

**7053.0275 ANTIBACKSLIDING.**

Subpart 1. **Antibacksliding applies.** Any point source discharger of sewage, industrial, or other wastes for which a national pollutant discharge elimination system permit has been issued by the agency that contains effluent limits more stringent than those that would be established by parts 7053.0215 to 7053.0265 shall continue to meet the effluent limits established by the permit, unless the permittee establishes that less stringent effluent limits are allowable pursuant to federal law, under section 402(o) of the Clean Water Act, United States Code, title 33, section 1342.

Subp. 2. **Less stringent effluent limits.** If a permittee establishes that it is entitled to less stringent effluent limits under subpart 1, the agency shall establish new effluent limits according to the criteria in items A to F.

A. If past treatment performance data are representative of future performance, the new effluent limits must reflect the level of pollutant control that has been consistently achieved by the permittee in the past.

B. If changes in the rate of production or in other operational aspects of the facility make past treatment performance data unrepresentative of future performance, in establishing new effluent limits, the agency shall consider: (1) the performance capabilities of the existing treatment facility under the changed factors; and (2) the performance capabilities of any additional treatment facilities that may be required by the agency as a result of the changed factors. The new effluent limits must be as stringent as is reasonable, applying good engineering design practices and operational and maintenance practices for the existing treatment facilities and any additional treatment facilities that may be required.

C. The new effluent limits must reflect the performance capabilities of all treatment facilities under proper operation and maintenance practices.

D. In no event may the new effluent limits be less stringent than the effluent limits established under parts 7053.0215 to 7053.0265.

E. In all cases, the beneficial uses and the water quality standards in chapters 7050 and 7052 must be maintained in the receiving water.

F. If less stringent effluent limits are established in the permit, the agency may also establish other reasonable and necessary conditions for the new permit.

A request for less stringent effluent limits in a permit shall be made according to part 7001.0190, subpart 1. The agency shall follow the procedures in part 7001.0190, subpart 1, in acting upon a request for new effluent limits.

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

**History:** *32 SR 1699*

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