

CHAPTER 7001

MINNESOTA POLLUTION CONTROL AGENCY

PERMITS

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PERMITS 7001.0020

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GENERAL REQUIREMENTS

7001.0010 DEFINITIONS.

Subpart 1. **Scope.** The definitions in part 7000.0100 in the agency's procedural rules apply to the terms used in parts 7001.0010 to 7001.0210 unless the terms are defined as follows.

Subp. 2. **Draft permit.** "Draft permit" means a document prepared by the director under part 7001.0100 that indicates the director's preliminary decision to issue, modify, revoke and reissue, or reissue a permit, and that indicates the proposed terms and conditions of the permit; or a notice prepared by the director under part 7001.0100 that indicates the director's preliminary decision to deny, to refuse to reissue, or to revoke a permit without reissuance.

Subp. 3. **Permit.** "Permit" means a discharge, emission, and disposal authorization; a construction, installation, or operation authorization; and other agency authorizations designated "permit" in Minnesota Statutes, chapters 115 and 116, including Minnesota Statutes, sections 115.03, subdivision 1; 115.07; 116.07, subdivision 4a; 116.081; and 116.091. "Permit" does not include an "order," "variance," or "stipulation agreement" as defined in part 7000.0100 and does not include a "certification." However, the exclusion of "certification" from the definition of "permit" shall not in any way be considered to affect the applicability of parts 7001.0010 to 7001.0210 to the processing of certifications by the agency under section 401 of the Clean Water Act, United States Code, title 33, section 1341, to the extent provided by parts 7001.1400 to 7001.1470.

Subp. 4. **General permit.** "General permit" means a permit issued under part 7001.0210 to a category of permittees whose operations, emissions, activities, discharges, or facilities are the same or substantially similar.

Statutory Authority: *MS s 115.03; 116.07 subd 4*

History: *8 SR 2278; 10 SR 2235*

7001.0020 SCOPE.

Except as otherwise specifically provided, parts 7001.0010 to 7001.0210 apply to the following:

A. An agency permit required for the storage, treatment, utilization, processing, transfer, intermediate disposal, or final disposal of solid waste.

B. An agency permit required for the treatment, storage, or disposal of hazardous waste.

C. An agency permit required for sewage sludge landspreading facilities.

D. A letter of approval required for sewage sludge landspreading sites. Part 7001.0040, subparts 1 and 3 applies to these approvals, except that the time period referenced in those subparts shall be 30 days instead of 180 days. Parts 7001.0100, subparts 4 and 5 and 7001.0110 do not apply to these approvals.

E. An agency permit required for the construction, installation, or operation of a disposal system. Part 7001.0040, subparts 1 and 3 applies to permits for sewer extensions, except that the time period referenced in those subparts shall be 60 days instead of 180 days. Parts 7001.0100, subparts 4 and 5; 7001.0110; and 7001.0150 do not apply to permits for sewer extensions.

F. An agency permit required for the discharge of a pollutant into the waters of the state from a point source.

G. An agency permit required for the construction or operation of a

feedlot; however, parts 7001.0040 to 7001.0070 do not apply to these permits. Parts 7001.0100, subparts 4 and 5 and 7001.0110 do not apply to animal feedlot interim permits.

H. An agency permit required for the construction or operation of a liquid storage facility. Part 7001.0040, subparts 1 and 3 applies to these permits except that the time period referenced in those subparts shall be 90 days instead of 180 days. Parts 7001.0100, subparts 4 and 5; 7001.0110; and 7001.0150 do not apply to these permits.

I. An agency permit required for the construction, modification, reconstruction, or operation of an air emission facility except those activities permitted under parts 7005.0700 to 7005.0820. Parts 7001.0100, subparts 4 and 5 and 7001.0110 do not apply to permits for construction, modification, or reconstruction of a facility with a potential controlled net increase of a single criteria pollutant of less than 100 tons per year or to permits for operation of a facility with an actual emission rate of a single criteria pollutant of less than 500 tons per year. Part 7001.0100, subpart 5, item C does not apply to permits for construction, modification, or reconstruction of a facility with a potential controlled net increase of a single criteria pollutant of 100 tons per year to 250 tons per year or to permits for operation of a facility with an actual emission rate of a single criteria pollutant of 500 tons per year to 5,000 tons per year. Part 7001.0040, subpart 1 applies to permits for air emission facilities, except that for a permit not subject to a Minnesota or federal public notice requirement, the time period referenced in that subpart shall be 90 days.

J. An agency permit required for the construction of a facility, building, structure, or installation that attracts or may attract mobile source activity that results in emissions of an air pollutant for which there is a state standard. Part 7001.0150, subparts 1 and 2 does not apply to these permits.

K. The processing of certifications under section 401 of the Clean Water Act, United States Code, title 33, section 1341, to the extent provided by parts 7001.1400 to 7001.1470.

Statutory Authority: *MS s 115.03; 116.07 subd 4*

History: *8 SR 2278; 10 SR 2235*

7001.0030 PERMIT REQUIRED.

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.

Statutory Authority: *MS s 115.03 subd 1 para (e); 116.07 subd 4*

History: *8 SR 2278*

7001.0040 APPLICATION DEADLINES.

Subpart 1. Application for new permit. Except as otherwise required by parts 7001.0530 and 7001.1050, a permit application for a new facility or activity may be submitted at any time. However, it is recommended that the permit application be submitted at least 180 days before the planned date of the commencement of facility construction or of the activity.

Subp. 2. Modification or revocation and reissuance of existing permits. If a permit has been issued by the agency, the person holding the permit may file with the agency, at any time, a written application for modification of the permit or for revocation and reissuance of the permit; except that if the reason for the application is the adoption by a federal agency of a new or amended pollution standard, limitation, or effluent guideline the permittee shall file an application within the time for filing specified by the federal agency as a part of the notice of adoption published in the Federal Register.

Subp. 3. **Reissuance of existing permits.** If a permit has been issued by the agency and the person holding the permit desires to continue the permitted activity beyond the expiration date of the permit, the person shall submit a written application for permit reissuance at least 180 days before the expiration date of the existing permit.

Statutory Authority: *MS s 115.03 subd 1 para (e); 116.07 subd 4*

History: 8 SR 2278

7001.0050 WRITTEN APPLICATION.

A person who requests the issuance, modification, revocation and reissuance, or reissuance of a permit shall complete, sign, and submit to the director a written application. The person shall submit the written application in a form prescribed by the director. The application shall contain the items listed in items A to I unless the director has issued a written exemption from one or more of the data requirements. After receiving a written request for an exemption from a data requirement, the director shall issue the exemption if the director finds that the data is unnecessary to determine whether the permit should be issued or denied. The application must contain:

A. the name, address, and telephone number of the owner of the facility for which the application is submitted and identification of the status of the owner as a federal, state, public, private, or other entity;

B. if the operator of the facility for which the application is submitted is different from the owner, the name, address, and telephone number of the operator and identification of the status of the operator as a federal, state, public, private, or other entity;

C. the name, address, and telephone number of the person who prepared the application;

D. a description including the location of the business, plant, system, facility, or activity for which a permit is sought;

E. a general description of the materials handled, processed, stored, or disposed of by the applicant that are pertinent to the application; and a statement of the nature and quantity of the materials proposed to be stored, processed, discharged, emitted, or disposed of during the period of the required permit, and proposed methods for control of these materials;

F. a topographic map, or other map if a topographic map is unavailable, that shows the facility and the area surrounding the facility for a distance of at least one mile in all directions of the facility; and all structures that relate to the proposed discharge, emission, storage, processing, or disposal activity;

G. a copy of a draft or final environmental impact statement that has been prepared under the National Environmental Policy Act, United States Code, title 42, sections 4331 et seq. as amended through December 31, 1982, or a copy of an environmental assessment or environmental impact statement prepared under the rules of the Minnesota Environmental Quality Board, Minnesota Rules, chapters 4400 and 4410;

H. additional information determined by the director to be relevant to a decision as to permit issuance, including but not limited to plans, specifications, or other technical information that is necessary to determine whether the facility will meet all applicable Minnesota and federal statutes and rules;

I. other information relevant to the application as required by parts 7001.0550 to 7001.0640, 7001.1050, 7001.1215, 7001.1290, or 7040.0500 and 7040.0600.

Statutory Authority: *MS s 115.03 subd 1 para (e); 116.07 subd 4*

History: 8 SR 2278

7001.0060 PERMITS

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7001.0060 SIGNATURES.

A permit application must be signed as follows:

A. for a corporation, by a principal executive officer of at least the level of vice-president or the duly authorized representative or agent of the executive officer if the representative or agent is responsible for the overall operation of the facility that is the subject of the permit application;

B. for a partnership or sole proprietorship, by a general partner or the proprietor, respectively;

C. for a municipality, state, federal, or other public agency, by either a principal executive officer or ranking elected official;

D. if the operator of the facility for which the application is submitted is different from the owner, both the owner and the operator shall sign the application according to items A to C. Except in the case of a hazardous waste facility permit application, if the director finds that this requirement is impracticable under the circumstances, the director shall require the operator to sign the application according to items A to C.

Statutory Authority: *MS s 115.03 subd 1 para (e); 116.07 subd 4*

History: 8 SR 2278

7001.0070 CERTIFICATION.

A person who signs a permit application shall make the following certification: "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." Where applicable, the person shall also fulfill the certification requirements of part 7001.0540.

Statutory Authority: *MS s 115.03 subd 1 para (e); 116.07 subd 4*

History: 8 SR 2278

7001.0080 RETENTION OF RECORDS.

The applicant shall retain copies of the permit application, all data and information used by the applicant to complete the application, and additional information requested by the director during the review of the application for a period of at least three years from the date the application is signed. This period is automatically extended during the course of an unresolved enforcement action regarding the facilities or as requested by the director.

Statutory Authority: *MS s 115.03 subd 1 para (e); 116.07 subd 4*

History: 8 SR 2278

7001.0090 REVIEW OF PERMIT APPLICATIONS.

The director shall review all permit applications for completeness. If the director finds that the application is incomplete or otherwise deficient, the director shall promptly advise the applicant in writing of the incompleteness or deficiency. The director shall suspend further processing of the portion of the application affected by the deficiency until the applicant has supplied the necessary information or otherwise corrected the deficiency.

Statutory Authority: *MS s 115.03 subd 1 para (e); 116.07 subd 4*

History: 8 SR 2278

7001.0100 PRELIMINARY DETERMINATION AND DRAFT PERMIT.

Subpart 1. Preliminary determination. After a permit application is complete,

the director shall make a preliminary determination as to whether the permit should be issued or denied.

Subp. 2. Draft permit. If the preliminary determination is to issue a permit, the director shall prepare a draft permit, including a proposed schedule of compliance if a schedule is necessary to meet all applicable standards and limitations imposed by statute or rule. If the preliminary determination is to deny the permit application, the director shall prepare a notice of intent to deny the permit. For the purposes of the procedures required in subparts 2 to 5, a notice of intent to deny a permit is considered a draft permit.

Subp. 3. Fact sheet. The director shall prepare a fact sheet for each draft permit described in part 7001.1070, subpart 2 for each draft permit proposed to be issued under parts 7001.0210 and 7001.0660, item A, and for each draft permit that the director finds is the subject of widespread public interest or involves issues of major importance to the agency or to the public. The director shall send a copy of this fact sheet to the applicant and upon request to any other person. The fact sheet must set forth the principal facts and the significant factual, legal, methodological, and policy questions considered in preparing the draft permit. The fact sheet must include, if applicable:

A. a concise description of the type of facility or activity that is the subject of the permit application;

B. the type and quantity of wastes, fluids, or pollutants that are proposed to be or are being handled, processed, treated, stored, disposed of, emitted, or discharged;

C. a summary of the basis for the draft permit conditions, including references to applicable statutory or regulatory provisions;

D. reasons why requested variances or alternatives to required standards do or do not appear justified;

E. a concise statement regarding the requirements prescribed in Minnesota Statutes, chapter 116D that are or may be applicable to the facility or activity which is the subject of the permit application;

F. the preliminary determinations made by the director on the permit application; and

G. a description of the procedures for reaching a final decision on the draft permit, including:

(1) the beginning and ending dates of the public comment period;

(2) procedures for requesting a public informational meeting or contested case hearing and the nature of the two types of proceedings;

(3) other procedures by which the public may participate in the agency's consideration of the permit application; and

(4) the name, address, and telephone number of a person to contact for additional information or to whom comments may be submitted.

Subp. 4. Public notice of permit application and preliminary determination. The director shall prepare and issue a public notice of a completed application and the director's preliminary determination as to whether the permit should be issued or denied. The public notice must include, at a minimum:

A. The address and telephone number of the main agency office and the applicable agency regional office and a statement that additional information may be obtained at these offices.

B. The name and address of the applicant, and if different, of the facility or activity that is the subject of the permit application.

C. A concise description of the facility or activity that is the subject of the permit application.

D. A statement of the preliminary determination of the director to issue or deny the permit.

E. If the director's preliminary determination is to issue the permit, a statement of the duration of the draft permit.

F. A statement that a draft permit has been prepared and, if applicable, that a fact sheet has been prepared and that a copy of these documents will be mailed to any interested person upon the agency's receipt of a written request.

G. A statement that during the public comment period a person may submit comments to the agency on the draft permit or on the preliminary determination, a statement of the dates on which the comment period commences and terminates, and a statement of the information that the person is required by part 7001.0110 to include in the comments. The public comment period shall be 30 days unless a different public comment period is specifically established by another agency rule.

H. A brief description of the procedures for reaching a final decision on the permit application, including procedures for requesting a public information meeting or a contested case hearing and the nature of the two types of proceedings; and any other procedures by which the public may participate in the agency's consideration of the permit application.

Subp. 5. Distribution of public notice. The director shall distribute the public notice in the following manner:

A. The director shall make a copy of the public notice available at the main agency office and at the applicable agency regional office.

B. The director shall mail a copy of the public notice to the applicant, to all persons who have registered their names and addresses on the mailing list established under part 7001.0200, and to any interested person upon request. If applicable, the director shall also mail copies of the public notice according to part 7001.0660, item C.

C. The director shall circulate the public notice within the geographical area of the facility or activity which is the subject of the permit application. The director shall designate the geographical area which shall, as a minimum, include the county in which the facility or activity is or will be located. The director shall circulate the public notice in one or more of the following ways:

(1) by posting the notice in the post office, public library, or other buildings used by the general public in the designated geographical area;

(2) by posting the notice at or near the entrance of the applicant's premises, if located near the facility or activity that is the subject of the permit application;

(3) by publishing the notice in one or more newspapers or periodicals of general circulation in the designated geographical area;

(4) by publishing the notice in a manner constituting legal notice to the public; or

(5) if applicable, in the manner required by part 7001.0210, subpart 4 and 7001.0660, item D.

Statutory Authority: *MS s 115.03 subd 1 para (e); 116.07 subd 4*

History: *8 SR 2278*

7001.0110 PUBLIC COMMENTS.

Subpart 1. Submission of written comments. During the public comment period established in the public notice, an interested person, including the applicant, may submit written comments on the application or on the draft permit. If the subject of the draft permit and public notice is the modification of a permit, these comments must be limited to the portion of the permit proposed to be modified. The person may also request that a public informational meeting or a contested case hearing be held on the application.

Subp. 2. Contents of written comments. A person who submits comments under subpart 1 shall include in the comments the following:

A. a statement of the person's interest in the permit application or the draft permit;

B. a statement of the action the person wishes the agency to take, including specific references to sections of the draft permit that the person believes should be changed; and

C. the reasons supporting the person's position, stated with sufficient specificity as to allow the director to investigate the merits of the person's positions.

Subp. 3. Public meeting or hearing. If a person requests a public informational meeting or contested case hearing, the comments must include the items listed in subpart 2 and a statement of the reasons the person desires the agency to hold a public informational meeting or contested case hearing and the issues that the person would like the agency to address at the public informational meeting or contested case hearing.

Subp. 4. Extension of comment period. The public comment period may be extended by the director if the director finds an extension of time is necessary to facilitate additional public comment. Comments submitted in writing by interested persons or the applicant during the public comment period must be retained and considered in the formulation of final determinations concerning the permit application.

Statutory Authority: *MS s 115.03 subd 1 para (e); 116.07 subd 4*

History: 8 SR 2278

7001.0120 PUBLIC INFORMATIONAL MEETING.

Subpart 1. Determination of need. If the director or the agency determines that a public informational meeting would help clarify and resolve issues regarding the director's preliminary determination or the terms of the draft permit or if the director has received a request under part 7001.0670, subpart 1, the director shall hold a public informational meeting.

Subp. 2. Location. If the requester desires, the public informational meeting must be held in the geographical area of the facility or activity which is the subject of the permit application. Otherwise, the public informational meeting must be held in a place selected by the director which is generally convenient to persons expected to attend the meeting.

Subp. 3. Notice. The director shall prepare a notice of the public informational meeting. The notice must contain a reference to the public notice of the application and the draft permit, including any identification numbers on the draft permit and the dates of issuance of the public notice and the draft permit; the date, time, and location of the public informational meeting; the information described in part 7001.0100, subpart 4, items A to F; a concise description of the manner in which the public informational meeting will be conducted; and the issue or issues to be discussed.

Subp. 4. Distribution of notice. The director shall publish the notice in a newspaper of general circulation in the geographical area of the facility or activity which is the subject of the permit application, and shall mail a copy of the notice to the applicant, the appropriate city and county officials, and all other persons determined by the director to have an interest in the permit application. If applicable, the director shall comply with part 7001.0670, subpart 3.

Subp. 5. Consolidation of issues. If the director or the agency determines that no person would be adversely affected by consolidation, the director or the agency may consolidate two or more matters, issues, or related groups of permit applications for which a public informational meeting will be held.

Statutory Authority: *MS s 115.03 subd 1 para (e); 116.07 subd 4*

History: 8 SR 2278

7001.0130 CONTESTED CASE HEARING.

Subpart 1. **Required hearing.** The agency shall hold a contested case hearing if it finds all of the following:

A. that a person requesting the contested case hearing has raised a material issue of fact or of the application of facts to law related to the director's preliminary determination or the terms of the draft permit;

B. that the agency has jurisdiction to make determinations on the issues of fact or of the application of facts to law raised by the person requesting the contested case hearing; and

C. that there is a reasonable basis underlying issues of fact or law raised by the person that requests the contested case hearing such that the holding of a contested case hearing would aid the agency in making a final determination on the permit application.

Subp. 2. **Public informational meeting.** If the agency finds that the holding of a contested case hearing is not justified under subpart 1, the agency shall nevertheless hold a public informational meeting if the agency determines that a public informational meeting would help clarify or resolve issues regarding the terms of the draft permit.

Subp. 3. **Hearing notice and order.** If the agency decides to hold a contested case hearing, the director shall prepare a notice of and order for hearing. The notice of and order for hearing must contain:

A. the information required by part 1400.5600 of the Office of Administrative Hearings;

B. a reference to the public notice of the application and the draft permit, including any identification numbers on the draft permit, and the dates of issuance of the public notice and the draft permit;

C. identification of the existing parties and a concise description of the issues which have been raised by any party; and

D. the address of the agency office or offices where interested persons may inspect or obtain copies of the public notice of the application, the draft permit, the fact sheet, and other information relevant to the permit application and the holding of the hearing.

Subp. 4. **Relevant rules.** The notice of hearing, distribution of the notice, and the conduct of the contested case hearing are governed by Minnesota Statutes, sections 14.57 to 14.62; the rules of the Office of Administrative Hearings, parts 1400.5100 to 1400.8500; and, if applicable by part 7001.0670, subparts 2, 3, and 4.

Statutory Authority: *MS s 115.03 subd 1 para (e); 116.07 subd 4*

History: 8 SR 2278

7001.0140 FINAL DETERMINATION.

Subpart 1. **Agency action.** Except as provided in subpart 2, the agency shall issue, reissue, revoke and reissue, or modify a permit if the agency determines that the proposed permittee or permittees will, with respect to the facility or activity to be permitted, comply or will undertake a schedule of compliance to achieve compliance with all applicable state and federal pollution control statutes and rules administered by the agency, and conditions of the permit and that all applicable requirements of Minnesota Statutes, chapter 116D and the rules promulgated under Minnesota Statutes, chapter 116D have been fulfilled.

Subp. 2. **Agency findings.** The following findings by the agency constitute justification for the agency to refuse to issue a new or modified permit, to refuse permit reissuance, or to revoke a permit without reissuance:

A. that with respect to the facility or activity to be permitted, the proposed permittee or permittees will not comply with all applicable state and

federal pollution control statutes and rules administered by the agency, or conditions of the permit;

B. that there exists at the facility to be permitted unresolved noncompliance with applicable state and federal pollution control statutes and rules administered by the agency, or conditions of the permit and that the permittee will not undertake a schedule of compliance to resolve the noncompliance;

C. that the permittee has failed to disclose fully all facts relevant to the facility or activity to be permitted, or that the permittee has submitted false or misleading information to the agency or to the director;

D. that the permitted facility or activity endangers human health or the environment and that the danger cannot be removed by a modification of the conditions of the permit; or

E. that all applicable requirements of Minnesota Statutes, chapter 116D and the rules promulgated under Minnesota Statutes, chapter 116D have not been fulfilled.

Subp. 3. Contested case hearing. If a contested case hearing has been held, the agency shall comply with the procedures set forth in part 7000.0800 of the agency procedural rules prior to making a final determination.

Statutory Authority: *MS s 115.03 subd 1 para (e); 116.07 subd 4*

History: *8 SR 2278*

7001.0150 TERMS AND CONDITIONS OF PERMITS.

Subpart 1. Term of permit. Unless specifically otherwise provided by statute or rule, an agency permit is issued for a term not to exceed five years.

Subp. 2. Special conditions. Each draft and final permit must contain conditions necessary for the permittee to achieve compliance with applicable Minnesota or federal statutes or rules. If applicable to the circumstances, the conditions must include:

A. A schedule of compliance that leads to compliance with the appropriate Minnesota or federal statute or rule. The schedule of compliance must require compliance in the shortest reasonable period of time or by a specified deadline if required by Minnesota or federal statute or rule. If appropriate, the schedule of compliance must include interim dates, which in no case may be separated by more than one year. A permit with a schedule of compliance must require the submission to the director of progress reports. The progress reports must be submitted not later than 14 days after each interim and final date of compliance regarding the permittee's compliance or noncompliance with the schedule of compliance and they must explain any instance of noncompliance and state the actions that have been taken to correct the noncompliance.

B. Requirements for monitoring and testing and reporting of monitoring and testing results. Monitoring and testing requirements must specify the type, interval, and frequency of monitoring and testing activities that are sufficient to yield representative data to determine whether there is compliance with the terms and conditions of the permit or compliance with Minnesota and federal pollution control statutes and rules. As appropriate, the permit must contain requirements for the proper use, maintenance, and installation of monitoring and testing equipment or methods. The permit must require the permittee to keep accurate records of monitoring and testing activities and to submit to the director periodic reports of monitoring results required by the permit and, as requested by the director, the results of other monitoring and testing undertaken by the permittee that are related to compliance with the terms and conditions of the permit or compliance with Minnesota and federal pollution control statutes and rules. Reporting of monitoring results must contain the certification in part 7001.0070.

C. A requirement that the permittee retain the following items for at

least three years after which time this period must be automatically extended during the course of an unresolved enforcement action or at the request of the director:

(1) copies of all reports required by the conditions of the permit;
 (2) calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation;

(3) records of the date, exact location, and time of monitoring and testing which is related to compliance with the terms and conditions of the permit or compliance with Minnesota and federal pollution control statutes and rules, the name of the individual who performed the sampling or measurements, the date the analysis was performed, the name of the individual who performed the analysis, the analytical techniques or methods used, and the results of the analysis; and

(4) if applicable, reports required by part 7001.0720, subpart 2, item E.

D. A requirement that all documents and reports, including monitoring reports, submitted to the agency for any reason by the permittee, are signed by the permittee or the duly authorized representative of the permittee. For hazardous waste facility permits, duly authorized representative is defined by part 7001.0720.

Subp. 3. **General conditions.** Unless specifically exempted by statute or rule, each draft and final permit must include the following general conditions and the agency shall incorporate these conditions into all permits either expressly or by specific reference to this part:

A. The agency's issuance of a 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.

B. The agency's issuance of a permit does not prevent the future adoption by the agency 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.

C. The permit does not convey a property right or an exclusive privilege.

D. The agency's issuance of a permit does not obligate the agency to enforce local laws, rules, or plans beyond that authorized by Minnesota statutes.

E. The permittee shall perform the actions or conduct the activity authorized by the permit in accordance with the plans and specifications approved by the agency and in compliance with the conditions of the permit.

F. 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 back-up 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 back-up or auxiliary facilities are technically and economically feasible.

G. The permittee may not knowingly make a false or misleading statement, representation, or certification in a record, report, plan, or other document required to be submitted to the agency or to the director by the permit. The permittee shall immediately upon discovery report to the director an error or omission in these records, reports, plans, or other documents.

H. The permittee shall, when requested by the director, submit within

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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.

I. When authorized by Minnesota Statutes, sections 115.04; 115B.17, subdivision 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.

J. If the permittee discovers, through any means, including notification by the agency, that noncompliance with a condition of the permit has occurred, the permittee shall take all reasonable steps to minimize the adverse impacts on human health, public drinking water supplies, or the environment resulting from the noncompliance.

K. 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 director. Within five days of the discovery of the noncompliance, the permittee shall submit to the director a written description of the noncompliance; the cause of the noncompliance; the exact dates of the period of the noncompliance; if the noncompliance has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the noncompliance.

L. The permittee shall report noncompliance with the permit not reported under item K as a part of the next report which the permittee is required to submit under this permit. If no reports are required within 30 days of the discovery of the noncompliance, the permittee shall submit the information listed in item K within 30 days of the discovery of the noncompliance.

M. The permittee shall give advance notice to the director as soon as possible of planned physical alterations or additions to the permitted facility or activity that may result in noncompliance with a Minnesota or federal pollution control statute or rule or a condition of the permit.

N. The permit is not transferable to any person without the express written approval of the agency after compliance with the requirements of part 7001.0190. A person to whom the permit has been transferred shall comply with the conditions of the permit.

O. The permit authorizes the permittee to perform the activities described in the permit under the conditions of the permit. In issuing the permit, the state and agency 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 the permit. To the extent the state and agency may be liable for the activities of its employees, that liability is explicitly limited to that provided in the Tort Claims Act, Minnesota Statutes, section 3.736.

Statutory Authority: *MS s 115.03 subd 1 para (e); 116.07 subd 4*

History: *8 SR 2278*

7001.0160 CONTINUATION OF EXPIRED PERMIT.

A person who holds an expired permit and who has submitted a timely and complete application for reissuance of the permit may continue to conduct the

permitted activity until the agency takes final action on the application if the director determines that both of the following are true:

A. the permittee is in compliance with the terms and conditions of the expired permit; and

B. the agency, through no fault of the permittee, has not taken final action on the application on or before the expiration date of the permit.

Statutory Authority: *MS s 115.03 subd 1 para (e); 116.07 subd 4*

History: 8 SR 2278

7001.0170 JUSTIFICATION TO COMMENCE MODIFICATION OF PERMIT OR REVOCATION AND REISSUANCE OF PERMIT.

The following constitute justification for the director to commence proceedings to modify a permit or to revoke and reissue a permit:

A. alterations or modifications to the permitted facility or activity that will result in or have the potential to result in significant alteration in the nature or quantity of permitted materials to be stored, processed, discharged, emitted, or disposed of by the permittee;

B. the director receives information previously unavailable to the agency that shows that the terms and conditions of the permit do not accurately represent the actual circumstances relating to the permitted facility or activity;

C. the agency or the federal government promulgates a new or amended pollution standard, limitation, or effluent guideline that is applicable to the permitted facility or activity;

D. a court of competent jurisdiction invalidates or modifies a Minnesota or federal statute or rule or federal guideline upon which a condition of the permit is based;

E. an event occurs that is beyond the control of the permittee that necessitates modification of a compliance schedule in the permit;

F. the director finds that the permitted facility or activity endangers human health or the environment and that a change in the operation of the permitted facility or in the conduct of the permitted activity would remove the danger to human health or the environment;

G. the director receives a request for transfer of the permit; or

H. if applicable, there exists any justification listed in part 7001.0730, subpart 1.

Statutory Authority: *MS s 115.03 subd 1 para (e); 116.07 subd 4*

History: 8 SR 2278

7001.0180 JUSTIFICATION TO COMMENCE REVOCATION WITHOUT REISSUANCE OF PERMIT.

The following constitute justification for the director to commence proceedings to revoke a permit without reissuance:

A. existence at the permitted facility of unresolved noncompliance with applicable state and federal pollution statutes and rules or a condition of the permit, and refusal of the permittee to undertake a schedule of compliance to resolve the noncompliance;

B. the permittee fails to disclose fully the facts relevant to issuance of the permit or submits false or misleading information to the agency or to the director;

C. the operation of the permitted facility or activity terminates; and

D. the director finds that the permitted facility or activity endangers human health or the environment and that the danger cannot be removed by a modification of the conditions of the permit.

Statutory Authority: *MS s 115.03 subd 1 para (e); 116.07 subd 4*

History: 8 SR 2278

7001.0190 PROCEDURE FOR MODIFICATION; REVOCATION AND REISSUANCE; AND REVOCATION WITHOUT REISSUANCE OF PERMITS.

Subpart 1. **In general.** If the permittee requests the modification or the revocation and reissuance of a permit, the director shall require and review a permit application as provided in parts 7001.0040 to 7001.0090. Except as provided in subparts 2 and 3, in modifying permits and in revoking and reissuing permits the agency shall follow the procedures set forth in parts 7001.0100 to 7001.0130 to the same extent required for the issuance of the permit. In permit modification proceedings, only those portions of the permit that are proposed to be modified are open for comment and a contested case hearing. In proceedings to revoke and reissue a permit, the entire permit is open for comment and a contested case hearing.

Subp. 2. **Modification solely as to ownership or control.** Upon obtaining the consent of the permittee, the agency shall consider a request to modify a permit as to the ownership or control of a permitted facility or activity without following the procedures in parts 7001.0100 to 7001.0130 if the agency finds that no other change in the permit is necessary. If the permit is a permit described in part 7001.0020, item A or B, the agency shall also find that the agency has received a binding written agreement between the permittee and the proposed transferee containing a specific date for transfer of permit responsibilities and allocation of liabilities between the permittee and the proposed transferee. Within 60 days of receipt of a complete written application for modification as to ownership and control, the director shall place the matter on the agenda for consideration by the agency. The agency shall not unreasonably withhold or unreasonably delay approval of the proposed permit modification.

Subp. 3. **Minor modification.** Upon obtaining the consent of the permittee, the director may modify a permit to make the following corrections or allowances without following the procedures in parts 7001.0100 to 7001.0130:

A. to correct typographical errors;

B. to change an interim compliance date in a schedule of compliance, provided the new date is not more than 120 days after the date specified in the permit and does not interfere with the attainment of the final compliance date;

C. to change a provision in the permit that will not result in allowing an actual or potential increase in the emission or discharge of a pollutant into the environment, or that will not result in a reduction of the agency's ability to monitor the permittee's compliance with applicable statutes and rules; and

D. if applicable, to make a change as provided in parts 7001.0730, subpart 3 and 7001.1350.

Subp. 4. **Revocation without reissuance.** The director shall give notice to the permittee of a proposal to revoke a permit without reissuance. This notice must state that within 30 days of the receipt of the notice the permittee may request a contested case hearing be held on the proposed action. If the permittee requests a contested case hearing, the agency shall hold the hearing in accordance with the rules of the Office of Administrative Hearings, parts 1400.5100 to 1400.8500.

Statutory Authority: *MS s 115.03 subd 1 para (e); 116.07 subd 4*

History: 8 SR 2278

7001.0200 MAILING LIST.

A person who desires to receive copies of public notices issued by the director under part 7001.0100, subpart 4 shall submit to the director a written request that the person's name and address be placed on a mailing list kept by the director for the purpose of issuing public notices on permit applications. The

person may request notice of all permit applications or may limit the request only to notice of permit applications for facilities or activities of a certain type or for facilities or activities in a defined geographical area. The director shall periodically update this list by mailing to persons on the list a notice asking whether the person wishes to continue to receive notices concerning permit applications. Failure to respond to the director's notice constitutes justification for the director to remove the person's name and address from the list. The director shall also annually publish in the public press and in the State Register notice of the opportunity to be placed on the mailing list.

Statutory Authority: *MS s 115.03 subd 1 para (e); 116.07 subd 4*

History: 8 SR 2278

7001.0210 GENERAL PERMITS.

Subpart 1. Scope. This part applies to the permits listed in part 7001.0020, except for agency permits required for the treatment, storage, and disposal of hazardous waste.

Subp. 2. Determination by agency. If the agency finds that it is appropriate to issue a single permit to a category of permittees whose operations, emissions, activities, discharges, or facilities are the same or substantially similar, the agency shall proceed under subparts 3 to 6. This permit is known as a general permit.

Subp. 3. Requirements. The agency shall not issue a general permit unless the agency finds that:

A. there are several permit applicants or potential permit applicants who have the same or substantially similar operations, emissions, activities, discharges, or facilities;

B. the permit applicants or potential permit applicants discharge, emit, process, handle, or dispose of the same types of waste;

C. the operations, emissions, activities, discharges, or facilities are subject to the same or substantially similar standards, limitations, and operating requirements; and

D. the operations, emissions, activities, discharges, or facilities are subject to the same or substantially similar monitoring requirements.

Subp. 4. Notice of intent. The applicant and the agency shall follow the same procedures to issue a general permit as are required for the issuance of an individual permit. However, to comply with part 7001.0100, subpart 3, item C, the agency shall publish notice of intent to issue a general permit in the State Register.

Subp. 5. Geographical area. A general permit issued by the agency must state specifically the geographical area covered by the permit.

Subp. 6. Issuance of individual permit. If a permit applicant who is eligible to be covered by a general permit requests an individual permit, the agency shall process the application as an application for an individual permit. If the agency finds that the operations, emissions, activities, discharges, or facilities of a permit applicant or a permittee covered by a general permit would be more appropriately controlled by an individual permit, the agency shall issue an individual permit to the applicant or the permittee. Upon issuance of the individual permit, a general permit previously applicable to the permittee no longer applies to that permittee. In considering whether it is appropriate to issue an individual permit, the agency shall consider:

A. whether the operations, emissions, activities, discharges, or facilities of the permit applicant or permittee have characteristics creating the potential for significant environmental effects;

B. whether the permittee has been in compliance with the terms of the general permit and applicable statutes and rules; and

C. whether the operations, emissions, activities, discharges, or facilities have been altered such that they no longer fit within the category covered by the general permit.

Statutory Authority: *MS s 115.03 subd 1 para (e); 116.07 subd 4*

History: 8 SR 2278

HAZARDOUS WASTE FACILITY PERMITS

7001.0500 SCOPE.

Parts 7001.0010 to 7001.0210 and 7001.0500 to 7001.0730 govern the application procedures, the issuance, and the conditions of hazardous waste facility permits. Parts 7000.0100 to 7000.1100, 7001.0010 to 7001.0210, and 7001.0500 to 7001.0730 shall be construed to complement each other.

Statutory Authority: *MS s 116.07 subd 4*

History: 8 SR 2276

7001.0510 DEFINITIONS.

The definitions in parts 7001.0010, 7045.0020, and 7045.0552, subpart 2, apply to the terms used in parts 7001.0500 to 7001.0730.

Statutory Authority: *MS s 116.07 subd 4*

History: 8 SR 2276

7001.0520 PERMIT REQUIREMENTS.

Subpart 1. **Permit required.** Except as provided in subpart 2, no person may do any of the following without obtaining a hazardous waste facility permit from the agency:

A. treat, store, or dispose of hazardous waste;

B. establish, construct, operate, or close a hazardous waste facility;

C. make an expansion, a production increase, or a process modification that results in new or increased capabilities of a permitted hazardous waste facility; or

D. operate a permitted hazardous waste facility or part of a facility that has been changed, added to, or extended, or that has new or increased capabilities.

Subp. 2. **Exclusions.** A person who conducts any of the following activities is not required to obtain a hazardous waste facility permit for that activity:

A. The accumulation by generators of hazardous waste on site for fewer than 90 days as provided in part 7045.0292.

B. The disposal by farmers of hazardous wastes that have been generated by their own use of pesticides as provided in part 7045.0304.

C. The ownership or operation of a totally enclosed treatment facility as defined in part 7045.0020.

D. The storage by transporters of manifested shipments of hazardous waste in containers that meet the requirements of part 7045.0270, subpart 4, at a transfer facility for a period of ten days or fewer as provided in part 7045.0365.

E. An activity conducted to immediately contain or treat a spill or an imminent and substantial threat of a spill of hazardous waste or a material that, when spilled, becomes a hazardous waste. This exclusion does not apply to a person who treats, stores, or disposes of the spilled material or spill residue or debris after the immediate response activities have been completed.

F. The addition of absorbent material to hazardous waste in a container, or the addition of hazardous waste to absorbent material in a container, if the addition occurs at the time waste is first placed in the container, and if the addition is accomplished in accordance with parts 7045.0456, subpart 2, and 7045.0526, subparts 2 and 3.

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G. To the extent provided by part 7045.0125, the ownership or operation of a facility that recycles hazardous waste.

H. The management of hazardous waste as provided in part 7045.0120, item L; 7045.0127, subpart 1; 7045.0135, subpart 5, items C and E; 7045.0218; or 7045.0219, subpart 2.

I. To the extent provided by part 7045.0675, the ownership or operation of a facility that stores or reclaims hazardous waste for recovery of economically significant amounts of precious metals.

J. To the extent provided in part 7045.0685, the ownership or operation of a facility that stores or reclaims spent lead-acid batteries.

Subp. 3. Permits by rule. The owner or operator of the following facilities shall be deemed to have obtained a hazardous waste facility permit without making application for it unless the director finds that the following conditions are not met:

A. Barges or vessels operating in Minnesota that are intended to be operated elsewhere as ocean disposal facilities, if the owner or operator:

(1) has obtained a permit for ocean disposal under Code of Federal Regulations, title 40, part 220;

(2) complies with the conditions of the permit for ocean disposal; and

(3) complies with parts 7045.0452, subpart 2; 7045.0474; 7045.0476; 7045.0478, subparts 1, 2, and 3, items A to C; and 7045.0482, subparts 1, 2, and 3.

B. Publicly owned treatment works that accept hazardous waste for treatment, if the owner or operator:

(1) has obtained a National Pollutant Discharge Elimination System permit, a state disposal system permit, or both, from the agency;

(2) complies with the conditions of the National Pollutant Discharge Elimination System permit or the state disposal system permit;

(3) complies with parts 7045.0452, subpart 2; 7045.0474; 7045.0476; 7045.0478, subparts 1, 2, and 3, items A to C; and 7045.0482, subparts 1, 2, and 3; and

(4) accepts a waste that meets all applicable federal, Minnesota, and local pretreatment requirements for that waste if it were to be discharged into the publicly owned treatment works through a sewer, pipe, or other conveyance.

C. Elementary neutralization, pretreatment, or wastewater treatment units, provided that:

(1) the unit does not receive hazardous waste from generators other than the owner or operator of the unit;

(2) the owner or operator complies with the requirements of parts 7045.0652 and 7045.0655; and

(3) the owner or operator's eligibility to be permitted under this rule has not been terminated under subpart 4.

D. That portion of a combustion waste facility that is used to manage hazardous wastes produced in conjunction with the combustion of fossil fuels, if:

(1) the wastes are generated on-site;

(2) the wastes traditionally have been and actually are mixed with and co-disposed or co-treated with fly ash, bottom ash, boiler slag, or flue gas emission control wastes resulting from coal combustion;

(3) the wastes are necessarily associated with the production of energy, such as boiler cleaning solutions, boiler blowdown, demineralizer regenerant, pyrites, and cooling tower blowdown;

(4) the owner or operator complies with the requirements of parts 7045.0652 and 7045.0655; and

(5) the owner or operator's eligibility to be permitted under this part has not been terminated under subpart 4.

Subp. 4. Termination of eligibility for permit by rule. The eligibility of an owner or operator of an elementary neutralization unit, a pretreatment unit, a wastewater treatment unit, or a combustion waste facility to be permitted under this part is subject to termination by the agency after notice and opportunity for a contested case hearing or a public informational meeting if the agency makes any of the findings set forth in items A to D. An owner or operator whose eligibility to be permitted under this part has been terminated shall apply for and obtain an individual permit under these parts. The following findings constitute justification for the director to commence proceedings to terminate eligibility:

A. that any applicable conditions set forth in subpart 3, item C or D are not met;

B. that the owner or operator has violated a requirement of parts 7045.0652 and 7045.0655;

C. that the owner or operator is conducting other activities that are required to be covered by a hazardous waste facility permit; or

D. that under the circumstances, in order to protect human health or the environment, the permitted facility should be subject to the requirements of parts 7045.0452 to 7045.0544.

Statutory Authority: *MS s 116.07 subd 4*

History: *8 SR 2276; 10 SR 1688*

7001.0530 HAZARDOUS WASTE FACILITY PERMIT APPLICATION.

Subpart 1. Form. The application for a hazardous waste facility permit consists of Part A and Part B. The information requirements of Part A are set forth in part 7001.0550. The information requirements of Part B are set forth in parts 7001.0560 to 7001.0640. A person who submits Part B of the application shall submit the information required by part 7001.0560 and shall also submit any information required by parts 7001.0570 to 7001.0640 that is applicable to the facility which is the subject of the application.

Subp. 2. Timing of application. Deadlines for the submission of a permit application for existing and new hazardous waste facilities and for reissuance of existing permits are as follows:

A. The owner or operator of an existing hazardous waste facility shall submit Part A of the application to the director on or before the 90th day after April 23, 1984. An owner or operator who has already submitted Part A of the application to the Environmental Protection Agency need not submit Part A of the application to the director if the information submitted to the Environmental Protection Agency is complete with respect to all portions of the facility and all wastes stored, treated, or disposed of at the facility that are subject to regulation under chapter 7045. If the information submitted to the Environmental Protection Agency is not complete, the owner or operator shall submit an amended Part A of the application to the director on or before the 90th day after April 23, 1984. The owner or operator may submit Part B of the application at any time except that upon the request of the director the owner or operator shall submit Part B of the application not later than six months after the date of receipt of the director's request. A later date for submission of Part B for a thermal treatment facility may be made under part 7001.0700, subpart 11.

B. If a person proposes to construct a new hazardous waste facility, the person shall submit Part A and Part B of the application at least 180 days before the planned date of the commencement of facility construction.

C. Part 7001.0040, subpart 3 governs the application for the reissuance

of existing permits except as provided in this part. When the director receives a written request that shows good cause for an extension of time to file the application for permit reissuance, the director shall grant the extension if the final date for filing the application does not extend beyond the expiration date of the permit. The application must contain Part B of the application, completed to show all information that is new or different from that contained in previously submitted applications.

Subp. 3. Updating permit applications. An owner or operator of an existing hazardous waste facility who has submitted Part A of the application but has not yet submitted Part B of the application shall submit to the director an amended Part A of the application under the following circumstances:

A. if the submission of an amended application is necessary to comply with part 7001.0650, subpart 5; or

B. if parts 7045.0100 to 7045.0141 are amended to list or designate as hazardous a waste being treated, disposed of, or stored by the owner or operator which was not listed or designated as hazardous at the time the original Part A was submitted.

The owner or operator shall file the amended Part A not later than 90 days after the effective date of the amendment to parts 7045.0100 to 7045.0141. An owner or operator who fails to submit an amended Part A when required to do so shall not receive interim status for any wastes not covered by a submitted Part A application.

Statutory Authority: *MS s 116.07 subd 4*

History: 8 SR 2276

7001.0540 CERTIFICATION OF PERMIT APPLICATIONS AND REPORTS.

A person who signs a permit application or any portion of it or any report required by a permit to be submitted to the director or to the agency shall make the certification required by part 7001.0070 and shall make the following additional certification: "I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment." 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.

Statutory Authority: *MS s 116.07 subd 4*

History: 8 SR 2276

7001.0550 CONTENTS OF PART A OF APPLICATION.

Part A of the application must contain the following information:

A. the information set forth in part 7001.0050;

B. on the topographic map submitted under part 7001.0050, an identification of all wells, springs, and surface water bodies listed in public records or otherwise known to the applicant to exist within one-quarter mile of the property boundaries of the hazardous waste facility;

C. the name, mailing address, and exact location of the hazardous waste facility, including the latitude and longitude of the location;

D. an identification by use of up to four standard industrial classification codes that best reflect the principal products or services provided by the applicant;

E. a list of the wastes designated under parts 7045.0100 to 7045.0141 as hazardous to be treated, stored, or disposed of by the applicant and an estimate of the quantity of each hazardous waste to be treated, stored, or disposed of annually by the applicant;

F. a description of the processes to be used for treating, storing, or disposing of hazardous waste, and the design capacity of the facility;

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G. whether the facility is new or existing and whether the application is an initial or amended application;

H. if the facility is an existing facility, a scale drawing of the facility showing the location of all past, present, and proposed future treatment, storage, and disposal areas;

I. if the facility is an existing facility, photographs of the facility clearly showing all existing structures; existing treatment, storage, and disposal areas; and sites of proposed future treatment, storage, and disposal areas; and

J. a statement as to which, if any, of the following permits the applicant has applied for or received that pertains to the facility or a portion of the facility that is the subject of the application:

(1) a hazardous waste facility permit required by part 7001.0520, other than the permit that is the subject of the current application, or a hazardous waste facility permit issued by the United States Environmental Protection Agency;

(2) a National Pollutant Discharge Elimination System permit required by part 7001.1030;

(3) an air emission facility permit required by part 7001.1210; or

(4) a dredge or fill permit issued under section 404 of the Clean Water Act, United States Code, title 33, section 1344.

Statutory Authority: *MS s 116.07 subd 4*

History: 8 SR 2276

7001.0560 GENERAL INFORMATION REQUIREMENTS FOR PART B OF APPLICATION.

Part B of the application must contain the following information:

A. A general description of the facility, unless an accurate and complete Part A of the application has been submitted.

B. Chemical and physical analyses of the hazardous wastes to be handled at the facility. At a minimum, these analyses must contain all information that is necessary in order to treat, store, or dispose of the wastes properly in accordance with parts 7045.0450 to 7045.0544.

C. A copy of the waste analysis plan required by part 7045.0458, subpart 2.

D. A description of the security procedures and equipment required by part 7045.0452, subpart 4, or a justification as to why these security procedures are unnecessary at the facility.

E. A copy of the inspection schedule required by part 7045.0452, subpart 5, item B, including, if applicable, the information set forth in parts 7045.0526, subpart 5; 7045.0528, subpart 4; 7045.0532, subpart 5; 7045.0534, subparts 5 and 6; 7045.0536, subpart 4; 7045.0538, subpart 5; and 7045.0542, subpart 7.

F. A description of procedures, structures, or equipment used at the facility as required to comply with parts 7045.0462 and 7045.0464. If the applicant is requesting a waiver of any of the requirements of part 7045.0462, the applicant shall include a justification for the request.

G. A copy of the contingency plan required by part 7045.0466, including, if applicable, the specific information in parts 7045.0528, subpart 9 and 7045.0532, subpart 6.

H. A description of procedures, structures, or equipment used at the facility to:

(1) prevent hazards in unloading operations, such as ramps or special forklifts;

(2) prevent runoff from hazardous waste handling areas to other

areas of the facility or environment, or to prevent flooding, such as berms, dikes, or trenches;

- (3) prevent contamination of water supplies;
- (4) mitigate effects of equipment failure and power outages; and
- (5) prevent undue exposure of personnel to hazardous waste, such as protective clothing.

I. A description of precautions to prevent accidental ignition or reaction of ignitable, reactive, or incompatible wastes as required to demonstrate compliance with part 7045.0456 and documentation of the applicant's compliance with part 7045.0456, subpart 3.

J. A description of the traffic patterns and traffic control at the facility, including a drawing showing traffic lanes, location of traffic control signals, turns across traffic lanes, and location of stacking lanes; estimated traffic volume at the facility; types of vehicles expected to use the facility; and a description of access road surfacing and load bearing capacity.

K. An outline of both introductory and continuing training programs to be conducted by the applicant that are designed in accordance with part 7045.0454 to prepare persons to operate or maintain the hazardous waste facility in a safe manner and a description of how training will be designed in accordance with part 7045.0454, subpart 3, to meet actual job tasks.

L. A copy of the closure plan and, where applicable, the post-closure plan required by parts 7045.0486 and 7045.0490, including, if applicable, the specific information set forth in parts 7045.0526, subpart 9; 7045.0528, subpart 6; 7045.0532, subpart 7; 7045.0534, subpart 7; 7045.0536, subpart 8; 7045.0538, subpart 7; and 7045.0542, subpart 8.

M. For existing disposal facilities, documentation that a notice has been placed in the deed or appropriate alternative instruments as required by part 7045.0496.

N. The most recent closure cost estimate for the facility prepared in accordance with part 7045.0502 and a copy of the financial assurance mechanism adopted in compliance with part 7045.0504.

O. If applicable, the most recent post-closure cost estimate for the facility prepared in accordance with part 7045.0506 and a copy of the financial assurance mechanism adopted in compliance with part 7045.0508.

P. If applicable, the most recent corrective action cost estimate for the facility prepared in accordance with part 7045.0512 and a copy of the financial assurance mechanism adopted in compliance with part 7045.0514.

Q. If applicable, a copy of the insurance policy or other documentation showing compliance with the requirements of part 7045.0518. For a new facility, the application must contain documentation showing the amount of insurance that meets the specifications of part 7045.0518, subpart 1, and if applicable, part 7045.0518, subpart 2, that the applicant plans to have in effect before initial receipt of hazardous waste for treatment, storage, or disposal. If the applicant desires to request a variance from the insurance requirements under part 7045.0518, subpart 3, the applicant shall include all information required by part 7045.0518, subpart 3, in support of this request.

R. A topographic map showing the facility and the area surrounding the facility for a distance of at least 1,000 feet, using a scale of either 2.5 centimeters equal to not more than 61 meters or one inch equal to not more than 200 feet. The map must include contours having intervals sufficient to clearly show the pattern of surface water flow in the vicinity of and from each operational unit of the facility. The map must clearly show the following:

- (1) date the map was prepared;
- (2) map scale;

- (3) 100-year floodplain area;
- (4) surface waters, including intermittent streams;
- (5) wetlands;
- (6) shorelands;
- (7) zoning of surrounding lands and uses of surrounding lands, including residential, commercial, agricultural, and recreational;
- (8) wind rose, including windspeed and direction;
- (9) arrows indicating map directions;
- (10) legal boundaries of the hazardous waste facility site;
- (11) county, township, and municipal boundaries;
- (12) township, range, and section numbers;
- (13) boundaries of parks and wildlife refuges;
- (14) location of fences, gates, and other access control measures;
- (15) wells, both on-site and off-site;
- (16) all structures and buildings, and roads on the hazardous waste facility site, including those used in treatment, storage, or disposal operations; runoff control systems; access and internal roads; storm, sanitary, and process sewerage systems; loading and unloading areas; and fire control systems;
- (17) barriers for drainage or flood control; and
- (18) location of operational units within the hazardous waste facility site, areas where hazardous waste is, or will be, treated, stored, or disposed of, including equipment cleanup areas.

S. A statement as to whether the hazardous waste facility is located within a 100-year floodplain, an identification of the source of the data used to make this determination, and copy of the relevant Federal Insurance Administration flood map or other map used to make the determination, and any calculations done to make the determination. If the hazardous waste facility is located within a 100-year floodplain, the applicant shall furnish the following information:

- (1) any known special flooding factors, such as wave action, which must be considered in designing, constructing, operating, or maintaining the facility to prevent washout from a 100-year flood;
- (2) engineering analysis to indicate the various hydrodynamic and hydrostatic forces expected to result at the site as a result of a 100-year flood;
- (3) structural or other engineering studies showing the design of operational units, such as tanks or incinerators;
- (4) structural or other engineering studies showing the design of flood protection devices at the facility, such as floodwalls or dikes, and an explanation as to how these devices will prevent washout;
- (5) if flood protection devices are not proposed to be utilized at the facility, the applicant shall provide, in lieu of the information set forth in subitems (2) to (4), a detailed description of procedures which the applicant will follow to remove hazardous waste to safety before the facility is flooded, including:
 - (a) the timing of the removal relative to flood levels, showing that removal can be completed before floodwaters reach the facility;
 - (b) a description of the facility or facilities to which the hazardous waste will be moved and a demonstration that these facilities will be eligible to receive hazardous waste in accordance with these parts and parts 7045.0450 to 7045.0655;
 - (c) the planned procedures, equipment, and personnel to be used and the methods that will be implemented to ensure that these resources will be available when needed; and

(d) a description of the potential for accidental discharges of hazardous waste during the movement of such waste;

(6) if the permit application relates to an existing facility and the applicant is not in compliance with part 7045.0460, subpart 1, at the time of the application, the applicant shall provide a plan showing how the facility will be brought into compliance with part 7045.0460, subpart 1, and a proposed schedule for the implementation of this plan.

T. Any additional geologic and other location information required to demonstrate compliance with part 7045.0460, subpart 2.

U. Any additional information that the director determines is relevant to a decision on permit issuance, including but not limited to plans, specifications, and waste analyses that are necessary to determine whether the facility will meet all applicable Minnesota and federal statutes and rules.

Statutory Authority: *MS s 116.07 subd 4*

History: *8 SR 2276; 10 SR 1212*

7001.0570 PART B INFORMATION REQUIREMENTS FOR FACILITIES THAT STORE CONTAINERS OF HAZARDOUS WASTE.

Except as otherwise provided in part 7045.0526, subpart 1, if the applicant proposes to store containers of hazardous waste, the applicant shall furnish the following information in addition to the information required by part 7001.0560:

A. A description of the proposed area where the containers will be stored demonstrating that the area complies with part 7045.0526, subpart 6. At a minimum, the description must include:

- (1) basic design parameters, dimensions, and construction materials;
- (2) the manner in which the design promotes drainage or prevents contact between hazardous waste containers and standing liquids;
- (3) the capacity of the containment system in terms of the number and volume of containers to be stored;
- (4) provisions for preventing or managing run-on; and
- (5) the manner in which accumulated liquids can be removed to prevent overflow and can be analyzed to determine proper management of the removed liquids.

B. Information on the type of containers to be used and waste types stored in each type of container, including information on size, capacity, construction material of containers, compatibility of waste with the container, and the number and volume of containers to be stored.

C. An operations manual that describes operational and maintenance procedures to be used at the facility to ensure proper management of hazardous waste containers.

D. For storage areas for containers holding wastes that do not contain free liquids, a demonstration of compliance with part 7045.0526, subpart 6, item D, including:

- (1) test procedures and results or other documentation or information to show that the wastes do not contain free liquids, and
- (2) a description of how the storage area is designed or operated to drain and remove liquids or how contact between containers and standing liquids is prevented.

E. For any ignitable, reactive, or incompatible wastes, sketches, drawings, or data that demonstrate compliance with part 7045.0526, subparts 7 and 8, if applicable.

F. For incompatible wastes, a description of the procedures to be used to ensure compliance with parts 7045.0526, subpart 8, and 7045.0456.

Statutory Authority: *MS s 116.07 subd 4*

History: *8 SR 2276*

7001.0580 PART B INFORMATION REQUIREMENTS FOR STORAGE OR TREATMENT TANKS.

Except as otherwise provided in part 7045.0528, subpart 1, if the applicant proposes to use tanks to store or treat hazardous waste, the applicant shall furnish the information designated in items A and B in addition to the information required by part 7001.0560:

A. A description of the design and operation procedures of the tank that demonstrate compliance with the requirements of part 7045.0528, subparts 2, 3, 7, and 8. This description must include:

(1) references to design standards or other available information used, or to be used, in the design and construction of the tank;

(2) a description of the design specifications, including identification of construction materials and lining materials and any pertinent characteristics of these materials, such as corrosion or erosion resistance;

(3) a description of design specifications and operational procedures that demonstrate compliance with part 7045.0528, subpart 2, item C, for underground tanks;

(4) tank dimensions, capacity, and shell thickness;

(5) a diagram of piping, instrumentation, and process flow;

(6) a description of feed systems, safety cutoff and bypass systems, and pressure controls, such as vents;

(7) a description of waste types and volumes to be stored in each tank; and

(8) a description of operational procedures that demonstrate compliance with the requirements of parts 7045.0456 and 7045.0528, subparts 7 and 8, regarding the procedures for handling ignitable, reactive, or incompatible wastes.

B. A description of the system to be used to contain the tank and any spills or releases of hazardous waste from the tank, demonstrating compliance with part 7045.0528, subpart 5, and where applicable, subpart 9, including at a minimum the following:

(1) basic design parameters, dimensions, and construction materials;

(2) the manner in which the design promotes drainage or prevents contact between the tank and standing liquids;

(3) the capacity of the system in terms of number and volume of tanks to be held;

(4) provisions for preventing or managing run-on;

(5) the manner in which accumulated liquids can be removed to prevent overflow and can be analyzed to determine proper management of the removed liquids; and

(6) for tanks holding hazardous wastes F020, F021, F022, F023, F026, F027, and F028 listed under part 7045.0135, subpart 2, a description of the system to detect leaks and spills and how precipitation and run-on will be prevented from entering the detection system.

Statutory Authority: *MS s 116.07 subd 4*

History: *8 SR 2276; 10 SR 1212*

7001.0590 PART B INFORMATION REQUIREMENTS FOR SURFACE IMPOUNDMENTS.

Except as otherwise provided in part 7045.0532, subpart 1, if the applicant proposes to store, treat, or dispose of hazardous waste in surface impoundment facilities, the applicant shall submit detailed plans and specifications accompanied by an engineering report which collectively includes the following information in addition to the information required by part 7001.0560:

A. A list of the hazardous wastes placed or to be placed in each surface impoundment.

B. Geologic and hydrogeologic information necessary to demonstrate compliance with part 7045.0532, subpart 2.

C. Detailed plans and an engineering report that describes how the surface impoundment is or will be designed, constructed, operated, and maintained to meet the requirements of part 7045.0532, subpart 3. This submission must address the following items as specified in part 7045.0532, subpart 3: the double liner system and leak detection, collection, and removal system; prevention of overtopping; and structural integrity of dikes.

D. A description of how each surface impoundment, including the double liner, leak detection, collection and removal, and cover systems and appurtenances for control of overtopping, will be inspected in order to meet the requirements of part 7045.0532, subpart 5, items A and B. This information must be included in the inspection plan submitted under part 7001.0560, item E.

E. A certification by a registered professional engineer that attests to the structural integrity of each dike, as required under part 7045.0532, subpart 5, item C. For new units, the owner or operator shall submit a statement by a qualified engineer that he or she will provide this certification upon completion of construction in accordance with the plans and specifications as required under part 7045.0532, subpart 5, item C.

F. A certification by a registered professional engineer that attests that the uppermost liner and leak detection, collection, and removal system is intact and remains at design specifications, as required under part 7045.0532, subpart 5, item D. For new units, the owner or operator shall submit a statement by a qualified engineer that he or she will provide this certification upon completion of construction in accordance with the plans and specifications as required under part 7045.0532, subpart 5, item D.

G. A description of the procedure to be used for removing a surface impoundment from service as required under part 7045.0532, subpart 6, items B and C. This information must be included in the contingency plan submitted under part 7001.0560, item G.

H. A description of how hazardous waste residues and contaminated materials will be removed from the unit at closure, as required under part 7045.0532, subpart 7, item A, subitem (1). For any wastes not to be removed from the unit upon closure, the owner or operator shall submit detailed plans and an engineering report to demonstrate compliance with part 7045.0532, subpart 7, items A, subitem (2) and B. This information must be included in the closure plan and, where applicable, in the post-closure plan submitted under part 7001.0560, item L.

I. If ignitable or reactive wastes are to be placed in a surface impoundment, an explanation of compliance with part 7045.0532, subpart 8.

J. If incompatible wastes, or incompatible wastes and materials will be placed in a surface impoundment, an explanation of compliance with part 7045.0532, subpart 9.

K. A waste management plan for hazardous waste F028 and treatment residues and soil contaminated with hazardous wastes F020, F021, F022, F023, F026, F027, and F028 listed under part 7045.0135, subpart 2, describing how the

surface impoundment is or will be designed, constructed, operated, and maintained to meet the requirements of part 7045.0532, subpart 10. This plan must address the following items as specified in part 7045.0532, subpart 10:

(1) the volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(2) the attenuative properties of underlying and surrounding soils or other materials;

(3) the mobilizing properties of other materials codisposed with these wastes; and

(4) the effectiveness of additional treatment, design, or monitoring techniques.

Statutory Authority: *MS s 116.07 subd 4*

History: *8 SR 2276; 10 SR 1212*

7001.0600 PART B INFORMATION REQUIREMENTS FOR WASTE PILES.

Except as otherwise provided by part 7045.0534, subpart 1, if the applicant proposes to store or treat hazardous waste in waste piles, the applicant shall furnish the information required by items A to L in addition to the information required by part 7001.0560:

A. A list of hazardous wastes placed or to be placed in each waste pile.

B. If an exemption is sought to parts 7045.0534, subparts 2, items A and B, and 3; and 7045.0484 as provided by part 7045.0534, subpart 1, an explanation of compliance with part 7045.0534, subpart 1, items A to D.

C. Geologic and hydrogeologic information necessary to demonstrate compliance with part 7045.0534, subpart 2.

D. Detailed plans and an engineering report describing how the pile is or will be designed, constructed, operated, and maintained to meet the requirements of part 7045.0534, subpart 3. This submission must address the following items as specified in part 7045.0534, subpart 3:

(1) the liner system, leachate collection and removal system, and if applicable, the leak detection, collection, and removal system;

(2) control of run-on;

(3) control of run-off;

(4) management of collection and holding units associated with run-on and run-off control systems;

(5) control of wind dispersal of particulate matter, if applicable; and

(6) treatment and disposal of collected runoff and leachate.

E. If an exemption from part 7045.0484, subpart 12, item E, is sought as provided by part 7045.0534, subpart 4, detailed plans and an engineering report that describes compliance with part 7045.0534, subpart 4, item A.

F. If an exemption from part 7045.0484 is sought as provided by part 7045.0534, subpart 5, detailed plans and an engineering report that describes compliance with part 7045.0534, subpart 5, item A.

G. A description of how each waste pile, including the liner system and appurtenances for control of run-on and run-off, will be inspected in order to meet the requirements of part 7045.0534, subpart 6. This information must be included in the inspection plan submitted under part 7001.0560, item E. If an exemption is sought to part 7045.0484 under part 7045.0534, subpart 5, describe in the inspection plan how the inspection requirements comply with part 7045.0534, subpart 5, item A, subitem (2).

H. If treatment is carried out on or in the pile, details of the process and equipment used, and the nature and quality of the residuals.

I. If ignitable or reactive wastes are to be placed in a waste pile, an explanation of compliance with the requirements of part 7045.0534, subpart 8.

J. If incompatible wastes, or incompatible wastes and materials will be placed in a waste pile, an explanation of compliance with part 7045.0534, subpart 9.

K. A description of how hazardous waste residues and contaminated materials will be removed from the waste pile at closure, as required under part 7045.0534, subpart 7, item A. For any waste not to be removed from the waste pile upon closure, the owner or operator shall submit detailed plans and an engineering report describing compliance with part 7045.0534, subpart 7, items A and B. This information must be included in the closure plan and, where applicable, the post-closure plan submitted under part 7001.0560, item L.

L. A waste management plan for hazardous waste F028 and treatment residues and soils contaminated with hazardous wastes F020, F021, F022, F023, F026, F027, and F028 listed under part 7045.0135, subpart 2, describing how a waste pile that is not enclosed is or will be designed, constructed, operated, and maintained to meet the requirements of part 7045.0534, subpart 10. This submission must address the following items as specified in part 7045.0534, subpart 10:

(1) the volume, physical, and chemical characteristics of the wastes to be disposed in the waste pile, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(2) the attenuative properties of underlying and surrounding soils or other materials;

(3) the mobilizing properties of other materials codisposed with these wastes; and

(4) the effectiveness of additional treatment, design, or monitoring techniques.

Statutory Authority: *MS s 116.07 subd 4*

History: *8 SR 2276; 10 SR 1212*

7001.0610 PART B INFORMATION REQUIREMENTS FOR LAND TREATMENT.

Except as otherwise provided by part 7045.0536, subpart 1, if the applicant proposes to use land treatment to dispose of hazardous waste, the applicant shall furnish the information designated in items A to I in addition to the information required by part 7001.0560:

A. A description of plans to conduct a treatment demonstration as required under part 7045.0536, subpart 3. The description must include the following information:

(1) the wastes for which the demonstration will be made and the potential hazardous constituents in the wastes;

(2) the data sources to be used to make the demonstration, such as literature, laboratory data, field data, or operating data;

(3) any specific laboratory or field test that will be conducted, including the type of test such as column leaching or degradation; materials and methods, including analytical procedures; expected time for completion; and characteristics of the unit that will be simulated in the demonstration, including treatment zone characteristics, dimensions, climatic conditions, and operating practices; and

(4) statistical methods for interpreting results.

B. A description of a land treatment program as required under part 7045.0536, subpart 2. This information must be submitted with the plans for the treatment demonstration, and updated following the treatment demonstration. The land treatment program must address the following items:

- (1) the wastes to be land treated;
- (2) design measures and operating practices necessary to maximize treatment in accordance with part 7045.0536, subpart 4, item A, including waste application method and rate, measures to control soil pH, enhancement of microbial or chemical reactions, and control of moisture content;
- (3) provisions for unsaturated zone monitoring, including:
 - (a) sampling equipment, procedures, and frequency;
 - (b) procedures for selecting sampling locations;
 - (c) analytical procedures;
 - (d) chain of custody control;
 - (e) procedures for establishing background values;
 - (f) statistical methods for interpreting results; and
 - (g) the justification for any hazardous constituents recommended for selection as principal hazardous constituents, in accordance with the criteria for this selection in part 7045.0536, subpart 6, item A.;
- (4) a list of hazardous constituents and their concentrations that are reasonably expected to be in, or derived from, the wastes to be land treated based on waste analysis performed pursuant to part 7045.0458; and
- (5) the proposed dimensions of the treatment zone.

C. A description of how the unit is or will be designed, constructed, operated, and maintained in order to meet the requirements of part 7045.0536, subpart 4. This submission must address the following items:

- (1) control of run-on;
- (2) collection and control of run-off;
- (3) minimization of run-off of hazardous constituents from the treatment zone;
- (4) management of collection and holding facilities associated with run-on and run-off control systems;
- (5) treatment and disposal of run-off collected in the run-off control system;
- (6) control of wind dispersal; and
- (7) periodic inspection of the unit. This information must be included in the inspection plan submitted under part 7001.0560, item E.

D. If food chain crops might be grown in or on the treatment zone of the land treatment unit, a description of how the demonstrations required under part 7045.0536, subpart 5, will be conducted including:

- (1) characteristics of the food chain crop for which the demonstrations will be made;
- (2) characteristics of the waste, treatment zone, and waste application method and rate to be used in the demonstrations;
- (3) procedures for crop growth, sample collection, sample analysis, and data evaluation;
- (4) characteristics of the comparison crop including the location and conditions under which it was or will be grown;
- (5) description of the soil core and soil pore liquid sampling and analysis procedures; and
- (6) statistical methods for interpreting results.

E. If food chain crops are to be grown after closure, a description of compliance with the requirements of part 7045.0536, subpart 5.

F. A description of the vegetative cover to be applied to closed portions of the facility, and a plan for maintaining this cover during the post-closure care period as required under part 7045.0536, subpart 8, items A, subitem (8), and

C, subitem (2). This information must be included in the closure plan and, where applicable, in the post-closure care plan submitted under part 7001.0560, item L.

G. If ignitable or reactive wastes will be placed in or on the treatment zone, an explanation of compliance with the requirements of part 7045.0536, subpart 9.

H. If incompatible wastes or incompatible wastes and materials will be placed in or on the same treatment zone, an explanation of compliance with part 7045.0536, subpart 10.

I. A waste management plan for hazardous waste F028 and treatment residues and soils contaminated with hazardous wastes F020, F021, F022, F023, F026, F027, and F028 listed under part 7045.0135, subpart 2, describing how a land treatment facility is or will be designed, constructed, operated, and maintained to meet the requirements of part 7045.0536, subpart 11. This plan must address the following items as specified in part 7045.0536, subpart 11:

(1) the volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(2) the attenuative properties of underlying and surrounding soils or other materials;

(3) the mobilizing properties of other materials codisposed with these wastes; and

(4) the effectiveness of additional treatment, design, or monitoring techniques.

Statutory Authority: *MS s 116.07 subd 4*

History: *8 SR 2276; 10 SR 1212*

7001.0620 PART B INFORMATION REQUIREMENTS FOR LANDFILLS.

Except as otherwise provided by part 7045.0538, subpart 1, if the applicant proposes to dispose of hazardous waste in a landfill, the applicant shall furnish the information designated in items A to J in addition to the information required by part 7001.0560:

A. A list of the hazardous wastes placed or to be placed in each landfill or landfill cell.

B. Geologic and hydrogeologic information necessary to demonstrate compliance with part 7045.0538, subpart 2.

C. Detailed plans and an engineering report describing how the landfill is or will be designed, constructed, operated, and maintained to comply with the requirements of part 7045.0538, subpart 3. This submission must address the following items as specified in part 7045.0538, subpart 3:

(1) the double liner system, leak detection, collection, and removal system, and leachate collection and removal system;

(2) control of run-on;

(3) control of run-off;

(4) management of collection and holding facilities associated with run-on and run-off control systems;

(5) control of wind dispersal of particulate matter, where applicable;

(6) the phased development plan in accordance with the requirements of part 7045.0538, subpart 3, item G; and

(7) treatment and disposal of collected run-off and leachate.

D. A description of how each landfill, including the liner and cover systems, will be inspected in order to meet the requirements of part 7045.0538, subpart 5. This information must be included in the inspection plan submitted under part 7001.0560, item E.

E. Detailed plans and an engineering report describing the final cover which will be applied to each landfill or landfill cell at closure in accordance with part 7045.0538, subpart 7, item A, and a description of how each landfill will be maintained and monitored after closure in accordance with part 7045.0538, subpart 7, item B. This information must be included in the closure and post-closure plans submitted under part 7001.0560, item L.

F. If ignitable or reactive wastes will be landfilled, an explanation of compliance with the requirements of part 7045.0538, subpart 8.

G. If incompatible wastes or incompatible wastes and materials will be landfilled, an explanation of compliance with part 7045.0538, subpart 9.

H. If liquid waste or waste containing free liquids is to be landfilled, an explanation of compliance with the requirements of part 7045.0538, subpart 10.

I. If containers of hazardous waste are to be landfilled, an explanation of compliance with the requirements of part 7045.0538, subpart 11 or 12, as applicable.

J. A waste management plan for hazardous waste F028 and treatment residues and soils contaminated with hazardous wastes F020, F021, F022, F023, F026, F027, and F028 listed under part 7045.0135, subpart 2, describing how a landfill is or will be designed, constructed, operated, and maintained to meet the requirements of part 7045.0538, subpart 13. This plan must address the following items as specified in part 7045.0538, subpart 13:

(1) the volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;

(2) the attenuative properties of underlying and surrounding soils or other materials;

(3) the mobilizing properties of other materials codisposed with these wastes; and

(4) the effectiveness of additional treatment, design, or monitoring techniques.

Statutory Authority: *MS s 116.07 subd 4*

History: 8 SR 2276; 10 SR 1212

7001.0630 PART B INFORMATION AND SPECIAL PROCEDURAL REQUIREMENTS FOR THERMAL TREATMENT FACILITIES.

Except as provided in part 7045.0542, subpart 1, if the applicant proposes to treat or dispose of hazardous waste by using thermal treatment, the applicant shall fulfill the requirements of item A, B, or C in addition to the information requirements of part 7001.0560, and the director shall fulfill the requirements of item D:

A. If the applicant is seeking the exemption provided by part 7045.0542, subpart 1, item B or C, relating to ignitable, corrosive, or reactive wastes, the applicant shall submit documentation showing that the waste includes none or insignificant concentrations of the hazardous constituents listed in part 7045.0141, and one of the following:

(1) that the waste is listed as a hazardous waste in part 7045.0135 only because it is ignitable according to Hazard Code I, because it is corrosive according to Hazard Code C, or because it is both ignitable and corrosive;

(2) that the waste is listed as a hazardous waste in part 7045.0135 only because it is reactive for characteristics other than those listed in part 7045.0131, subpart 5, items D and E, and will not be treated when other hazardous wastes are present in the combustion zone;

(3) that the waste has been tested for the characteristics of hazardous waste set forth in part 7045.0131 and that its only hazardous characteristic is ignitability, corrosivity, or both; or

(4) that the waste has been tested for the characteristics of hazardous waste set forth in part 7045.0131 and that its only hazardous characteristic is reactivity as described by part 7045.0131, subpart 5, item A, B, C, F, G, or H, and will not be treated when other hazardous wastes are present in the combustion zone.

B. The applicant shall submit results of a trial burn conducted in accordance with part 7001.0700, including all the determinations required by part 7001.0700, subpart 6.

C. The applicant shall perform an analysis of each waste or mixture of waste to be treated by using the analytical techniques set forth in the Environmental Protection Agency document SW 846 as referenced in part 7045.0065, or by using techniques found by the director to be equivalent to them. The applicant shall submit all of the following information:

(1) The results of each waste analysis performed, including:

(a) the heat value of the waste in the form and composition in which it will be burned;

(b) a description of the form and composition of the waste and, if applicable, viscosity of the waste;

(c) any hazardous organic constituents listed in part 7045.0141 that are reasonably expected to be found in the waste;

(d) all waste constituents listed in part 7045.0141 for which no analysis was done and an explanation of why this analysis was not done;

(e) an approximate quantification of the hazardous constituents identified in the waste, within the precision specified by Environmental Protection Agency document SW 846;

(f) a quantification of those hazardous constituents in the waste that may be designated as principal organic hazardous constituents based on data submitted from other trial or operational burns which demonstrated compliance with the performance standards set forth in part 7045.0542, subpart 4; and

(g) waste analysis data sufficient to allow the director to specify as permit principal organic hazardous constituents those constituents for which destruction and removal efficiencies will be required.

(2) A detailed engineering description of the thermal treatment unit, including:

(a) the manufacturer's name and model number;

(b) the type of thermal treatment unit;

(c) the linear dimensions of the thermal treatment unit, including the cross sectional area of the combustion chamber;

(d) a description of the auxiliary fuel system, including type and feed rate;

(e) the capacity of the prime mover;

(f) a description of any automatic waste feed cutoff system;

(g) nozzle and burner design;

(h) construction materials; and

(i) location and description of temperature, pressure, and flow indicating devices and control devices.

(3) A detailed engineering description of air pollution control equipment and stack gas monitoring and pollution control monitoring systems, including:

(a) manufacturer's name and model numbers;

(b) physical dimensions; and

(c) if applicable, specifications as to air flow, pressure drop, discharge, voltage, and water flow.

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(4) A description and comparison of the waste to be burned with waste for which data has been obtained from previous operational or trial burns, including the data listed in subitem (1), and a comparison of the principal organic hazardous constituents found in the wastes being compared.

(5) A description and comparison of the design and operating conditions of the proposed thermal treatment unit with the design and operating conditions of the thermal treatment unit used in the previous operational or trial burn. For the previous operational or trial burn, the applicant shall submit a description of the results of such previously conducted operational or trial burn, including:

(a) sampling and analysis techniques used to calculate compliance with the performance standards set forth in part 7045.0542, subpart 4;

(b) monitoring methods and results for temperatures, waste feed rates, carbon monoxide, and an appropriate indicator of combustion gas velocity, including a statement concerning the precision and accuracy of this measurement;

(c) identification of any hazardous combustion by-products detected; and

(d) the certification and results required by part 7001.0700, subpart 7.

(6) A description of the operating procedures proposed by the applicant, in sufficient detail to allow the director to determine whether the proposed thermal treatment unit will meet the performance and operating standards of part 7045.0542, subparts 4 and 6, including:

(a) expected carbon monoxide, oxygen, and carbon dioxide levels in the stack exhaust gas;

(b) waste feed rate;

(c) combustion zone temperature;

(d) indication of combustion gas velocity;

(e) stack gas volumes, flow rate, and temperature;

(f) computed residence time for waste in the combustion zone;

(g) expected hydrochloric acid removal efficiency;

(h) expected fugitive emissions and control procedures; and

(i) proposed waste feed cutoff limits based on the identified significant operating parameters.

(7) Estimated emissions, in tons per year, of particulates and sulfur dioxide.

(8) Any other additional information that the director determines is relevant to a decision to permit issuance.

D. If the applicant has proceeded under item A or B, the director shall review the Part B application for completeness in accordance with part 7001.0090.

If the applicant has proceeded under item C, the director shall review the Part B application for completeness. The director shall find the application complete if the director finds:

(1) that the applicant has submitted all the information required by item C;

(2) that the wastes compared under item C are substantially similar;

(3) that the thermal treatment units compared under item C are substantially similar; and

(4) that the data from other trial burns is adequate to enable the director to specify under part 7045.0542, subpart 6, the operating conditions that will ensure that the performance standards in part 7045.0542, subpart 4, will be met by the proposed thermal treatment unit.

Statutory Authority: *MS s 116.07 subd 4*

History: *8 SR 2276*

7001.0640 ADDITIONAL PART B INFORMATION REQUIREMENTS FOR SURFACE IMPOUNDMENTS, WASTE PILES, LAND TREATMENT UNITS, AND LANDFILLS.

Subpart 1. **Groundwater protection.** The additional information designated in items A to G regarding protection of groundwater is required from owners or operators of hazardous waste surface impoundments, waste piles, land treatment units, and landfills, except as otherwise provided in part 7045.0484, subpart 1, item B, and must be submitted with Part B of the permit application. The following information is in addition to the information requirements of parts 7001.0560, 7001.0590, 7001.0600, 7001.0610, and 7001.0620:

A. A summary of the groundwater monitoring data obtained during the interim status period under parts 7045.0590 and 7045.0592, if applicable.

B. Identification of the uppermost aquifer and aquifers hydraulically interconnected beneath the facility property, including groundwater flow directions and rates, and the basis for the identification, such as the information being obtained from hydrogeologic investigations of the facility area.

C. On the topographic map required under part 7001.0560, item R, a delineation of the waste management area, the property boundary, the proposed "point of compliance" as defined under part 7045.0484, subpart 9, the proposed location of groundwater monitoring wells as required under part 7045.0484, subpart 11, and, to the extent possible, the information required in item B.

D. A description of any plume of contamination that has entered the groundwater from a regulated unit at the time that the application is submitted that:

(1) delineates the extent of the plume on the topographic map required under part 7001.0560, item R; and

(2) identifies the concentration of each constituent listed in part 7045.0141 throughout the plume or identifies the maximum concentrations of each such constituent in the plume. The director may require this information on additional constituents if waste managed at the facility has met the characteristic of toxicity as defined in part 7045.0131, subpart 6.

E. Detailed plans and an engineering report describing the proposed groundwater monitoring program to be implemented to meet the requirements of part 7045.0484, subpart 11.

F. Sufficient information, supporting data, and analyses to establish a detection monitoring program that meets the requirements of part 7045.0484, subpart 12, including:

(1) a proposed list of monitoring parameters that complies with the requirements of part 7045.0484, subpart 12, item A or E, whichever is applicable;

(2) a proposed groundwater monitoring system;

(3) background values for each proposed monitoring parameter or constituent, or procedures to calculate such values; and

(4) a description of proposed sampling, analysis, and statistical comparison procedures to be utilized in evaluating groundwater monitoring data.

G. Sufficient information, supporting data, and analyses to establish a compliance monitoring program that meets the requirements of part 7045.0484, subpart 13, including:

(1) a description of the wastes previously handled at the facility, if applicable;

(2) if the presence of hazardous constituents has been detected in the groundwater at the point of compliance at the time of permit application, a

characterization of the contaminated groundwater including concentrations of hazardous constituents;

(3) a list of hazardous constituents for which compliance monitoring will be undertaken in accordance with part 7045.0484, subparts 11 and 13;

(4) proposed concentration limits for each hazardous constituent, based on the criteria set forth in part 7045.0484, subpart 6, including a justification for establishing alternate concentration limits in accordance with part 7045.0484, subpart 7;

(5) detailed plans and an engineering report describing the proposed groundwater monitoring system, in accordance with the requirements of part 7045.0484, subpart 11; and

(6) a description of proposed sampling, analysis, and statistical comparison procedures to be utilized in evaluating groundwater monitoring data.

Subp. 2. Corrective action program. The owner or operator of a hazardous waste surface impoundment, waste pile, land treatment unit, or landfill shall submit to the director with Part B of the permit application sufficient information, supporting data, and analyses to establish a corrective action program that meets the requirements of part 7045.0484, subpart 14. The submittal must demonstrate that corrective action is feasible if the groundwater protection standard is exceeded. To demonstrate compliance with part 7045.0484, subpart 14, the owner or operator shall address the following items:

A. a characterization of any contaminated groundwater, including concentrations of hazardous constituents;

B. the concentration limit for each hazardous constituent as set forth in part 7045.0484, subparts 6 and 7;

C. detailed plans and an engineering report describing the corrective action to be taken;

D. a description of how the groundwater monitoring program will assess the adequacy of the corrective action;

E. an estimate of the time which may be necessary to complete corrective action; and

F. an estimate of the cost for completing such corrective action.

Statutory Authority: *MS s 116.07 subd 4*

History: *8 SR 2276*

7001.0650 INTERIM STATUS.

Subpart 1. Qualifying for interim status. Except as provided in subpart 2, during the period after the submission of Part A of a hazardous waste facility permit application to the Environmental Protection Agency or to the director and prior to a final determination by the agency on the permit application, the owner or operator of an existing hazardous waste facility shall be considered to be in compliance with the requirement to obtain a permit if the director finds that the Environmental Protection Agency has granted the owner or operator interim status or if the director finds:

A. that the owner or operator has submitted a complete Part A of the hazardous waste facility permit application to the Environmental Protection Agency or to the director; and

B. that the owner or operator is in compliance with parts 7045.0552 to 7045.0642.

Subp. 2. Failure to obtain interim status from EPA. Notwithstanding the provisions of subpart 1, an owner or operator of a hazardous waste facility who, prior to April 23, 1984, was required to apply for and obtain interim status from the Environmental Protection Agency but who failed to obtain this interim status is not eligible to obtain interim status from the agency for that facility.

Subp. 3. Notification of failure to qualify for interim status. If the director determines that an owner or operator of an existing hazardous waste facility does not qualify for interim status under subpart 1, the director shall notify the owner or operator in writing of the failure to qualify for interim status and the reason for the failure. The notification must also include a statement that the owner or operator is subject to agency remedies for violation of agency rules, including the requirement of part 7001.0520 to obtain a permit. The owner or operator has 30 days from receipt to respond to the notification and to explain or cure the alleged deficiency in the Part A application. If after such notification and opportunity for response, the director determines that the application is deficient, appropriate enforcement action may be taken.

Subp. 4. Prohibitions. During the interim status period, an owner or operator shall not:

- A. treat, store, or dispose of a hazardous waste not specified in Part A of the application;
- B. employ processes not specified in Part A of the permit application;
- C. exceed the design capacities specified in Part A of the application; or
- D. alter a hazardous waste facility in a manner that amounts to a reconstruction of the facility. For the purpose of this part, reconstruction occurs when the capital investment in the modification of the facility exceeds 50 percent of the capital cost of a comparable new hazardous waste facility.

Subp. 5. Changes during interim status. An owner or operator who has interim status may conduct the following activities as prescribed:

A. The owner or operator may treat, store, or dispose of hazardous wastes not previously specified in Part A of the application if the owner or operator submits a revised Part A of the permit application prior to the commencement of the treatment, storage, or disposal.

B. The owner or operator may increase the design capacity of the facility if, prior to the implementation of the increase, the owner or operator submits a revised Part A of the permit application and an explanation of the need for the change, and if the director approves the increase in writing. The director shall approve the change if the director finds that there is a lack of available treatment, storage, or disposal capacity at other permitted hazardous waste facilities.

C. The owner or operator may add new processes or change the processes for the treatment, storage, or disposal of hazardous waste if, prior to the implementation of the addition or change, the owner or operator submits a revised Part A of the permit application and an explanation of the need for the addition, and if the director approves the addition or change in writing. The director shall approve the addition or change if the director finds that:

(1) the addition or change is necessary to prevent a threat to human health or the environment as a result of an emergency situation; or

(2) the addition or change is necessary for the owner or operator to comply with federal, Minnesota, or local requirements, including the interim status standards set forth in parts 7045.0552 to 7045.0642.

D. Changes in the ownership or operational control of a facility may be made if the new owner or operator submits a revised Part A of the permit application not later than 90 days prior to the scheduled change. When a transfer of ownership or operational control of a facility occurs, the former owner or operator shall comply with the requirements of parts 7045.0608 to 7045.0624 that relate to financial requirements, until the new owner or operator has provided to the director a demonstration of compliance with parts 7045.0608 to 7045.0624. All other interim status duties must be transferred immediately upon the change of ownership or operational control of the facility. If the director finds that the new owner or operator has complied with parts 7045.0608 to 7045.0624, the director shall notify the former owner or operator in writing that the required demonstration by the new owner or operator has been made.

Subp. 6. **Compliance with interim status standards.** During the interim status period the owner or operator shall comply with the interim status standards set forth in parts 7045.0552 to 7045.0642.

Subp. 7. **Termination of interim status.** Interim status terminates automatically when the agency has taken final administrative action on the permit application. The following constitute justification for the director to commence proceedings to terminate interim status:

A. the director finds that the applicant has failed to furnish a full and complete Part B of the permit application within the time allowed by part 7001.0530, subpart 2, item A; or

B. the director finds that the owner or operator is in violation of any of the requirements of parts 7045.0552 to 7045.0642.

Statutory Authority: *MS s 116.07 subd 4*

History: 8 SR 2276; 10 SR 70

7001.0660 PRELIMINARY DETERMINATION, DRAFT PERMIT, AND PUBLIC COMMENTS.

The provisions of parts 7001.0100 and 7001.0110 are applicable to the public notice of draft permits and preliminary determinations, the use of fact sheets concerning hazardous waste facilities, and public comments, except as specifically otherwise provided as follows:

A. The director shall prepare a fact sheet for each draft permit which relates to a hazardous waste facility that the director finds to be major based on a review of the potential impacts of the facility on the environment.

B. Notwithstanding the provisions of part 7001.0100, subpart 4, the public notice period concerning a complete permit application and the director's preliminary determination as to whether the permit should be issued or denied shall be 45 days.

C. In addition to the requirements of part 7001.0100, the director shall mail a copy of the public notice and, if a fact sheet is prepared, a copy of the fact sheet to the persons described in subitems (1) to (5), as follows. The director shall also mail a copy of the permit application and the draft permit to the applicant and to the persons described in subitems (3), (4), and (5), as follows:

(1) to the governing body of each county and city or township that has jurisdiction over the area where the facility is located or proposed to be located;

(2) to each state agency that has authority under state law with respect to the construction or operation of the facility which is the subject of the permit application;

(3) to all federal and state agencies that have jurisdiction over fish, shellfish, and wildlife resources in the area where the facility is located or proposed to be located;

(4) to the state advisory council on historic preservation, to state historic preservation officers, and any other government official, including officials in other states, whom the director determines may have an interest in the permit application; and

(5) to the Environmental Protection Agency and any other federal agency that has issued or is required to issue a permit in connection with the facility which is the subject of the permit application.

D. In addition to the requirements of part 7001.0100, subpart 5, the director shall publish notice of the permit application in a major daily or weekly local newspaper that has general circulation in the geographical area in which the proposed hazardous waste facility is located and shall broadcast this notice over at least one local radio station.

E. Prior to final agency action on a permit application, the director or the agency shall respond to comments received during the public comment period or during any public informational meeting or contested case hearing held on the matter. This response shall state what action, if any, the director or the agency will take as a result of the comments. Responses to comments must be available to the public.

Statutory Authority: *MS s 116.07 subd 4*

History: 8 SR 2276

7001.0670 PUBLIC INFORMATIONAL MEETINGS AND CONTESTED CASE HEARINGS.

Subpart 1. Requests. A request for a public informational meeting or a contested case hearing on the application must be made in writing during the public comment period provided in part 7001.0660, item B and must contain the information specified in part 7001.0110, subpart 3. The agency shall grant or deny a request for a contested hearing in accordance with part 7001.0130. If the request is for a public informational meeting or if a request for a contested case hearing is denied, the agency shall hold a public informational meeting.

Subp. 2. Preparation of public notice. If a contested case hearing or public informational meeting is to be held, the director shall prepare a public notice in accordance with parts 7001.0120 and 7001.0130. The public notice must continue for at least 30 days before the public informational meeting or contested case hearing.

Subp. 3. Mailing of public notice. The director shall comply with the requirements of part 7001.0120, subpart 4 or 7001.0130, subpart 4, whichever is applicable, and shall also mail a copy of the public notice to the following:

A. to the governing body of each county and city or township that has jurisdiction over the area where the facility is located or proposed to be located;

B. to each state agency that has authority under Minnesota laws with respect to the construction or operation of the facility which is the subject of the public informational meeting or contested case hearing;

C. to all federal and state agencies that have jurisdiction over fish, shellfish, and wildlife resources in the area where the facility is located or proposed to be located;

D. to the state advisory council on historic preservation, the state historic preservation officers, and any other government official, including officials in other states, whom the director determines may have an interest in the permit application;

E. to the Environmental Protection Agency and any other federal agency that has issued or is required to issue a permit in connection with the facility which is the subject of the public informational meeting or contested case hearing; and

F. to all persons who have registered their names on the mailing list established under part 7001.0200.

Subp. 4. Distribution of public notice. The director shall comply with the requirements of part 7001.0120, subpart 4 or 7001.0130, subpart 4, whichever is applicable, and shall also publish notice of the public informational meeting or contested case hearing in a daily or weekly major newspaper that has general circulation in the geographical area in which the facility is located or proposed to be located and shall broadcast this notice over at least one local radio station.

Statutory Authority: *MS s 116.07 subd 4*

History: 8 SR 2276

7001.0680 FINAL DETERMINATION.

Subpart 1. **In general.** Except as provided in subpart 2 or 3, the agency shall issue all hazardous waste facility permits in accordance with part 7001.0140.

Subp. 2. **Draft permit for new hazardous waste thermal treatment facility.** For a draft permit that concerns a new hazardous waste thermal treatment facility prepared under part 7001.0700, the agency shall issue a hazardous waste facility permit authorizing construction and operation of the proposed facility, requiring the permittee to conduct trial burns, and requiring submission of the results of the trial burns if the agency finds that the proposed facility is likely to qualify for a permit authorizing the operation of the facility under appropriate operating conditions as required by part 7045.0542, subpart 6, and as necessary for the permittee to comply with the performance standards set forth in part 7045.0542, subpart 4. This permit is subject to modification of the operating conditions to reflect the results of the trial burn and to ensure compliance with the standards set forth in part 7045.0542.

Subp. 3. **Draft short-term demonstration or two-phase permit for land treatment facility.** For a draft short-term demonstration or two-phase permit concerning a new hazardous waste land treatment facility prepared under part 7001.0710, the agency shall issue a hazardous waste facility permit authorizing the treatment demonstration and requiring submission of the results of the demonstration if the agency finds that the proposed facility is likely to qualify for a permit authorizing the operation of the facility under appropriate operating conditions as required by part 7045.0536, subpart 4, and as necessary for the permittee to comply with the groundwater protection standards of part 7045.0484 and the performance standards set forth in part 7045.0536. This two-phase permit is subject to modification of the operating conditions to reflect the results of the treatment demonstration and to ensure compliance with the standards set forth in parts 7045.0484 and 7045.0536.

Statutory Authority: *MS s 116.07 subd 4*

History: *8 SR 2276*

7001.0690 EMERGENCY PERMITS.

Subpart 1. **Issuance.** Notwithstanding any other provision of parts 7001.0010 to 7001.0210 or 7001.0500 to 7001.0730, if the director finds that there is an imminent and substantial danger to human health or the environment, the director may issue a temporary emergency permit to the owner or operator of a facility to allow treatment, storage, or disposal of a hazardous waste which the owner or operator is not otherwise permitted to treat, store, or dispose. This permit is contingent upon the approval of the agency.

Subp. 2. **Oral or written permission.** The emergency permit must be issued in writing, except that emergency permission to treat, store, or dispose of the hazardous waste may be given orally if circumstances warrant. If oral permission is given, the director shall, within five days after the date of giving of permission, issue a written permit.

Subp. 3. **Duration.** The emergency permit may not exceed 90 days in duration.

Subp. 4. **Specifications.** The emergency permit must clearly specify the hazardous waste to be received and the manner and location of its treatment, storage, or disposal.

Subp. 5. **Termination.** The emergency permit is subject to termination at any time if the director determines that termination is appropriate to protect human health or the environment.

Subp. 6. **Requirements.** The emergency permit must incorporate, to the extent possible under the circumstances, all applicable requirements of parts 7001.0500 to 7001.0730, 7045.0452 to 7045.0544, 7045.0652, and 7045.0655.

Subp. 7. Notification to public. At the time the director issues an emergency permit the director shall also notify the public of the emergency issuance of the permit. This notification must include:

A. the address and telephone number of the main agency office and the applicable regional office and the name of a person who may be contacted for additional information;

B. the name and location of the permitted hazardous waste facility;

C. a brief description of the wastes involved;

D. a brief description of the action authorized and the reasons for authorizing it; and

E. the duration of the emergency permit.

Subp. 8. Agency approval. The director shall present the permit to the agency for approval at its next meeting. If no final action is taken by the agency at this meeting, the permit continues in effect until its expiration date or until the agency takes final action, whichever occurs first.

Statutory Authority: *MS s 116.07 subd 4*

History: *8 SR 2276*

7001.0700 HAZARDOUS WASTE THERMAL TREATMENT FACILITY PERMITS.

Subpart 1. Phase one requirements. In the permit for a new hazardous waste thermal treatment facility, for the purpose of determining operational readiness following completion of physical construction, the director shall establish permit conditions, including but not limited to, allowable waste feeds and operating conditions. These permit conditions are effective for the minimum time required to bring the thermal treatment facility to a point of operational readiness sufficient to conduct a trial burn, not to exceed 720 hours operating time for treatment of hazardous waste. The director may extend the duration of this operational period once, for up to 720 additional hours, at the request of the applicant when good cause is shown. The permit may be modified to reflect the extension according to part 7001.0730, subpart 4, item H.

Applicants shall submit to the director a statement, with Part B of the permit application, that suggests the conditions necessary to operate in compliance with the performance standards of part 7045.0542, subpart 4, during this period. This statement must include restrictions on waste constituents, waste feed rates, and the operating parameters identified in part 7045.0542, subpart 6.

The director shall review this statement and other relevant information submitted with Part B of the permit application, and shall specify requirements for this period that are sufficient to meet the performance standards of part 7045.0542, subpart 4.

Subp. 2. Phase two requirements. In the permit for a new hazardous waste thermal treatment facility, for the purposes of determining the feasibility of compliance with the performance standards of part 7045.0542, subpart 4, and of determining the adequate operating conditions under part 7045.0542, subpart 6, the director shall establish permit conditions to be effective during the trial burn.

Subp. 3. Trial burn plan. An applicant shall submit to the director a trial burn plan with Part B of the permit application. The trial burn plan must include the following information:

A. the results of an analysis of each waste or mixture of wastes to be burned, that uses the analytical techniques set forth in the United States Environmental Protection Agency document SW-846 as referenced in part 7045.0065 or that uses analytical techniques found by the director to be equivalent to them. This analysis must include:

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(1) the heat value of the waste in the form and composition in which it will be burned;

(2) a description of the physical form of the waste and, if applicable, viscosity of the waste;

(3) an identification of any hazardous organic constituents listed in part 7045.0141 that are reasonably expected to be found in the waste;

(4) an identification of all waste constituents listed in part 7045.0141 for which no analysis was done and an explanation of why this analysis was not done; and

(5) an approximate quantification of the hazardous constituents identified in the waste, within the precision specified by Environmental Protection Agency document SW 846;

B. a detailed engineering description of the thermal treatment unit for which the permit is sought, including:

(1) manufacturer's name and model number;

(2) type of thermal treatment unit;

(3) linear dimensions of the thermal treatment unit, including the cross sectional area of the combustion chamber;

(4) a description of the auxiliary fuel system, including type and feed rate;

(5) the capacity of the prime mover;

(6) a description of any automatic waste feed cutoff system;

(7) nozzle and burner design;

(8) construction materials; and

(9) location and description of temperature, pressure, and flow indicating devices and control devices;

C. a detailed engineering description of air pollution control equipment and stack gas monitoring equipment and pollution control monitoring systems, including:

(1) manufacturer's name and model numbers;

(2) physical dimensions; and

(3) where applicable, control specifications as to air flow, pressure drop, discharge, voltage requirements, and water flow;

D. a detailed description of sampling and monitoring procedures, including sampling and monitoring locations, the equipment to be used, frequency of sampling and monitoring, and planned procedures for sample analysis;

E. a detailed test schedule for each waste for which the trial burn is planned, including date, duration, quantity of waste to be burned, and other factors relevant to the agency's decision under subpart 5;

F. a detailed test protocol, including, for each waste identified, the ranges of temperatures, waste feed rate, combustion gas velocity, use of auxiliary fuel, and any other relevant parameters that will be varied to affect the destruction and removal efficiency of the thermal treatment unit;

G. a description of, and planned operating conditions for, emission control equipment that will be used;

H. procedures for rapidly stopping waste feed, for shutting down the thermal treatment unit, and for controlling emissions in the event of an equipment malfunction; and

I. other information as the director finds is reasonably necessary to determine whether to approve the trial burn plan in light of the purposes of subpart 2 and the criteria in subpart 5.

Subp. 4. Review of trial burn plan. The director shall review the trial burn

plan for completeness. If the director finds that the trial burn plan is incomplete or otherwise deficient, the director shall promptly advise the owner or operator of the incompleteness or deficiency. The director shall suspend further processing of the trial burn plan until the owner or operator has supplied the necessary information or otherwise corrected the deficiency.

The director shall designate as trial principal organic hazardous constituents those constituents for which destruction and removal efficiencies must be calculated during the trial burn. The director's designations shall be based on the waste analysis data submitted by the owner or operator, the director's estimate of the difficulty of thermally treating the hazardous constituents to be burned, and the concentration or mass of hazardous constituents in the proposed waste feed. In addition, if the waste analysis indicates that the waste feed contains wastes that are listed in part 7045.0135, then in making principal organic hazardous constituents determinations the director shall consider the hazardous organic waste constituents identified in part 7045.0139 that formed the basis of this listing.

Subp. 5. Approval of trial burn plan. The agency shall approve a trial burn plan if the agency finds that:

A. the trial burn is likely to determine whether the thermal treatment performance standards in part 7045.0542, subpart 4, can be met by the proposed thermal treatment facility;

B. the trial burn itself will not present an imminent hazard to human health or the environment;

C. the trial burn will aid the director in determining operating requirements to be specified under part 7045.0542, subpart 6; and

D. the information sought in items A and C cannot be developed through other means.

Subp. 6. Conduct of trial burn. The owner or operator shall conduct the trial burn in accordance with the trial burn plan approved by the agency. The owner or operator shall perform the following analyses or make the following determinations:

A. a quantitative analysis of the trial principal organic hazardous constituents in the waste feed to the thermal treatment unit;

B. a quantitative analysis of the exhaust gas for the concentration and mass emissions of the trial principal organic hazardous constituents, oxygen, and hydrogen chloride;

C. a quantitative analysis of the scrubber water, if any, ash residues, and other residues, for the purpose of estimating the fate of the trial principal organic hazardous constituents;

D. a computation of destruction and removal efficiency, in accordance with the formula specified in part 7045.0542, subpart 4, item A;

E. if the hydrogen chloride emission rate exceeds 1.8 kilograms of hydrogen chloride per hour (four pounds per hour), a computation of hydrogen chloride removal efficiency, in accordance with part 7045.0542, subpart 4, item B;

F. a computation of particulate emissions, in accordance with part 7045.0542, subpart 4, item C;

G. an identification of sources of fugitive emissions and the means of control thereof;

H. a measurement of average, maximum, and minimum temperatures of the thermal treatment zone and combustion gas velocity;

I. a continuous measurement of carbon monoxide, oxygen, and carbon dioxide in the exhaust gas; and

J. other analyses or determinations as the agency may specify as necessary to ensure that the trial burn will determine compliance with the performance

standard in part 7045.0542, subpart 4, and to establish the operating conditions required by part 7045.0542, subpart 6, as necessary to meet this performance standard.

Subp. 7. Submission of certification, results, and data. The owner or operator shall submit to the director a certification that the trial burn has been carried out in accordance with the approved trial burn plan and shall submit the results of all the analyses and determinations required by subpart 6 along with all underlying data of the results. The owner or operator shall make these submissions within 90 days after the completion of the trial burn, or later if approved by the director upon a finding by the director that good cause exists for granting a time extension.

Subp. 8. Authorized signature. All submissions to the director required by this rule must be signed in accordance with part 7001.0060 and must contain the certification required by part 7001.0540.

Subp. 9. Phase three requirements. To allow a new hazardous waste thermal treatment facility to operate after completion of the trial burn and prior to final modification of the permit conditions to reflect the trial burn results, the director shall establish permit conditions, including but not limited to allowable waste feeds and operating conditions sufficient to meet the requirements of part 7045.0542, subpart 6. The director may prohibit the burning of hazardous wastes in the facility during this period. These permit conditions are effective for the minimum time required to complete sample analysis, data computation, and submission of the trial burn results by the applicant, and modification of the facility permit by the agency.

An applicant shall submit to the director a statement with Part B of the permit application that identifies the conditions necessary to operate in compliance with the performance standards of part 7045.0542, subpart 4, during this period. This statement must include restrictions on waste constituents, waste feed rates, and the operating parameters identified in part 7045.0542, subpart 6.

The director shall review this statement and other relevant information submitted with part B of the permit application and shall specify requirements for this period most likely to meet the performance standards of part 7045.0542, subpart 4.

Subp. 10. Phase four requirements. To allow a new hazardous waste thermal treatment facility to operate after the director reviews the results of the trial burn conducted under phase two, based on the results of the trial burn, the director shall establish operating requirements in the final permit according to part 7045.0542. A permit modification, if necessary, must be completed according to part 7001.0730, subpart 2 or 4 and a permit revocation, if necessary, must be completed according to part 7001.0180, item C.

Subp. 11. Requirements for existing hazardous waste thermal treatment facilities. To determine the feasibility of compliance with the performance standards of part 7045.0542, subpart 4, and to determine adequate operating conditions under part 7045.0542, subpart 6, the applicant for a permit for an existing hazardous waste thermal treatment facility may prepare and submit to the director a trial burn plan and perform a trial burn in accordance with subparts 3 to 8. An applicant who submits trial burn plans and who receives approval before submission of a permit application shall complete the trial burn and submit the results specified in subpart 6 with Part B of the permit application. If completion of this process conflicts with the date set for submission of the Part B application, the applicant shall contact the director to establish a later date for the submission of the Part B application or trial burn results. If the applicant submits a trial burn plan with Part B of the permit application, the trial burn must be conducted and the results must be submitted within a time period to be specified by the director.

Statutory Authority: *MS s 116.07 subd 4*

History: 8 SR 2276

7001.0710 LAND TREATMENT DEMONSTRATION PERMITS.

Subpart 1. Letters of approval. A person who desires to conduct controlled laboratory demonstrations of hazardous waste land treatment for the purpose of collecting preliminary data shall request a letter of approval from the agency.

The agency shall issue a letter of approval if the demonstration will be conducted under supervised conditions in a closed system capable of providing adequate protection to human health and the environment, and if the data obtained will not be used as the only basis for the issuance of a facility permit. The letter of approval must specify the general conditions for conducting demonstrations, the duration of approval, and the specific waste types.

The letter of approval may only provide approval for controlled laboratory demonstrations of hazardous waste treatment and does not provide exemptions from the hazardous waste management and disposal requirements of chapter 7045. Materials resulting from the demonstration that meet the criteria of parts 7045.0100 to 7045.0141 must be managed as hazardous waste.

Subp. 2. Permit requirements. An owner or operator who desires to meet the treatment demonstration requirements of part 7045.0536, subparts 3 and 5, shall request from the agency a treatment demonstration permit. The permit may be issued either as a short-term permit covering only the demonstration, or as a two-phase facility permit covering the demonstration and the design, construction, operation, and maintenance of the land treatment unit.

No short-term permit may be issued unless the agency finds that a completed Part B application is submitted that provides sufficient information upon which to base demonstration conditions, and that sufficient evidence exists upon which to base demonstration requirements.

No two-phase facility permit may be issued unless the agency finds that a completed Part B application is submitted that provides sufficient information upon which to base demonstration and facility conditions, and that sufficient evidence is provided to indicate that the waste material can be successfully land treated.

Subp. 3. Permit applications. A completed Part B application must be submitted to obtain a short-term demonstration permit unless the director has issued a written exemption from one or more of the data requirements.

Subp. 4. Two-phase permits. If the agency issues a two-phase permit, the permit must establish, as requirements in the first phase of the facility permit, conditions for conducting the demonstration. These permit conditions must include design and operating parameters, including the duration of the tests or analyses and, in the case of field tests, the horizontal and vertical dimensions of the treatment zone, effect on food chain crops, monitoring procedures, post-demonstration cleanup activities, and other conditions that the agency finds may be necessary under part 7045.0536, subparts 3 and 5. The agency shall include conditions in the second phase of the facility permit to meet all part 7045.0536 requirements pertaining to unit design, construction, operation, and maintenance. The agency shall establish these conditions in the second phase of the permit based upon the information contained in the Part B application.

The first phase of the permit is effective upon the date of permit issuance.

The second phase of the permit is effective as provided in subpart 6.

Subp. 5. Submission of certification, determinations, and data. The owner or operator who has been issued a two-phase permit and who has completed the treatment demonstration shall submit to the director a certification, signed by a person authorized to sign a permit application or a report under part 7001.0060, that the demonstration has been carried out in accordance with the conditions

specified in phase one of the permit for conducting these demonstrations. Within 90 days of completion of the demonstration the owner or operator shall also submit the data collected during the demonstration and a determination as to whether compliance with part 7045.0536, subparts 3 and 5, was achieved.

Subp. 6. Permit modification. If the agency determines that the results of the demonstration meet the requirements of part 7045.0536, subparts 3 and 5, the agency shall modify the second phase of the permit to incorporate any requirements necessary for operation of the facility in compliance with part 7045.0536, based upon the results of the demonstration.

If no modifications of the second phase of the permit are necessary, or if only minor modifications are necessary and have been made in accordance with part 7001.0730, subpart 4, the agency shall give notice of its final decision to the permit applicant and to each person who submitted written comments on the phased permit or who requested notice of final decision on the second phase of the permit. The second phase of the permit becomes effective upon the date of notice of final decision.

If modifications under part 7001.0170, item B are necessary, the second phase of the permit becomes effective only after those modifications have been made.

All modifications must be conducted according to part 7001.0730. The second phase of the permit does not go into effect until after the requirements of part 7001.0730 are met and the agency has given notice of final decision.

Statutory Authority: *MS s 116.07 subd 4*

History: 8 SR 2276

7001.0720 TERMS AND CONDITIONS OF HAZARDOUS WASTE FACILITY PERMITS.

Subpart 1. Term of permit. A hazardous waste facility permit is effective for a fixed term not to exceed five years.

Subp. 2. Additional general conditions. Each draft and final hazardous waste facility permit issued by the agency must contain all of the general conditions in part 7001.0150, subpart 3 except the condition in part 7001.0150, subpart 3, item K. In addition, each permit must contain the following general conditions:

A. The permittee need not comply with the conditions of this permit to the extent and for the duration this noncompliance is authorized in an emergency permit in accordance with part 7001.0690.

B. The permittee shall maintain records from all groundwater monitoring wells and associated groundwater surface elevations for the active life of the facilities and, for disposal facilities, for the post-closure care period. The permittee shall also maintain an operating record in accordance with part 7045.0478 until closure of the facility.

C. The permittee shall not commence treatment, storage, or disposal of hazardous waste in a new hazardous waste facility or in a modified portion of an existing hazardous waste facility until:

(1) the permittee has submitted to the director by certified mail or hand delivery a letter signed by the permittee and by a registered professional engineer stating that the facility has been constructed or modified in compliance with the conditions of the permit; and

(2) the director has inspected the new or modified facility and has provided the permittee with a letter stating that, based on information available to the director, the facility appears to have been constructed in compliance with the conditions of the permit.

D. If the permittee discovers a release or discharge of hazardous waste which could be a danger to public drinking water supplies or threaten human

health or the environment or discovers a fire or explosion at a hazardous waste facility which could threaten human health or the environment outside the facility, the permittee shall, within 24 hours of the discovery of the incident, orally notify the director of the incident and its description. Within 15 days after the incident the permittee shall submit a written report describing the incident. The oral and written descriptions of the incident shall include at a minimum:

- (1) the name, address, and telephone number of the owner or operator;
- (2) the name, address, and telephone number of the facility;
- (3) the date, time, and type of incident;
- (4) the name and quantity of materials involved;
- (5) the extent of injuries, if any;
- (6) an assessment of actual or potential hazards to the environment and human health outside the facility; and
- (7) the estimated quantity and disposition of recovered hazardous materials.

E. In addition to the reports required by part 7001.0150, the permittee shall submit the following reports in accordance with parts 7045.0450 to 7045.0544:

(1) If the permittee discovers a significant discrepancy in a manifest, the permittee shall attempt to reconcile the discrepancy. If the permittee is unable to reconcile the discrepancy within ten days, the permittee shall submit to the director a letter report and a copy of the manifest in accordance with part 7045.0476, subpart 3, item A.

(2) If a shipment of hazardous waste is delivered to the permittee without the required manifest or shipping paper, the permittee shall attempt to reconcile the discrepancy. If the permittee is unable to reconcile the discrepancy, the permittee shall, prior to the acceptance of the waste, notify the director of the delivery of the waste and shall submit to the director a follow-up report within ten days of receipt of the waste, in accordance with part 7045.0482, subpart 3.

(3) In accordance with part 7045.0482, subpart 2, the permittee shall submit an annual report concerning the activities at the facility during the previous calendar year.

(4) If the permittee receives hazardous waste which the permittee is not authorized by the permit to manage, the permittee shall immediately notify the director of the receipt of the waste in accordance with part 7045.0476, subpart 3, item C.

F. The permittee may allow an authorized representative to sign reports submitted in accordance with the requirements of this permit if:

(1) the authorization is made in writing by persons identified in part 7001.0060 except that for a corporation the written authorization must be made by a principal executive officer of at least the level of vice-president;

(2) the authorization specifies either an individual or a position having responsibility for the overall operation of the regulated facility or activity, such as the position of plant manager, superintendent, or a person of equivalent responsibility; and

(3) the written authorization is submitted to the director.

If authorization is no longer accurate, a new authorization must be submitted to the director prior to or together with any reports or permit applications to be signed by an authorized representative.

Subp. 3. Additional condition for surface impoundments. Each draft and final hazardous waste facility permit issued by the agency for a surface impoundment must contain the following condition: The permittee shall not commence treatment, storage, or disposal of hazardous waste in a surface impoundment which has been repaired under part 7045.0532, subpart 6, item D, until:

A. the permittee has submitted to the director by certified mail or hand delivery a letter signed by the permittee and by a registered professional engineer stating that the surface impoundment has been repaired in compliance with the conditions of the permit; and

B. the director has inspected the repaired surface impoundment and has provided the permittee with a letter stating that, based on information available to the director, the surface impoundment appears to have been repaired in compliance with the conditions of the permit.

Statutory Authority: *MS s 116.07 subd 4*

History: *8 SR 2276*

7001.0730 MODIFICATION OF PERMITS; REVOCATION AND REISSUANCE OF PERMITS.

Subpart 1. Scope. In addition to the provisions of parts 7001.0170, 7001.0180, and 7001.0190, the provisions of subparts 2 to 5 are applicable to the modification, revocation, and reissuance of hazardous waste facility permits.

Subp. 2. Additional justification for modification of permits or revocation and reissuance of permits. In addition to the justifications listed in part 7001.0170, the following constitute justification for the director to commence proceedings to modify a permit or to revoke and reissue a permit:

A. the director discovers that modification of a closure plan or post-closure plan is required by part 7045.0486, subpart 4, or part 7045.0490, subpart 3;

B. the permittee files a request for extension of the 90- or 180-day periods set forth in part 7045.0488;

C. the director receives notification of expected closure under part 7045.0486;

D. the director finds that modification of the 30-year post-closure period is necessary as provided in part 7045.0492, subpart 1;

E. the director finds that continuation of security requirements is necessary as provided by part 7045.0492, subpart 2;

F. the director finds that the permittee has made the demonstration required by part 7045.0492, subpart 3, such that a disturbance of the integrity of the containment system should be authorized;

G. the permittee files a request under part 7045.0518, subpart 3, for a variance from the required level of financial responsibility;

H. the director demonstrates under part 7045.0518, subpart 4, that an upward adjustment of the level of financial responsibility is required;

I. the director finds that the corrective action program specified in the permit under part 7045.0484, subpart 14, has not brought the regulated unit into compliance with the groundwater protection standard within a reasonable period of time;

J. to include a detection monitoring program that meets the requirements of part 7045.0484, subpart 12, when the owner or operator has been conducting a compliance monitoring program under part 7045.0484, subpart 13, or a corrective action program under part 7045.0484, subpart 14, and the compliance period ends before the end of the post-closure care period for the unit;

K. a permit requires a compliance monitoring program under part 7045.0484, subpart 13, but monitoring data collected prior to permit issuance indicate that the facility is exceeding the groundwater protection standard;

L. to include conditions applicable to units at a facility that were not previously included in the facility's permit;

M. a land treatment unit is not achieving complete treatment of hazardous constituents under its current permit conditions; or

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N. to change the operating requirements set in the permit to reflect the results of the trial burn.

Subp. 3. Additional justification to commence revocation without reissuance of permit. In addition to the justifications listed in part 7001.0180, a failure to submit an annual facility operator's fee within 180 days of the due date, as specified in the agency's hazardous waste fee rules in chapter 7046, constitutes justification for the director to commence proceedings to revoke a permit without reissuance.

Subp. 4. Minor modifications of permits. In addition to the corrections or allowances listed in part 7001.0190, subparts 2 and 3, if the permittee consents, the director may modify a permit to make the corrections or allowances listed below without following the procedures in parts 7001.0100 to 7001.0130:

A. to change the list of facility emergency coordinators in the permit's contingency plan;

B. to change the list of equipment in the permit's contingency plan;

C. to change estimates of maximum inventory under part 7045.0486, subpart 3, item B;

D. to change the expected year of closure under part 7045.0486, subpart 3, item D;

E. to change schedules for final closure under part 7045.0486, subpart 3, item D;

F. to change the ranges of the operating requirements set in the permit to reflect the results of the trial burn provided that the change is minor;

G. to change the operating requirements set in the permit for conducting a trial burn provided that the change is minor;

H. to grant one extension of the time period for determining operational readiness of a thermal treatment unit following completion of construction, for up to 720 hours operating time for treatment of hazardous wastes;

I. to change the treatment program requirements for land treatment units under part 7045.0536, subpart 2, to improve treatment of hazardous constituents, provided that the change is minor;

J. to change any conditions specified in the permit for land treatment units to reflect the results of field tests or laboratory analyses used in making a treatment demonstration in accordance with part 7001.0710 provided that the change is minor; and

K. to allow a second treatment demonstration for land treatment to be conducted when the results of the first demonstration have not shown the conditions under which the waste or wastes can be treated completely as required by part 7045.0536, subparts 3 and 5, item C, provided the conditions for the second demonstration are substantially the same as the conditions for the first demonstration.

Subp. 5. Consideration of facility siting. In making its final determination on a permit modification or permit revocation and reissuance, the agency shall not consider the suitability of the facility location unless new information indicates that a threat to human health or the environment exists which was unknown at the time the permit was issued.

Statutory Authority: *MS s 116.07 subd 4*

History: 8 SR 2276

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7001.1000 SCOPE AND CONSTRUCTION OF RULES.

Parts 7001.1000 to 7001.1100 govern the application procedures, the issuance, and the conditions of a National Pollutant Discharge Elimination System

permit. Parts 7000.0100 to 7000.1100, 7001.0010 to 7001.0210, and 7001.1000 to 7001.1100 shall be construed to complement each other.

Statutory Authority: *MS s 115.03 subd 1 para (e)*

History: 8 SR 2277

7001.1010 SATISFACTION OF REQUIREMENT FOR TWO PERMITS.

If a person who discharges a pollutant into the waters of the state is required by Minnesota Statutes or rules to obtain both a National Pollutant Discharge Elimination System permit and a state disposal system permit, the issuance of a National Pollutant Discharge Elimination System permit under this chapter shall satisfy the requirement to obtain both permits.

Statutory Authority: *MS s 115.03 subd 1 para (e)*

History: 8 SR 2277

7001.1020 DEFINITIONS.

Subpart 1. **Scope.** The definitions in Minnesota Statutes, section 115.01 and in part 7001.0010 apply to the terms used in parts 7001.1000 to 7001.1100 unless the terms are defined in this part.

As used in parts 7001.1000 to 7001.1100, the terms in subparts 2 to 31 have the meanings given them.

Subp. 2. **Average monthly discharge limitation.** "Average monthly discharge limitation" means the highest allowable average of daily discharge over a calendar month, calculated as the sum of all daily discharges measured during a calendar month, divided by the number of daily discharges during that month.

Subp. 3. **Average weekly discharge limitation.** "Average weekly discharge limitation" means the highest allowable average of daily discharges over a calendar week, calculated as the sum of all daily discharges measured during a calendar week, divided by the number of daily discharges measured during that week.

Subp. 4. **Best available technology.** "Best available technology" means the application to a treatment facility of the best available technology economically achievable as required by section 301(b)(2) of the Clean Water Act, United States Code, title 33, section 1311(b)(2) as amended.

Subp. 5. **Best management practices.** "Best management practices" means practices to prevent or reduce the pollution of the waters of the state, including schedules of activities, prohibitions of practices, and other management practice, and also includes treatment requirements, operating procedures and practices to control plant site runoff, spillage or leaks, sludge, or waste disposal or drainage from raw material storage.

Subp. 6. **Bypass.** "Bypass" means the intentional diversion of waste streams from any portion of a treatment facility.

Subp. 7. **Clean Water Act.** "Clean Water Act" means the Federal Water Pollution Control Act as amended, commonly referred to as the Clean Water Act, United States Code, title 33, sections 1251 et seq.

Subp. 8. **Commencement of construction.** "Commencement of construction" means:

A. to begin or cause to begin as a part of a continuous program the placement, assembly, or installation of facilities or equipment; or to conduct significant site preparation work, including clearing, excavation, or removal of existing buildings, structures, or facilities, which site preparation is necessary for the placement, assembly, or installation of facilities or equipment; or

B. to enter into a binding contractual obligation for the purchase of facilities or equipment which are intended to be used within a reasonable time in the operation of a new source. For the purpose of these rules, "binding contractual obligation" does not include an option to purchase or a contract

which option or contract can be terminated without substantial financial loss, and does not include contracts for feasibility, engineering, or design studies.

Subp. 9. **Continuous discharge.** "Continuous discharge" means a discharge of a pollutant that occurs throughout the operating hours of a facility without interruption, except for occasional shutdowns for maintenance, process changes, or similar activities.

Subp. 10. **Daily discharge.** "Daily discharge" means the discharge of a pollutant measured during a calendar day or any 24-hour period that reasonably represents the discharge during the calendar day for the purposes of sampling.

Subp. 11. **Direct discharge.** "Direct discharge" means the "discharge of a pollutant."

Subp. 12. **Discharge of a pollutant.** "Discharge of a pollutant" means the addition of any pollutant to surface waters of the state. "Discharge of a pollutant" does not include the addition of pollutants into the waters of the state by an "indirect discharger."

Subp. 13. **Effluent limitation.** "Effluent limitation" means a restriction established by rule or permit condition on quantities, discharge rates, and concentrations of pollutants that are discharged from point sources into waters of the state.

Subp. 14. **Effluent limitation guideline.** "Effluent limitation guideline" means a regulation adopted by the Environmental Protection Agency under section 304(b) of the Clean Water Act, United States Code, title 33, section 1314(b), which provides for the establishment of effluent limitations.

Subp. 15. **Indirect discharger.** "Indirect discharger" means a nondomestic discharger that introduces pollutants into a publicly owned treatment works.

Subp. 16. **Facilities, equipment.** "Facilities" or "equipment" means buildings, structures, process or production equipment, or machinery that form a permanent part of a source and that will be used in the operation of the source such that the construction of these facilities or the installation of this equipment must represent a substantial commitment to the construction of the source. These terms do not include facilities or equipment used in connection with feasibility, engineering, and design studies.

Subp. 17. **Maximum daily discharge.** "Maximum daily discharge" means the highest allowable daily discharge.

Subp. 18. **Municipality.** "Municipality" means a county; a city; a town; the metropolitan waste control commission established in Minnesota Statutes, chapter 473; the metropolitan council when acting under the provisions of Minnesota Statutes, chapter 473; or other governmental subdivision of the state responsible by law for the prevention, control, and abatement of water pollution in the state.

Subp. 19. **National Pollutant Discharge Elimination System.** "National Pollutant Discharge Elimination System" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements under sections 307, 318, 402, and 405 of the Clean Water Act, United States Code, title 33, sections 1317, 1328, 1342, and 1345.

Subp. 20. **New discharger.** "New discharger" means a building, structure, facility, or installation, including an indirect discharger which commences to discharge a pollutant and:

A. from which there is or may be a new or additional discharge of pollutants at a site at which on October 18, 1972, it had never before discharged pollutants;

B. which has not received a finally effective National Pollutant Discharge Elimination System permit for discharges at that site; and

C. which is not a new source as defined in subpart 21.

Subp. 21. **New source.** "New source" means a source that is constructed on

a site at which no other source is located, or that totally replaces an existing source, or construction of which results in a change in the nature or quantity of pollutants discharged, if construction of it commenced:

A. after the Environmental Protection Agency promulgated standards of performance under section 306 of the Clean Water Act, United States Code, title 33, section 1316, that are applicable to the source;

B. after the Environmental Protection Agency has proposed standards of performance under section 306 of the Clean Water Act, United States Code, title 33, section 1316, that are applicable to the source, but only if the standards are promulgated within 120 days of their proposal.

Subp. 22. **Noncontact cooling water.** "Noncontact cooling water" means water used to reduce temperature which does not come into contact with a raw material, intermediate product, waste product other than heat, or finished product. "Noncontact cooling water" includes water used in air conditioning equipment.

Subp. 23. **Point source.** "Point source" means a discernible, confined, and discrete conveyance, including, but not limited to, a pipe, ditch, channel, tunnel, conduit, well, discrete fissure, container, rolling stock, concentrated animal feeding operation, or vessel or other floating craft, from which pollutants are or may be discharged.

Subp. 24. **Pollutant.** "Pollutant" has the meaning given to it by Minnesota Statutes, section 115.01, subdivision 13.

Subp. 25. **Primary industry category.** "Primary industry category" means any of the following industry categories:

- A. adhesives and sealants;
- B. aluminum;
- C. auto and other laundries;
- D. battery manufacturing;
- E. coal mining;
- F. coil coating;
- G. copper forming;
- H. electrical and electronic components;
- I. electroplating;
- J. explosives manufacturing;
- K. foundries;
- L. gum and wood chemicals;
- M. inorganic chemicals manufacturing;
- N. iron and steel manufacturing;
- O. leather tanning and finishing;
- P. mechanical products manufacturing;
- Q. nonferrous metals manufacturing;
- R. ore mining;
- S. organic chemicals manufacturing;
- T. paint and ink formulation;
- U. pesticides;
- V. petroleum refining;
- W. pharmaceutical preparations;
- X. photographic equipment and supplies;
- Y. plastics processing;
- Z. plastic and synthetic materials manufacturing;
- AA. porcelain enameling;
- BB. printing and publishing;

- CC. pulp and paper mills;
- DD. rubber processing;
- EE. soap and detergent manufacturing;
- FF. steam electric power plants;
- GG. textile mills; and
- HH. timber products processing.

Subp. 26. **Process wastewater.** "Process wastewater" means any water which, during manufacturing or processing, comes into direct contact with or results from the production or use of a raw material, intermediate product, finished product, by-product, or waste product.

Subp. 27. **Publicly owned treatment works.** "Publicly owned treatment works" means a device or system used in the treatment, recycling, or reclamation of municipal sewage or industrial wastes of a liquid nature which is owned by the state or a municipality. This term includes sewers, pipes, or other conveyances only if they convey wastewater to a publicly owned treatment works for treatment.

Subp. 28. **Source.** "Source" means a building structure, facility, or installation from which there is or may be a discharge of pollutants.

Subp. 29. **Technology-based effluent limitation, standard, or prohibition.** "Technology-based effluent limitation, standard, or prohibition" means an effluent limitation, standard, or prohibition promulgated by the Environmental Protection Agency at Code of Federal Regulations, title 40, parts 400 to 460, under sections 301 and 306 of the Clean Water Act, United States Code, title 33, sections 1311 and 1316.

Subp. 30. **Toxic pollutant.** "Toxic pollutant" means a pollutant listed as toxic under section 307(a)(1) of the Clean Water Act, United States Code, title 33, section 1317(b)(1), or as defined by Minnesota Statutes, section 115.01, subdivision 14.

Subp. 31. **Vessel.** "Vessel" means a watercraft or other artificial contrivance used, or capable of being used, as a means of transportation on the navigable waters of the state.

Statutory Authority: *MS s 116.07 subd 4*

History: 8 SR 2277

7001.1030 PERMIT REQUIREMENT AND EXEMPTIONS.

Subpart 1. **Permit required.** Except as provided in subpart 2, no person may discharge a pollutant from a point source into the waters of the state without obtaining a National Pollutant Discharge Elimination System permit from the agency.

Subp. 2. **Exemptions.** The following persons are not required to obtain a National Pollutant Discharge Elimination System permit:

- A. persons who discharge sewage or effluent from a vessel;
- B. persons discharging dredge or fill materials regulated by the federal government under section 404 of the Clean Water Act, United States Code, title 33, section 1344;
- C. persons discharging pollutants to a publicly owned treatment works;
- D. persons discharging pollutants who are in compliance with the instructions of an on-scene coordinator in accordance with Code of Federal Regulations, title 40, section 1510;
- E. persons introducing pollutants from nonpoint source agricultural and silvicultural sources into privately owned treatment works;
- F. persons causing return flows from irrigated agriculture;
- G. persons discharging pollutants into privately owned treatment works;

H. persons injecting water, gas, or other material into a well to facilitate the production of oil or gas; and

I. persons disposing of water in a well if this water is associated with oil and gas production.

Statutory Authority: *MS s 116.07 subd 4*

History: 8 SR 2277

7001.1040 APPLICATION DEADLINE FOR NEW PERMITS.

If a person proposes to construct a new facility or engage in a new activity for which a permit is required, the person shall submit a written permit application at least 180 days before the planned date of the commencement of facility construction or of the planned date of the commencement of the activity, whichever occurs first.

Statutory Authority: *MS s 115.03 subd 1 para (e)*

History: 8 SR 2277

7001.1050 CONTENTS OF NPDES PERMIT APPLICATION.

Subpart 1. **Publicly owned treatment works.** If the applicant is requesting the issuance, modification, revocation and reissuance, or reissuance of a National Pollutant Discharge Elimination System permit for a publicly owned treatment works, the applicant shall submit the following information to the director:

- A. the information required by part 7001.0050;
- B. an identification, in terms of character and volume of pollutants, of all significant indirect dischargers into the publicly owned treatment works, which indirect dischargers are subject to pretreatment standards under section 307(b) of the Clean Water Act, United States Code, title 33, section 1317(b), and under Code of Federal Regulations, title 40, part 403; and
- C. a copy of any publicly owned treatment works pretreatment program prepared by the applicant under Code of Federal Regulations, title 40, section 403.8, unless the program has been previously submitted to the director and there have been no changes to the plan.

Subp. 2. **Manufacturing, commercial, mining, and silvicultural discharges.** If the applicant is requesting the issuance, modification, revocation and reissuance, or reissuance of a National Pollutant Discharge Elimination System permit for a manufacturing, commercial, mining, or silvicultural discharge, the applicant shall submit the following information to the director:

- A. The information required by part 7001.0050.
- B. The name of the receiving water of the discharge.
- C. The exact location of the outfall, including the latitude and longitude of the location to the nearest 15 seconds.
- D. A line drawing of the water flow through the facility with a water balance, showing process and treatment operations contributing to the effluent. The water balance must show approximate average flows at intake and discharge points and between units, including treatment units. If a water balance cannot be determined, the applicant shall provide a pictorial description of the nature and amount of the sources of water and the collection and treatment measures.
- E. A narrative identification of each type of process, operation, or production area which contributes or will contribute wastewater to the effluent for each outfall. This identification must include process wastewater, cooling water, and storm water runoff contributions to each outfall; the average flow that each process contributes; a description of the treatment the wastewater receives; a discussion of any disposal, other than by discharge, of solid or fluid wastes generated in the process; and the discharge frequency.

- F. A statement as to the product that is or will be manufactured,

processed, or produced at the facility and a statement as to the quantity of the product actually manufactured, processed, or produced at the facility. If a technology-based effluent guideline is applicable to the discharge, the applicant shall express the quantity of product in the same measure as that used in the applicable effluent limitation guideline.

G. If the applicant is subject to a requirement or compliance schedule for construction, upgrading, or operation of waste treatment equipment, an identification of the requirement, a description of the project, and a listing of the required and projected final compliance dates.

H. The results of analyses and other information required by part 7001.1060;

I. If the analyses required by part 7001.1060 were performed by a contract laboratory or consulting firm, the name and address of the laboratory or firm, and an identification as to which analyses were performed by the laboratory or firm.

J. A list of any toxic pollutants that the applicant uses or manufactures or expects that it will use or manufacture during the next five years, including manufacturing as an intermediate or final product or by-product.

K. A description of the expected levels of and the reasons for any discharge of pollutants that the applicant knows or has reason to believe will in the next five years exceed two times the values reported under part 7001.1060.

L. An identification of biological toxicity tests that the applicant knows or has reason to believe have been made within the last three years on any of the applicant's discharges or on a receiving water related to the applicant's discharge.

M. If the applicant proposes to construct or operate a new or existing concentrated animal feeding operation or aquatic animal production facility, the information required in Code of Federal Regulations, title 40, section 122.21(h).

N. If the applicant wishes to request that the director, in establishing a technology-based effluent limitation to be included in the conditions of the permit, establish an effluent limitation which is different than the effluent limitation which would result from the normal application of the relevant effluent limitation guideline, then the applicant shall submit, either in the application or in a supplement to the application filed no later than the last day of the comment period established in part 7001.0100, subpart 4, the following information:

(1) An identification of the relevant effluent limitation guideline and the effluent limitation requested by the applicant.

(2) If the request is based on the claim that there are factors to be considered which are fundamentally different from the factors on which the Environmental Protection Agency based the applicable effluent limitation guideline, the applicant shall submit an explanation and documentation supporting this claim.

(3) If the request is based on the claim that there is no reasonable relationship between the economic and social costs and the benefits to be obtained from the effluent limitation which would result from the normal application of the effluent limitation guideline, the applicant shall submit an explanation and documentation of this claim.

(4) If the applicant's discharge contains a pollutant subject to the best available technology requirements of section 301(b)(2)(F) of the Clean Water Act, United States Code, title 33, section 1311(b)(2)(F), and if the applicant's request is based on the claim that the technology being requested represents the maximum use of technology within the economic capability of the owner or operator and will result in reasonable further progress toward the elimination of the discharge of pollutants, the applicant shall submit an explanation and documentation supporting this claim. The applicant's right to make this request expires 270 days after the promulgation by the Environmental Protection Agency

of an effluent limitation guideline that pertains to the pollutant discharged by the applicant that is subject to the best available technology requirement, or at the close of the public comment period established under part 7001.0100, subpart 4, whichever is earlier.

(5) If the applicant's discharge contains a pollutant that is subject to the best available technology requirements of section 301(b)(2)(F) of the Clean Water Act, United States Code, title 33, section 1311(b)(2)(F), and if the applicant's request is based on the claim that the requested effluent limitation will meet the standards in section 301(g) of the Clean Water Act, United States Code, title 33, section 1311(g), the applicant shall submit an explanation and documentation supporting this claim. The applicant's right to make this request expires 270 days after the promulgation by the Environmental Protection Agency of an effluent limitation guideline that pertains to the pollutant discharged by the applicant that is subject to the best available technology requirement, or at the close of the public comment period established under part 7001.0100, subpart 4, whichever is earlier.

O. If the applicant desires to request an extension from the statutory deadline established in section 301(b)(2)(A) of the Clean Water Act, United States Code, title 33, section 1311(b)(2)(A), on the grounds that the applicant proposes to replace existing production capacity with an innovative production process which will meet the standards in section 301(k) of the Clean Water Act, United States Code, title 33, section 1311(k), the applicant shall submit an explanation and documentation supporting this claim.

Statutory Authority: *MS s 115.03 subd 1 para (e)*

History: 8 SR 2277

7001.1060 EFFLUENT ANALYSIS BY EXISTING MANUFACTURING, COMMERCIAL, MINING, AND SILVICULTURAL DISCHARGERS.

Subpart 1. Requirement. If the applicant is an existing manufacturing, commercial, mining, or silvicultural discharger, the applicant shall perform an analysis of a sample of its effluent from each of its outfalls, except that if the director finds that two or more of such outfalls have substantially identical effluents, the director shall allow the applicant to analyze a sample from one of the identical effluents. The applicant shall perform the analyses according to subparts 2 to 10.

Subp. 2. Methods of sampling and analysis. The sampling method for pH, temperature, cyanide, total phenols, residual chlorine, oil and grease, and fecal coliform must be the grab sampling method. For all other pollutants the applicant shall use 24-hour composite samples unless otherwise approved by the director. The applicant shall perform the analysis by using the appropriate analytical techniques in Code of Federal Regulations, title 40, part 136, or by using techniques found by the director to be appropriate considering the circumstances and the parameters which are to be analyzed.

Subp. 3. Parameters. The applicant shall analyze for the following parameters:

A. Unless the director grants a written exemption to the applicant after making a finding that a given pollutant is not likely to be present in the effluent, the applicant shall analyze for biochemical oxygen demand, chemical oxygen demand, total organic carbon, total suspended solids, ammonia (as N), temperature (both winter and summer), and pH.

B. Except as provided in item F, an applicant who has processes in one or more of the primary industry categories shall:

(1) analyze, using the specified Gas Chromatograph/Mass Spectrometer (GC/MS) analysis for the organic toxic pollutants listed in subparts 4 to 7 for the applicable industry category indicated in part 7001.1061; and

(2) analyze for the pollutants listed in subparts 8 and 9.

C. Except as provided in item F, an applicant who has processes not included in one of the primary industry categories and who has reason to believe that the pollutants listed in subparts 4 to 9 may be present in the effluent shall identify these pollutants and shall analyze for these pollutants except those that are present in the effluent solely as the result of their presence in the intake water.

D. The applicant shall identify each pollutant listed in subpart 10 which the applicant knows or has reason to believe is present in the effluent and shall state the reason why the applicant knows or has reason to believe that the pollutant is present. The applicant shall analyze for each identified pollutant except those that are present in the effluent solely as the result of their presence in the intake water.

E. The applicant shall analyze, using a screening procedure not calibrated with analytical standards, for 2,3,7,8-tetrachlorodibenzo-p-dioxin if:

(1) the applicant uses or manufactures 2,4,5-trichlorophenoxy acetic acid (2,4,5-T); 2-(2,4,5-trichlorophenoxy) propanoic acid (Silvex, 2,4,5-TP); 2-(2,4,5-trichlorophenoxy) ethyl 2,2-dichloropropionate (Erbon); 0,0-dimethyl 0-(2,4,5-trichlorophenyl) phosphorothioate (Ronnel); 2,4,5-trichlorophenol (TCP); or hexachlorophene (HCP); or

(2) the applicant knows or has reason to believe that 2,3,7,8-tetrachlorodibenzo-p-dioxin is or may be present in an effluent.

F. An applicant is exempt from the requirements of items B and C to analyze for the pollutants listed in subparts 4 to 7 if the facility which is the subject of the application has gross total annual sales averaging less than \$100,000 per year (in second quarter 1980 dollars) for the three-year period prior to submittal of the application.

Subp. 4. **Volatile substances.** The following volatile substances must be analyzed under subpart 3, items B and C;

- A. acrolein;
- B. acrylonitrile;
- C. benzene;
- D. bis(chloromethyl)ether;
- E. bromoform;
- F. carbon tetrachloride;
- G. chlorobenzene;
- H. chlorodibromomethane;
- I. chloroethane;
- J. 2-chloroethylvinyl ether;
- K. chloroform;
- L. dichlorobromomethane;
- M. dichlorodifluoromethane;
- N. 1,1-dichloroethane;
- O. 1,2-dichloroethane;
- P. 1,1-dichloroethylene;
- Q. 1,2-dichloropropane;
- R. 1,2-dichloropropylene;
- S. ethylbenzene;
- T. methyl bromide;
- U. methyl chloride;
- V. methylene chloride;
- W. 1,1,2,2-tetrachloroethane;
- X. tetrachloroethylene;

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- Y. toluene;
- Z. 1,2-trans-dichloroethylene;
- AA. 1,1,1-trichloroethane;
- BB. 1,1,2-trichloroethane;
- CC. trichloroethylene;
- DD. trichlorofluoromethane; and
- EE. vinyl chloride.

Subp. 5. **Acid compounds.** The following acid compounds must be analyzed under subpart 3, items B and C:

- A. 2-chlorophenol;
- B. 2,4-dichlorophenol;
- C. 2,4-dimethylphenol;
- D. 4,6-dinitro-o-cresol;
- E. 2,4-dinitrophenol;
- F. 2-nitrophenol;
- G. 4-nitrophenol;
- H. p-chloro-m-cresol;
- I. pentachlorophenol;
- J. phenol; and
- K. 2,4,6-trichlorophenol.

Subp. 6. **Base/neutral substances.** The following base/neutral substances must be analyzed under subpart 3, items B and C:

- A. acenaphthene;
- B. acenaphthylene;
- C. anthracene;
- D. benzidine;
- E. benzo(a)anthracene;
- F. benzo(a)pyrene;
- G. 3,4-benzofluoranthene;
- H. benzo(ghi)perylene;
- I. benzo(k)fluoroanthene;
- J. bis(2-chloroethoxy)methane;
- K. bis(2-chloroethyl)ether;
- L. bis(2-chloroisopropyl)ether;
- M. bis(2-ethylhexyl)phthalate;
- N. 4-bromophenyl phenyl ether;
- O. butylbenzyl phthalate;
- P. 2-chloronaphthalene;
- Q. 4-chlorophenyl phenyl ether;
- R. chrysene;
- S. dibenzo(a,h)anthracene;
- T. 1,2-dichlorobenzene;
- U. 1,3-dichlorobenzene;
- V. 1,4-dichlorobenzene;
- W. 3,3'-dichlorobenzidine;
- X. diethyl phthalate;
- Y. dimethyl phthalate;
- Z. di-n-butyl phthalate;

- AA. 2,4-dinitrotoluene;
- BB. 2,6-dinitrotoluene;
- CC. di-n-octyl phthalate;
- DD. 1,2-diphenylhydrazine (as azobenzene);
- EE. fluoranthene;
- FF. fluorene;
- GG. hexachlorobenzene;
- HH. hexachlorobutadiene;
- II. hexachlorocyclopentadiene;
- JJ. hexachloroethane;
- KK. indeno(1,2,3-cd)pyrene;
- LL. isophorone;
- MM. naphthalene;
- NN. nitrobenzene;
- OO. N-nitrosodimethylamine;
- PP. N-nitrosodi-n-propylamine;
- QQ. N-nitrosodiphenylamine;
- RR. phenanthrene;
- SS. pyrene; and
- TT. 1,2,4-trichlorobenzene.

Subp. 7. **Pesticides.** The following pesticides must be analyzed under subpart 3, items B and C:

- A. aldrin;
- B. α -BHC;
- C. β -BHC;
- D. γ -BHC;
- E. δ -BHC;
- F. chlordane;
- G. 4,4'-DDT;
- H. 4,4'-DDD;
- I. 4,4'-DDE;
- J. dieldrin;
- K. α -endosulfan;
- L. β -endosulfan;
- M. endosulfan sulfate;
- N. endrin;
- O. endrin aldehyde;
- P. heptachlor;
- Q. heptachlor epoxide;
- R. PCB-1242;
- S. PCB-1254;
- T. PCB-1221;
- U. PCB-1232;
- V. PCB-1248;
- W. PCB-1260;
- X. PCB-1016; and
- Y. toxaphene.

Subp. 8. **Metals, cyanides, and phenols.** The following metals, cyanide, and phenols must be analyzed for quantity present under subpart 3, items B and C:

- A. antimony;
- B. arsenic;
- C. beryllium;
- D. cadmium;
- E. chromium;
- F. copper;
- G. lead;
- H. mercury;
- I. nickel;
- J. selenium;
- K. silver;
- L. thallium;
- M. zinc;
- N. total cyanide; and
- O. total phenols.

Subp. 9. Conventional and nonconventional pollutants. The following conventional and nonconventional pollutants must be analyzed under subpart 3, items B and C:

- A. aluminum;
- B. barium;
- C. boron;
- D. bromide;
- E. total residual chlorine;
- F. cobalt;
- G. color;
- H. fecal coliform;
- I. fluoride;
- J. iron;
- K. magnesium;
- L. manganese;
- M. molybdenum;
- N. nitrate-nitrite;
- O. total organic nitrogen;
- P. oil and grease;
- Q. total phosphorous;
- R. radioactivity;
- S. sulfate;
- T. sulfide;
- U. sulfite;
- V. surfactants;
- W. total tin; and
- X. total titanium.

Subp. 10. Toxic pollutants and hazardous substances. The following toxic pollutants and hazardous substances must be analyzed under subpart 3, item D:

- A. asbestos;
- B. acetaldehyde;
- C. allyl alcohol;
- D. allyl chloride;

E. amyl acetate;
F. aniline;
G. benzonitrile;
H. benzyl chloride;
I. butyl acetate;
J. butylamine;
K. captan;
L. carbaryl;
M. carbofuran;
N. carbon disulfide;
O. chlorpyrifos;
P. coumaphos;
Q. cresol;
R. crotonaldehyde;
S. cyclohexane;
T. 2,4-D (2,4-dichlorophenoxy acetic acid)
U. diazinon;
V. dicamba;
W. dichlobenil;
X. dichlone;
Y. 2,2-dichloropropionic acid;
Z. dichlorvos;
AA. diethyl amine;
BB. dimethyl amine;
CC. dinitrobenzene;
DD. diquat;
EE. disulfoton;
FF. diuron;
GG. epichlorohydrin;
HH. ethanolamine;
II. ethion;
JJ. ethylene diamine;
KK. ethylene dibromide;
LL. formaldehyde;
MM. furfural;
NN. guthion;
OO. isoprene;
PP. isopropanolamine;
QQ. kelthane;
RR. kepone;
SS. malathion;
TT. mercaptodimethur;
UU. methoxychlor;
VV. methyl mercaptan;
WW. methyl methacrylate;
XX. methyl parathion;
YY. mevinphos;
ZZ. mexacarbate;

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- AAA. monoethyl amine;
- BBB. monomethyl amine;
- CCC. naled;
- DDD. naphthenic acid;
- EEE. nitrotoluene;
- FFF. parathion;
- GGG. phenolsulfanate;
- HHH. phosgene;
- III. propargite;
- JJJ. propylene oxide;
- KKK. pyrethrins;
- LLL. quinoline;
- MMM. resorcinol;
- NNN. strontium;
- OOO. strychnine;
- PPP. styrene;
- QQQ. 2,4,5-T (2,4,5-trichlorophenoxy acetic acid);
- RRR. TDE (tetrachlorodiphenylethane);
- SSS. 2,4,5-TP [2-(2,4,5-trichlorophenoxy) propanoic acid];
- TTT. trichlorofon;
- UUU. triethylamine;
- VVV. trimethylamine;
- WWW. uranium;
- XXX. vanadium;
- YYY. vinyl acetate;
- ZZZ. xylene;
- AAAA. xylenol; and
- BBBB. zirconium.

Statutory Authority: *MS s 115.03 subd 1 para (e)*

History: *8 SR 2277*

7001.1061 TESTING REQUIREMENTS FOR ORGANIC TOXIC POLLUTANTS BY INDUSTRIAL CATEGORY FOR EXISTING DISCHARGERS.

Industrial Category	GC/MS fraction ¹			
	Volatile	Acid	Base/ neutral	Pesticide
Adhesives and Sealants	*	*	*	...
Aluminum Forming	*	*	*	...
Auto and Other Laundries	*	*	*	*
Battery Manufacturing	*	...	*	...
Coal Mining	*	*	*	*
Coil Coating	*	*	*	...
Copper Forming	*	*	*	...
Electric and Electronic Components	*	*	*	*
Electroplating	*	*	*	...
Explosives				
Manufacturing	...	*	*	...
Foundries	*	*	*	...
Gum and Wood Chemicals	*	*	*	*
Inorganic Chemicals				

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Manufacturing	*	*	*	...
Iron and Steel				
Manufacturing	*	*	*	...
Leather Tanning and Finishing	*	*	*	*
Mechanical Products				
Manufacturing	*	*	*	...
Nonferrous Metals				
Manufacturing	*	*	*	* ^o
Ore Mining**	...	*
Organic Chemicals				
Manufacturing	*	*	*	*
Paint and Ink Formulation	*	*	*	*
Pesticides	*	*	*	*
Petroleum Refining	*	*	*	*
Pharmaceutical Preparation	*	*	*
Photographic Equipment and Supplies	*	*	*	*
Plastic and Synthetic Materials Manufacturing	*	*	*	*
Plastic Processing	*
Porcelain Enameling	*	...	*	*
Printing and Publishing	*	*	*	*
Pulp and Paper Mills	*	*	*	*
Rubber Processing	*	*	*	...
Soap and Detergent Manufacturing	*	*	*	...
Steam Electric Power Plants	*	*	*	...
Textile Mills	*	*	*	*
Timber Products Processing	*	*	*	*

¹The toxic pollutants in each fraction are listed in part 7001.1060, subparts 4 to 7. * Testing required. **Applies only to base and precious metals.

Statutory Authority: *MS s 116.07 subd 4*

History: *8 SR 2277*

7001.1070 PRELIMINARY DETERMINATION, DRAFT PERMIT, AND PUBLIC COMMENTS.

Subpart 1. **Scope.** The provisions of parts 7001.0100 and 7001.0110 apply to the public notice of draft permits and preliminary determinations and the use of fact sheets concerning draft permits and public comments, except as specifically otherwise provided in subparts 2 and 3.

Subp. 2. **Fact sheets.** The director shall prepare a fact sheet for each draft permit for a facility that the director finds to be major based on a review of the potential impacts of the facility on the environment.

Subp. 3. **Response to public comments.** The director shall respond to all significant comments received under part 7001.0110 during the public comment period. The response may be made either orally or in writing.

Statutory Authority: *MS s 116.07 subd 4*

History: *8 SR 2277*

7001.1080 ESTABLISHMENT OF SPECIAL CONDITIONS FOR NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMITS.

Subpart 1. Requirement. According to part 7001.0150, subpart 2, a National Pollutant Discharge Elimination System permit issued by the agency must contain conditions necessary for the permittee to achieve compliance with all Minnesota or federal statutes or rules. These conditions must be initially established by the director in the draft permit but are subject to final issuance by the agency. The conditions to be included are given in subpart 2.

Subp. 2. Effluent limitations, standards, or prohibitions. Except as provided in subpart 3, the director shall establish effluent limitations, standards, or prohibitions for each pollutant to be discharged from each outfall or discharge point of the permitted facility; except that if the director finds that as a result of exceptional circumstances it is not feasible to establish effluent limitations, standards, or prohibitions which are applicable at the point of discharge, the director shall establish effluent limitations, standards, or prohibitions for pollutants in internal waste streams at the point prior to mixing with other waste streams or cooling water streams. In determining the appropriate effluent limitations, standards, or prohibitions the director shall comply with the following requirements:

A. Effluent limitations, standards, or prohibitions must be expressed in terms of weight or mass, where applicable, and in the following terms:

(1) for continuous discharges from a publicly owned treatment works, in terms of average weekly and maximum monthly discharge limitations;

(2) for continuous discharges from a facility which is not a publicly owned treatment works, in terms of maximum daily and average monthly discharge limitations;

(3) for noncontinuous discharges, in terms which most appropriately limit the discharge, such as frequency, total mass, concentration, or maximum rate of discharge;

(4) for metals, in terms of total metal, which is the sum of the dissolved and suspended fractions of the metal. This requirement does not apply if a federal or state rule requires that an effluent limitation, standard, or prohibition be expressed in terms of the dissolved or valent form of the metal; or if the director determines that the expression of the effluent limitation, standard, or prohibition in a different manner would better enable the agency to determine compliance by the permittee with all applicable Minnesota or federal statutes or rules.

B. In establishing effluent limitations, standards, or prohibitions the director shall consider the following:

(1) technology-based effluent limitations, standards, or prohibitions and effluent limitation guidelines that apply to the permittee;

(2) effluent standards or limitations applicable to the permittee; promulgated by the Environmental Protection Agency under sections 302, 303, 304, 307, 318, 402(a), and 405 of the Clean Water Act, United States Code, title 33, sections 1312, 1313, 1314, 1317, 1328, 1342, and 1345 as amended; and published in Code of Federal Regulations, title 40, parts 400 to 460, which are applicable to the permittee;

(3) the applicable water quality standards in parts 7050.0100 to 7050.0220, 7050.0300 to 7050.0380, 7055.0010 to 7055.0120, 7055.0250 to 7055.0310, 7056.0010 to 7056.0040, 7065.0010 to 7065.0070, 7065.0100 to 7065.0160, 7065.0200 to 7065.0260, 7065.0300 to 7065.0350, and 7065.0400 to 7065.0450.

(4) the requirements of the water quality management plan adopted by the state and approved by the Environmental Protection Agency under section 208(b) of the Clean Water Act, United States Code, title 33, section 1288(b) as amended; and

(5) the requirements of the National Environmental Policy Act, United States Code, title 42, sections 4321 et seq. as amended, and the Minnesota Environmental Policy Act, Minnesota Statutes, chapter 116D.

C. If the establishment of an effluent limitation, standard, or prohibition requires the making of a calculation, the director shall comply with the following, if applicable:

(1) for a publicly owned treatment works, calculations must be based on the design flow of the facility;

(2) for a facility which is not a publicly owned treatment works, calculations of technology-based effluent limitations must be based on a reasonable measure of the actual quantity of the product manufactured, processed, or produced at the facility, or, for a new source or new discharger, the projected measure of the quantity of product;

(3) for a facility which is not a publicly owned treatment works, calculations of effluent limitations other than technology-based effluent limitations must be based on a reasonably representative quantity of flow from the facility; and

(4) for a facility which disposes of any part of its wastewater in a manner which does not involve a discharge of a pollutant into the waters of the state, calculations of effluent limitations, standards, or prohibitions expressed in terms of mass must be based only upon that portion of the wastewater which is discharged into the waters of the state.

D. If a permit issued to a new source or a new discharger contains technology-based effluent limitations, standards, or prohibitions for pollutants other than toxic pollutants or hazardous substances, the source or discharger must not be subject to more stringent technology-based limitations, standards, or prohibitions for the following periods of time, whichever is less:

(1) for new sources, ten years from the date that construction of the source is completed;

(2) ten years from the date that the source begins to discharge process or other nonconstruction related wastewater; or

(3) the period of depreciation or amortization of the facility for the purposes of section 167 or 169, or both, of the Internal Revenue Code of 1954, United States Code, title 26.

Subp. 3. Best management practices. If the director finds that it is not feasible to establish an effluent limitation, standard, or prohibition using a numerical value, the director shall establish permit conditions requiring the implementation by the permittee of best management practices. The director may also require implementation of best management practices if the director finds that this requirement is necessary to achieve compliance with an effluent limitation, standard, or prohibition or to comply with Minnesota or federal statutes or rules, including requirements for the control of toxic pollutants and hazardous substances from ancillary activities.

Subp. 4. Reporting violations. The director shall include as a condition of the permit that the permittee shall report, in accordance with part 7001.0150, subpart 3, item K, all violations of maximum daily discharge limitations for certain pollutants. The pollutants must be listed in the permit.

Subp. 5. Monitoring requirements. In addition to the requirements in part 7001.0150, subpart 2, the director shall establish appropriate monitoring and reporting of monitoring requirements to ensure compliance with permit limitations. These requirements must include:

A. a specification of the appropriate measurement to be reported for each pollutant limited in the permit;

B. the volume of effluent discharged from each outfall;

C. any other measurement needed to determine compliance with a permit condition;

D. specification as to any test procedures which the permittee is required to use which differ from those set forth in Code of Federal Regulations, title 40, part 136; and

E. specification of the frequency of monitoring and monitoring reporting. In no case may the frequency of monitoring and monitoring reporting be less than once per year.

Subp. 6. Pretreatment requirements for publicly owned treatment works. If the applicant proposes to own or operate a publicly owned treatment works and if the applicant is required by Code of Federal Regulations, title 40, section 403.8 to develop a publicly owned treatment works pretreatment program, the director shall incorporate the provisions of the publicly owned treatment works pretreatment program into the permit and shall require the permittee to submit the information set forth in Code of Federal Regulations, title 40, section 403.12.

Subp. 7. Conditions imposed in construction grants. If the applicant is using construction grant funds to construct or operate its wastewater treatment facility, the director shall incorporate into the permit any provisions of the grant that relate to the achievement of compliance with effluent limitations, standards, or prohibitions or with water quality standards.

Subp. 8. Conditions related to navigation. The director shall incorporate into the permit conditions that are necessary to ensure that navigation and anchorage will not be substantially impaired.

Subp. 9. Conditions in reissued permits. In a reissued permit the director shall establish effluent limitations, standards, or prohibitions that are at least as stringent as the effluent limitations, standards, or prohibitions or conditions in the previous permit unless the director makes the finding in items A, B, and C. In no event may the director establish an effluent limitation, standard, or prohibition that is less stringent than that allowed by the applicable effluent limitation guideline in effect at the date of the renewal or reissuance of the permit. Less stringent effluent limitations, standards, prohibitions, or conditions may only be established if the director finds:

A. the circumstances upon which the previous permit was based have materially and substantially changed since the time the previous permit was issued and this change would constitute cause for permit modification or revocation and reissuance under part 7001.0190;

B. the permittee has installed the treatment facilities required to meet the effluent limitations, standards, or prohibitions in the previous permit and has properly operated and maintained the facilities but has nevertheless been unable to achieve compliance with these effluent limitations, standards, or prohibitions; and that the effluent limitation guideline upon which the original effluent limitation, standard, or prohibition was based has been amended by the Environmental Protection Agency to allow the establishment of a less stringent effluent limitation, standard, or prohibition. The revised effluent limitation, standard, or prohibition must not be less stringent than the level of pollutant control actually achieved by the permittee;

C. that the Environmental Protection Agency has amended the effluent limitation guideline applicable to the permittee and that the amended effluent guideline is based upon best conventional pollutant control technology under section 301(b)(2)(E) of the Clean Water Act, United States Code, title 33, section 1311(b)(2)(E) as amended; or

D. that the permittee has increased production at the facility to cause a significant reduction in treatment efficiency; and that the effluent limitation guideline upon which the original effluent limitation, standard, or prohibition was based has been amended by the Environmental Protection Agency to allow the establishment of a less stringent effluent limitation, standard, or prohibition.

Statutory Authority: *MS s 115.03 subd 1 para (e)*

History: 8 SR 2277

7001.1090 GENERAL CONDITIONS OF NATIONAL POLLUTANT DISCHARGE ELIMINATION SYSTEM PERMITS.

Subpart 1. Conditions for all permits. National Pollutant Discharge Elimination System permits issued by the agency must contain the general conditions set forth in part 7001.0150 and the general conditions as follows:

A. Notwithstanding the absence in this permit of an effluent limitation for any toxic pollutant, the permittee shall not discharge a toxic pollutant except according to Code of Federal Regulations, title 40, sections 400 to 460 and parts 7050.0100 to 7050.0220 and 7055.0010 to 7055.0120 and any other applicable agency rules.

B. 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 Minnesota Statutes, section 115.071, including monetary penalties, imprisonment, or both.

C. 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.

D. The permittee shall submit monitoring data, calculations, and results on a form provided by the director, known as a discharge monitoring report.

E. If the permittee monitors a pollutant more frequently than required by the permit, the permittee shall include data, calculations, and results of this monitoring in the discharge monitoring report.

F. Calculations of monitoring results that require averaging of measurements must utilize an arithmetic mean unless otherwise specified by the permit.

G. A person who falsifies, tampers with, or knowingly renders inaccurate a monitoring device or method required to be maintained under this permit is subject 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 Minnesota Statutes, section 115.071, subdivision 2, clause (2).

H. A person who knowingly makes a false statement, representation, or certification in a record or other document submitted or required to be maintained under this permit, including monitoring reports or reports of compliance or noncompliance is subject 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, and Minnesota Statutes, section 115.071, subdivision 2, clause (2).

I. In addition to other facts or incidents required by the permit to be reported within 24 hours, the permittee shall report in accordance with part 7001.0150, subpart 3, item K any unanticipated bypass or upset that causes an exceedance of an applicable effluent limitation. The permittee need not submit a written report if the director finds that the written report is unnecessary.

J. The permittee may allow a bypass to occur if the bypass will not cause the exceedance of an effluent limitation but only if the bypass is necessary for essential maintenance to assure efficient operation of the facility. The permittee shall submit notice of the need for the bypass at least ten days before the date of the bypass or as soon as possible under the circumstances.

K. The permittee shall not allow an anticipated bypass to occur that will cause an exceedance of an applicable effluent limitation unless the following conditions are met:

(1) The bypass is unavoidable to prevent loss of life, personal injury, or severe property damage. For the purposes of this paragraph, "severe property damage" means substantial damage to property of the permittee or of others; damage to the wastewater treatment facilities that may cause them to become inoperable; or substantial and permanent loss of natural resources that can reasonably be expected to occur in the absence of a bypass. "Severe property damage" does not mean economic loss as a result of a delay in production.

(2) There is no feasible alternative to the bypass, such as the use of auxiliary treatment facilities, retention of untreated wastes, or performance of maintenance during normal periods of equipment downtime. This condition is not satisfied if adequate back-up equipment should have been installed in the exercise of reasonable engineering judgment to prevent a bypass which occurred during normal periods of equipment downtime or preventative maintenance.

(3) The permittee has notified the director of the anticipated bypass and the director has approved the bypass. The director shall approve the bypass if the director finds that the conditions set forth in items A and B are met.

L. 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:

(1) the specific cause of the upset;

(2) that the upset was unintentional;

(3) that the upset resulted from factors beyond the 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;

(4) that at the time of the upset the facility was being properly operated;

(5) that the permittee properly notified the director of the upset in accordance with item I; and

(6) that the permittee implemented the remedial measures required by 7001.0150, subpart 3, item J.

Subp. 2. Permits to manufacturing, commercial, mining, or silvicultural dischargers. A National Pollutant Discharge Elimination System permit issued by the agency to a manufacturing, commercial, mining, or silvicultural discharger must contain the following additional conditions:

A. The permittee shall notify the director immediately of any knowledge or reason to believe that an activity has occurred that would result in the discharge of a toxic pollutant listed in part 7001.1060, subparts 4 to 10 or listed below that is not limited in the permit, if the discharge of this toxic pollutant has exceeded or is expected to exceed the following levels:

(1) for acrolein and acrylonitrile, 200 micrograms per liter;

(2) for 2,4-dinitrophenol and 2-methyl-4,6-dinitrophenol, 500 micrograms per liter;

(3) for antimony, one milligram per liter;

(4) for any other toxic pollutant listed in part 7001.1060, subparts 4 to 10, 100 micrograms per liter; or

(5) five times the maximum concentration value identified and reported for that pollutant in the permit application.

B. The permittee shall notify the director immediately if the permittee has begun or expects to begin to use or manufacture as an intermediate or final

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by-product a toxic pollutant that was not reported in the permit application under part 7001.1050, subpart 2, item J.

Subp. 3. Permits for publicly owned treatment works. A National Pollutant Discharge Elimination System permit issued by the agency to a publicly owned treatment works must require the permittee to report the following to the director as soon as possible:

A. the new introduction of pollutants into the publicly owned treatment works from an indirect discharger that would be subject to the requirements of section 301 or 306 of the Clean Water Act, United States Code, title 33, section 1311 or 1316 as amended if it were directly discharging those pollutants;

B. a substantial change in the volume or character of pollutants being introduced into the publicly owned treatment works by a source that was introducing pollutants into the publicly owned treatment works at the time the permit was issued; and

C. the quantity and quality of the additional or changed effluent being received by the publicly owned treatment works and the anticipated impact on the effluent to be discharged by the publicly owned treatment works.

Statutory Authority: *MS s 115.03 subd 1 para (e)*

History: 8 SR 2277

7001.1100 FINAL DETERMINATION.

Subpart 1. Issuance of permit. Except as provided in subparts 2 to 4, the agency shall issue a National Pollutant Discharge Elimination System permit in accordance with part 7001.0140.

Subp. 2. Certification. If the applicant is required to obtain a certification under section 401 of the Clean Water Act, United States Code, title 33, section 1341 as amended, no permit may be issued by the agency unless the agency finds that the certification has been obtained by the applicant.

Subp. 3. Violation of adjoining state's water quality standard. The agency shall not issue a permit if it finds that the applicant's discharge will result in the violation of water quality standards adopted by a state that adjoins the receiving water of the applicant's discharge.

Subp. 4. Warfare agents. The agency shall not issue a permit if it finds that the issuance will result in the discharge of a radiological, chemical, or biological warfare agent.

Statutory Authority: *MS s 115.03 subd 1 para (e)*

History: 8 SR 2277

AIR EMISSION FACILITY PERMITS**7001.1200 SCOPE.**

Parts 7001.1200 to 7001.1220 apply to the issuance of air emission facility permits and supplement the agency permit rules in parts 7001.0010 to 7001.0210.

Statutory Authority: *MS s 116.07 subd 4*

History: 8 SR 2276

7001.1205 DEFINITIONS.

The definitions in parts 7001.0010 and 7005.0010 to 7005.3060 apply to the terms in parts 7001.1200 to 7001.1220.

Statutory Authority: *MS s 116.07 subd 4*

History: 8 SR 2276

7001.1210 PERMIT REQUIREMENT.

Subpart 1. Permit required. Except as provided in subpart 2, no person may

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construct, modify, reconstruct, or operate an emission facility or control equipment without obtaining an air emission facility permit from the agency.

Subp. 2. Exemptions. A person who constructs, modifies, reconstructs, or operates an emission facility that meets one or more of the following exclusions need not obtain an air emission facility permit from the agency:

A. a total emission facility with potential emissions of a single criteria pollutant of less than 25 tons per year, except:

(1) a facility subject to parts 7005.0900 to 7005.0960, Control of Odors in the Ambient Air;

(2) a facility subject to federal new source performance standards; and

(3) a total emission facility with potential lead emissions of at least 1,000 pounds per year;

B. a fuel burning facility with heat inputs less than the following:

(1) natural gas, 50 million BTU/hr.;

(2) distillate oil, 10 million BTU/hr.;

(3) wood alone, 5 million BTU/hr.;

(4) residual oil, 5 million BTU/hr.; and

(5) coal, coke, and other solid fuels, 1 million BTU/hr.;

C. a sand and gravel operation that produces less than 150,000 tons of product per year;

D. a pressurized storage tank for anhydrous ammonia, liquid petroleum gas (LPG), liquid natural gas (LNG), or natural gas;

E. a facility that uses less than 10,000 gallons of solvent borne coating per year;

F. a storage tank for petroleum liquid with a capacity of less than 40,000 gallons;

G. a dry bulk agricultural commodity facility with an annual commodity throughput of less than 45,000 tons;

H. an incinerator with a maximum refuse burning capacity of less than 1,000 pounds per hour, unless thermally treating hazardous waste; and

I. a concrete batching facility that produces less than 200,000 cubic yards of concrete per year.

Statutory Authority: *MS s 116.07 subd 4*

History: 8 SR 2276

7001.1215 PERMIT APPLICATION.

In addition to the information required by part 7001.0050, a person who requests an emission facility permit shall submit the following information to the director:

A. the characteristics of the exhaust gas stream, before and after the emission control equipment, including emission rates, concentrations, volumetric flow rates, and temperature;

B. the physical characteristics of particulate emissions;

C. the type and design specifications of the control equipment; and

D. the location and elevation of the emission point and the relation of the emission point to nearby structures, window openings, and other information necessary to appraise the possible effects of the exhaust gas stream.

Statutory Authority: *MS s 116.07 subd 4*

History: 8 SR 2276

7001.1220 SPECIAL CONDITIONS FOR AIR EMISSION FACILITY PERMITS.

In addition to the special conditions in part 7001.0150, subpart 2 and if applicable to the circumstances, an air emission facility permit may contain special conditions including but not limited to the following:

- A. standards of performance for air pollutants from an emission facility;
- B. operational requirements for situations where a standard of performance is not applicable or the operational requirements are necessary to achieve compliance with a standard of performance;
- C. testing and reporting requirements to ensure compliance with standards of performance; and
- D. notification and reporting requirements for shutdowns and breakdowns.

Statutory Authority: *MS s 116.07 subd 4*

History: 8 SR 2276

INDIRECT SOURCE PERMITS**7001.1250 SCOPE.**

Parts 7001.0010 to 7001.0210 and 7001.1250 to 7001.1350 govern application procedures for and the issuance and conditions of indirect source permits. Parts 7000.0100 to 7000.1100; 7001.0010 to 7001.0210; and 7001.1250 to 7001.1350 shall be construed to complement each other.

Statutory Authority: *MS s 116.07 subd 4*

History: 8 SR 2277

7001.1260 DEFINITIONS.

Subpart 1. **Statutes and other rules.** The definitions in Minnesota Statutes, section 116.06; parts 7001.0010 and 7005.0100 to 7005.0180 apply to terms in parts 7001.1250 to 7001.1350 unless the terms are defined in subparts 3 to 6.

Subp. 2. **Scope.** As used in parts 7001.1250 to 7001.1350, the following terms have the meanings given them.

Subp. 3. **Associated parking area.** "Associated parking area" means a parking facility or facilities owned or operated in conjunction with an indirect source.

Subp. 4. **Highway project.** "Highway project" means the development proposal of a highway of substantial length between logical termini (major crossroads, population centers, major traffic generators, or similar major highway control elements) as normally included in a single location study or multiyear highway improvement program.

Subp. 5. **Indirect source.** "Indirect source" means a facility, building, structure, or installation which attracts or may attract mobile source activity that results in emissions of a pollutant for which there is a state standard. Indirect sources include, but are not limited to:

- A. highways and roads;
- B. parking facilities;
- C. retail, commercial, and industrial facilities;
- D. recreation, amusement, sports, and entertainment facilities;
- E. airports;
- F. office and government buildings;
- G. apartment and condominium buildings; and
- H. education facilities.

Subp. 6. **Metropolitan area.** "Metropolitan area" means the city limits of Duluth and all contiguous incorporated areas in Minnesota; the city limits of

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Moorhead and all contiguous incorporated areas in Minnesota; the city limits of Saint Cloud and all contiguous incorporated areas; Rochester and all area within the boundaries of Olmsted County; and the Twin Cities metropolitan area including Anoka, Carver, Dakota, Hennepin, Ramsey, Scott, and Washington counties.

Subp. 7. To commence construction. "To commence construction" means to engage in a continuous program of construction including site clearance, grading, dredging, or land filling specifically designed for an indirect source in preparation for the fabrication, erection, or installation of the building components of the indirect source. For the purpose of this subpart, interruptions resulting from acts of God, strikes, litigation, or other matters beyond the control of the owner shall be considered in determining whether a construction or modification program is continuous.

Subp. 8. To commence modification. "To commence modification" means to engage in a continuous program of modification, including site clearance, grading, dredging, or land filling in preparation for a specific modification of the indirect source.

Statutory Authority: *MS s 116.07 subd 4*

History: *8 SR 2277*

7001.1270 PERMIT REQUIREMENT.

Subpart 1. In general. Except as provided in parts 7001.1280 and 7001.1290, no person may cause or allow the construction or modification of any of the indirect sources listed in subparts 2 to 5 without first obtaining a permit from the agency. If an indirect source is constructed or modified in increments that individually do not require a permit and that are not part of a program of construction or modification in planned incremental phases for which a permit has been issued by the agency, the increments commenced after December 31, 1974, must be added together to determine the applicability of the requirement to obtain a permit.

Subp. 2. Parking facilities. Parking facilities:

A. a new parking facility, or other new indirect source with an associated parking area, which has a new parking capacity of 2,000 cars or more; or

B. a modified parking facility, or a modification of an associated parking area, which increases parking capacity by 1,000 cars or more, or which increases total parking capacity to 2,000 cars or more.

Subp. 3. Highways. Highways:

A. a new highway project wholly within or partially within a metropolitan area with an anticipated average annual daily traffic volume of 20,000 or more vehicles per day within ten years of the completion of construction; or

B. a modified highway project which will increase average annual daily traffic volume by 10,000 or more vehicles per day within ten years after completion of the modification.

Subp. 4. Airports. Airports: a new or modified airport construction which will result in the generation of more than 1,000,000 passengers per year on regularly scheduled air carriers and commercial charter flights within ten years after completion of construction.

Subp. 5. Other sources. Other sources: an indirect source for which the results of an assessment prepared under part 7001.1290 indicate that a permit is required.

Statutory Authority: *MS s 116.07 subd 4*

History: *8 SR 2277*

7001.1280 EXEMPTIONS.

Subpart 1. **In general.** The owner or operator of an indirect source listed in subparts 2 to 7 is exempt from the requirement to obtain an indirect source permit.

Subp. 2. **Existing sources.** Existing sources: indirect sources that were in operation on February 18, 1975.

Subp. 3. **Sources under construction.** Sources under construction: indirect sources for which construction was commenced prior to January 1, 1975.

Subp. 4. **Parking facilities.** Parking facilities:

A. a new parking facility, or other new indirect source with an associated parking area, which has a new parking capacity of fewer than 1,000 cars; or

B. a modified parking facility, or a modification of an associated parking area, which increases parking capacity by fewer than 500 cars, provided that the conditions of part 7001.1270, subpart 2, item B are not exceeded.

Subp. 5. **Airports.** Airports: a new or modified airport construction that will result in the generation of fewer than 500,000 passengers per year on regularly scheduled air carriers and commercial charter flights within ten years after completion of construction.

Subp. 6. **Highways.** Highways: highway projects that are wholly outside a metropolitan area.

Subp. 7. **Other sources.** Other sources: indirect sources constructed as part of the Minnesota Implementation Plan to Achieve Carbon Monoxide Ambient Air Quality Standards, specifically the parking ramps constructed by the city of Minneapolis on the fringe of the Minneapolis central business district.

Statutory Authority: *MS s 116.07 subd 4*

History: *8 SR 2277*

7001.1290 ASSESSMENT.

Subpart 1. **In general.** For all indirect sources not described in parts 7001.1270 and 7001.1280, the necessity for an indirect source permit shall be determined according to the air quality assessment procedure set forth in subpart 3. No person may cause or allow the construction of an indirect source for which an assessment is required until the assessment has been completed to the satisfaction of the director. If the director determines that a permit application is required, the application must be made in accordance with part 7001.1310.

Subp. 2. **Assessment information.** To perform the air quality assessment the following information is required:

A. The highest existing peak daily traffic count on the busiest segment of a public road or highway located within one-fourth mile from a point on the property line of the indirect source. This segment of public road or highway shall be referred to as the "busiest roadway."

B. The highest projected peak daily traffic attracted to the proposed indirect source construction or modification occurring at a time during the one-year period immediately following the construction or modification.

C. The highest projected peak daily traffic on the busiest roadway during the one-year period immediately following the construction or modification, not including traffic attracted to the proposed indirect source.

Subp. 3. **Assessment procedure.** The director shall make a determination as to whether a permit is required based on the following:

A. A comparison of existing busiest roadway traffic volume to volume likely to result in a violation of the one-hour carbon monoxide standard. If 12 percent of the traffic volume determined pursuant to subpart 2, item A is greater than or equal to 2,500 vehicles per hour, a permit is required and completion of the remainder of the assessment procedure is not required; if it is less, the procedure in item B must be followed.

B. A comparison of existing busiest roadway traffic volume to volume likely to result in a violation of the eight-hour carbon monoxide standard. If 60 percent of the traffic volume determined under subpart 2, item A is greater than or equal to 5,000 vehicles per eight hours, a permit is required and completion of the remainder of the assessment procedure is not required; if it is less, the procedure in item C must be followed.

C. A comparison of projected busiest roadway and source-attracted traffic to volume likely to result in a violation of the one-hour carbon monoxide standard. If 12 percent of the sum of the traffic volumes determined under subpart 2, items B and C is greater than or equal to 5,000 vehicles per hour, a permit is required and completion of the remainder of the assessment procedure is not required; if it is less, the procedure in item D must be followed.

D. A comparison of projected busiest roadway and source-attracted traffic volumes to volume likely to result in a violation of the eight-hour carbon monoxide standard. If 60 percent of the sum of the traffic volumes determined under subpart 2, items B and C is greater than or equal to 7,500 vehicles per eight hours, a permit is required. If it is less, then no permit is required.

Statutory Authority: *MS s 116.07 subd 4*

History: 8 SR 2277

7001.1300 CIRCUMVENTION.

No person may circumvent the requirements of parts 7001.1250 to 7001.1350 by causing or allowing a pattern of ownership or development to occur over a geographic area which, except for the pattern of ownership or development, would otherwise require an indirect source permit.

Statutory Authority: *MS s 116.07 subd 4*

History: 8 SR 2277

7001.1310 CONTENTS OF PERMIT APPLICATION.

Subpart 1. **In general.** A person who applies for an indirect source permit shall submit to the director the information required by part 7001.0050. In addition, the applicant shall submit to the director the information required by subpart 2 and, where applicable, the information required by subparts 3 and 4. If approval is sought for an indirect source to be constructed in incremental phases, the applicant shall submit the information required by this part for each phase of the construction project at the time of the initial application.

Subp. 2. **Information required for all indirect sources.** All applicants for an indirect source permit shall submit the following:

A. a description of the proposed use of the site, including the normal hours of operation of the facility, and the general types of activities to be operated in it;

B. a site plan showing the location of associated parking areas, points of motor vehicle ingress and egress to and from the site and its associated parking areas, and the location and height of buildings on the site;

C. an identification of the principal roads, highways, and intersections that will be used by motor vehicles moving to or from the indirect source;

D. an estimate, as of the first year after the date the indirect source will be substantially complete and operational, of the average daily traffic volumes, maximum traffic volumes for one-hour and eight-hour periods, and vehicle capacities of the principal roads, highways, and intersections identified under item C located within one-fourth mile of all boundaries of the site;

E. availability of existing and projected mass transit to service the site;

F. any additional information or documentation that the director or agency deem necessary to determine the air quality impact of the indirect source,

including the submission of measured air quality data for carbon monoxide at the proposed site prior to construction or modification. If the director requires the applicant to perform air quality monitoring for carbon monoxide at the proposed site, the director shall not require the applicant to perform monitoring for a period of more than 14 days.

Subp. 3. Information required for airports. An applicant for an indirect source permit for an airport shall submit the following:

A. an estimate of the average number and maximum number of aircraft operations per day by type of aircraft during the first, fifth, and tenth years after the date of expected completion;

B. a description of the commercial, industrial, residential, and other development that the applicant expects will occur within three miles of the perimeter of the airport within the first five and the first ten years after the date of expected completion; and

C. expected passenger loadings at the airport.

Subp. 4. Information required for highway projects. An applicant for an indirect source permit for a highway project shall submit the following:

A. a description of the average and maximum traffic volumes for one-, eight-, and 24-hour time periods expected within ten years of date of expected completion;

B. an estimate of vehicle speeds for average and maximum traffic volume conditions and the vehicle capacity of the highway project;

C. a map showing the location of the highway project, including the location of buildings along the right-of-way; and

D. a description of the general features of the highway project and associated right-of-way, including the approximate height of buildings adjacent to the highway.

Statutory Authority: *MS s 116.07 subd 4*

History: 8 SR 2277

7001.1320 DETERMINATION OF AIR QUALITY IMPACT OF INDIRECT SOURCE.

Subpart 1. Concentrations of carbon monoxide. The agency shall determine, by evaluation of information submitted by the applicant, the reasonableness of anticipated concentrations of carbon monoxide at reasonable receptor or exposure sites that will be affected by the mobile source activity expected to be attracted by the indirect source. For a highway, the agency shall determine, by evaluation of information submitted by the applicant, the reasonableness of anticipated concentrations of carbon monoxide at reasonable receptor or exposure sites that will be affected by the mobile source activity expected on the highway for the ten-year period following the expected date of completion. For the purposes of this part "reasonable receptor or exposure sites" means locations where people might reasonably be exposed to carbon monoxide for time periods corresponding to time periods referenced in Minnesota ambient air quality standards.

Subp. 2. Analytic method. In estimating anticipated carbon monoxide concentrations the applicant shall use the methods set forth in Code of Federal Regulations, title 40, section 52.22 (b)(4)(ii) (1982).

Statutory Authority: *MS s 116.07 subd 4*

History: 8 SR 2277

7001.1330 FINAL DETERMINATION.

The agency shall issue a permit to construct or modify an indirect source if the agency determines that the indirect source will not:

A. violate a control strategy of the Minnesota Implementation Plan to Achieve National Ambient Air Quality Standards; or

B. violate state standards for carbon monoxide in a region or portion thereof.

Statutory Authority: *MS s 116.07 subd 4*

History: *8 SR 2277*

7001.1340 PERMIT CONDITIONS.

Subpart 1. **Special conditions.** An indirect source permit issued by the agency must contain conditions necessary for the permittee to achieve compliance with all applicable Minnesota or federal statutes or rules. These conditions may include, but are not limited to:

A. binding commitments to roadway improvements or additional mass transit facilities to serve the indirect source secured by the owner or operator from governmental agencies having jurisdiction over them;

B. binding commitments by the owner or operator to specific programs for mass transit and paratransit incentives for the employees and patrons of the source; and

C. binding commitments by the owner or operator to construct, modify, or operate the indirect source to achieve the traffic flow characteristics necessary to prevent violations of carbon monoxide ambient air quality standards.

Subp. 2. **General condition.** An indirect source permit issued by the agency must contain the general condition that approval to construct or modify shall become invalid if construction or modification is not commenced within 24 months after receipt of the approval. The agency may extend this time period upon a satisfactory showing that an extension is justified. The applicant may apply for an extension at the time of initial application or at any time thereafter.

Statutory Authority: *MS s 116.07 subd 4*

History: *8 SR 2277*

7001.1350 MINOR MODIFICATION OF PERMIT.

In addition to the corrections or allowances listed in part 7001.0190, subpart 3, the director upon obtaining the consent of the permittee may modify an indirect source permit without following the procedures in parts 7001.0100 to 7001.0130 if the director determines that the modification would not result in an increase in carbon monoxide of greater than one part per million with respect to the eight-hour carbon monoxide standard, that the modification would not result in an increase in carbon monoxide of greater than three parts per million with respect to the one-hour carbon monoxide standard, and that the modification would not result in a violation of the carbon monoxide standard established in parts 7005.0010 to 7005.0080.

Statutory Authority: *MS s 116.07 subd 4*

History: *8 SR 2277*

401 CERTIFICATIONS

7001.1400 APPLICABILITY.

Parts 7001.1400 to 7001.1470 govern the processing of certifications by the agency under section 401 of the Clean Water Act, United States Code, title 33, section 1341 (hereinafter "section 401 certifications"). Parts 7001.0010 to 7001.0210 apply to the processing of section 401 certifications except as specifically otherwise provided in parts 7001.1400 to 7001.1470. In applying parts 7001.0010 to 7001.0210 to the processing of section 401 certifications, the word "permit" shall be construed to mean "section 401 certification" and the term "permittee" shall be construed to mean "certificate holder." Parts 7000.0100 to 7000.1600, 7001.0010

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to 7001.0210, and 7001.1400 to 7001.1470 shall be construed to complement each other.

Statutory Authority: *MS s 115.03*

History: *10 SR 2235*

7001.1410 DEFINITIONS.

Subpart 1. **Scope.** The definitions in Minnesota Statutes, section 115.01 apply to the terms used in parts 7001.1400 to 7001.1470 unless those terms are defined in this part.

As used in parts 7001.1400 to 7001.1470, the terms in subparts 2 to 4 have the meanings given them.

Subp. 2. **Director.** "Director" means the director of the Minnesota Pollution Control Agency.

Subp. 3. **Clean Water Act.** "Clean Water Act" means the federal Water Pollution Control Act, as amended, commonly referred to as the Clean Water Act, United States Code, title 33, sections 1251 et seq.

Subp. 4. **National pollutant discharge elimination system.** "National pollutant discharge elimination system" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements under sections 307, 318, 402, and 405 of the Clean Water Act, United States Code, title 33, sections 1317, 1328, 1342, and 1345.

Statutory Authority: *MS s 115.03*

History: *10 SR 2235*

7001.1420 REQUIREMENT TO APPLY FOR CERTIFICATION.

Any person who is required by section 401 of the Clean Water Act, United States Code, title 33, section 1341, to obtain a certification from the state of Minnesota shall make application to the agency.

Statutory Authority: *MS s 115.03*

History: *10 SR 2235*

7001.1430 APPLICATION DEADLINES.

Part 7001.0040, subparts 1 and 2 apply to applications for issuance, modification, revocation and reissuance, or reissuance of a section 401 certification, except that the time period referenced in part 7001.0040, subpart 1, shall be 90 days instead of 180 days.

Statutory Authority: *MS s 115.03*

History: *10 SR 2235*

7001.1440 PUBLIC NOTICE OF APPLICATION AND PRELIMINARY DETERMINATION.

Subpart 1. **Public notice required.** Except as provided in subpart 2, the director shall prepare and issue public notices in accordance with the requirements of part 7001.0100, subpart 4, except that the public comment period shall be established by the director on a case-by-case basis after considering the scope, nature, and potential impacts on water quality of the project. In no event shall the public comment period be less than ten days.

Subp. 2. **Exception.** The director is not required to prepare and distribute a public notice pursuant to part 7001.0100, subpart 4, if the director finds that a federal agency or department has prepared and distributed or will prepare and distribute a public notice concerning a section 401 certification in accordance with the public notice requirements applicable to the federal agency or department under federal statutes or regulations, so long as the notice is actually prepared and distributed.

Statutory Authority: *MS s 115.03*

History: *10 SR 2235*

7001.1450 FINAL DETERMINATION.

Subpart 1. **Action required.** The agency shall make final determinations with respect to section 401 certifications by taking one of the following actions:

A. Issue, reissue, revoke and reissue, or modify a section 401 certification in accordance with part 7001.0140, subpart 1 and upon making a finding that the discharge which is the subject of the section 401 certification will comply with sections 301, 302, 303, 306, and 307 of the Clean Water Act, United States Code, title 33, sections 1311, 1312, 1313, 1316, and 1317.

B. Deny or revoke a section 401 certification upon making the findings set forth in part 7001.0140, subpart 2 or the findings set forth in subpart 2.

C. Waive the agency's authority to issue a section 401 certification in accordance with part 7001.1460.

Subp. 2. **Denial of certification required.** The agency shall deny a section 401 certification if the agency finds that the issuance will result in a discharge of a radiological, chemical, or biological warfare agent.

Statutory Authority: *MS s 115.03*

History: *10 SR 2235*

7001.1460 WAIVER.

With respect to the discharge that is the subject of the application, the agency is considered to have waived its authority to issue a section 401 certification under the following circumstances:

A. If the agency notifies the applicant in writing that it is waiving the agency's authority to certify the project. If issuance of the waiver is conditional, the notification shall specify the conditions that must be met.

B. If the agency fails or refuses to make a final determination on an application for a section 401 certification within one year after receipt of the application and the agency's failure or refusal to act is not a result of the applicant's failure or refusal to cure a deficiency in the application as required by the director pursuant to part 7001.0090.

Statutory Authority: *MS s 115.03*

History: *10 SR 2235*

7001.1470 TERMS AND CONDITIONS OF SECTION 401 CERTIFICATIONS.

Subpart 1. **General terms required.** A section 401 certification issued by the agency shall include the following:

A. The name and address of the certificate holder.

B. A statement that the agency has examined the section 401 certification application and any other information furnished by the applicant and bases its certification upon an evaluation of this information that is relevant to water quality considerations.

C. A statement that there is reasonable assurance that the activity will be conducted in a manner that will not violate applicable water quality standards.

D. The terms and conditions in part 7001.0150, except that the provisions of part 7001.0150, subpart 1 do not apply to section 401 certifications. In addition to the special conditions in part 7001.0150, subpart 2, a section 401 certification shall contain the special conditions described in subpart 2.

Subp. 2. **NPDES conditions.** A section 401 certification shall contain the special conditions described in part 7001.1080, subparts 2 to 9, which conditions shall be established in the same manner as special conditions are established

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under part 7001.1080 for national pollutant discharge elimination system permits.

Statutory Authority: *MS s 115.03*

History: *10 SR 2235*