



STATE OF MINNESOTA

Minnesota Pollution Control Agency**Industrial Division**

National Pollutant Discharge Elimination System (NPDES)/
State Disposal System (SDS) Permit MN0055026

PERMITTEE: Marvin Lumber & Cedar Co
FACILITY NAME: Marvin Windows & Doors
RECEIVING WATER: County Ditch No. 74 (Classes 2B, 3C, 4A, 4B, 5&6)

CITY: Warroad
ISSUANCE DATE:
COUNTY: Roseau
EXPIRATION DATE:

The state of Minnesota, on behalf of its citizens through the Minnesota Pollution Control Agency (MPCA), authorizes the Permittee to operate a disposal system at the facility named above and to discharge from this facility to the receiving water named above, in accordance with the requirements of this permit.

The goal of this permit is to reduce pollutant levels in point source discharges and protect water quality in accordance with Minnesota and U.S. statutes and rules, including Minn. Stat. chs. 115 and 116, Minn. R. chs. 7001, 7050, 7053, 7060, 7090, and the U.S. Clean Water Act.

This permit is effective on the issuance date identified above, and supersedes the previous permit that was issued for this facility on April 12, 2007. This permit expires at midnight on the expiration date identified above.

Signature: _____
Jeff Udd, P.E. *for The Minnesota Pollution Control Agency*
Supervisor, Water Quality Permits Unit
Water Section
Industrial Division

Submit DMRs to:

Attention: Discharge Monitoring Reports
Minnesota Pollution Control Agency
520 Lafayette Rd N
St Paul, MN 55155-4194

Submit Other WQ Reports to:

Attention: WQ Submittals Center
Minnesota Pollution Control Agency
520 Lafayette Rd N
St Paul, MN 55155-4194

Questions on this permit?

- For DMR and other permit reporting issues, contact:
Tamara Dahl, 507-476-4252.
- For specific permit requirements or permit compliance status, contact:
Justin Barrick, 218-316-3858.
- General permit or NPDES program questions, contact:
MPCA, 651-282-6143 or 1-800-657-3938.

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Facility Description

The Marvin Windows & Doors facility (facility) is located at 401 State Avenue North, Warroad, Roseau County, Minnesota. The waste stream authorized for discharge by this permit is remediated groundwater which has been contaminated through past industrial activities.

The groundwater under a portion of the facility has been contaminated with pentachlorophenol (PCP) from a former wood treating pit. Contaminated groundwater is extracted via three recovery wells located on site. The remediation system consists of an existing fixed-film biological reactor which utilizes acclimated indigenous micro-organisms to reduce the concentrations of contaminants. Nutrients such as ammonium polyphosphate or nitrogen may be added to enhance treatment efficiency. Following biological treatment, the groundwater is routed through a series of carbon absorption filters to further reduce pollutant levels. Subsequent to this tertiary treatment process, the effluent is discharged to an unnamed ditch, locally known as County Ditch #74 via the municipal storm sewer. The average reported discharge rate is less than one thousand gallons per day. The permit application requests discharge authorization for an average discharge of 680 gallons per day, with a maximum discharge volume of 800 gallons per day.

In accordance with MPCA rules regarding nondegradation for all waters that are not Outstanding Resource Value Waters, nondegradation review is required for any new or expanded significant discharge (Minn. R. 7050.0185). A significant discharge is: (1) a new discharge (not in existence before January 1, 1988) that is greater than 200,000 gallons per day to any water other than a Class 7 water or (2) an expanded discharge that expands by greater than 200,000 gallons per day that discharges to any water other than a Class 7 water or (3) a new or expanded discharge containing any toxic pollutant at a mass loading rate likely to increase the concentration of the toxicant in the receiving water by greater than one percent over the baseline quality. The January 1, 1988, calculated design maximum daily flow for this facility is 0.00 mgd. However, the tertiary treatment system ensures that pollutant levels in the discharge will not: (a) increase the concentration of the toxicant in the receiving water by greater than one percent over the baseline quality, (b) degrade existing water quality nor (c) impair receiving water for its designated beneficial uses. The receiving water is protected as a drinking water source, cold water fisheries, and should allow for recreational activities in and on the water including bathing.

This Permit also complies with Minn. R. 7053.0275 regarding anti-backsliding. Any point source discharger of sewage, industrial, or other wastes for which a NPDES permit has been issued by the MPCA 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.

Discharge Point/Route to Receiving Waters:



Marvin Windows & Doors
Limits and Monitoring Requirements

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The Permittee shall comply with the limits and monitoring requirements as specified below.

SD 001: Ground Water Pumpout Discharge

Parameter	Limit	Units	Limit Type	Effective Period	Sample Type	Frequency	Notes
1,2,3,4,7,8-Hexachlorodibenzo-p-dioxin	Monitor Only	pg/L	Daily Average	May, Sep	Grab	1 x Month	1
1,2,3,6,7,8-Hexachlorodibenzo-p-dioxin	Monitor Only	pg/L	Daily Average	May, Sep	Grab	1 x Month	1
1,2,3,7,8,9-Hexachlorodibenzo-p-dioxin	Monitor Only	pg/L	Daily Average	May, Sep	Grab	1 x Month	1
2,4,6-Trichlorophenol	Monitor Only	ug/L	Daily Average	May, Sep	Grab	1 x Month	
Flow	Monitor Only	mgd	Calendar Month Average	Jan-Dec	Measurement, Continuous	1 x Day	
Flow	Monitor Only	MG	Calendar Month Total	Jan-Dec	Measurement, Continuous	1 x Day	
Pentachlorophenol (PCP)	5.5	ug/L	Daily Maximum	Jan-Dec	Grab	1 x Quarter	
Phosphorus, Total (as P)	4	kg/yr	12 Month Moving Total	Jan-Dec	Grab	1 x Quarter	
Phosphorus, Total (as P)	1.0	mg/L	Daily Maximum	Jan-Dec	Grab	1 x Quarter	

Notes:
1 -- Use either USEPA Method 1613 or National council of Air and Stream Improvement (NCASI) Method 551. the detection limit must be a minimum of 10 pg/L.

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Chapter 1. Ground Water Pumpout

1. Authorization

- 1.1 The permittee is authorized for the discharge of treated contaminated groundwater with pollutant levels reduced through the use of Best Available Technology Economically Achievable.

2. Other Permits

- 2.1 The applicant is responsible for obtaining all necessary federal, state or local approvals or permits.

Water appropriation approval/permits are regulated by the Department of Natural Resources (DNR), and the applicant shall secure authorization in accordance with DNR rules and regulations.

The emission of Volatile Organic Compounds from air stripping of contaminated ground water shall be either approved, exempted from, or in compliance with an MPCA air emission permit.

Discharges to municipal storm sewers may require approval from the local municipal authority. It is the permittee's responsibility to acquire local approval. This permit does not grant the permittee access or a right to connect to a municipal storm sewer.

Construction activities disturbing more than one acre may require coverage under the general permit authorizing the discharge of storm water associated with a construction activity in which case the applicant will need to secure such permit coverage.

3. Best Available Technology Economically Achievable

- 3.1 Treatment System Operation and Maintenance

The discharger shall at all times properly operate and maintain all systems and components of collection, treatment and control which are installed or used by the discharger to achieve compliance with the conditions of this permit. Proper operation and maintenance shall include effective performance, adequate funding, and as applicable adequate operator staffing and training, adequate laboratory and process controls, and appropriate quality assurance procedures.

All systems both in service and reserved, shall be inspected and maintained on a regular basis. Records shall be kept of the inspection results and maintenance performed. Records shall be made available to the agency upon request.

Where used, the operation of multi-stage activated carbon treatment systems shall be such that the rotation of carbon stages and the replacement of spent carbon shall be initiated upon break-through of pollutants in the intermediate treatment stage.

The permittee shall not discharge sludges, suspended solids, or settleable solids to surface waters of the state during periodic cleaning of the air stripper.

- 3.2 The application for reissuance shall include a general discussion of the groundwater remediation activity, including descriptions of the likely source(s) of contamination, extraction method, treatment process(es), design parameters-including influent and effluent pollutant levels, and average and maximum daily flow rates.

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Chapter 1. Ground Water Pumpout

3. Best Available Technology Economically Achievable

3.3 Chemical Additives

This permit allows for the use of nutrients such as ammonium polyphosphate or nitrogen to enhance treatment efficiency.

However, dosage rates and frequencies shall be kept at a minimum, and will not be used at a rate which would cause or contribute to a receiving water impairment.

The permittee shall receive MPCA approval prior to the use of any chemical treatment additive not specifically approved or requested as part of the permit reissuance process. The permittee shall submit (Industrial Division/Application Processing) product labels, material safety data sheets, the list of chemicals and proprietary additives contained in the product, and the proposed dosage rate and frequency of application for review and approval.

The permittee shall not begin the use of any new additive without having received prior written approval from the MPCA.

3.4 Best Available Technology Economically Achievable (BAT)

For toxic pollutants, Section 301(b)(2) of the Clean Water Act requires that all NPDES permits prescribe the application of best available technology economically achievable for the reduction of pollutants in the waste stream. The BAT level of performance is understood to mean: "the very best control and treatment measures that have been or are capable of being achieved."

4. Surface Discharges

4.1 Special Water Quality-Based Criteria

The permittee shall not discharge nutrients at rates which would cause or contribute to impairment of Lake of the Woods for a fishable/swimmable designated beneficial use.

4.2 TMDL Impacts

Facilities that discharge to an impaired surface water, or to a watershed or drainage basin that contains impaired waters, are required to comply with additional permit requirements, based on the conclusions of any applicable U.S. Environmental Protection Agency (EPA) approved Total Maximum Daily Load (TMDL) studies and their associated implementation plans.

Chapter 2. Surface Discharge Stations

1. Requirements for Specific Stations

- 1.1 SD 001: Submit a monthly DMR monthly by 21 days after the end of each calendar month following permit issuance.

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Chapter 2. Surface Discharge Stations

2. Special Requirements

- 2.1 The Calendar Year to Date Total Phosphorus limit in units of kg/year is calculated as follows: For each quarter multiply the total volume of effluent flow (in million gallons) by the quarterly average concentration of effluent Phosphorus (in mg/L) and by a 3.785 conversion factor (liters per gallon) to get Phosphorus in units of kg/quarter. Then add all quarterly values from the first quarter in the effective period to the end date of the reporting period. For example, if the 'effective period' is Jan-Dec and the reporting period ends June 30th, add the quarterly values from January through June and report that value as the Calendar Year to Date Total.

Total quarterly flow (MG) x Avg. quarterly P conc. (mg/L) x 3.785 L/gal = kg/quarter

- 2.2 ☐ Twelve month total ☐ is a rolling total. To calculate, for each quarter multiply the total volume of effluent flow (MG) by the quarterly concentration and by a 3.785 conversion factor to get kg/month. Then add all of the quarterly values (kg/mo) during the last twelve months, starting with the total for the quarter of the current reporting period. Facilities with a new phosphorus limit shall, for the first 3 quarters that the limit is effective, indicate '(NR) <12 months' in place of a value for the 12 Month Total until the 12th month of monitoring.

3. Sampling Location

- 3.1 Samples and measurements required by this permit shall be representative of the permitted activity.
- 3.2 Samples for Station SD 001 shall be representative of the remediated groundwater and shall be taken at the point of discharge to the storm sewer following treatment.

4. Sampling Frequency

- 4.1 If the permittee monitors more frequently than required, the results and the frequency of the additional monitoring shall be reported on the Discharge Monitoring Report form for that reporting period.

5. Surface Discharges

- 5.1 Floating solids or visible foam shall not be discharged in other than trace amounts.
- 5.2 Oil or other substances shall not be discharged in amounts that create a visible color film.
- 5.3 The discharge shall not degrade the aquatic habitat, which includes the waters of the state and stream bed, in any material manner.
- 5.4 The discharge shall not cause or contribute to a material increase in undesirable slime growths or aquatic plants, including algae.
- 5.5 All discharges to surface waters shall:
- o Be free of toxic substances in concentrations that produce detrimental physiological responses in human, plant, animal, or aquatic life;
 - o Be free of discoloration that causes nuisance or adversely affects beneficial uses;
 - o Not contain floating material in amounts that cause nuisance conditions or adversely affect beneficial uses.
- 5.6 Irrespective of numeric effluent limitations contained herein [or lack thereof], the pollutant levels in the discharge shall not impair the receiving water for its designated use
- 5.7 The discharge shall not in any manner render the receiving water unsuitable for recreational activities in and on the water.

6. Winter Sampling Conditions

- 6.1 The Permittee shall sample flows at the designated monitoring stations including when this requires removing ice to sample the water. If the station is completely frozen throughout a designated sampling month, the Permittee shall check the "No Discharge" box on the Discharge Monitoring Report (DMR) and note the ice conditions in Comments on the DMR.

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Chapter 2. Surface Discharge Stations

7. Discharge Monitoring Reports

- 7.1 The Permittee shall submit monitoring results for discharges in accordance with the limits and monitoring requirements for this station. If no discharge occurred during the reporting period, the Permittee shall check the "No Discharge" box on the Discharge Monitoring Report (DMR).
- 7.2 All applications, discharge monitoring reports forms, or other reports or information submitted to the MPCA shall be signed and certified.
- 7.3 All discharge monitoring reports or other reports or information required by the permit or requested by the agency shall be signed by a person prescribed above or by a duly authorized representative of that person. A person is a duly authorized representative only if: (1) The authorization is made in writing by a person described above and submitted to the agency and (2) The authorization specifies either an individual or a position having responsibility, including decision-making authority, for the overall operation of the regulated facility or activity, such as the position of plant manager, position of equivalent responsibility, or an individual or position having overall responsibility for environmental matters for the company.
- 7.4 All permit applications shall be signed as follows:
 - a) For a corporation: by a responsible corporate officer. For the purpose of this permit, a responsible corporate officer means: (1) a president, secretary, treasurer or vice president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation; or (2) The manager of one or more manufacturing, production or operating facilities employing more than 250 persons or having a gross annual sales or expenditures exceeding 425 million, if authority to sign documents has been assigned or delegated to the manager in accordance with corporate procedures.
 - b) For a partnership or sole proprietorship: by a general partner or the proprietor, respectively.
 - c) For a municipality, county or other political subdivision: by a principal executive officer or ranking elected official; or
 - d) For a state, federal or other public agency/agents: by a commissioner, assistant or deputy commissioner; director, assistant or deputy director.

Chapter 3. Total Facility Requirements

1. General Requirements

General Requirements

- 1.1 Incorporation by Reference. The following applicable federal and state laws are incorporated by reference in this permit, are applicable to the Permittee, and are enforceable parts of this permit: 40 CFR pts. 122.41, 122.42, 136, 403 and 503; Minn. R. pts. 7001, 7041, 7045, 7050, 7052, 7053, 7060, and 7080; and Minn. Stat. Sec. 115 and 116.
- 1.2 Permittee Responsibility. The Permittee shall perform the actions or conduct the activity authorized by the permit in compliance with the conditions of the permit and, if required, in accordance with the plans and specifications approved by the Agency. (Minn. R. 7001.0150, subp. 3, item E)
- 1.3 Toxic Discharges Prohibited. Whether or not this permit includes effluent limitations for toxic pollutants, the Permittee shall not discharge a toxic pollutant except according to Code of Federal Regulations, Title 40, sections 400 to 460 and Minnesota Rules 7050, 7052, 7053 and any other applicable MPCA rules. (Minn. R. 7001.1090, subp.1, item A)
- 1.4 Nuisance Conditions Prohibited. The Permittee's discharge shall not cause any nuisance conditions including, but not limited to: floating solids, scum and visible oil film, acutely toxic conditions to aquatic life, or other adverse impact on the receiving water. (Minn. R. 7050.0210 subp. 2)
- 1.5 Property Rights. This permit does not convey a property right or an exclusive privilege. (Minn. R. 7001.0150, subp. 3, item C)

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Chapter 3. Total Facility Requirements

1. General Requirements

- 1.6 Liability Exemption. In issuing this permit, the state and the MPCA assume no responsibility for damage to persons, property, or the environment caused by the activities of the Permittee in the conduct of its actions, including those activities authorized, directed, or undertaken under this permit. To the extent the state and the MPCA may be liable for the activities of its employees, that liability is explicitly limited to that provided in the Tort Claims Act. (Minn. R. 7001.0150, subp. 3, item O)
- 1.7 The MPCA's issuance of this permit does not obligate the MPCA to enforce local laws, rules, or plans beyond what is authorized by Minnesota Statutes. (Minn. R. 7001.0150, subp.3, item D)
- 1.8 Liabilities. The MPCA's issuance of this permit does not release the Permittee from any liability, penalty or duty imposed by Minnesota or federal statutes or rules or local ordinances, except the obligation to obtain the permit. (Minn. R. 7001.0150, subp.3, item A)
- 1.9 The issuance of this permit does not prevent the future adoption by the MPCA of pollution control rules, standards, or orders more stringent than those now in existence and does not prevent the enforcement of these rules, standards, or orders against the Permittee. (Minn. R. 7001.0150, subp.3, item B)
- 1.10 Severability. The provisions of this permit are severable and, if any provisions of this permit or the application of any provision of this permit to any circumstance are held invalid, the application of such provision to other circumstances and the remainder of this permit shall not be affected thereby.
- 1.11 Compliance with Other Rules and Statutes. The Permittee shall comply with all applicable air quality, solid waste, and hazardous waste statutes and rules in the operation and maintenance of the facility.
- 1.12 Inspection and Entry. When authorized by Minn. Stat. Sec. 115.04; 115B.17, subd. 4; and 116.091, and upon presentation of proper credentials, the agency, or an authorized employee or agent of the agency, shall be allowed by the Permittee to enter at reasonable times upon the property of the Permittee to examine and copy books, papers, records, or memoranda pertaining to the construction, modification, or operation of the facility covered by the permit or pertaining to the activity covered by the permit; and to conduct surveys and investigations, including sampling or monitoring, pertaining to the construction, modification, or operation of the facility covered by the permit or pertaining to the activity covered by the permit. (Minn. R. 7001.0150, subp.3, item I)
- 1.13 Control Users. The Permittee shall regulate the users of its wastewater treatment facility so as to prevent the introduction of pollutants or materials that may result in the inhibition or disruption of the conveyance system, treatment facility or processes, or disposal system that would contribute to the violation of the conditions of this permit or any federal, state or local law or regulation.

Sampling

- 1.14 Representative Sampling. Samples and measurements required by this permit shall be conducted as specified in this permit and shall be representative of the discharge or monitored activity. (40 CFR 122.41 (j)(1))
- 1.15 Additional Sampling. If the Permittee monitors more frequently than required, the results and the frequency of monitoring shall be reported on the Discharge Monitoring Report (DMR) or another MPCA-approved form for that reporting period. (Minn. R. 7001.1090, subp. 1, item E)
- 1.16 Certified Laboratory. A laboratory certified by the Minnesota Department of Health shall conduct analyses required by this permit. Analyses of dissolved oxygen, pH, temperature, specific conductance, and total residual oxidants (chlorine, bromine) do not need to be completed by a certified laboratory but shall comply with manufacturers specifications for equipment calibration and use. (Minn. Stat. Sec. 144.97 through 144.98 and Minn. R. 4740.2010 and 4740.2050 through 4740.2120) (Minn. R. 4740.2010 and 4740.2050 through 2120)
- 1.17 Sample Preservation and Procedure. Sample preservation and test procedures for the analysis of pollutants shall conform to 40 CFR Part 136 and Minn. R. 7041.3200.

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Chapter 3. Total Facility Requirements

1. General Requirements

- 1.18 Equipment Calibration: Flow meters, pumps, flumes, lift stations or other flow monitoring equipment used for purposes of determining compliance with permit shall be checked and/or calibrated for accuracy at least twice annually. (Minn. R. 7001.0150, subp. 2, items B and C)
- 1.19 Maintain Records. The Permittee shall keep the records required by this permit for at least three years, including any calculations, original recordings from automatic monitoring instruments, and laboratory sheets. The Permittee shall extend these record retention periods upon request of the MPCA. The Permittee shall maintain records for each sample and measurement. The records shall include the following information (Minn. R. 7001.0150, subp. 2, item C):
- a. The exact place, date, and time of the sample or measurement;
 - b. The date of analysis;
 - c. The name of the person who performed the sample collection, measurement, analysis, or calculation; and
 - d. The analytical techniques, procedures and methods used; and
 - e. The results of the analysis.
- 1.20 Completing Reports. The Permittee shall submit the results of the required sampling and monitoring activities on the forms provided, specified, or approved by the MPCA. The information shall be recorded in the specified areas on those forms and in the units specified. (Minn. R. 7001.1090, subp. 1, item D; Minn. R. 7001.0150, subp. 2, item B)

Required forms may include:

DMR Supplemental Form

Individual values for each sample and measurement must be recorded on the DMR Supplemental Form which, if required, will be provided by the MPCA. DMR Supplemental Forms shall be submitted with the appropriate DMRs. You may design and use your own supplemental form; however it must be approved by the MPCA. Note: Required summary information **MUST** also be recorded on the DMR. Summary information that is submitted **ONLY** on the DMR Supplemental Form does not comply with the reporting requirements.

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Chapter 3. Total Facility Requirements

1. General Requirements

1.21 Submitting Reports. DMRs and Supplementals shall be submitted to:

MPCA
Attn: Discharge Monitoring Reports
520 Lafayette Road North
St. Paul, Minnesota 55155-4194.

DMRs, DMR supplemental forms and related attachments may be electronically submitted via the MPCA Online Services Portal after authorization is approved. When electronically submitted, the paper DMR submittal requirement is waived.

DMRs and DMR Supplemental Forms shall be postmarked or electronically submitted by the 21st day of the month following the sampling period or as otherwise specified in this permit. Electronic DMR submittal must be complete on or before 11:59 PM of the 21st day of the month following the sampling period or as otherwise specified in this permit. A DMR shall be submitted for each required station even if no discharge occurred during the reporting period. (Minn. R. 7001.0150, subps. 2.B and 3.H)

Other reports required by this permit shall be postmarked by the date specified in the permit to:

MPCA
Attn: WQ Submittals Center
520 Lafayette Road North
St. Paul, Minnesota 55155-4194

1.22 Incomplete or Incorrect Reports. The Permittee shall immediately submit an amended report or DMR to the MPCA upon discovery by the Permittee or notification by the MPCA that it has submitted an incomplete or incorrect report or DMR. The amended report or DMR shall contain the missing or corrected data along with a cover letter explaining the circumstances of the incomplete or incorrect report. (Minn. R. 7001.0150 subp. 3, item G)

1.23 Required Signatures. All DMRs, forms, reports, and other documents submitted to the MPCA shall be signed by the Permittee or the duly authorized representative of the Permittee. Minn. R. 7001.0150, subp. 2, item D. The person or persons that sign the DMRs, forms, reports or other documents must certify that he or she understands and complies with the certification requirements of Minn. R. 7001.0070 and 7001.0540, including the penalties for submitting false information. Technical documents, such as design drawings and specifications and engineering studies required to be submitted as part of a permit application or by permit conditions, must be certified by a registered professional engineer. (Minn. R. 7001.0540)

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Chapter 3. Total Facility Requirements

1. General Requirements

- 1.24 Detection Level. The Permittee shall report monitoring results below the reporting limit (RL) of a particular instrument as "<" the value of the RL. For example, if an instrument has a RL of 0.1 mg/L and a parameter is not detected at a value of 0.1 mg/L or greater, the concentration shall be reported as "<0.1 mg/L." "Non-detected," "undetected," "below detection limit," and "zero" are unacceptable reporting results, and are permit reporting violations. (Minn. R. 7001.0150, subp. 2, item B)

Where sample values are less than the level of detection and the permit requires reporting of an average, the Permittee shall calculate the average as follows:

- a. If one or more values are greater than the level of detection, substitute zero for all nondetectable values to use in the average calculation.
 - b. If all values are below the level of detection, report the averages as "<" the corresponding level of detection.
 - c. Where one or more sample values are less than the level of detection, and the permit requires reporting of a mass, usually expressed as kg/day, the Permittee shall substitute zero for all nondetectable values. (Minn. R. 7001.0150, subp. 2, item B)
- 1.25 Records. The Permittee shall, when requested by the Agency, submit within a reasonable time the information and reports that are relevant to the control of pollution regarding the construction, modification, or operation of the facility covered by the permit or regarding the conduct of the activity covered by the permit. (Minn. R. 7001.0150, subp. 3, item H)
- 1.26 Confidential Information. Except for data determined to be confidential according to Minn. Stat. Sec. 116.075, subd. 2, all reports required by this permit shall be available for public inspection. Effluent data shall not be considered confidential. To request the Agency maintain data as confidential, the Permittee must follow Minn. R. 7000.1300.

Noncompliance and Enforcement

- 1.27 Subject to Enforcement Action and Penalties. Noncompliance with a term or condition of this permit subjects the Permittee to penalties provided by federal and state law set forth in section 309 of the Clean Water Act; United States Code, title 33, section 1319, as amended; and in Minn. Stat. Sec. 115.071 and 116.072, including monetary penalties, imprisonment, or both. (Minn. R. 7001.1090, subp. 1, item B)
- 1.28 Criminal Activity. The Permittee may not knowingly make a false statement, representation, or certification in a record or other document submitted to the Agency. A person who falsifies a report or document submitted to the Agency, or tampers with, or knowingly renders inaccurate a monitoring device or method required to be maintained under this permit is subject to criminal and civil penalties provided by federal and state law. (Minn. R. 7001.0150, subp. 3, item G., 7001.1090, subps. 1, items G and H and Minn. Stat. Sec. 609.671)
- 1.29 Noncompliance Defense. It shall not be a defense for the Permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit. (40 CFR 122.41(c))

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Chapter 3. Total Facility Requirements

1. General Requirements

- 1.30 Effluent Violations. If sampling by the Permittee indicates a violation of any discharge limitation specified in this permit, the Permittee shall immediately make every effort to verify the violation by collecting additional samples, if appropriate, investigate the cause of the violation, and take action to prevent future violations. If the permittee discovers that noncompliance with a condition of the permit has occurred which could endanger human health, public drinking water supplies, or the environment, the Permittee shall within 24 hours of the discovery of the noncompliance, orally notify the commissioner and submit a written description of the noncompliance within 5 days of the discovery. The written description shall include items a. through e., as listed below. If the Permittee discovers other non-compliance that does not explicitly endanger human health, public drinking water supplies, or the environment, the non-compliance shall be reported during the next reporting period to the MPCA with its Discharge Monitoring Report (DMR). If no DMR is required within 30 days, the Permittee shall submit a written report within 30 days of the discovery of the noncompliance. This description shall include the following information:
- a. a description of the event including volume, duration, monitoring results and receiving waters;
 - b. the cause of the event;
 - c. the steps taken to reduce, eliminate and prevent reoccurrence of the event;
 - d. the exact dates and times of the event; and
 - e. steps taken to reduce any adverse impact resulting from the event. (Minn. R. 7001.0150, subp. 3k)
- 1.31 Unauthorized Releases of Wastewater Prohibited. Except for conditions specifically described in Minn. R. 7001.1090, subp. 1, items J and K, all unauthorized bypasses, overflows, discharges, spills, or other releases of wastewater or materials to the environment, whether intentional or not, are prohibited. However, the MPCA will consider the Permittee's compliance with permit requirements, frequency of release, quantity, type, location, and other relevant factors when determining appropriate action. (40 CFR 122.41 and Minn. Stat. Sec 115.061)

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Chapter 3. Total Facility Requirements

1. General Requirements

1.32 Discovery of a release. Upon discovery of a release, the Permittee shall:

- a. Take all reasonable steps to immediately end the release.
- b. Notify the Minnesota Department of Public Safety Duty Officer at 1(800)422-0798 or (651)649-5451 (metro area) immediately upon discovery of the release. You may contact the MPCA during business hours at 1(800)657-3864 or (651)296-6300 (metro area).
- c. Recover as rapidly and as thoroughly as possible all substances and materials released or immediately take other action as may be reasonably possible to minimize or abate pollution to waters of the state or potential impacts to human health caused thereby. If the released materials or substances cannot be immediately or completely recovered, the Permittee shall contact the MPCA. If directed by the MPCA, the Permittee shall consult with other local, state or federal agencies (such as the Minnesota Department of Natural Resources and/or the Wetland Conservation Act authority) for implementation of additional clean-up or remediation activities in wetland or other sensitive areas.
- d. Collect representative samples of the release. The Permittee shall sample the release for parameters of concern immediately following discovery of the release. The Permittee may contact the MPCA during business hours to discuss the sampling parameters and protocol. In addition, Fecal Coliform Bacteria samples shall be collected where it is determined by the Permittee that the release contains or may contain sewage. If the release cannot be immediately stopped, the Permittee shall consult with MPCA regarding additional sampling requirements. Samples shall be collected at least, but not limited to, two times per week for as long as the release continues.
- e. Submit the sampling results as directed by the MPCA. At a minimum, the results shall be submitted to the MPCA with the next DMR.

1.33 Upset Defense. In the event of temporary noncompliance by the Permittee with an applicable effluent limitation resulting from an upset at the Permittee's facility due to factors beyond the control of the Permittee, the Permittee has an affirmative defense to an enforcement action brought by the Agency as a result of the noncompliance if the Permittee demonstrates by a preponderance of competent evidence:

- a. The specific cause of the upset;
- b. That the upset was unintentional;
- c. That the upset resulted from factors beyond the reasonable control of the Permittee and did not result from operational error, improperly designed treatment facilities, inadequate treatment facilities, lack of preventative maintenance, or increases in production which are beyond the design capability of the treatment facilities;
- d. That at the time of the upset the facility was being properly operated;
- e. That the Permittee properly notified the Commissioner of the upset in accordance with Minn. R. 7001.1090, subp. 1, item I; and
- f. That the Permittee implemented the remedial measures required by Minn. R. 7001.0150, subp. 3, item J.

Operation and Maintenance

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Chapter 3. Total Facility Requirements

1. General Requirements

- 1.34 The Permittee shall at all times properly operate and maintain the facilities and systems of treatment and control, and the appurtenances related to them which are installed or used by the Permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures. The Permittee shall install and maintain appropriate backup or auxiliary facilities if they are necessary to achieve compliance with the conditions of the permit and, for all permits other than hazardous waste facility permits, if these backup or auxiliary facilities are technically and economically feasible Minn. R. 7001.0150. subp. 3, item F.
- 1.35 In the event of a reduction or loss of effective treatment of wastewater at the facility, the Permittee shall control production or curtail its discharges to the extent necessary to maintain compliance with the terms and conditions of this permit. The Permittee shall continue this control or curtailment until the wastewater treatment facility has been restored or until an alternative method of treatment is provided. (Minn. R. 7001.1090, subp. 1, item C)
- 1.36 Solids Management. The Permittee shall properly store, transport, and dispose of biosolids, septage, sediments, residual solids, filter backwash, screenings, oil, grease, and other substances so that pollutants do not enter surface waters or ground waters of the state. Solids should be disposed of in accordance with local, state and federal requirements. (40 CFR 503 and Minn. R. 7041 and applicable federal and state solid waste rules)
- 1.37 Scheduled Maintenance. The Permittee shall schedule maintenance of the treatment works during non-critical water quality periods to prevent degradation of water quality, except where emergency maintenance is required to prevent a condition that would be detrimental to water quality or human health. (Minn. R. 7001.0150. subp. 3, item F and Minn. R. 7001.0150. subp. 2, item B)
- 1.38 Control Tests. In-plant control tests shall be conducted at a frequency adequate to ensure compliance with the conditions of this permit. (Minn. R. 7001.0150. subp. 3, item F and Minn. R. 7001.0150. subp. 2, item B)

Changes to the Facility or Permit

- 1.39 Permit Modifications. Except as provided under Minnesota Statutes, section 115.07, subdivisions 1 and 3, no person required by statute or rule to obtain a permit may construct, install, modify, or operate the facility to be permitted, nor shall a person commence an activity for which a permit is required by statute or rule until the agency has issued a written permit for the facility or activity. (Minn. R. 7001.0030)

Permittees that propose to make a change to the facility or discharge that requires a permit modification must follow Minn. R. 7001.0190. If the Permittee cannot determine whether a permit modification is needed, the Permittee must contact the MPCA prior to any action. It is recommended that the application for permit modification be submitted to the MPCA at least 180 days prior to the planned change.

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Chapter 3. Total Facility Requirements

1. General Requirements

- 1.40 Construction. Construction may begin at the Permittee's own risk once the Permittee submits plans and specifications to the MPCA unless:
- a. the action taken is prohibited by federal law or regulation;
 - b. the Permittee is a municipality constructing a wastewater system with a design flow of 0.200 million gallons per day or less;
 - c. the action taken is subject to environmental review under chapter 116D, and prohibited from commencing construction until that process is completed;
 - d. the action taken is subject to a grant or loan agreement under chapter 446A;
 - e. the action taken requires a construction storm water permit under rules of the agency; or
 - f. the action taken requires a subsurface sewage treatment system permit under rules of the agency.

In the cases specified in a. through f. above, no construction shall begin until the Permittee receives written approval of plans and specifications from the MPCA.

In all cases, the Permittee is prohibited from operating the system or discharging pollutants into the waters of the state until a written permit for the discharge is granted by MPCA and until plans and specifications for the disposal system have been approved, unless the MPCA waives the submission of plans and specifications. (Minn. Stat. 115.07, subd. 1 and 3)

- 1.41 Plans, specifications and MPCA approval are not necessary when maintenance dictates the need for installation of new equipment, provided the equipment is the same design size and has the same design intent. For instance, a broken pipe, lift station pump, aerator, or blower can be replaced with the same design-sized equipment without MPCA approval.

If the proposed construction is not expressly authorized by this permit, it may require a permit modification. If the construction project requires an Environmental Assessment Worksheet under Minn. R. 4410, no construction shall begin until a negative declaration is issued and all approvals are received or implemented.

- 1.42 Report Changes. The Permittee shall give advance notice as soon as possible to the MPCA of any substantial changes in operational procedures, activities that may alter the nature or frequency of the discharge, and/or material factors that may affect compliance with the conditions of this permit. (Minn. R. 7001.0150, subp. 3, item M)

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Chapter 3. Total Facility Requirements

1. General Requirements

- 1.43 Chemical Additives. The Permittee shall receive prior written approval from the MPCA before increasing the use of a chemical additive authorized by this permit, or using a chemical additive not authorized by this permit, in quantities or concentrations that have the potential to change the characteristics, nature and/or quality of the discharge.

The Permittee shall request approval for an increased or new use of a chemical additive at least 60 days, or as soon as possible, before the proposed increased or new use.

This written request shall include at least the following information for the proposed additive:

- a. The process for which the additive will be used;
 - b. Material Safety Data Sheet (MSDS) which shall include aquatic toxicity, human health, and environmental fate information for the proposed additive. The aquatic toxicity information shall include at minimum the results of: a) a 48-hour LC50 or EC50 acute study for a North American freshwater planktonic crustacean (either Ceriodaphnia or Daphnia sp.) and b) a 96-hour LC50 acute study for rainbow trout, bluegill or fathead minnow or another North American freshwater aquatic species other than a planktonic crustacean;
 - c. A complete product use and instruction label;
 - d. The commercial and chemical names and Chemical Abstract Survey (CAS) number for all ingredients in the additive (If the MSDS does not include information on chemical composition, including percentages for each ingredient totaling to 100%, the Permittee shall contact the supplier to have this information provided); and
 - e. The proposed method of application, application frequency, concentration, and daily average and maximum rates of use. (Minn. R. 7001.0170)
- 1.44 Upon review of the information submitted regarding the proposed chemical additive, the MPCA may require additional information be submitted for consideration. This permit may be modified to restrict the use or discharge of a chemical additive and include additional influent and effluent monitoring requirements.
- Approval for the use of an additive shall not justify the exceedance of any effluent limitation nor shall it be used as a defense against pollutant levels in the discharge causing or contributing to the violation of a water quality standard.
- 1.45 MPCA Initiated Permit Modification, Suspension, or Revocation. The MPCA may modify or revoke and reissue this permit pursuant to Minn. R. 7001.0170. The MPCA may revoke without reissuance this permit pursuant to Minn. R. 7001.0180.
- 1.46 TMDL Impacts. Facilities that discharge to an impaired surface water, watershed or drainage basin may be required to comply with additional permits or permit requirements, including additional restriction or relaxation of limits and monitoring as authorized by the CWA 303(d)(4)(A) and 40 CFR 122.44.1.2.i., necessary to ensure consistency with the assumptions and requirements of any applicable US EPA approved wasteload allocations resulting from Total Maximum Daily Load (TMDL) studies.
- 1.47 Permit Transfer. The permit is not transferable to any person without the express written approval of the Agency after compliance with the requirements of Minn. R. 7001.0190. A person to whom the permit has been transferred shall comply with the conditions of the permit. (Minn. R., 7001.0150, subp. 3, item N)

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Chapter 3. Total Facility Requirements

1. General Requirements

- 1.48 Facility Closure. The Permittee is responsible for closure and post-closure care of the facility. The Permittee shall notify the MPCA of a significant reduction or cessation of the activities described in this permit at least 180 days before the reduction or cessation. The MPCA may require the Permittee to provide to the MPCA a facility Closure Plan for approval.

Facility closure that could result in a potential long-term water quality concern, such as the ongoing discharge of wastewater to surface or ground water, may require a permit modification or reissuance.

The MPCA may require the Permittee to establish and maintain financial assurance to ensure performance of certain obligations under this permit, including closure, post-closure care and remedial action at the facility. If financial assurance is required, the amount and type of financial assurance, and proposed modifications to previously MPCA-approved financial assurance, shall be approved by the MPCA. (Minn. Stat. Sec. 116.07, subd. 4)

- 1.49 Permit Reissuance. If the Permittee desires to continue permit coverage beyond the date of permit expiration, the Permittee shall submit an application for reissuance at least 180 days before permit expiration. If the Permittee does not intend to continue the activities authorized by this permit after the expiration date of this permit, the Permittee shall notify the MPCA in writing at least 180 days before permit expiration.

If the Permittee has submitted a timely application for permit reissuance, the Permittee may continue to conduct the activities authorized by this permit, in compliance with the requirements of this permit, until the MPCA takes final action on the application, unless the MPCA determines any of the following (Minn. R. 7001.0040 and 7001.0160):

- a. The Permittee is not in substantial compliance with the requirements of this permit, or with a stipulation agreement or compliance schedule designed to bring the Permittee into compliance with this permit;
- b. The MPCA, as a result of an action or failure to act by the Permittee, has been unable to take final action on the application on or before the expiration date of the permit;
- c. The Permittee has submitted an application with major deficiencies or has failed to properly supplement the application in a timely manner after being informed of deficiencies.