

7052.0310 NONDEGRADATION IMPLEMENTATION.

Subpart 1. **Applicability.** This part identifies the implementation requirements for new and expanded discharges of BSICs to OIRWs and of BCCs to high quality waters.

Subp. 2. **Outstanding international resource waters.** Actions or activities that result in a new or expanded point source discharge of a BSIC to an OIRW are prohibited unless the agency has received and approved a nondegradation demonstration that meets the requirements of part 7052.0320, subparts 2 and 3, including an identification of the best technology in process and treatment to be employed by the discharger at the facility. Subpart 4 lists the types of actions or activities that may trigger a nondegradation demonstration, and subpart 5 lists actions and activities that do not trigger a nondegradation demonstration.

Subp. 3. **High quality waters.** On a pollutant-specific basis, actions or activities that result in a new or expanded point or nonpoint source discharge of an individual BCC to a surface water of the state in the Lake Superior Basin designated under part 7052.0300, subpart 4, as a high quality water for that BCC are prohibited unless the agency has received and approved a nondegradation demonstration that meets the requirements of part 7052.0320, subpart 2. New or expanded point source discharges of BSICs must also meet the requirements of part 7052.0320, subpart 3. This subpart only applies to dischargers for which there is a control document. Subpart 4 lists the types of actions or activities that may trigger a nondegradation demonstration, and subpart 5 lists actions and activities that do not trigger a nondegradation demonstration.

Subp. 4. **Nondegradation demonstration triggers.** The following actions or activities require a nondegradation demonstration if they result in a new or expanded point source discharge of a BSIC to an OIRW, or a new or expanded point or nonpoint source discharge, for which there is a control document, of a BCC to a high quality water:

A. construction of a new facility or modification of an existing facility such that a new or modified control document is required;

B. modification of an existing facility operating under a current control document such that the production capacity of the facility is increased;

C. addition of a new source of untreated or pretreated effluent containing or expected to contain any BCC to an existing wastewater treatment works, whether public or private;

D. a request for an increased limitation in an applicable control document; or

E. other discharger-induced actions or activities that, based on the information available, could be reasonably expected to result in an increased loading of any BCC to any surface waters of the state in the Lake Superior Basin.

Subp. 5. **Actions and activities that do not trigger a nondegradation demonstration.** The actions and activities in items A to E do not require a nondegradation demonstration.

A. Changes in loading of any BCC within the existing capacity and processes covered by an applicable control document. These changes include:

- (1) normal operational variability;
- (2) changes in intake water pollutants;
- (3) increasing the production hours of a facility;
- (4) increases in the rate of production; or

(5) new effluent limitations based on improved monitoring data or new water quality standards or criteria that are not a result of changes in pollutant loading.

B. New or expanded discharges of a BCC when the facility withdraws intake water containing the BCC from the same body of water as defined in part 7052.0220, subpart 6, and the new or expanded discharge of the BCC is due solely to the presence of the BCC in the intake.

C. New or expanded discharges of noncontact cooling water that will not result in an increased loading of a BCC.

D. Increasing the sewage loading to an existing, publicly owned wastewater treatment works provided that the increase is within the permitted design flow of the facility, there is no increased loading of BCCs from industrial and other wastes, and no significant change is expected in the characteristics of the wastewater discharged.

E. New or expanded discharges of construction or industrial storm water subject to a general NPDES permit.

Subp. 6. **Notification.** The control document regulating the discharge of any BCC, including BSICs, from point and nonpoint sources must include a requirement that the discharger notify the agency of any increased loadings of BCCs where the increase is above normal variability. The control document must also include a monitoring requirement for any BCC known or believed to be present in the discharge. Notification is not required for the exemptions in subpart 7.

Subp. 7. **Exemptions.** Except when the agency determines on a case-by-case basis that the application of subparts 1 to 6 is required to adequately protect water quality, the procedures of this part do not apply to:

A. actions or activities resulting in a short-term, as in weeks or months, temporary lowering of water quality;

B. bypasses that are not prohibited by Code of Federal Regulations, title 40, section 122.41, paragraph (m); and

C. response actions pursuant to the Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA), as amended, Minnesota Statutes, chapter 115B or 115C, or similar federal authorities undertaken to alleviate a release into the environment of hazardous substances, pollutants, or contaminants which may pose an imminent and substantial danger to the public health or welfare.

Statutory Authority: *MS s 115.03; 115.44*

History: *22 SR 1466*

Published Electronically: *June 16, 2005*