with applicable pretreatment standards and requirements.

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

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

7049.0210 NOTICE.

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

Subp. 2. Notification and repeat sampling in case of violation. If sampling performed by an industrial user indicates a violation, the industrial user shall notify its control authority, and its receiving POTW if the POTW is not the control authority, within 24 hours of becoming aware of the violation. The industrial user shall repeat the sampling and analysis and submit the results of the repeat analysis to its control authority within 30 days after becoming aware of the violation. When the POTW has performed the sampling and analysis in lieu of the industrial user, the POTW must perform the repeat sampling and analysis unless it notifies the user of the violation and requires the user to perform the repeat analysis. Resampling is not required if:

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

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

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

Subp. 4. Sewered hazardous waste notification.

A. If an industrial user discharges 15 kilograms or more of a substance in any month into a POTW that, if otherwise disposed of, would be a hazardous waste under chapter 7045, or if an industrial user discharges any amount of a substance into a POTW that, if otherwise disposed of, would be an acute hazardous waste under chapter 7045, the industrial user must submit a written sewered hazardous waste notification to the receiving POTW, the Environmental Protection Agency regional waste management division director, and the agency hazardous waste program. Any notification under this subpart need be submitted only once for each hazardous waste discharged. However, notifications of changed discharges must be submitted under subpart 3.

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

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

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

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

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

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

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

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

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

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

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

7049.0220 SIGNATORY REQUIREMENTS FOR INDUSTRIAL USER REPORTS.

A. All required reports must be signed by:

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

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

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

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

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

(1) a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function or any other person

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who performs similar policy or decision-making functions for the corporation; or

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

(a) the manager is authorized to make management decisions that govern the operation of the regulated facility, including having the explicit or implicit duty of making major capital investment recommendations, and initiate and direct other comprehensive measures to ensure longterm compliance with environmental laws and regulations;

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

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

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

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

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

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

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

PROVISIONS FOR CATEGORICAL INDUSTRIAL USERS

7049.0300 APPLICATION OF CATEGORICAL STANDARDS.

Subpart 1. Requirements to comply.

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

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

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

D. The agency control authority may be implemented via general and individual state disposal system permits or other regulatory documents. Industrial users subject to national categorical pretreatment standards for whom the agency is the control authority shall maintain onsite plans and specifications for pretreatment needed to comply with pretreatment standards.

Subp. 2. Deadline for compliance with national categorical pretreatment standards. The deadline for compliance with national categorical pretreatment standards is the compliance date contained in the applicable regulation listed in part 7049.0310, but not later than three years after the effective date of the applicable regulation. A new source shall install, have in operating condition, and start up all pollution control equipment required to meet applicable categorical pretreatment standards before beginning to discharge. Within the shortest feasible time, not to exceed 90 days, a new source must meet all applicable categorical pretreatment standards. Existing sources that become industrial users subsequent to adoption of an applicable categorical pretreatment standard shall be considered existing industrial users, except when the sources meet the definition of a new source.

Subp. 3. Concentration and mass limits.

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

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

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

production.

D. A control authority calculating equivalent concentration limitations under item B shall calculate the limitations by dividing the mass limitations derived under item C by the average daily flow rate of the industrial user's regulated process waste stream. The average daily flow rate shall be based on a reasonable measure of the industrial user's actual long-term average flow rate, such as the average daily flow rate during the representative year.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7049.0310 NATIONAL CATEGORICAL PRETREATMENT STANDARDS ADOPTED.

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

<u>Point Source Category</u>	<u>CFR Cite</u>
A. <u>Grain milling</u>	<u>40 CFR 406</u>
B. <u>Concentrated animal feeding operations</u>	<u>40 CFR 412</u>
C. <u>Electroplating</u>	<u>40 CFR 413</u>
D. <u>Organic chemicals, plastics, and synthetic fibers</u>	<u>40 CFR 414</u>
E. <u>Inorganic chemicals manufacturing</u>	<u>40 CFR 415</u>
F. <u>Soap and detergent manufacturing</u>	<u>40 CFR 417</u>
G. <u>Fertilizer manufacturing</u>	<u>40 CFR 418</u>
H. <u>Petroleum refining</u>	<u>40 CFR 419</u>
I. <u>Iron and steel manufacturing</u>	<u>40 CFR 420</u>
J. <u>Nonferrous metal manufacturing</u>	<u>40 CFR 421</u>
K. <u>Steam electric power generating</u>	<u>40 CFR 423</u>
L. <u>Ferroalloy manufacturing</u>	<u>40 CFR 424</u>
M. <u>Leather tanning and finishing</u>	<u>40 CFR 425</u>
N. <u>Glass manufacturing</u>	<u>40 CFR 426</u>
O. <u>Asbestos manufacturing</u>	<u>40 CFR 427</u>
P. <u>Rubber manufacturing</u>	<u>40 CFR 428</u>
Q. <u>Timber products processing</u>	<u>40 CFR 429</u>

R. <u>Pulp, paper, and paperboard</u>	40 CFR 430
S. <u>Builder's paper and board mills</u>	40 CFR 431
T. <u>Metal finishing</u>	40 CFR 433
U. <u>Centralized waste treatment</u>	40 CFR 437
V. <u>Pharmaceutical manufacturing</u>	40 CFR 439
W. <u>Transportation equipment cleaning</u>	40 CFR 442
X. <u>Incinerators</u>	40 CFR 444
Y. <u>Landfills</u>	40 CFR 445
Z. <u>Paint formulating</u>	40 CFR 446
AA. <u>Ink formulating</u>	40 CFR 447
BB. <u>Pesticide chemicals</u>	40 CFR 455
CC. <u>Battery manufacturing</u>	40 CFR 461
DD. <u>Metal molding and casting</u>	40 CFR 464
EE. <u>Coil coating</u>	40 CFR 465
FF. <u>Porcelain enameling</u>	40 CFR 466
GG. <u>Aluminum forming</u>	40 CFR 467
HH. <u>Copper forming</u>	40 CFR 468
II. <u>Electrical and electronic components</u>	40 CFR 469
JJ. <u>Nonferrous metal forming and metal powders</u>	40 CFR 471

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

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

7049.0350 COMBINED WASTE STREAM FORMULA.

Subpart 1. General.

A. The combined waste stream formula described in this part is used to derive fixed alternative discharge limits to be applied to the mixed effluent when waste streams subject to national categorical pretreatment standards are mixed with waste streams subject to other categorical standards or waste streams not subject to categorical standards. Alternative discharge limits may be derived using the combined

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waste stream formula by the control authority or by the industrial user with the prior written concurrence of the control authority. Alternative limits must be derived for all applicable limits. When deriving alternative categorical limits, the control authority or industrial user shall calculate both an alternative daily maximum value using the daily maximum values specified in the appropriate categorical pretreatment standards and an alternative consecutive sampling day average value using the monthly average values specified in the appropriate categorical pretreatment standards. The industrial user shall comply with the alternative daily maximum and monthly average limits fixed by the control authority until the control authority modifies the limits or approves an industrial user modification request. Modification is authorized whenever there is a material or significant change in the values used in the calculation to fix alternative limits for the regulated pollutant. An industrial user must immediately report any material or significant change to the control authority. If appropriate, new alternative categorical limits shall be calculated within 30 days. The industrial user may change monitoring points only after receiving prior written approval from the control authority. The control authority shall ensure that any change in an industrial user's monitoring points will not allow the user to substitute dilution for adequate treatment to achieve compliance with applicable standards.

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

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

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

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

C_c = the alternative concentration limit for the combined waste stream.

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

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

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

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

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

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

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

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

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

because:

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

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

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

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

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

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N = the total number of regulated streams.

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

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

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

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

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

7049.0360 DEFINITIONS FOR REMOVAL CREDITS.

For the purposes of parts 7049.0360 to 7049.0470:

A. “removal” means a reduction in the amount of a pollutant in a POTW’s effluent or alteration of the nature of a pollutant during treatment at the POTW. The reduction or alteration may be obtained by physical, chemical, or biological means and may be:

- (1) the result of specifically designed POTW capabilities; or
- (2) incidental to the operation of the treatment system.

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

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

7049.0370 APPLICATION FOR REMOVAL CREDITS.

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

7049.0380 CONDITIONS FOR AUTHORIZATION TO GIVE REMOVAL CREDITS.

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

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

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

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

(4) the granting of removal credits will not cause the POTW to violate the local, state, and federal sludge requirements that apply to the sludge management method chosen by the POTW. Alternatively, the POTW authority can demonstrate to the agency that even though it is not presently in compliance with applicable sludge requirements, it will be in compliance when the industrial users to whom the removal credit would apply are required to meet their categorical pretreatment standards as modified by the removal credit. Removal credits may be made available for the following pollutants:

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

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

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

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

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

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plant.

7049.0390 CALCULATION OF REVISED DISCHARGE LIMITS WITH REMOVAL CREDITS.

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

$$y = \frac{x}{1 - r}$$

where:

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

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

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

7049.0400 ESTABLISHMENT OF REMOVAL CREDITS; DEMONSTRATION OF CONSISTENT REMOVAL.

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

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

7049.0410 CONSISTENT REMOVAL DATA.

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

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

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

D. The data shall be representative of:

- (1) yearly and seasonal conditions to which the POTW is subjected; and
- (2) the quality and quantity of normal wastewater flows.

E. The influent and effluent operational data shall normally be obtained through 24-hour flow-proportional composite samples. Composite sampling may be done manually or automatically and discretely or continuously. For discrete sampling, at least 12 aliquots must be composited. Discrete sampling may be flow-proportioned either by varying the time interval between each aliquot or the volume of each aliquot. All composites must be flow-proportional to each stream flow at the time of collection of influent aliquot or to the total influent flow since the previous influent aliquot. Volatile pollutant aliquots must be combined in the laboratory immediately before analysis. If composite sampling is not an appropriate sampling technique, a grab sample shall be taken to obtain influent and effluent operational data. For example, a grab sample will be required when the parameters being evaluated are those, such as cyanide and phenol, that may not be held for any extended period because of biological, chemical, or physical interactions that take place after sample collection and affect the results. A grab sample is an individual sample collected over a period of time not exceeding 15 minutes.

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

- (1) the POTW authority elects to include detention time compensation; or
- (2) the agency requires detention time compensation.

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

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

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

7049.0420 PROVISIONAL REMOVAL CREDITS FOR NEW OR CHANGED FACILITIES.

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

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

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

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

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

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

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

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

B. If a POTW receives authority to grant conditional removal credits and the agency subsequently makes a final determination after appropriate notice that the POTW failed to comply with item A, the authority to grant conditional removal credits shall be terminated by the agency and all industrial users to whom the revised discharge limits had been applied shall achieve compliance with the applicable categorical pretreatment standard within a reasonable time, not to exceed the period of time prescribed in the applicable categorical pretreatment standard, as may be specified by the agency.

7049.0440 TERMINATION OF CONDITIONAL REMOVAL CREDITS.

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

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

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

- A. a list of pollutants for which removal credits are proposed;
- B. consistent removal data required under part 7049.0410;
- C. proposed revised discharge limits for each affected subcategory of industrial users calculated according to part 7049.0390;
- D. a certification that the POTW has an approved local pretreatment program or qualifies for the exception to the requirement in part 7049.0430;
- E. sludge management certification containing a specific description of the POTW's current methods of using or disposing of its sludge and a certification that the granting of removal credits will not cause a violation of the sludge requirements in part 7049.0380, item A, subitem (4); and
- F. a national pollutant discharge elimination system permit limit certification stating that the granting of removal credits will not cause a violation of the POTW's national pollutant discharge elimination system permit limits and conditions as required in part 7049.0380, item A, subitem (5).

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

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

7049.0460 AUTHORIZATION TO GIVE REMOVAL CREDITS.

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

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

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

7049.0470 MODIFICATION OR WITHDRAWAL OF REMOVAL CREDITS.

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

- A. one or more of the discharge limit revisions made by the POTW, or the POTW itself, no longer meets the requirements of part 7049.0380; or
- B. the discharge limit revisions are causing a violation of any conditions or limits contained in the POTW's national pollutant discharge elimination system permit.

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

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

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

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

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

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

7049.0480 NET/GROSS CALCULATION TO ADJUST CATEGORICAL STANDARDS.

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

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

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

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

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

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

7049.0485 FUNDAMENTALLY DIFFERENT FACTORS; VARIANCES TO CATEGORICAL STANDARDS.

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

7049.0490 UPSET AFFIRMATIVE DEFENSE FOR VIOLATIONS OF CATEGORICAL STANDARDS.

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

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

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

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

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

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

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

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

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

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

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

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

Subp. 8. **User responsibility in case of upset.** The industrial user shall control production or all discharges to the extent necessary to maintain compliance with categorical pretreatment standards upon reduction, loss, or failure of its treatment facility until the facility is restored or an alternative method of treatment is provided. This requirement applies when, among other things, the primary source of power of the treatment facility is reduced, lost, or fails.

7049.0495 BYPASS PROVISIONS FOR CATEGORICAL STANDARDS.

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

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

A. “bypass” means the intentional diversion of waste streams from any portion of an industrial user’s treatment facility; and

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

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

Subp. 4. **Notice.**

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

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

- (1) a description of the bypass and its cause;
- (2) the duration of the bypass, including exact dates and times;
- (3) if the bypass has not been corrected, the anticipated time it is expected to continue; and
- (4) steps taken or planned to reduce, eliminate, and prevent recurrence of the bypass.

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

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

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

- (1) the bypass was unavoidable to prevent loss of life, personal injury, or severe property damage;
- (2) there were no feasible alternatives to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or maintenance during normal periods of equipment downtime. This item is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass that occurred during normal periods of equipment downtime or preventive maintenance; and
- (3) the industrial user submitted notices as required in subpart 4.

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

7049.0500 BASELINE MONITORING REPORT AND APPLICATION FOR PERMIT.

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

7049.0510 DUE DATE OF BASELINE MONITORING REPORT AND APPLICATION FOR PERMIT.

A. The baseline monitoring report and application for permit shall be submitted within 180 days after the effective date of a categorical pretreatment standard, or 180 days after the final administrative decision made on a formal category determination submission under part

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7049.0310, subpart 2, whichever is later. Existing facilities subject to existing categorical pretreatment standards shall submit a baseline monitoring report and permit application within 180 days after the effective date of this chapter. At least 90 days prior to commencement of discharge, new sources, and sources that become industrial users subsequent to the adoption of an applicable categorical standard, shall submit a baseline monitoring report to the control authority. If reports containing this information have already been submitted, the industrial user need not submit the information again.

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

7049.0520 CONTENTS OF BASELINE MONITORING REPORT.

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

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

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

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

Subp. 5. **Flow measurement.** The user shall submit information showing the measured average daily and maximum daily flow, in gallons per day, to the POTW from regulated process waste streams and other streams as necessary to allow use of the combined waste stream formula provided in part 7049.0350. The control authority may allow for verifiable estimates of these flows when justified by cost or feasibility considerations.

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

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

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

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

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

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

7049.0530 CONTENTS OF APPLICATION.

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

A. sufficient information to enable the control authority to determine the correct category and subcategory;

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

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

D. information sufficient to correctly apply the combined waste stream formula, if the monitoring point proposed by the categorical industrial user includes multiple waste streams requiring the use of the combined waste stream formula under part 7049.0350. This may include identification and flows of the waste streams present at the monitoring point, plus engineering, production, sampling and analysis.

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and other information on each waste stream to allow the control authority to make all determinations necessary to correctly apply the combined waste stream formula.

7049.0540 MONITORING FOR BASELINE MONITORING REPORT.

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

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

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

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

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

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

7049.0550 BASELINE MONITORING REPORT COMPLIANCE SCHEDULE.

A. An industrial user submitting a baseline monitoring report that shows that the industrial user is not already in compliance with the categorical standard must submit with the baseline monitoring report the shortest schedule by which the industrial user will provide additional pretreatment or operation and maintenance to comply with the categorical regulation. The completion date in this schedule must not be later than the compliance date established for the applicable categorical pretreatment standard.

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

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

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

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

(2) the reason for the delay; and

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

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

7049.0560 90-DAY COMPLIANCE REPORT.

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

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

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

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

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

B. submit the results of sampling and analysis identifying the nature and concentration, or mass, when required by the categorical pretreatment standard or by the control authority, of regulated pollutants in the discharge from each regulated process. Both daily

maximum and average concentration, or mass, when required, shall be reported. The sample shall be representative of daily operations.

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

Subp. 6. Contents. For industrial users subject to equivalent mass or concentration limits established by the control authority according to part 7049.0300, subpart 2, for categories with production-based standards, the report must contain a reasonable measure of the user's long-term production rate. For all other industrial users subject to categorical pretreatment standards expressed in terms of allowable pollutant discharge per unit of production, or other measure of operation, the report must include the user's actual production during the appropriate sampling period.

7049.0570 PERIODIC REPORTS ON CONTINUED COMPLIANCE.

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

Subp. 2. Frequency of reports.

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

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

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

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

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

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

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

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

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

Subp. 3. Monitoring waiver.

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

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

C. The monitoring waiver is valid only for the duration of the effective period of the permit or other equivalent individual control

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mechanism, but in no case longer than five years. The user must submit a new request for the waiver before the waiver can be granted for each subsequent control mechanism.

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

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

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

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

G. In the event that a waived pollutant is found to be present or is expected to be present based on changes that occur in the user's operations, the user must immediately comply with the monitoring requirements of part 7049.0570, subparts 1 and 2, or other more frequent monitoring requirements imposed by the control authority, notify the control authority, and monitor for the previously waived pollutant that is found to be present.

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

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

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

Subp. 6. Production rate reporting. Industrial users shall report the user's production rate for the reporting period. If the limitations imposed on an industrial user are calculated using production, the report shall be a reasonable measure of the user's long-term production rate.

7049.0580 POTW MONITORING IN LIEU OF INDUSTRIAL USER SELF-MONITORING.

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

7049.0590 CERTIFICATION FOR REPORTS.

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

CERTIFICATION

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to ensure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted

is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties under law for submitting false information, including the possibility of fine and imprisonment for knowing violations.”

PROVISIONS FOR POTWS IN GENERAL

7049.0600 POTW RESPONSIBILITY TO CONTROL INDUSTRIAL USERS.

Subpart 1. General.

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

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

Subp. 2. Limits.

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

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

Subp. 3. Prohibited agreements and permits. A POTW authority shall not knowingly enter into an agreement with an industrial user or issue a permit to an industrial user that allows the industrial user to discharge wastewater that would cause interference or pass-through or cause a violation of part 7049.0140.

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

7049.0620 REPORTING.

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

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

7049.0630 SIGNATORY REQUIREMENTS FOR POTW REPORTS.

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

7049.0640 AGENCY DIRECT REGULATORY ACTION.

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

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

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

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

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7049.0650 POTW RESPONSIBILITY TO ENFORCE PRETREATMENT STANDARDS.

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

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

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

D. Delegated POTWs are also responsible for enforcing the categorical pretreatment standards in part 7049.0310.

PROVISIONS FOR NONDELEGATED POTWS

7049.0700 NOTIFICATION.

Subpart 1. General.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

7049.0710 MONITORING OF SIGNIFICANT INDUSTRIAL USERS.

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

7049.0720 PRETREATMENT ANNUAL REPORT; NONDELEGATED POTWS.

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

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

B. a current list of significant industrial users that discharge to the POTW. Additions and deletions shall be noted and reasons shall be given for deletions;

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

D. a summary of inspections and sampling of significant industrial users performed by the permittee;

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

F. a summary of enforcement actions taken against significant industrial users by the permittee;

G. a description of any upset, interference, or passthrough incident at the POTW that the permittee knows or believes were caused by industrial users of the POTW system. The description shall include the reasons why the incidents occurred, the corrective actions taken, and the industrial users responsible, if known;

H. an assessment of the effectiveness of the pretreatment program in preventing interference, passthrough of pollutants, and contamination of sludge; and

I. any other relevant information requested by the agency.

PROVISIONS FOR DELEGATED POTWS

7049.0800 POTWS REQUIRED TO DEVELOP PRETREATMENT PROGRAM.

A. Any POTW designated by the agency shall develop a federal delegated pretreatment program approvable under parts 7049.0800 to 7049.1020 according to the schedule contained in the respective POTWs national pollutant discharge elimination system permit. Schedules for the development of the POTW pretreatment program shall not exceed one year. A POTW shall be designated to develop a delegated pretreatment program if it has a design flow of five million gallons per day or more and has one or more significant industrial users, or when the agency finds that the nature or volume of the industrial influent, treatment process upsets, violations of POTW effluent limitations, contamination of municipal sludge, or other circumstances warrant in order to prevent interference with the POTW or passthrough.

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

7049.0810 DELEGATED LOCAL POTW PRETREATMENT PROGRAM REQUIREMENTS.

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

7049.0820 LEGAL AUTHORITY.

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

A. deny or condition new or increased contributions of pollutants, or changes in the nature of pollutants, to the POTW by industrial users when the contributions do not meet required pretreatment standards and requirements or when the contributions would cause the POTW to violate its national pollutant discharge elimination system permit;

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

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

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

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

(b) discharge the same types of wastes;

(c) require the same effluent limitations;

(d) require the same or similar monitoring; and

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

(2) to be covered by the general control mechanism, the significant industrial user must file a written request for coverage that identifies

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its contact information, production processes, the types of wastes generated, the location for monitoring all wastes covered by the general control mechanism, any requests under part 7049.0570, subpart 3, for a monitoring waiver for a pollutant neither present nor expected to be present in the discharge, and any other information the POTW deems appropriate. A monitoring waiver for a pollutant neither present nor expected to be present in the discharge is not effective in the general control mechanism until after the POTW has provided written notice to the significant industrial user that such a waiver request has been granted according to part 7049.0570, subpart 3. The POTW must retain a copy of the general control mechanism, documentation to support the POTW's determination that a specific significant industrial user meets the criteria in subitem (1), and a copy of the user's written request for coverage for three years after the expiration of the general control mechanism. A POTW may not control a significant industrial user through a general control mechanism when the facility is subject to productionbased categorical pretreatment standards or categorical pretreatment standards expressed as mass of pollutant discharged per day or for industrial users whose limits are based on the combined waste stream formula under part 7049.0350 or net/gross calculations under part 7049.0480; and

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

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

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

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

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

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

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

D. require:

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

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

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

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

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

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

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

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

G. comply with the confidentiality requirements in part 7049.0160.

7049.0830 PROCEDURES.

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

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- A. identify and locate all possible industrial users that might be subject to the POTW pretreatment program;
- B. identify the character and volume of pollutants contributed to the POTW by the industrial users identified under item A;
- C. notify industrial users identified under item A of applicable required pretreatment standards and any applicable requirements under this chapter and chapter 7045. The notification shall be made within 30 days of the designation of an industrial user as a significant industrial user;
- D. receive and analyze self-monitoring reports and other notices submitted by industrial users according to the self-monitoring requirements in parts 7049.0200, 7049.0210, and 7049.0500 to 7049.0570;
- E. randomly sample and analyze the effluent from industrial users and conduct surveillance activities to identify, independent of information supplied by industrial users, occasional and continuing noncompliance with required pretreatment standards;
- F. inspect and sample the effluent from each significant industrial user at least once a year, except:
 - (1) when the POTW has authorized the industrial user subject to a categorical pretreatment standard to forego sampling of a pollutant regulated by a categorical pretreatment standard under part 7049.0570, subpart 3, the POTW must sample for the waived pollutant at least once during the term of the categorical industrial user's control mechanism. In the event that the POTW subsequently determines that a waived pollutant is present or is expected to be present in the industrial user's wastewater based on changes that occur in the user's operations, the POTW must immediately begin at least annual effluent monitoring of the user's discharge and inspection;
 - (2) when the POTW has determined that an industrial user meets the criteria for classification as a nonsignificant categorical industrial user, the POTW must evaluate, at least once per year, whether an industrial user continues to meet the criteria in part 7049.0120, subpart 24, item D; and
 - (3) in the case of industrial users subject to reduced reporting requirements under part 7049.0570, subpart 2, the POTW must randomly sample and analyze the effluent from industrial users and conduct inspections at least once every two years. If the industrial user no longer meets the conditions for reduced reporting in part 7049.0570, subpart 2, the POTW must immediately begin sampling and inspecting the industrial user at least once a year;
- G. evaluate whether each significant industrial user needs a plan or other action to control slug discharges. For industrial users identified as significant prior to November 14, 2005, this evaluation must have been conducted at least once by October 14, 2006. Other significant industrial users must be evaluated within one year of being designated a significant industrial user. Significant industrial users must notify the POTW immediately of any changes at its facility affecting potential for a slug discharge. If the POTW authority decides that a slug control plan is needed, the plan shall contain, at a minimum, the following elements:
 - (1) a description of discharge practices, including nonroutine batch discharges;
 - (2) a description of stored chemicals;
 - (3) procedures for immediately notifying the POTW of slug discharges, including any discharge that would violate part 7049.0140, and procedures for follow-up written notification within five days; and
 - (4) if necessary, procedures to prevent adverse impact from accidental spills, including inspection and maintenance of storage areas, handling and transfer of materials, loading and unloading operations, control of plant site run-off, worker training, constructing containment structures or equipment, measures for containing toxic organic pollutants including solvents, and measures and equipment for emergency response;
- H. investigate instances of noncompliance with required pretreatment standards and requirements, as indicated in the reports and notices required under parts 7049.0200, 7049.0210, and 7049.0500 to 7049.0570, or indicated by analysis, inspection, and surveillance activities described in item E. Sample taking and analysis and the collection of other information shall be performed with sufficient care to produce evidence admissible in enforcement proceedings or in judicial actions; and
- I. comply with the public participation requirements of Code of Federal Regulations, title 40, part 25, in the enforcement of required pretreatment standards. Public participation procedures shall include provision for at least annual public notification, in one or more newspapers of general circulation that provides meaningful public notice within the jurisdictions served by the POTW, of significant industrial users that, at any time during the previous 12 months, were in significant noncompliance with applicable pretreatment standards and requirements and any industrial users that were in significant noncompliance because of violations of the criteria in part 7049.0120, subpart 25, item C, D, or H.

7049.0840 FUNDING.

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

7049.0850 LOCAL LIMITS.

The POTW authority shall develop and enforce specific limits to implement the prohibitions listed in part 7049.0140. POTWs may develop best management practices (BMPs) to implement these prohibitions. Any such BMPs are required pretreatment standards. The POTW authority shall continue to develop these limits as necessary or demonstrate that they are not necessary. The POTW authority

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shall effectively enforce the limits. Specific effluent limits shall not be developed and enforced without individual notice to persons or groups who have requested the notice and an opportunity to respond.

7049.0860 ENFORCEMENT RESPONSE PLAN.

The POTW authority shall develop and implement an enforcement response plan. The plan shall contain detailed procedures indicating how a POTW authority will investigate and respond to instances of industrial user noncompliance. The plan shall, at a minimum:

- A. describe how the POTW authority will investigate instances of noncompliance;
- B. describe the types of escalating enforcement responses the POTW authority will take in response to all anticipated types of industrial user violations and the time periods within which responses will take place;
- C. identify, by title, the officials responsible for each type of response; and
- D. adequately reflect the POTW authority's primary responsibility to enforce all applicable required pretreatment standards and requirements, as detailed in parts 7049.0820 and 7049.0830.

7049.0870 SIGNIFICANT INDUSTRIAL USER LIST.

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

7049.0880 SUBMITTAL FOR PRETREATMENT PROGRAM APPROVAL.

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

7049.0890 CONTENTS OF POTW DELEGATED PRETREATMENT PROGRAM SUBMISSION.

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

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

- (1) identify the provision of the legal authority under part 7049.0820 that provides the basis for each procedure under part 7049.0830;
- (2) identify the manner in which the POTW authority will implement the program requirements in parts 7049.0810 to 7049.0870 including the means by which required pretreatment standards will be applied to individual industrial users such as by order, permit, or ordinance; and

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

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

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

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

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

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

7049.0900 CONTENT OF REMOVAL ALLOWANCE SUBMISSION.

A POTW authority that desires to grant removal credits under parts 7049.0360 to 7049.0470 shall submit three copies of a request for

authority to revise categorical pretreatment standards that must contain the information required in part 7049.0450.

7049.0910 REQUEST FOR CONDITIONAL APPROVAL OF POTW PRETREATMENT PROGRAM.

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

- A. a limited aspect of the program does not need to be implemented immediately;
- B. the POTW authority has adequate legal authority and procedures to carry out those aspects of the program that will not be implemented immediately; and
- C. funding and personnel for the program aspects to be implemented at a later date will be available when needed. The POTW authority shall describe in the submission the mechanism by which the funding will be acquired.

7049.0920 CONSISTENCY WITH WATER QUALITY MANAGEMENT PLANS.

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

7049.0930 AGENCY ACTION.

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

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

- (1) notify the POTW that the submission has been received and is under review; and
- (2) commence the public notice and evaluation activities in parts 7049.0940 to 7049.0960.

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

7049.0940 PUBLIC NOTICE AND OPPORTUNITY FOR HEARING.

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

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

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

B. publication of a notice of request for approval of the submission in the largest daily newspaper within the jurisdictions served by the POTW.

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

Subp. 3. **Hearing.**

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

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

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

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

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7049.0950 REVIEW, APPROVAL, AND DECISION.

Subpart 1. Time for review.

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

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

Subp. 2. Environmental Protection Agency objections. A POTW pretreatment program or authorization to grant removal allowances must not be approved by the agency if, following the 30-day or extended public notice period provided for in part 7049.0940 and any hearing held pursuant to that notice, the Environmental Protection Agency regional administrator sets forth in writing objections to the approval of the submission and the reasons for the objections. A copy of the Environmental Protection Agency regional administrator's objections shall be provided to the applicant and each person who has requested individual notice. The Environmental Protection Agency regional administrator shall provide an opportunity for written comments and may convene a public hearing on the objections. Unless retracted, the Environmental Protection Agency regional administrator's objections shall constitute a final ruling to deny approval of a POTW pretreatment program or authorization to grant removal allowances 90 days after the date the objections are issued.

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

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

7049.0960 APPROVAL OF REQUEST FOR CONDITIONAL APPROVAL.

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

7049.0970 MODIFICATION OF POTW PRETREATMENT PROGRAMS.

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

7049.0980 SUBSTANTIAL MODIFICATIONS DEFINED.

Substantial modifications include:

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

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

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

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

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

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

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

- (1) have a significant impact on the operation of the POTW's pretreatment program;
- (2) result in an increase in pollutant loadings at the POTW; or
- (3) result in less stringent requirements being imposed on industrial users of the POTW.

7049.0990 APPROVAL PROCEDURES FOR SUBSTANTIAL MODIFICATIONS.

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

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

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

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

7049.1000 APPROVAL PROCEDURES FOR NONSUBSTANTIAL MODIFICATIONS.

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

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

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

7049.1005 INCORPORATION IN PERMIT.

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

7049.1010 LOCAL LIMITS REEVALUATION.

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

Subp. 2. **Reevaluation of local limits.** Each POTW authority shall periodically reevaluate its local limits and the need for local limits. The reevaluation shall be done at least once every five years unless otherwise provided in the POTW's national pollutant discharge elimination system permit.

7049.1020 ANNUAL PRETREATMENT REPORTS FOR DELEGATED POTW PRETREATMENT PROGRAMS.

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

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

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

- (1) the significant industrial user's name;
- (2) the significant industrial user's address;
- (3) the criteria and parameters for which the significant industrial user is significant;

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

(5) whether or not the significant industrial user's permit is current or expired; and

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

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

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

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

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

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

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

(3) significant noncompliance; or

(4) status unknown;

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

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

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

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

(3) judicial actions taken against significant industrial users;

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

(5) significant industrial users that paid penalties;

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

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

K. any other relevant information requested by the agency.

Exempt Rules

Exempt rules are excluded from the normal rulemaking procedures (*Minnesota Statutes* §§ 14.386 and 14.388). They are most often of two kinds. One kind is specifically exempted by the Legislature from rulemaking procedures, but approved for form by the Revisor of Statutes, reviewed for legality by the Office of Administrative Hearings, and then published in the *State Register*. These exempt rules are effective for two years only.

The second kind of exempt rule is one adopted where an agency for good cause finds that the rulemaking provisions of *Minnesota Statutes*, Chapter 14 are unnecessary, impracticable, or contrary to the public interest. This exemption can be used only where the rules:

- (1) address a serious and immediate threat to the public health, safety, or welfare, or
- (2) comply with a court order or a requirement in federal law in a manner that does not allow for compliance with *Minnesota Statutes* Sections 14.14-14.28, or
- (3) incorporate specific changes set forth in applicable statutes when no interpretation of law is required, or
- (4) make changes that do not alter the sense, meaning, or effect of the rules.

These exempt rules are also reviewed for form by the Revisor of Statutes, for legality by the Office of Administrative Hearings and then published in the *State Register*. In addition, the Office of Administrative Hearings must determine whether the agency has provided adequate justification for the use of this exemption. Rules adopted under clauses (1) or (2) above are effective for two years only. The Legislature may also exempt an agency from the normal rulemaking procedures and establish other procedural and substantive requirements unique to that exemption.

KEY: Proposed Rules - Underlining indicates additions to existing rule language. ~~Strikeouts~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." **Adopted Rules** - Underlining indicates additions to proposed rule language. ~~Strikeout~~ indicates deletions from proposed rule language.

Office of the Secretary of State Adoption of Proposed Exempt Rules Governing the Safe at Home Program, *Minnesota Rules*, Chapter 8290

ORDER ADOPTING RULES

WHEREAS:

1. All notice and procedural requirements in *Minnesota Statutes*, chapter 14, *Minnesota Rules*, chapter 1400, and other applicable law have been complied with.

2. These proposed rules are proposed and adopted pursuant to *Minnesota Statutes*, section 14.388.

3. *Minnesota Statutes* 5B.08 specifically directs that these rules may be proposed and adopted pursuant to section 14.388. The text of 5B.08 states:

Enactment of this section satisfies the requirements of section 14.388, subdivision 1 for the enactment of rules to facilitate the administration of this chapter by state and local agencies.

Although the statutory authorization does not specify under which clause the Office of the Secretary of State is to submit these rules, the Office of the Secretary of State is submitting these rules pursuant to 14.388, subdivision 1, clause (1). Based upon the nature of the Proposed Rules, the subject matter of these rules, and the nature of the clauses in section 14.388, it has been the understanding of this office that clauses (2), (3) and (4) do not apply, and that the authority is best understood as granted under section 14.388, subdivision 1, clause (1). Under such circumstances, a two-year duration seems appropriate.

4. In the process of preparing these Proposed Rules, the Office of the Secretary of State has met with many stakeholders, some more than once, who would interact with the program or the individuals who are program participants in the program. This includes:

Organization (in alphabetical order)

Organization	First Name	Last Name	Title
City of Maple Grove	Ramona	Dohman	Chief of Police
Connexus Energy	Duane	Arens	Community & Economic Development
Dakota Electric Association	Sherie	Wutschke	CIS/Billing Manager
Department of Administration	Katherine	Engler	State Program Administrator Coordinator, IPAD (Data Practices)

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Department of Corrections	Mary Jo	Caldwell	Assistant Field Services Director
Department of Corrections	Barbara	Cox	Government Relations Director
Department of Human Services	Lynne	Singlemann	Senior Administrative Officer
Department of Human Services	Steve	Barta	Legislative Coordinator
Department of Human Services	Phyllis	Hahn	Manager
Department of Human Services	Shannon	McMahon	Health Care Policy Analyst
Department of Human Services	Kathy	McDonough	Health Care Policy Analyst
Department of Human Services	Karen	Russell	Legislative Liaison
Department of Human Services	Anne	Martineau	CFS Legislative Liaison
Department of Public Safety	Lisa	Hager	Driver Services Coordinator
Department of Public Safety	Joan	Kopcinski	Driver Services Director
Department of Public Safety	E. Joseph	Newton	State Program Administrator
Department of Public Safety	Joseph	Bowler	Rules and Legislative Affairs
Department of Public Safety	Karin	Ehlert	Director of Government Relations
Department of Public Safety	Pat	McCormack	Director of Driver and Vehicle Services
Department of Public Safety	Tim	Leslie	Assistant Commissioner
Department of Public Safety	Cheri	Frandrup	Commander District 2400 MN State Patrol
Department of Public Safety	Janell	Rasmussen	Government Relations Administrator, BCA
Independent Community Bankers	Dave	Skilbred	Governmental Relations
Independent Community Bankers	Marshall	McKay	President / CEO
Melrose Telephone Co	Carol	Bertram	Director of Industry Relations
MN Association of County Officers	Dennis	Distad	Co-chair, Elections Committee
MN Association of County Officers	Patty	O'Connor	Co-chair, Elections Committee
MN Association of School Administrators	Charlie	Kyte	Executive Director
MN Bankers Association	Tess	Rice	General Counsel
MN Board of Peace Officer Standards & Training	Dee	Dodge	Legislative and Rules Coordinator
MN Business Partnership	Beth	Hartwig	Health Policy Director
MN Chamber of Commerce	David	Dederichs	Manager, Fiscal and Labor/Management Policy
MN Coalition for Battered Women	Carla	Ferrucci	Director of Public Policy
MN Coalition for Battered Women	Dorian	Eder	Systems Advocacy Coordinator
MN County Attorney Association	John	Kingrey	Executive Director
MN Court System	Janet	Marshall	Governmental Liaison
MN Court System	Michael	Johnson	Attorney
MN Rural Electric Association	Lee	Sundberg	Director of Government Affairs
MN Police and Peace Officers Association	Bill	Gillespie	Executive Director
MN Sheriffs' Association	James	Franklin	Executive Director
MN Telecom Alliance	Jerry	Knickerbocker	VP Government Relations
National Federation of Independent Business (NFIB – Minnesota)	Mike	Hickey	Governmental Relations
Office of the Governor	Robert A.	Schroeder	Deputy Chief of Staff
Office of the Governor	Karen	Janisch	Counsel to the Governor
Qwest	Joann	Hanson	Director-Regulatory
Sheila Wellstone Institute	Lonna	Stevens	Director
USPS	Danitra	Easton-Hage	Account Manager
Xcel Energy	Dan	Pfeiffer	Manager, MN Government Affairs
Xcel Energy	Pat	Boland	Supervisor, Personal Accounts Department
Xcel Energy	Rick	Evans	Director of Government Affairs

5. An explanation for each part or subpart of these proposed rules, including the statute by which the rule part or subpart is

authorized, is part of this order, labeled as Attachment D.

6. The proposed rules are attached to and are part of this Order and are labeled as Attachment C.

7. Notice of the submission of these Proposed Rules was given by publication of the Proposed Rules on the Web site of the Office of the Secretary of State on October 17, 2007, by electronically mailing the Proposed Rules to the one person on the Official Rulemaking Notice List of the Office of the Secretary of State, by electronically mailing the Proposed Rules to all of the members of the appropriate legislative committees with policy and fiscal oversight of the subject matter area (House State Government Finance Division, House Governmental Operations, Reform, Technology and Elections, Senate State Government Budget Division, Senate State and Local Government Operations and Oversight), and by delivery of the Proposed Rules by electronic mail to the stakeholders listed above with whom the Office of the Secretary of State met in preparing these Proposed Rules. A copy of that Notice is attached to this Order as Attachment A

8. An additional Notice was published in the State Register on Monday, September 10, 2007 at 32 SR 462, alerting the general public to the location on the Web site of the Secretary of State where the proposed rules would appear at the time of submission, and alerting the public that the submission would be published during the month of September, and that submission to the Administrative Law Judge and the simultaneous publication on the Web site of the text of the Proposed Rules would start the five-day comment period on these Proposed Rules. A copy of the Notice placed in the State Register is attached as Attachment B.

IT IS ORDERED that the abovecaptioned rule, in the form set out in the Revisor's draft, file number RD3738, dated 10/15/07, is adopted pursuant to authority vested in me by Minnesota Statutes, section 5B.08.

Mark Ritchie, Secretary of State

Attachment A – Sample Text of Notice to Legislators, Stakeholders, and Person on Rulemaking Notice List

October 17, 2007

Dear [Legislator][Stakeholder][Other],

As you know, in Laws 2006, Chapter 242, the Legislature authorized the Safe at Home program, a program designed to provide an additional safety strategy for survivors of domestic violence, sexual assault, or stalking. The law had a delayed effective date in 2007.

This program received funding in the State Government funding bill in the 2007 Legislative session. The law provides for the adoption of rules pursuant to Minnesota Statutes, section 14.388, the exempt rulemaking process.

The Office of the Secretary of State met with many stakeholders to understand their concerns with the implementation of the program. As you can see from the table in paragraph 4 of the accompanying Order Adopting Rules, there was a wide diversity of interested parties.

The Office is today submitting these rules to the Office of Administrative Hearings for review under section 14.388. This submission today starts a five business day comment period commencing Thursday, October 18, 2007 and ending Wednesday, October 24, 2007.

Written comments on these Proposed Rules should be directed to the Office of Administrative Hearings, at:

Personal Delivery:

600 North Robert Street (Stassen Building)
Saint Paul, Minnesota

Mailing Address:

Office of Administrative Hearings
P.O. Box 64620
Saint Paul MN 55164-0620

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Facsimile Transmission:

(651) 361-7936

You may also wish to contact the Office of Administrative Hearings with any questions at: (651) 361-7900 or by TTY at (651) 361-7878.

Comments may also be sent to my Office, in care of Bert Black, Legal Advisor and Rule Coordinator for this rule, at Bert.Black@state.mn.us, or at (651) 215-0682 (fax), or by mail to Mr. Black at:

Office of the Secretary of State
180 State Office Building
100 Rev. Dr. Martin Luther King, Jr. Boulevard
Saint Paul MN 55155.

Mr. Black will forward comments to the Office of Administrative Hearings. Comments should be received no later than Wednesday, October 24, 2007.

You may also call Mr. Black at (651) 201-1326 if you have any questions about the Proposed Rules.

Sincerely,

Mark Ritchie
Secretary of State

Attachment B – Notice in State Register – 32 SR 462

Office of the Secretary of State Proposed Exempt Permanent Rules Governing the Safe at Home Program

The Office of the Secretary of State (OSS) is authorized by *Minnesota Statutes*, section 5B.08, to adopt rules under *Minnesota Statutes*, section 14.388, also known as “exempt” or “good cause” rules. At the time the rules are submitted to the Office of Administrative Hearings (OAH) for review under *Minnesota Statutes*, section 14.388 by an Administrative Law Judge (ALJ), the public has five days in which to file comments with OAH with respect to these rules. OSS expects to submit the proposed exempt rules and start the five-day comment period during the month of September. This notice is in addition to the electronic notice on the OSS web site, and other electronic and hard copy notices required by *Minnesota Statutes*, chapter 14.

The text of the proposed exempt rules will be posted to the following web page at or before the time they are submitted to the ALJ:
<http://www.sos.state.mn.us/home/index.asp?page=753>

That Web page will also reflect the start and end dates of the five-day comment period.

The public is advised that the standards for review by the ALJ are set forth in *Minnesota Rules*, 1400.2100, Items A, D, E, F, and G, to wit:

1400.2100 STANDARDS OF REVIEW.

A rule must be disapproved by the judge or chief judge if the rule:

A. was not adopted in compliance with procedural requirements of this chapter, *Minnesota Statutes*, chapter 14, or other law or rule, unless the judge decides that the error must be disregarded under *Minnesota Statutes*, section 14.15, subdivision 5, or 14.26, subdivision 3, paragraph (d);

D. exceeds, conflicts with, does not comply with, or grants the agency discretion beyond what is allowed by, its enabling statute or other applicable law;

E. is unconstitutional or illegal;

F. improperly delegates the agency's powers to another agency, person, or group;

G. is not a "rule" as defined in *Minnesota Statutes*, section 14.02, subdivision 4, or by its own terms cannot have the force and effect of law;

For a further description of the "good cause" or "exempt" rulemaking process, please see the informative materials at:

<http://www.health.state.mn.us/rules/manual/11good-cause.doc>

If any citizen has questions about these proposed exempt rules, they should contact Bert Black, the rule coordinator for these rules, at the Office of the Secretary of State, 180 State Office Building, 100 Rev. Dr. Martin Luther King, Jr. Boulevard, Saint Paul MN 55155;

Phone: (651) 201-1326, **Toll-Free:** 1-877-600-8683, **TTY:** MN Relay Service – 1-800-627-3529, **Fax:** (651) 215-0682, **E-mail:** Bert.Black@state.mn.us.

[End of Notice]

This text is on the State Register Web site at: http://www.comm.media.state.mn.us/bookstore/stateregister/32_11.pdf at page 462.

And also on the Web site of the Office of the Secretary of State at: <http://www.sos.state.mn.us/home/index.asp?page=753>

Secretary of State Adopted Exempt Rules Governing the Safe at Home Program

8290.0100 DEFINITIONS.

Subpart 1. **Terms.** For purposes of this chapter, the terms defined in this part have the meanings given them.

Subp. 2. **Actual address.** "Actual address" means a residential street address in Minnesota of an individual, as specified on the individual's application to be a program participant under this chapter. It also means a school or work address of that individual, if specified on the application.

Subp. 3. **Applicant.** "Applicant" means an adult, a parent or guardian acting on behalf of an eligible minor, or a guardian acting on behalf of an incapacitated person, as defined in *Minnesota Statutes*, section 524.5-102.

Subp. 4. **Application assistant.** "Application assistant" means a person employed by a community-based program as defined in subpart 7 who has completed the training for application assistants approved by the secretary of state, or, only for the purposes of parts 8290.0300 and 8290.0800, a person designated by the secretary of state.

Subp. 5. **Certification.** "Certification" means that the secretary of state has determined that the eligible person meets the requirements for entering into or continuing in the program.

Subp. 6. **Change of identity.** "Change of identity" means that the program participant has changed her or his name and Social Security number in an attempt to sever all connections to a previous name.

Subp. 7. **Community-based program.** "Community-based program" means:

A. any office, institution, or center offering assistance to survivors of domestic violence, sexual assault, or stalking, as defined in *Minnesota Statutes*, section 13.822, subdivision 1;

B. any shelter facility as defined in *Minnesota Statutes*, section 611A.37, subdivision 4; or

C. any program designated by the Office of Justice Programs, the Department of Public Safety, or the commissioner of corrections pursuant to *Minnesota Statutes*, section 621.341, subdivision 4.

Subp. 8. **Criminal justice system management.** "Criminal justice system management" means that the eligible person has been convicted of a crime, is under supervision for that crime, and that supervision has residency-related conditions.

Subp. 9. **Designated address.** "Designated address" means the address assigned to the program participant by the secretary of state to be used by public and private persons other than the Safe at Home program.

Subp. 10. **Domestic violence.** "Domestic violence" means an act as defined in *Minnesota Statutes*, section 518B.01, subdivision 2, paragraph (a), or the threat of such acts, regardless of whether these acts or threats have been reported to law enforcement officers.

Subp. 11. **Eligible person.** "Eligible person" means an adult, a minor, or an incapacitated person, as defined in *Minnesota Statutes*, section 524.5-102, for whom there is good reason to believe:

A. that the eligible person is a victim of domestic violence, sexual assault, or stalking; or

B. that the applicant fears for her or his safety or the safety of persons on whose behalf the application is made.

Exempt Rules

Subp. 12. **Mail.** "Mail" means items specifically addressed to a program participant and delivered to the designated address by the United States Postal Service.

Subp. 13. **Mailing address.** "Mailing address" means the actual residential street address to which the secretary of state must forward a program participant's mail, except in those cases where the United States Postal Service provides no delivery service to the actual residential address, in which case the program participant may designate another address.

Subp. 14. **Minor child.** "Minor child" means an individual who has not attained the age of 18 residing with or under the guardianship of an adult applicant or program participant.

Subp. 15. **Permanent contact data.** "Permanent contact data" means the name of an individual, address, and telephone number through which an eligible person may be reached.

Subp. 16. **Program participant.** "Program participant" means an individual certified as a program participant under *Minnesota Statutes*, section 5B.03.

Subp. 17. **Program participant voter.** "Program participant voter" means a program participant who is eligible to vote under Minnesota law who registers to vote and registers for ongoing absentee ballot recipient status under part 8290.1400.

Subp. 18. **Safe at Home.** "Safe at Home" is the program authorized by *Minnesota Statutes*, chapter 5B.

Subp. 19. **Safe at Home card.** "Safe at Home card" means the official participation card issued by the secretary of state to each program participant.

Subp. 20. **Sexual assault.** "Sexual assault" means acts criminalized under *Minnesota Statutes*, sections 609.342 to 609.3453 and 609.352, or the threat of such acts, regardless of whether these acts or threats have been reported to law enforcement officers.

Subp. 21. **Stalking.** "Stalking" means acts criminalized under *Minnesota Statutes*, section 609.749, or the threat of such acts, regardless of whether these acts or threats have been reported to law enforcement officers.

8290.0300 APPLICATION.

Subpart 1. **Certification of program participant.** The secretary of state shall certify an eligible person as a program participant when the secretary of state receives a properly executed application that contains:

- A. the name and date of birth of the eligible person;
- B. the name and contact data of the applicant, if different;
- C. a listing of all minor children residing at the actual address, each minor child's date of birth, and each minor child's relationship to the applicant;
- D. a statement by the applicant that the applicant has good reason to believe that the eligible person is not applying for certification as a program participant in order to avoid prosecution for a crime and either:
 - (1) that the eligible person listed on the application has survived domestic violence, sexual assault, or stalking; or
 - (2) that the applicant fears for the eligible person's safety;
- E. a designation of the secretary of state as agent for purpose of service of process and for the purpose of receipt of mail;
- F. the mailing address and the telephone number or numbers and electronic mail address, if applicable, at which the applicant can be contacted by the secretary of state;
- G. the actual address or addresses of the eligible person that the applicant requests not be disclosed for the reason that disclosure shall increase the risk of domestic violence, sexual assault, stalking, or other risks to safety;
- H. a statement that the program participant shall not disclose her or his actual address or addresses to the batterer, stalker, or perpetrator of sexual assault, or other persons they fear;
- I. the number of motor vehicles owned by the eligible persons for whom the applicant is applying;
- J. a statement whether there are any pending or ongoing civil legal actions to which the eligible person is a party and the number of persons, if any, who are opposing parties in these orders or actions;
- K. a statement whether the eligible person is currently the subject of any pending or ongoing criminal actions, and, if so, the jurisdiction in which those actions are proceeding;
- L. a statement that the eligible person agrees to provide an actual address, upon request, to any supervising person if they are or become subject to criminal justice system management;
- M. the signature of the applicant and the date signed; and
- N. the signature of the application assistant and the date signed.

The application form must include a space for each applicant's permanent contact data.

Subp. 2. **Completion.** After January 1, 2008, the application must be completed in the presence of an application assistant.

Subp. 3. **Duties of applicant.** The applicant must provide all the information required on the application and indicate the applicant's relationship with the eligible person. The applicant must initial next to each item in the application to indicate that the applicant agrees to

those provisions.

Subp. 4. Notification to charging jurisdictions. If the applicant discloses on the application that the eligible person is currently the subject of pending or ongoing criminal legal action, the applicant must complete a form letter to notify each charging jurisdiction in these actions of the designated address and the designation of the secretary of state as agent for purposes of service of process. The secretary of state must provide form letters to all application assistants. The form letter must include a statement that any prospective service of process must be clearly labeled as service of process on the exterior of the envelope containing the service. The applicant must submit those letters to the application assistant who must submit the letters to the secretary of state with the application.

Subp. 5. Proof of identity. The applicant must also prove her or his identity by showing photo identification to the application assistant or must indicate on the application that she or he does not possess photo identification.

Subp. 6. Voter registration through secretary of state. In addition to other materials referred to in part 8290.0900, subpart 1, the application assistant must provide each applicant with a blank form letter requesting that any currently recorded voter registration of the eligible person be removed from the statewide voter registration system. At the time of application, the application assistant must also offer the applicant the opportunity to register to vote with the secretary of state and to register as an ongoing absentee voter with the secretary of state, pursuant to part 8290.1400 and *Minnesota Statutes*, section 5B.06. A voter registration application filled out in the presence of an application assistant and submitted by an application assistant is not considered registration by mail as provided in *Minnesota Statutes*, section 201.061.

Subp. 7. Opportunity for mailing list removal. At the time of application, the application assistant must also offer the applicant the opportunity to authorize the secretary of state to remove her or him from direct mailing lists.

Subp. 8. Submission by application assistant. The application assistant shall submit completed applications and any additional materials by first class mail to the secretary of state.

Subp. 9. Effective date. A properly completed application is effective on the day it is reviewed and certified by the secretary of state.

Subp. 10. Penalties. A person who falsely attests in an application or who knowingly provides false or incorrect information upon making an application is subject to penalties under *Minnesota Statutes*, section 5.15.

Subp. 11. Missing information. If the completed application does not meet the requirements of this part, the secretary of state shall contact the applicant listed on the application to obtain the missing information. The eligible person shall be certified only if the missing information is provided.

8290.0400 CERTIFICATION OF PROGRAM PARTICIPANT.

Subpart 1. Eligible person. An eligible person for whom a properly completed application or renewal is filed shall be certified by the secretary of state as a program participant.

Subp. 2. Minor child. A minor child residing at the actual address and listed on the application or renewal shall also be certified as a program participant.

Subp. 3. Duration. A program participant is certified for four years following the date the application or renewal is certified unless the certification is canceled or withdrawn before that date.

Subp. 4. Card issuance. An eligible person who is certified as a program participant shall be issued a Safe at Home card. The Safe at Home card shall include the program participant's name, designated address, certification expiration date, and a space for the signature of the program participant.

Subp. 5. Duties of secretary of state and program participant. Upon certification, the secretary of state shall, within two business days, mail the Safe at Home card to the program participant's mailing address with instructions on how to use the Safe at Home card. Upon receipt, the program participant must immediately sign the Safe at Home card. A program participant under the age of 11 may have her or his card signed by the adult responsible for the participant.

Subp. 6. Communication; verification of identity. The secretary of state must verify the identity of the applicant or program participant before discussing by telephone or electronic mail any data related to her or his certification or otherwise related to the applicant or program participant.

Subp. 7. Notification to other parties.

A. Upon certification as a program participant, if the program participant indicated on the application that there are pending or ongoing civil legal actions, the secretary of state shall provide the program participant with a blank form letter to notify all other parties in these actions of the designated address for the program participant and the designation of the secretary of state as agent for purposes of service of process. The form letter must include a statement that any prospective service of process must be clearly labeled as service of process on the exterior of the envelope containing the service. In addition to the blank form letter, the secretary of state must also provide instructions on the use of the letter.

B. If an application submitted to the secretary of state discloses that the eligible person is the subject of a pending or ongoing criminal legal action, the applicant or eligible person must have completed and submitted with the application the form letter described in part 8290.0300, subpart 4. The secretary of state must mail the letter to the appropriate jurisdiction. If compliance with this item is necessary and the letters have not been submitted to the secretary of state, the secretary of state shall certify the program participant, and provide

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the program participant with new form letters and instructions on how they must be used. Failure by the applicant to provide these letters to the secretary of state within five days after the secretary of state mails notice of the certification to the program participant shall lead to cancellation pursuant to part 8290.0700.

Subp. 8. Lost or stolen card. A program participant shall contact the secretary of state whenever a Safe at Home card is lost or stolen. The secretary of state shall issue a replacement Safe at Home card to the program participant. If a card is found by a program participant after being reported lost or stolen, the program participant shall return the card to the secretary of state.

8290.0500 PROGRAM PARTICIPANT RENEWAL.

Subpart 1. Application. The secretary of state shall renew the certification of a program participant when the secretary of state receives a certification renewal form from that program participant or applicant, if different. The application must contain:

A. the name and date of birth of the program participant;

B. the name and contact data of the applicant, if different;

C. a listing of any minor children residing at the actual address, each minor child's date of birth, and each minor child's relationship to the applicant;

D. a statement by the program participant or applicant that the program participant or applicant has good reason to believe that the eligible person is not applying for renewed certification as a program participant in order to avoid prosecution for a crime and either:

(1) that the eligible person listed on the renewal has survived domestic violence, sexual assault, or stalking; or

(2) that the program participant or applicant fears for the eligible person's safety;

E. a designation of the secretary of state as agent for purpose of service of process and for the purpose of receipt of mail;

F. the mailing address and the telephone number or numbers and electronic mail address, if applicable, at which the program participant or applicant, if different, can be contacted by the secretary of state;

G. the actual address of the eligible person that the program participant or applicant requests not be disclosed for the reason that disclosure shall increase the risk of domestic violence, sexual assault, stalking, or other risks to safety;

H. an indication that the program participant shall not disclose her or his actual address or addresses to the batterer, stalker, or perpetrator of sexual assault, or other persons she or he fears;

I. the number of motor vehicles owned by the eligible persons for whom the applicant is applying;

J. a statement that the eligible person agrees to provide her or his actual address, upon request, to any supervising person if the eligible person is or becomes subject to criminal justice system management; and

K. the signature of the program participant or applicant, if different, and the date signed.

The application form must include space for permanent contact data.

Subp. 2. Notification of option to renew.

A. At least 30 days before the expiration of the certification, the secretary of state shall inform the program participant or applicant, if different, of the option of renewing certification in Safe at Home by sending a renewal form by first class mail to the program participant's mailing address. The notice must provide instructions to the program participant on what actions to take upon expiration, including the return of the Safe at Home card and notification to public and private persons of the actual address, and that the designated address is no longer the address of the program participant. The notice shall also include a description of the consequences of allowing certification as a program participant to lapse. If the secretary of state has not received a renewal form ten days before the expiration of the program participant's certification, the secretary of state must mail a notice to the program participant reminding the program participant of the option to renew.

B. Along with the renewal form sent 30 days prior to expiration, the secretary of state must also offer the program participant the opportunity to register to vote with the secretary of state and to register as an ongoing absentee voter with the secretary of state, pursuant to part 8290.1400 and *Minnesota Statutes*, section 5B.06, if the program participant has not already done so.

Subp. 3. Applicant's duties. The program participant or applicant, if different, must provide all the information required by subpart 1 in the renewal, and date and sign the renewal.

Subp. 4. Completed renewals to be mailed. The program participant or applicant must submit completed renewals and any additional materials by first class mail to the secretary of state.

Subp. 5. Effective date. A properly completed renewal postmarked on or before the expiration date is effective on the day it is reviewed and certified by the secretary of state.

Subp. 6. Duties of secretary of state and program participants. The secretary of state must send new Safe at Home cards with updated expiration dates within two business days of renewing a program participant's certification. Upon receipt, the program participant must immediately sign the Safe at Home card. A program participant under the age of 11 may have the card signed by the adult responsible for that person.

Subp. 7. Penalties. A person who falsely attests in a renewal or who knowingly provides false information upon making an application for renewal is subject to penalties under *Minnesota Statutes*, section 5.15.

Subp. 8. **Missing information.** If the completed renewal does not meet the requirements of this part, the secretary of state shall contact the program participant or applicant to obtain the missing information.

Subp. 9. **Expiration.** When the term of a program participant expires, the program participant is no longer certified in Safe at Home. The secretary of state must forward mail to the former program participant's mailing address for five days after the expiration date. After that five-day period the secretary of state must return all mail to the sender.

8290.0600 CHANGES IN PROGRAM PARTICIPANT INFORMATION.

Subpart 1. **Notification of name changes.** A program participant or applicant shall provide signed, written notification to the secretary of state if the name of a program participant changes.

Subp. 2. **Notification of address changes.** A program participant or applicant shall provide a signed, written notification to the secretary of state of a change of mailing or actual address, electronic mail address, telephone number, or permanent contact data.

Subp. 3. **Signature verification.** Before making changes under subpart 1 or 2 effective, the secretary of state must compare the signature of the program participant or applicant on the notification of the change with the signature on the original application and conclude that the signatures are the same.

Subp. 4. **Additional minor children.** If a program participant provides signed, written notification to the secretary of state that the program participant is now responsible for additional minor children, the secretary of state must certify the minor children as program participants and issue them Safe at Home cards.

Subp. 5. **Change in identity.** Upon the effective date of a change in identity, a program participant or an applicant, if different, must withdraw from Safe at Home pursuant to part 8290.0800. The program participant or applicant may apply for recertification in Safe at Home under the new identity.

8290.0700 FAILURE TO NOTIFY SECRETARY OF STATE OF CHANGES IN INFORMATION; CANCELLATION.

Subpart 1. **Notification by secretary of state.** If mail forwarded by the secretary of state to the program participant is undeliverable, or if the program participant has not complied with part 8290.0400, subpart 7, item B, within five days after the secretary of state mails notice of the certification to the program participant, then the secretary of state must contact the program participant or applicant, if different, to request that the program participant or applicant provide the secretary of state written notice of a change of address, or, where applicable, comply with part 8290.0400, subpart 7, item B, and state that if the program participant or applicant fails to comply within five days, the program participant's certification shall be canceled and the former program participant must return any Safe at Home cards in her or his possession.

Subp. 2. **Cancellation.** If the program participant or applicant fails to provide the secretary of state with an updated address, or to comply with part 8290.0400, subpart 7, item B, within five days after the written notice is sent, the secretary of state must cancel the certification of the program participant.

Subp. 3. **Return of mail.** If the certification of the program participant is canceled, mail addressed to the program participant must be returned to the sender.

Subp. 4. **Cancellation of program certification without recourse.** The secretary of state shall cancel a program participant's certification if a program participant or applicant is found by a court to have knowingly provided false information when applying for certification or renewal. The court may include in the finding a restriction or prohibition on reapplication to Safe at Home. The secretary of state shall inform the former program participant that the Safe at Home card must be returned immediately, and that mail shall be forwarded for five days after the court has issued its findings, and that after that five-day period, mail shall be returned to the sender. Upon receiving the court findings and sending the notice, the secretary of state shall execute these actions.

8290.0800 WITHDRAWAL OF PROGRAM CERTIFICATION.

Subpart 1. Withdrawal request.

A. A program participant may withdraw from, or an applicant, if different, may withdraw from, Safe at Home by completing a withdrawal request in the presence of an application assistant and returning any Safe at Home cards.

B. The withdrawal request shall include a statement that the program participant or applicant agrees:

(1) that mail sent to the designated address shall be forwarded to the program participant for 30 days after withdrawal; and

(2) that it is the responsibility of the program participant or applicant, if different, to notify all persons of a new mailing address at which they can be contacted.

C. If the program participant is responsible for minor children who are program participants, the program participant shall also list the names of any minor children who are being withdrawn from the program on the withdrawal request.

D. The withdrawal request must include an opportunity for the program participant or applicant to provide an address to which mail should be forwarded for the 30-day period, if different than the mailing address on record.

E. Withdrawal requests and existing Safe at Home cards must be submitted by first-class mail to the secretary of state by the

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application assistant.

Subp. 2. **Mail forwarding.** Mail received at the designated address for the program participant must be forwarded to the program participant for 30 days. After 30 days mail must be returned to the sender.

Subp. 3. **Termination.** Certification as a program participant shall be terminated upon withdrawal. The termination shall be effective on the day the withdrawal request is received by the secretary of state.

Subp. 4. **Reapplication.** A program participant whose certification is withdrawn may reapply or have an applicant reapply on the program participant's behalf pursuant to part 8290.0300.

8290.0900 APPLICATION ASSISTANT ACCREDITATION.

Subpart 1. **Role of community-based programs.** The role of the community-based programs in Safe at Home is to select application assistants to explain to an applicant the program's services and limitations, explain to an applicant the program participant's responsibilities, and assist eligible persons in the completion of application and withdrawal materials.

Subp. 2. **When awarded.** Application assistant accreditation shall be awarded by the secretary of state when:

A. the prospective application assistant:

(1) completes an application that includes the prospective application assistant's name, business mailing address, business telephone number, and business e-mail address, if available; the community-based program at which the application assistant is employed and a contact name for the community-based program; a statement that the application assistant provides direct advocacy services to victims, as defined by the commissioner of public safety, as a substantial part of the application assistant's current job duties; an agreement to adhere to the instructions and terms provided in the application assistant agreement; and an agreement not to discriminate against any applicant or program participant because of race, creed, religion, color, national origin, gender, marital status, sexual orientation, status with regard to public assistance, age, or mental, physical, or sensory disability;

(2) submits the completed application, with a statement from the community-based program as described in item B, to the secretary of state; and

(3) successfully completes a program orientation or training session sponsored by or on behalf of the secretary of state; and

B. the community-based program confirms that the application assistant is employed by the community-based program and agrees to designate a contact for the community-based program. The program must have a person authorized to act on behalf of the organization execute the application in order for it to be accepted by the secretary of state.

Subp. 3. **Employment status.** The application assistant performing the duties under this chapter is not deemed to be an employee of the Office of the Secretary of State or of the state of Minnesota or an agent of the secretary of state in any manner whatsoever. The application assistant shall not hold herself or himself out as, nor claim to be, an officer or employee of the Office of the Secretary of State or of the state of Minnesota simply because she or he is an application assistant, and shall not make any claim, demand, or application to or for any right or privilege applicable to an officer or employee of the Office of the Secretary of State or of the state of Minnesota.

Subp. 4. **Term of accreditation.** An application assistant's accreditation is ongoing as long as the application assistant completes a periodic review approved by the secretary of state at least once every three years and, in addition, completes any other training deemed necessary by the secretary of state.

Subp. 5. **Termination.** An application assistant's accreditation may be terminated by the secretary of state for failing to abide by any requirement in this chapter or for failing to act in accordance with requirements of the secretary of state.

Subp. 6. **Access to application assistants.** The secretary of state shall make available a list of the names and telephone numbers of community-based programs at which accredited application assistants may be found.

8290.1000 SERVICE OF PROCESS.

Subpart 1. **Secretary of state as agent.** The secretary of state shall be an agent of the program participant upon whom any summons, writ, notice, demand, or process may be served. The secretary of state shall not charge a fee for accepting service.

Subp. 2. **Service by mail.** Service on the secretary of state of any such summons, writ, notice, demand, or process must be made by mailing the summons, writ, notice, demand, or process to the designated address. If an envelope enclosing the summons, writ, notice, demand, or process is clearly labeled as service of process on the outside of the envelope and is served by first-class or certified mail on the secretary of state, the secretary of state shall forward the service to the program participant no later than the next business day. As the secretary of state is the agent for service of process, the signed receipt of certified mail by the secretary of state constitutes proof of service on the program participant and commences the time in which responsive pleadings must be filed.

Subp. 3. **Service in person.** In the event that personal service of any document is required by law, that document may be served by delivering the document to any public counter of the Office of the Secretary of State. The secretary of state must forward the service to the program participant no later than the next business day. As the secretary of state is the agent for service of process, an affidavit of service on the secretary of state constitutes proof of service on the program participant and commences the time in which responsive pleadings must be filed.

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Subp. 4. **Record.** The secretary of state shall maintain, in the program participant's file, a record of services served upon the secretary of state for that participant. The secretary of state shall include in the file the action taken on that service, including the name of the program participant to whom the service is directed; the date of receipt; the date of mailing; a unique identifying service number for the mailing; and whether the mailing was returned to the secretary of state as undeliverable.

8290.1100 DESIGNATED ADDRESS.

Subpart 1. **Request.** The program participant, and not the secretary of state, is responsible for requesting the use of the designated address by any public or private person or entity as the address of the program participant.

Subp. 2. **Address and program status.** Every public or private person or entity shall accept the designated address as the true address of the program participant. Presentation of the Safe at Home card creates a rebuttable presumption that the individual listed on the card is a program participant. A program participant is not required to respond to any question a public or private person puts to the program participant about the details or circumstances of the person's inclusion in the program. The public or private person or entity may contact the secretary of state for information on the program.

Subp. 3. **Access to actual address information.** Safe at Home shall provide access to the actual address of a program participant when directed to do so by court order. The secretary of state shall establish a process for law enforcement agencies, once a court order has been issued, to obtain this information, including, under exigent circumstances, during nonbusiness hours.

Subp. 4. Limited circumstances of use of actual address.

A. In cases in which a public or private person or entity must under federal law obtain a program participant's actual address, the program participant must provide the program participant's actual address, in addition to the designated address.

B. For those services delivered to an actual address or tied to residency in a particular jurisdiction, the public or private person must request only that portion of the actual address required in order to provide those services, in addition to the designated address.

C. A program participant who is subject to criminal justice system management must, upon request, supply the program participant's actual address to any supervising person, in addition to the designated address.

D. In cases in which all or part of the actual address has been disclosed pursuant to item A, B, or C, the designated address must be used as the address of the program participant by the public or private person or entity for all purposes where the actual address is not specifically required.

E. The secretary of state, upon request of the public or private person, shall suggest measures that shall assist in protecting the actual address and the program participant's name against disclosure in any way. Measures may include, but are not limited to, assigning a pseudonym to the program participant; suppressing the program participant's name on records; keeping the actual address in the program participant's paper file, but not entering it into a database; and making the records password protected and limiting their access to a small pool of staff.

Subp. 5. **Secretary of state as agent.** The secretary of state is the agent for receipt of all mail sent by public and private persons and entities to the program participants at the designated address.

Subp. 6. **Mail to be forwarded.** All mail specifically addressed to the program participant at the designated address shall be forwarded at least every second business day to the participant at the participant's mailing address. Envelopes containing the mail being forwarded must be marked "Return Service Requested." The secretary of state is not required to forward mail if the mail is not specifically addressed to a program participant.

8290.1200 SUMMARY DATA.

For purposes of collecting state aid on motor vehicles pursuant to *Minnesota Statutes*, section 163.051, the secretary of state shall issue to the Department of Public Safety a table containing summary data on the number of motor vehicles reported owned by program participants residing in each county. The table must be used only for the purposes of issuing state aid on motor vehicles.

8290.1300 ATTAINING AGE OF MAJORITY.

Subpart 1. **Certification continued.** When a program participant reaches the age of 18, certification shall not be terminated until the expiration date, unless the certification is canceled or withdrawn before that date.

Subp. 2. **Responsibility for information changes.** An individual who became a program participant as a minor child assumes responsibility for information changes pursuant to part 8290.0600 and renewal pursuant to part 8290.0500 when they reach the age of 18.

Subp. 3. **Address or name change; reapplication or withdrawal.** An individual subject to this part must reapply or withdraw if that individual changes her or his actual address after reaching the age of 18.

Subp. 4. **Reapplication.** Program participants who reach the age of 18 whose certification expires or has expired may reapply.

8290.1400 VOTING BY PROGRAM PARTICIPANT.

Subpart 1. **Internal procedures.** The secretary of state shall establish internal procedures designed to facilitate voting by program

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participants that minimize the number of persons with access to program participant data while maintaining the integrity of the election process.

Subp. 2. Absentee ballot recipient status. A program participant who is eligible to vote may register to vote with the secretary of state and may register with the secretary of state as an ongoing absentee voter pursuant to *Minnesota Statutes*, section 5B.06. The secretary of state shall maintain a record of each program participant registering to vote as an ongoing absentee voter.

Subp. 3. Name and address excluded from statewide voter registration system. The name and address of any program participant voter shall not appear in the statewide voter registration system.

Subp. 4. Removal of eligible person's voter's record. At the time of application, the application assistant must provide each applicant who believes the eligible person may be registered to vote with a form letter requesting the county auditor of the county in which the eligible person may be registered to remove that voter's record pursuant to *Minnesota Statutes*, section 201.13, subdivision 4. It is the responsibility of each eligible person who may be registered to vote to complete, sign, and submit that letter to the county auditor.

Subp. 5. Identification of program participant voters. Whenever the secretary of state is notified that an election will be taking place, the secretary of state must, at least 45 days before the election, or in the case of a special election within two business days, identify all program participant voters who live in the jurisdiction.

Subp. 6. Review and removal from voter registration system. The secretary of state must review the statewide voter registration system to assure that the program participant voter is not listed in that system at the actual address. If a program participant voter is listed in the statewide voter registration system, the secretary of state must provide the program participant voter with a form letter to be sent to the county auditor to request that the participant's voter registration at the actual address be removed and must notify the participant that the participant is not allowed to vote as an ongoing absentee voter through Safe at Home until the participant has cancelled the participant's current voter registration with the county auditor.

Subp. 7. Absentee ballot request form. The secretary of state shall provide program participant voters not currently registered in the statewide voter registration system at the actual address with an absentee ballot request form for each election in which the program participant is eligible to vote. Notwithstanding parts 8210.0200, 8210.0500, and 8210.0700, in order to receive a ballot, the program participant must return the absentee ballot request form to the secretary of state. If a program participant voter's registration:

A. was not submitted by an application assistant; and

B. the statewide voter registration system indicates that the program participant voter has not previously voted in a federal election in Minnesota; and

C. the application states that she or he possesses photo identification; and

D. the program participant voter has not provided the secretary of state with a photocopy of her or his photo identification, the program participant voter must provide a copy of the photo identification with the absentee ballot request form. That copy is in lieu of the verification process under the Help America Vote Act. Upon receiving the absentee ballot request form, the secretary of state must communicate to the appropriate election administrator of each jurisdiction for which requests have been received the number of ballots necessary for each jurisdiction. Notwithstanding parts 8210.0200, 8210.0500, and 8210.0700, the election administrator must provide the appropriate ballots for that election to the secretary of state.

Subp. 8. Ballot distribution. The secretary of state must forward the requested ballots to each program participant voter by first-class mail, accompanied by absentee ballot instructions, a secrecy envelope, and a return envelope addressed to the secretary of state.

Subp. 9. Return of undeliverable ballots. If the absentee ballot of any program participant is declared undeliverable by the United States Postal Service, the secretary of state must return those materials to the appropriate county auditor.

Subp. 10. Ballot handling.

A. Notwithstanding parts 8210.0200, 8210.0500, and 8210.0700, program participant voters must submit their return ballot envelopes to the secretary of state.

B. If the program participant voter submits a return ballot envelope, the secretary of state must review the original return envelope to determine whether the secretary of state is satisfied that the program participant voter's name and signature on the original return envelope appear in substantially the same form as on the absentee ballot request form described in subpart 7 and that the affidavit on the original return envelope is properly executed.

C. The secretary of state must remove the secrecy envelope from the return envelope received from the program participant voter and transfer the secrecy envelope to a blank, unused return envelope with the verification certificate printed thereon. The secretary of state must complete and sign the verification certificate. The verification certificate includes the county, municipality, and precinct/school district combination and states that the ballot is provided for a Safe at Home participant voter, whether the secretary of state is satisfied that the program participant voter's name and signature on the return envelope appear in substantially the same form as on the absentee ballot request form described in subpart 7, and whether the affidavit on the return envelope is properly executed. The secretary of state must then forward these materials to the county auditor.

Subp. 11. County auditor to forward ballot. The county auditor shall forward the substituted return envelope bearing the verification certificate to the municipality or school district clerk.

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Subp. 12. **Receipt and counting of ballots.** The municipality or school district clerk shall forward the verification certificate and substituted return envelope to the precinct. The election judges in the precinct must review the verification certificate and accept or reject the absentee ballot based on the result of the signature comparison described in subpart 10 as noted on the verification certificate. If the election judges accept the ballot, they must write “SAH” followed by a sequential number for each Safe at Home ballot processed and “AB” on the election day registration roster page. An accepted ballot is counted in the polling place as any other registered absentee ballot for statistical purposes.

Subp. 13. **Review and determination by secretary of state.** By March 31 of each year, the secretary of state must determine whether any program participant voters who cast ballots in the preceding 12-month period are recorded in the statewide voter registration system as having both a record of casting a ballot under this part and also voting in the same election. If it is found that a program participant voter casting a ballot under this part also has a voting history record for the same election in the statewide voter registration system, the secretary of state shall notify the appropriate county attorney of that fact.

Subp. 14. **Cessation of ongoing absentee ballot status.** If voting records under this part and voting history records in the statewide voter registration system show that the program participant voter has not only cast a ballot under this part but also voted in the same election by other means, then the secretary of state must revoke the program participant voter’s ongoing ballot status under this part until the county attorney confirms that the issue has been resolved in favor of the program participant.

Subp. 15. **Record keeping.** The secretary of state must maintain a record for each election with the number of ballots requested by precinct/school district combinations, blank ballots received from each county auditor, assembled ballots sent to program participant voters, ballots returned as undeliverable, ballot envelopes returned by program participant voters to the secretary of state, and substituted return envelopes created by the secretary of state.

Subp. 16. **Biennial report.** By April 30 of each odd-numbered year, the secretary of state shall issue a report on the activities of program participant voters during the period of two calendar years ending on December 31 preceding the report date.

Attachment D – Explanation of Rule

Secretary of State

Adopted Exempt Rules Governing the Safe at Home Program

8290.0100 DEFINITIONS.

Subpart 1. **Terms.**

EXPLANATION AND ANALYSIS

A number of the definitions in this rule part are the same as those found in *Minnesota Statutes*, chapter 5B, but are reproduced here to ensure that an individual reading these rules has the definition within the four corners of the rules document without having to refer to the statute. Other definitions are not in the statute but are necessary in order to understand other rule parts.

Authorized by: *Minnesota Statutes*, section 5B.08

Subp.2. **Actual address.**

EXPLANATION AND ANALYSIS

Chapter 5B, and therefore this program, applies only to residents of Minnesota, and therefore the definition in this part focuses on the residential address of the applicant, eligible person or program participant. This is the address (or addresses) to be protected above all else by this entire program, as this is where the program participant can be found and disclosure could lead to injury or death. In addition, residential addresses will be used to provide summary data for purposes including the determination of collecting state aid on motor vehicles. In addition to the residential address, however, additional school or work addresses may also be protected through this program, see, for example, *Minnesota Statutes*, section 5B.05 (b) as well as *Minnesota Statutes*, section 5B.02 (b), and so are included in the definition.

Authorized by: *Minnesota Statutes*, sections 5B.02 (b); 5B.05 (b); 5B.08

Subp.3. **Applicant.**

EXPLANATION AND ANALYSIS

Taken verbatim from *Minnesota Statutes*, section 5B.02 (c).

Each fully capable adult applies for certification as a program participant.

As part of the application process, minors and incapacitated persons as defined in *Minnesota Statutes*, section 524.5-102 may wish to apply to be certified for the program but lack the legal ability to do so. This term defines who may apply on behalf of these persons.

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Authorized by *Minnesota Statutes*, sections 5B.02 (c); 5B.08

Subp.4. **Application assistant.**

EXPLANATION AND ANALYSIS

Based upon the model used in certain other states with similar programs, most specifically the states of Washington, Maine, Oklahoma and North Carolina, individuals with experience working with survivors of domestic violence, sexual assault and stalking as well as with developing safety plans will be the primary individuals working with applicants to assess if the program is right for them and to suggest alternatives for those for whom this program is not appropriate. Community-based programs are located throughout the state. Basing the application process in those programs makes it more convenient for potential participants than applying through a central office. This structure also provides an extra layer of protection for the participants and the staff administering the program, as the actual location of the program need not be revealed; potential participants will not need to come to that place. This definition also allows the secretary of state to designate individuals who are not employees of community-based programs to serve in this capacity, allowing the program staff to do so when necessary for the limited functions of application and withdrawal under parts 8290.0300 and 8290.0800.

Application assistants will need to be accredited, see proposed rule 8290.0900.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subd. 2; 5B.08

Subp.5. **Certification.**

EXPLANATION AND ANALYSIS

A program participant must be certified by the secretary of state before obtaining any of the benefits of the Safe at Home program.

Authorized by: *Minnesota Statutes*, sections 5B.08

Subp.6. **Change of identity.**

EXPLANATION AND ANALYSIS

This term defines a situation different from a mere change of name. In a change of name, the new name can be traced back to prior names, as in the case of a marriage or divorce where one or both spouses adopt a new name. Rather, change of identity refers to those circumstances where a person actually leaves their prior identity behind and starts anew in major respects.

Authorized by: *Minnesota Statutes*, sections 5B.04 (a); 5B.08

Subp.7. **Community-based program.**

EXPLANATION AND ANALYSIS

This definition specifies the groups through which intake to this program will be provided. Those who are working in the field of victim services already have a knowledge of the various issues common to survivors of domestic violence, sexual assault and stalking.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subd. 1; 5B.08

Subp.8. **Criminal justice system management.**

EXPLANATION AND ANALYSIS

This program is not a means of escaping probation or parole supervision for sentences imposed prior to or during the time a person is in the program. This term refers to any form of supervision and management imposed in response to a crime.

Authorized by: *Minnesota Statutes*, sections 5B.08

Subp.9. **Designated address.**

EXPLANATION AND ANALYSIS

This term defines the address used by program participants as their address for transactions with government and private sector persons in everyday life and will include a mail designation for each program participant household to be used by program staff for mail-sorting purposes.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subd. 5; 5B.08

Subp.10. **Domestic violence.**

EXPLANATION AND ANALYSIS

This definition reflects the definition found in *Minnesota Statutes*, section 5B.02 (d).

Survivors of acts of domestic violence are within the scope of persons eligible for this program.

Authorized by: *Minnesota Statutes*, sections 5B.02 (d); 5B.08

Subp.11. **Eligible person.**

EXPLANATION AND ANALYSIS

This definition reflects the definition in *Minnesota Statutes*, section 5B.02 (e).

This subpart defines the persons who may participate in the program and includes those who may not be legally capable of applying on their own behalf.

Authorized by: *Minnesota Statutes*, sections 5B.02 (e); 5B.08

Subp.12. **Mail.**

EXPLANATION AND ANALYSIS

Mail is not a statutorily defined term, so it seemed necessary to define it.

Mail does not include private courier delivery services of any kind.

The program is, in any case, only mandated by *Minnesota Statutes*, section 5B.05 (c) to forward mail clearly addressed to specific program participants.

Authorized by: *Minnesota Statutes*, sections 5B.05 (c); 5B.08

Subp.13. **Mailing address.**

EXPLANATION AND ANALYSIS

Forwarding mail to the actual residential address whenever possible, instead of a different address or a Post Office (PO) Box, is important for a number of reasons. First of all, it is safer for participants than using a PO Box, because USPS requires that anyone renting a PO Box provide an actual residential address and this information is not private. Abusers often use this information to track down their victims.

In addition, forwarding mail to participants' actual addresses will ensure that program participants do not move without notifying the program, which is one of the key conditions of program participation. (The mail will be sent with instruction that it should not be forwarded.) If mail is returned because the participant no longer lives there, it will alert the program to start cancellation procedures. At the same time, it will also ensure that program participants remain Minnesota residents, and eligible to remain in the program.

Sending mail to the actual residential address will also assist in preventing any voting irregularities under rule 8290.1400, as the ballot will only be sent to the address in the appropriate jurisdiction and will not be forwarded.

Authorized by: *Minnesota Statutes*, section 5B.08

Subp.14. **Minor child.**

EXPLANATION AND ANALYSIS

Transactions between the Safe at Home program and minor children in the program are handled by their parent or guardian. Minor children will receive services as program participants, including having mail forwarded to them and being issued Safe at Home program cards, but will not be able to make changes in their status while they are minors, hence the necessity of this definition.

Authorized by: *Minnesota Statutes*, section 5B.08

Subp.15. **Permanent contact data.**

EXPLANATION AND ANALYSIS

This contact data is provided by the applicant or program participant as a way to assure communications between the program and the individual should other communications strategies fail. Similar information is collected by the address confidentiality program in the state of New Hampshire.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subd. 1 (4); 5B.08

Subp.16. **Program participant.**

EXPLANATION AND ANALYSIS

This definition is taken verbatim from *Minnesota Statutes*, section 5B.02 (f).

Program participants are the people whose names, addresses and other data are being protected by this program.

Authorized by: *Minnesota Statutes*, sections 5B.02 (f); 5B.08

Subp.17. **Program participant voter.**

EXPLANATION AND ANALYSIS:

While not every program participant will necessarily be eligible or wish to vote, defining this term makes rule part 8290.1400 much easier to understand.

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Authorized by: *Minnesota Statutes*, sections 5B.06; 5B.08

Subp.18. **Safe at Home.**

EXPLANATION AND ANALYSIS

This simply defines the program name, used frequently throughout the Rules.

Authorized by: *Minnesota Statutes*, section 5B.08

Subp.19. **Safe at Home card.**

EXPLANATION AND ANALYSIS

The Safe at Home program will issue a card to the program participant that states that the participant is certified by the program. The card should be helpful for participants because persons in both the public and private sectors may not be aware of the program or that the individual certified by the card is entitled by statute to use the designated address for all purposes.

Authorized by: *Minnesota Statutes*, sections 5B.05(a); 5B.08

Subp.20. **Sexual assault.**

EXPLANATION AND ANALYSIS

While sexual assault, unlike the terms “stalking” or “domestic violence,” is not defined in *Minnesota Statutes*, section 5B.02, it is used in *Minnesota Statutes*, sections 5B.01, 5B.03, subd. 1, clause (2), and 5B.03, subd. 1, clause (5), as an act coequal to stalking or domestic violence for purposes of this program. The sections cited in this definition all define criminal sexual conduct of one kind or another, or predatory conduct.

Authorized by: *Minnesota Statutes*, section 5B.08

Subp.21. **Stalking.**

EXPLANATION AND ANALYSIS

This definition reflects the definition found in *Minnesota Statutes*, section 5B.02 (g).

Survivors of stalking are within the scope of persons eligible for this program.

Authorized by: *Minnesota Statutes*, section 5B.08

8290.0300 APPLICATION.

Subpart 1. **Certification of program participant.**

EXPLANATION AND ANALYSIS

This subpart lists the items required for the application. Clauses A, D, E, F, and G are required by *Minnesota Statutes*, section 5B.03, subd. 1. Clause B is necessary in case the secretary of state has to contact the applicant related to the application. Clause C is necessary because minors cannot apply on their own for program participant status, but must be applied for by their parent or guardian. Their names and birthdates are necessary to issue them Safe at Home cards and to know when they turn 18 years old. Clause H helps ensure that the program will be used as effectively as possible. Clause I is information that the Department of Public Safety needs in order to provide accurate summary data to the Department of Transportation for calculating state-aids to counties that are based proportionally to the number of cars owned by persons residing in a county. Clause J is necessary so that the secretary of state can provide the proper number of blank form letters to be mailed by the program participant to other persons engaged in civil legal actions involving the program participant informing them of the new designated address to be used for serving process on the program participant through the secretary of state, see proposed rule part 8290.0400, subp. 7(a). Clause K is necessary so that the secretary of state will know whether to certify the applicant on the condition that letters informing a charging jurisdiction of the new address are submitted by the program participant, see proposed rule part 8290.0400, subp. 7(b). Clause L ensures that applicants are aware of their obligation to inform any parole officer, probation officer or other similar supervising person of their actual address if they already are or come to be under supervision while in the program. Clause M affirms that the applicant agrees with the conditions of the program and that all information provided is truthful. Clause N provides assurance that the application was filled out in the presence of the application assistant as required by subp. 2 of this part. The additional space on the form for the contact data is for the mutual convenience of the applicant and the program.

Authorized by: *Minnesota Statutes*, sections 5B.03, subd. 1; 5B.08

Subp.2. **Completion.**

EXPLANATION AND ANALYSIS

Prior to January 1, 2008, there may be very few accredited application assistants, and very few or none in any specific geographic area, making it difficult for those who want to apply. So before January 1, 2008, applicant assistants may work with applicants over the telephone and via mail. After this date, there should be sufficient coverage to allow for face to face meetings, which are optimal.

Authorized by: *Minnesota Statutes*, sections 5B.03, subd. 1, clause (7); 5B.08

Subp.3. **Duties of applicant.**

EXPLANATION AND ANALYSIS

The entire application must be completed in order to be certified.

Minors and those who are incapacitated persons may also need to become program participants and have their actual addresses replaced by the designated address. In these cases, a parent or guardian can apply on behalf of that person, but an indication of the authority of the applicant must also be included on the application.

The applicant must affirmatively accept each item on the application for the application to be considered complete, as we want to be sure that the applicant understands the conditions of the program.

Authorized by: *Minnesota Statutes*, sections 5B.03, subd. 3; 5B.08

Subp.4. **Notification to charging jurisdictions.**

EXPLANATION AND ANALYSIS

This part provides for a notice process to be used to inform any jurisdictions currently charging the eligible person with a crime. Failure to follow the notice process is grounds for being expelled from the program. This process has been put in place to ensure that program participants do not use the program to avoid their legal responsibilities. The notice itself will not indicate that the individual is a program participant in the Safe at Home program or reference the Safe at Home program at all.

Authorized by: *Minnesota Statutes*, sections 5B.03, subd. 1; 5B.08

Subp.5. **Proof of identity.**

EXPLANATION AND ANALYSIS

The applicant must prove identity by showing a photo identification or must state that they do not possess such an identification. It is standard practice to verify an applicant's identity before providing social services in Minnesota (e.g., see *Minnesota Rules*, part 9500.1215, subp. 4 (A) (1)). Before diverting and delaying an individual's mail, Safe at Home should be sure that that individual (or their parent or guardian) is the one making the request. Abusers often submit forwarding orders in order to have the victim's mail sent to them. We want to prevent abusers from similarly using the program to divert a victim's mail. However, if an applicant does not have a photo ID, this should not bar them from receiving the service. The applicant will state on the application that they are who they say they are and that they do not have a photo identification. As the application is subject to *Minnesota Statutes*, section 5.15, which imposes the penalties of perjury for false statements, this is similar to the affidavit alternative to verification found in 9500.1215, subp.2.

Authorized by: *Minnesota Statutes*, sections 5B.06; 5B.08

Subp.6. **Voter registration through secretary of state.**

EXPLANATION AND ANALYSIS

Minnesota Statutes, section 5B.06 provides that program participants vote through the secretary of state. This section provides the first step in that process. Other steps are addressed in proposed rule 8290.1400.

An applicant may have a prior voter registration on file at the time they apply. In addition to being required by *Minnesota Statutes*, section 5B.06, any such registration should be removed to hide the trail of the program participant. As county auditors must enter and delete the records of those registered in their jurisdiction, the secretary of state cannot arrange for the removal of program participants' names without revealing private data to the auditors. Applicants will have to arrange independently for records to be removed from the voting files. However, the secretary of state will facilitate this process by providing the applicant with a form letter for their use. The form letter will not indicate that it was generated by or that the individual has applied to participate in Safe at Home. Even if the applicant is not certified to participate in the Safe at Home program, removal from the statewide voter registration system records through this process provides added security to the applicant.

For the purposes of voter registration, personal submission of the registration application to the application assistant is the equivalent of personal submission to the secretary of state.

Authorized by: *Minnesota Statutes*, sections 5B.06; 5B.08

Subp.7. **Opportunity for mailing list removal.**

EXPLANATION AND ANALYSIS

Having participants who choose to do so to sign up for "do not mail" lists will significantly reduce both the amount of mail sent to the program and the volume of mail that needs to be sorted, forwarded, recycled or shredded, thus saving time and money.

Authorized by: *Minnesota Statutes*, sections 5B.05; 5B.08

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Subp.8. **Submission by application assistant.**

EXPLANATION AND ANALYSIS

Applications for certification must be filed with the secretary of state, under *Minnesota Statutes*, section 5B.03, Subd. 2. The anonymity of the first-class mail system and the presence in that system of postal inspectors and other enforcement officials make it more secure than electronic transmissions into which hacking may occur. The applications should not be submitted by facsimile because the program will need a clean copy and a clear signature, as the signature will be used for signature matches when the program participant submits a change to their information or when voting.

Authorized by: *Minnesota Statutes*, sections 5B.03, subd. 2; 5B.08

Subp.9. **Effective date.**

EXPLANATION AND ANALYSIS

In order to provide the protection of this program as quickly as possible, the application is deemed effective upon review and certification, if it includes responses to all of the items listed in Subp. 1. It is not expected that the volume of applications received each day will be very high, and review of any individual application is expected to be relatively brief.

Authorized by: *Minnesota Statutes*, sections 5B.03, subd. 3; 5B.08

Subp.10. **Penalties.**

EXPLANATION AND ANALYSIS

This subpart reflects *Minnesota Statutes*, section 5B.03, subd. 2 making applications subject to *Minnesota Statutes*, section 5.15, which has been in place for many years and provides for the penalties of perjury to apply to all persons who falsely sign and submit documents to the secretary of state, even if those documents are not notarized. This program is reliant on applicants being honest about where they live and their reasons for participating.

Authorized by: *Minnesota Statutes*, sections 5B.03, subd. 2; 5B.08

Subp.11. **Missing information.**

EXPLANATION AND ANALYSIS

All of the information must be provided prior to certification of the individual in the program. This part provides that the secretary of state will make an additional effort to obtain any missing information in order to minimize the time it takes to certify the program participant.

Authorized by: *Minnesota Statutes*, section 5B.08

8290.0400 CERTIFICATION OF PROGRAM PARTICIPANT.

Subpart 1. **Eligible person.**

EXPLANATION AND ANALYSIS

This rule indicates that the secretary of state operates on a 'must issue' basis, as provided in *Minnesota Statutes*, section 5B.03, for those persons filing proper applications or renewals.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subd. 3; 5B.08

Subp.2. **Minor child.**

EXPLANATION AND ANALYSIS

Minnesota Statutes, section 5B.02 (e) contemplates that program participants include competent adults, incapacitated persons and minors. This section assures the coverage of minor children as program participants, both for their own protection as well as to prevent collateral leaks that would undermine the security of the information on the parent, guardian or other responsible person. An additional application is not needed as the information will be the same for both the child and the adult in virtually all cases.

Authorized by: *Minnesota Statutes*, sections 5B.02 (e); 5B.08

Subp.3. **Duration.**

EXPLANATION AND ANALYSIS

Minnesota Statutes, section 5B.03, Subd. 3 authorizes the four-year term. For security purposes, after four years, it is appropriate to require a new filing to continue participation. That new filing also provides an opportunity to update and keep current program records in addition to the interim updating requirements of part 8290.0600. The renewal is essentially the same as the original application, see part 8290.0500.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subd. 3; 5B.08

Subp.4. **Card issuance.**

EXPLANATION AND ANALYSIS

The card is the means by which the program participant proves participation in the Safe at Home program.

The card includes the designated address for the program participant. As stated in *Minnesota Statutes*, section 5B.05, clause (a), this address must be accepted as the address of the program participant. The card will most often be produced when the program participant requests services from public and private persons who are not familiar with the program, and would not necessarily accept an address that is not a physical location. Production of the card should lead to acceptance of that address for all purposes.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subd. 3; 5B.08

Subp.5. **Duties of secretary of state and program participant.**

EXPLANATION AND ANALYSIS

This subpart simply sets forth the procedure for distributing Safe at Home cards to program participants. The card must be signed because it may need to be presented with other identification, and matching signatures on more than one type of identification will reassure public and private persons that the designated address and Safe at Home card are legitimate. Minors who have not yet reached the age of eleven, may not be able to sign their names or have illegible signatures, may have their parent or guardian sign for them.

Authorized by *Minnesota Statutes*, sections 5B.05; 5B.08

Subp.6. **Communication; verification of identity.**

EXPLANATION AND ANALYSIS

Private data may be discussed with the subject of the data, but the program must first verify that the person with whom the program is communicating is in fact the subject of the data.

Authorized by: *Minnesota Statutes*, sections 5B.07; 5B.08

Subp.7. **Notification to other parties.**

EXPLANATION AND ANALYSIS

This subpart provides a process for ensuring that notice of the designated address as the appropriate address for service of process is given to all opposing parties in civil or criminal court actions, so that participation in the program does not impede any legal process.

There is a slightly different process in situations where civil cases are pending as opposed to criminal cases. While the Safe at Home program provides an appropriate form letter in both cases, the notification of the other parties in civil cases is left to the program participant. The program participant may be either a plaintiff or a defendant in a civil case (or may be both a plaintiff in one case and a defendant in another) but the matters at issue in civil cases are not generally exigent. A participant who fails to mail these letters in civil cases is simply the equivalent of someone not in the program moving to another unknown address without providing a new address to the other parties. This is not a crime.

Criminal cases involve the program participant only as a defendant. The matters at issue are more serious and potentially affect not only the freedom and rights of the program participant, but also the safety of others in society. At some point, avoiding criminal prosecution becomes an offense unto itself. Thus, in criminal cases, the applicant must complete the letters with the application assistant and must provide them to the secretary of state who will actually mail the letters, to assure that function is completed.

The form letters will bear no indication that they are from the Safe at Home program nor that the person sending them is a program participant in that program. Rather, they will simply indicate that the contact address for the individual has changed to the designated address. In addition, the anticipated procedure is that these letters are to be placed by the applicant in sealed envelopes addressed to each charging jurisdiction at the time of application. The application assistant and secretary of state are merely agents of the applicant for the purposes of mailing the letters at no cost to the applicant.

Please note that rule part 8290.0700, subps. 1 and 2 provide that failure to provide the form letters to be sent when there are criminal actions pending or ongoing within five days after notice of certification is mailed to the program participant, so that all jurisdictions have been informed will result in cancellation of program participant status.

In all cases, the labeling of envelopes in which process is subsequently delivered helps to ensure that service of process is forwarded immediately upon receipt. This provision also makes it more possible that appropriate records of the disposition of service of process can be maintained, in a manner similar to the procedures already used under *Minnesota Statutes*, section 5.25 which governs substituted service of process on businesses through the secretary of state.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subd. 1, clause (3); 5B.08

Subp.8. **Lost or stolen card.**

EXPLANATION AND ANALYSIS

Program participants will need to carry their card at almost all times. If the card is lost or stolen, they will need to request a new card

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immediately, simply as a matter of proving their designated address in daily living. The program participant is the person best able to notify the program, and if the card is later found, to return the card so that extra cards are not out in the public domain.

Authorized by: *Minnesota Statutes*, section 5B.08

8290.0500 PROGRAM PARTICIPANT RENEWAL.

Subpart 1. Application.

EXPLANATION AND ANALYSIS

The secretary of state is required by *Minnesota Statutes*, section 5B.03 to propose rules for renewal. The renewal process mirrors the original application. The same information is required for the renewal as for the original application, but in most cases, the program participant will be the submitter, not an application assistant. Since program participants will have successfully completed four years in the program by the time they renew, and will be very familiar with the benefits and limitation of the program, it does not seem necessary to involve an application assistant in the renewal process. For an explanation of the specific clauses, see the explanation for part 8290.0300. Only clauses J and K of 8290.0300 do not appear in this part, and that is because the purpose of those clauses is to inform parties of the address change to the designated address. They are unnecessary in renewal because the program participant would have provided the designated address as the place for service of process for any actions commenced after entering the program.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subd. 3; 5B.08

Subp.2. Notification of option to renew.

EXPLANATION AND ANALYSIS

This provision mandates that the secretary of state give ample notice to the program participant to complete and return the renewal. If no renewal has been received as the renewal date approaches, the rule provides for a reminder, in case the program participant has mislaid or forgotten the original notice. The program participant is also given other information about the actions necessary after and consequences of allowing the certification to simply run out. It also allows the program participant an additional opportunity to register and vote in a secure manner.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subd. 3; 5B.08

Subp.3. Applicant's duties.

EXPLANATION AND ANALYSIS

This subpart mandates that renewal forms be complete before they can be certified, and provides for those cases in which the program participant does not have legal authority to renew on their own behalf.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subd. 3; 5B.08

Subp.4. Completed renewals to be mailed.

EXPLANATION AND ANALYSIS

The anonymity of the first-class mail system and the presence in that system of postal inspectors and other enforcement officials make it more secure than electronic transmissions into which hacking may occur. The applications should not be submitted by facsimile because the program will need a clean copy and a clear signature, as the signature will be used for signature matches when the program participant submits a change to their information or when voting.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subd. 3; 5B.08

Subp.5. Effective date.

EXPLANATION AND ANALYSIS

Allowing program participants to submit a renewal until their expiration date creates an incentive for them to get it in on time. If they miss this date, then their certification will expire and they will have to submit a new application by working through an application assistant.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subd. 3; 5B.08

Subp.6. Duties of secretary of state and program participants.

EXPLANATION AND ANALYSIS

This part mandates the secretary of state to provide the new card as soon as possible after receipt of a proper renewal, so the program participant never has to rely on a card that has expired. Renewal volumes are not anticipated to be so high as to prevent prompt delivery.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subd. 3; 5B.08

Subp.7. Penalties.

EXPLANATION AND ANALYSIS

Minnesota Statutes, section 5B.03, subd. 2 provides for these penalties.
Authorized by: *Minnesota Statutes*, sections 5B.03, Subd. 2 and 3; 5B.08

Subp.8. Missing information.

EXPLANATION AND ANALYSIS

This part takes the same approach as the part governing the application process – if a program participant wants to remain in the program, but has submitted an incomplete application, an additional effort will be made to obtain information that would make it possible to renew the certification, which will minimize any time lag in renewing the program participant.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subd. 3; 5B.08

Subp.9. Expiration.

EXPLANATION AND ANALYSIS

It is highly likely that a substantial number of program participants will not renew, withdraw, or be cancelled, but will simply let their term expire. This rule part directs the disposition of the mail and Safe at Home card of those persons. The five-day period is similar to that directed by 8290.0700, subp. 3 in the case of cancellation, as is the requirement to return the card.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subd. 3; 5B.08

8290.0600 CHANGES IN PROGRAM PARTICIPANT INFORMATION.

Subpart 1. Notification of name changes.

EXPLANATION AND ANALYSIS

It is both required by *Minnesota Statutes*, section 5B.03, subd. 4, and vital to program effectiveness that the Safe at Home program stay updated on basic information such as the names of those in the program, so that mail can be properly forwarded. This subpart and others that follow provide the process for the program participant to do so.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subd. 4; 5B.08

Subp.2. Notification of address changes.

EXPLANATION AND ANALYSIS

Similar to the preceding subpart, contact data must be constantly refreshed in real time, not in a periodic way. The Safe at Home program must always know how to reach the program participants.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subd. 4; 5B.08

Subp.3. Signature verification.

EXPLANATION AND ANALYSIS

A signature match on changes made under this rule is required in order to better confirm the authenticity of the information change. This step should prevent the person who perpetrated the domestic violence, sexual assault or stalking from simply signing the name of the program participant and change the information so that future mail would come to that person.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subd. 4; 5B.08

Subp.4. Additional minor children.

EXPLANATION AND ANALYSIS

As minor children are affected by this program in several ways, and as an un-enrolled minor child could put at risk the security of the entire household, it is necessary to cover all minors joining the household as soon as possible. A signature match is neither required nor necessary as there is a lower risk in issuing additional cards to a program participant whose date of birth will reflect in nearly all cases that they are an infant.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subd. 4; 5B.08

Subp.5. Change of identity.

EXPLANATION AND ANALYSIS

In the classic change of identity situation, the program participant is actually creating a firewall between all prior information and the new identity, under which all relationships must be reestablished, in order to prevent linkage between the two identities and to prevent the abuser from, or at least make it more difficult for the abuser to, find the program participant. Even Safe at Home should not know of the link between the old and new identity. This subpart is consistent with *Minnesota Statutes*, section 5B.04 (a), creates that separation, and

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allows program participants who change their identity to reapply under their new identity, if they still believe this step is needed to ensure their safety. When they reapply there should be no link in the records of the Safe at Home program between the old and new identities.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subd. 4, 5B.04 (a); 5B.08

8290.0700 FAILURE TO NOTIFY SECRETARY OF STATE OF CHANGES IN INFORMATION; CANCELLATION.

Subpart 1. Notification by secretary of state.

EXPLANATION AND ANALYSIS

As part of this program, it is necessary that the program participant keep this information current. If the secretary of state finds that mailing contact information is out-of-date for whatever reason, the secretary of state must attempt to make contact to request that the participant update the information. Additionally, the program participant must inform charging jurisdictions in criminal legal actions that service is now to be made on the secretary of state, pursuant to part 8290.1000, as agent for the program participant. This part simply provides for notice of these obligations from the secretary of state to the program participant.

Authorized by: *Minnesota Statutes*, sections 5B.04 (b) and (c); 5B.08

Subp.2. Cancellation.

EXPLANATION AND ANALYSIS

While *Minnesota Statutes*, section 5B.04 (b) allows the secretary of state to cancel the program participant's certification if the program participant does not give at least two days prior notice of a change in mailing address, this rule provides more time to the program participant to inform the secretary of that change. Allowing more time for this notice is within the authority of the secretary of state, because the statute does not mandate cancellation, but simply permits it.

A five day post-change update period is more appropriate because program participants may need to respond to exigent circumstances. For example, a program participant may not be aware at any prior point whether they must flee from the abuser. Cancelling the program participant from the program in such a situation could create additional hardships and risks for the program participant contrary to the goals of the program.

However, after the five day period proposed in this rule, in the case of undeliverable mail, there is a risk that providing further services would actually increase the risk of disclosing where the program participant is. It is preferable, at that time, to cancel the certification and wait until the program participant surfaces and reapplies for certification at a new address or with new information.

In the case of the failure to inform opposing parties in criminal legal actions of the new service process, the program participant may be using this program to hide from legal process, which is inappropriate. This part authorizes the actual cancellation for failure to inform charging jurisdictions of the new, designated address for the program participant, where the required letters have not been provided by the program participant.

Authorized by: *Minnesota Statutes*, sections 5B.04; 5B.08

Subp.3. Return of mail.

EXPLANATION AND ANALYSIS

Returning mail to the sender will best inform the sender that they can no longer reach the program participant at this address.

Authorized by: *Minnesota Statutes*, sections 5B.04; 5B.08

Subp.4. Cancellation of program certification without recourse.

EXPLANATION AND ANALYSIS

This disposition is required by *Minnesota Statutes*, section 5B.04 (d). In order to be an effective program, Safe at Home should only shield program participants from being found if they have been honest about who they are and how they can be reached. The rule also provides for notice of the consequences of providing false information and a mandate to the secretary of state to carry out these consequences.

Authorized by: *Minnesota Statutes*, sections 5B.04 (d); 5B.08

8290.0800 WITHDRAWAL OF PROGRAM CERTIFICATION.

Subpart 1. Withdrawal request.

EXPLANATION AND ANALYSIS

The best possible outcome for program participants is that after some period they believe they can resume a more normal mode of living. In order to do so, they need to emerge from the cloak of the designated address, and begin to establish relationships where they use and disclose the actual address. This means that at some point, they should voluntarily withdraw from the program. This subpart provides a process for that withdrawal. *Minnesota Statutes*, section 5B.03, Subd. 3 anticipates that withdrawal can occur, and thus the promulgation of an orderly withdrawal process is appropriate.

The withdrawal process requires the involvement of the application assistant to ensure that the program participant is not being coerced to withdraw. An interim address for the 30-day post- withdrawal period is permitted because the program participant will often be moving their residence concurrent with the withdrawal.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subd.3; 5B.08

Subp.2. Mail forwarding.

EXPLANATION AND ANALYSIS

There will be a period of time after a program participant's withdrawal during which others will continue to send mail to the designated address. This part provides an orderly transition. It also establishes a time after which the program need no longer forward mail to a program participant and for the disposition of that mail.

Authorized by *Minnesota Statutes*, sections 5B.03, Subd.3; 5B.08

Subp.3. Termination.

EXPLANATION AND ANALYSIS

This defines when active status in the program ends. Certification is terminated upon withdrawal.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subd.3; 5B.08

Subp.4. Reapplication.

EXPLANATION AND ANALYSIS

Withdrawal is an orderly form of ending the relationship with the program in good standing and should not prevent the person from reapplying should it be necessary in the future.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subd. 3; 5B.08

8290.0900 APPLICATION ASSISTANT ACCREDITATION.

Subpart 1. Role of community-based programs.

EXPLANATION AND ANALYSIS

As noted previously (see explanations of parts 8290.0200, subp. 4 and 8200.0300, subp. 2), program intake is primarily conducted in the field. This subpart basically defines the general responsibilities of the application assistants.

Authorized by: *Minnesota Statutes*, section 5B.08

Subp.2. When awarded.

EXPLANATION AND ANALYSIS

The Safe at Home program needs to always have contact information for the application assistant available so that the program can provide them with updates and bulletins. Application assistants are drawn from the pool of victim advocates so that they are already skilled at working with the population of survivors and can help the survivors accurately assess what strategies are best to keep the survivor safe. The community-based program is asked to sign off on the application to approve their staff person serving as an application assistant. The secretary of state, either directly or through designees, also needs to provide sufficient minimum training to any person who is going to be an application assistant and have contact with the program participants in the field, so that the application assistant will understand the operations of the program and conduct effective evaluations in the intake process.

Authorized by: *Minnesota Statutes*, section 5B.08

Subp.3. Employment status.

EXPLANATION AND ANALYSIS

While the application assistants play an important role in advising applicants, that role does not by itself create a principal-agent relationship or any other relationship with the secretary of state. Rather, services as an application assistant are provided as part of the mission of the community-based program serving the survivors of domestic violence, sexual assault and stalking.

Authorized by: *Minnesota Statutes*, section 5B.08

Subp.4. Term of accreditation.

EXPLANATION AND ANALYSIS

Ongoing training and education of application assistants will be essential, particularly in the early years of this program, as there are likely to be adjustments in the program as implementation shows where changes and improvements must be made. This part provides a timeframe for maintaining the information and skill-set of the application assistants. Failure to take the refresher course once every three years and any other training required by the secretary of state could lead to serious knowledge gaps regarding the Safe at Home program

Exempt Rules

and therefore could put the applicants or program participants at risk.

Authorized by: *Minnesota Statutes*, section 5B.08

Subp.5. **Termination.**

EXPLANATION AND ANALYSIS

As in the previous subpart, application assistants must maintain their knowledge and abide by the program requirements, or the applicants or program participants could be at risk. Termination of accreditation is the consequence for failure to comply with program policies or to maintain a knowledge base.

Authorized by: *Minnesota Statutes*, section 5B.08

Subp.6. **Access to application assistants.**

EXPLANATION AND ANALYSIS

In order to build a central public pool of information about where potential applicants or program participants in trouble can turn, but also to protect the individuals who are application assistants from harassment themselves, only the organizations for which they work will be publicly identified. This also provides those in immediate need with contact information for shelters.

Authorized by: *Minnesota Statutes*, section 5B.08

8290.1000 SERVICE OF PROCESS.

Subpart 1. **Secretary of state as agent.**

EXPLANATION AND ANALYSIS

Minnesota Statutes, section 5B.03, Subp.1 item (3) requires the program participant to designate the secretary of state as their agent for this purpose. There is no statutory requirement to charge a fee for accepting service.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subp.1, item (3); 5B.08

Subp.2. **Service by mail.**

EXPLANATION AND ANALYSIS

In order that service by mail can be properly forwarded to a program participant, it must be sent to the designated address, so that it can be handled as a Safe at Home service, not as service of process under other statutory provisions on service (i.e., section 5.25). Mail must be legended so that Safe at Home staff can recognize, without opening the mail, the need for special treatment to forward that mail to the program participant on an especially expedited basis, as there are deadlines for responses to such service. As with other services accepted by the secretary of state as agent for service, the time for responding starts when the Safe at Home program is served.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subp.1, item (3); 5B.08

Subp.3. **Service in person.**

EXPLANATION AND ANALYSIS

This part provides for an additional method of service upon the secretary of state as the agent of the program participant. Service in this manner is sufficiently clear that immediate forwarding is mandated.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subd. 1, clause (3); 5B.08

Subp.4. **Record.**

EXPLANATION AND ANALYSIS

It is important to preserve some record of actions taken in the role as agent for service of process in order to resolve potential issues raised in legal proceedings. The secretary of state is already the agent for service of process for many businesses under *Minnesota Statutes*, section 5.25, and the internal records stated here are similar to those maintained under that section.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subd. 1, clause (3); 5B.08

8290.1100 DESIGNATED ADDRESS.

Subpart 1. **Request.**

EXPLANATION AND ANALYSIS

The statute places the responsibility for this action step on the program participant. Classification of program participant data as private prevents Safe at Home from doing this for program participants. In addition, it is not possible for the secretary of state to act on behalf of each program participant in this statewide program. Each program participant must be proactive in protecting their security and that means approaching public and private persons with whom the program participant has transactions and presenting the designated address to each of them, one at a time.

Authorized by: *Minnesota Statutes*, sections 5B.05, clause (a); 5B.08

Subp.2. **Address and program status.**

EXPLANATION AND ANALYSIS

Minnesota Statutes, section 5B.05 (a) specifically requires the acceptance by all of the designated address and use of that address in their records as the address of the program participant from that time forward. No exceptions or options are provided in the statutory language. In fact, the statutory language of section 5B.02 (b) defines address to include residence address, school address and work address – the designated address substitutes for all of these. The program participant is issued a card bearing their own assigned designated address, and the program participant may disclose participation in the program to others at their own discretion.

The secretary of state will not respond to inquiries as to whether an individual is or is not a program participant, because this data is classified as private data on individuals under *Minnesota Statutes*, section 5B.07. Under that section, the program cannot release information even at the request of the program participant. However, staff can and will answer general questions about the program.

Authorized by: *Minnesota Statutes*, sections 5B.05, clause (a); 5B.08

Subp.3. **Access to actual address information.**

EXPLANATION AND ANALYSIS

Since all data on program participants, as well as eligible persons and applicants, are private data, that data cannot be released without a court order. However, those involved in law enforcement, in particular, may need the address and may obtain a court order to access it outside of business hours. The Safe at Home program will set up a procedure to ensure that an authorized staff member is always “on-call” and can access the data, if needed.

This round-the-clock service could also be used without a court order if what is needed is to get an urgent message to the family of a participant, instead of needing access to the actual address (for example, in the case of an automobile accident resulting in a fatality or serious injuries). The staff person could take note of the information and pass it on without ever acknowledging whether the individual is a program participant.

Authorized by: *Minnesota Statutes*, section 5B.08

Subp.4. **Limited circumstances of use of actual address.**

EXPLANATION AND ANALYSIS

There will be certain situations where public and private persons will have or need to have the actual address, i.e., utilities. However, use of the actual address should be as limited as possible, because access to the actual address greatly increases the risk of disclosing the location of, and therefore the risk of physical danger to, the program participant.

There may be other cases where there is a need to know the jurisdiction (county, city) but no need to know the entire actual address. In those cases, the public or private person should request only the needed information.

Program participants may not use their participation in the program to avoid their legal responsibilities. One piece of this is that program participants who are under criminal justice system management must, upon request, provide their actual addresses to those supervising them.

When a public or private person comes into possession of the actual address, that data should be secured. The designated address should be used whenever possible, which should be nearly always. Upon request, the secretary of state will work with public and private persons to help them determine how best to safeguard the actual address.

Authorized by: *Minnesota Statutes*, section 5B.08

Subp.5. **Secretary of state as agent.**

EXPLANATION AND ANALYSIS

As part of the application process, each program participant designates the secretary as their agent for receipt of mail.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subd. 1, clause (3); 5B.08

Subp.6 **Mail to be forwarded.**

EXPLANATION AND ANALYSIS

Mail will be forwarded to participants at least every second business day to ensure that important notices are not unduly delayed. The program goal is to forward the mail every business day, but the rule requires that it be sent every other business day to accommodate times when employees may be sick, etc. Mail will be sent with instruction that it should not be forwarded to ensure that the program is always aware whether the program participant has moved. If mail is returned because the participant no longer lives there, it will alert the program to start cancellation procedures. At the same time, it will also ensure that program participants remain Minnesota residents, and eligible to remain in the program.

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The secretary of state will not forward mail addressed other than to those registered as program participants. Participants have a responsibility to keep the program informed of any changes to their name.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subd.1, clause (3); 5B.03, Subd.5; 5B.08

8290.1200 SUMMARY DATA.

EXPLANATION AND ANALYSIS

Summary data may be provided without violating the status of data as private. The summary data in this case will give proper credit to counties for state aids to which they are otherwise entitled based upon the motor vehicles in operation in the county.

Authorized by: *Minnesota Statutes*, section 5B.08

8290.1300 ATTAINING AGE OF MAJORITY.

Subpart 1. **Certification continued.**

EXPLANATION AND ANALYSIS

It is in the best interest of the program participant's safety to remain within the program until their current term expires rather than be terminated abruptly simply because the participant reaches the age of majority.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subd.6; 5B.08

Subp.2. **Responsibility for information changes.**

EXPLANATION AND ANALYSIS

Once the participant becomes an adult, they must bear the responsibility of maintaining their own information.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subd.6; 5B.08

Subp.3. **Address change; reapplication or withdrawal.**

EXPLANATION AND ANALYSIS

After a program participant who was certified while a minor turns 18, a separate set of records will be necessary if they move in order to properly reflect changes in the record of that person without also changing the records of their parent or guardian or other members of the family who originally applied together on the same Safe at Home application.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subd.6; 5B.08

Subp.4. **Reapplication.**

EXPLANATION AND ANALYSIS

There should be no automatic bar to reapplication of the program participant, if they leave the program in good standing.

Authorized by: *Minnesota Statutes*, sections 5B.03, Subd. 6; 5B.08

8290.1400 VOTING BY PROGRAM PARTICIPANT.

Subpart 1. **Internal procedures.**

EXPLANATION AND ANALYSIS

When developing the procedures, the secretary of state will balance the need for limited access to the data with the integrity of the election process. As the procedures are internal to the secretary of state, the specific process does not need to be spelled out in these proposed rules.

Authorized by: *Minnesota Statutes*, sections 5B.06; 5B.08

Subp.2. **Absentee ballot recipient status.**

EXPLANATION AND ANALYSIS

Minnesota Statutes, section 5B.06 provides for an alternative secure voting mechanism for Safe at Home program participants through an ongoing absentee balloting process. However, this means that special safeguards, including secure records for program participant voters, must be instituted to address the access and security aspects of both registration and voting for these special voters.

Authorized by: *Minnesota Statutes*, sections 5B.06; 5B.08

Subp.3. **Name and address excluded from statewide voter registration system.**

EXPLANATION AND ANALYSIS

This prohibition on program participant voter records appearing in the statewide voter registration system appears in *Minnesota Statutes*, section 5B.06.

Authorized by: *Minnesota Statutes*, sections 5B.06; 5B.08

Subp.4. **Removal of eligible person's voter's record.**

EXPLANATION AND ANALYSIS

A program participant may have a prior voter registration on file at the time they apply. Any such registration should be removed to hide the actual location of the program participant. As county auditors enter and delete the records of those registered in their jurisdiction, program participants will have to contact their county auditor independently to have their record removed under *Minnesota Statutes*, section 201.13, subd. 4. The secretary of state cannot provide this service directly as that would require revealing private data on the program participant to the auditors.

Even if the program participant is subsequently cancelled from the Safe at Home program, removing their records from the statewide voter registration system records provides added security for the program participant.

Authorized by: *Minnesota Statutes*, sections 5B.06; 5B.08

Subp.5. **Identification of program participant voters.**

EXPLANATION AND ANALYSIS

In order to obtain the proper number of ballots for the correct precincts from the county auditors or other appropriate election administrators, the number of program participant voters must first be identified. There are two typical situations in which the number of voters will need to be identified. In the case of the state primary and general elections, all of the voters in the program will be identified to some precinct. However, in other elections, the number of program participant voters needing this function may be quite small.

Authorized by: *Minnesota Statutes*, sections 5B.06; 5B.08

Subp.6. **Review and removal from voter registration system.**

EXPLANATION AND ANALYSIS

The secretary of state, before sending absentee materials under this rule, will ensure that the program participant voter is not currently registered in the usual way at their current address. If they are registered to vote at their current address, then they are in danger because at the very least every person with access to the statewide voter registration system, as well as others who have bought public information lists for jurisdictions including the actual address, have their information. If the voter does not mind this, then they do not need the special treatment in voting that Safe at Home affords. The secretary of state will notify any program participant voters who are still registered at their actual address that they must have their registration deleted before they will be allowed to vote through the program.

Program participant voters listed in the statewide voter registration system at other addresses may be in violation of *Minnesota Statutes*, section 5B.06, but should not forfeit their right to vote.

Authorized by: *Minnesota Statutes*, sections 5B.06; 5B.08

Subp.7. **Absentee ballot request form.**

EXPLANATION AND ANALYSIS

The program will encourage applicants to register to vote when they are being interviewed by the application assistant. The application assistant will explain to the applicant that if the applicant does not register in person with an application assistant and has not previously voted in federal elections in Minnesota, but decides to register later that they will need to either submit a copy of their photo identification with their registration form or return and complete the voter registration application with an application assistant and have the application assistant forward it to the secretary of state for them.

The copy of the photo identification will be used to meet the alternate requirements of the Help America Vote Act that each voter who registers by mail and has not previously voted in a Federal election either provide an identification document or be verified through a computer comparison with the driver license or Social Security records. The computer verification is not an option for these voters because this data can only be compared if it is included in the statewide voter registration system, which is prohibited under *Minnesota Statutes*, section 5B.06. Obtaining the copy allows the secretary of state to fulfill the requirements of Federal and state election laws while also complying with *Minnesota Statutes*, section 5B.06. Safe at Home considered giving program participant voters the option of providing any of the documents used in election-day registration but realized that the program participant voter would only have access to items on that list that include a photo identification. Program participant voters should not have to additionally provide a photocopy of a utility bill as the bill will list the designated address, and as Safe at Home is mailing items frequently to the program participant voters' actual address, the program knows the residence of the program participant voter.

Authorized by: *Minnesota Statutes*, sections 5B.06; 5B.08

Subp.8. **Ballot distribution.**

EXPLANATION AND ANALYSIS

Once ballots have been sent by the election administrator to the secretary of state, the secretary of state will inventory the ballots and materials and forward those items to the appropriate program participant voter.

Exempt Rules

Authorized by: *Minnesota Statutes*, sections 5B.06; 5B.08

Subp.9. **Return of undeliverable ballots.**

EXPLANATION AND ANALYSIS

Return of materials to the county auditor is designed to assure that ballots are not loose, but can be secured and accounted for as totally blank ballots. Please note that only the ballot and materials are to be returned, not the mailing envelopes. This is to prevent the disclosure of the name and address of the program participant to the election administrator.

Authorized by: *Minnesota Statutes*, sections 5B.06; 5B.08

Subp.10. **Ballot handling.**

EXPLANATION AND ANALYSIS

The signature match described in this part is similar to that required by other absentee methods for regular voters; for example, see *Minnesota Statutes*, section 203B.24, which is specifically mentioned in *Minnesota Statutes*, section 5B.06. However, certain parts of *Minnesota Statutes*, section 203B.24 are not applicable to the program participants' situation as *Minnesota Statutes*, section 203B.24 calls for the inclusion of military ID numbers or attestation by military officers, neither of which are applicable. However, the signature match and certification are analogous to *Minnesota Statutes*, section 203B.24 functions. The Safe at Home staff will attest on a verification form that will accompany the ballot to the precinct to be kept with the precinct records, whether the signatures match. As data on the program participant voter is private, nothing related specifically to the program participant voter, such as the name, address or other data, can appear on the materials returned to the precinct. The relevant contents of the ballot envelope, not including any references to the name or address of any specific program participant, are removed from the return envelope bearing the program participant's signature and other information and are sent in a new, 'clean' envelope to the county auditor.

Authorized by: *Minnesota Statutes*, sections 5B.06; 5B.08

Subp.11. **County auditor to forward ballot.**

EXPLANATION AND ANALYSIS

This action is required to provide for tabulation of the ballots in the precinct.

Authorized by: *Minnesota Statutes*, sections 5B.06; 5B.08

Subp.12. **Receipt and counting of ballots.**

EXPLANATION AND ANALYSIS

The secretary of state's conclusion as to the sufficiency of the name and signature comparisons must be accepted as conclusive by the election judges as the election judges will have no other information for evaluation.

Authorized by: *Minnesota Statutes*, sections 5B.06; 5B.08

Subp.13. **Review and determination by secretary of state.**

EXPLANATION AND ANALYSIS

One key to preserving the integrity of the election system is to check to be sure that program participant voters are not voting both through the program and in person. The secretary of state is in the position to be able to conduct this check and maintain the privacy of program participant data. Referring a case in which someone has voted more than once to the county attorney is the normal course of action. Participation in the program should not shield anyone committing this felony from appropriate legal action.

Authorized by: *Minnesota Statutes*, sections 5B.06; 5B.08

Subp.14. **Cessation of ongoing absentee ballot status.**

EXPLANATION AND ANALYSIS

It is simply not appropriate to provide any further opportunities for inappropriate voting when a program participant is recorded as having voted twice in the same election and the situation has been referred to the county attorney for investigation, until the discrepancy has been decided in favor of the program participant.

Authorized by: *Minnesota Statutes*, sections 5B.06; 5B.08

Subp.15. **Record keeping.**

EXPLANATION AND ANALYSIS

The secretary of state will maintain records that establish the chain of custody of each ballot, and provide assurance that only the appropriate ballots legitimately requested by program participant voters are voted.

Authorized by: *Minnesota Statutes*, sections 5B.06; 5B.08

Subp.16. **Biennial report.**

EXPLANATION AND ANALYSIS

A biennial report of summary data will be useful in tracking usage and participation by program participant voters.

Authorized by: *Minnesota Statutes*, section 5B.06; 5B.08

Executive Orders

The governor has the authority to issue written statements or orders, called Executive Orders, as well as Emergency Executive Orders. The governor's authority is specified in the *Constitution of the State of Minnesota*, Article V, and in *Minnesota Statutes* § 4.035. Emergency Executive Orders, for protection from an imminent threat to health and safety, become effective immediately, are filed with the secretary of state, and published in the *State Register* as soon as possible after they are issued. Other Executive Orders become effective 15 days after publication in the *State Register* and filing with the secretary of state. Unless otherwise specified, an executive order expires 90 days after the date the governor who issued the order vacates office.

Office of the Governor

Executive Order # 07-20: **Creating the Veterans Health Care Advisory Council**

WHEREAS, Minnesota is home to an estimated 460,000 veterans who have served our country through extraordinary sacrifice to protect our liberty and freedoms; and

WHEREAS, the state must ensure that veterans and their families have appropriate options for meeting veterans' long term medical needs in settings that provide high quality care and services; and

WHEREAS, under current law, there are five veterans homes to provide for the long term care needs of veterans and their qualifying spouses and the veterans homes are governed by the Veterans Homes Board; and

WHEREAS, the Governor's Veterans Long Term Care Advisory Commission was created in response to operational issues at the Minneapolis Veterans Home and was asked to provide recommendations regarding the governance, management, operations of the veterans homes; and

WHEREAS, the Governor's Veterans Long Term Care Advisory Commission has issued a report of recommendations regarding the state's veterans homes and the delivery of long term care to veterans; and

WHEREAS, consistent with the recommendations of the Governor's Veterans Long Term Care Advisory Commission, Reorganization Order 194 transfers the duties and responsibilities of the current Veterans Homes Board to the Department of Veterans Affairs; and

WHEREAS, the Governor's Veterans Long Term Care Advisory Commission recommends that the an advisory board be created to continue to provide the Department of Veterans Affairs with advice and recommendations from professionals experienced in providing quality long term care and individuals familiar with the current and anticipated future needs of veterans.

Executive Orders

NOW, THEREFORE, I hereby order the creation of the Veterans Health Care Advisory Council (“Council”).

1. The Council shall be comprised of nine public members appointed by the Governor and as follows:
 - a. Seven members with extensive expertise in health care delivery, long-term care, and/or veterans services;
 - b. One licensed clinician (a physician, physician assistant, or a nurse practitioner);
 - c. One additional member;
 - d. At least five of the members must be members of congressional chartered veterans organizations or their auxiliaries that have state level organization and officers in Minnesota; and
 - e. The Governor will designate one member to serve as chair.

2. The Commissioner of Veterans Affairs, or designee, will be an ex officio member of the Council and provide necessary and appropriate administrative and technical support to the Council.

3. Members will serve at the pleasure of the Governor and the Governor will fill any vacancies. Members will not receive per diem payments or compensation. Members may receive payment of authorized expenses pursuant to *Minnesota Statutes* 2006, Section 15.0593. Authorized expenses will be paid by the Department of Veterans Affairs.

4. Unless this order is rescinded by proper authority, the Council will continue until this executive order expires pursuant to *Minnesota Statutes* 2006, Section 4.035, Subdivision 3. To establish continuity, the Governor may choose to appoint members to staggered terms and may appoint members to a two, three or four year terms.

5. The Council is intended as an advisory group with a mission of providing the Commissioner of Veterans Affairs with information and professional expertise on any and all aspects of the delivery of quality long term care to veterans. The Council’s duties include, but are not limited to:
 - a. Developing a new vision and strategic plan for the veterans homes that complements the Department of Veterans Affairs’ overall veterans service programs;
 - b. Providing recommendations and advice on matters such as clinical performance and system-wide quality improvement efforts, the culture and working environment of the veterans homes, and other operational and organizational functions of the veterans homes;
 - c. Studying and reviewing current issues and trends in the long term care industry and the veterans community;
 - d. Providing recommendations to the Commissioner on alternative options for the delivery of long term care to veterans so that veterans and their families can determine appropriate services under models similar to those available in the community;
 - e. Establishing, as appropriate, subcommittees or ad hoc task forces of Council members, stakeholders and other individuals with expertise or experience to address specific issues; and
 - f. Reviewing and providing advice on any other matters at the request of the Commissioner.

6. The Council will begin meeting as soon as possible following the completion of the open appointments process.

7. To assure continued accountability and the active involvement of healthcare experts and stakeholders in the governance structure of the veterans homes, the Governor may appoint a panel of experts to review the continuing effectiveness of the Veterans Health Care Council. This review may occur at any time, but not more than five years from the date of the Council’s first meeting,

Pursuant to *Minnesota Statutes* 2006, Section 4.035, Subdivision 2, this Executive Order will be effective fifteen (15) after publication in the *State Register* and filing with the Secretary of State and will remain in effect until is rescinded by proper authority or it expires in accordance with *Minnesota Statutes* 2006, Section 4.035, Subdivision 3.

IN TESTIMONY WHEREOF, I have set my hand this 19th day of November, 2007.

Signed: TIM PAWLENTY
Governor

Filed According to Law

Signed: MARK RITCHIE
Secretary of State

Commissioners' Orders

Various agency commissioners are authorized to issue "commissioner's orders" on specified activities governed by their agency's enabling laws. See the *Minnesota Statutes* governing each agency to determine the specific applicable statutes. Commissioners' orders are approved by assistant attorneys general as to form and execution and published in the *State Register*. These commissioners orders are compiled in the year-end subject matter index for each volume of the *State Register*.

Department of Natural Resources Designation of Aquatic Management Areas Order No. AMA 07-001

Pursuant to the provisions of *Minnesota Statutes*, section 86A.07, subdivision 3(2), as amended by *Laws of 2004*, Chapter 221, Section 23, and *Minnesota Statutes*, section 86A.05, subdivision 14, as amended by *Laws of 2004*, Chapter 262, Article 2, Section 4, the following described lands under the jurisdiction of the Minnesota Department of Natural Resources meet the criteria as being suited for aquatic management areas:

Florida Lake AMA, P1

That part of Outlot A, Block 1, according to the plat of Viking Beach, on file and of record in the Kandiyohi County Recorder's Office, lying southerly of the following described line:

Commencing at the NW corner of said Outlot A; thence southwesterly along the westerly line of said Outlot A on a curve concave to the NW, having a radius of 754.80 feet, central angle 03° 37' 22" a distance of 47.73 feet, chord bears South 12° 29' 40" West (assumed bearing); thence Southwesterly along said westerly line of Outlot A on a reverse curve concave to the southeast, having a radius of 167.45 feet, central angle 05° 4' 16", a distance of 14.82 feet, chord bears South 11° 46' 20" West to a ¾ inch diameter rebar with a plastic cap stamped "MN DNR LS 17003" (DNR MON) and the POINT OF BEGINNING; thence North 85° 57' 57" 20" East 147.95 feet to a DNR MON; thence continuing North 85° 57' 20" East 159.98 feet to a DNR MON; thence continuing North 85° 57' 20" East 15 feet, more or less, to the water's edge of Florida Lake and there terminating; including all riparian rights to the contained 0.6 acres, more or less.

Bottle Lake AMA, P1

Government Lot 4 and that part of Government Lot 5, all in Section 14, Township 141 North, Range 34 West of the Fifth P.M., Hubbard County, Minnesota, lying westerly and northwesterly of the following described line:

Commencing at the southwest corner of said Government Lot 5; thence on a record bearing of North 86° 46' 48" East, along the south line of said Government Lot 5, a distance of 80.00 feet to the POINT OF BEGINNING of the line to be described; thence North 04° 00' 00" West 810.00 feet; thence North 36° 00' 00" East 580 feet, more or less, to the shoreline of Lower Bottle Lake and said line there terminating. Said parcel of land contains 32.54 acres, more or less.

Together with a 33.00 foot wide easement for ingress and egress over and across said Government Lot 5. The centerline of said easement is described as follows:

Commencing at the southwest corner of said Government Lot 5; thence on a record bearing of North 86° 46' 48" East, along the south line of said Government Lot 5, a distance of 80.00 feet; thence North 04° 00' 00" West 133.40 feet to the POINT OF BEGINNING of the easement centerline to be described; thence North 80° 46' 45" East 493.92 feet; thence South 67° 14' 04" East 106.56 feet; thence South 59° 20' 04" East 71.77 feet and said easement centerline there terminating. The sidelines of said easement are to be prolonged or shortened to begin on a line that bears North 04° 00' 00" East from the POINT OF BEGINNING and to terminate on a line that bears North 16° 48' 13" East and South 16° 48' 13" West from the point of terminus of the above described easement centerline. Said 33.00' wide Access Easement is subject to the terms and conditions set forth on Exhibit A attached hereto and made a part hereof.

ALSO

Together with a 20.00 wide easement for ingress and egress over and across said Government Lot 5. The centerline of said easement is described as follows:

Commissioner's Orders

Commencing at the terminus of the above described 33.00 wide easement centerline, said point being the POINT OF BEGINNING of the 20.00 wide easement centerline to be described; thence South 89° 37' 35" East 254.85 feet; thence South 85° 11' 56" East 87.86 feet; thence South 79° 21' 33" East 117.35 feet; thence South 74° 11' 24" East 91.30 feet; thence South 80° 21' 11" East 65.57 feet to the south line of said Government Lot 5 and said easement centerline there terminating. The sidelines of said easement are to be prolonged or shortened to begin on a line that bears North 16° 48' 13" East and South 16° 48' 13" West from the POINT OF BEGINNING and to terminate on the south and east lines of said Government Lot 5.

Chuck Davis AMA, P1

That part of the West ½ of the SE ¼ of the NW ¼ and that part of the NW ¼ of the SW ¼ of Section 3, Township 36N, Range 26W, Mille Lacs County, Minnesota, lying easterly and southeasterly of the west bank of the Rum River.

Together with a perpetual easement for ingress and egress over and across the North 33.00 feet of the NW ¼ of the SE ¼ of Section 3, Township 36N, Range 26W, Mille Lacs County, Minnesota, for access to the above described property.

The grantors, for themselves, their heirs and assigns, reserve a perpetual easement for ingress and egress over and across East 33 feet of the north 33 feet of said NE ¼ of the SW ¼ for access to the SE ¼ of the SE ¼ of the NW ¼ of Section 3, Township 36N, Range 26W, Mille Lacs County, Minnesota,

Frog Island AMA, P1

That part of the bed of Lake Minnetonka located in Section 27, Township 117, Range 23, described as follows:

Beginning at the South ¼ corner of said Section 27; thence West along the South line of said Section 27 a distance of 1375.0 feet; thence deflecting to the right 90° a distance of 129.90 feet to the actual point of beginning of the land to be described; thence deflecting to the left 14° 18' a distance of 128.65 feet; thence deflecting to the right 13° 15' a distance of 100.85 feet; thence deflecting to the right 69° 46' a distance of 129.8 feet; thence deflecting to the right 67° 25' a distance of 100 feet; thence deflecting to the right 128° 49' a distance of 74 feet; thence deflecting to the left 101° 18' a distance of 76.5 feet; thence deflecting to the left 53° 14' a distance of 68.3 feet; thence deflecting to the right 18° 33' a distance of 91.7 feet; thence deflecting to the right 84° 30' a distance of 20 feet; thence deflecting to the right 86° 33' a distance of 77 feet; thence deflecting to the left 50° 39' a distance of 173.8 feet to the actual point of beginning.

Maple Lake AMA, P1

Lot 7, Block One, Midway Bay, according to the plat on file and of record in the Office of the Douglas County Recorders Office.

West Albany Creek AMA, P3

That part of the SW1/4 of Section 29, Township 110N, Range 12W, Wabasha County, Minnesota being described as a strip of land 132.0 feet in width and lying 66.0 feet on each side of the centerline of West Albany Creek as it flows across the following described parcel of land:

COMMENCING at the SW corner of said Section 29; thence East along the South line of said Section, 171- ¾ rods to a point 11- ¾ rods to the East line of the SW1/4; thence North 82.2 rods to a point 70 links North of the center of said Section; thence South 68° West 172.7 rods to the West line of said Section 29; thence South along said line, 98.6 rods to the place of beginning. EXCEPTING therefrom, the following two parcels:

PARCEL #1: Commencing at the SW corner of Section 29-110-12, for a point of beginning; thence East 171- ¾ rods to a point 11- ¾ rods East of the quarter post on said South line'; thence North 80 rods; thence W 171- ¾ rods, more or less, to the West line of said SW1/4; thence South 80 rods to the point of beginning.

PARCEL #2: That part of the South ½ of NW1/4 and North ½ of SW1/2, Section 29-110-12, described as follows: Beginning at the point of intersection of the South right-of-way line of Trunk Hwy #60 and the North and South line running through the center of said Section 29; thence running Southwesterly along the Southerly right-of-way line of said Trunk Hwy #60 for 1350 feet; thence South and parallel to the said line running through the center of said Section 29 for 500 feet; thence Northeasterly parallel to the Southerly right-of-way of said Trunk Hwy #60 for 1350 feet to the line running North and South through center of said Section 29; thence North on said line running North and South through the center of said Section 29 for 500 feet to the point of beginning.

Commissioners' Orders

TOGETHER with a perpetual easement for public access to the above described property, said easement being 16.5 feet in width and lying 8.25 feet on each side of the following described centerline: Commencing at the intersection of the southerly right-of-way line of Trunk Hwy #60 and the West line of said Section 29; thence northeasterly a distance of 700 feet, more or less, along said right-of-way line to the point of intersection with the southeasterly extension of the centerline of an existing township road and said southerly right-of-way line, being also the POINT OF BEGINNING of the line to be described; thence South 51 ° Ease, a distance of 335 feet, more or less, to the northerly line of the above described property and there terminating.

Bear Creek AMA, P1

That part of the West Half of the East Half of the Southwest Quarter of the Southeast Quarter, Section 6, Township 103 North, Range 12 West, Fillmore County, Minnesota, being described as a strip of land 132 feet in width, lying 66 feet on each side of the center line of Bear Creek.

TOGETHER with an easement for walk in access being described as follows:

That part of said West Half of the East Half of the Southwest Quarter of the Southeast Quarter, being described as a strip of land 16.5 feet in width lying southerly and easterly of the following described lines:

Beginning at the northeast corner of said West 1/2 of the East 1/2 of the Southwest 1/4 of the Southeast 1/4; thence west, a distance of 330 feet, more or less, along the north line of said West 1/2 of the East 1/2 of the Southwest 1/4 of the Southeast 1/4 to the northwest corner thereof; thence south, a distance of 780 feet, more or less, along the west line of said West 1/2 of the East 1/2 of the Southwest 1/4 of the Southeast 1/4 to the northerly bank of Bear Creek and there terminating.

Bear Creek AMA, P2

That part of the West half of the Southwest quarter of the Southeast quarter, Section 6, Township 103 North, Range 12 West, Fillmore County, Minnesota, being described as a strip of land 132 feet in width, lying 66 feet on each side of the center line of Bear Creek.

Clearwater River AMA, P14

That part of the South half of the Northeast Quarter and that part of the Southeast Quarter, all in Section 36, Township 148 North, Range 36 West, Clearwater County, Minnesota, being described as a strip of land 132 feet in width, lying 66 feet on each side of the center line of the Clearwater River.

Clearwater River AMA, P15

That part of the South half of the Northwest Quarter of the Northeast Quarter and that part of the Southwest Quarter of the Northeast Quarter, all in Section 20, Township 148 North, Range 35 West, Beltrami County, Minnesota, being described as a strip of land 132 feet in width, lying 66 feet on each side of the center line of the Clearwater River.

Clearwater River AMA, P16

That part of the Northwest Quarter of the Southeast Quarter, Section 20, Township 148 North, Range 35 West, Beltrami County, Minnesota, being described as a strip of land 132 feet in width, lying 66 feet on each side of the center line of the Clearwater River.

Browns Creek AMA, P5

That part of the West 315 feet of the NW1/4 of the SW1/4, Section 20, Township 30N, Range 20W, Washington County, Minnesota, lying east of the easterly right-of-way line of an existing Township Road, lying north of the northerly right-of-way line of the Burlington Northern Railroad (formerly know as the Northern Pacific Railroad Company) and south of the following described line: Commencing at the intersection of the northerly right-of-way line of the Burlington Northern Railroad (formerly know as the Northern Pacific Railroad Company) and the west line of said West 315 feet; thence North, a distance of 225 feet along said west line; thence East a distance of 280 feet, more or less, to the east line of said West 315 feet and there terminating.

Bay Lake AMA, P1

Conservation Easement on all of Government Lots 4 and 5 of Section 11, Township 45 North, Range 28 West; and Government Lot 1 of Section 10, Township 45 North, Range 28 West.

Kabekona Lake AMA, P1

All of Government Lot 1, Section 24, Township 143 North, Range 33 West, except that part thereof platted as Nam-Ken's Plat of Schmidt's Beauty Bay.

Commissioners' Orders

Net River AMA, P1

Those parts of the SW 1/4 of the SE 1/4 and the SE 1/4 of the SE 1/4, all in Section 17, Township 46 North, Range 16 West, Carlton County, Minnesota, lying southerly of the southerly right-of-way line of the Eastern Railway Company of Minnesota, and being further described as a strip of land 200 feet in width, lying 100 feet on each side of the center line of the Net River.

TOGETHER with an easement for ingress and egress over and across the south 16.5 feet of the SW 1/4 of the SE 1/4, Section 17, Township 46 North, Range 16 West, Carlton County, Minnesota, lying easterly of the eastern terminus of Township Road 483 (aka Sorenson Road) and lying westerly of the centerline of the Net River.

Mary Lake Fish Trap AMA, P1

All that part of Government Lot 3, Section 4, Township 127, Range 38 described as follows, to-wit: The Southerly most 1.05 acres of said Government Lot 3 lying above the high water mark of the shore of Lake Mary, the Northerly line of which is on a bearing of East and extending from the highwater mark of the shore line of Lake Mary and West 98.35 feet to an iron monument, and the Northwesterly line of which is on a bearing of South 49° 50' West and extending from the aforesaid monument 174.8 feet to the high water mark of the shore line of Lake Mary, the course of the last mentioned line being tangent to the end of the existing 2-rod township road leading to said tract.

Ida Lake AMA, P7

Outlot B, Fifth Addition to Betsy Ross Point, outlot B, except .24 acres lying in the Northwesterly Corner and being Southeasterly of Lots 1 and 2, Block 3, Fourth Addition to Betsy Ross Point, Douglas County, Minnesota

Ida Lake AMA, P8

Outlots C and D of Gehrke's Point, Douglas County, Minnesota

Bennewitz Pond AMA, P1

German Lake AMA, P1

Outlot A, German Lakeside Estates, Section 32, Township 110 North, Range 24 West, Le Sueur County, Minnesota

Dead River/Walker AMA, P5

That part of Government Lot 1 and that part of the easterly 8.00 acres of the North Half of the Northwest Quarter (N 1/2 NW 1/4) in Section 11, Township 134 North, Range 40 West, in Otter Tail County, Minnesota, described as follows:

Commencing at a found iron monument which designates the west quarter corner of said Section 11; thence North 00° 59' 43" East on an assumed bearing along the west line of said Section 11 for a distance of 557.22 feet; thence South 88° 36' 31" East for a distance of 50.00 feet to an iron monument; thence continuing South 88° 36' 31" East for a distance of 62.23 feet to an iron monument; thence South 42° 39' 37" East for a distance of 335.63 feet to an iron monument; thence South 50° 12' 00" East for a distance of 239.65 feet to an iron monument; thence South 50° 50' 41" East for a distance of 199.32 feet to an iron monument; thence South 87° 02' 26" East for a distance of 347.14 feet to an iron monument; thence South 88° 48' 15" East for a distance of 1010.31 feet to an iron monument; thence North 35° 42' 25" East for a distance of 170.20 feet to an iron monument; thence continuing North 35° 42' 25" East for a distance of 615.73 feet to an iron monument; thence North 15° 41' 41" East for a distance of 476.67 feet to an iron monument; thence North 01° 26' 53" West for a distance of 578.04 feet to an iron monument; thence North 74° 29' 02" East for a distance of 500.97 feet to an iron monument; said point is the point of beginning; thence South 74° 29' 02" West for a distance of 500.97 feet to an iron monument; thence North 11° 48' 07" West for a distance of 183.61 feet to an iron monument; thence North 26° 52' 49" West for a distance of 199.97 feet to an iron monument; thence North 42° 47' 08" West for a distance of 183.50 feet to an iron monument on the westerly line of said easterly 8.00 acres of the North Half of the Northwest Quarter; thence North 00° 47' 38" East along said westerly line of the easterly 8.00 acres of the North Half of the Northwest Quarter for a distance of 390.96 feet to an iron monument on the north line of said Section 11; thence South 88° 06' 43" East along the north line of said Section 11 for a distance of 1.45 feet to a found Department of Natural Resources iron monument; thence continuing South 88° 06' 43" East along the north line of said Section 11 for a distance of 266.24 feet to a found Department of Natural Resources iron monument at the north quarter corner of said Section 11; thence South 88° 10' 54" East along the north line of said Section 11 for a distance of 692.29 feet to an iron monument; thence continuing South 88° 10' 54" East along the north line of said Section 11 for a distance of 289.03 feet to a found Department of Natural Resources iron monument; thence continuing South 88° 10' 54"

Commissioner's Orders

East along the north line of said Section 11 for a distance of 63 feet, more or less, to the water's edge of Walker Lake; thence southerly along the water's edge of said Walker Lake to the intersection with a line which bears North 88° 17' 50" East from the point of beginning; thence South 88° 17' 50" West for a distance of 94 feet more or less, to an iron monument; thence continuing South 88° 17' 50" West for a distance of 359.27 feet to the point of beginning. The above described tract contains 20.6 acres, more or less.

TOGETHER with a 33.00 foot wide driveway easement over, under and across that part of the South Half of the South Half of the Northwest Quarter (S 1/2 S 1/2 NW 1/4), that part of the easterly 4.00 acres of the North Half of the South Half of the Northwest Quarter (N 1/2 S 1/2 NW 1/4), that part of the easterly 8.00 acres of the North Half of the Northwest Quarter, that part of Government Lot 1 and that part of Government Lot 2 all in said Section 11. The southerly and easterly lines of said easement for ingress and egress are described as follows:

Commencing at a found iron monument which designates the west quarter corner of said Section 11; thence North 00° 59' 43" East along the west line of said Section 11 for a distance of 557.22 feet; said point is the point of beginning of the line to be described; thence South 88° 36' 31" East for a distance of 50.00 feet to an iron monument; thence continuing South 88° 36' 31" East for a distance of 62.23 feet to an iron monument; thence South 42° 39' 37" East for a distance of 335.63 feet to an iron monument; thence South 50° 12' 00" East for a distance of 239.65 feet to an iron monument; thence South 50° 50' 41" East for a distance of 199.32 feet to an iron monument; thence South 87° 02' 26" East for a distance of 347.14 feet to an iron monument; thence South 88° 48' 15" East for a distance of 1010.31 feet to an iron monument; thence North 35° 42' 25" East for a distance of 170.20 feet to an iron monument; thence continuing North 35° 42' 25" East for a distance of 615.73 feet to an iron monument; thence North 15° 41' 41" East for a distance of 476.67 feet to an iron monument; thence North 01° 26' 53" West for a distance of 578.04 feet and said line there terminates. The northerly and westerly lines of said driveway easement shall be prolonged or shortened to terminate on the west line of said Section 11 and on a line which bears North 11° 48' 07" West from said point of termination,

Dead River/Walker AMA, P6

That part of Government Lot 1 and that part of Government Lot 2 in Section 11, Township 134 North, Range 40 West of the Fifth Principal Meridian in Otter Tail County, Minnesota, described as follows:

Commencing at a found iron monument which designates the west quarter corner of said Section 11: thence North 00° 59' 43" East on an assumed bearing along the west line of said Section 11 for a distance of 557.22 feet; thence South 88° 36' 31" East 112.23 feet to an iron monument; thence South 42° 39' 37" East for a distance of 335.63 feet to an iron monument; thence South 50° 12' 00" East for a distance of 239.65 feet to an iron monument; thence South 50° 50' 41" East for a distance of 199.32 feet to an iron monument; thence South 87° 02' 26" East for a distance of 347.14 feet to an iron monument; thence South 88° 48' 15" East for a distance of 1010.31 feet to an iron monument; thence North 35° 42' 25" East for a distance of 785.93 feet to an iron monument; thence North 15° 41' 41" East for a distance of 476.67 feet to an iron monument; thence North 01° 26' 53" West for a distance of 578.04 feet to an iron monument; thence North 74° 29' 02" East for a distance 500.97 feet to an iron monument; thence North 88° 17' 50" East for a distance of 305.54 feet to the point of beginning of said conservation easement; thence South 40° 01 minute 35" East for a distance of 283.38 feet; thence South 07° 57' 16" East for a distance of 138.11 feet; thence South 36° 46' 12" West for a distance of 243.60 feet; thence South 35° 41' 38" West for a distance of 145.09 feet; thence South 25° 38' 24" West for a distance of 390.62 feet; thence South 18° 35' 53" West for a distance of 196.71 feet; thence South 12° 57' 02" West for a distance of 374.26 feet; thence South 11° 02' 39" West for a distance of 590.15 feet; thence South 02° 47' 46" West for a distance of 422.18 feet; thence South 83° 58' 34" East for a distance of 53.11 feet to an iron monument; thence continuing South 83° 58' 34" East for a distance of 12 feet, more or less, to the water's edge of said Walker Lake; thence northerly, northeasterly, and northwesterly along the water's edge of said Walker Lake to the intersection with a line which bears North 88° 17' 50" East from the point of beginning; thence South 88° 17' 50" West for a distance of 41 feet, more or less, to an iron monument; thence continuing South 88° 17' 50" West for a distance of 53.73 feet to the point of beginning of said conservation easement.

NOW THEREFORE, IT IS HEREBY ORDERED that the lands described above are designated as aquatic management areas.

Mark Holsten, Commissioner
Department of Natural Resources

Official Notices

Pursuant to *Minnesota Statutes* §§ 14.101, an agency must first solicit comments from the public on the subject matter of a possible rulemaking proposal under active consideration within the agency by publishing a notice in the *State Register* at least 60 days before publication of a notice to adopt or a notice of hearing, and within 60 days of the effective date of any new statutory grant of required rulemaking.

The *State Register* also publishes other official notices of state agencies and non-state agencies, including notices of meetings and matters of public interest.

Assistance with Official Notices

The person listed as the contact for each agency is the one you want to connect with. They give you all the information you need.

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Department of Agriculture

Pesticide and Fertilizer Management Division

Notice of Publication of a Revised Minnesota Pesticide Management Plan: A Plan for the Protection of Groundwater and Surface Water

NOTICE IS HERBY GIVEN that the Minnesota Department of Agriculture (MDA) has completed revisions to the Pesticide Management Plan: A Plan for the Protection of Groundwater and Surface Water (the PMP). Development of the first PMP began in 1990, and was completed in 1996 (with minor revisions in 1998, and additional revisions published in June 2005). A February 2006 audit of MDA pesticide programs conducted by the Minnesota Office of the Legislative Auditor included recommendations for further revisions to the PMP to better address issues of urban pesticide use, aquatic pesticides, and product registration.

The MDA sought comment from July 16 through September 13, 2007, on proposed revisions. A revised PMP is now being published as final, and is available for download from the MDA web site at <http://www.mda.state.mn.us/appd/ace/pmp.htm> or by contacting the MDA at (651) 201-6588.

MDA contact:

Gregg Regimbal
Pesticide and Fertilizer Management Division
Minnesota Department of Agriculture
625 Robert Street North
St. Paul, MN, 55155-2538
E-mail: gregg.regimbal@state.mn.us

Minnesota Comprehensive Health Association Notice of Meeting of the Board of Directors December 3, 2007

NOTICE IS HEREBY GIVEN that a meeting of the Minnesota Comprehensive Health Association's (MCHA) Board of Directors will be held at 1:00 p.m. on Monday, December 3, 2007, at the MCHA Executive Office, 5775 Wayzata Blvd., Suite 910, St. Louis Park, MN.

For additional information, please call Lynn Gruber or Mary McCaffrey at (952) 593-9609.

Minnesota Comprehensive Health Association Notice of Meeting of the Public Policy Committee November 26, 2007

NOTICE IS HEREBY GIVEN that a meeting of the Minnesota Comprehensive Health Association's (MCHA), Public Policy Committee will be held at 9:00 a.m. on Monday, November 26, 2007. The meeting will take place at the MCHA executive office located at 5775 Wayzata Blvd., Suite 910, St. Louis Park, MN.

For additional information, please call Lynn Gruber at (952) 593-9609.

Executive Council State Board of Investment Land Exchange Board Investment Advisory Council Notice of Meetings Monday, December 3, 2007 and Wednesday, December 5, 2007

The Executive Council, State Board of Investment and the Land Exchange Board will meet on Wednesday, December 5, 2007 at 9:00 a.m. in Room 123, State Capitol, St. Paul, MN.

The Investment Advisory Council will meet on Monday, December 3, 2007 at 2:00 P.M. at the State Board of Investment, Board Room (Main Floor), 60 Empire Drive, St. Paul, MN.

Minnesota Department of Health Request for Comments on Biennial Review of Expedited Rulemaking Procedures and Rules Related to the Minnesota Health Care Administrative Simplification Act, *Minnesota Statutes*, Sections 62J.50 to 62J.61

Expedited rulemaking authority. *Minnesota Statutes*, section 62J.61, sets out an expedited rulemaking procedure for adopting rules to implement the Minnesota Health Care Administrative Simplification Act. The expedited procedure provides:

- the Commissioner of Health must publish proposed rules in the *State Register*;
- the Commissioner may publish a notice describing the rules and offering a free copy instead of publishing the text of the rules, if the rules would be so lengthy as to be unduly cumbersome to publish;
- interested parties have 30 days to comment; and

Exempt Rules

- after considering all comments, the Commissioner may adopt the rules by publishing a notice of adoption in the *State Register*.

Reason for expedited rulemaking authority. Health care industry billing procedures change frequently. It is important that rules keep current with these frequently changing procedures. The Legislature recognized that the normal rulemaking procedures in *Minnesota Statutes*, chapter 14, which take an average of 18 months, would not be adequate to keep pace with the changes in the health care industry. Further, some of the billing manuals and implementation guides are hundreds of pages long. It would not be practical to publish these in the *State Register*, especially when these are of interest to a very small group of interested parties. It would be more cost effective to publish a notice and to give a free copy to anyone who requests one.

Biennial review of rulemaking procedures and rules. Section 62J.61, subdivision 5, requires that the Commissioner of Health do a biennial review of the rulemaking procedures and rules by seeking “comments from affected parties about the effectiveness of and continued need for the [expedited] rulemaking procedures . . . and about the quality and effectiveness of rules adopted using these procedures.” The Commissioner is required to invite oral or written comments by holding a meeting and by publishing a notice in the *State Register* at least 30 days before the meeting. The Commissioner is also required to write a report summarizing the comments and to submit the report to the Minnesota Health Data Institute and the Minnesota Administrative Uniformity Committee by January 15 of every evennumbered year.

Oral and written comments invited; deadline. Oral and written comments are invited about the effectiveness and continuing need for the expedited rulemaking procedures and about the quality and effectiveness of rules adopted using these procedures. You have until 4:00 p.m. on January 10, 2008 to comment. You may submit comments at the meeting or by sending them to the agency contact person, as set out later in this Request. After Thursday, January 10, 2008, the Department will compile the comments and prepare the biennial report.

Meeting for receiving oral and written comments. The Department will hold a meeting to receive oral and written comments about the expedited rulemaking procedures in section 62J.61. The meeting will be in Room 305, Taylors Falls Conference Room, Golden Rule Building, 85 East Seventh Place, St. Paul, Minnesota 55101, 9:00 a.m.- 11:00 a.m. on Thursday, January 10, 2008. Anyone attending the meeting must first sign in at the Department’s reception area in Suite 220 of the Golden Rule building to receive access to the meeting.

Agency contact person for receiving written comments. Written comments on the expedited rulemaking procedures and questions about this biennial review may be submitted to the agency contact person. The agency contact person is: Colleen Morse at the Minnesota Department of Health, 85 East Seventh Place, PO Box 64882, St. Paul, MN 55164-0882, **e-mail:** colleen.morse@health.state.mn.us or **phone:** (651) 2826320, **fax:** (651) 2825628. **TTY** users may call the Minnesota Relay Service at 1-800-627-3529.

Background. The requirement to do a biennial review was effective on June 30, 1997. The Department used the expedited authority in 2007 in rulemaking on a Manual of Minnesota Standards for the Use of the Uniform Paper Explanation of Benefits and Uniform Paper Remittance Advice Report pursuant to *Minnesota Statutes*, section 62J.581. The expedited authority was also used in 2007 in rulemaking for Minnesota Uniform Companion Guide for the Implementation of the Eligibility Inquiry and Response Electronic Transaction pursuant to *Minnesota Statutes*, section 62J.536, and will be used in 2008 for similar rulemaking on Minnesota uniform companion guides for claims and payment/remittance advice transactions.

Dated: November 26, 2007

Department of Health Division of Compliance Monitoring Managed Care Systems Section Notice of Application for Essential Community Provider Status

NOTICE IS HEREBY GIVEN that an application for designation as an Essential Community Provider (ECP) has been submitted to the Commissioner of Health by Littlefork Medical Center, 912 Main St., Littlefork, MN 56653.

An ECP is a health care provider that serves high-risk, special needs, and underserved individuals. In order to be designated as an ECP,
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Exempt Rules

a provider must demonstrate that it meets the requirements of *Minnesota Statutes* Section 62Q.19 and *Minnesota Rules* Chapter 4688. The public is allowed 30 days from the date of the publication of this notice to submit written comments on the application. The commissioner will approve or deny the application once the comment period and compliance review is complete.

For more information contact:

Mary Ann Fena
Managed Care Systems Section
Division of Compliance Monitoring
Department of Health
P.O. Box 64882
St. Paul, MN 55164-0882
Phone: (651) 201-5164

Department of Labor and Industry Labor Standards Unit Notice of Additional Rate to Highway/Heavy Prevailing Wage Rates

An additional rate has been added to the Highway/Heavy Prevailing Wage rates certified 10/22/07, for Labor Code 404, Carpenters, in Region 3.

Copies may be obtained by writing the Minnesota Department of Labor and Industry, Prevailing Wage Section, 443 Lafayette Road North, St. Paul, Minnesota 55155-4306, or by calling (651) 284-5091, or accessing our web site at www.doli.state.mn.us. Charges for the cost of copying and mailing at \$.25 per page for the first 100 pages, \$.65 per page after that. Make check or money order payable to the State of Minnesota.

Steve Sviggum, Commissioner
Department of Labor and Industry

Teachers Retirement Association Notice of Meeting December 11, 2007

The Board of Trustees, Minnesota Teachers Retirement Association will hold a meeting on Tuesday, December 11, 2007 at 9:30 a.m. in Suite 400, 60 Empire Drive, St. Paul, MN to consider matters which may properly come before the Board.

State Grants & Loans

In addition to requests by state agencies for technical/professional services (published in the State Contracts Section), the *State Register* also publishes notices about grants and loans available through any agency or branch of state government. Although some grant and loan programs specifically require printing in a statewide publication such as the *State Register*, there is no requirement for publication in the *State Register* itself. Agencies are encouraged to publish grant and loan notices, and to provide financial estimates as well as sufficient time for interested parties to respond.

Minnesota Housing Finance Agency Consolidated Request for Proposals for Single Family RFP

The Minnesota Housing Finance Agency, the Greater Minnesota Housing Fund, the Metropolitan Council, the Family Housing Fund and the Minnesota Department of Corrections announce the availability of funds through a Consolidated Request for Proposals (RFP). Funds are available to assist in the development, construction, acquisition, demolition, or rehabilitation of affordable homeownership, home improvement, housing activities for low and moderate-income residents of Minnesota.

The Consolidated RFP represents an effort to coordinate the resources available within the agency, and to address communities' comprehensive housing efforts.

Eligible applicants are invited to submit proposal(s) for the Single Family RFP. Refer to the Important Dates section at the end of this RFP for application deadlines.

Amount of Funds Available:

Based upon legislative approval, approximately \$5 million will be available.

Eligible Locations:

Minnesota Housing funds are generally available statewide; while respective RFP partners' funds are available only in the Twin Cities Metropolitan area or Greater Minnesota depending upon the specific funding partner.

Eligible Applicants:

In general, eligible applicants for the majority of resources include Minnesota Cities, for-profit organizations, nonprofit organizations, private developers, natural persons, Indian tribes or tribal housing corporations, public housing agencies, joint powers board established by two or more cities, and cooperative housing corporations.

If the proposed community revitalization activity is located in Dakota County, Kandiyohi County or the City of Brooklyn Park, contact the local partnering entity participating in the Pilot Performance project.

City of Brooklyn Park	–	Jason Aarsvold at (763) 493-8087
Dakota County	–	Cheryl Jacobson at (651) 675-4433
Kandiyohi County	–	Jill Bengston at (320) 235-8637

SINGLE FAMILY RFP

Limited Fund Program Information:

The Limited Fund programs are highly competitive. Limited Fund proposals will be presented to a Selection Committee for evaluation, scoring and funding consideration. The Selection Committee is comprised of Minnesota Housing staff, representatives from the various funding partners and staff from the Minnesota Department of Employment and Economic Development (DEED).

I. Programs Available:

- **Greater Minnesota Housing Fund (GMHF):** 1) New Construction – Under its Building Better Neighborhoods (BBN) Program, GMHF provides gap financing (interest-free, deferred loans) for homebuyers and/or below-market interim financing for the developer that are available for land acquisition, infrastructure or construction. In addition, limited GMHF funds for other single-family new construction projects not meeting BBN guidelines may be awarded. For both programs, additional funds are available to support projects with

State Grants & Loans

The contributing partners strongly encourage communities to leverage funds with the resources available through this RFP to address the local housing need(s) identified in their comprehensive housing plan.

III. Funding Partners Program Income Limits/Guidelines:

Please refer to each of the program concepts for specific income limits/guidelines.

- **Greater Minnesota Housing Fund** serves families with children with incomes that do not exceed 80% of the statewide median income. Funding preference will be given for projects that use green building techniques and focus on closing the homeownership gap for emerging markets.

- **Family Housing Fund** only serves households with incomes that do not exceed 80% of the Twin Cities metropolitan area median income with priority given to households with incomes at or below 50% - 60% of area median income. Funding preference will be given to projects that promote successful homeownership for first-time homebuyers, first-generation homebuyers, and for communities of color, and/or propose taking action to counter the effects of foreclosures. Preference will also be given to projects that promote and preserve a full range of workforce housing choices for families and that link the housing to other regional systems.

- **Metropolitan Council's LHIA** serves households with incomes that do not exceed 80% of the Twin Cities metropolitan area median income with preference for proposals with a significant component serving households at 60% or below. Rehabilitation and redevelopment programs in areas of low valued, blighted or substandard properties where the local government is engaged in a redevelopment and neighborhood improvement effort to which they have community matching funding, may serve households up to 115% of area median income.

- **The Minnesota Department of Corrections - Institution Community Work Crew Affordable House Building Program** serves households with incomes at or below 80% of greater of state or area median income. In certain areas households with incomes of up to 115% of state median may also be served. Homes must be priced so as not to compete with the private residential construction industry.

- **Minnesota Housing Finance Agency** only serves households with incomes that are at or below 115% of the greater of state or area median income.

Ongoing Program Information

Organizations may apply for any of the following Minnesota Housing programs at any time during the year. Applications for these programs are not included in the SF RFP but information can be obtained by contacting a Minnesota Housing staff person listed below.

- Community Activity Set Aside Program (CASA)
- Community Fix-up Fund (CFUF)

Central Region: Don Redinger (651) 296-8276

don.redinger@state.mn.us

Northeast Region: Devon Pohlman (651) 296-8255

devon.pohlman@state.mn.us

Northwest Region: Chuck Callender (651) 296-8843

chuck.callender@state.mn.us

Southeast Region: Cheryl Rice (651) 297-3124

cheryl.rice@state.mn.us

Southwest Region: Ruth Simmons (651) 297-5146

ruth.simmons@state.mn.us

West Central Region: Kim Stuart (651) 296-9959

kim.stuart@state.mn.us

Twin Cities Metropolitan Region:

Any Representative Listed Above

APPLICATION PROCESS

Access application materials as follows:

- The Single Family application will be available on Tuesday, December 4, 2007 on Minnesota Housing's website at <http://www.mnhousing.gov/resources/apply/rfp/index.aspx> in a fillable format. If you are unable to access our website call (651) 297-3118, or Toll Free: 1-800-710-8871 to obtain a hard copy.

State Grants & Loans

RFP TRAINING AND TECHNICAL ASSISTANCE SESSIONS:

- Please check the Minnesota Housing website at <http://www.mnhousing.gov/resources/apply/rfp/index.aspx> for Single Family technical assistance dates, times and locations, and registration information. Technical assistance is tentatively planned for January 2008.

IMPORTANT DATES:

- **Submit one original and two copies** of your application/proposal to:
Minnesota Housing Finance Agency
400 Sibley Street, Suite 300
St. Paul, MN 55101
Attn: Single Family RFP Application
- **Applications/proposals must be received by Minnesota Housing on or before 5:00 p.m. on Thursday, February 14, 2008.**
- **Faxed, emailed, incomplete, or late applications will not be accepted.**

NOTE: Applications determined to be incomplete will be returned to the applicant.

Board Approval:

Recommendations for Minnesota Housing's Single Family proposal selections will be made at the April 2008 Minnesota Housing Board meeting. Funding partner's single-family proposal recommendations will be presented at their individual board meetings.

Fund Notification:

- Notification of approved selected proposals will be posted on the Minnesota Housing's website:
<http://www.mnhousing.gov/resources/apply/rfp/index.aspx>

after the Board meeting noted above and Loan/Grant Agreements will be mailed within 20 working days of the approval. If you have been awarded funds from a Minnesota Housing funding partner, you will be notified from the appropriate funding partner directly, after each of their respective board meetings.

This Consolidated Request for Proposal is subject to all applicable federal, state, and municipal laws, rules, and regulations. Minnesota Housing reserves the right to modify or withdraw this RFP at any time and is not able to reimburse any applicant for costs incurred in the preparation or submittal of proposals.

It is the policy of the Minnesota Housing Finance Agency (Minnesota Housing) to further fair housing opportunity in all Agency programs and to administer its housing programs affirmatively, so that all Minnesotans of similar income levels have equal access to Agency programs regardless of race, color, creed, religion, national origin, sex, sexual orientation, marital status, status with regard to receipt of public assistance, disability, or family status.

State Contracts

Informal Solicitations: Informal solicitations for professional/technical (consultant) contracts valued at over \$5,000 through \$50,000, may either be published in the *State Register* or posted on the Department of Administration, Materials Management Division's (MMD) Web site. Interested vendors are encouraged to monitor the P/T Contract Section of the MMD Web site at www.mmd.admin.state.mn.us for informal solicitation announcements.

Formal Solicitations: Department of Administration procedures require that formal solicitations (announcements for contracts with an estimated value over \$50,000) for professional/technical contracts must be published in the *State Register*. Certain quasi-state agency and Minnesota State College and University institutions are exempt from these requirements.

Requirements: There are no statutes or rules requiring contracts to be advertised for any specific length of time, but the Materials Management Division strongly recommends meeting the following requirements:

\$0 - \$5000 does not need to be advertised. Contact the Materials Management Division: (651) 296-2600

\$5,000 - \$25,000 should be advertised in the *State Register* for a period of at least seven calendar days;

\$25,000 - \$50,000 should be advertised in the *State Register* for a period of at least 14 calendar days; and

anything above \$50,000 should be advertised in the *State Register* for a minimum of at least 21 calendar days

Aid for Contractors

Obtain MORE and FASTER information with a SUBSCRIPTION to the *State Register*. Subscribe and receive LINKS to the *State Register*. Open the *State Register* and click on Bookmarks in the upper right corner. You will also receive ALL the current rules, with an INDEX, and previous years' indices. You also receive a summarized "Contracts & Grants" section to review. Subscriptions cost \$180 a year (an \$80 savings). Here's what you receive via e-mail:

- Word Search Capability
- LINKS, LINKS, LINKS
- Easy Access to *State Register* Archives
- Updates to Index to Vol. 31
- "Contracts & Grants" Open for Bid
- Early delivery, on Friday
- E-mailed to you . . . its so easy
- Indexes to Vols. 31, 30, 29, 28 and 27

It's all E-mailed to you, at end-of-day on Friday, instead of waiting for the non-subscriber's issue released on Monday. Contact Cathy Hoekstra, our subscriptions manager, at (651) 297-8777, or **Fax:** (651) 297-8260, or **E-mail:** cathy.hoekstra@state.mn.us

Office of Administrative Hearings

Administrative Law Section

Notice of Request for Proposal for Part-time Contract Administrative Law Judge Services

The Minnesota Office of Administrative Hearings is seeking qualified attorneys to serve as part-time contract law judges for two year period from January 1, 2008 through December 31, 2009

Proposed hourly compensation must be specified in proposals. Persons who serve as contract administrative law judges, or members of their firm, may not appear as a attorney in any hearing conducted by this office

To receive a request for proposal, please notify: Elizabeth Suszynski, Office of Administrative Hearings, P.O.Box 64620 St Paul, MN 55164-0620 (telephone 651-361-7836, TDD 651-7878. Final proposals must be received by the December 01, 2007 The Request for Proposal can be furnished in large print or on CD or via e-mail by calling 651-361-7836.

**Minnesota State Colleges and Universities
Office of the Chancellor****Notice of Availability of Request for Proposal (RFP) for Consultant Services for
Design of Thirteen Roof Replacements for the Office of the Chancellor**

The State of Minnesota, acting through its Board of Trustees of the Minnesota State Colleges and Universities, on behalf of the Office of the Chancellor, is soliciting proposals for experienced roof consulting services for the design of roof replacement systems and inspection/testing services for thirteen roofs at various campuses throughout the state. The consultant team will be responsible for complete roof replacement design, including any electrical/mechanical work, masonry, window replacement, and/or asbestos testing and removal, as necessary.

A full Request for Proposals is available on the Minnesota State Colleges and Universities website: www.facilities.mnscu.edu, click on "Announcements." An informational meeting is tentatively scheduled for 9:00 AM, November 30, 2007 in Conference Room 3309 at Minnesota State Colleges and Universities, Wells Fargo Place, 350 – 7th Street East, Suite 350, St. Paul, MN 55101. All firms interested in this meeting should contact James Morgan, at (651) 296-3823 or James.morgan@csu.mnscu.edu to sign up for the meeting.

Proposals must be delivered to:

James P. Morgan, Program Manager
Office of the Chancellor
Minnesota State Colleges and Universities
Wells Fargo Place, 30 7th Street, Suite 350
St. Paul, MN 55101-7804

not later than 2:00 PM, Monday, November 21, 2007. Late responses will not be considered.

Minnesota State Colleges and Universities is not obligated to complete the proposed project and reserves the right to cancel the solicitation if it is considered to be in its best interest.

Department of Commerce**Notice of Availability of Contract for Performance, Emissions, and Economic Analysis
of Minnesota Geothermal Heat Pumps (Ref: 2007-11-04-Geothermal)**

The Minnesota Department of Commerce is requesting proposals for the purpose of determine the difference in energy use, user costs, and amounts of pollutants and carbon dioxide emissions for Geothermal Heat Pumps (GHPs) as compared to conventional Heating, Ventilation and Air Conditioning (HVAC) systems in Minnesota residential, commercial and industrial buildings used for heating and cooling air and water heating.

Work is proposed to start by late December 2007.

A Request for Proposals will be available by written request from this office through November 30, 2007.

The Request for Proposal can be obtained from:

Amy Bicek
Minnesota Department of Commerce
85 Seventh Place E, Suite 500
Saint Paul, MN 55101
Fax: (651) 297-7891
E-mail: energy.contracts@state.mn.us

State Contracts

Proposals submitted in response to the Request for Proposals in this advertisement must be received at the address above no later than December 4, 2007. **Late proposals will not be considered.** Fax or e-mailed proposals will be considered.

This request does not obligate the State to complete the work contemplated in this notice. The State reserves the right to cancel this solicitation. All expenses incurred in responding to this notice are solely the responsibility of the responder.

Department of Human Services Child Safety and Permanency Division Notice of Request for Proposals (RFP) for the Minnesota Children's Trust Fund

The Department of Human Services seeks qualified grantee(s) to provide evaluation support, guidance, and technical assistance to Children's Trust Fund Initiatives.

The Department of Human Services through its Children's Trust Fund is seeking proposals from qualified responders to:

- Aide in the development of a culture of continuous improvement of Children's Trust Fund initiatives. This will be accomplished by linking CTF initiative actions to intended outcomes, analyzing the effectiveness of initiative purpose and design, tracking results and accountability and participating in strategic planning, through the development of annual and long-term efficiency measures.
- Promote more effective and efficient evaluation methodologies among Children's Trust Fund initiatives.
- Provide recommendations to align CTF initiatives with best practice.
- Determine the impact that the provision of CTF initiatives has in preventing child abuse and neglect through the promotion of protective factors: nurturing and attachment, knowledge of parenting and child and youth development, parental resilience, social connections and concrete supports.

Public and private non-profit organizations in Minnesota are eligible to provide evaluation support, guidance, and technical assistance to Children's Trust Fund Initiatives.

The term of any resulting contract is anticipated to be for three years, from February 2008 – February 2010, with the option of three (3) one-year extensions contingent on availability of funds and satisfactory performance.

Questions concerning this request for proposal should be directed to:

Joanne Mooney
Department of Human Services
Children's Trust Fund
Child Safety and Permanency
PO Box 64962
St. Paul, MN 55164 – 0962
Phone: (651) 431-3879
E-mail: joanne.mooney@state.mn.us

Joanne Mooney is the authorized State staff to respond to all questions concerning this RFP.

A Request for Proposal packet can be obtained by going to: http://www.dhs.state.mn.us/main/id_000102 Or by contacting:

Lori Ellingson
Department of Human Services
Children's Trust Fund
Child Safety and Permanency
PO Box 64962
St. Paul, MN 55164-0962
Phone: (651) 431-3881
E-mail: Lori.ellingson@state.mn.us

To be considered, submitted proposals must be received (not postmarked) no later than 4:00 p.m. Central Time on January 7, 2008. Late proposals will **NOT** be considered. Faxed or e-mailed proposals will **NOT** be considered.

This request does not obligate the State to complete the work contemplated in this notice. The State reserves the right to cancel this solicitation. All expenses incurred in responding to this notice are solely the responsibility of the responder.

Department of Transportation (Mn/DOT) Engineering Services Division Notice of Potential Availability of Contracting Opportunities for a Variety of Highway Related Technical Activities (“Consultant Pre-Qualification Program”)

This document is available in alternative formats for persons with disabilities by calling Juanita Voigt at (651) 366-4774 for persons who are hearing or speech impaired by calling Minnesota Relay Service at (800) 627-3529.

Mn/DOT, worked in conjunction with the Consultant Reform Committee, the American Council of Engineering Companies of Minnesota (ACEC/MN), and the Department of Administration, to develop the Consultant Pre-Qualification Program as a new method of consultant selection. The ultimate goal of the Pre-Qualification Program is to streamline the process of contracting for highway related professional/technical services. Mn/DOT awards most of its consultant contracts for highway-related technical activities using this method, however, Mn/DOT also reserves the right to use Request for Proposal (RFP) or other selection processes for particular projects. Nothing in this solicitation requires Mn/DOT to use the Consultant Pre-Qualification Program.

Mn/DOT is currently requesting applications from consultants. Refer to Mn/DOT’s Consultant Services web site, indicated below, to see which highway related professional/technical services are available for application. Applications are accepted on a continual basis. All expenses are incurred in responding to this notice will be borne by the responder. Response to this notice becomes public information under the Minnesota Government Data Practices.

Consultant Pre-Qualification Program information, application requirements and applications forms are available on Mn/DOT’s Consultant Services web site at: <http://www.dot.state.mn.us/consult>.

Send completed application material to:

Juanita Voigt
Consultant Services
Office of Technical Support
Minnesota Department of Transportation
395 John Ireland Blvd. Mail Stop 680
St. Paul, Minnesota 55155

Note: DUE DATE: APPLICATION MATERIAL WILL BE ACCEPTED ON A CONTINUAL BASIS.

Department of Transportation (Mn/DOT) Engineering Services Division Notice Concerning Professional/Technical Contract Opportunities

NOTICE TO ALL: The Minnesota Department of Transportation (Mn/DOT) is now placing additional public notices for professional/technical contract opportunities on Mn/DOT’s Consultant Services **website** at: www.dot.state.mn.us/consult.

New public notices may be added to the website on a daily basis and be available for the time period as indicated within the public notice.

Non-State Bids, Contracts & Grants

The *State Register* also serves as a central marketplace for contracts let out on bid by the public sector. The *State Register* meets state and federal guidelines for statewide circulation of public notices. Any tax-supported institution or government jurisdiction may advertise contracts and requests for proposals from the private sector. It is recommended that contracts and RFPs include the following: 1) name of contact person; 2) institution name, address, and telephone number; 3) brief description of commodity, project or tasks; 4) cost estimate; and 5) final submission date of completed contract proposal. Allow at least three weeks from publication date (four weeks from the date article is submitted for publication). Surveys show that subscribers are interested in hearing about contracts for estimates as low as \$1,000. Contact editor for further details.

Austin-Mower County Area Transit Joint Powers Board Request for Proposals (RFP) to Operate Transit System

Sealed proposals for the project listed below will be received at the office of the Austin City Finance Director, 500 4th Avenue Northeast, Austin, MN 55912, until 2:00 P. M., December 18, 2007, at which time they will be opened publicly and read. Proposals may be considered by the Austin-Mower County Area Transit Joint Powers Board at their meeting at 5:30 P. M. on December 18, 2007, at the Housing Redevelopment Authority office, located at 308 2nd Avenue NE, Austin, MN. The Board reserves the right to review the proposals at a later date if necessary to allow for further consideration prior to taking action.

The Austin-Mower County Area Transit Joint Powers Board hereby makes a Request For Proposals (RFP) from parties interested in entering into a contract with the Board to operate Austin-Mower County Area Transit (AMCAT), for the period from January 1, 2008 through December 31, 2009, with an option exercisable by the Board at any time to extend the contract for the period from January 1, 2010 through December 31, 2010.

AMCAT is a countywide, state subsidized public transportation system, which utilizes small buses to transport passengers.

The RFP documents and forms may be obtained, at no cost, at the office of the Mower County Highway Department, 1105 8th Avenue NE, Austin, MN 55912. The contact person for all communication involving the RFP is:

Michal J. Hanson, Mower County Engineer
1105 8th Avenue NE
Austin, MN 55912
Phone: (507) 437-7718

Other personnel are not allowed to discuss the RFP with anyone, including potential responders, before the RFP submission deadline.

No proposal guaranty will be required.

Pursuant to Federal and State requirements, a Disadvantaged Business Enterprises (DBE) Race/Gender Neutral Goal has been assigned for work under this RFP. In preparing a bid, bidders should make every reasonable effort to solicit DBE firms to participate as subcontractors. Bidders must complete the Bidder's list contained in the DBE Special Provisions included in this RFP.

The Board reserves the right to reject any and all proposals, to waive defects therein, and to award to other than the lowest bidder if it is in its best interest.

David Hillier, Vice-Chairman
Austin-Mower County Area Transit Joint Powers Board

Minnehaha Creek Watershed District Call for Proposals for Strategic Estate Planning Services

The Minnehaha Creek Watershed District (MCWD) is soliciting proposals for Strategic Real Estate Planning Services. Interested firms or individuals are encouraged to contact the MCWD for a copy of the complete Request for proposal (RFP) or view it at:

http://www.minnehahacreek.org/documents/RFP_MCWD_Building_Plan.pdf

Proposals shall be sent to:

Proposal for Development Management Services
Attn: Eric Evenson, District Administrator

Non-State Bids, Contracts & Grants

Minnehaha Creek Watershed District
18202 Minnetonka Blvd.
Deephaven, MN 55391

Proposals must be submitted by noon on Friday, January 4, 2008.

The MCWD Board of Managers reserves the right to reject any and all proposals, and otherwise take such action it deems in the best interest of the MCWD.

For further information, contact Eric Evenson, Administrator at (952) 471-0590 ext. 201, or **e-mail** him at: eevenson@minnehahacreek.org

University of Minnesota Subscribe to Bid Information Service (BIS)

The University of Minnesota offers 24 hour/day, 7day/week access to all Request for Bids/Proposals through its web-based Bid Information Service (BIS). Subscriptions to BIS are free. Visit our website at bidinfo.umn.edu or call the BIS Coordinator at (612) 625-5534.

Request for Bids/Proposals are also available to the public each business day from 8:00 a.m. to 4:30 p.m. in the Purchasing Services lobby, Suite 560, 1300 S. 2nd Street, Minneapolis, Minnesota 55454.

Washington County Public Works Transportation Department Request for Proposals for Engineering Services for the Broadway Avenue/County State Aid Highway (CSAH) 2 Reconstruction

NOTICE IS HEREBY GIVEN that Washington County Public Works, as the lead agency, is seeking qualified firms to provide preliminary design services for the reconstruction of Broadway Avenue (CSAH 2) from the existing interchange at Interstate 35 to the intersection at Trunk Highway (TH) 61 in the City of Forest Lake. Qualified firms will have experience in Planning, Traffic Studies and Forecasting, Public and Agency Involvement, Environmental Documentation and Layout Development and Analysis.

The project work will commence immediately upon selection of the consultant. The consultant will prepare a project schedule based on a start date of February 1, 2008 and a target date of December 1, 2008 for completion of the preliminary design.

A "Qualification Based Selection" method will be used to review proposals submitted in response to this RFP.

The full Request for Proposal can be obtained at the Office of the Washington County Engineer:

Washington County Public Works Department
11660 Myeron Road North
Stillwater, MN 55082
Phone: (651) 430-4330

The full Request for Proposal can also be obtained from the Washington County website:

http://www.co.washington.mn.us/info_for_residents/transportation_division/bidsrequest_for_proposals

Pre-proposal Conference: November 26, 2007 at 1:00 p.m. at Washington County Public Works

Proposals Due: December 11, 2007 at 2:00 p.m. at Washington County Public Works

A minimum goal of 12% Good Faith Effort must be subcontracted to Disadvantaged Business Enterprises.

