

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

Subpart 1. **Conditions for all permits.** National pollutant discharge elimination system permits issued by the agency must contain the general conditions set forth in part 7001.0150 and the general conditions as follows:

A. Notwithstanding the absence in this permit of an effluent limitation for any toxic pollutant, the permittee shall not discharge a toxic pollutant except according to Code of Federal Regulations, title 40, parts 400 to 460 and parts 7050.0100 to 7050.0220 and 7055.0010 to 7055.0120 and any other applicable agency rules.

B. Noncompliance with a term or condition of this permit subjects the permittee to penalties provided by federal and state law set forth in section 309 of the Clean Water Act, United States Code, title 33, section 1319 as amended, and in Minnesota Statutes, section 115.071, including monetary penalties, imprisonment, or both.

C. In the event of a reduction or loss of effective treatment of wastewater at the facility, the permittee shall control production or curtail its discharges to the extent necessary to maintain compliance with the terms and conditions of this permit. The permittee shall continue this control or curtailment until the wastewater treatment facility has been restored or until an alternative method of treatment is provided.

D. The permittee shall submit monitoring data, calculations, and results on a form provided by the commissioner, known as a discharge monitoring report.

E. If the permittee monitors a pollutant more frequently than required by the permit, the permittee shall include data, calculations, and results of this monitoring in the discharge monitoring report.

F. Calculations of monitoring results that require averaging of measurements must utilize an arithmetic mean unless otherwise specified by the permit.

G. A person who falsifies, tampers with, or knowingly renders inaccurate a monitoring device or method required to be maintained under this permit is subject to penalties provided by federal and state law, set forth in section 309 of the Clean Water Act, United States Code, title 33, section 1319 as amended and Minnesota Statutes, section 115.071, subdivision 2, clause (2).

H. A person who knowingly makes a false statement, representation, or certification in a record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance is subject to penalties provided by federal and state law set forth in section 309 of the Clean Water Act, United States Code, title 33, section 1319, and Minnesota Statutes, section 115.071, subdivision 2, clause (2).

I. In addition to other facts or incidents required by the permit to be reported within 24 hours, the permittee shall report in accordance with part 7001.0150, subpart 3, item K any unanticipated bypass or upset that causes an exceedence of an applicable effluent limitation. The permittee need not submit a written report if the commissioner finds that the written report is unnecessary.

J. The permittee may allow a bypass to occur if the bypass will not cause the exceedence of an effluent limitation but only if the bypass is necessary for essential maintenance to assure efficient operation of the facility. The permittee shall submit notice of the need for the bypass at least ten days before the date of the bypass or as soon as possible under the circumstances.

K. The permittee shall not allow an anticipated bypass to occur that will cause an exceedence of an applicable effluent limitation unless the following conditions are met:

(1) The bypass is unavoidable to prevent loss of life, personal injury, or severe property damage. For the purposes of this paragraph, "severe property damage" means substantial damage to property of the permittee or of others; damage to the wastewater treatment facilities that may cause them 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 as a result of a delay in production.

(2) There is no feasible alternative to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or performance of maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate backup equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance.

(3) The permittee has notified the commissioner of the anticipated bypass and the commissioner has approved the bypass. The commissioner shall approve the bypass if the commissioner finds that the conditions set forth in items A and B are met.

L. In the event of temporary noncompliance by the permittee with an applicable effluent limitation resulting from an upset at the permittee's facility due to factors beyond the control of the permittee, the permittee has an affirmative defense to an enforcement action brought by the agency as a result of the noncompliance if the permittee demonstrates by a preponderance of competent evidence:

(1) the specific cause of the upset;

(2) that the upset was unintentional;

(3) that the upset resulted from factors beyond the control of the permittee and did not result from operational error, improperly designed treatment facilities,

inadequate treatment facilities, lack of preventative maintenance, or increases in production which are beyond the design capability of the treatment facilities;

(4) that at the time of the upset the facility was being properly operated;

(5) that the permittee properly notified the commissioner of the upset in accordance with item I; and

(6) that the permittee implemented the remedial measures required by 7001.0150, subpart 3, item J.

Subp. 2. **Permits to manufacturing, commercial, mining, or silvicultural dischargers.** A national pollutant discharge elimination system permit issued by the agency to a manufacturing, commercial, mining, or silvicultural discharger must contain the following additional conditions:

A. The permittee shall notify the commissioner immediately of any knowledge or reason to believe that an activity has occurred that would result in the discharge of a toxic pollutant listed in part 7001.1060, subparts 4 to 10 or listed below that is not limited in the permit, if the discharge of this toxic pollutant has exceeded or is expected to exceed the following levels:

(1) for acrolein and acrylonitrile, 200 micrograms per liter;

(2) for 2,4-dinitrophenol and 2-methyl-4,6-dinitrophenol, 500 micrograms per liter;

(3) for antimony, one milligram per liter;

(4) for any other toxic pollutant listed in part 7001.1060, subparts 4 to 10, 100 micrograms per liter; or

(5) five times the maximum concentration value identified and reported for that pollutant in the permit application.

B. The permittee shall notify the commissioner immediately if the permittee has begun or expects to begin to use or manufacture as an intermediate or final by-product a toxic pollutant that was not reported in the permit application under part 7001.1050, subpart 2, item J.

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 control contribution to the POTW by each industrial user and report their significant industrial users and pretreatment activities to the agency as required by chapter 7049.

B. 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. 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.

**Statutory Authority:** *MS s 115.03*

**History:** *8 SR 2277; L 1987 c 186 s 15; 33 SR 696*

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