

CHAPTER 4410
ENVIRONMENTAL QUALITY BOARD
ENVIRONMENTAL REVIEW; CRITICAL AREAS

EXPLORATORY DRILLING FOR THE DISPOSAL OF HIGH LEVEL RADIOACTIVE WASTE
4410 7900 DEFINITIONS
4410 7902 PREAPPLICATION RESPONSIBILITIES OF APPLICANT
4410 7904 LICENSING OF EXPLORERS
4410 7906 PROCEDURE FOR THE ISSUANCE OF A DRILLING PERMIT
4410 7908 INFORMATION MEETINGS
4410 7910 HEARING PROVISIONS
4410 7912 BOARD CONSIDERATION
4410 7914 RIGHT-OF-WAY CLEARANCE AND MAINTENANCE

4410 7916 EMERGENCY NOTIFICATION
4410 7918 LOCATION OF DRILL HOLES
4410 7920 DRILL HOLE CONSTRUCTION STANDARDS
4410 7922 USE OF DRILL HOLE FOR DISPOSAL PROHIBITED
4410 7924 CLEANUP PROCEDURES
4410 7926 ABANDONMENT OF EXPLORATORY BORINGS
4410 7928 SUBMISSION OF SPLITS AND DATA
4410 7930 PERMIT AMENDMENTS
4410 7932 PERMIT REVOCATION
4410 7934 APPLICATION AND MONITORING ASSESSMENTS

EXPLORATORY DRILLING FOR THE DISPOSAL OF HIGH LEVEL RADIOACTIVE WASTE

4410.7900 DEFINITIONS.

Subpart 1. **Scope.** The definitions in Minnesota Statutes, section 116C.71 apply to parts 4410 7900 to 4410.7934, and for the purposes of those parts, the following terms have the meanings given them.

Subp. 2. **Affected landowner.** "Affected landowner" means a person who owns or leases property within the right-of-way of the investigative activities.

Subp. 3. **Agent.** "Agent" means a responsible person who will act as a contact person on behalf of the applicant or permittee.

Subp. 4. **Applicant.** "Applicant" means any person who applies to the board for a drilling permit

Subp. 5. **Data.** "Data" means any factual measurements, statistics, or information obtained from the investigative activities.

Subp. 6. **Drilling permit.** "Drilling permit" means the written document issued by the board authorizing and outlining the rights and responsibilities of the permittee.

Subp. 7. **Investigative activities.** "Investigative activities" means the actions, whether in the laboratory or in the field, including visual inspection, mapping, surveying, photography, drilling, surface excavations, in situ testing, and all other research undertaken to establish the geologic and hydrologic condition and ranges of the parameters relevant to drilling in a potentially impacted area.

Subp. 8. **Permanent abandonment.** "Permanent abandonment" means the act of permanently sealing a drill hole for the purpose of permanently discontinuing the active and operational use of the drill hole.

Subp. 9. **Permittee.** "Permittee" means any person to whom a drilling permit is issued.

Subp. 10. **Right-of-way.** "Right-of-way" means the interest in real property used or proposed to be used around each drill hole and/or to obtain access to and from that drill hole.

Subp 11. **Shelterbelt.** "Shelterbelt" means the barrier zone of grasses, shrubs, and trees, or any combination of them, planted to protect crops, soil, and other sensitive areas against erosion.

Subp. 12. **Split.** "Split" means a division of a core sample parallel to the axis of the core sample.

Subp. 13. **Surface water.** "Surface water" means water systems on the surface

of the earth, including permanent lakes, streams and wetlands, intermittent streams, periodic wetlands and their respective watercourse beds, and wetland basins.

Subp. 14. **Temporary abandonment.** "Temporary abandonment" means the act of sealing, capping, or protecting a drill hole for the purpose of temporarily discontinuing use of the drill hole for a period of not more than five years.

Statutory Authority: *MS s 116C.724 subd 2*

History: *10 SR 2290*

4410.7902 PREAPPLICATION RESPONSIBILITIES OF APPLICANT.

A. Pursuant to Minnesota Statutes, section 116C.724, subdivision 3, paragraph (c), the applicant shall provide a notice of intent in writing to the chair at least ten days prior to initiating any contact with any landowner/tenant regarding negotiation of easement rights or other property interests that relate to predrilling right-of-way investigative activities. The notice of intent shall contain the legal description of the right-of-way, the property interest in that right-of-way, and the procedure by which the property interest is to be acquired.

B. The applicant shall provide the chair with copies of any permit, lease, permission, and/or easement agreements, within ten days of reaching the agreement, negotiated with landowners and/or tenants during the entire period a potentially impacted area is under consideration for investigative activities related to drilling. These agreements shall provide unrestricted access to the right-of-way as set forth in Minnesota Statutes, section 116C.724, subdivision 2, clause (4), and parts 4410.7900 to 4410.7934.

Statutory Authority: *MS s 116C 724 subd 2*

History: *10 SR 2290*

4410.7904 LICENSING OF EXPLORERS.

An applicant shall comply with Minnesota Statutes, section 156A.071, subdivision 2, and parts 4727.0400 to 4727.0900, relating to the regulation of exploratory boring.

Statutory Authority: *MS s 116C.724 subd 2*

History: *10 SR 2290*

4410.7906 PROCEDURE FOR THE ISSUANCE OF A DRILLING PERMIT.

Subpart 1. **Drilling permit required.** A drilling permit shall be obtained from the board for each potentially impacted area prior to commencing any drilling to obtain geologic and hydrologic information, other than the drilling of geophysical shot holes, relating to the disposal of high level radioactive waste.

Subp. 2. **Content of an application for drilling permit.** An application for a drilling permit shall be filed by the applicant with the board and shall include:

A. the name of the applicant seeking a drilling permit;

B. the name and address of an agent for the applicant;

C. the applicant's explorer's license, issued under Minnesota Statutes, section 156A.071, subdivision 2, and parts 4727.0400 to 4727.0900;

D. a description of the proposed drilling operation including the number, type, size, and depth of drill holes;

E. United States Geological Survey topographical maps to the scale 1:24,000 or smaller on which are drawn to scale the exact locations of the right-of-way and the proposed drill holes;

F. a development plan showing the right-of-ways and the geographical and cultural features existing on each side of the right-of-ways in an area not less than 200 feet in width on each side of the right-of-way. The scale of the plan shall

MINNESOTA RULES 1986

45

ENVIRONMENTAL REVIEW; CRITICAL AREAS 4410.7908

not be greater than 200 feet per inch. The development plan shall show, to the scale of the plan, dimensions, elevations, contours (using contour intervals of five feet or less), drill hole locations, field construction of drilling equipment, and present and planned pertinent features, including but not limited to roads, buildings, encampments, shelterbelts, fencing, surface water and its diversion or drainage, and present land use. The plan shall show the stages of development from right-of-way preparation through all phases of construction and maintenance.

G. a time schedule for acquisition and construction of each right-of-way starting with the initial visual inspection of the right-of-way. The time schedule shall include the proposed commencement and finishing dates of each stage of investigative activities, and shall also include the proposed date of right-of-way clearance, temporary and permanent abandonment, right-of-way restoration activities, and the method and schedule of drill hole monitoring;

H. a listing of the federal, state, and local permits that may be required for the proposed drilling and the accompanying right-of-way clearance;

I. a description of the environmental setting and the potential environmental impacts of right-of-way clearance and drilling on the following:

(1) groundwater-bearing formations, whether in bedrock, glacial, or postglacial sediments;

(2) surface water;

(3) agricultural lands;

(4) man-made structures;

(5) transportation routes;

(6) residences,

(7) water wells,

(8) rare or endangered species; and

(9) wildlife habitat, native grassland, and other natural areas;

J. existing or potential point and nonpoint sources of pollution on or near the right-of-way that could contaminate surface water or water-bearing formations underground because of the investigative activities.

Subp. 3. Acceptance of drilling permit application. Within 30 days of receipt of a permit application, the chair shall review it for completeness pursuant to subpart 2 and accept or reject the application. If the chair rejects the application, he shall upon rejection inform the applicant which deficiencies, if corrected, will allow the application to be accepted. Upon resubmission, the chair shall have 30 days to review the amended application and accept or reject it. After acceptance of an application, the applicant shall provide any additional relevant information that the chair or the board determines necessary for board approval of the application. The applicant shall supply extra copies of the application to the members of the board, to the technical representatives to the board designated by an agency member of the board, and five copies to the board's staff.

Subp. 4. Copy of application to historical society and county auditor. When an applicant files a permit application with the board, the applicant shall simultaneously send a copy of the application to the Minnesota historical society, and to the office of the county auditor in each county or any portion of a county within the potentially impacted area. The county auditor shall retain and file the application in a manner making it accessible to the public.

Statutory Authority: *MS s 116C.724 subd 2*

History: *10 SR 2290*

4410.7908 INFORMATION MEETINGS.

Subpart 1. Information meetings required. The applicant or permittee, as appropriate, shall hold public information meetings as required by Minnesota Statutes, section 116C.724, subdivision 3, paragraph (b).

(1) The applicant shall hold one public meeting in the potentially impacted area after the permit application has been filed with the board and before the hearing required by part 4410.7910. At the meeting the applicant shall explain the scope of the planned investigative activities and the potential short- and long-term environmental, health, and safety impacts, if any, of the investigative activities.

(2) The permittee shall hold at least one public meeting every three months in the potentially impacted area during the investigation in order to answer questions, concerns, and complaints, and to provide the public with all current raw and interpreted data on the progress of the investigation.

Subp. 2. Agenda. The applicant or permittee, as appropriate, shall provide the agenda, and responses to concerns and issues raised at the public information meeting, in writing to the chair within 20 days of the meeting.

Subp. 3. Evidence. Any person may appear at the public information meetings and present written and/or oral testimony and exhibits relevant to the investigative activities.

Subp. 4. Schedule and location. The public information meetings shall be scheduled on weekday evenings that do not fall on a public holiday and shall begin no earlier than 7:00 p.m. The public information meetings shall be held in a facility centrally located within the potentially impacted area and sufficient in size to accommodate the reasonably projected attendance. If no adequate facility exists within the potentially impacted area, the meetings shall be held in an adequate facility near the potentially impacted area.

Subp. 5. Notice. Notice of each public information meeting held pursuant to subpart 1 shall be given by the applicant or permittee, as appropriate, by paid advertisement in a qualified newspaper, as defined in Minnesota Statutes, section 331A.01, subdivision 8, in general circulation in the potentially impacted area. The notice shall be published at least ten days and not more than 30 days prior to the meeting. The applicant or permittee shall notify the chair and the county auditor of each county or portion of each county within the potentially impacted area in writing at least ten days in advance of the meeting. The notice shall include the following information:

- A. the date, time, and place of the meeting;
- B. the agenda;
- C. the identity of the applicant or permittee and the name of the agent and the address and phone number where that person can be reached; and
- D. the locations where the most recent permit application or the drilling permit is available to the public.

Statutory Authority: *MS s 116C 724 subd 2*

History: *10 SR 2290*

4410.7910 HEARING PROVISIONS.

A contested case hearing under Minnesota Statutes, chapter 14 and parts 1400.5100 to 1400.8300 shall be held by the board for the purposes of collecting and verifying data, and establishing a complete and accurate record upon which to base a decision to grant or deny a drilling permit. The hearing shall be held after the chair accepts the application for completeness and before the board acts to approve or reject the application. The hearing shall be conducted by an administrative law judge from the State Office of Administrative Hearings. The board shall give notice of the hearing pursuant to part 1400.5600 and the notice shall include all information required by part 1400.5600, subpart 2.

Statutory Authority: *MS s 116C.724 subd 2*

History: *10 SR 2290*

MINNESOTA RULES 1986

47

ENVIRONMENTAL REVIEW; CRITICAL AREAS 4410.7914

4410.7912 BOARD CONSIDERATION.

Subpart 1. **Consideration and approval of the drilling permit application.** After acceptance of the application by the chair, and consideration of the findings, conclusion, and recommendation of the administrative law judge, the board shall either approve or reject the application. The board shall approve the application for a permit provided:

A. that the application is complete,

B. that the applicant has complied with all the requirements of Minnesota Statutes, section 116C.724, and parts 4410.7900 to 4410.7934, and

C. that the investigative activities will not materially and adversely affect the environment, unless there is no feasible and prudent alternative and the conduct at issue is consistent with and reasonably required for promotion of the public health, safety, and welfare in light of the state's paramount concern for the protection of its air, water, land, and other natural resources from pollution, impairment, or destruction.

If the board approves the application, the board shall within 90 days issue a permit to commence drilling in accordance with the time schedule and plans set forth in the application. The drilling permit shall contain the terms and conditions to assure compliance with Minnesota Statutes, section 116C.724, parts 4410.7900 to 4410.7934, and all applicable federal, state, and local ordinances. Upon receipt of the drilling permit, the permittee may begin the approved investigative activities relevant to drilling.

Subp. 2. **Copy of permit to county auditor.** The permittee shall, within three days of receipt of the permit from the board, send a copy of the drilling permit to the office of the county auditor in each county or portion of a county within the potentially impacted area. The county auditor shall retain and file the permit in a manner making it accessible to the public.

Subp. 3. **Report of complaints.** The permittee must promptly report to the chair any complaint received about investigative activities, right-of-way preparation, maintenance, restoration, and temporary and permanent abandonment.

Subp. 4. **Rejection of drilling permit application.** The board shall reject the application if it determines that the application has not met any of the conditions of subpart 1, items A to C. If the board rejects the application, it shall upon rejection inform the applicant which deficiencies if corrected will allow the application to be approved. If the deficiencies are corrected and the amended application is submitted to the board at least 30 days in advance of the board's next regularly scheduled meeting, the board shall consider the amended application at the next regularly scheduled meeting.

Statutory Authority: *MS s 116C.724 subd 2*

History: *10 SR 2290*

4410.7914 RIGHT-OF-WAY CLEARANCE AND MAINTENANCE.

A. The permittee shall ensure that it clears the right-of-way only to the extent necessary to assure safe drilling operations and to provide suitable access for construction and operation.

B. Equipment used in right-of-way preparation and maintenance shall comply with the noise control rules of the Pollution Control Agency published in chapter 7010.

C. Where the right-of-way as planned contacts surface water and roads, clearing by the permittee shall be done so that a screen of the maximum possible width of any existing natural vegetation is left along the right-of-way adjacent to the surface water or road. If the natural vegetation that existed prior to clearing cannot be left as a screen and suitable natural regeneration is not likely to occur within one full growing season following right-of-way restoration, native types of shrubs and trees shall be planted by the permittee to provide an adequate screen.

Where the right-of-way as planned contacts surface water of any size and type, the permittee shall act in accordance with federal law, including Executive Order 11990, that protects wetlands of all sizes and types, in accordance with Minnesota Statutes, chapters 104 and 105, which cover shoreland management, floodplain management, wild and scenic rivers, and permits required for protected waters, and in accordance with any other federal, state, and local laws, regulations, and ordinances. The amount and species of vegetation that will be planted to replace the vegetation removed from any Minnesota highway right-of-way shall be specified by the Minnesota Department of Transportation or appropriate county or local authority.

D. Investigative activities by the permittee in the vicinity of streams shall comply with Minnesota Statutes, chapter 105, permit requirements of the Department of Natural Resources so as to minimize damage to the natural condition of the area.

E. Stream banks disturbed during right-of-way clearance or investigative activities shall be stabilized, reclaimed, and revegetated by the permittee using native plant species indigenous to the area.

F. Areas where natural vegetation has been removed and suitable natural regeneration is not likely to occur within one full growing season, shall be revegetated by the permittee using native plant species indigenous to the area within one full growing season after temporary abandonment.

G. Where significant grading or excavation or both is required, precautions shall be taken by the permittee to protect and segregate top soil.

H. Compaction of cropland by the permittee shall be kept to a minimum and confined to as small an area as practicable.

I. Precautions to protect livestock and crops shall be taken by the permittee.

J. All appropriate precautions to protect against pollution of the environment shall be taken by the permittee.

K. The permittee shall repair or replace all drainage tiles broken or damaged during right-of-way preparation or investigative activities unless otherwise negotiated with the landowner or tenant, as appropriate, on whose property the tiles are located.

L. The permittee is responsible for the repair of private roads and lanes damaged when moving equipment or when obtaining access to the right-of-way and for the reimbursement to the landowner or tenant, as appropriate, for crop loss resulting from access to right-of-way damaged during preparation or drilling operations.

M. The permittee shall replace or repair all fences and gates removed or damaged during right-of-way preparation and investigative activities unless otherwise negotiated with the landowner or tenant, as appropriate.

N. Shelterbelts and trees shall be protected by the permittee whenever possible. If shelterbelts and trees must be cut, native shrubs and trees shall be planted to provide protection in accordance with the request of the landowner or tenant, as appropriate, unless otherwise negotiated with the landowner or tenant, as appropriate.

O. The permittee shall restore cropland to substantially its original condition, unless otherwise negotiated with the landowner or tenant, as appropriate. Restoration shall include grading, topsoil replacement, subsoiling and disking, or other methods as negotiated with the landowner or tenant, as appropriate.

P. The permittee shall return pasture to its former level of productivity, unless otherwise negotiated with the landowner or tenant, as appropriate. Pasture restoration shall include planting native or tame grasses or other restoration methods as negotiated with the landowner or tenant, as appropriate.

MINNESOTA RULES 1986

49

ENVIRONMENTAL REVIEW; CRITICAL AREAS 4410.7922

Q. The permittee shall, unless negotiated with the landowner or tenant, as appropriate, restore other areas to substantially their original condition.

Statutory Authority: *MS s 116C.724 subd 2*

History: *10 SR 2290*

4410.7916 EMERGENCY NOTIFICATION.

The applicant or permittee, as appropriate, shall promptly notify the chair, the commissioner of health, the commissioner of natural resources, the pollution control agency, and the county health officer of each county or portion of a county in which investigative activities are conducted of any occurrence during investigative activities and related actions that has a potential for significant adverse health or environmental effects and shall take action as quickly as may be reasonably possible to minimize adverse effects.

Statutory Authority: *MS s 116C.724 subd 2*

History: *10 SR 2290*

4410.7918 LOCATION OF DRILL HOLES.

A permittee shall comply to the extent practicable with the following standards with respect to location of a drill hole.

A. A drill hole shall be located:

(1) when possible on a right-of-way that has good surface drainage, at a higher elevation than, and at a sufficient distance from cesspools, buried sewers, septic tanks, privies, barnyards, and feedlots or other possible sources of contamination, as provided in the Minnesota Water Well Construction Code, chapter 4725;

(2) so that the drill hole and its surrounding area can be kept in a sanitary condition;

(3) to exclude all sources of pollution that are known to the permittee, or reasonably should have been known to the permittee, from entering the drill hole; and

(4) 50 feet from any building and at least 1,000 feet from any occupied residence or occupied animal barn, or as negotiated with the landowner or tenant, as appropriate.

Statutory Authority: *MS s 116C.724 subd 2*

History: *10 SR 2290*

4410.7920 DRILL HOLE CONSTRUCTION STANDARDS.

A permittee shall comply with the following standards with respect to construction of a drill hole.

A. Drill holes shall be constructed in such a fashion as to facilitate testing and prevent any contamination of aquifers.

B. Drill holes not permanently abandoned within 30 days of completion must be constructed to meet the requirements of part 4727.1100 regarding temporary abandonment of exploratory borings, and the requirements of any federal statutes and regulations applicable to deep wells.

Statutory Authority: *MS s 116C 724 subd 2*

History: *10 SR 2290*

4410.7922 USE OF DRILL HOLE FOR DISPOSAL PROHIBITED.

A drill hole shall not be used by the permittee for disposal of surface water, near surface water or groundwater or any other liquid, gas, chemical, or solid waste including drilling fluids.

Statutory Authority: *MS s 116C.724 subd 2*

History: *10 SR 2290*

4410.7924 CLEANUP PROCEDURES.

A permittee shall comply with the following clean-up procedures.

A. Cleanup of personal litter, including cans, bottles, and paper, deposited by drilling operation or right-of-way preparation crews on and off the right-of-way shall be on a daily and continuous basis.

B. Interim cleanup and proper disposal of all waste and scrap materials on and off the right-of-way work areas shall be carried out after each phase of the drilling operation.

C. After all the work has been performed, the land shall be restored to approximate original contour within a reasonable period of time, unless negotiated with the landowner or tenant, as appropriate.

D. All waste and scrap shall be removed or properly disposed of in accordance with the solid and liquid waste regulations of chapters 7035 and 7001.

Statutory Authority: *MS s 116C 724 subd 2*

History: *10 SR 2290*

4410.7926 ABANDONMENT OF EXPLORATORY BORINGS.

Pursuant to Minnesota Statutes, section 116C.724, subdivision 2, clause (1), any abandonment, whether temporary or permanent, shall comply with the state drilling and drill hole abandonment and restoration rules governing exploratory boring under Minnesota Statutes, chapter 156A, and parts 4727.1000 to 4727.1300.

Statutory Authority: *MS s 116C 724 subd 2*

History: *10 SR 2290*

4410.7928 SUBMISSION OF SPLITS AND DATA.

Subpart 1. **Request for samples or data.** Pursuant to Minnesota Statutes, section 116C.724, subdivision 2, clauses (5) and (6), the permittee shall submit splits or portions of a core sample to the commissioner of natural resources at the commissioner's request or to the director of the Minnesota geological survey at the director's request. If the permittee needs a sample in its entirety, the commissioner or director may accept certified and uninterpreted data of the sample in lieu of an actual portion if that data provides all the information necessary to obtain complete and accurate conclusions. Splits or certified data shall be presented to the commissioner or director within 30 days after the request is made and all samples submitted shall become the property of the state.

Subp. 2. **Required data.** Pursuant to Minnesota Statutes, section 116C.724, subdivision 3, the permittee or any person conducting geologic, hydrologic, or geophysical testing or any other studies relating to disposal is required to provide unrestricted access to all raw and interpreted data to the chair and director of the Minnesota geological survey or their designated representatives within 30 days. The raw and interpreted data includes:

A. core samples and splits;

B. distribution of engineering and geophysical parameters including ripability of rock and surficial materials, degree of bedrock or surficial weathering including depth of exfoliation present, resistivity, seismic properties, elastic properties, and coefficients of thermal expansion and thermal conductivity;

C. stratigraphic sections and geologic cross sections of the affected areas including structural, mineralogical, and petrological descriptions at a scale sufficient to delineate relevant stratigraphic changes, discontinuities, or sections of hydrologic or structural interest;

D. location, depth, thickness, and mineral composition of all bedrock aquifers and other water-bearing formations;

E. location, depth, thickness, geologic classification, and material classification of all Quaternary hydrogeologic units encountered;

MINNESOTA RULES 1986

51

ENVIRONMENTAL REVIEW; CRITICAL AREAS 4410.7930

F. distribution of hydrologic parameters including vertical and horizontal hydraulic conductivity, sustained yield ratings, transmissivity, effective porosity, dispersivity, interstitial velocity, sorption coefficients, ion exchange capacity, and elevation of the potentiometric surface for all confined units and water level elevation for unconfined units for the area of potential environmental impact;

G. the groundwater recharge and discharge areas and a description of the flow system including local, intermediate, and regional flow;

H. structural discontinuities and their relationship to groundwater flow, including the presence of and effects on the flow system due to faults, fractures, joints, fissures, and microfissures. Related secondary permeability, rock pore pressure factors, and the extent and type of fracture filling material;

I. groundwater samples with hydrogeochemical analyses of the area and location, including probable ranges of the chemical composition for major and trace ions and organics with location and depth and Eh-pH;

J. postdrilling test results, including in-situ stresses, in-situ heat, and tracer tests;

K. levels of preexisting radiation from natural elements and man-made structures;

L. tests for solubility of radionuclides and radioactive chemicals, including but not limited to Cesium, Strontium, Carbon-14, Iodine 129, Plutonium, Technetium, Americium, Neptunium, Radon, and Radium;

M. survey charts, maps, graphs, photographs, and interpretative and predecisional reports; and

N. any and all other raw and interpreted data obtained through the studies related to the disposal of high-level radioactive waste.

Statutory Authority: *MS s 116C 724 subd 2*

History: *10 SR 2290*

4410.7930 PERMIT AMENDMENTS.

Subpart 1. **Amendments proposed by permittee.** Proposed amendments to the conditions set forth in the drilling permit regarding size, type, depth, number, and location of drill holes or the location of right-of-ways shall be sent in writing to the chair of the board. Revised maps, development plans, and descriptions of the environmental setting in accordance with part 4410.7906, subpart 1, shall accompany a detailed statement explaining the necessity and reasonableness of the amendments, all of which shall be sent by the permittee to be received by the chair at least ten working days before the day the proposed amendments are intended to become effective.

A. Within the ten working days the chair shall decide whether the proposed amendments require board approval and notify the permittee as to the status of the proposed permit amendments.

B. If, in the opinion of the chair, the proposed amendments would not significantly change the terms and conditions set forth in the drilling permit, or materially and adversely affect the environment, the amendments may be approved by the chair.

C. If, in the opinion of the chair, the proposed amendments would cause significant changes in the terms and conditions of the permit, or materially and adversely affect the environment, the chair shall submit the proposed amendments to the board at its next scheduled meeting following the chair's determination, providing his determination is made 20 days in advance of the next scheduled board meeting. The board shall approve the proposed amendments if the application as amended complies with all the requirements of Minnesota Statutes, section 116C.724 and parts 4410.7900 to 4410.7934. The board shall reject the proposed amendments if it determines that the application as amended

would not comply with the requirements of Minnesota Statutes, section 116C.724 and parts 4410.7900 to 4410.7934. Proposed amendments submitted to the board shall not be implemented until the board approves them.

Subp. 2. Amendments proposed by board. The board shall, acting on its own initiative, amend the permit to prevent any material and adverse effect to the environment and to prevent any violation of parts 4410.7900 to 4410.7934 or the terms of the permit. The board shall give at least ten working days written notice to the permittee of board action to amend the permit. The permittee may appear before the board and offer evidence relevant to the proposed amendment.

Statutory Authority: *MS s 116C 724 subd 2*

History: *10 SR 2290*

4410.7932 PERMIT REVOCATION.

Subpart 1. Initiation of revocation. The board may initiate action to revoke a drilling permit upon a prima facie showing by affidavit and documentation that a violation may have occurred or is likely to occur of the terms and conditions of the permit or parts 4410.7900 to 4410.7934 and Minnesota Statutes, section 116C.724, subdivision 2.

Subp. 2. Hearing. If the board determines that a hearing is necessary before revocation of a drilling permit, it shall order a contested case hearing. The findings, conclusions, and recommendations of the administrative law judge shall contain the opinion of the judge whether a violation has occurred or is likely to occur and whether corrective measures, permit revocation, or both, are necessary.

Subp. 3. Considerations for board action. Based upon the record and the findings, conclusions, and recommendations of the administrative law judge, if a contested case hearing was held, the board shall consider the following matters at its meeting:

A. whether a violation of any of the conditions in Minnesota Statutes, section 116C.724, subdivision 2, parts 4410.7900 to 4410.7934, or the drilling permit has occurred or is likely to occur;

B. whether the violation has resulted or will result in any significant adverse environmental effects, and

C. whether the results of the violation can be corrected or ameliorated.

Subp. 4. Board action. If the board finds that a violation of Minnesota Statutes, section 116C.724, subdivision 2, parts 4410.7900 to 4410.7934, or the terms and conditions of the drilling permit has occurred or is likely to occur, or that a material and adverse effect upon the environment has occurred or is likely to occur, the board shall require corrective measures, or amend or revoke the permit, unless the permittee has undertaken effective corrective or ameliorative measures to correct the violations.

Subp. 5. Action by the chair. The chair shall have the power to revoke a permit if all of the following conditions are present:

A. the three days needed to call an emergency board meeting would be too late to prevent a further violation; and

B. the violation is an imminent threat to the public health or safety or a serious or irreversible threat to natural resources.

If a permit is revoked by the chair, the board shall at its next meeting review the decision of the chair and vote to uphold or reverse the permit revocation or vote to hold a contested case hearing on the issue of revocation

Subp. 6. Effect of revocation. If a permit is revoked, the permittee shall halt all drilling and investigative activities immediately. The permit may be reinstated by the board only after the violations are corrected. If the violations are corrected and the corrective action and results are submitted to the board at least

MINNESOTA RULES 1986

53

ENVIRONMENTAL REVIEW; CRITICAL AREAS 4410.7934

30 days in advance of the board's next scheduled meeting, the board shall consider reinstating the permit at that meeting. If it finds the violations are not corrected, the board shall inform the permittee which deficiencies, if corrected, will allow the permit to be reinstated.

Statutory Authority: *MS s 116C.724 subd 2*

History: *10 SR 2290*

4410.7934 APPLICATION AND MONITORING ASSESSMENTS.

Subpart 1. Initial assessment. Every applicant for a drilling permit shall pay to the board an initial assessment of \$20,000 to be paid as follows:

A. 50 percent accompanying the application; and

B. 50 percent to be paid five days before the hearing held pursuant to part 4410.7910.

Subp. 2. Purpose of assessments and additional costs. The purpose of the assessments is to cover the actual costs of processing an application or amendments, holding hearings, whether required by law or initiated by the board, or the costs incurred through permit revocation and monitoring the investigative activities, including staff and consultant expenses including housing, travel, office space within the potentially impacted area, equipment, administrative, logistical, and all other costs relating to the monitoring of the investigative activities. If the actual costs exceed the initial assessment the board shall assess the permittee any additional assessments necessary to cover the actual costs.

Subp. 3. Method of assessment. The costs assessed under subpart 2 shall be assessed quarterly, at least 30 days before the start of each calendar quarter, by the board against the permittee. The money paid pursuant to the assessment shall be paid to the board within 30 days after receipt of the assessment, which assessment shall constitute notice of the assessment and demand for payment thereof. The total amount which may be assessed to the permittee under authority of this part shall not exceed the sum of the costs incurred through the monitoring, processing, and related activities. Money received by the board pursuant to any assessment shall be paid to the special revenue fund.

Statutory Authority: *MS s 116C.724 subd 2*

History: *10 SR 2290*