

7050.0270 ANTIDegradation STANDARDS WHEN CHANGES IN EXISTING WATER QUALITY ARE NOT REASONABLY QUANTIFIABLE.

Subpart 1. **Scope.** This part applies to activities regulated by the following control documents:

A. new, reissued, or modified individual NPDES stormwater permits for municipal separate storm sewer systems, as defined under part 7090.0080, subpart 8;

B. new, reissued, or modified general NPDES permits;

C. section 401 certifications for new, reissued, or modified general federal licenses and permits; and

D. other control documents that authorize net increases in loading or other causes of degradation and where changes in existing water quality of individual surface waters cannot reasonably be quantified through antidegradation procedures.

Subp. 2. **Protecting existing uses.** The commissioner shall issue control documents that will maintain and protect existing uses.

Subp. 3. **Protecting beneficial uses.** The commissioner shall not issue a control document that would permanently preclude attainment of water quality standards.

Subp. 4. **Protecting surface waters of high quality.**

A. For the purpose of this part and on a parameter-by-parameter basis, class 2 surface waters not identified as impaired pursuant to section 303(d) of the Clean Water Act are considered of high quality. Items B to E apply to class 2 surface waters that are of high quality.

B. The commissioner shall not issue a control document when the commissioner makes a finding that prudent and feasible prevention, treatment, or loading offset alternatives exist that would avoid net increases in loading or other causes of degradation. When the commissioner finds that prudent and feasible alternatives are not available to avoid net increases in loading or other causes of degradation, a control document shall only be issued when the commissioner makes a finding that the issuance of the control document will prudently and feasibly minimize net increases in loading or other causes of degradation.

C. The commissioner shall issue a control document that authorizes a net increase in loading or other causes of degradation only when the commissioner makes a finding that issuance of the control document is necessary to accommodate important economic or social change.

D. The commissioner shall issue a control document that would result in a net increase in loading or other causes of degradation to waters of high quality only if the commissioner determines that issuance of the control document will achieve compliance with all applicable state and federal surface water pollution control statutes and rules administered by the commissioner.

E. The commissioner shall provide an opportunity for intergovernmental coordination and public participation before issuing a control document that would result in net increases in loading or other causes of degradation.

Subp. 5. **Protecting restricted outstanding resource value waters.** The commissioner shall issue control documents that restrict net increases in loading or other causes of degradation as necessary to maintain the exceptional characteristics for which the restricted outstanding resource value waters identified under part 7050.0335, subparts 1 and 2, were designated.

Subp. 6. **Protecting prohibited outstanding resource value waters.** The commissioner shall issue control documents that prohibit a net increase in loading or other causes of degradation to prohibited outstanding resource value waters identified under part 7050.0335, subparts 3 and 4.

Subp. 7. **Protecting against impairments associated with thermal discharges.** When there is potential for water quality impairment associated with thermal discharges, a control document that allows a net increase in loading or other causes of degradation must be consistent with section 316 of the Clean Water Act, United States Code, title 33, section 1326. When a variance is granted under section 316(a) of the Clean Water Act, United States Code, title 33, section 1326, antidegradation standards under this part still apply.

Statutory Authority: *MS s 115.03; 115.44*

History: *41 SR 545;*

Published Electronically: *July 20, 2023*