

65-1,176. Same; mixing zone to be used; standards for ammonia, chlorides and atrazine; permit conditions; assistance in meeting standards. On and after the effective date of this act and before July 1, 1999:

(a) The department shall use a mixing zone of 50% of the average cross-sectional area of the stream based on either a low flow provision of one cubic foot per second or the 7Q10 flow, whichever is the greater existing condition in the receiving stream, in determining NPDES permit limits for total ammonia and chlorides under subsections (b) and (d) for permits issued by the department.

(b) Unless an applicant for a new or renewal NPDES permit agrees to meet all 1994 surface water quality standards, notwithstanding the provisions of subsection (a), the department shall not require the applicant to comply with the numeric aquatic life criteria for total ammonia and chlorides that are contained in the 1994 surface water quality standards and shall instead require an applicant to comply with the applicant's existing permit requirements, including mixing zone provisions applicable to the permit, for numeric criteria for total ammonia and chlorides or with the criteria for total ammonia and chlorides that took effect May 1, 1987, whichever is more protective. Nothing herein shall be construed to require compliance with mixing zone provisions and numeric aquatic life criteria for total ammonia and chlorides that are more restrictive than the 1994 surface water quality standards.

(c) The department shall not use the numeric chronic aquatic life criteria for atrazine in Table 1a of subsection (d) of K.A.R. 1995 Supp. 28-16-28e and shall rely instead on the greater of either a standard of 3 parts per billion for atrazine or any revised numeric chronic aquatic life criteria for atrazine adopted by the department after consideration of any new criteria recommended by the United States environmental protection agency after the effective date of this act. Conformance with the atrazine standard shall be determined by application of the methodology used in the 1996 Kansas water quality assessment report (305(b) report) published by the department.

(d) Permits issued for expansion, upgrade or new construction of wastewater treatment facilities and modifications and renewals of existing permits shall include the following statement of conditions, which shall be legally binding and enforceable upon the permittee:

"The permittee who does not agree to meet effluent limitations as necessary to attain the aquatic life criteria for ammonia and chlorides within the 1994 surface water quality standards incurs and acknowledges the legal duty and obligation to bring the facilities and operations authorized by this permit into compliance with the permit effluent limitations based on the 1994 surface water quality standards within 24 months after July 1, 1999, unless before July 1, 1999, revised numeric criteria for ammonia and chlorides are adopted pursuant to subsection (g) of K.S.A. 1999 Supp. 65-1,177, in which case the permittee incurs and acknowledges the legal duty and obligation to bring such facilities and operations into compliance with the permit effluent limitations based on the revised criteria within 24 months following the date of adoption of the rules and regulations containing the revised criteria."

(e) The department shall develop a plan and permit conditions that will assist entities that, on the effective date of this act, hold a permit or are applicants for a permit in meeting the requirements of this section relating to total ammonia and chlorides.

History: L. 1997, ch. 148, § 2; May 1.