

7050.0185 NONDEGRADATION FOR ALL WATERS.

Subpart 1. **Policy.** The beneficial uses inherent in water resources are valuable public resources. It is the policy of the state to protect all waters from significant degradation from point and nonpoint sources and wetland alterations and to maintain existing water uses and aquatic and wetland habitats. Existing beneficial uses and the water quality necessary to protect the existing uses must be maintained and protected from point and nonpoint sources of pollution.

It is the policy of the agency that water quality conditions that are better than applicable water quality standards and are better than levels necessary to support existing beneficial uses must be maintained and protected unless the commissioner finds that, after full satisfaction of this part, a lowering of water quality is acceptable. In allowing a lowering of water quality, the existing beneficial uses must be fully maintained and protected and the provisions in subpart 3 must be applied.

Subp. 2. **Definitions.** For the purpose of this part, the following terms have the meanings given them:

A. "New discharge" means a discharge that was not in existence before January 1, 1988.

B. "Expanded discharge" means a discharge that changes in volume, quality, location, or any other manner after January 1, 1988, such that an increased loading of one or more pollutants results. In determining whether an increased loading of one or more pollutants would result from the proposed change in discharge, the agency shall compare the loading that would result from the proposed discharge with the loading allowed by the agency on January 1, 1988.

C. "Baseline quality" means the quality consistently attained by January 1, 1988.

D. "Existing" means in existence before January 1, 1988.

E. "Economic or social development" means the jobs, taxes, recreational opportunities, and other impacts on the public at large that will result from a new or expanded discharge.

F. "Toxic pollutant" means a pollutant listed as toxic under section 307(a)(1) of the Clean Water Act, United States Code, title 33, section 1317(a)(1), or as defined by Minnesota Statutes, section 115.01, subdivision 20.

G. "Significant discharge" means:

(1) a new discharge of sewage, industrial, or other wastes greater than 200,000 gallons per day to any water other than a class 7, limited resource value water; or

(2) an expanded discharge of sewage, industrial, or other wastes that expands by more than 200,000 gallons per day and that discharges to any water other than a class 7, limited resource value water; or

(3) a new or expanded discharge containing any toxic pollutant at a mass loading rate likely to increase the concentration of the toxicant in the receiving water by greater than one percent over the baseline quality. This determination shall be made using:

(a) data collected from the receiving water or from a water representative of the receiving water;

(b) the entire $7Q_{10}$ flow of the receiving water as defined in part 7050.0130, subpart 3; and

(c) a mass balance equation that treats all toxic pollutants as conservative substances.

Subp. 3. **Minimum treatment.** Any person authorized to maintain a new or expanded discharge of sewage, industrial waste, or other waste, whether or not the discharge is significant, shall comply with applicable water quality standards of this chapter and effluent limits in chapter 7053 and other applicable federal and state point source treatment requirements. Nonpoint sources of pollution shall be controlled as required by this chapter, chapters 7020 and 7080, and any other applicable federal or state requirements. All existing beneficial uses shall be maintained in the receiving waters.

Subp. 4. **Additional requirements for significant discharges.** If a person proposes a new or expanded significant discharge from either a point or nonpoint source, the agency shall determine whether additional control measures beyond those required by subpart 3 can reasonably be taken to minimize the impact of the discharge on the receiving water. In making the decision, the agency shall consider the importance of economic and social development impacts of the project, the impact of the discharge on the quality of the receiving water, the characteristics of the receiving water, the cumulative impacts of all new or expanded discharges on the receiving water, the costs of additional treatment beyond what is required in subpart 3, and other matters as shall be brought to the agency's attention.

Subp. 5. **Determination of significance.** A person proposing a new or expanded discharge of sewage, industrial waste, or other wastes shall submit to the commissioner the information required to determine whether the discharge is significant under subpart 2. If the discharge is sewage, the flow rate used to determine significance under this part is the design average wet weather flow for the wettest 30-day period. For discharges of industrial and other wastes, the flow rate to be used is the design maximum daily flow rate. In determining the significance of a discharge to a lake or other nonflowing receiving water, a mixing zone may be established under the guidelines of part 7050.0210, subpart 5.

Subp. 6. **Baseline quality.** If an existing discharge to a water of the state is eliminated or significantly reduced, baseline quality for purposes of this part shall be adjusted to account for the water quality impact associated with that particular discharge.

If no data are available to determine baseline quality or the data collected after January 1, 1988, are of better quality, then the commissioner shall authorize the use of data collected after January 1, 1988. If no data are available, the person proposing the discharge may collect new data in accordance with agency protocols.

Subp. 7. **Incremental expansions.** If a new or expanded discharge is proposed in increments, the increments must be added together to determine whether the discharge is a significant discharge. Once the criteria for a significant discharge are satisfied by adding together the increments, the requirements of this part shall apply to the discharge.

Subp. 8. **Determination of reasonable control measures for significant discharges.** The person proposing a new or expanded significant discharge of sewage, industrial waste, or other wastes shall submit to the commissioner information pertinent to those factors specified in subpart 4 for determining whether and what additional control measures are reasonable.

The commissioner shall provide notice and an opportunity for a public hearing in accordance with the permit requirements in chapter 7001 before establishing reasonable control requirements for a new or expanded significant discharge.

Subp. 9. **Physical alterations of wetlands.** The permit or certification applicant shall comply with part 7050.0186 if there is a proposed physical alteration that has the potential for a significant adverse impact to a designated use of a wetland and that is associated with a project that requires a national pollutant discharge elimination system (NPDES) permit, a 401 certification under parts 7001.1400 to 7001.1470, or a state disposal system permit.

Statutory Authority: *MS s 115.03; 115.44*

History: *12 SR 1810; 15 SR 1057; 18 SR 614; 18 SR 2195; 22 SR 1466; 24 SR 1105; 32 SR 1699*

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