

**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 subparts 2 to 9.

Subp. 2. **Effluent limitations, standards, or prohibitions.** Except as provided in subpart 3, the commissioner shall establish effluent limitations, standards, or prohibitions for each pollutant to be discharged from each outfall or discharge point of the permitted facility; except that if the commissioner finds that as a result of exceptional circumstances it is not feasible to establish effluent limitations, standards, or prohibitions which are applicable at the point of discharge, the commissioner shall establish effluent limitations, standards, or prohibitions for pollutants in internal waste streams at the point prior to mixing with other waste streams or cooling water streams. In determining the appropriate effluent limitations, standards, or prohibitions the commissioner shall comply with the following requirements:

A. Effluent limitations, standards, or prohibitions must be expressed in terms of weight or mass, where applicable, and in the following terms:

(1) for continuous discharges from a publicly owned treatment works, in terms of average weekly and maximum monthly discharge limitations;

(2) for continuous discharges from a facility which is not a publicly owned treatment works, in terms of maximum daily and average monthly discharge limitations;

(3) for noncontinuous discharges, in terms which most appropriately limit the discharge, such as frequency, total mass, concentration, or maximum rate of discharge;

(4) for metals, in terms of total metal, which is the sum of the dissolved and suspended fractions of the metal. This requirement does not apply if a federal or state rule requires that an effluent limitation, standard, or prohibition be expressed in terms of the dissolved or valent form of the metal; or if the commissioner determines that the expression of the effluent limitation, standard, or prohibition in a different manner would better enable the agency to determine compliance by the permittee with all applicable Minnesota or federal statutes or rules.

B. In establishing effluent limitations, standards, or prohibitions the commissioner shall consider the following:

(1) technology-based effluent limitations, standards, or prohibitions and effluent limitation guidelines that apply to the permittee;

(2) effluent standards or limitations applicable to the permittee; promulgated by the Environmental Protection Agency under sections 302, 303, 304, 307, 318, 402(a), and 405 of the Clean Water Act, United States Code, title 33, sections 1312, 1313, 1314, 1317, 1328, 1342, and 1345 as amended; and published in Code of Federal Regulations, title 40, parts 400 to 460, which are applicable to the permittee;

(3) the applicable water quality standards in parts 7050.0100 to 7050.0220, 7050.0300 to 7050.0380, 7055.0010 to 7055.0120, and 7055.0250 to 7055.0310.

(4) the requirements of the water quality management plan adopted by the state and approved by the Environmental Protection Agency under section 208(b) of the Clean Water Act, United States Code, title 33, section 1288(b) as amended; and

(5) the requirements of the National Environmental Policy Act, United States Code, title 42, sections 4321 et seq. as amended, and the Minnesota Environmental Policy Act, Minnesota Statutes, chapter 116D.

C. If the establishment of an effluent limitation, standard, or prohibition requires the making of a calculation, the commissioner shall comply with the following, if applicable:

(1) for a publicly owned treatment works, calculations must be based on the design flow of the facility;

(2) for a facility which is not a publicly owned treatment works, calculations of technology-based effluent limitations must be based on a reasonable measure of the actual quantity of the product manufactured, processed, or produced at the facility, or, for a new source or new discharger, the projected measure of the quantity of product;

(3) for a facility which is not a publicly owned treatment works, calculations of effluent limitations other than technology-based effluent limitations must be based on a reasonably representative quantity of flow from the facility; and

(4) for a facility which disposes of any part of its wastewater in a manner which does not involve a discharge of a pollutant into the waters of the state, calculations of effluent limitations, standards, or prohibitions expressed in terms of mass must be based only upon that portion of the wastewater which is discharged into the waters of the state.

D. If a permit issued to a new source or a new discharger contains technology-based effluent limitations, standards, or prohibitions for pollutants other than toxic pollutants or hazardous substances, the source or discharger must not be subject to more stringent technology-based limitations, standards, or prohibitions for the following periods of time, whichever is less:

(1) for new sources, ten years from the date that construction of the source is completed;

(2) ten years from the date that the source begins to discharge process or other nonconstruction related wastewater; or

(3) the period of depreciation or amortization of the facility for the purposes of section 167 or 169, or both, of the Internal Revenue Code of 1954, United States Code, title 26.

Subp. 3. **Best management practices.** If the commissioner finds that it is not feasible to establish an effluent limitation, standard, or prohibition using a numerical value, the commissioner shall establish permit conditions requiring the implementation by the permittee of best management practices. The commissioner may also require implementation of best management practices if the commissioner finds that this requirement is necessary to achieve compliance with an effluent limitation, standard, or prohibition or to comply with Minnesota or federal statutes or rules, including requirements for the control of toxic pollutants and hazardous substances from ancillary activities.

Subp. 4. **Reporting violations.** The commissioner shall include as a condition of the permit that the permittee shall report, in accordance with part 7001.0150, subpart 3, item K, all violations of maximum daily discharge limitations for certain pollutants. The pollutants must be listed in the permit.

Subp. 5. **Monitoring requirements.** In addition to the requirements in part 7001.0150, subpart 2, the commissioner shall establish appropriate monitoring and reporting of monitoring requirements to ensure compliance with permit limitations. These requirements must include:

A. a specification of the appropriate measurement to be reported for each pollutant limited in the permit;

B. the volume of effluent discharged from each outfall;

C. any other measurement needed to determine compliance with a permit condition;

D. specification as to any test procedures which the permittee is required to use which differ from those set forth in Code of Federal Regulations, title 40, part 136; and

E. specification of the frequency of monitoring and monitoring reporting. In no case may the frequency of monitoring and monitoring reporting be less than once per year.

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 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 require the permittee to submit the information in 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.

Subp. 7. **Conditions imposed in construction grants.** If the applicant is using construction grant funds to construct or operate its wastewater treatment facility, the commissioner shall incorporate into the permit any provisions of the grant that relate to the achievement of compliance with effluent limitations, standards, or prohibitions or with water quality standards.

Subp. 8. **Conditions related to navigation.** The commissioner shall incorporate into the permit conditions that are necessary to ensure that navigation and anchorage will not be substantially impaired.

Subp. 9. **Conditions in reissued permits.** In a reissued permit the commissioner shall establish effluent limitations, standards, or prohibitions that are at least as stringent as the effluent limitations, standards, or prohibitions or conditions in the previous permit unless the commissioner establishes less stringent effluent limitations, standards, or prohibitions in accordance with part 7050.0212.

**Statutory Authority:** *MS s 115.03; 115.44; 116.07*

**History:** 8 SR 2277; L 1987 c 186 s 15; 13 SR 2453; 32 SR 1699; 33 SR 696

**Published Electronically:** *July 13, 2009*