TITLE 119 – NEBRASKA DEPARTMENT OF ENVIRONMENTAL QUALITY

CHAPTER 16 - PERMIT CONDITIONS; ADDITIONAL CASE-BY-CASE

001 —The Director may establish the following conditions, as required on a case-by-case basis, to provide for and assure compliance with all applicable requirements of the Federal and State Acts.

002 —Duration of permit.

002.01 NPDES permits shall be effective for a fixed term not to exceed five (5) years.

002.02 —Except as provided in ~~chapter~~ Chapter 24, section 010, ~~continuation of expiring permits~~ the term of a permit shall not be extended by modification beyond the maximum duration specified in this section.

002.03 —The Director may issue any permit for a duration that is less than the full allowable term under this section.

002.04 —A permit may be issued to expire on or after the statutory deadline set forth in section 301(b)(2) (A), (C), and (E), if the permit includes effluent limitations to meet the requirements of section 301(b)(2) (A), (C), (D), (E) and (F), whether or not applicable effluent limitations guidelines have been promulgated or approved.

002.05 —A determination that a particular discharger falls within a given industrial category for purposes of setting a permit expiration date under 002.04 above is not conclusive as to the discharger's inclusion in that industrial category for any other purposes, and does not prejudice any rights to challenge or change that inclusion at the time that a permit based on that determination is formulated.

003 —Compliance schedule; general. The permit may, when appropriate, specify a schedule of compliance leading to compliance with the CWA and regulations.

003.01 Time for compliance. Any schedules of compliance under this section shall require compliance as soon as possible, but not later than the applicable statutory deadline under the ~~Clean Water Act~~CWA.

003.02 —The first NPDES permit issued to a new source or a new discharger shall contain a schedule of compliance only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised after commencement of construction but less than three years before commencement of the relevant discharge. For recommencing dischargers, a schedule of compliance shall be available only when necessary to allow a reasonable opportunity to attain compliance with requirements issued or revised less than

three years before recommencement of discharge.

003.03 —Interim dates. Except as provided in 003.03B, if a permit establishes a schedule of compliance which exceeds 1 one year from the date of permit issuance, the schedule shall set forth interim requirements and the dates for their achievement.

003.03A —The time between interim dates shall not exceed 1 one year, except that in the case of a schedule for compliance with standards for sewage sludge use and disposal, the time between interim dates shall not exceed six months.

003.03B —If the time necessary for completion of any interim requirement (such as the construction of a control facility) is more than 1 one year and is not readily divisible into stages for completion, the permit shall specify interim dates for the submission of reports of progress toward completion of the interim requirements and indicate a projected completion date.

003.04 Reporting. The permit shall be written to require that no later than 14 fourteen days following each interim date and the final date of compliance, the permittee shall notify the Director in writing of its compliance or noncompliance with the interim or final requirements, or submit progress reports if 003.03B is applicable.

004 —Alternative schedules of compliance. An NPDES permit applicant or permittee may cease conducting regulated activities (by terminating of discharge for NPDES sources) rather than continuing to operate and meet permit requirements as follows:

004.01 If the permittee decides to cease conducting regulated activities at a given time within the term of a permit which has already been issued:

004.01A The permit may be modified to contain a new or additional schedule leading to timely cessation of activities; or

004.01B —The permittee shall cease conducting permitted activities before non-compliance with any interim or final compliance schedule requirement already specified in the permit.

004.02 —If the decision to cease conducting regulated activities is made before issuance of a permit whose term will include the termination date, the permit shall contain a schedule leading to termination which will ensure timely compliance with applicable requirements no later than the statutory deadline.

004.03 —If the permittee is undecided whether to cease conducting regulated activities, the Director may issue or modify a permit to contain two schedules as follows:

004.03A –Both schedules shall contain an identical interim deadline requiring a final

decision on whether to cease conducting regulated activities no later than a date which ensures sufficient time to comply with applicable requirements in a timely manner if the decision is to continue conducting regulated activities;

004.03B –One schedule shall lead to timely compliance with applicable requirements, no later than the statutory deadline;

004.03C –The second schedule shall lead to cessation of regulated activities by a date which will ensure timely compliance with applicable requirements no later than the statutory deadline.

004.03D –Each permit containing two schedules shall include a requirement that after the permittee has made a final decision under 004.03A it shall follow the schedule leading to compliance if the decision is to continue conducting regulated activities, and follow the schedule leading to termination if the decision is to cease conducting regulated activities.

004.04 –The applicant's or permittee's decision to cease conducting regulated activities shall be evidenced by a firm public commitment satisfactory to the Director, such as a resolution of the board of directors of a corporation.

004.05 New Sources, new dischargers, sources which recommence discharging after terminating operations and those sources which have been indirect dischargers which commence discharging into waters of the state do not qualify for compliance schedules under this Chapter.

005 All permits shall specify:

005.01 –Requirements concerning the proper use, maintenance, and installation, when appropriate, of monitoring equipment or methods (including biological monitoring methods when appropriate);

005.02 Required monitoring including type, intervals, and frequency sufficient to yield data which are representative of the monitored activity including, when appropriate, continuous monitoring;

005.03 Applicable reporting requirements based upon the impact of the regulated activity.

Enabling Legislation: Neb. Rev. Stat. §§81-1504(11), (12), (15), (20), (21), (24), (25), and (30); 81-1505(4), (11), and (20)

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