

**7050.0315 PROCEDURES FOR SECTION 401 CERTIFICATIONS OF GENERAL FEDERAL LICENSES AND PERMITS OTHER THAN SECTION 404 PERMITS.**

Subpart 1. **Antidegradation procedures required.** The antidegradation procedures in this part apply to section 401 certifications of new, reissued, or modified general federal licenses and permits that are not section 404 permits that the commissioner anticipates will result in net increases in loading or other causes of degradation to surface waters, unless the federal licensing or permitting authority is notified that the commissioner is waiving the agency's authority to certify the license or permit under part 7001.1460.

Subp. 2. **Antidegradation review.** Upon public notice of a draft general federal license or permit, the commissioner shall review the draft general federal license or permit to evaluate whether issuing the section 401 certification for the general federal license or permit will satisfy the antidegradation standards in part 7050.0270.

Subp. 3. **Preliminary antidegradation determination.** Based upon the review described in subpart 2, the commissioner shall prepare a written preliminary antidegradation determination as to whether the antidegradation standards described in part 7050.0270 are satisfied or can be satisfied by issuing a section 401 certification with conditions. The preliminary antidegradation determination must be included with the commissioner's preliminary determination to issue or deny the section 401 certification according to part 7001.0100 and, if applicable, include the conditions necessary to satisfy antidegradation standards. 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. 4. **Opportunity for comment.** The commissioner shall prepare and distribute a public notice of the preliminary antidegradation determination with the preliminary determination to issue or deny the section 401 certification through the procedures described in part 7001.1440, except that part 7001.1440, subpart 2, does not apply.

Subp. 5. **Final antidegradation determination.** The commissioner shall consider information received under subpart 4 before preparing a written final antidegradation determination. The final antidegradation determination must include a statement of whether issuing the general federal license or permit achieves or fails to achieve the antidegradation standards specified in part 7050.0270. The final antidegradation determination must be included with the commissioner's final determination according to part 7001.1450.

Subp. 6. **Further antidegradation procedures not required.** Except as provided in part 7050.0325, if the commissioner's final antidegradation determination states that issuing a general federal license or permit will achieve the antidegradation standards specified in part 7050.0270, further antidegradation procedures are not required when a person seeking coverage under the general federal license or permit certifies that the license or permit conditions can and will be met.

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

**History:** *41 SR 545*

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