

**7050.0280 PROCEDURES FOR INDIVIDUAL NPDES WASTEWATER PERMITS AND INDIVIDUAL NPDES STORMWATER PERMITS FOR INDUSTRIAL AND CONSTRUCTION ACTIVITIES.**

Subpart 1. **Antidegradation procedures required.** Except as provided in part 7050.0275, the antidegradation procedures in this part apply to new, reissued, or modified individual NPDES wastewater, industrial stormwater, and construction stormwater permits that the commissioner anticipates will result in net increases in loading or other causes of degradation to surface waters.

Subp. 2. **Applicant's antidegradation assessment.** The applicant must include the following information with the written permit application specified in part 7001.0050:

A. an analysis of alternatives that avoid net increases in loading or other causes of degradation through prudent and feasible prevention, treatment, or loading offsets;

B. when the commissioner determines there are no prudent and feasible alternatives to avoid net increases in loading or other causes of degradation, an assessment of:

(1) existing uses; and

(2) existing water quality using determination methods described in part 7050.0260.

C. when the commissioner determines there are no prudent and feasible alternatives to avoid net increases in loading or other causes of degradation to existing high water quality:

(1) an analysis of prudent and feasible alternatives that minimize degradation through prudent and feasible prevention, treatment, or loading offsets that identifies the least degrading prudent and feasible alternatives;

(2) the design considerations and constraints, expected performance, construction, operation, and maintenance costs, and reliability of the least degrading prudent and feasible alternatives; and

(3) the following information based on the least degrading prudent and feasible alternatives:

(a) a comparison of loading or other causes of degradation previously authorized by the commissioner in the most recently issued control document to the anticipated loading or other causes of degradation expected when the proposed activity is fully implemented;

(b) a comparison of existing water quality to the anticipated water quality when the proposed activity is fully implemented; and

(c) for the geographic area in which high water quality degradation is reasonably anticipated, a comparison of existing and expected economic conditions and social services when the proposed activity is fully implemented. The comparison must include the factors identified in part 7050.0265, subpart 5, item B, subitems (1) to (6).

Subp. 3. **Antidegradation review.** The commissioner shall conduct an antidegradation review based on the information provided under subpart 2 and other reliable information available to the

commissioner concerning the proposed activity and other activities that cause cumulative changes in existing water quality in the surface waters. The purpose of the antidegradation review is to evaluate whether the proposed activity will satisfy the antidegradation standards in part 7050.0265. If, in the commissioner's judgment, the antidegradation standards described in part 7050.0265 will not be satisfied, the commissioner shall provide written notification to the applicant of the deficiencies and provide recommendations necessary to satisfy the antidegradation standards in part 7050.0265.

Subp. 4. **Preliminary antidegradation determination.** Based upon the review described in subpart 3, the commissioner shall prepare a written preliminary antidegradation determination as to whether the antidegradation standards described in part 7050.0265 are satisfied. The preliminary antidegradation determination must be included with the commissioner's preliminary determination to issue or deny the permit according to part 7001.0100. If, in the commissioner's judgment, the antidegradation standards are not satisfied, reasons why they are not satisfied must be included in the preliminary antidegradation determination.

Subp. 5. **Opportunity for comment.** The commissioner shall:

A. include the preliminary antidegradation determination with the public notice to issue or deny the permit according to part 7001.0100, subpart 4;

B. distribute the public notice according to part 7001.0100, subpart 5; and

C. provide opportunity for comment on the preliminary antidegradation determination according to part 7001.0110.

Subp. 6. **Final antidegradation determination.** The commissioner shall consider comments received under subpart 5 before preparing a written final antidegradation determination. The final antidegradation determination must include a statement of whether the proposed activity achieves or fails to achieve the antidegradation standards specified in part 7050.0265. The final antidegradation determination must be included with the commissioner's final determination to authorize or not authorize the proposed activity according to part 7001.0140.

**Statutory Authority:** *MS s 115.03; 115.44*

**History:** *41 SR 545*

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