

1.1 **Pollution Control Agency**1.2 **Adopted Permanent Rules Relating to Antidegradation of State Waters**1.3 **7001.0050 WRITTEN APPLICATION.**

1.4 A person who requests the issuance, modification, revocation and reissuance, or  
1.5 reissuance of a permit shall complete, sign, and submit to the commissioner a written  
1.6 application. The person shall submit the written application in a form prescribed  
1.7 by the commissioner. The application shall contain the items listed in items A to I  
1.8 unless the commissioner has issued a written exemption from one or more of the data  
1.9 requirements. After receiving a written request for an exemption from a data requirement,  
1.10 the commissioner shall issue the exemption if the commissioner finds that the data is  
1.11 unnecessary to determine whether the permit should be issued or denied. The application  
1.12 must contain:

1.13 [For text of items A to H, see M.R.]

1.14 I. other information relevant to the application as required by parts 7001.0550  
1.15 to 7001.0640, 7001.1050, 7001.1290, 7001.3175 to 7001.3475, 7001.4200, 7041.0700,  
1.16 7050.0280, subpart 2, or 7050.0290, subpart 2.

1.17 **7050.0218 METHODS FOR DETERMINATION OF CRITERIA FOR TOXIC**  
1.18 **POLLUTANTS, FOR WHICH NUMERIC STANDARDS NOT PROMULGATED.**

1.19 [For text of subps 1 and 2, see M.R.]

1.20 Subp. 3. **Definitions.** For the purposes of parts 7050.0217 to 7050.0227, the  
1.21 following terms have the meanings given them.

1.22 [For text of items A to CC, see M.R.]

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

2.1 [For text of items EE to HH, see M.R.]

2.2 [For text of subps 4 to 10, see M.R.]

2.3 **7050.0250 ANTIDegradation PURPOSE.**

2.4 The purpose of the antidegradation provisions in parts 7050.0250 to 7050.0335 is  
2.5 to achieve and maintain the highest possible quality in surface waters of the state. To  
2.6 accomplish this purpose:

2.7 A. existing uses and the level of water quality necessary to protect existing uses  
2.8 shall be maintained and protected;

2.9 B. degradation of high water quality shall be minimized and allowed only to the  
2.10 extent necessary to accommodate important economic or social development;

2.11 C. water quality necessary to preserve the exceptional characteristics of  
2.12 outstanding resource value waters shall be maintained and protected; and

2.13 D. proposed activities with the potential for water quality impairments  
2.14 associated with thermal discharges shall be consistent with section 316 of the Clean Water  
2.15 Act, United States Code, title 33, section 1326.

2.16 **7050.0255 DEFINITIONS.**

2.17 Subpart 1. **Applicability.** For purposes of parts 7050.0250 to 7050.0335, the  
2.18 following terms have the meanings given in this part. Terms in parts 7050.0250 to  
2.19 7050.0335 that are not specifically defined in applicable federal or state law shall be  
2.20 construed in conformance with the context, in relation to the applicable section of the  
2.21 statutes pertaining to the matter and ~~current~~ professional usage as of the effective date of  
2.22 this part.

2.23 Subp. 2. **Agency.** "Agency" has the meaning given under Minnesota Statutes,  
2.24 section 115.01, subdivision 2, unless otherwise specified.

2.25 Subp. 3. **Applicant.** "Applicant" means a person requesting a control document.

3.1 Subp. 4. **Beneficial use.** "Beneficial use" means a designated use described under  
3.2 part 7050.0140 and listed under parts 7050.0400 to 7050.0470 for each surface water or  
3.3 segment thereof, whether or not the use is being attained.

3.4 Subp. 5. **Calcareous fen.** "Calcareous fen" means an area listed in part 7050.0335,  
3.5 subpart 1, item E, and described under part 8420.0935, subpart 2.

3.6 Subp. 6. **Class 2 surface water.** "Class 2 surface water" means a surface water that  
3.7 is protected for aquatic life and recreation beneficial uses and to which water quality  
3.8 standards described in part 7050.0222 apply.

3.9 Subp. 7. **Class 7 surface water.** "Class 7 surface water" means a surface water that  
3.10 is protected for limited resource value beneficial uses and to which water quality standards  
3.11 described in part 7050.0227 apply.

3.12 Subp. 8. **Clean Water Act.** "Clean Water Act" means the federal Water Pollution  
3.13 Control Act, United States Code, title 33, sections 1251 et seq.

3.14 Subp. 9. **Compensatory mitigation.** "Compensatory mitigation" means the  
3.15 restoration, establishment, or enhancement of surface waters to ~~replace the loss of~~  
3.16 preserve an existing use resulting from when there is a physical alteration of a surface  
3.17 water after all prudent and feasible alternatives have been implemented to avoid and  
3.18 minimize degradation.

3.19 Subp. 10. **Control document.** "Control document" means an authorization issued by  
3.20 the commissioner that specifies water pollution control conditions under which a regulated  
3.21 activity is allowed to operate. Control document includes Clean Water Act authorizations  
3.22 used to administer NPDES permits and section 401 certifications. For purposes of parts  
3.23 7050.0250 to 7050.0335, total maximum daily loads are not control documents.

3.24 Subp. 11. **Degradation or degrade.** "Degradation" or "degrade" means a  
3.25 measurable change to existing water quality made or induced by human activity resulting

4.1 in diminished chemical, physical, biological, or radiological ~~conditions~~ qualities of surface  
4.2 waters. For municipal sewage and industrial waste discharges, degradation is calculated  
4.3 at the edge of the mixing zone upon reasonable allowance for dilution of the discharge  
4.4 according to part 7053.0205, ~~subpart 5~~ subparts 5 to 7.

4.5 Subp. 12. **Discharge.** "Discharge" means the addition of pollutants to surface waters.

4.6 Subp. 13. **Effective date.** "Effective date" means:

4.7 A. for the protection of high water quality:

4.8 (1) when applied to a previously unregulated activity, the date when the  
4.9 control document is issued; or

4.10 (2) when applied to a currently regulated activity, the date of the most  
4.11 recently issued control document; or

4.12 B. for the protection of exceptional characteristics of outstanding resource  
4.13 value waters, except as provided in subitems (1) and (2), the date when the outstanding  
4.14 resource value water was designated in rule.

4.15 (1) When the commissioner determines there is an improvement in  
4.16 exceptional characteristics of the outstanding resource value water as a result of changes to  
4.17 water pollution control conditions specified in a reissued control document, the effective  
4.18 date is the date when the control document was reissued.

4.19 (2) When the commissioner determines there is an improvement in  
4.20 exceptional characteristics of the outstanding resource value water as a result of a regulated  
4.21 activity ceasing to discharge to or otherwise adversely impact an outstanding resource  
4.22 value water, the effective date is the expiration date of the associated control document.

4.23 Subp. 14. **Exceptional characteristics of outstanding resource value waters.**

4.24 "Exceptional characteristics of outstanding resource value waters" means characteristics  
4.25 for which an outstanding resource value water is designated, including wilderness,

5.1 scientific, educational, ecological, recreational, cultural, or aesthetic resource  
5.2 characteristics or other special qualities that warrant stringent protection from degradation.

5.3 Subp. 15. **Existing uses.** "Existing uses" means those uses actually attained in the  
5.4 surface water on or after November 28, 1975.

5.5 Subp. 16. **Existing water quality.** "Existing water quality" means the physical,  
5.6 chemical, biological, and radiological conditions of a surface water, taking into account  
5.7 natural variability, on the effective date. Existing water quality is expressed either as a  
5.8 concentration of a water quality parameter or by other means to describe the condition  
5.9 of a surface water.

5.10 Subp. 17. **Feasible alternative.** "Feasible alternative" means a pollution control  
5.11 alternative that is consistent with sound engineering and environmental practices,  
5.12 affordable, and legal and that has supportive governance that can be successfully put into  
5.13 practice to accomplish the task.

5.14 Subp. 18. **Federally designated recreational river segment.** "Federally designated  
5.15 recreational river segment" means a surface water or segment thereof designated as a  
5.16 recreational river under the federal Wild and Scenic Rivers Act, United States Code,  
5.17 title 16, sections 1271 to 1287.

5.18 Subp. 19. **Federally designated scenic river segment.** "Federally designated scenic  
5.19 river segment" means a surface water or segment thereof designated as a scenic river under  
5.20 the federal Wild and Scenic Rivers Act, United States Code, title 16, sections 1271 to 1287.

5.21 Subp. 20. **Federally designated wild river segment.** "Federally designated wild  
5.22 river segment" means a surface water or segment thereof designated as a wild river under  
5.23 the federal Wild and Scenic Rivers Act, United States Code, title 16, sections 1271 to 1287.

5.24 Subp. 21. **High water quality or of high quality.** "High water quality" or "of high  
5.25 quality" means water quality that exceeds, on a parameter-by-parameter basis, levels

6.1 necessary to support the protection and propagation of aquatic life and recreation in and  
6.2 on the water as described in part 7050.0140, subpart 3.

6.3 Subp. 22. **Loading.** "Loading" means the quantity of pollutants, expressed as mass,  
6.4 resulting from a discharge or proposed discharge to a surface water.

6.5 Subp. 23. **Loading offset.** "Loading offset" means reductions in loading from  
6.6 regulated or unregulated activities, which reductions create additional capacity for  
6.7 proposed net increases in loading. A loading offset must:

6.8 A. occur ~~concurrent~~ concurrently with or prior to the proposed net increase in  
6.9 loading ~~and must~~;

6.10 B. be secured with binding legal instruments between any involved persons for  
6.11 the life of the project that is being offset; and

6.12 C. occur either adjacent to or upstream of the proposed activity.

6.13 Subp. 24. **Measurable change.** "Measurable change" means the practical ability to  
6.14 detect a variation in water quality, taking into account limitations in analytical technique  
6.15 and sampling variability.

6.16 Subp. 25. **National pollutant discharge elimination system permit or NPDES**  
6.17 **permit.** "National pollutant discharge elimination system permit" or "NPDES permit"  
6.18 means an authorization issued by the agency under sections 307, 318, 402, and 405 of  
6.19 the Clean Water Act, United States Code, title 33, sections 1317, 1328, 1342, and 1345.  
6.20 A general NPDES permit means an NPDES permit issued pursuant to Code of Federal  
6.21 Regulations, title 40, section 122.28.

6.22 Subp. 26. **Net increase in loading or other causes of degradation.** "Net increase in  
6.23 loading or other causes of degradation" means:

7.1 A. when applied to a proposed activity that is not regulated by an existing  
7.2 control document, any loading or other causes of degradation resulting from the proposed  
7.3 activity; or

7.4 B. when applied to a proposed activity that is regulated by an existing control  
7.5 document, an increase in loading or other causes of degradation exceeding the maximum  
7.6 loading or other causes of degradation authorized through water pollution control  
7.7 conditions specified in the existing control document as of the effective date. Application  
7.8 of new effluent limitations based on improved monitoring data or new water quality  
7.9 standards that are not a result of changes in loading or other causes of degradation within  
7.10 the existing capacity and processes authorized by an applicable control document is not  
7.11 considered a net increase in loading or other causes of degradation.

7.12 Subp. 27. **Outstanding resource value waters.** "Outstanding resource value  
7.13 waters" mean waters of the state designated under part 7050.0335 for their exceptional  
7.14 characteristics.

7.15 Subp. 28. **Parameter.** "Parameter" means a chemical, physical, biological, or  
7.16 radiological characteristic used to describe water quality conditions.

7.17 Subp. 29. **Person.** "Person" has the meaning given under Minnesota Statutes,  
7.18 section 115.01, subdivision 10.

7.19 Subp. 30. **Physical alteration.** "Physical alteration" means a physical change that  
7.20 degrades surface waters, such as the dredging, filling, draining, or permanent inundation  
7.21 of a surface water.

7.22 Subp. 31. **Pollutant.** "Pollutant" has the meaning given under Minnesota Statutes,  
7.23 section 115.01, subdivision 12.

7.24 Subp. 32. **Prohibited outstanding resource value waters.** "Prohibited outstanding  
7.25 resource value waters" mean surface waters identified in part 7050.0335, subparts 3 and 4.

8.1 Subp. 33. **Proposed activity.** "Proposed activity" means a regulated activity for  
8.2 which control document authorization is being requested.

8.3 Subp. 34. **Prudent alternative.** "Prudent alternative" means a pollution control  
8.4 alternative selected with care and sound judgment.

8.5 Subp. 35. **Regulated activity.** "Regulated activity" means an activity that requires a  
8.6 control document.

8.7 Subp. 36. **Restricted outstanding resource value waters.** "Restricted outstanding  
8.8 resource value waters" mean surface waters identified in part 7050.0335, subparts 1 and 2.

8.9 Subp. 37. **Scientific and natural areas.** "Scientific and natural areas" mean areas  
8.10 listed in part 7050.0335, subpart 3, item D, and described under Minnesota Statutes,  
8.11 section 86A.05, subdivision 5, paragraph (b).

8.12 Subp. 38. **Section 303(d) of the Clean Water Act.** "Section 303(d) of the Clean  
8.13 Water Act" means, pursuant to United States Code, title 33, section 1313(d), a requirement  
8.14 for states, territories, and authorized tribes to develop lists of waters that do not meet  
8.15 applicable water quality standards, establish priority rankings, and develop total maximum  
8.16 daily loads for these waters.

8.17 Subp. 39. **Section 401 certification.** "Section 401 certification" means an  
8.18 authorization issued by the commissioner under section 401 of the Clean Water Act,  
8.19 United States Code, title 33, section 1341.

8.20 Subp. 40. **Section 404 permit.** "Section 404 permit" means an authorization issued  
8.21 under section 404 of the Clean Water Act, United States Code, title 33, section 1344. A  
8.22 general section 404 permit means a section 404 permit issued pursuant to section 404 of  
8.23 the Clean Water Act, United States Code, title 33, section 1344, paragraph (e).

8.24 Subp. 41. **State designated recreational river segment.** "State designated  
8.25 recreational river segment" means a surface water or segment thereof designated as a



9.1 recreational river under the Minnesota Wild and Scenic Rivers Act, Minnesota Statutes,  
9.2 sections 103F.301 to 103F.345, and described under Minnesota Statutes, section 103F.311,  
9.3 subdivision 4.

9.4 Subp. 42. **State designated scenic river segment.** "State designated scenic river  
9.5 segment" means a surface water or segment thereof designated as a scenic river under  
9.6 the Minnesota Wild and Scenic Rivers Act, Minnesota Statutes, sections 103F.301 to  
9.7 103F.345, and described under Minnesota Statutes, section 103F.311, subdivision 7.

9.8 Subp. 43. **State designated wild river segment.** "State designated wild river  
9.9 segment" means a surface water or segment thereof designated as a wild river under  
9.10 the Minnesota Wild and Scenic Rivers Act, Minnesota Statutes, sections 103F.301 to  
9.11 103F.345, and described under Minnesota Statutes, section 103F.311, subdivision 9.

9.12 Subp. 44. **Total maximum daily load or TMDL.** "Total maximum daily load" or  
9.13 "TMDL" has the meaning given under Minnesota Statutes, section 114D.15, subdivision  
9.14 10.

9.15 Subp. 45. **Unregulated activity.** "Unregulated activity" means an activity that does  
9.16 not require a control document.

9.17 Subp. 46. **Water pollution control conditions.** "Water pollution control conditions"  
9.18 means effluent limitations as defined in part 7001.1020, subpart 13, or other conditions  
9.19 specified in a control document that limit water pollution as defined in Minnesota Statutes,  
9.20 section 115.01, subdivision 13.

9.21 Subp. 47. **Water quality standard.** "Water quality standard" means a parameter  
9.22 concentration, level, or narrative statement representing a quality of water that supports a  
9.23 beneficial use. When water quality standards are met, water quality will generally protect  
9.24 the beneficial use.

10.1 **7050.0260 DETERMINING EXISTING WATER QUALITY.**

10.2 Subpart 1. **Methods.** Existing water quality shall be determined using methods  
10.3 described in items A to D. The methods are listed in descending order of priority.  
10.4 Lower priority methods shall be used only if higher priority methods are not reasonably  
10.5 available. More than one method shall be used when a single method does not adequately  
10.6 describe existing water quality.

10.7 A. Using commissioner-approved monitoring data that exist at the time the  
10.8 determination of existing water quality is undertaken.

10.9 B. Monitoring surface waters, provided that samples are collected in a manner  
10.10 and place and of such type, number, and frequency as may be considered necessary by  
10.11 the commissioner to adequately reflect the condition of the surface waters. Samples must  
10.12 be collected, preserved, and analyzed following accepted quality control and quality  
10.13 assurance methods and according to the procedures in part 7050.0150, subpart 8.

10.14 C. Identifying reference surface waters that have similar physical, chemical, and  
10.15 biological characteristics and similar impacts from regulated and unregulated activities.

10.16 D. Use of a water quality model to characterize existing conditions in the  
10.17 surface water, provided that the model uses data from the same watershed as the surface  
10.18 water under review for existing conditions.

10.19 Subp. 2. **Consideration of existing regulated activities.** For surface waters  
10.20 impacted by activities that are regulated by existing control documents, existing water  
10.21 quality includes surface water conditions that are anticipated at loadings or other causes of  
10.22 degradation authorized in the applicable control document.

11.1 **7050.0265 ANTIDEGRADATION STANDARDS WHEN CHANGES IN EXISTING**  
 11.2 **WATER QUALITY ARE REASONABLY QUANTIFIABLE.**

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

- 11.5 A. new, reissued, or modified individual NPDES wastewater permits;
- 11.6 B. new, reissued, or modified individual NPDES storm water permits for  
 11.7 industrial activities, as defined under part 7090.0080, subpart 6;
- 11.8 C. new, reissued, or modified individual NPDES storm water permits for  
 11.9 construction activities, as defined under part 7090.0080, subpart 4;
- 11.10 D. section 401 certifications for new, reissued, or modified individual federal  
 11.11 licenses and permits; and
- 11.12 E. other control documents that authorize net increases in loading or other  
 11.13 causes of degradation and where changes in existing water quality of individual surface  
 11.14 waters can reasonably be quantified through antidegradation procedures.

11.15 Subp. 2. **Protection of existing uses.** The commissioner shall approve a proposed  
 11.16 activity only when existing uses and the level of water quality necessary to protect  
 11.17 existing uses are maintained and protected. ~~Evaluation of the maintenance and protection~~  
 11.18 ~~of existing uses includes consideration of:~~

- 11.19 ~~A. aquatic life that utilizes or is present in or on the surface waters;~~
- 11.20 ~~B. recreational opportunities in or on the surface waters;~~
- 11.21 ~~C. hydrologic conditions, geomorphic conditions, water chemistry, and habitat~~  
 11.22 ~~necessary to maintain and protect existing aquatic life or recreation in or on the surface~~  
 11.23 ~~waters; and~~
- 11.24 ~~D. commercial activity that depends on the preservation of water quality.~~

11.25 Subp. 3. **Compensatory mitigation; loss of existing uses.**

12.1 A. ~~Except as provided in item D,~~ The commissioner shall allow compensatory  
12.2 mitigation ~~for the loss of an existing use resulting from~~ as a means to preserve an existing  
12.3 use when there is a physical alterations alteration to a surface water only when all of  
12.4 the following conditions are met:

12.5 (1) prudent and feasible alternatives are not available to avoid or minimize  
12.6 adverse impacts to the ~~existing use~~ surface water;

12.7 (2) the mitigation is sufficient in quality and quantity to ensure replacement  
12.8 of the lost ~~existing use~~ surface water;

12.9 (3) the mitigation is accomplished by:

12.10 (a) restoring a previously impacted surface water of the same type, or  
12.11 other type if required by statute; or;

12.12 (b) when restoring is not a prudent or feasible alternative, establishing  
12.13 or enhancing a surface water of the same type, or other type if required by statute;

12.14 (4) the mitigation occurs within the same watershed, to the extent prudent  
12.15 and feasible; and

12.16 (5) the mitigation is completed before or concurrent with the actual  
12.17 physical alteration, to the extent prudent and feasible.

12.18 B. For the purposes of subpart 2 and part 7050.0250, item A, existing uses are  
12.19 maintained and protected when regulated activities involving the physical alterations of  
12.20 surface waters are in compliance with item A.

12.21 C. When the physically altered surface water is of high quality, the  
12.22 commissioner shall ensure the requirements specified in subpart 5 are satisfied.

12.23 ~~D. The commissioner shall prohibit the loss of existing uses resulting~~  
12.24 ~~from physical alterations, regardless of the compensatory mitigation proposed, when~~

13.1 ~~the proposed activity would physically alter or otherwise degrade the exceptional~~  
13.2 ~~characteristics of an outstanding resource value water designated in part 7050.0335.~~

13.3 Subp. 4. **Protection of beneficial uses.** The commissioner shall not approve a  
13.4 proposed activity that would permanently preclude attainment of water quality standards.

13.5 Subp. 5. **Protection of surface waters of high quality.** Items A to D apply to  
13.6 surface waters the commissioner determines to be of high quality.

13.7 A. The commissioner shall not approve a proposed activity when the  
13.8 commissioner makes a finding that prudent and feasible prevention, treatment, or loading  
13.9 offset alternatives exist that would avoid degradation of existing high water quality. When  
13.10 the commissioner finds that prudent and feasible prevention, treatment, or loading offset  
13.11 alternatives are not available to avoid degradation, a proposed activity shall be approved  
13.12 only when the commissioner makes a finding that degradation will be prudently and  
13.13 feasibly minimized.

13.14 B. The commissioner shall approve a proposed activity only when the  
13.15 commissioner makes a finding that lower water quality resulting from the proposed  
13.16 activity is necessary to accommodate important economic or social changes ~~resulting from~~  
13.17 ~~the proposed activity are important~~ in the geographic area in which degradation of existing  
13.18 high water quality is anticipated. The commissioner shall consider the following factors in  
13.19 determining the importance of economic or social changes:

13.20 (1) economic gains or losses attributable to the proposed activity, such as  
13.21 changes in the number and types of jobs, median household income, productivity, property  
13.22 values, and recreational, tourism, and other commercial opportunities;

13.23 (2) contribution to social services;

13.24 (3) prevention or remediation of environmental or public health threats;

13.25 (4) trade-offs between environmental media; and

- 14.1 (5) the value of the water resource, including:
- 14.2 (a) the extent to which the resources adversely impacted by the
- 14.3 proposed activity are unique or rare within the locality, state, or nation;
- 14.4 (b) benefits associated with high water quality for uses such as
- 14.5 ecosystem services and high water quality preservation for future generations to meet
- 14.6 their own needs; and
- 14.7 (c) factors, such as aesthetics, that cannot be reasonably quantified; and
- 14.8 (6) other relevant environmental, social, and economic impacts of the
- 14.9 proposed activity.

14.10 C. A proposed activity that would result in degradation of existing high water

14.11 quality shall be approved only if the commissioner determines that issuance of the control

14.12 document will achieve compliance with all applicable state and federal surface water

14.13 pollution control statutes and rules administered by the commissioner.

14.14 D. The commissioner shall provide an opportunity for intergovernmental

14.15 coordination and public participation before allowing degradation of existing high water

14.16 quality.

14.17 Subp. 6. **Protection of restricted outstanding resource value waters.** The

14.18 commissioner shall restrict a proposed activity in order to preserve the existing water

14.19 quality as necessary to maintain and protect the exceptional characteristics for which the

14.20 restricted outstanding resource value waters identified under part 7050.0335, subparts 1

14.21 and 2, were designated.

14.22 Subp. 7. **Protection of prohibited outstanding resource value waters.** The

14.23 commissioner shall prohibit a proposed activity that results in a net increase in loading

14.24 or other causes of degradation to prohibited outstanding resource value waters identified

14.25 under part 7050.0335, subparts 3 and 4.

15.1 Subp. 8. **Protection against impairments associated with thermal discharges.**

15.2 When there is potential for water quality impairment associated with thermal discharges,  
15.3 the commissioner's allowance for existing water quality degradation shall be consistent  
15.4 with section 316 of the Clean Water Act, United States Code, title 33, section 1326. When  
15.5 a variance is granted under section 316(a) of the Clean Water Act, United States Code,  
15.6 title 33, section 1326, antidegradation standards under this part still apply.

15.7 **7050.0270 ANTIDEGRADATION STANDARDS WHEN CHANGES IN EXISTING**  
15.8 **WATER QUALITY ARE NOT REASONABLY QUANTIFIABLE.**

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

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

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

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

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

15.19 Subp. 2. **Protection of existing uses.** The commissioner shall issue control  
15.20 documents that will maintain and protect existing uses.

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

15.23 Subp. 4. **Protection of surface waters of high quality.**

15.24 A. For the purpose of this part and on a parameter-by-parameter basis, Class 2  
15.25 surface waters not identified as impaired pursuant to section 303(d) of the Clean Water

16.1 Act are considered of high quality. Items B to E apply to Class 2 surface waters that  
16.2 are of high quality.

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

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

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

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

16.23 Subp. 5. **Protection of restricted outstanding resource value waters.** The  
16.24 commissioner shall issue control documents that restrict net increases in loading or other  
16.25 causes of degradation as necessary to maintain the exceptional characteristics for which



17.1 the restricted outstanding resource value waters identified under part 7050.0335, subparts  
17.2 1 and 2, were designated.

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

17.7 Subp. 7. **Protection against impairments associated with thermal discharges.**  
17.8 When there is potential for water quality impairment associated with thermal discharges, a  
17.9 control document that allows a net increase in loading or other causes of degradation must  
17.10 be consistent with section 316 of the Clean Water Act, United States Code, title 33, section  
17.11 1326. When a variance is granted under section 316(a) of the Clean Water Act, United  
17.12 States Code, title 33, section 1326, antidegradation standards under this part still apply.

17.13 **7050.0275 EXEMPTIONS FROM PROCEDURES.**

17.14 Subpart 1. **Class 7 surface waters.** The procedures specified in parts 7050.0280 and  
17.15 7050.0285 do not apply to proposed activities resulting in a net increase in loading or  
17.16 other causes of degradation to a Class 7 surface water except when, in the commissioner's  
17.17 judgment, there is reasonable risk that the proposed activity would result in:

17.18 A. the loss of existing uses and the level of water quality necessary to protect  
17.19 existing uses in the Class 7 surface water and downstream surface waters;

17.20 B. permanently precluding attainment of water quality standards;

17.21 C. degradation of downstream existing high water quality; or

17.22 D. degradation of downstream existing water quality essential to preserve the  
17.23 exceptional characteristics of outstanding resource value waters.

18.1 Subp. 2. **Temporary and limited degradation.** The procedures specified in parts  
18.2 7050.0280 and 7050.0285 do not apply to proposed activities that result in temporary and  
18.3 limited degradation of high water quality when the requirements of items A to D are met.

18.4 A. The applicant must provide a request for an exemption, on forms developed  
18.5 by the commissioner, before submitting a control document application. The request  
18.6 must include:

18.7 (1) identification of surface waters and associated beneficial uses that will  
18.8 be adversely impacted by the regulated activity;

18.9 (2) parameters likely to cause degradation;

18.10 (3) length of time during which the water quality will be impacted,  
18.11 which must not exceed 12 months from when water quality is initially impacted by the  
18.12 proposed activity;

18.13 (4) a description of water quality at the time the exemption is requested  
18.14 using methods described in part 7050.0260 and anticipated net changes to water quality  
18.15 for parameters likely to cause adverse impacts over the time period the surface waters  
18.16 are impacted;

18.17 (5) a description of prevention, treatment, or loading offset alternatives  
18.18 that were considered to avoid and minimize net increases in loading or other causes of  
18.19 degradation and the reasons why the selected alternative was chosen;

18.20 (6) a description of how water quality will be returned to pre-activity  
18.21 conditions within 12 months from when water quality is initially impacted by the proposed  
18.22 activity; and

18.23 (7) a description of any residual long-term impacts on existing uses.

19.1 B. The commissioner shall consider subitems (1) to (3) before deciding to  
19.2 approve or deny the requested exemption from antidegradation procedures for the  
19.3 proposed temporary and limited degradation:

19.4 (1) information submitted by the applicant under item A;

19.5 (2) information on cumulative effects on water quality from multiple  
19.6 exemptions for temporary and limited degradation; and

19.7 (3) other reliable information available to the commissioner.

19.8 C. The commissioner shall approve a proposed temporary and limited  
19.9 degradation of high water quality only when:

19.10 (1) existing uses and the level of water quality necessary to protect the  
19.11 existing uses are maintained and protected;

19.12 (2) it would not cause a ~~permanent deviation from~~ exceedance of water  
19.13 quality standards; and

19.14 (3) a prudent and feasible alternative does not exist that would avoid or  
19.15 minimize the degradation.

19.16 D. If the temporary and limited degradation exemption is approved, the control  
19.17 document conditions must include an enforceable plan to ensure that water quality is  
19.18 returned to pre-activity conditions within 12 months from when water quality is initially  
19.19 impacted by the activity.

19.20 **7050.0280 PROCEDURES FOR INDIVIDUAL NPDES WASTEWATER PERMITS**  
19.21 **AND INDIVIDUAL NPDES STORM WATER PERMITS FOR INDUSTRIAL AND**  
19.22 **CONSTRUCTION ACTIVITIES.**

19.23 Subpart 1. **Antidegradation procedures required.** Except as provided in part  
19.24 7050.0275, the antidegradation procedures in this part apply to new, reissued, or modified  
19.25 individual NPDES wastewater, industrial storm water, and construction storm water

20.1 permits that the commissioner anticipates will result in net increases in loading or other  
20.2 causes of degradation to surface waters.

20.3 Subp. 2. **Applicant's antidegradation assessment.** The applicant must include the  
20.4 following information with the written permit application specified in part 7001.0050:

20.5 A. an analysis of alternatives that avoid net increases in loading or other causes  
20.6 of degradation through prudent and feasible prevention, treatment, or loading offsets;

20.7 B. when the commissioner determines there are no prudent and feasible  
20.8 alternatives to avoid net increases in loading or other causes of degradation, an assessment  
20.9 of:

20.10 (1) existing uses; and

20.11 (2) existing water quality using determination methods described in part  
20.12 7050.0260.

20.13 C. when the commissioner determines there are no prudent and feasible  
20.14 alternatives to avoid net increases in loading or other causes of degradation to existing  
20.15 high water quality:

20.16 (1) an analysis of prudent and feasible alternatives that minimize  
20.17 degradation through prudent and feasible prevention, treatment, or loading offsets that  
20.18 identifies the least degrading prudent and feasible alternatives;

20.19 (2) the design considerations and constraints, expected performance,  
20.20 construction, operation, and maintenance costs, and reliability of the least degrading  
20.21 prudent and feasible alternatives; and

20.22 (3) the following information based on the least degrading prudent and  
20.23 feasible alternatives:

20.24 (a) a comparison of loading or other causes of degradation previously  
20.25 authorized by the commissioner in the most recently issued control document to the

21.1 anticipated loading or other causes of degradation expected when the proposed activity is  
21.2 fully implemented;

21.3 (b) a comparison of existing water quality to the anticipated water  
21.4 quality when the proposed activity is fully implemented; and

21.5 (c) for the geographic area in which high water quality degradation is  
21.6 reasonably anticipated, a comparison of existing and expected economic conditions and  
21.7 social services when the proposed activity is fully implemented. The comparison must  
21.8 include the factors identified in part 7050.0265, subpart 5, item B, subitems (1) to (6).

21.9 Subp. 3. **Antidegradation review.** The commissioner shall conduct an  
21.10 antidegradation review based on the information provided under subpart 2 and other  
21.11 reliable information available to the commissioner concerning the proposed activity  
21.12 and other activities that cause cumulative changes in existing water quality in the  
21.13 surface waters. The purpose of the antidegradation review is to evaluate whether the  
21.14 proposed activity will satisfy the antidegradation standards in part 7050.0265. If, in the  
21.15 commissioner's judgment, the antidegradation standards described in part 7050.0265 will  
21.16 not be satisfied, the commissioner shall provide written notification to the applicant of  
21.17 the deficiencies and provide recommendations necessary to satisfy the antidegradation  
21.18 standards in part 7050.0265.

21.19 Subp. 4. **Preliminary antidegradation determination.** Based upon the  
21.20 review described in subpart 3, the commissioner shall prepare a written preliminary  
21.21 antidegradation determination as to whether the antidegradation standards described in  
21.22 part 7050.0265 are satisfied. The preliminary antidegradation determination must be  
21.23 included with the commissioner's preliminary determination to issue or deny the permit  
21.24 according to part 7001.0100. If, in the commissioner's judgment, the antidegradation  
21.25 standards are not satisfied, reasons why they are not satisfied must be included in the  
21.26 preliminary antidegradation determination.

22.1 Subp. 5. **Opportunity for comment.** The commissioner shall:

22.2 A. include the preliminary antidegradation determination with the public notice  
22.3 to issue or deny the permit according to part 7001.0100, subpart 4;

22.4 B. distribute the public notice according to part 7001.0100, subpart 5; and

22.5 C. provide opportunity for comment on the preliminary antidegradation  
22.6 determination according to part 7001.0110.

22.7 Subp. 6. **Final antidegradation determination.** The commissioner shall consider  
22.8 comments received under subpart 5 before preparing a written final antidegradation  
22.9 determination. The final antidegradation determination must include a statement of  
22.10 whether the proposed activity achieves or fails to achieve the antidegradation standards  
22.11 specified in part 7050.0265. The final antidegradation determination must be included  
22.12 with the commissioner's final determination to authorize or not authorize the proposed  
22.13 activity according to part 7001.0140.

22.14 **7050.0285 PROCEDURES FOR SECTION 401 CERTIFICATIONS OF**  
22.15 **INDIVIDUAL FEDERAL LICENSES AND PERMITS.**

22.16 Subpart 1. **Antidegradation procedures required.** Except as provided in part  
22.17 7050.0275, the antidegradation procedures in this part apply to section 401 certifications  
22.18 of new, reissued, or modified individual federal licenses and permits that the commissioner  
22.19 anticipates will result in net increases in loading or other causes of degradation to surface  
22.20 waters.

22.21 Subp. 2. **Applicant's antidegradation assessment.** The applicant must provide  
22.22 information specified in part 7050.0280, subpart 2, to the commissioner, unless the  
22.23 applicant is notified that the commissioner is waiving the agency's authority to certify the  
22.24 federal license or permit under part 7001.1460. In addition, the applicant may propose  
22.25 compensatory mitigation ~~for the loss of~~ to the extent allowed by the Clean Water Act to  
22.26 preserve existing uses and the level of water quality necessary to protect the existing

23.1 uses ~~resulting from~~ when there is a physical alteration. In such cases, the applicant must  
23.2 provide a proposed compensatory mitigation plan that includes:

23.3 A. a description of existing uses and the level of water quality necessary to  
23.4 protect existing uses of the surface waters that will be physically altered;

23.5 B. a description of existing uses and the level of water quality necessary to  
23.6 protect existing uses of the surface waters in which mitigation will occur;

23.7 C. a description of how compensatory mitigation will ~~fully replace~~ establish  
23.8 sufficient quality and quantity of uses to preserve existing uses and the level of water  
23.9 quality necessary to protect existing uses; ~~and~~

23.10 D. a proposal for monitoring and reporting the changes in existing uses and the  
23.11 level of water quality necessary to protect existing uses of the surface waters in which  
23.12 mitigation will occur; and

23.13 E. a description of how the compensatory mitigation will be maintained.

23.14 Subp. 3. **Antidegradation review.** The commissioner shall conduct an  
23.15 antidegradation review based on the information provided under subpart 2 and other  
23.16 reliable information available to the commissioner concerning the proposed activity and  
23.17 other activities that cause cumulative changes in existing water quality in the surface  
23.18 waters. The purpose of the antidegradation review is to evaluate whether issuing the  
23.19 section 401 certification for the proposed activity will satisfy the antidegradation standards  
23.20 in part 7050.0265.

23.21 Subp. 4. **Preliminary antidegradation determination.** Based upon the  
23.22 review described in subpart 3, the commissioner shall prepare a written preliminary  
23.23 antidegradation determination as to whether the antidegradation standards described in  
23.24 part 7050.0265 are satisfied or can be satisfied by issuing a section 401 certification with  
23.25 conditions. The preliminary antidegradation determination must be included with the

24.1 commissioner's preliminary determination to issue or deny the section 401 certification  
24.2 according to part 7001.0100 and, if applicable, include the conditions necessary to satisfy  
24.3 antidegradation standards. If, in the commissioner's judgment, the antidegradation  
24.4 standards are not satisfied, reasons why they are not satisfied must be included in the  
24.5 preliminary antidegradation determination.

24.6 Subp. 5. **Opportunity for comment.** The commissioner shall prepare and distribute  
24.7 a public notice of the preliminary antidegradation determination with the preliminary  
24.8 determination to issue or deny the section 401 certification through the procedures  
24.9 described in part 7001.1440, except that part 7001.1440, subpart 2, does not apply.

24.10 Subp. 6. **Final antidegradation determination.** The commissioner shall consider  
24.11 comments received under subpart 5 before preparing a written final antidegradation  
24.12 determination. The final antidegradation determination must include a statement of  
24.13 whether the proposed activity achieves or fails to achieve the antidegradation standards  
24.14 specified in part 7050.0265. The final antidegradation determination must be included  
24.15 with the commissioner's final determination according to part 7001.1450.

24.16 **7050.0290 PROCEDURES FOR INDIVIDUAL NPDES PERMITS FOR**  
24.17 **MUNICIPAL SEPARATE STORM SEWER SYSTEMS.**

24.18 Subpart 1. **Antidegradation procedures required.** The antidegradation procedures  
24.19 in this part apply to new, reissued, or modified individual NPDES permits for municipal  
24.20 separate storm sewer systems, as defined under part 7090.0080, subpart 8, that the  
24.21 commissioner anticipates will result in net increases in loading or other causes of  
24.22 degradation to surface waters.

24.23 Subp. 2. **Applicant's antidegradation assessment.** The applicant must include the  
24.24 following information with the written permit application specified in part 7001.0050:

24.25 A. a list of Class 2 surface waters identified as impaired pursuant to section  
24.26 303(d) of the Clean Water Act within the applicant's jurisdiction;



25.1 B. a list of surface waters listed in part 7050.0335 within the applicant's  
25.2 jurisdiction;

25.3 C. an analysis of prudent and feasible prevention, treatment, or loading offset  
25.4 alternatives that avoid or minimize net increases in loading or other causes of degradation  
25.5 to high water quality;

25.6 D. identification of prudent and feasible prevention, treatment, or loading offset  
25.7 alternatives that result in the least net increase in loading or other causes of degradation to  
25.8 high water quality; and

25.9 E. an evaluation of whether net increases in loading or other causes of  
25.10 degradation to high water quality accommodates important economic or social change in  
25.11 the geographic area in which high water quality degradation is reasonably anticipated.

25.12 Subp. 3. **Antidegradation review.** The commissioner shall conduct an  
25.13 antidegradation review based on the information provided under subpart 2 and other  
25.14 reliable information available to the commissioner concerning the proposed activity  
25.15 and other activities that cause cumulative changes in existing water quality in the  
25.16 surface waters. The purpose of the antidegradation review is to evaluate whether the  
25.17 proposed activity will satisfy the antidegradation standards in part 7050.0270. If, in the  
25.18 commissioner's judgment, the antidegradation standards described in part 7050.0270 will  
25.19 not be satisfied, the commissioner shall provide written notification to the applicant of  
25.20 the deficiencies and provide recommendations necessary to satisfy the antidegradation  
25.21 standards in part 7050.0270.

25.22 Subp. 4. **Preliminary antidegradation determination.** Based upon the  
25.23 review described in subpart 3, the commissioner shall prepare a written preliminary  
25.24 antidegradation determination as to whether the antidegradation standards described in  
25.25 part 7050.0270 are satisfied. The preliminary antidegradation determination must be  
25.26 included with the commissioner's preliminary determination to issue or deny the permit

26.1 according to part 7001.0100. If, in the commissioner's judgment, the antidegradation  
26.2 standards are not satisfied, reasons why they are not satisfied must be included in the  
26.3 preliminary antidegradation determination.

26.4 Subp. 5. **Opportunity for comment.** The commissioner shall:

26.5 A. include the preliminary antidegradation determination with the public notice  
26.6 to issue or deny the permit according to part 7001.0100, subpart 4;

26.7 B. distribute the public notice according to part 7001.0100, subpart 5; and

26.8 C. provide opportunity for comment on the preliminary antidegradation  
26.9 determination according to part 7001.0110.

26.10 Subp. 6. **Final antidegradation determination.** The commissioner shall consider  
26.11 comments received under subpart 5 before preparing a written final antidegradation  
26.12 determination. The final antidegradation determination must include a statement of  
26.13 whether the proposed activity achieves or fails to achieve the antidegradation standards  
26.14 specified in part 7050.0270. The final antidegradation determination must be included  
26.15 with the commissioner's final determination to authorize or not authorize the proposed  
26.16 activity according to part 7001.0140.

26.17 **7050.0295 PROCEDURES FOR GENERAL NPDES PERMITS.**

26.18 Subpart 1. **Antidegradation procedures required.** The antidegradation procedures  
26.19 in this part apply to new, reissued, or modified general NPDES permits that the  
26.20 commissioner anticipates will result in net increases in loading or other causes of  
26.21 degradation to surface waters.

26.22 Subp. 2. **Antidegradation review.** The commissioner shall conduct an  
26.23 antidegradation review during the development of general NPDES permits. The purpose  
26.24 of the antidegradation review is to develop permit conditions that will ensure that the  
26.25 antidegradation standards in part 7050.0270 are satisfied.

27.1 Subp. 3. **Preliminary antidegradation determination.** Based upon the  
27.2 review described in subpart 2, the commissioner shall prepare a written preliminary  
27.3 antidegradation determination as to whether the permit conditions will satisfy the  
27.4 antidegradation standards described in part 7050.0270. The preliminary antidegradation  
27.5 determination must be included with the commissioner's fact sheet according to part  
27.6 7001.0100, subpart 3.

27.7 Subp. 4. **Opportunity for comment.** The commissioner shall:

27.8 A. include the preliminary antidegradation determination with the public notice  
27.9 of intent to issue a general permit according to part 7001.0210, subpart 4;

27.10 B. distribute the public notice according to part 7001.0100, subpart 5; and

27.11 C. provide opportunity for comment on the preliminary antidegradation  
27.12 determination according to part 7001.0110.

27.13 Subp. 5. **Final antidegradation determination.** The commissioner shall consider  
27.14 comments received under subpart 4 before preparing a written final antidegradation  
27.15 determination. The final antidegradation determination must include a statement that  
27.16 issuing the general NPDES permit achieves or fails to achieve the antidegradation  
27.17 standards specified in part 7050.0270. The final antidegradation determination must be  
27.18 included with the commissioner's final determination according to part 7001.0140.

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

28.1 **7050.0305 PROCEDURES FOR SECTION 401 CERTIFICATIONS OF GENERAL**  
28.2 **SECTION 404 PERMITS.**

28.3 Subpart 1. **Antidegradation procedures required.** The antidegradation procedures  
28.4 in this part apply to section 401 certifications of new, reissued, or modified general section  
28.5 404 permits that the commissioner anticipates will result in net increases in loading or  
28.6 other causes of degradation to surface waters, unless the federal permitting authority is  
28.7 notified that the commissioner is waiving the agency's authority to certify the permit  
28.8 under part 7001.1460.

28.9 Subp. 2. **Antidegradation review.** Upon public notice of a draft general section 404  
28.10 permit, the commissioner shall review the determinations specified in Code of Federal  
28.11 Regulations, title 33, part 320, subpart 4, and Code of Federal Regulations, title 40,  
28.12 part 230, subpart 7. The purpose of the antidegradation review is to evaluate whether  
28.13 issuing the section 401 certification for the general section 404 permit will satisfy the  
28.14 antidegradation standards in part 7050.0270.

28.15 Subp. 3. **Preliminary antidegradation determination.** Based upon the  
28.16 review described in subpart 2, the commissioner shall prepare a written preliminary  
28.17 antidegradation determination as to whether the antidegradation standards described in  
28.18 part 7050.0270 are satisfied or can be satisfied by issuing a section 401 certification with  
28.19 conditions. The preliminary antidegradation determination must be included with the  
28.20 commissioner's preliminary determination to issue or deny the section 401 certification  
28.21 according to part 7001.0100 and, if applicable, include the conditions necessary to satisfy  
28.22 antidegradation standards. If, in the commissioner's judgment, the antidegradation  
28.23 standards are not satisfied, reasons why they are not satisfied must be included in the  
28.24 preliminary antidegradation determination.

28.25 Subp. 4. **Opportunity for comment.** The commissioner shall prepare and distribute  
28.26 a public notice of the preliminary antidegradation determination with the preliminary

29.1 determination to issue or deny the section 401 certification through the procedures  
29.2 described in part 7001.1440, except that part 7001.1440, subpart 2, does not apply.

29.3 Subp. 5. **Final antidegradation determination.** The commissioner shall consider  
29.4 information received under subpart 4 before preparing a written final antidegradation  
29.5 determination. The final antidegradation determination must include a statement of whether  
29.6 issuing the general section 404 permit achieves or fails to achieve the antidegradation  
29.7 standards specified in part 7050.0270. The final antidegradation determination must be  
29.8 included with the commissioner's final determination according to part 7001.1450.

29.9 Subp. 6. **Further antidegradation procedures not required.** Except as provided  
29.10 in part 7050.0325, if the commissioner's final antidegradation determination states that  
29.11 issuing a general section 404 permit will achieve the antidegradation standards specified  
29.12 in part 7050.0270, further antidegradation procedures are not required when a person  
29.13 seeking coverage under the general section 404 permit certifies that the permit conditions  
29.14 can and will be met.

29.15 **7050.0315 PROCEDURES FOR SECTION 401 CERTIFICATIONS OF GENERAL**  
29.16 **FEDERAL LICENSES AND PERMITS OTHER THAN SECTION 404 PERMITS.**

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

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

30.1           Subp. 3. **Preliminary antidegradation determination.** Based upon the  
30.2 review described in subpart 2, the commissioner shall prepare a written preliminary  
30.3 antidegradation determination as to whether the antidegradation standards described in  
30.4 part 7050.0270 are satisfied or can be satisfied by issuing a section 401 certification with  
30.5 conditions. The preliminary antidegradation determination must be included with the  
30.6 commissioner's preliminary determination to issue or deny the section 401 certification  
30.7 according to part 7001.0100 and, if applicable, include the conditions necessary to satisfy  
30.8 antidegradation standards. If, in the commissioner's judgment, the antidegradation  
30.9 standards are not satisfied, reasons why they are not satisfied must be included in the  
30.10 preliminary antidegradation determination.

30.11           Subp. 4. **Opportunity for comment.** The commissioner shall prepare and distribute  
30.12 a public notice of the preliminary antidegradation determination with the preliminary  
30.13 determination to issue or deny the section 401 certification through the procedures  
30.14 described in part 7001.1440, except that part 7001.1440, subpart 2, does not apply.

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

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

31.1 **7050.0325 PROCEDURES FOR MULTIPLE CONTROL DOCUMENTS.**

31.2 Items A and B apply to proposed activities requiring more than one control document:

31.3 A. when the proposed activity requires compliance with standards in both parts  
31.4 7050.0265 and 7050.0270, the commissioner shall require procedures for which standards  
31.5 in part 7050.0265 apply; and

31.6 B. when the proposed activity requires compliance with standards in part  
31.7 7050.0265 and is subject to more than one procedure, only the procedure that is most  
31.8 protective of existing water quality, as specified by the commissioner, is required.

31.9 **7050.0335 DESIGNATED OUTSTANDING RESOURCE VALUE WATERS.**

31.10 Subpart 1. **Restricted outstanding resource value waters.** For the purposes of parts  
31.11 7050.0250 to 7050.0335, the following surface waters are restricted outstanding resource  
31.12 value waters:

31.13 A. Lake Superior, except those portions identified in subpart 3, item B, as a  
31.14 prohibited outstanding resource value waters;

31.15 B. those portions of the Mississippi River from Lake Itasca to the southerly  
31.16 boundary of Morrison County that are included in the Mississippi Headwaters Board  
31.17 comprehensive plan dated February 12, 1981;

31.18 C. lake trout lakes, both existing and potential, as determined by the  
31.19 commissioner in conjunction with the Department of Natural Resources, outside the  
31.20 boundaries of the Boundary Waters Canoe Area Wilderness and Voyageurs National Park  
31.21 and identified in parts 7050.0460 to 7050.0470;

31.22 D. the following state and federal designated scenic or recreational river  
31.23 segments:

31.24 (1) Saint Croix River, entire length;

32.1 (2) Cannon River from northern city limits of Faribault to its confluence  
32.2 with the Mississippi River;

32.3 (3) North Fork of the Crow River from Lake Koronis outlet to the  
32.4 Meeker-Wright county line;

32.5 (4) Kettle River from north Pine County line to the site of the former  
32.6 dam at Sandstone;

32.7 (5) Minnesota River from Lac qui Parle dam to Redwood County State-Aid  
32.8 Highway 11;

32.9 (6) Mississippi River from County State-Aid Highway 7 bridge in Saint  
32.10 Cloud to northwestern city limits of Anoka;

32.11 (7) Rum River from State Highway 27 bridge in Onamia to Madison and  
32.12 Rice Streets in Anoka; and

32.13 E. the following surface waters associated with calcareous fens. The number  
32.14 following the name of the fen is the occurrence number assigned by the Department of  
32.15 Natural Resources that uniquely identifies the record of information for the particular fen:

32.16 (1) Becker County: Spring Creek WMA NHR fen, 34 (T.142, R.42, S.13);

32.17 (2) Carver County: Seminary fen, 75 (T.116, R.23, S.35);

32.18 (3) Clay County:

32.19 (a) Barnesville Moraine fen, 44 (T.137, R.44, S.18);

32.20 (b) Barnesville WMA fen, 10 (T.137, R.45, S.1);

32.21 (c) Barnesville WMA fen, 43 (T.137, R.44, S.18);

32.22 (d) Felton Prairie fen, 28 (T.142, R.46, S.36);

32.23 (e) Felton Prairie fen, 36 (T.141, R.46, S.13);



- 33.1 (f) Felton Prairie fen, 48 (T.142, R.45, S.31);
- 33.2 (g) Felton Prairie fen, 53 (T.141, R.46, S.24);
- 33.3 (h) Haugtvedt WPA North Unit fen, 54 (T.137, R.44, S.28, 29); and
- 33.4 (i) Spring Prairie fen, 37 (T.140, R.46, S.11);
- 33.5 (4) Clearwater County: Clearbrook fen, 61 (T.149, R.37, S.17);
- 33.6 (5) Dakota County:
- 33.7 (a) Black Dog Preserve fen, 63 (T.27, R.24, S.34);
- 33.8 (b) Fort Snelling State Park fen, 25 (T.27, R.23, S.4); and
- 33.9 (c) Nicols Meadow fen, 24 (T.27, R.23, S.18);
- 33.10 (6) Goodhue County:
- 33.11 (a) Holden 1 West fen, 3 (T.110, R.18, S.1);
- 33.12 (b) Perched Valley Wetlands fen, 2 (T.112, R.13, S.8); and
- 33.13 (c) Red Wing fen, 72 (T.113, R.15, S.21);
- 33.14 (7) Houston County: Houston fen, 62 (T.104, R.6, S.26);
- 33.15 (8) Jackson County:
- 33.16 (a) Heron Lake fen, 45 (T.103, R.36, S.29); and
- 33.17 (b) Thompson Prairie fen, 20 (T.103, R.35, S.7);
- 33.18 (9) Le Sueur County:
- 33.19 (a) Ottawa Bluff fen, 56 (T.110, R.26, S.3);
- 33.20 (b) Ottawa WMA fen, 7 (T.110, R.26, S.11); and
- 33.21 (c) Ottawa WMA fen, 60 (T.110, R.26, S.14);

- 34.1 (10) Lincoln County: Hole-in-the-Mountain Prairie fen, 6; Pipestone  
34.2 (T.108, R.46, S.1; T.109, R.45, S.31);
- 34.3 (11) Mahnomen County: Waubun WMA fen, 11 (T.143, R.42, S.25);
- 34.4 (12) Marshall County:
- 34.5 (a) Tamarac River fen, 71 (T.157, R.46, S.2);
- 34.6 (b) Viking fen, 68 (T.155, R.45, S.18);
- 34.7 (c) Viking fen, 70 (T.155, R.45, S.20); and
- 34.8 (d) Viking Strip fen, 69 (T.154, R.45, S.4);
- 34.9 (13) Martin County: Perch Creek WMA fen, 33 (T.104, R.30, S.7);
- 34.10 (14) Murray County: Lost Timber Prairie fen, 13 (T.105, R.43, S.2);
- 34.11 (15) Nicollet County:
- 34.12 (a) Fort Ridgely fen, 21 (T.111, R.32, S.6); and
- 34.13 (b) Le Sueur fen, 32 (T.111, R.26, S.16);
- 34.14 (16) Nobles County: Westside fen, 59 (T.102, R.43, S.11);
- 34.15 (17) Norman County:
- 34.16 (a) Agassiz-Olson WMA fen, 17 (T.146, R.45, S.22);
- 34.17 (b) Faith Prairie fen, 15 (T.144, R.43, S.26);
- 34.18 (c) Faith Prairie fen, 16 (T.144, R.43, S.35);
- 34.19 (d) Faith Prairie fen, 27 (T.144, R.43, S.25); and
- 34.20 (e) Green Meadow fen, 14 (T.145, R.45, S.35, 36);
- 34.21 (18) Olmsted County:
- 34.22 (a) High Forest fen, 12 (T.105, R.14, S.14, 15); and

- 35.1 (b) Nelson WMA fen, 5 (T.105, R.15, S.16);
- 35.2 (19) Pennington County:
- 35.3 (a) Sanders East fen, 65 (T.153, R.44, S.7);
- 35.4 (b) Sanders East fen, 74 (T.153, R.44, S.7); and
- 35.5 (c) Sanders fen, 64 (T.153, R.44, S.18, 19);
- 35.6 (20) Pipestone County:
- 35.7 (a) Burke WMA fen, 57 (T.106, R.44, S.28); and
- 35.8 (b) Hole-in-the-Mountain Prairie fen, 6 (see Lincoln County, subitem
- 35.9 (10);
- 35.10 (21) Polk County:
- 35.11 (a) Chicog Prairie fen, 39 (T.148, R.45, S.28);
- 35.12 (b) Chicog Prairie fen, 40 (T.148, R.45, S.33);
- 35.13 (c) Chicog Prairie fen, 41 (T.148, R.45, S.20, 29);
- 35.14 (d) Chicog Prairie fen, 42 (T.148, R.45, S.33);
- 35.15 (e) Kittleson Creek Mire fen, 55 (T.147, R.44, S.6, 7);
- 35.16 (f) Tympanuchus Prairie fen, 26 (T.149, R.45, S.17); and
- 35.17 (g) Tympanuchus Prairie fen, 38 (T.149, R.45, S.16);
- 35.18 (22) Pope County:
- 35.19 (a) Blue Mounds fen, 1 (T.124, R.39, S.14, 15);
- 35.20 (b) Lake Johanna fen, 4 (T.123, R.36, S.29); and
- 35.21 (c) Ordway Prairie fen, 35 (T.123, R.36, S.30);
- 35.22 (23) Redwood County:

- 36.1 (a) Swedes Forest fen, 8 (T.114, R.37, S.19, 20); and
- 36.2 (b) Swedes Forest fen, 9 (T.114, R.37, S.22, 27);
- 36.3 (24) Rice County:
- 36.4 (a) Cannon River Wilderness Area fen, 18 (T.111, R.20, S.34); and
- 36.5 (b) Cannon River Wilderness Area fen, 73 (T.111, R.20, S.22);
- 36.6 (25) Scott County:
- 36.7 (a) Savage fen, 22 (T.115, R.21, S.17);
- 36.8 (b) Savage fen, 66 (T.115, R.21, S.16); and
- 36.9 (c) Savage fen, 67 (T.115, R.21, S.17);
- 36.10 (26) Wilkin County:
- 36.11 (a) Anna Gronseth Prairie fen, 47 (T.134, R.45, S.15);
- 36.12 (b) Anna Gronseth Prairie fen, 49 (T.134, R.45, S.10);
- 36.13 (c) Anna Gronseth Prairie fen, 52 (T.134, R.45, S.4);
- 36.14 (d) Rothsay Prairie fen, 46 (T.136, R.45, S.33);
- 36.15 (e) Rothsay Prairie fen, 50 (T.135, R.45, S.15, 16); and
- 36.16 (f) Rothsay Prairie fen, 51 (T.135, R.45, S.9);
- 36.17 (27) Winona County: Wiscoy fen, 58 (T.105, R.7, S.15); and
- 36.18 (28) Yellow Medicine County:
- 36.19 (a) Sioux Nation WMA NHR fen, 29 (T.114, R.46, S.17); and
- 36.20 (b) Yellow Medicine fen, 30 (T.115, R.46, S.18).

36.21 Subp. 2. **Unlisted restricted outstanding resource value waters.** Until such  
36.22 time that surface waters identified as state or federally designated scenic or recreational

37.1 river segments and state designated calcareous fens are designated in rule as restricted  
37.2 outstanding resource value waters, the commissioner shall restrict any proposed activity  
37.3 in order to preserve the existing water quality necessary to maintain and protect their  
37.4 exceptional characteristics.

37.5 Subp. 3. **Prohibited outstanding resource value waters.** For the purposes of parts  
37.6 7050.0250 to 7050.0335, the following surface waters are prohibited outstanding resource  
37.7 value waters:

37.8 A. waters within the Boundary Waters Canoe Area Wilderness;

37.9 B. those portions of Lake Superior north of latitude 47 degrees, 57 minutes,  
37.10 13 seconds, east of Hat Point, south of the Minnesota-Ontario boundary, and west of the  
37.11 Minnesota-Michigan boundary;

37.12 C. waters within Voyageurs National Park;

37.13 D. the following scientific and natural areas:

37.14 (1) Boot Lake, Anoka County;

37.15 (2) Kettle River in Sections 15, 22, 23, T.41, R.20, Pine County;

37.16 (3) Pennington Bog, Beltrami County;

37.17 (4) Purvis Lake-Ober Foundation, Saint Louis County;

37.18 (5) waters within the borders of Itasca Wilderness Sanctuary, Clearwater  
37.19 County;

37.20 (6) Iron Springs Bog, Clearwater County;

37.21 (7) Wolsfeld Woods, Hennepin County;

37.22 (8) Green Water Lake, Becker County;

37.23 (9) Black Dog Preserve, Dakota County;

38.1 (10) Prairie Bush Clover, Jackson County;

38.2 (11) Black Lake Bog, Pine County;

38.3 (12) Pembina Trail Preserve, Polk County; and

38.4 (13) Falls Creek, Washington County; and

38.5 E. the following state and federal designated wild river segments:

38.6 (1) Kettle River from the site of the former dam at Sandstone to its  
38.7 confluence with the Saint Croix River; and

38.8 (2) Rum River from Ogechie Lake spillway to the northernmost confluence  
38.9 with Lake Onamia.

38.10 Subp. 4. **Unlisted prohibited outstanding resource value waters.** Until such time  
38.11 that surface waters identified as state or federally designated wild river segments and  
38.12 surface waters necessary to maintain state designated scientific and natural areas are  
38.13 designated in rule as prohibited outstanding resource value waters, the commissioner shall  
38.14 prohibit any proposed activity that results in a net increase in loading or other causes  
38.15 of degradation.

38.16 Subp. 5. **Public hearing.** The commissioner shall provide an opportunity for a  
38.17 hearing before:

38.18 A. identifying and establishing additional outstanding resource value waters; or

38.19 B. changing the effective date of an outstanding resource value water according  
38.20 to part 7050.0255, subpart 13, item B, subitems (1) and (2).

38.21 **7052.0300 NONDEGRADATION STANDARDS.**

38.22 Subpart 1. **Applicability.** This part and parts 7050.0250 to 7050.0335 establish the  
38.23 nondegradation standards and implementation procedures for surface waters of the state in  
38.24 the Lake Superior Basin. For the purposes of this part and parts 7052.0310 to 7052.0330,

39.1 lowering of water quality means a new or expanded point source discharge of a BSIC to an  
39.2 outstanding international resource water, or a new or expanded point or nonpoint source  
39.3 discharge, for which there is a control document, of a BCC to a high quality water. The  
39.4 nondegradation standards established in this part and parts 7050.0250 to 7050.0335 for  
39.5 surface waters of the state in the Lake Superior Basin apply as follows:

39.6 [For text of item A, see M.R.]

39.7 B. Parts 7050.0250 to 7050.0335 apply to new or expanded discharges of any  
39.8 pollutant to surface waters.

39.9 (1) For discharges of BCCs directly to ORVWs or upstream of ORVWs  
39.10 in the Lake Superior Basin, the actions or activities that may trigger a nondegradation  
39.11 demonstration are listed in part 7052.0310, subpart 4, and actions or activities that are  
39.12 exempt from nondegradation requirements are listed in part 7052.0310, subpart 5.

39.13 (2) Parts 7050.0250 to 7050.0335 also apply to the discharge of pollutants to  
39.14 Class 7 waters, except that any new or expanded discharge to a Class 7 water upstream of an  
39.15 OIRW or a high quality water must meet the requirements of parts 7052.0310 to 7052.0330  
39.16 as necessary to ensure compliance with the standards established in subparts 3 and 4.

39.17 Subp. 2. **Maintenance of existing water quality.** Existing water uses under parts  
39.18 7050.0250 to 7050.0335 and the level of water quality necessary to protect existing uses  
39.19 must be maintained and protected. Where designated uses of the waterbody are impaired,  
39.20 there must be no lowering of the water quality with respect to the GLI pollutants causing  
39.21 the impairment.

39.22 [For text of subps 3 to 5, see M.R.]

39.23 **RENUMBERING.** In each part of Minnesota Rules referred to in column A, the  
39.24 reference in column B shall be deleted and the reference in column C shall be inserted:

	Column A	Column B	Column C
40.1	4410.0200	7050.0180	7050.0335
40.2	6115.0211	7050.0180	7050.0335
40.3	7002.0253	7050.0180, 7050.0185	7050.0250 to 7050.0335
40.4	7037.1000	7050.0180, subpart 2, item A	7050.0255, subpart 27
40.5	7050.0170	7050.0180 and 7050.0185	7050.0250 to 7050.0335
40.6	7050.0222	7050.0180 and 7050.0185	7050.0250 to 7050.0335
40.7	7050.0460	7050.0180, subpart 3 or 6	7050.0265, subpart 6 or 7, or 7050.0270, subpart 5 or 6
40.8			
40.9			
40.10			
40.11	7050.0460	7050.0180, subpart 3	7050.0265, subpart 7, or 7050.0270, subpart 6
40.12			
40.13	7050.0460	7050.0180, subpart 6	7050.0265, subpart 6, or 7050.0270, subpart 5
40.14			
40.15	7052.0260	7050.0180, 7050.0185	7050.0250 to 7050.0335
40.16	7077.0105	7050.0180, subpart 2, item A	7050.0255, subpart 27
40.17	7090.1010	7050.0180, subparts 3 and 6	7050.0335
40.18	8420.0515	7050.0180	7050.0335

- 40.19 **CHANGE IN TERMS.** The term "nondegradation" shall be replaced with  
40.20 "antidegradation" wherever it appears in Minnesota Rules, chapters 7050, 7052, and 7053.
- 40.21 **REPEALER.** Minnesota Rules, parts 7050.0180; and 7050.0185, are repealed.