|  |  |
| --- | --- |
| FORMS - New mn Logo for Forms with address | Variance request form  NPDES/SDS Permit Program  National Pollutant Discharge Elimination System (NPDES)/ State Disposal System (SDS)  *Doc Type: Permit Application* |

**Instructions:** The NPDES/ SDS Permit Program regulates wastewater discharges to land and surface waters. This form is required for all applicants seeking a variance from water quality standard, criteria, or water quality based effluent limit. Complete the form by typing or printing in black ink. Attach additional sheets as necessary.

**For more information**: Please contact Fawkes Char, Minnesota Pollution Control Agency (MPCA), at 651-757-2327 or [fawkes.char@state.mn.us](mailto:fawkes.char@state.mn.us).

**Applications that are submitted without an authorized signature and attachments** **will be returned**. Please make a copy for your records. You may submit this along with a permit application packet as part of a reissuance or modification. If not, submit the completed request form and attachments *(including plans and specifications, if applicable)* electronically to [wq.submittals.mpca@state.mn.us](mailto:wq.submittals.mpca@state.mn.us).

Minn. R. 7002.0253 requires billing for additional work required to issue or reissue permits that include a variance. An additional fee is applied once a variance is included in a permit and approved by U.S. Environmental Protection Agency (EPA). You will receive an invoice from the MPCA when the permit is placed on public notice. Currently, additional fees for variances are 35 points or $10,850. [*Water Quality Application Fee Guidance*](https://www.pca.state.mn.us/sites/default/files/wq-wwprm7-51.pdf)can be found on the MPCA website at <https://www.pca.state.mn.us/business-with-us/water-permits-and-regulations>.

Section I – Existing permit information

|  |  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- | --- |
| 1. Permittee name: | |  | | | | |
| 1. Facility name: | |  | | | | |
| 1. Permit number: | |  | | 1. Permit expiration date (mm/dd/yyyy): |  | |
| 1. Issuance data of last variance (if applicable): | | |  | | | |
| 1. Has permit application been submitted?  Yes  No If yes, please provide date (mm/dd/yyyy): | | | | | |  |
| 1. What is the classification of your facility?  A  B  C  D | | | | | | |
| 1. Are there any plans to make changes to the facility within the next five years?  Yes  No If yes, please provide a list of all proposed changes to the facility below: | | | | | | |
|  |  | | | | | |
| Are there currently any unresolved enforcement issues with any other media (air, waste, etc.)?  Yes  No If yes, describe below: | | | | | | |
|  |  | | | | | |
| 1. Design flows of the existing and/or proposed facility: | | | | | | |

|  |  |  |
| --- | --- | --- |
|  | **Existing (mgd)** | **Proposed (mgd)** (if applicable) |
| Average wet weather design flow (AWW) |  |  |
| Maximum Design Flow |  |  |
| **If available, please provide:** |  |  |
| Average annual design flow (AAD) |  |  |
| Average dry weather design flow (ADW) |  |  |
| Peak hourly wet weather flow (PHWW) |  |  |

*mgd = million gallons per day*

|  |  |  |
| --- | --- | --- |
| 1. Attach a map indicating the receiving water location. | | |
| 1. Source of water supply: | | |
|  |  | |

Section II – Variance Parameter Information

|  |  |  |
| --- | --- | --- |
| 1. Parameter(s) for which the variance is sought. List all: | | |
|  |  |
| 1. Identify the applicable rule or standard **from which** the variance is sought. Water quality standards can be found in Minn. R. 7050.0222, 7052.01000 and various subparts of 7053. For example, a variance could be requested from the Chloride standard to a Class 2B Water in Minn. R. 7050.0222, subp. 4: | | |
|  |  |
| 1. Identify the applicable rule **under which** a variance is being sought. Examples include Minn. R. 7050.0190, 7052.0280, and 7053.0195. Using the same pollutant in #11 above, the chloride variance would be requested under Minn. R. 7050.0190: | | |
|  |  |
| 1. Include a statement of the nature and quantity of the materials being discharged currently. (Minn. R. 7000.7000, supb. 2, Item H, (1)) With this statement, attach the last five years of sampling data including:  * Average, maximum, and minimum concentrations. * 50th percentile and 95th percentile (if applicable). * Sum total of the number of samples collected for each parameter over the last five years. | | |
|  |  |

Section III – Source reduction or pollution minimization information

List primary sources of each parameter identified in #12. Include a general description of the materials handled or processed that are pertinent to the variance request. (Minn. R. 7000.7000, supb. 2, Item H, (1)). Provide a summary of source identification and source reduction efforts (e.g., industrial contributors, voluntary or statutory reduction programs).

|  |
| --- |
| 1. Pollutant Minimization Plan  * If you have not submitted a Pollutant Minimization Plan as part of your permit or application, please provide one. * If you have previously submitted a pollutant minimization plan, provide a date of when plan was last submitted, and update your actions and implementation progress, if not already completed. |
| A Pollution Minimization Plan must include the following information:   * What types of actions (e.g., pollution prevention, pre-treatment, or treatment) have you taken or could you take to reduce the parameter in the discharge? * For source reduction, pre-treatment, and treatment options not yet completed, what is a potential schedule for identifying and evaluating potential reduction, elimination, and prevention methods? * What types of waste materials or byproducts would be produced by source reduction steps and what would be the ultimate means of disposal of those wastes? |
| Use the following as guidelines or examples when preparing your Pollution Minimization Plan:   * Mercury Minimization Plan (Wastewater guide - wq-wwtp7-10) <https://www.pca.state.mn.us/sites/default/files/wq-wwtp7-10.doc> * Mercury Minimization Plan (Stormwater checklist - wq-strm3-30) <https://www.pca.state.mn.us/sites/default/files/wq-strm3-30.docx> * Phosphorus Management Plans (PMP) Guide - wq-wwtp9-06: <https://www.pca.state.mn.us/sites/default/files/wq-wwtp9-06.doc> * EPA P2 webpage ([http://www.epa.gov/p2/)](http://www.epa.gov/p2/) * Minnesota Technical Assistance Program University of Minnesota: <http://www.mntap.umn.edu/> * MPCA’s Preventing Waste and Pollution webpage: <https://www.pca.state.mn.us/business-with-us/waste-and-pollution-prevention> |

Section IV – Treatment alternative(s) information

|  |  |
| --- | --- |
| 1. Indicate a reasonable expectation of the concentration of the pollutant for which the variance is being requested that will be discharged during the period of the proposed variance. (Minn. R. 7000.7000, supb. 2, Item H, (1)) | |
|  |  |
| 1. Include the proposed method of control of the pollutant (Minn. R. 7000.7000, supb. 2, Item H, (1)) | |
|  |  |
| 1. Indicate the steps to be taken during the period of the variance to reduce pollutant levels to the lowest limits practical. (Minn. R. 7000.7000, supb. 2, Item H, (2)) | |
|  |  |
| 1. Include a statement of the alternatives to operation under the variance which have been considered.  (Minn. R. 7000.7000, supb. 2, Item H, (4)) | |
|  |  |

Section V – Seeking a variance due to substantial and widespread social and economic impacts

To be eligible for a variance, the applicant must demonstrate that attaining the water quality standard, criterion or effluent limit is not feasible because of one or more of the criterion listed in Federal Rule 40 CFR 131.10(g). The same criterion is listed in Minn. R. 7052.0280, subp. 3 and also in the next section of this request form, titled “Seeking a Variance due to Other Conditions.”

In this section, MPCA’s focus is on a variance request because more stringent controls than those required under sections 301(b) and 306 of the Clean Water Act would result in widespread economic or social impact [40 CFR 131.10(g)(6)].

Review MPCA’s Water Quality Variance Guidance available at <https://www.pca.state.mn.us/business-with-us/water-quality-variances>. This document outlines various components needed to justify a variance using economic and social impacts. It also includes a link to *EPA’s Interim Economic Guidance for Water Quality Standards*, which apply to both public and private entities. Another resource for Publicly Owned Treatment Works (POTWs) on how to assess financial capability is an EPA document entitled “Combined Sewer Overflows – Guidance for Financial Capability Assessment and Schedule Development (Document No. 832-B-97-004), available on the EPA website at <https://www.epa.gov/sites/default/files/2015-10/documents/csofc_0.pdf>.

|  |
| --- |
| 1. Indicate (in a concise statement) the effect on the establishment, maintenance, operation and expansion of business, commerce, trade, traffic, and other economic factors that may result from approval and from denial of the requested variance. (Minn. R. 7000.7000, supb. 2, Item H, (5)) |
| 1. If variance is sought based primarily on economic burden the following must be submitted:  * Financial statements prepared or approved by a certified accountant. * Status of business, plant, system, or facility for each of the last three financial years. * Result of study to determine the capital cost of end-of-piper removal of the parameter for which the variance is sought, including capital and Operations and Maintenance (O&M) costs, solids/residual handling costs (if not considered in O&M), comparison to current costs and integrated management costs. * Effect on financial status if variance is not granted.   The MPCA recommends you use the worksheets available in *EPA’s Interim Economic Guidance for Water Quality Standards.* All EPA worksheets have been bundled together in this document located on the EPA’s website found at <http://water.epa.gov/scitech/swguidance/standards/economics/#worksheet>. Economic requirements in #21 and 22 above can be fulfilled with the use of EPA’s Worksheets. |

Certification

Federal Regulations (40 CFR Part 122.22) and State Regulations (Minn. R. 7001.0060) require all permit applications to be signed as follows:

1. 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.
2. For a partnership or sole proprietorship: by a general partner or the proprietor, respectively.
3. For a municipality, county or other political subdivision: by a principal executive officer or ranking elected official.
4. For a state, federal or other public agency/agents: by a commissioner, assistant or deputy commissioner; director, assistant or deputy director.

*“I certify under penalty of law that this document and all attachments were prepared under my direction or supervision in accordance with a system designed to assure that qualified personnel properly gather and evaluate the information submitted. Based on my inquiry of the person or persons who manage the system, or those persons directly responsible for gathering the information, the information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations.”*

|  |  |  |  |  |  |
| --- | --- | --- | --- | --- | --- |
| Printed name: |  | | Title: |  | |
| Authorized signature: | |  | Date (mm/dd/yyyy): | |  |
| State tax ID#: |  | | Federal tax ID#: | |  |

Seeking a variance due to other conditions under 40 CFR 131.10(g)

*The remaining factors or justifications under which a variance may be requested are based on ambient receiving water conditions. At this time, the MPCA is not aware of any specific situation where these conditions would be applicable and does not foresee variances being requested based on these factors in the short term. However, if a situation developed where a variance could be considered under these conditions, the MPCA will work with EPA to determine a course of action. Below is a list of information that MPCA would likely request that the Permittee submit. Submittal requirements are subject to change based on the specific situation. Please consider the below a guide only and not the definitive information to be submitted.*

Naturally occurring concentrations (e.g., background concentrations are high) [40 CFR 131.10(g)(1)]:

* Water quality assessment of all relevant parameters, biological assessment (as an indicator of water quality), appropriate reference conditions for comparison (if available), land usage/watershed characteristics, characterization of natural

sources, water quality modeling (as necessary to confirm effects from natural pollutant sources), assessment of possible groundwater contamination from human activities as a source of surface water pollutant levels, and stream bank stability (including upstream stability if natural siltation is suspected).

* Upstream ambient data sufficient to adequately characterize pollutant concentrations and effluent data.
* Soil composition data, groundwater data, U.S. Geological Survey (USGS) analyses/reports, comparison to data collected from headwater streams, and analyses done by other states and an explanation of why they are relevant in this case.
* Source or sources of the pollutant and how the pollutant enters the facility discharge; how much of the pollutant in receiving water occurs naturally, how much is a result of permitted sources, and how much is from other sources.

Natural, ephemeral, intermittent or low-flow conditions or water levels [40 CFR 131.10(g)(2)]:

* Not supportable if the conditions may be compensated for by discharging sufficient volume of effluent to enable water quality standards, criteria, or effluent limits to be met without violating requirements of Minnesota Statutes ch. 103G. If Permittee is unable to discharge a sufficient volume of effluent to enable the limit to be met without violation of the state water conservations requirements, describe the basis for this decision.
* Volume and velocity of flow, depth, range of flow conditions (including highs and lows as well as more generally representative conditions not influenced by drought or recent precipitation), presence of pools within the water body channel, precipitation and snowmelt patterns, presence of riparian vegetation (as an indicator of pattern of flow and water levels), depth of the water table (to distinguish ephemeral from intermittent, if necessary), biological assessment (as necessary to confirm flow or water level limitation if physical evidence is unclear), recreational use safety and access, potential use by children.

Human-caused conditions or sources of pollution [40 CFR 131.10(g)(3)]:

* Data characterizing receiving water concentrations, sediment and tissue quality (as necessary), biological assessment (as an indicator of water quality), appropriate reference condition for comparison (if available), land use/watershed characteristics, characterization of human caused condition and its relationship to water quality and/or the use in question.
* For legacy pollutants, data, information and analyses describing the "life history" of the pollutant (e.g., how pollutant has entered into the environment and continues to cycle through and will not be removed from the environment in the near future because its sources are diffuse and not within the control of the discharger to address).
* Identification of currently available remedies and assessment of their potential efficacy and feasibility, demonstration of technology-based requirements and cost effective and reasonable BMPs (as appropriate), forecast of water quality conditions once implemented (e.g., using water quality modeling), and assessment of potential damage caused by potential remedies.
* Similar to the justification for significant and widespread economic and social impacts, the Permittee must show why they cannot meet the criteria end-of-pipe, including an evaluation of how much the pollutant is or can be removed by current treatment processes, and whether other alternatives are available that can partially or fully remove the pollutant to meet WQBELs (particularly if they are adding the pollutant through their processes).
* Describe how taking an alternative approach would have adverse environmental consequences (i.e., would cause more environmental damage to correct than to leave in place).
* Other alternatives include consideration of additional treatment, which could result in other environmental effects, such as potential disposal issues with waste generated from various treatment technologies (e.g., brines, spent resin), alternative water source issues (e.g., high levels of arsenic in groundwater), or high energy use (Collaborate with MPCA water and air staff – often, sources of electricity change over time, vary by nature of the grid, and have different impacts when released to water or air, so adjustments are necessary).

Dams, diversion or other types of hydrologic modifications [40 CFR 131.10(g)(4)]:

* Not supportable if feasible to restore the waterbody to its original condition or operate the modification in a way that would result in attainment of the water quality standard.
* Please consult with MPCA staff to discuss whether a use attainability analysis is more appropriate than a variance request.
* Water quality assessment for all relevant parameters, biological assessment (as an indicator of water quality), appropriate reference condition for comparison (if available), land usage/watershed characteristics, characterization of hydrologic modification and its relationship to water quality and/or the use in question, identification of currently available restoration and/or operation methods and assessment of their potential efficacy and feasibility, societal value of the hydrologic modification.

Physical conditions related to the natural features of a water body, such as lack of proper substrate cover, flow, depth, pools, riffles and the like, unrelated to chemical water quality, preclude attainment. [40 CFR 131.10(g)(5)]

* This condition is unrelated to chemical water quality. The physical features identified in this condition relate to the health of aquatic life, such as fish and aquatic invertebrates and related to Class 2 waters. Therefore, justification for this condition must be made on the attainment of aquatic life protection uses.
* Please consult with MPCA staff to discuss whether a use attainability analysis is more appropriate than a variance request.
* Physical habitat characterization of the water body, natural hydrologic patterns, sediment grain size, bathymetry, biological assessment, (as necessary to confirm physical habitat limitation if physical evidence is unclear).