

7077.0117 POINTS FOR PROJECTS WITH EXISTING NPDES OR SDS PERMIT.

Subpart 1. **Flow capacity.** Five points shall be assigned to a project if the project involves a treatment facility addressed by the project that is operating at or above 85 percent of its NPDES or SDS permitted hydraulic flow or organic loading capacity, or a collection facility that is operating at or above 85 percent of its hydraulic design capacity, or both, and if the project would expand capacity or reduce loadings so that the facility will operate at less than 85 percent of its capacity.

A. For treatment facilities, actual measured flows and loadings over the last 12 months shall be compared to the permitted average wet weather flow or if not available, to the permitted average annual flow and design loadings. "Average annual flow" means daily average flow measured over 365 consecutive days.

B. For collection facilities, actual measured peak flows shall be compared to the documented hydraulic design peak instantaneous wet weather flow of the pipe section or other component, or written documentation of other physical conditions, such as bypassing events occurring at less than design peak instantaneous wet weather flow, shall be submitted which show that the facilities are operating at or above 85 percent of their hydraulic design capacity.

Subp. 2. **Age of facilities.** Twenty points shall be assigned to a project if construction of all or a substantial portion of the existing facility addressed by the project was completed more than 20 years before the date the agency received the request for priority listing of the project proposal.

Subp. 3. **Excessive infiltration or inflow.** Fifteen points shall be assigned if the existing facility has excessive infiltration or inflow and the project proposal includes measures to correct the excessive infiltration or inflow.

Subp. 4. **Land discharge.** Twenty points shall be assigned under this subpart for a project that meets either or both of the requirements in items A and B.

A. The project involves an existing facility that land discharges treated wastewater effluent and will continue to land discharge after project implementation, provided that the land discharge has not caused or contributed to, and is not projected to cause or contribute to, any release of nitrate into groundwater exceeding ten milligrams per liter.

B. The project proposes a new land discharge of treated wastewater effluent and the project includes consumptive use (nitrogen or volume) spray irrigation or on-land disposal systems that are required by permit to denitrify the effluent.

Subp. 5. **Effluent limit more stringent than secondary treatment.** Ten points shall be assigned if the existing facility is subject to effluent limits for carbonaceous biochemical oxygen demand or total suspended solids that are more stringent than those which must be

attained by a secondary treatment facility under part 7050.0211, or has an ammonia, total nitrogen, or phosphorus permit limit.

Subp. 6. **Ponds in karst areas; separation of disposal system from groundwater.** Twenty points shall be assigned under this subpart for a project that meets either or both of the requirements in items A and B.

A. The project will replace or rehabilitate existing stabilization ponds located above karstic geological characteristics. Karstic geological characteristics are sinkholes; dry valleys in areas with humid climates; springs draining carbonate, sulfate, or halide rocks; caves; sinking streams; dissolutionally enlarged joints or bedding planes; grikes; or karren.

B. The project will replace or rehabilitate wastewater treatment facilities involving a disposal facility where the vertical distance from the wastewater discharge point to the seasonally high groundwater table or to the bedrock is less than three feet.

Subp. 7. **Projects with effluent discharge violations.** Five points shall be assigned if the existing wastewater treatment facility is currently in violation of permit effluent limits that exceed the criteria for noncompliance reporting in the NPDES program under Code of Federal Regulations, title 40, section 123.45, appendix A, and the project is designed to remedy the violation.

Subp. 8. **Projects addressing repeated facility failures.** Ten points shall be assigned if a wastewater treatment or collection facility addressed by the project has experienced bypasses, overflows, or surcharges during two or more storm events within a 12-month period when operating at less than peak instantaneous wet weather flow, and if the project is designed to eliminate such failures.

Subp. 9. **Discharges to impaired or outstanding resource value waters.**

A. Five points shall be assigned if the existing facility discharges into an outstanding resource value water, or into an impaired water as identified by the agency and approved by the United States Environmental Protection Agency under section 303(d) of the Clean Water Act, or into both types of waters.

B. A project that is assigned points under item A shall be assigned additional points as follows:

(1) five additional points shall be assigned if the existing facility is currently in violation of chronic or acute effluent discharge standards; and

(2) five additional points shall be assigned if the existing facility is experiencing repeated failures as described in subpart 8.

Subp. 10. **Proximity to potable water intake.** Five points shall be assigned if the existing facility discharges into surface water and there is an intake for potable water less than 25 miles downstream from the point of discharge.

Subp. 11. **Endangered or threatened species.** Five points shall be assigned if the existing facility discharges into surface water and the water downstream of the discharge supports any endangered or threatened species listed in parts 6134.0200 to 6134.0400 or designated under Code of Federal Regulations, title 50, section 17.11 or 17.12.

Subp. 12. **New standards more stringent.** Ten points shall be assigned if the project improves the operation of an existing wastewater treatment facility to address one or more of the following circumstances:

A. the discharge limits for the facility have been or will be made more stringent in a modified or reissued agency permit;

B. a permit variance for the facility has been discontinued; or

C. the facility is required to accommodate increased hydraulic flow or organic loading without increasing either the permitted mass or concentration of discharges to receiving waters.

Subp. 13. **Receiving water classification.** Up to seven points shall be assigned based on the classification of the receiving water as provided in this subpart if the existing facility discharges into surface water. If the receiving water has multiple classifications, only the classification with the highest point value under this subpart shall be used.

Receiving Water Classification	Points
2A	7
1,2Bd	5
2B,2C,2D	3
7	1

Subp. 14. **Effluent impact on receiving water.**

A. Up to 15 points shall be assigned if the existing facility discharges into a surface water other than a lake or reservoir. The project shall be assigned points for the impact of the effluent discharge on the surface water by multiplying 15 points times the dilution ratio for that facility, which shall be determined in items B and C.

B. The dilution ratio for a facility is calculated by dividing the average low flow of effluent from the facility by the lowest daily average flow of the receiving water measured for seven consecutive days with a once in ten year recurrence interval (7Q10). The average low flow from the facility shall be calculated by averaging the influent flow reported on

the discharge monitoring reports for the three consecutive months with the lowest average influent flow within the most recent three climatic years. A climatic year is the period from April 1 of a year until March 31 of the following year.

C. If the dilution ratio calculated for a facility under item B is greater than 1.0, or if the 7Q10 of the receiving water is zero, the dilution ratio for purposes of item A shall be 1.0.

Subp. 15. **Project implements corrective measures.** Five points shall be assigned to a project if it implements actions that contribute to the correction of a water quality problem identified in one or more of the following studies or an equivalent study:

- A. a clean water partnership project pursuant to chapter 7076;
- B. an impaired water assessment pursuant to section 303(d) of the federal Clean Water Act; or
- C. a United States Environmental Protection Agency-approved watershed restoration action strategy pursuant to section 319 of the federal Clean Water Act.

Subp. 16. **Project helps meet total maximum daily load for receiving water.** Twenty points shall be assigned to the project if the project contributes to the achievement of a TMDL. To be considered as contributing to the achievement of a TMDL, the project must:

- A. be designed to reduce the discharge of pollutants as specifically required by an agency-approved TMDL implementation plan; or
- B. require an NPDES or SDS permit that will require reduced discharge of pollutants based on a TMDL.

Subp. 17. **New or expanded discharge; points subtracted.** Five points shall be subtracted from the project's priority score if the project involves one or more of the following:

- A. a facility that will produce a new or expanded discharge to one or more of the following types of waters:
 - (1) outstanding resource value waters;
 - (2) an impaired water as identified by the agency and approved by the United States Environmental Protection Agency under section 303(d) of the federal Clean Water Act; or
 - (3) a lake as defined in part 7077.0105, subpart 19a; or

B. a facility that will produce a new or expanded discharge exceeding 200,000 gallons per day to one or more of the following waters:

- (1) waters defined as Class 2A waters under part 7050.0222, subpart 2; or
- (2) a wetland as defined in part 7050.0130, item F.

For purposes of this subpart, if a reissued permit for a facility incorporates limits on pollutant loading which were frozen in a previous permit, a facility operating under the same limits in the reissued permit shall not be considered to have an expanded discharge.

Statutory Authority: *MS s 103F.745; 116.182; 446A.07*

History: *30 SR 923; 37 SR 1334*

Published Electronically: *March 20, 2013*