

CHAPTER 7001
MINNESOTA POLLUTION CONTROL AGENCY
PERMITS AND CERTIFICATIONS

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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 and the definitions in part 7045.0020 in the agency's hazardous waste rules apply to the terms used in parts 7001.0500 to 7001.0730 unless the terms are defined as follows.

Subp. 2. **Draft permit.** "Draft permit" means a document prepared by the commissioner under part 7001.0100 that indicates the commissioner'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 commissioner under part 7001.0100 that indicates the commissioner'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.

Subp. 5. **Notification.** "Notification" means the notification required by part 7001.3410.

Statutory Authority: *MS s 115.03; 116.07*

History: *8 SR 2278; 10 SR 2235; L 1987 c 186 s 15; 20 SR 714; 30 SR 529*

Published Electronically: *July 13, 2009*

7001.0020 SCOPE.

Except as otherwise specifically provided, parts 7001.0010 to 7001.0210 apply to items A to H.

A. An agency permit required for the storage, treatment, processing, transfer, intermediate disposal, or final disposal of solid waste. Part 7001.0040 applies to permits for solid waste transfer facilities, recycling facilities, refuse-derived fuel processing facilities, and compost facilities, except that the time period referred to in part 7001.0040, subparts 1 and 3, shall be 90 days instead of 180 days.

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

C. An agency permit required for the treatment, distribution, utilization, storage, or disposal of sewage sludge.

D. An agency permit required for the construction, installation, or operation of a disposal system. Part 7001.0040, subparts 1 and 3, apply 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.

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

F. An agency permit required for the construction or operation of an animal feedlot or manure storage area or for the correction of a pollution hazard. However, parts 7001.0040, 7001.0050, 7001.0100, subparts 4 and 5, and 7001.0110 do not apply to animal feedlot interim and construction short-form permits issued under chapter 7020.

G. 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.

H. An agency permit required for the construction or operation of a substance storage facility which:

- (1) is a major facility as defined in part 7001.4205;
- (2) stores:
 - (a) a substance as defined in part 7001.4205;
 - (b) asphalt; or
 - (c) fuel oil number 6; and
- (3) is not an excluded aboveground storage tank system under part 7151.1300, subpart 2.

Part 7001.0040, subparts 1 and 3, apply to major facility substance storage 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.

Part 7001.0080 applies to the permits in this item except that the time period referenced in part 7001.0080 shall be five years instead of three years.

Statutory Authority: *MS s 14.3895; 115.03; 116.07*

History: *8 SR 2278; 10 SR 2235; 12 SR 1564; 12 SR 2513; 13 SR 1150; 13 SR 2154; 13 SR 2453; 16 SR 865; 18 SR 1059; 21 SR 1642; 23 SR 883; 25 SR 556; 25 SR 834; 28 SR 1086; 30 SR 1130*

Published Electronically: *July 13, 2009*

7001.0030 PERMIT REQUIRED.

Except as provided under Minnesota Statutes, section 115.07, subdivisions 1 and 3, 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 14.386; 115.03; 116.07*

History: *8 SR 2278; 36 SR 179*

Published Electronically: *September 2, 2011*

7001.0040 APPLICATION DEADLINES.

Subpart 1. **Application for new permit.** Except as otherwise required by parts 7001.0530 and 7001.1040 or chapter 7090, 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.

Subp. 4. **Preliminary application for new mixed municipal solid waste land disposal facility.** Applicants shall submit a preliminary permit application for a new mixed municipal solid waste or a new municipal solid waste combustor ash land disposal facility at least 90 days before the anticipated start of a detailed site investigation.

Statutory Authority: *MS s 115.03; 115A.97; 116.07*

History: *8 SR 2278; 12 SR 1564; 12 SR 2513; 13 SR 1150; 13 SR 2453; 16 SR 2321; 30 SR 125*

Published Electronically: *July 13, 2009*

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 commissioner a written application. The person shall submit the

written application in a form prescribed by the commissioner. The application shall contain the items listed in items A to I unless the commissioner 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 commissioner shall issue the exemption if the commissioner 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, chapter 4410;

H. additional information determined by the commissioner 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; and

I. other information relevant to the application as required by parts 7001.0550 to 7001.0640, 7001.1050, 7001.1290, 7001.3175 to 7001.3475, 7001.4200, or 7041.0700.

Statutory Authority: *MS s 115.03; 115A.914; 116.07*

History: *8 SR 2278; L 1987 c 186 s 15; 12 SR 1564; 12 SR 2513; 13 SR 1150; 18 SR 1059; 21 SR 1642; 25 SR 556*

Published Electronically: *July 13, 2009*

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, by both the owner and the operator according to items A to C. Except in the case of a hazardous waste facility or a solid waste management facility permit application, if the commissioner finds that this requirement is impracticable under the circumstances, the commissioner shall require the operator to sign the application according to items A to C;

E. for solid waste management facilities, by the facility owner and landowner under items A to C if the landowner is different from the owner of the facility for which the application is submitted; and

F. for a firm preparing the necessary reports and plans for a solid waste management facility permit application, by an engineer registered in Minnesota.

Statutory Authority: *MS s 115.03; 116.07*

History: *8 SR 2278; L 1987 c 186 s 15; 13 SR 1150*

Published Electronically: *July 13, 2009*

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; 116.07*

History: *8 SR 2278*

Published Electronically: *July 13, 2009*

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 commissioner 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 commissioner.

Statutory Authority: *MS s 115.03; 116.07*

History: *8 SR 2278; L 1987 c 186 s 15*

Published Electronically: *July 13, 2009*

7001.0090 REVIEW OF PERMIT APPLICATIONS.

The commissioner shall review all permit applications for completeness. If the commissioner finds that the application is incomplete or otherwise deficient, the commissioner shall notify the project proposer as required under Minnesota Statutes, section 116.03, subdivision 2b, paragraph (d).

Statutory Authority: *MS s 14.386; 115.03; 116.07*

History: *8 SR 2278; L 1987 c 186 s 15; 36 SR 179*

Published Electronically: *September 2, 2011*

7001.0100 PRELIMINARY DETERMINATION AND DRAFT PERMIT.

Subpart 1. **Preliminary determination.** After a permit application is complete, the commissioner 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 commissioner 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 commissioner 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 commissioner 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 commissioner finds is the subject of widespread public interest or involves issues of major importance to the agency or to the public. The commissioner 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 commissioner 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 commissioner shall prepare and issue a public notice of a completed application and the commissioner'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 commissioner to issue or deny the permit.
- E. If the commissioner'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 commissioner shall distribute the public notice in the following manner:

- A. The commissioner shall make a copy of the public notice available at the main agency office and at the applicable agency regional office.
- B. The commissioner 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 commissioner shall also mail copies of the public notice according to part 7001.0660, item C.

C. The commissioner shall circulate the public notice within the geographical area of the facility or activity which is the subject of the permit application. The commissioner 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 commissioner 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; 116.07*

History: *8 SR 2278; L 1987 c 186 s 15*

Published Electronically: *July 13, 2009*

7001.0110 PUBLIC COMMENTS.

Subpart 1. **Submission of written comments.** During the public comment period established in the public notice of an agency permit, 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. During the public comment period, the person may also submit a petition for a public informational meeting or a contested case hearing on the application. Petitions for an informational meeting must meet the requirements of part 7000.0650, subpart 4. Petitions for a contested case hearing must meet the requirements of part 7000.1800.

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 commissioner to investigate the merits of the person's positions.

Subp. 3. **Public informational meeting.** If a person requests a public informational meeting, 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 and the issues that the person would like the agency to address at the public informational meeting.

Subp. 4. **Extension of comment period.** The public comment period may be extended by the commissioner if the commissioner 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 14.06; 115.03; 116.07*

History: *8 SR 2278; L 1987 c 186 s 15; 19 SR 1310*

Published Electronically: *July 13, 2009*

7001.0120 PUBLIC INFORMATIONAL MEETING.

Subpart 1. **Determination of need.** If the commissioner or the agency determines that a public informational meeting would help clarify and resolve issues regarding the commissioner's preliminary determination or the terms of the draft permit or if the commissioner has received a request under part 7001.0670, subpart 1, the commissioner 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 commissioner which is generally convenient to persons expected to attend the meeting.

Subp. 3. **Notice.** The commissioner 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 commissioner 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 commissioner to have an interest in the permit application. If applicable, the commissioner shall comply with part 7001.0670, subpart 3.

Subp. 5. **Consolidation of issues.** If the commissioner or the agency determines that no person would be adversely affected by consolidation, the commissioner 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; 116.07*

History: *8 SR 2278; L 1987 c 186 s 15*

Published Electronically: *July 13, 2009*

7001.0125 MEETING WITH AND REPORT OF COMMISSIONER.

Subpart 1. **Meeting with commissioner.** Petitioners for a contested case hearing may request to meet with the commissioner. The commissioner shall review petitions for a contested case hearing and, upon concluding that a meeting would assist the agency in resolving controversy, narrowing issues, or in otherwise reviewing the matter, the commissioner shall arrange a meeting with petitioners to discuss:

A. whether the petition meets the criteria for a contested case hearing in parts 7000.1800 and 7001.0110; and

B. whether the issues raised in the petition can be resolved without a hearing and, if not, whether the scope of a hearing can be limited by mutual agreement of the petitioners and persons who might be parties to the hearing.

Subp. 2. **Commissioner report.** Unless the agency has held a contested case hearing on the matter, the commissioner shall prepare a report and shall serve that report upon all agency members and interested persons at least ten days before a meeting at which the agency is scheduled to take final action on the issuance, revocation, or modification of a permit. The report shall:

A. state whether the agency has received any requests for a public informational meeting and whether those requests meet the requirements of part 7000.0650, subpart 4;

B. state whether the agency has received any petitions for a contested case hearing and whether those petitions meet the requirements of parts 7000.0110 and 7000.1800. If not, the report shall describe what requirements have not been met;

C. state whether any meetings have been held under subpart 1 and, if so, the results of the meetings;

D. recommend changes to the proposed permit or other actions that the commissioner believes are reasonable in response to comments submitted during the comment period; and

E. recommend whether a contested case hearing should be held and, if so, the issues and scope of the hearing.

Statutory Authority: *MS s 14.06; 116.07*

History: *19 SR 1310*

Published Electronically: *July 13, 2009*

7001.0130 CONTESTED CASE HEARING.

Subpart 1. **Required hearing.** Parts 7000.1750 to 7000.2200 apply to permits governed by this chapter. The agency's decisions concerning a contested case on a permit matter shall be made as provided in parts 7000.1750 to 7000.2200.

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 commissioner 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 on which the agency has ordered a hearing; 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 14.06; 115.03; 116.07*

History: *8 SR 2278; L 1987 c 186 s 15; 13 SR 2453; 19 SR 1310*

Published Electronically: *July 13, 2009*

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 adopted under Minnesota Statutes, chapter 116D, have been fulfilled. For solid waste facilities, the requirements of Minnesota Statutes, section 473.823, subdivisions 3 and 6, must also be 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 commissioner;

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;

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

F. that with respect to the facility or activity to be permitted, the proposed permittee has not complied with any requirement under parts 7002.0210 to 7002.0310 or chapter 7046 to pay fees;

G. that with respect to the facility or activity to be permitted, the proposed permittee has failed to pay a penalty owed under Minnesota Statutes, section 116.072; or

H. for a solid waste transfer facility, that the permittee has received an agency permit but has failed to build and operate the permitted facility within the term of the permit.

Subp. 3. **Contested case hearing.** If a contested case hearing has been held, the agency shall comply with the procedures set forth in part 7000.2000 of the agency procedural rules prior to making a final determination.

Subp. 4. **Agency decision when an environmental impact statement must be prepared.** When an environmental impact statement is required to be prepared before the agency makes a final decision on a proposed permit, the agency shall not make its final decision until 25 days or more after the adequacy decision is made under part 4410.2800.

Statutory Authority: *MS s 14.06; 115.03; 116.07*

History: *8 SR 2278; L 1987 c 186 s 15; 13 SR 1150; 13 SR 2453; 17 SR 440; 18 SR 1059; 19 SR 1310; L 1995 c 233 art 4 s 2; L 1995 c 248 art 4 s 2; 30 SR 529*

Published Electronically: *July 13, 2009*

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, including each of the applicable requirements in parts 7045.0450 to 7045.0649 and 7045.1390, and any conditions that the agency determines to be necessary to protect human health and the environment. 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 commissioner 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 commissioner periodic reports of monitoring results required by the permit and, as requested by the commissioner, 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 from the date of the sample, measurement, report, certification, or application, after which time this period must be automatically extended during the course of an unresolved enforcement action or at the request of the commissioner:

- (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;
- (4) if applicable, reports required by part 7001.0720, subpart 2, item E; and
- (5) if applicable, the certification required by part 7045.0478, subpart 3.

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 backup 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 backup 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 commissioner by the permit. The permittee shall immediately upon discovery report to the commissioner an error or omission in these records, reports, plans, or other documents.

H. The permittee shall, when requested by the commissioner, submit within 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 commissioner. Within five days of the discovery of the noncompliance, the permittee shall submit to the commissioner 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 commissioner 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.

P. Compliance with a RCRA permit during its term constitutes compliance, for purposes of enforcement, with subtitle C of RCRA except for those requirements not included in the permit which:

- (1) become effective by statute;
- (2) are adopted under part 7045.1390, restricting the placement of hazardous wastes in or on the land;
- (3) are adopted under parts 7045.0450 to 7045.0551 regarding leak detection systems for new and replacement surface impoundment, waste pile, and landfill units, and lateral expansions of surface impoundment, waste pile, and landfill units. The leak detection system requirements include double liners, construction quality assurance programs, monitoring, action leakage rates, and response action plans, and will be implemented through the procedures of part 7001.0730, minor permit modifications; or
- (4) are adopted under parts 7045.0645, 7045.0647, and 7045.0648, limiting air emissions.

Statutory Authority: *MS s 115.03; 116.07; 116.37*

History: *8 SR 2278; 11 SR 1832; L 1987 c 186 s 15; 13 SR 1238; 18 SR 1886; 29 SR 947; 33 SR 2042*

Published Electronically: *July 13, 2009*

7001.0160 CONTINUATION OF EXPIRED PERMIT.

A person who holds an expired permit, other than a permit described in part 7001.0020, item B, and who has submitted a timely application for reissuance of the permit may continue to conduct the permitted activity in accordance with the terms and conditions of the expired permit until the agency takes final action on the application unless the commissioner determines that any of the following are true:

- A. the permittee is not in substantial compliance with the terms and conditions of the expired permit or with a stipulation agreement or compliance schedule designed to bring the permittee in compliance with the permit;
- B. the agency, as a result of an action or failure to act of the permittee, has been unable to take final action on the application on or before the expiration date of the permit; or
- C. the permittee has submitted an application with major deficiencies or has failed to properly supplement the application in a timely manner after being informed of deficiencies.

Statutory Authority: *MS s 115.03; 116.07*

History: *8 SR 2278; L 1987 c 186 s 15; 13 SR 2453*

Published Electronically: *July 13, 2009*

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

The following constitute justification for the commissioner 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 commissioner 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 commissioner 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 commissioner receives a request for transfer of the permit; or
- H. if applicable, there exists any justification listed in part 7001.0730, subpart 1, 7001.1150, or 7001.3550, subpart 2.

Statutory Authority: *MS s 115.03; 116.07*

History: *8 SR 2278; L 1987 c 186 s 15; 13 SR 1150; 33 SR 696*

Published Electronically: *July 13, 2009*

7001.0180 JUSTIFICATION TO COMMENCE REVOCATION WITHOUT REISSUANCE OF PERMIT.

The following constitute justification for the commissioner 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 commissioner;
- C. the commissioner 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;
- D. the permittee has failed to comply with any requirement under parts 7002.0210 to 7002.0310 or chapter 7046 to pay fees; or
- E. the permittee has failed to pay a penalty owed under Minnesota Statutes, section 116.072.

Statutory Authority: *MS s 115.03; 116.07*

History: *8 SR 2278; L 1987 c 186 s 15; 13 SR 2453; 17 SR 440; 18 SR 1059; L 1995 c 233 art 4 s 3; L 1995 c 248 art 4 s 3*

Published Electronically: *July 13, 2009*

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 commissioner 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 commissioner 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 commissioner 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 commissioner 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. If the permit is a permit described in part 7001.0020, item A, the commissioner shall comply with the requirements of Minnesota Statutes, section 116.074, before approving the permit modification. The commissioner shall not unreasonably withhold or unreasonably delay approval of the proposed permit modification. If the permit is a permit described in part 7001.0020, item B, the following additional requirements apply:

A. The new owner or operator shall submit a revised permit application to the commissioner no later than 90 days before the scheduled change in ownership or control.

B. The previous owner or operator shall comply with the financial requirements of parts 7045.0498 to 7045.0524 until the new owner or operator has demonstrated compliance with the requirements to the commissioner. The new owner or operator must demonstrate compliance within 180 days after the date of the change in ownership or control of the facility. Upon demonstration of compliance to the commissioner, the commissioner shall notify the previous owner or operator in writing that the owner or operator is no longer required to comply with parts 7045.0498 to 7045.0524.

Subp. 3. **Minor modification.** Upon obtaining the consent of the permittee, the commissioner 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 part 7001.0730, subpart 3; 7001.1150, subpart 2; or 7001.3550, subpart 3.

Subp. 4. **Revocation without reissuance.** The commissioner 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 1400.8402.

Statutory Authority: *MS s 115.03; 116.07*

History: *8 SR 2278; 11 SR 2415; L 1987 c 186 s 15; 12 SR 1564; 12 SR 2513; 13 SR 1150; 13 SR 2453; 30 SR 529; 33 SR 696*

Published Electronically: *July 13, 2009*

7001.0200 MAILING LIST.

A person who desires to receive copies of public notices issued by the commissioner under part 7001.0100, subpart 4 shall submit to the commissioner a written request that the person's name and address be placed on a mailing list kept by the commissioner 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 commissioner 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 commissioner's notice constitutes justification for the commissioner to remove the person's name and address from the list. The commissioner 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; 116.07*

History: *8 SR 2278; L 1987 c 186 s 15*

Published Electronically: *July 13, 2009*

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 5, 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; 116.07*

History: *8 SR 2278; 38 SR 1535*

Published Electronically: *June 6, 2014*

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. Chapter 7000 and parts 7001.0010 to 7001.0210 and 7001.0500 to 7001.0730 shall be construed to complement each other.

Statutory Authority: *MS s 14.06; 116.07*

History: *8 SR 2276; 19 SR 1310*

Published Electronically: *July 13, 2009*

7001.0501 UNDERGROUND INJECTION.

References to underground injection of waste throughout this chapter are subject to Minnesota statutes and rules prohibiting the discharge of waste or pollutants to the saturated or unsaturated zones.

Statutory Authority: *MS s 116.07*

History: *33 SR 2042*

Published Electronically: *July 13, 2009*

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*

History: *8 SR 2276*

Published Electronically: *July 13, 2009*

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, close, or provide postclosure care at 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.

Owners or operators of surface impoundments, landfills, land treatment units, and waste piles that received wastes after July 26, 1982, or that certified closure according to part 7045.0596, subpart 4, after January 26, 1983, must have a hazardous waste facility permit from the agency, unless they demonstrate closure by removal as provided in subparts 5 and 6. If a permit is required, the permit must address the applicable groundwater monitoring, unsaturated zone monitoring, corrective action, and postclosure care requirements in chapter 7045.

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 within the time limits specified in part 7045.0292.
- B. The disposal by farmers of hazardous waste that has been generated by their own use of pesticides as provided in part 7045.0213, subpart 2.
- 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.

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, subpart 1, item L; 7045.0127, subpart 1; 7045.0135, subpart 5, items C and E; or 7045.0218.

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.

K. Household hazardous waste collection programs meeting the requirements of part 7045.0310.

L. Household battery collection programs meeting the requirements of part 7045.0686.

M. Very small quantity generator hazardous waste collection programs meeting the requirements of part 7045.0320.

N. Universal waste handlers and universal waste transporters, as defined in part 7045.0020, managing universal wastes under part 7045.1400.

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 commissioner 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 for national pollutant discharge elimination system permits issued after November 8, 1984, part 7045.0485; 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 codisposed or cotedreated 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.

E. Containers or tanks where generators mix characteristic hazardous waste as identified in part 7045.0131, subpart 2, with used oil if:

(1) the generators who produce at least 1,000 kilograms per calendar month of hazardous waste meet the requirements of part 7045.0292, subpart 1; or

(2) the generators who produce less than 1,000 kilograms per calendar month of hazardous waste meet the requirements of part 7045.0292, subpart 5 or 6, as applicable.

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 commissioner 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 7045.0450 to 7045.0551.

Subp. 5. **Closure by removal.** Owners or operators of surface impoundments, land treatment units, and waste piles closing by removal or decontamination under parts 7045.0552 to 7045.0649 must obtain a postclosure permit unless they can demonstrate to the agency that the closure met the requirements for closure by removal or decontamination in part 7045.0532, subpart 7; 7045.0534, subpart 7; or 7045.0536, subpart 8. The demonstration may be made in the following ways:

A. If the owner or operator has submitted a Part B application for a postclosure permit, the owner or operator may request a determination, based on information contained in the application, that the applicable closure by removal requirements in part 7045.0532, subpart 7; 7045.0534, subpart 7; or 7045.0536, subpart 8, were met. If the agency determines that the applicable closure by removal requirements were met, the agency will notify the public of this proposed determination, allow for public comment, and reach a final determination as described in subpart 6.

B. If the owner or operator has not submitted a Part B application for a postclosure permit, the owner or operator may petition the agency for a determination that a postclosure permit is not required because closure met the closure by removal requirements in part 7045.0532, subpart 7; 7045.0534, subpart 7; or 7045.0536, subpart 8. The petition must include data demonstrating that the closure by removal or decontamination requirements in part 7045.0532, subpart 7; 7045.0534, subpart 7; or 7045.0536, subpart 8, were met. The agency shall approve or deny the petition as described in subpart 6.

Subp. 6. **Procedures for closure equivalency determination.** If a facility owner or operator seeks an equivalency demonstration under subpart 5, the agency will proceed as follows:

A. The agency will provide the public, through a notice published in a newspaper of general circulation, the opportunity to submit written comments on the information submitted by the owner or operator. The public comment period will be for 30 days from the date of the notice.

B. The agency will hold a public informational meeting if the agency believes that a meeting will clarify the equivalence of the closure to the applicable closure by removal requirements in part 7045.0532, subpart 7; 7045.0536, subpart 8; or 7045.0534, subpart 7. The agency will give public notice of the meeting at least 30 days before the meeting. Public notice of the meeting may be given at the same time as the notice for comment described in item A, and the two notices may be combined.

C. The agency shall determine whether the closure met the applicable closure by removal or decontamination requirements in part 7045.0532, subpart 7; 7045.0534, subpart 7; or 7045.0536, subpart 8, within 90 days of receipt of the equivalency determination request. If the agency determines that the closure did not meet the applicable closure standards, the agency will provide the owner or operator with a written statement of the reasons why the closure failed to meet the applicable requirements. The owner or operator may submit additional information in support of an equivalency demonstration within 30 days after receiving the agency's written statement. The agency will review any additional information submitted and make a final determination within 60 days.

If the agency determines that the facility did not close in accordance with the applicable closure by removal standards in part 7045.0532, subpart 7; 7045.0534, subpart 7; or 7045.0536, subpart 8, the facility is subject to postclosure permitting requirements.

Subp. 7. **Permit denial.** The commissioner may deny the permit application, whether or not the application is complete, either in its entirety or as to the active life of a hazardous waste management facility or unit only. The denial does not affect the requirement to obtain a postclosure permit under this part.

Statutory Authority: *MS s 115.03; 116.07; 116.37*

History: *8 SR 2276; 10 SR 1688; 11 SR 1832; L 1987 c 186 s 15; 13 SR 2761; 14 SR 1718; 14 SR 2248; 15 SR 801; 15 SR 1877; 16 SR 2102; 16 SR 2239; 30 SR 43; 33 SR 2042*

Published Electronically: *July 13, 2009*

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 commissioner 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 commissioner 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 commissioner 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 commissioner the owner or operator shall submit Part B of the application not later than six months after the date of receipt of the commissioner'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 commissioner receives a written request that shows good cause for an extension of time to file the application for permit reissuance, the commissioner 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 commissioner 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 7045.0102 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 July 23, 1984. 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*

History: *8 SR 2276; L 1987 c 186 s 15; 18 SR 1565*

Published Electronically: *July 13, 2009*

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 commissioner 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*

History: *8 SR 2276; L 1987 c 186 s 15*

Published Electronically: *July 13, 2009*

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 waste designated under parts 7045.0102 to 7045.0155 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;

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 permit required by chapter 7007; 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*

History: *8 SR 2276; 16 SR 2102; 18 SR 1059; 33 SR 2042*

Published Electronically: *July 13, 2009*

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 the information that must be known to treat, store, or dispose of the wastes properly in accordance with parts 7045.0450 to 7045.0551.

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 general inspection schedule required by part 7045.0452, subpart 5, item B, including, if applicable, the information in parts 7045.0526, subpart 5; 7045.0528, subpart 7; 7045.0532, subpart 5; 7045.0534, subparts 5 and 6; 7045.0536, subpart 4; 7045.0538, subpart 5; 7045.0539, subpart 3; and 7045.0542, subpart 7; and the process vent and equipment leak standards in Code of Federal Regulations, title 40, sections 264.1033, 264.1052, 264.1053, 264.1058, as amended, and sections 264.1084, 264.1085, 264.1086, and 264.1088, as incorporated in part 7045.0540.

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 part 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;
- (5) prevent undue exposure of personnel to hazardous waste, such as protective clothing;

and

- (6) prevent releases to the atmosphere.

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 postclosure plan required by parts 7045.0486, 7045.0490, and 7045.0528, subpart 9, including, if applicable, the specific information in parts 7045.0526, subpart 9; 7045.0528, subpart 9; 7045.0532, subpart 7; 7045.0534, subpart 7; 7045.0536, subpart 8; 7045.0538, subpart 7; 7045.0539, subparts 2 and 4; and 7045.0542, subpart 8.

M. For disposal units that have been closed, 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 documentation required to demonstrate financial assurance under part 7045.0504. For a new facility, a copy of the required documentation may be submitted 60 days before the initial receipt of hazardous wastes, if that is later than the submission of the Part B.

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 documentation required to demonstrate financial assurance under part 7045.0508. For a new facility, a copy of the required documentation may be submitted 60 days before the initial receipt of hazardous wastes, if that is later than the submission of the Part B.

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 commissioner 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.

V. For land disposal facilities, if a case-by-case extension has been approved by the United States Environmental Protection Agency, under Code of Federal Regulations, title 40, section 268.5, or a petition has been granted under part 7045.0075, subpart 9, a copy of the notice of approval for the extension or petition is required.

Statutory Authority: *MS s 116.07*

History: *8 SR 2276; 10 SR 1212; 11 SR 2415; L 1987 c 186 s 15; 13 SR 259; 13 SR 1238; 13 SR 2761; 16 SR 2321; 20 SR 715; 29 SR 947; 33 SR 2042*

Published Electronically: *July 13, 2009*

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.

G. Information on air emission controls as required in part 7001.0635.

Statutory Authority: *MS s 116.07*

History: *8 SR 2276; 33 SR 2042*

Published Electronically: *July 13, 2009*

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 following information, in writing, in addition to the information required by part 7001.0560:

A. an assessment that is reviewed and certified by an independent, qualified, registered professional engineer as to the structural integrity and suitability for handling hazardous waste of each tank system, as required under part 7045.0528, subparts 2 and 3;

B. the dimensions and capacity of each tank;

C. a description of feed systems, safety cutoff, bypass systems, and pressure controls such as vents for each tank;

D. a diagram of piping, instrumentation, and process flow for each tank system;

E. a description of materials and equipment used to provide external corrosion protection, as required under part 7045.0528, subpart 3, item A, subitem (3);

F. for new tank systems, a detailed description of how the tank systems will be installed in compliance with part 7045.0528, subpart 3, items B to E;

G. detailed plans and description of how the secondary containment system for each tank system is or will be designed, constructed, and operated to meet the requirements of part 7045.0528, subpart 4;

H. for tank systems for which a petition from the requirements of part 7045.0528, subpart 4, is sought, as provided in part 7045.0075, subparts 6 and 7:

(1) detailed plans and engineering and hydrogeologic reports, as appropriate, describing alternate design and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous waste or hazardous constituents into the ground water or surface water during the life of the facility, or

(2) a detailed assessment of the substantial present and potential hazards posed to human health or the environment should a release enter the environment;

I. description of controls and practices to prevent spills and overflows, as required under part 7045.0528, subpart 6, item B;

J. for tank systems in which ignitable, reactive, or incompatible wastes are to be stored or treated, a description of how operating procedures and tank system and facility design will achieve compliance with the requirements of part 7045.0528, subparts 10 and 11; and

K. information on air emission controls as required in part 7001.0635.

Statutory Authority: *MS s 116.07*

History: *8 SR 2276; 10 SR 1212; 13 SR 259; 33 SR 2042*

Published Electronically: *July 13, 2009*

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 describing how the surface impoundment is designed, and is or will be constructed, operated, and maintained to meet the requirements of parts 7045.0461 and 7045.0532, subparts 3, 4a, and 4b, addressing the following items:
 - (1) The double liner and leak (leachate) detection, collection, and removal system, if the surface impoundment must meet the requirements of part 7045.0532, subpart 3, item C. If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by part 7045.0532, subpart 3, item J or K, submit appropriate information.
 - (2) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system.
 - (3) The construction quality assurance plan if required under part 7045.0461.
 - (4) Proposed action leakage rate, with rationale, if required under part 7045.0532, subpart 4a, and response action plan, if required under part 7045.0532, subpart 4b.
 - (5) Prevention of overtopping.
 - (6) Structural integrity of dikes.
- D. A description of how each surface impoundment, including the double liner system, leak detection system, leachate collection and removal system, cover system, and appurtenances for control of overtopping, will be inspected in order to meet the requirements of part 7045.0532, subpart 5, items A, B, and E. 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 1a, item B, 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.

L. Information reasonably ascertainable by the owner or operator on the potential for the public to be exposed to hazardous wastes or hazardous waste constituents through releases related to the unit. At a minimum, the information must address:

- (1) reasonably foreseeable potential releases from both normal operations and accidents at the unit, including releases associated with transportation to or from the unit;
- (2) the potential pathways of human exposure to hazardous wastes or constituents resulting from releases described in subitem (1); and
- (3) the potential magnitude and nature of the human exposure resulting from the releases.

M. Owners and operators of surface impoundments who have already submitted a Part B application and were required to submit the exposure information required in item L to EPA by Code of Federal Regulations, title 40, section 270.10(j), as amended, must also submit that information to the commissioner.

N. Information on air emission controls as required in part 7001.0635.

Statutory Authority: *MS s 116.07; 116.37*

History: *8 SR 2276; 10 SR 1212; 11 SR 1832; L 1987 c 186 s 15; 18 SR 1886; 20 SR 715; 33 SR 2042*

Published Electronically: *July 13, 2009*

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 M 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 or detailed plans and an engineering report describing how the requirements of part 7045.0534, subpart 1, items A to D will be met.
- 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 waste pile is designed and is or will be constructed, operated, and maintained to meet the requirements of parts 7045.0461 and 7045.0534, subparts 3, 4a, and 5a, addressing the following items:
 - (1) (a) The liner system, except for an existing portion of a waste pile, if the waste pile must meet the requirements of part 7045.0534, subpart 3, item A. If an exemption from the requirement for a liner is sought as provided by part 7045.0534, subpart 3, item K, the applicant must submit detailed plans, and engineering and hydrogeological reports, as appropriate, describing alternate designs and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the groundwater or surface water at any future time.
 - (b) The double liner and leak (leachate) detection, collection, and removal system, if the waste pile must meet the requirements of part 7045.0534, subpart 3, item C. If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by part 7045.0534, subpart 3, item D or E, the applicant must submit appropriate information.
 - (c) If the leak detection system is located in a saturated zone, the applicant must submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system.
 - (d) The construction quality assurance plan if required under part 7045.0461.
 - (e) Proposed action leakage rate, with rationale, if required under part 7045.0534, subpart 4a, and response action plan, if required under part 7045.0534, subpart 5a.
 - (2) Control of run-on.
 - (3) Control of runoff.
 - (4) Management of collection and holding units associated with run-on and runoff control systems.

- (5) Control of wind dispersal of particulate matter, if applicable.
- (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 double liner system, leachate collection and removal system, leak detection system, cover system, and appurtenances for control of run-on and runoff, will be inspected in order to meet the requirements of part 7045.0534, subpart 6, items A, B, and C. 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 F020, F021, F022, F023, F026, F027, and F028 listed under part 7045.0135, subpart 1a, item B, 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.

M. A description of how each waste pile, including the liners and appurtenances for control of run on and runoff will be inspected in order to meet the requirements of part 7045.0534, subpart 6. This information shall be included in the inspection plan required by part 7001.0560, item E.

Statutory Authority: *MS s 116.07; 116.37*

History: *8 SR 2276; 10 SR 1212; 11 SR 1832; 18 SR 1886; 33 SR 2042*

Published Electronically: *July 13, 2009*

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 1a, item B, 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*

History: *8 SR 2276; 10 SR 1212; 33 SR 2042*

Published Electronically: *July 13, 2009*

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 L 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 designed and is or will be constructed, operated, and maintained to meet the requirements of parts 7045.0461 and 7045.0538, subparts 3, 4a, and 5, addressing the following items:
 - (1) (a) The liner system, except for an existing portion of a landfill, if the landfill must meet the requirements of part 7045.0538, subpart 3, item A. If an exemption from the requirement for a liner is sought as provided by part 7045.0538, subpart 3, item K, submit detailed plans, and engineering and hydrogeological reports, as appropriate, describing alternate designs and operating practices that will, in conjunction with location aspects, prevent the migration of any hazardous constituents into the groundwater or surface water at any future time.
 - (b) The double liner and leak (leachate) detection, collection, and removal system, if the landfill must meet the requirements of part 7045.0538, subpart 3, item C. If an exemption from the requirements for double liners and a leak detection, collection, and removal system or alternative design is sought as provided by part 7045.0538, subpart 3, items M and N, submit appropriate information.
 - (c) If the leak detection system is located in a saturated zone, submit detailed plans and an engineering report explaining the leak detection system design and operation, and the location of the saturated zone in relation to the leak detection system.
 - (d) The construction quality assurance plan if required under part 7045.0461.
 - (e) Proposed action leakage rate, with rationale, if required under part 7045.0538, subpart 4a, and response action plan, if required under part 7045.0538, subpart 5.

- (2) Control of run-on.
- (3) Control of runoff.
- (4) Management of collection and holding facilities associated with run-on and runoff 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 I.
- (7) Treatment and disposal of collected runoff and leachate.

D. A description of how each landfill, including the double liner system, leachate collection and removal system, leak detection system, cover system, and appurtenances for control of run-on and runoff, will be inspected in order to meet the requirements of part 7045.0538, subpart 5, items A, B, and C. 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 bulk or noncontainerized liquid waste or waste containing free liquids were landfilled before May 8, 1985, and an explanation of compliance with the requirements of part 7045.0538, subpart 10 was submitted to EPA by Code of Federal Regulations, title 40, section 270.21(h), as amended, that explanation must also be submitted to the commissioner.

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 1a, item B, 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.

K. Information reasonably ascertainable by the owner or operator on the potential for the public to be exposed to hazardous constituents through releases related to the unit. At a minimum, the information must address:

(1) reasonably foreseeable potential releases from both normal operations and accidents at the unit, including releases associated with transportation to or from the unit;

(2) the potential pathways of human exposure to hazardous wastes or constituents resulting from the releases described in subitem (1);

(3) the potential magnitude and nature of the human exposure resulting from the releases.

L. Owners or operators of a landfill who have already submitted a Part B application and were required to submit the exposure information required in item K to EPA by Code of Federal Regulations, title 40, section 270.10(j), as amended, must also submit that information to the commissioner.

Statutory Authority: *MS s 116.07; 116.37*

History: *8 SR 2276; 10 SR 1212; 11 SR 1832; L 1987 c 186 s 15; 18 SR 1565; 18 SR 1886; 20 SR 715; 33 SR 2042*

Published Electronically: *July 13, 2009*

7001.0623 PART B INFORMATION REQUIREMENTS FOR DRIP PADS.

Subpart 1. **Federal regulations adopted by reference.** Except as provided in part 7045.0450, subparts 1 and 3, owners and operators of hazardous waste treatment, storage, or disposal facilities that collect, store, or treat hazardous waste on drip pads must provide to the commissioner the information required in Code of Federal Regulations, title 40, section 270.26, as amended, except subsection 270.26(b).

Subp. 2. **Exceptions to adopted federal regulations.** Where the federal regulations adopted in subpart 1 refer to other federal regulations, the other federal regulations referred to are superseded by their corresponding state rules. Where no corresponding state rule exists, the federal regulations referred to do not apply.

Subp. 3. **Effective date.** This part is effective July 25, 1994.

Statutory Authority: *MS s 116.07*

History: *18 SR 1751*

Published Electronically: *July 13, 2009*

7001.0625 PART B INFORMATION REQUIREMENTS FOR MISCELLANEOUS UNITS.

Except as otherwise provided in part 7045.0539, if the applicant proposes to treat, store, or dispose of hazardous waste in miscellaneous units, the applicant shall furnish the information in items A to E in addition to the information required by part 7001.0560:

- A. A detailed description of the unit being used or proposed for use, including the following:
- (1) physical characteristics, materials of construction, and dimensions of the unit;
 - (2) detailed plans and engineering reports describing how the unit will be located, designed, constructed, operated, maintained, monitored, inspected, and closed to comply with the requirements of part 7045.0539, subparts 2 and 3; and
 - (3) for disposal units, a detailed description of the plans to comply with the postclosure requirements of part 7045.0539, subpart 4.

B. Detailed hydrologic, geologic, and meteorologic assessments and land-use maps for the region surrounding the site that address and ensure compliance of the unit with each factor in the environmental performance standards of part 7045.0539, subpart 2. If the applicant can demonstrate that the applicant does not violate the environmental performance standards of part 7045.0539, subpart 2, and the commissioner agrees with the demonstration, then preliminary hydrologic, geologic, and meteorologic assessments will suffice.

C. Information on the potential pathways of exposure of humans or environmental receptors to hazardous waste or hazardous constituents and on the potential magnitude and nature of the exposures.

D. For any treatment unit, a report on a demonstration of the effectiveness of the treatment based on laboratory or field data.

E. Any additional information determined by the commissioner to be necessary for evaluation of compliance of the unit with the environmental performance standards of part 7045.0539, subpart 2.

Statutory Authority: *MS s 116.07*

History: *13 SR 2761*

Published Electronically: *July 13, 2009*

7001.0626 FEDERAL PART B INFORMATION REQUIREMENTS FOR PROCESS VENTS.

Subpart 1. **Federal regulation adopted.** If the applicant proposes to treat, store, or dispose of hazardous waste in a facility that uses process vents, as defined in Code of Federal Regulations, title 40, section 264.1031, as amended, the applicant must supply the information required by Code of Federal Regulations, title 40, section 270.24, Specific Part B Information Requirements for Process Vents, as amended.

Subp. 2. **Exceptions to adopted federal regulation.** Exceptions to the federal regulation adopted in subpart 1 are as follows:

A. references in the adopted regulation to other federal regulations also refer to the corresponding Minnesota rules; and

B. references in the adopted regulation to "regional administrator" mean "agency commissioner."

Statutory Authority: *MS s 116.07*

History: *16 SR 2321*

Published Electronically: *July 13, 2009*

7001.0627 FEDERAL PART B INFORMATION REQUIREMENTS FOR EQUIPMENT.

Subpart 1. **Federal regulation adopted.** If the applicant proposes to treat, store, or dispose of hazardous waste in a facility that uses equipment as defined in Code of Federal Regulations, title 40, section 264.1031, as amended, the applicant must supply the information required by Code of Federal Regulations, title 40, section 270.25, Specific Part B Information Requirements for Equipment, as amended.

Subp. 2. **Exceptions to adopted federal regulation.** Exceptions to the federal regulation adopted in subpart 1 are as follows:

A. references in the adopted regulation to other federal regulations also refer to the corresponding Minnesota rules; and

B. references in the adopted regulation to "regional administrator" mean "agency commissioner."

Statutory Authority: *MS s 116.07*

History: *16 SR 2321*

Published Electronically: *July 13, 2009*

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 commissioner 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 incorporated in part 7045.0065, or by using techniques found by the commissioner 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, as incorporated in part 7045.0065;

(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 commissioner 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.

(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 commissioner 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 commissioner determines is relevant to a decision to permit issuance.

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

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

History: *8 SR 2276; L 1987 c 186 s 15; 33 SR 2042*

Published Electronically: *July 13, 2009*

7001.0635 SPECIFIC PART B INFORMATION REQUIREMENTS FOR AIR EMISSION CONTROLS FOR TANKS, SURFACE IMPOUNDMENTS, AND CONTAINERS.

Except as otherwise provided in part 7045.0450, owners and operators of tanks, surface impoundments, or containers that use air emission controls in accordance with the requirements of part 7045.0540 must provide the additional information described in items A to G.

A. Documentation for each floating roof cover installed on a tank subject to Code of Federal Regulations, title 40, section 264.1084(d)(1) or (d)(2), as incorporated in part 7045.0540, that includes information prepared by the owner or operator or provided by the cover manufacturer or vendor describing the cover design, and certification by the owner or operator that the cover meets the applicable design specifications under Code of Federal Regulations, title 40, section 264.1084(e)(1) or (f)(1), as incorporated in part 7045.0540.

B. Identification of each container area subject to the requirements of part 7045.0540 and certification by the owner or operator that the requirements of this part are met.

C. Documentation for each enclosure used to control air pollutant emissions from tanks or containers in accordance with the requirements of Code of Federal Regulations, title 40, section 264.1084(d)(5) or 264.1086(e)(1)(ii), as incorporated in part 7045.0540, that includes records for the most recent set of calculations and measurements performed by the owner or operator to verify that the enclosure meets the criteria of a permanent total enclosure as specified in "Procedure T - Criteria for and Verification of a Permanent or Temporary Total Enclosure" under Code of Federal Regulations, title 40, section 52.741, Appendix B, as amended.

D. Documentation for each floating membrane cover installed on a surface impoundment in accordance with the requirements of Code of Federal Regulations, title 40, section 264.1085(c), as incorporated in part 7045.0540, that includes information prepared by the owner or operator or provided by the cover manufacturer or vendor describing the cover design, and certification by the owner or operator that the cover meets the specifications under Code of Federal Regulations, title 40, section 264.1085(c)(1), as incorporated in part 7045.0540.

E. Documentation for each closed-vent system and control device installed in accordance with the requirements of Code of Federal Regulations, title 40, section 264.1087, as incorporated in part 7045.0540, that includes design and performance information as specified in Code of Federal Regulations, title 40, section 270.24(c) and (d), as amended.

F. An emission monitoring plan for both Code of Federal Regulations, title 40, part 60, Appendix A, Method 21, as amended, and control device monitoring methods. This plan shall include the following information: monitoring points, monitoring methods for control devices, monitoring frequency, procedures for documenting exceedances, and procedures for mitigating noncompliances.

G. The schedule of implementation required under Code of Federal Regulations, title 40, section 265.1082, as incorporated in part 7045.0645, when an owner or operator of a facility subject to part 7045.0645 cannot comply with part 7045.0540 by the date of permit issuance.

Statutory Authority: *MS s 116.07*

History: *33 SR 2042*

Published Electronically: *July 13, 2009*

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 H regarding protection of groundwater is required from owners or operators of hazardous waste facilities containing 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 7045.0143 throughout the plume or identifies the maximum concentrations of each such constituent in the plume. The commissioner may require this information on additional constituents if waste managed at the facility has met the characteristic of lethality 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.

H. For each solid waste management unit at a facility seeking a permit:

- (1) designate the location of the unit on the topographic map required under part 7001.0560, item R;
- (2) designate the type of unit;
- (3) provide the general dimensions and a structural description and supply any available drawings;
- (4) specify when the unit was operated;
- (5) specify all of the wastes that have been managed at the unit, to the extent available;
- (6) submit all available information pertaining to any release of hazardous wastes or hazardous constituents from each solid waste management unit at the facility; and
- (7) conduct and provide the results of sampling and analysis of groundwater, land surface and subsurface strata, surface water, or air, which may include the installation of wells, where the commissioner determines it is necessary to complete a facility assessment that will determine if a more complete investigation is necessary.

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 commissioner 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.

The permit may contain a schedule for submittal of the information required in items C and D if the owner or operator obtains written authorization from the commissioner before submitting the complete permit application.

Statutory Authority: *MS s 116.07*

History: *8 SR 2276; L 1987 c 186 s 15; 13 SR 577; 13 SR 2761; 15 SR 1878*

Published Electronically: *July 13, 2009*

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 commissioner and before a final determination by the agency on the permit application, the owner or operator of an existing hazardous waste facility or a facility in existence on the effective date of statutory or regulatory amendments under the Resource Conservation and Recovery Act that render the facility subject to the requirement to have a hazardous waste facility permit shall be considered to be in compliance with the requirement to obtain a permit if the commissioner finds that the Environmental Protection Agency has granted the owner or operator interim status or if the commissioner finds:

- A. that the owner or operator has submitted a timely and complete Part A of the hazardous waste facility permit application to the Environmental Protection Agency or to the commissioner;
- B. that the owner or operator is in compliance with parts 7045.0552 to 7045.0649;
- C. that the agency or the EPA has not previously refused to issue a new or modified hazardous waste facility permit for the facility; and
- D. that the agency or the EPA has not previously revoked without reissuance a hazardous waste facility permit for the facility.

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, before 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 commissioner determines that an owner or operator of an existing hazardous waste facility does not qualify for interim status under subpart 1, the commissioner 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 commissioner 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. Reconstruction does not include changes made solely for the purpose of complying with the requirements of part 7045.0628, subpart 4, for tanks and ancillary equipment, or to treat or store in containers, tanks, or containment buildings hazardous wastes subject to the land disposal restrictions under part 7045.1390 or RCRA section 3004, if the changes are made solely to comply with part 7045.1390 or RCRA section 3004.

Subp. 5. **Changes during interim status.** Except as provided in item F, an owner or operator who has interim status may conduct the activities prescribed in items A to F.

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 before commencement of the treatment, storage, or disposal.

B. The owner or operator may increase the design capacity of the facility if, before 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 commissioner approves the increase in writing. The commissioner shall approve the change if the commissioner finds that:

(1) there is a lack of available treatment, storage, or disposal capacity at other permitted hazardous waste facilities; or

(2) the change is necessary to comply with a federal, state, or local requirement.

C. The owner or operator may add new processes or change the processes for the treatment, storage, or disposal of hazardous waste if, before 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 commissioner approves the addition or change in writing. The commissioner shall approve the addition or change if the commissioner 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 in parts 7045.0552 to 7045.0649.

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 before 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 commissioner a demonstration of compliance with parts 7045.0608 to 7045.0624. The new owner or operator must demonstrate compliance within six months. All other interim status duties must be transferred immediately upon the change of ownership or operational

control of the facility. If the commissioner finds that the new owner or operator has complied with parts 7045.0608 to 7045.0624, the commissioner shall notify the former owner or operator in writing that the required demonstration by the new owner or operator has been made and the former owner or operator no longer needs to comply with parts 7045.0608 to 7045.0624 as of the date of the demonstration.

E. Changes may be made according to an interim status corrective action order issued by EPA under United States Code, title 42, section 3008(h), as amended, or other federal authority, by the agency, or by a court in a judicial action brought by EPA or the agency. Changes under this item are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility.

F. Except as specifically allowed under this item, changes listed under items A to E may not be made if they amount to reconstruction of the hazardous waste management facility. Reconstruction occurs when the capital investment in the changes to the facility exceeds 50 percent of the capital cost of a comparable entirely new hazardous waste management facility. If all other requirements are met, the following changes may be made even if they amount to reconstruction:

(1) changes made only for complying with parts 7045.0528, subpart 4, and 7045.0628, subpart 4, for tanks and ancillary equipment;

(2) if necessary to comply with federal, state, or local requirements, changes to an existing unit, changes solely involving tanks or containers, or addition of replacement surface impoundments that satisfy the standards of RCRA section 3004(o);

(3) changes that are necessary to allow owners or operators to continue handling newly listed or identified hazardous wastes that have been treated, stored, or disposed of at the facility before the effective date of the rule establishing the new listing or identification;

(4) changes during closure of a facility or of a unit within a facility made according to an approved closure plan;

(5) changes necessary to comply with an interim status corrective action order issued by EPA under RCRA section 3008(h) or other federal authority, by an authorized state under comparable state authority, or by a court in a judicial proceeding brought by EPA or an authorized state, provided that the changes are limited to the treatment, storage, or disposal of solid waste from releases that originate within the boundary of the facility;

(6) changes to treat or store, in tanks, containers, or containment buildings, hazardous wastes subject to land disposal restrictions imposed by part 7045.1390 or RCRA section 3004, provided that such changes are made solely for the purpose of complying with part 7045.1390 or RCRA section 3004; and

(7) changes necessary to comply with standards under part 7011.7410, National Emission Standards for Hazardous Air Pollutants from Hazardous Waste Combustors.

Subp. 6. **Compliance with interim status standards.** During the interim status period the owner or operator shall comply with the interim status standards in parts 7045.0552 to 7045.0649.

Subp. 7. **Termination of interim status.** Interim status terminates automatically when the agency has taken final administrative action on the permit application or when terminated by Code of Federal Regulations, title 40, section 270.73(c) to (g), as amended. The following constitute justification for the commissioner to commence proceedings to terminate interim status:

A. the commissioner 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 commissioner finds that the owner or operator is in violation of any of the requirements of parts 7045.0552 to 7045.0649.

Statutory Authority: *MS s 116.07; 116.37*

History: *8 SR 2276; 10 SR 70; 11 SR 1832; 11 SR 2415; L 1987 c 186 s 15; 13 SR 259; 13 SR 1238; 14 SR 976; 16 SR 2239; 20 SR 715; 28 SR 1482; 33 SR 2042*

Published Electronically: *July 13, 2009*

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 commissioner shall prepare a fact sheet for each draft permit which relates to a hazardous waste facility that the commissioner 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 commissioner'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 commissioner 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 commissioner 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 commissioner 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 commissioner 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 commissioner 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 commissioner 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*

History: *8 SR 2276; L 1987 c 186 s 15*

Published Electronically: *July 13, 2009*

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 commissioner 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 commissioner 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 commissioner 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 commissioner 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*

History: *8 SR 2276; L 1987 c 186 s 15*

Published Electronically: *July 13, 2009*

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*

History: *8 SR 2276*

Published Electronically: *July 13, 2009*

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 commissioner finds that there is an imminent and substantial danger to human health or the environment, the commissioner 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 commissioner 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 commissioner 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, 7045.0450 to 7045.0551, 7045.0652, and 7045.0655.

Subp. 7. **Notification to public.** At the time the commissioner issues an emergency permit the commissioner 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 commissioner 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*

History: *8 SR 2276; L 1987 c 186 s 15; 33 SR 2042*

Published Electronically: *July 13, 2009*

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 commissioner 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 commissioner 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 commissioner 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 commissioner 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 commissioner shall establish permit conditions to be effective during the trial burn.

Subp. 3. **Trial burn plan.** An applicant shall submit to the commissioner 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 incorporated in part 7045.0065 or that uses analytical techniques found by the commissioner to be equivalent to them. This analysis must include:

- (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 publication SW-846, as incorporated in part 7045.0065;

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 commissioner 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 commissioner shall review the trial burn plan for completeness. If the commissioner finds that the trial burn plan is incomplete or otherwise deficient, the commissioner shall promptly advise the owner or operator of the incompleteness or deficiency. The commissioner 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 commissioner shall designate as trial principal organic hazardous constituents those constituents for which destruction and removal efficiencies must be calculated during the trial burn. The commissioner's designations shall be based on the waste analysis data submitted by the owner or operator, the commissioner'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 commissioner 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 commissioner 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 commissioner 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 commissioner upon a finding by the commissioner that good cause exists for granting a time extension.

Subp. 8. **Authorized signature.** All submissions to the commissioner 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 commissioner 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 commissioner 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 commissioner 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 commissioner 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 commissioner reviews the results of the trial burn conducted under phase two, based on the results of the trial burn, the commissioner 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 must prepare and submit to the commissioner a trial burn plan and perform a trial burn in accordance with subparts 3 to 8 and part 7001.0630, item B, or, instead, submit other information as specified in part 7001.0630, item C. Applicants submitting information under part 7001.0630, item A, are exempt from compliance with part 7045.0542, subparts 4 and 6, and, therefore, are exempt from the requirement to conduct a trial burn. 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. Trial burn results must be submitted prior to issuance of the permit. If completion of this process conflicts with the date set for submission of the Part B application, the applicant shall contact the commissioner to establish a later date for the submission of the Part B application or trial burn results. When the applicant submits a trial burn plan with Part B of the permit application, the commissioner shall specify a time period prior to permit issuance in which the trial burn must be conducted and the results submitted.

Statutory Authority: *MS s 116.07; 116.37*

History: *8 SR 2276; L 1987 c 186 s 15; 15 SR 1515; 33 SR 2042*

Published Electronically: *July 13, 2009*

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 7045.0102 to 7045.0155 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 commissioner 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 commissioner 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*

History: *8 SR 2276; L 1987 c 186 s 15; 16 SR 2102; 18 SR 1565; 33 SR 2042*

Published Electronically: *July 13, 2009*

7001.0712 RESEARCH, DEVELOPMENT, AND DEMONSTRATION PERMITS.

Subpart 1. **Scope.** This part applies to research, development, or demonstration facilities other than land treatment demonstration facilities governed by part 7001.0710 or facilities meeting the treatability study exemption requirements of part 7045.0121.

Subp. 2. **Permit requirement.** A person who desires to own or operate a research, development, or demonstration facility utilizing an innovative and experimental hazardous waste treatment technology or process for which permit standards have not been adopted in chapter 7045 shall request a permit from the agency.

Subp. 3. **Terms of permit.** A permit governed by this part is effective for a fixed term not to exceed one year. At the request of the permittee, the commissioner shall renew the permit for one additional year if the commissioner finds that the permittee is in compliance with the conditions of the permit and that the operation of the facility does not pose a threat to human health and the environment. In no event shall the commissioner renew the permit more than three times.

Subp. 4. **Conditions of permit.** The permit shall authorize the receipt and treatment by the facility of only those types and quantities of hazardous waste that the commissioner considers necessary for the purpose of determining the efficiency and performance capabilities of the technology or process and the effects of the technology or process on human health and the environment.

The permit shall contain all applicable special and general conditions in parts 7001.0150 and 7001.0720 and conditions concerning financial responsibility under parts 7045.0498 to 7045.0524, closure, and remedial action. The permit shall provide for the immediate termination of all operations at the facility at any time upon receipt of notification from the commissioner that termination of operations is necessary to protect human health or the environment.

Statutory Authority: *MS s 116.07*

History: *11 SR 1832; L 1987 c 186 s 15; 18 SR 1565*

Published Electronically: *July 13, 2009*

7001.0720 TERMS AND CONDITIONS OF HAZARDOUS WASTE FACILITY PERMITS.

Subpart 1. **Term of permit.** Except as provided in part 7001.0712, subpart 3, 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 commissioner 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 commissioner has inspected the new or modified facility and has provided the permittee with a letter stating that, based on information available to the commissioner, 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 commissioner 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 7045.0551:

(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 commissioner 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 commissioner of the delivery of the waste and shall submit to the commissioner 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 commissioner 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 commissioner.

If authorization is no longer accurate, a new authorization must be submitted to the commissioner 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 commissioner 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 commissioner has inspected the repaired surface impoundment and has provided the permittee with a letter stating that, based on information available to the commissioner, the surface impoundment appears to have been repaired in compliance with the conditions of the permit.

Statutory Authority: *MS s 116.07*

History: *8 SR 2276; 11 SR 1832; L 1987 c 186 s 15; 29 SR 947*

Published Electronically: *July 13, 2009*

7001.0725 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 commissioner 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; 116.07*

History: *13 SR 2453*

Published Electronically: *July 13, 2009*

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 commissioner to commence proceedings to modify a permit or to revoke and reissue a permit:

A. the commissioner 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 commissioner receives notification of expected closure under part 7045.0486;

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

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

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

I. the commissioner 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

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 commissioner 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 commissioner 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 F;

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

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;

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;

L. to allow treatment of hazardous wastes not previously specified in the permit if the following conditions are met:

(1) the hazardous waste has been prohibited from one or more methods of land disposal under Code of Federal Regulations, title 40, sections 268.30 to 268.39, as incorporated in part 7045.1390, or RCRA section 3004;

(2) treatment is in accordance with Code of Federal Regulations, title 40, section 268.4, as incorporated in part 7045.1390, if applicable, and section 268.3, as incorporated in part 7045.1390, and applicable standards established under Code of Federal Regulations, title 40, sections 268.41 to 268.49, and 268.5, as incorporated in part 7045.1390, or, where no treatment standards have been established, treatment renders the waste no longer subject to the applicable prohibitions of Code of Federal Regulations, title 40, section 268.32, as incorporated in part 7045.1390, or RCRA section 3004;

(3) handling or treatment of the restricted waste will not present risks substantially different from those of wastes listed in the permit; and

(4) federal or state approval of a minor permit modification request is granted. No permit changes can occur except for the addition of new waste codes and administrative or technical changes necessary to handle new wastes. Changes in treatment processes or physical equipment may not be made under this item; and

M. to allow permitted facilities to change their operations to treat or store hazardous wastes subject to land disposal restrictions imposed by part 7045.1390 or RCRA section 3004, provided the treatment or storage occurs in containers or tanks and the permittee:

(1) requests a major permit modification under subparts 1 to 3;

(2) demonstrates in the request for a major permit modification that the treatment or storage is necessary to comply with the land disposal restrictions of part 7045.1390 or RCRA section 3004; and

(3) ensures that the treatment or storage units comply with the applicable standards of parts 7045.0552 to 7045.0649 and 7045.1390 pending final administrative disposition of the major modification request. The authorization to make the changes conferred in this item terminates upon final administrative disposition of the permittee's major modification request under subparts 1 to 3 or termination of the permit under part 7001.0180.

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.

Subp. 6. **Combustion facility changes.** Combustion facility owners or operators must comply with the notification of intent requirements of part 7011.7410 before requesting a permit modification in order to make technology changes needed to meet standards in part 7011.7410.

Statutory Authority: *MS s 116.07*

History: *8 SR 2276; 11 SR 2415; L 1987 c 186 s 15; 13 SR 1238; 28 SR 1482; 33 SR 2042*

Published Electronically: *July 13, 2009*

NPDES PERMITS

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. Chapter 7000 and parts 7001.0010 to 7001.0210 and 7001.1000 to 7001.1100 shall be construed to complement each other.

Statutory Authority: *MS s 14.06; 115.03; 116.07*

History: *8 SR 2277; 19 SR 1310*

Published Electronically: *July 13, 2009*

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*

History: *8 SR 2277*

Published Electronically: *July 13, 2009*

7001.1020 DEFINITIONS.

Subpart 1. **Scope.** The definitions in Minnesota Statutes, section 115.01, subdivisions 2, 4, 5, 8, 9, 11 to 13, and 16 to 22, 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. 16a. [Repealed, 30 SR 125]

Subp. 16b. [Repealed, 30 SR 125]

Subp. 16c. [Repealed, 30 SR 125]

Subp. 16d. [Repealed, 30 SR 125]

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

Subp. 17a. [Repealed, 30 SR 125]

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 or NPDES.** "National pollutant discharge elimination system" or "NPDES" 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 12.

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. 28a. [Repealed, 30 SR 125]

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 20.

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 115.03; 116.07*

History: *8 SR 2277; 13 SR 2453; 19 SR 1901; 30 SR 125*

Published Electronically: *July 13, 2009*

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

J. persons operating a feedlot who are not required to obtain an NPDES permit under federal law. This item does not release such persons from the requirement to obtain an NPDES permit to discharge a pollutant when required by federal law or from the requirement to obtain a state disposal system permit to discharge a pollutant into the waters of the state.

Statutory Authority: *MS s 115.03; 116.07*

History: *8 SR 2277; 13 SR 2453; 19 SR 1901; 38 SR 1535*

Published Electronically: *June 6, 2014*

7001.1035 [Repealed, 30 SR 125]

Published Electronically: *July 13, 2009*

7001.1040 APPLICATION DEADLINE FOR NEW PERMITS.

A. 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.

B. Persons proposing activities that require a general construction storm water permit under chapter 7090 must submit an application provided by the agency prior to initiation of construction.

Statutory Authority: *MS s 115.03; 116.07*

History: *8 SR 2277; 19 SR 1901; 30 SR 125*

Published Electronically: *July 13, 2009*

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 commissioner:

- 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 commissioner 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 commissioner:

- 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(i).
- N. If the applicant wishes to request that the commissioner, 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 in the application 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 14.386; 115.03*

History: *8 SR 2277; L 1987 c 186 s 15; 36 SR 179; 38 SR 1535*

Published Electronically: *June 6, 2014*

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 commissioner finds that two or more of such outfalls have substantially identical effluents, the commissioner 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 commissioner. 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 commissioner 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 commissioner 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;
- 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 phosphorus;
- 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;
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*

History: *8 SR 2277; L 1987 c 186 s 15*

Published Electronically: *July 13, 2009*

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 Manufacturing	*	*	*	...

Iron and Steel Manufacturing	*	*	*	...
Leather Tanning and Finishing	*	*	*	*
Mechanical Products Manufacturing	*	*	*	...
Nonferrous Metals Manufacturing	*	*	*	*
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*

History: *8 SR 2277*

Published Electronically: *July 13, 2009*

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 commissioner shall prepare a fact sheet for each draft permit for a facility that the commissioner 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 commissioner 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*

History: *8 SR 2277; L 1987 c 186 s 15*

Published Electronically: *July 13, 2009*

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 commissioner in the draft permit but are subject to final issuance by the agency. The conditions to be included are given in subparts 2 to 9.

Subp. 2. **Effluent limitations, standards, or prohibitions.** Except as provided in subpart 3, the commissioner 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 commissioner 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 commissioner 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 commissioner 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 commissioner 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 commissioner 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, and 7055.0250 to 7055.0310.

(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 commissioner 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 commissioner finds that it is not feasible to establish an effluent limitation, standard, or prohibition using a numerical value, the commissioner shall establish permit conditions requiring the implementation by the permittee of best management practices. The commissioner may also require implementation of best management practices if the commissioner 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 commissioner 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 commissioner 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 part 7049.0800 to develop a publicly owned treatment works pretreatment program, the commissioner shall:

- A. incorporate the provisions of the approved publicly owned treatment works pretreatment program into the permit and require the permittee to submit the information in part 7049.1020; or
- B. if the publicly owned treatment works does not have an approved pretreatment program, incorporate into the permit a compliance schedule for development of an approvable pretreatment program. The schedule shall contain increments of progress in the form of dates for the commencement and completion of major events leading to the development of a pretreatment program. No increment in the schedule shall exceed nine months. The permit shall also require the permittee to submit to the commissioner, within 14 days following each date in the schedule progress, reports stating whether or not the permittee has complied with the increment of progress to be met on such date and, if not, the date on which the permittee expects to comply with this increment of progress, the reason for delay, and the steps taken to return to the schedule. In no event shall more than nine months elapse between progress reports to the commissioner.

Subp. 7. **Conditions imposed in construction grants.** If the applicant is using construction grant funds to construct or operate its wastewater treatment facility, the commissioner 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 commissioner 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 commissioner 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 commissioner establishes less stringent effluent limitations, standards, or prohibitions in accordance with part 7050.0212.

Statutory Authority: *MS s 115.03; 115.44; 116.07*

History: *8 SR 2277; L 1987 c 186 s 15; 13 SR 2453; 32 SR 1699; 33 SR 696*

Published Electronically: *July 13, 2009*

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, parts 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 commissioner, 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 exceedence of an applicable effluent limitation. The permittee need not submit a written report if the commissioner finds that the written report is unnecessary.

J. The permittee may allow a bypass to occur if the bypass will not cause the exceedence 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 exceedence 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 backup 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 commissioner of the anticipated bypass and the commissioner has approved the bypass. The commissioner shall approve the bypass if the commissioner 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 commissioner 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 commissioner 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 commissioner immediately if the permittee has begun or expects to begin to use or manufacture as an intermediate or final 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. A national pollutant discharge elimination system permit issued by the agency to a publicly owned treatment works must require the permittee to control contribution to the POTW by each industrial user and report their significant industrial users and pretreatment activities to the agency as required by chapter 7049.

B. Permits issued to publicly owned treatment works that do not operate a federal delegated pretreatment program, as defined in part 7049.0120, subpart 7, shall contain or reference the pretreatment requirements applicable to nondelegated publicly owned treatment works, which are found in parts 7049.0600 to 7049.0720, and shall require the permittee to notify the agency of any of its industrial users that may be subject to national categorical pretreatment standards.

C. Permits issued to publicly owned treatment works that operate a federal delegated pretreatment program, as defined in part 7049.0120, subpart 7, shall contain pretreatment requirements based on parts 7049.0600 to 7049.0650 and 7049.0800 to 7049.1020 and the publicly owned treatment work's approved pretreatment program.

Statutory Authority: *MS s 115.03*

History: *8 SR 2277; L 1987 c 186 s 15; 33 SR 696*

Published Electronically: *July 13, 2009*

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*

History: *8 SR 2277*

Published Electronically: *July 13, 2009*

7001.1150 MODIFICATION, REVOCATION, AND REISSUANCE OF PERMITS.

Subpart 1. **Scope.** In addition to parts 7001.0170 and 7001.0190, subparts 2 and 3 apply to the modification or revocation and reissuance of national pollutant discharge elimination system permits.

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

A. the commissioner finds that there is a need to put a publicly owned treatment works on a compliance schedule for the development of a pretreatment program because the addition of pollutants into a publicly owned treatment works by an industrial user or combination of industrial users presents a substantial hazard to the functioning of the treatment works, the quality of the receiving waters, or the environment;

B. the commissioner finds that there are grounds to modify the permit under section 301(h) or 301(i) of the Clean Water Act, United States Code, title 33, section 1311(h) or (i);

C. the commissioner has approved a new or modified publicly owned treatment works pretreatment program and the pretreatment program has not yet been incorporated into the publicly owned treatment works' national pollutant discharge elimination system permit; or

D. the commissioner has approved a compliance schedule for the development of a publicly owned treatment works pretreatment program and the compliance schedule has not yet been incorporated into the publicly owned treatment works' national pollutant discharge elimination system permit.

Subp. 3. **Minor modification of permits.** In addition to the corrections or allowances listed in part 7001.0190, subpart 3, the commissioner, upon obtaining the consent of the permittee, may modify a national pollutant discharge elimination system permit without following the procedures in parts 7001.0100 to 7001.0130 to incorporate conditions of a publicly owned treatment works pretreatment program or a modification to a publicly owned treatment works pretreatment program.

Statutory Authority: *MS s 115.03*

History: *33 SR 696*

Published Electronically: *July 13, 2009*

7001.1200 [Repealed, 18 SR 1059]

Published Electronically: *July 13, 2009*

7001.1205 [Repealed, 18 SR 1059]

Published Electronically: *July 13, 2009*

7001.1210 [Repealed, 18 SR 1059]

Published Electronically: *July 13, 2009*

7001.1215 [Repealed, 18 SR 1059]

Published Electronically: *July 13, 2009*

7001.1220 [Repealed, 18 SR 1059]

Published Electronically: *July 13, 2009*

7001.1250 [Renumbered 7023.9000]

Published Electronically: *July 13, 2009*

7001.1260 [Renumbered 7023.9005]

Published Electronically: *July 13, 2009*

7001.1270 [Renumbered 7023.9010]

Published Electronically: *July 13, 2009*

7001.1280 [Renumbered 7023.9015]

Published Electronically: *July 13, 2009*

7001.1290 [Renumbered 7023.9020]

Published Electronically: *July 13, 2009*

7001.1300 [Renumbered 7023.9025]

Published Electronically: *July 13, 2009*

7001.1310 [Renumbered 7023.9030]

Published Electronically: *July 13, 2009*

7001.1320 [Renumbered 7023.9035]

Published Electronically: *July 13, 2009*

7001.1330 [Renumbered 7023.9040]

Published Electronically: *July 13, 2009*

7001.1340 [Renumbered 7023.9045]

Published Electronically: *July 13, 2009*

7001.1350 [Renumbered 7023.9050]

Published Electronically: *July 13, 2009*

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." Chapter 7000 and parts 7001.0010 to 7001.0210 and 7001.1400 to 7001.1470 shall be construed to complement each other.

Statutory Authority: *MS s 14.06; 115.03; 116.07*

History: *10 SR 2235; 19 SR 1310*

Published Electronically: *July 13, 2009*

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. [Repealed by amendment, L 1987 c 186 s 15]

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. 3a. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Pollution Control Agency.

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; L 1987 c 186 s 15*

Published Electronically: *July 13, 2009*

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*

Published Electronically: *July 13, 2009*

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*

Published Electronically: *July 13, 2009*

7001.1440 PUBLIC NOTICE OF APPLICATION AND PRELIMINARY DETERMINATION.

Subpart 1. **Public notice required.** Except as provided in subpart 2, the commissioner 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 commissioner 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 commissioner is not required to prepare and distribute a public notice pursuant to part 7001.0100, subpart 4, if the commissioner 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; L 1987 c 186 s 15*

Published Electronically: *July 13, 2009*

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*

Published Electronically: *July 13, 2009*

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 commissioner pursuant to part 7001.0090.

Statutory Authority: *MS s 115.03*

History: *10 SR 2235; L 1987 c 186 s 15*

Published Electronically: *July 13, 2009*

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 under part 7001.1080 for national pollutant discharge elimination system permits.

Statutory Authority: *MS s 115.03*

History: *10 SR 2235*

Published Electronically: *July 13, 2009*

SOLID WASTE MANAGEMENT FACILITY PERMITS

7001.3000 SCOPE.

Parts 7001.0010 to 7001.0210 and 7001.3000 to 7001.3550 govern the application procedures, the issuance, and the conditions of solid waste management facility permits. Chapter 7000 and parts 7001.0010 to 7001.0210 and 7001.3000 to 7001.3550 are construed to complement each other.

Statutory Authority: *MS s 14.06; 115.03; 116.07*

History: *13 SR 1150; 19 SR 1310*

Published Electronically: *July 13, 2009*

7001.3025 DEFINITIONS.

The definitions in parts 7001.0010 and 7035.0300 apply to the terms used in parts 7001.3000 to 7001.3550.

Statutory Authority: *MS s 115.03; 116.07*

History: *13 SR 1150*

Published Electronically: *July 13, 2009*

7001.3050 PERMIT REQUIREMENTS.

Subpart 1. **Permit required.** Except as provided in subpart 2, a solid waste management facility permit or permit modification is required to:

- A. treat, store, process, transfer, or dispose of solid waste;
- B. establish, construct, or operate a solid waste management facility; or
- C. change, add, or expand a permitted solid waste management facility.

Subp. 2. **Exclusions.** A solid waste management facility permit is not required:

- A. for backyard compost sites and small compost sites as defined in part 7035.0300;
- B. for demonstration/research projects authorized by part 7035.0450 unless the project is required to have a permit under federal law;
- C. for beneficial use of solid waste done according to part 7035.2860;
- D. for storage of a solid waste prior to its beneficial use when done according to parts 7035.2855 and 7035.2860;
- E. for disposal of solid waste on the same property on which it was discovered, when a person has made a request to the commissioner for review, investigation, and oversight under Minnesota Statutes, section 115B.17, subdivision 14, and is conducting response actions in accordance with a plan approved by the commissioner under Minnesota Statutes, section 115B.175;

F. when the commissioner has granted an exemption to allow operation without a permit to expedite the proper management of solid waste and to prevent, abate, or control pollution if the commissioner determines that such an exemption is necessary as an immediate response to an emergency. A permit application must be submitted within 90 days after such an exemption is granted;

G. for a transfer facility that moves from location to location and receives solid waste directly from other vehicles for consolidation prior to subsequent transport, disposal, or processing, provided it is not located in an area for more than 12 hours, all waste is delivered vehicle to vehicle and is not dumped and reloaded;

H. for a temporary community cleanup event transfer facility provided:

- (1) municipality sponsorship or approval of the community cleanup event is obtained;
- (2) the community cleanup event is open to the public residing in the targeted community;
- (3) the community cleanup event occurs no more than twice a year; and
- (4) the community cleanup event, including removal of wastes, lasts no more than seven

days; or

I. for a limited solid waste collection services transfer facility that directly accepts waste from individual residents that self-haul, provided the county where the facility is located has determined that the facility is necessary due to limited availability of solid waste collection services, and:

- (1) all waste is managed and stored in containers or roll-off boxes constructed of impervious material;
- (2) no more than 40 cubic yards of waste are stored on site at any given time;
- (3) no more than 40 cubic yards of waste are managed on site per day; and
- (4) removal of waste occurs when the capacity of the container is reached or more often as necessary to prevent nuisance conditions.

Subp. 3. **Permits-by-rule.** The owner or operator of a facility described in items A to H is deemed to have obtained a solid waste management facility permit without making application for it.

A. A transfer facility where all waste is managed and stored in containers or roll-off boxes constructed of impervious material or in a fully enclosed building that meets the standards in part 7035.2870, subpart 4, or where the commissioner has determined that the current design is adequate as provided in part 7035.2870, subpart 3, provided that in either case:

- (1) no more than 120 cubic yards of waste are stored on site at any given time;
- (2) no more than 120 cubic yards of waste are managed on site per day;
- (3) the owner or operator maintains the facility in compliance with part 7035.2870, subpart 5; and

(4) the owner or operator submits a written notice to the commissioner that includes the facility location, responsible party and telephone number, facility size, copies of the plans and schedules required under part 7035.2525, subpart 2, item H, and type of waste no later than 180 days following the effective date of this part for existing facilities and no later than ten working days before accepting waste for new facilities. Thereafter, new and existing facilities must submit the notice required under this unit every five years.

For the purposes of this item, "site" includes all property contiguous to the property where the containers or building are located that is controlled by the same person or related business entities. For the purposes of this item, source-separated recyclable materials received at the facility and stored on site do not count towards the volume limitations in subitems (1) and (2), and recyclable materials recovered from the waste on the site and stored on site do not count towards the volume limitations in subitem (1).

B. Demolition debris land disposal facilities designed for less than 15,000 cubic yards total capacity and operating less than a total of 12 consecutive months, not located adjacent to another demolition debris permit by rule facility, and in compliance with parts 7035.2525 to 7035.2655, 7035.2825, and 7035.2855.

C. Compost facilities receiving yard waste only and in compliance with part 7035.2836, subparts 2 and 3.

D. Recycling facilities in compliance with part 7035.2845.

E. Energy recovery facilities governed by chapters 7007, 7009, and 7011, except that facilities processing refuse-derived fuel on-site prior to incineration and energy recovery at the site, must be permitted in accordance with parts 7001.0010 to 7001.0210 and 7001.3000 to 7001.3550.

F. Storage sites for non-sludge wood waste generated from the wood preparation phase prior to processing or water treatment lime sludge and in compliance with part 7035.2855.

G. Facilities receiving solid waste from the exploration, mining, milling, smelting, and refining of ores and minerals provided that:

(1) the owner or operator does not accept waste for storage, processing, or disposal other than solid waste generated from the exploration, mining, milling, smelting, and refining of ores and minerals;

(2) the owner or operator has obtained a permit in accordance with part 7001.0020, item D; and

(3) the owner or operator is operating the facility in compliance with chapter 6130.

H. Facilities receiving five tons or less of municipal solid waste combustor ash for the purpose of researching in a laboratory ash treatment or utilization provided that ash is stored in compliance with part 7035.2855 and disposed of in compliance with part 7035.2885 or used in accordance with agency approvals, and provided that the facility owner or operator notifies the commissioner of the source and quantity of ash and the proposed method for managing the ash after research is complete; notification must also include a description of the research methods and intent, and must be received by the commissioner before ash is received at the facility.

Subp. 4. **Termination of eligibility for permit-by-rule.** The agency may terminate the eligibility of a facility for permit-by-rule status as described in subpart 3, if the agency makes any of the findings of fact listed in items A to C, after notice and opportunity for a contested case hearing or a public informational meeting. An owner or operator, whose facility's eligibility to be permitted under this part has been terminated, must apply for an individual facility permit under parts 7001.3300 to 7001.3550 within 90 days or close the facility in compliance with parts 7035.2525 to 7035.2875. The agency may commence proceedings to terminate eligibility for any of the following reasons:

A. the facility does not comply with subpart 3;

B. the owner or operator is conducting other activities at the site that are required to be conducted under a solid waste management facility permit; or

C. circumstances require the facility to be permitted and subject to the requirements of parts 7035.0300 to 7035.2875 and any other rule in order to protect human health or the environment.

Statutory Authority: *MS s 115.03; 115A.97; 116.07*

History: *13 SR 1150; 16 SR 2321; 18 SR 1059; 19 SR 2330; 21 SR 327; 21 SR 1642; 28 SR 1086; 30 SR 529; 39 SR 857*

Published Electronically: *January 7, 2015*

7001.3055 CLOSURE/POSTCLOSURE CARE.

The agency shall issue a closure document containing the closure/postclosure care requirements at the time a solid waste management facility is closed under the conditions listed in part 7035.2625, subpart 1. Based on the closure plan submitted under part 7035.2625, subpart 3, the postclosure care plan submitted under part 7035.2645, subpart 1, and the operational and monitoring reports for the facility, the closure document must specify the length of the postclosure care period, monitoring, testing and reporting requirements, and site maintenance requirements.

Statutory Authority: *MS s 115.03; 116.07*

History: *13 SR 1150*

Published Electronically: *July 13, 2009*

7001.3060 DESIGNATION OF PERMITTEE.

The agency shall designate the landowner, facility owner, and facility operator as copermittees when issuing a solid waste management facility permit.

Statutory Authority: *MS s 115.03; 116.07*

History: *13 SR 1150*

Published Electronically: *July 13, 2009*

7001.3075 SOLID WASTE MANAGEMENT FACILITY PERMIT APPLICATION.

Subpart 1. **Application submittals.** The application for a solid waste management facility permit must contain a final application with the appropriate supporting documents, and for mixed municipal solid waste and municipal solid waste combustor ash land disposal facilities, a preliminary application and detailed site evaluation report. The information requirements for the preliminary application are established in part 7001.3175 and for the detailed site evaluation in part 7001.3275. The information requirements for the final application are set forth in part 7001.3300. The applicant must also submit any information required in parts 7001.3375 to 7001.3475 with the final application.

Subp. 2. **Timing of application.** Applicants shall submit permit applications for existing and new solid waste management facilities or for reissuance of existing permits in accordance with part 7001.0040, except as provided in items A and B.

A. The applicant for a permit to construct a new mixed municipal solid waste or municipal solid waste combustor ash land disposal facility must submit a preliminary application at least 90 days before the work begins on the detailed site evaluation required by part 7001.3275.

B. Part 7001.0040, subpart 3, controls the submission of an application for the reissuance of existing permits except as provided in this part. When the commissioner receives a written request that shows good cause for an extension of time to submit the application for reissuance of an existing permit, the commissioner shall grant the extension if the requested date for filing does not extend beyond the expiration date of the permit. The application must contain the information required for a final application in part 7001.3300.

Subp. 3. Transfer facilities extended permit term.

A. For transfer facilities that have operated under an existing permit issued under parts 7001.0010 to 7001.0200, no application is required for permit reissuance upon the expiration date of the permit and the term of the permit shall be extended indefinitely unless (1) the commissioner requires the facility to be repermited as provided in part 7001.3410, subpart 3, or (2) the owner or operator of the facility plans to make a major modification to the facility. In either of these cases, the owner and operator shall submit an application for reissuance or modification of the permit as provided in this chapter. This application shall be approved or denied following the procedures in this chapter. As used in this part, "operated" means to have accepted waste at levels constituting normal expected volumes for facilities for a minimum of one year during the most recent five-year term of the permit, such that the agency can reasonably conclude that the facility is operating in compliance with applicable rules and its permit. For purposes of this part, a "major modification" means a change in the type of waste managed at the facility, an increase beyond the original permitted capacity, or a change that could significantly affect compliance with the design or operation standards of part 7035.2870, subparts 4 and 5. The owner or operator may request, in writing, that the agency make a written determination as to whether any planned changes significantly affect compliance with design or operation standards.

B. Owners and operators of transfer facilities operating under an extended permit may make minor modifications as listed in part 7001.3550, subpart 3, at any time, provided that notice of the minor modification is given to the agency as provided in part 7001.3410, subparts 1 and 2. Owners of facilities operating under an extended permit must follow the requirements in part 7001.0190, subpart 2, before transferring ownership and control of the facility. Transfer facilities operating under an extended permit, as provided in this subpart, must submit to the agency the notification required by part 7001.3410, and the annual report required under part 7035.2585.

Subp. 4. Source-separated organic material compost facilities extended permit term.

A. For source-separated organic material compost facilities as defined in part 7035.2836 that have operated under an existing permit issued under parts 7001.0010 to 7001.0200, no application is required for permit reissuance upon the expiration date of the permit and the term of the permit shall be extended indefinitely unless (1) the commissioner requires the facility to be repermited as provided in part 7001.3410, subpart 3, or (2) the owner or operator of the facility proposes a major modification to the facility. In either of these cases, the owner and operator shall submit an application for reissuance or modification of the permit as provided in this chapter. The commissioner shall process the application following the procedures in this chapter. For purposes of this part, "operated" means to have accepted source-separated organic material as defined in part 7035.0300, subpart 105a, for composting at levels constituting normal expected volumes for facilities for a minimum of one year during the most recent five-year term of the permit, such that the agency can reasonably conclude that the facility is operating in compliance with applicable rules and its permit. For purposes of this part, a "major modification" means a change in the type of materials managed at the facility, an increase beyond the original permitted capacity, or a change that could significantly affect compliance with the design or operation standards of part 7035.2836, subparts 8 and 9.

B. Owners and operators of source-separated organic material compost facilities operating under an extended permit may make minor modifications as listed in part 7001.3550, subpart 3, at any time, provided that notice of the minor modification is given to the agency as provided in part 7001.3410, subparts 1 and 2. Owners of facilities operating under an extended permit must comply with the requirements in part 7001.0190, subpart 2, before transferring ownership and control of the facility. Owners or operators of source-separated organic material compost facilities operating under an extended permit, as provided in this subpart, must submit to the agency the notification required by part 7001.3410, and the annual report required under part 7035.2585.

Statutory Authority: *MS s 115.03; 115A.97; 116.07*

History: *13 SR 1150; 16 SR 2321; 30 SR 529; 39 SR 857*

Published Electronically: *January 7, 2015*

7001.3111 ADDITIONAL SITING REQUIREMENTS FOR CERTAIN LANDFILLS THAT HAVE NOT RECEIVED A PERMIT BEFORE JANUARY 1, 2011.

Subpart 1. **Applicability.** In addition to the requirements of this chapter and chapter 7035, after January 1, 2011, an applicant for a solid waste land disposal facility permit that is not a contiguous expansion of a permitted facility or a noncontiguous expansion within 600 yards of a permitted facility must demonstrate to the commissioner that the facility meets the additional requirements of this part, unless that facility will accept only demolition and construction debris and incidental packaging or that facility will accept only industrial waste that is limited to wood, concrete, porcelain fixtures, shingles, or window glass resulting from the manufacture of building materials.

Subp. 2. **Site evaluation.** The applicant must comply with parts 7001.3175, 7001.3200, and 7001.3275.

Subp. 3. **Siting standards.** The applicant must demonstrate to the commissioner using testable or otherwise objective data that the proposed landfill site meets the criteria in item A or B and the criteria in items C and D. The applicant must provide a certification for site and groundwater conditions from a professional geologist licensed in Minnesota and a certification for structural conditions from a professional engineer licensed in Minnesota.

A. The predicted minimum time of travel of groundwater contaminants from the proposed landfill's base grade to an approvable proposed compliance boundary is at least 100 days.

B. Groundwater flow is known in sufficient detail to allow monitoring for potential contaminant releases, and site and groundwater conditions would allow the owner/operator sufficient space and time to implement corrective actions to prevent contaminants released from the landfill from exceeding applicable standards at a compliance boundary.

C. No karst exists within 200 feet laterally of the proposed waste fill area.

D. At sites where carbonate bedrock exists, either of the following conditions are met within the area of the compliance boundary:

(1) more than 50 feet of undisturbed, unconsolidated overburden has been maintained prior to construction of the landfill so that karst is not likely to develop; or

(2) based on the site evaluation in subpart 2, employing field techniques approved by the commissioner, the commissioner finds that karst is not likely to develop and the site will support the proposed landfill structure.

Statutory Authority: *MS s 116.07*

History: *36 SR 1047*

Published Electronically: *March 12, 2012*

7001.3125 DENIAL OF CONTINUED OPERATION OF AN EXISTING LAND DISPOSAL FACILITY.

The agency may deny or revoke a permit to operate an existing land disposal facility. Permit denial or revocation is based on the owner's or operator's inability to comply with: financial assurance requirements; location, operation, and design requirements; or ground water, surface water, and air quality standards established in parts 7035.2525 to 7035.2875. If a permit for an existing land disposal facility is denied or revoked, the agency shall issue a closure document in accordance with part 7001.3055. The closure document may allow up to five years to comply with the closure requirements of parts 7035.2635, 7035.2645, 7035.2655, and 7035.2815, subpart 16. The closure document will establish a postclosure care period and requirements in accordance with parts 7035.2635 to 7035.2655, and 7035.2815, subpart 16.

Statutory Authority: *MS s 115.03; 116.07*

History: *13 SR 1150*

Published Electronically: *July 13, 2009*

7001.3150 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 commissioner or agency must 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 fines and imprisonment." An engineer registered in Minnesota must certify all technical documents, such as design drawings and specifications, engineering reports, and hydrogeologic studies, required to be submitted as part of a permit application or by a permit condition.

The hydrogeologic report and all related ground water and surface water monitoring reports must be signed by a person knowledgeable in the field of hydrogeology. This person must certify the quality of work performed and must have been responsible for the gathering and interpretation of the hydrogeologic data and the preparation of the reports.

Statutory Authority: *MS s 115.03; 116.07*

History: *13 SR 1150*

Published Electronically: *July 13, 2009*

7001.3175 CONTENTS OF PRELIMINARY APPLICATION.

The applicant shall submit four copies of a preliminary application to the commissioner. The application must contain the following:

- A. the information required in part 7001.0050, except item G;

- B. on the topographic map submitted under part 7001.0050, item F, the location of all current and former wells, springs, karst features, and permanent or intermittent surface water bodies listed in public records or otherwise determined by the applicant to exist within a one-mile radius of the property boundaries of the proposed facility site or sites;
- C. a preliminary site evaluation report as described in part 7001.3200;
- D. a list of other necessary permits and approvals and whether each has been granted;
- E. a description of the present land use of the site or sites and an area within a one-mile radius of the site or sites, including the identification of the landowners; zoning designations; recreational, historical, or archeological areas; present or proposed access roads and weight restrictions; and how the proposed facility might affect these areas;
- F. the amount of land required to provide the waste disposal capacity determined under Minnesota Statutes, sections 115A.917 and 473.823;
- G. a description of the work to be completed during the detailed site evaluation, as outlined in part 7001.3275, for the facility location recommended in the preliminary site evaluation report; and
- H. a description of efforts to secure leachate treatment.

Statutory Authority: *MS s 115.03; 116.07*

History: *13 SR 1150*

Published Electronically: *July 13, 2009*

7001.3200 PRELIMINARY SITE EVALUATION REPORT.

The preliminary site evaluation report must contain a statement of the land disposal capacity needed, as determined under Minnesota Statutes, sections 115A.917 and 473.823. The report must contain a description of the site selection process, stating how candidate sites were chosen, how and by whom they were evaluated, and the basis for eliminating potential sites from consideration. For the site or sites recommended for detailed evaluation, the report must contain preliminary evaluations of the following conditions, accompanied by supporting technical documentation:

- A. the site's geology, ground water occurrence, horizontal and vertical directions and rates of ground water movement, and ground water quality, based on the preliminary review of available hydrogeologic maps and references, air photography, logs of previous borings and wells, and other available information required under part 7035.2815, subpart 3, item E;
- B. the site's capability to protect ground water and surface water if the leachate management system fails to contain leachate;
- C. the feasibility of the ground water monitoring required under part 7035.2815, subpart 10;
- D. the feasibility of containing and removing polluted ground water or waste and waste by-products;
- E. the site's ability to meet the location standards of parts 7035.2555 and 7035.2815, subpart 2;
- F. the availability of sufficient land for the buffer area and the setback from the property line required under part 7035.2815, subparts 2 and 5 and for the designation of a compliance boundary surrounding the facility as required under part 7035.2815, subpart 4;

G. the availability of suitable materials for the liners and cover required under part 7035.2815, subparts 6 and 7;

H. the potential for soil erosion or surface drainage to lead to increased leachate generation, failure of leachate containment features, runoff, or other undesirable consequences; and

I. the initial efforts to secure treatment facilities for leachate generated at the facility.

Statutory Authority: *MS s 115.03; 116.07*

History: *13 SR 1150*

Published Electronically: *July 13, 2009*

7001.3275 DETAILED SITE EVALUATION REPORT.

Subpart 1. **Scope.** The applicant shall submit four copies of a detailed site evaluation report for all mixed municipal solid waste land disposal facilities. The report must include the information required in subparts 2 to 8 and supporting documentation. The report must discuss whether the site meets the requirements of part 7035.2815. The applicant shall submit four copies of a detailed site evaluation report for all municipal solid waste combustor ash land disposal facilities. The report must include the information required in subparts 2 to 8 with the exception of subpart 4, item D, along with supporting documentation. The report must discuss whether the site meets the requirements of part 7035.2885.

Subp. 2. **Hydrogeologic evaluation.** The applicant must conduct a hydrogeologic investigation to define the soil, bedrock, and ground water conditions at the site. The investigation must meet the requirements of part 7035.2815, subpart 3, items A to I. A hydrogeologic evaluation must meet the requirements of part 7035.2815, subpart 3, item G, subitems (1) to (8).

Subp. 3. **Soils for cover and liner construction.** The applicant must evaluate the availability and suitability of soil for cover and liner construction. This evaluation must include a description of the source and quantity of the soil, soil descriptions and unified classifications, particle size analyses, permeability at specified moisture and densities, Atterberg limits, and, for liner materials, cation exchange capacity. The determination must consist of the evaluations required in part 7035.2815, subpart 8. The evaluation must assess whether the available soils will meet the requirements of part 7035.2815, subparts 6 and 7 for a mixed municipal solid waste land disposal facility, and part 7001.2885, subparts 10 and 11 for a municipal solid waste combustor ash land disposal facility.

Subp. 4. **Conceptual facility design.** The applicant must include a design conceptualizing the important features of the facility. The following items must be addressed in the plans and accompanying narrative:

A. a description of the amount and types of waste to be received, the amount and type of cover needed, and the capacity of the site;

B. a site layout showing surface drainage, existing natural screening and proposed screening, on-site and off-site surface water sources, rock outcroppings, on-site buildings, on-site wells, and property boundaries;

C. a site development plan depicting fill areas, borrow areas, on-site roads, and surface drainage control structures;

D. a plan sheet designating special waste handling areas such as general storage areas, recycling areas, tire storage areas, demolition debris or industrial solid waste fill areas, or compost areas;

E. a proposed design of the fill area including the proposed number of phases and the size of each phase, the direction of filling as it relates to prevailing winds and the slope of the trench bottoms, depth of fill, final contours, and the locations and descriptions of the gas and leachate collection, storage, and treatment systems including cross-sectional plan views;

F. a description of the leachate collection, storage, and treatment system indicating the type and size of pipe to be used, the length and spacing of pipe runs, proposed pumps, the storage system, and the proposed treatment system;

G. a description of the liner system to be used, including type of liner, method of placement and protection, and any special design features particular to the liner;

H. a description of the gas monitoring, venting, and collection system, based on the proximity of off-site buildings or other potentially affected areas, and on-site soils; and

I. an estimated construction cost.

Subp. 5. **Proposed compliance boundary.** The detailed site evaluation report must propose the location and configuration of a compliance boundary meeting the requirements of part 7035.2815, subpart 4. A plan sheet must show the locations of the proposed monitoring points; the proposed compliance boundary; the proposed limits of the waste fill and leachate management system; the property lines; ground water flow directions; and any nearby surface waters. The applicant may use a single plan sheet for these requirements and those of subpart 4, item C, if all the required information can be clearly shown.

Subp. 6. **Feasibility of corrective action.** The detailed site evaluation report must discuss the feasibility of the owner or operator implementing corrective actions in accordance with items A to D.

A. The applicant must determine whether it is technically feasible to take the corrective actions required in parts 7035.2615 and 7035.2815, subpart 15, at the proposed site. The applicant also must consider the costs of corrective actions at the site and the time available for corrective action based on ground water flow conditions at the site.

B. The applicant must identify and describe the potential modes of failure or evidence of failure, including:

(1) releases, leaks, or spills of leachate through liners or through the floor or sidewalls of the fill areas; from leachate collection installations; from leachate tanks, holding ponds, or treatment facilities; and in the loading, unloading, and transportation of leachate on- and off-site;

(2) water quality monitoring results exceeding the intervention limits given in part 7035.2815, subpart 4, at the compliance boundary, or the corresponding standards at the compliance boundary or lower compliance boundary, if applicable; and

(3) gas concentrations exceeding the limits given in part 7035.2815, subpart 11, in gas monitoring points, or other evidence of adverse effects of gas migration, including damage to the facility's cover vegetation.

C. For each potential type of failure identified under item B, the applicant must:

(1) describe the actions needed to:

(a) define the extent of the problem and identify the source and routes of leachate or gas escape;

- (b) alter the monitoring system or the conditions of monitoring, including frequency of monitoring and constituents analyzed;
 - (c) temporarily and permanently contain the migration of pollutants or gas;
 - (d) identify the actions necessary to repair areas of subsidence, erosion, dike breakage, and drainage disruption;
 - (e) repair the problem;
 - (f) treat and discharge the recovered ground water, leachate, or gas; and
 - (g) provide other remedial measures as may be necessary;
- (2) identify:
- (a) the funding, personnel, and equipment needed to carry out the actions in subitem (1), including the expertise needed to coordinate response actions and to provide technical support and specialized equipment and installations;
 - (b) the schedule for implementing corrective actions, the time needed to accomplish them, and the anticipated duration of longer term activities;
 - (c) the costs of these actions; and
 - (d) the level of financial assurance required under part 7035.2685 to fund them; and
- (3) estimate the success expected from each of the actions from subitem (1).

D. Based on the analysis in items A to C, the applicant must state the conclusions reached regarding the feasibility of corrective actions, including the capability to fund the actions identified.

Subp. 7. **Final use.** The detailed site evaluation report must include a proposal for the use of the site after closure consistent with part 7035.2815, subpart 16.

Subp. 8. **Additional information.** The detailed site evaluation report must include the information needed to complete an Environmental Assessment Worksheet or an Environmental Impact Statement, if applicable, in accordance with chapter 4410 or parts 7849.1000 to 7849.2100 and 7850.1000 to 7850.5600.

Statutory Authority: *MS s 115.03; 115A.97; 116.07*

History: *13 SR 1150; 16 SR 2321*

Published Electronically: *October 13, 2009*

7001.3300 GENERAL INFORMATION REQUIREMENTS FOR FINAL APPLICATION.

The applicant shall submit to the commissioner four copies of the final application and supporting materials for any solid waste management facility. The applicant must use a horizontal scale of one inch equals 200 feet in all drawings and plans, unless otherwise specified. The applicant must mark all plans and reports with the initial date prepared. All subsequent revisions must be dated and include a notation of what revisions were made. The application must contain:

- A. a general description of the facility;
- B. an industrial waste management plan in accordance with part 7035.2535, subpart 5, to include a description of the waste types to be handled at the facility and the quantities of each waste type including a procedure for determining the analyses necessary to treat, store, or dispose of the waste properly

in accordance with parts 7035.2525 to 7035.2885. Municipal solid waste combustor ash land disposal facility applications must explain how the owner or operator will ensure that industrial wastes other than wastes specifically approved by the commissioner in accordance with part 7035.2885, subpart 3, will not be disposed of at the facility;

C. a description of the security procedures and equipment required by part 7035.2535, subpart 3, or a discussion of reasons the security procedures are unnecessary at the facility;

D. the inspection schedule required by part 7035.2535, subpart 4;

E. the contingency action plan required by part 7035.2615, including the information, if applicable, in parts 7035.2815, subpart 15, and 7035.2825 to 7035.2885;

F. a description of procedures, structures, or equipment used at the facility to:

(1) prevent operational hazards;

(2) prevent run-off and run-on at the solid waste handling area, such as berms, dikes, or trenches;

(3) prevent contamination of ground water and surface water supplies; and

(4) mitigate effects of equipment failure and power outages;

G. a description of precautions used to prevent ignition or explosions of waste or waste by-products and an emergency response plan required by parts 7035.2595 and 7035.2605;

H. a description of the traffic patterns and traffic control at the facility including a drawing showing traffic lanes; parking, loading, and unloading areas; 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;

I. a description including plans showing how the storage requirements of part 7035.2855 will be met;

J. a closure plan and, when applicable, the postclosure plan required by parts 7035.2625 and 7035.2645;

K. if applicable, an up-to-date closure cost estimate for the facility prepared under part 7035.2625, subpart 3 and evidence of the financial assurance required in parts 7035.2665 to 7035.2805;

L. if applicable, an up-to-date postclosure cost estimate for the facility prepared under part 7035.2645, subpart 2, and evidence of the financial assurance required in parts 7035.2665 to 7035.2805;

M. if applicable, an up-to-date corrective action cost estimate for the facility prepared under part 7035.2615 and evidence of the financial assurance required in parts 7035.2665 to 7035.2805;

N. a topographic and development map showing the facility and the area surrounding the facility for a distance of at least 1,320 feet using a scale of one inch equals 200 feet. The maps must include contours of not greater than two-foot intervals that show the pattern of surface water flow in and adjacent to the facility. The maps must show the following:

(1) date the map was prepared;

(2) map scale;

(3) floodplain area;

(4) surface waters, including intermittent streams and wetlands;

(5) zoning of surrounding lands including residential, commercial, agricultural, and recreational;

(6) a north arrow;

(7) legal boundaries of the facility site;

(8) county, township, and municipal boundaries;

(9) township, range, and section;

(10) land ownership surrounding the site;

(11) easements and rights-of-way;

(12) permanent benchmarks including location and elevation;

(13) a location grid system on every plan sheet;

(14) boundaries of parks and wildlife refuges;

(15) airports;

(16) location of fences, gates, and other access control measures;

(17) on-site and off-site water supply and monitoring wells; and

(18) all existing and proposed structures and buildings, and roads, including those used in treatment, storage, or disposal operations, run-off and run-on control systems; access and internal roads; loading and unloading areas; and fire control systems;

O. any additional geologic and other location information required to demonstrate compliance with parts 7035.2615, 7035.2815, subpart 15, and 7035.2825 to 7035.2885;

P. an operations and maintenance manual that includes:

(1) the facility description and design parameters;

(2) emergency shutdown procedures;

(3) operation variables and procedures, including the proposed frequency and materials to be used for intermittent and intermediate cover;

(4) troubleshooting procedures;

(5) preventive maintenance requirements;

(6) safety requirements and procedures;

(7) equipment maintenance records;

(8) site inspection records; and

(9) an inspection schedule for facility maintenance, such as controlling erosion, vegetation growth, and rodents;

Q. a construction inspection, quality control, and quality assurance plan showing a detailed inspection schedule for construction completed at the site; the sampling procedures including number and tests completed; the procedures for interpretation and submission of inspection and test results to the commissioner; and all other material required to comply with parts 7035.2525 to 7035.2885;

R. a household hazardous waste management plan according to part 7035.2535, subpart 6; and

S. any additional information that the commissioner determines is necessary to decide whether the facility will meet all applicable Minnesota and federal statutes and rules during permit issuance.

Statutory Authority: *MS s 115.03; 115A.97; 116.07*

History: *13 SR 1150; 15 SR 2106; 16 SR 2321*

Published Electronically: *July 13, 2009*

7001.3375 FINAL APPLICATION INFORMATION REQUIREMENTS FOR COMPOST FACILITIES.

The application for a compost facility permit must include the following information in addition to the information required by part 7001.3300:

- A. a description of the area proposed to be used for each stage of the composting process;
- B. a description of the design and physical features of the facility, including run-off, run-on, and leachate control systems;
- C. a description of the material to be composted;
- D. a description of the composition of the rejects and residuals;
- E. a description of the disposal method for the rejects and residuals;
- F. the design of an odor control system;
- G. the design and performance specifications of the composting facility;
- H. a description of the composting method to be used including retention time, temperature to be achieved, number of turns needed, and the air flow design;
- I. an operating plan indicating how the provisions of part 7035.2836 will be met, including a waste analysis plan;
- J. a description of the proposed uses for the compost;
- K. a workplan for any proposed soil characterization to comply with part 7035.2836, subpart 9, item B, subitem (8). Once the workplan is approved by the commissioner, the owner or operator of a source-separated organic material compost facility must submit a report summarizing field activities used for the site characterization to the commissioner for review and approval prior to issuance of the permit; and
- L. for source-separated organic material compost facilities, evidence that the owner and operator have obtained all necessary approvals from the municipality, as defined under part 7035.0300, subpart 67. A municipality that has submitted a permit application under this part is not required to submit a municipality approval. The owner or operator must submit a copy of any approvals obtained from a municipality. If the facility is located in an area where no municipality approval is required, the owner or operator must submit a signed written statement indicating that no municipality approval is required.

Statutory Authority: *MS s 115.03; 116.07*

History: *13 SR 1150; 21 SR 327; 39 SR 857*

Published Electronically: *January 7, 2015*

7001.3400 FINAL PERMIT APPLICATION INFORMATION REQUIREMENTS FOR TRANSFER FACILITIES.

The application for a transfer facility permit must include the following information in addition to the information required by part 7001.3300:

A. detailed plans and an engineering report specifying how the facility will be constructed and operated including:

- (1) the facility design and layout;
- (2) security measures;
- (3) the types of vehicles intended for use at the site;
- (4) the types of wastes that will be received;
- (5) the hours of operation;
- (6) the storage capacity at the facility and the maximum amount expected to be stored;
- (7) a description of all major equipment, such as compactors, conveyors, and front-end loaders, used at the site, including the function, the model, the capacity, and the number of each type of equipment;
- (8) the methods to be employed to control nuisances such as dust, vectors, litter, noise, and odors;
- (9) the frequency of waste removal and method of removal;
- (10) the ultimate deposition of the waste received at the facility;
- (11) the on-site road design and maintenance;
- (12) the site closure plan;
- (13) the operating procedures to ensure the facility is maintained in compliance with part 7035.2870;
- (14) any recycling or composting to be done at the site and how it will be conducted; and
- (15) the safety and emergency procedures for the site operators;

B. information demonstrating that the facility will meet the design standards in part 7035.2870, subpart 4, or that the facility qualifies under part 7035.2870, subpart 3, and information demonstrating that the facility will meet the operations standard in part 7035.2870, subpart 5; and

C. evidence that the owner and operator have obtained all necessary municipality approvals. The owner or operator must submit a copy of any approvals obtained. If the facility is located in an area where no municipality approval is required, the owner or operator shall submit a signed written statement indicating that no municipality approval is required.

Statutory Authority: *MS s 115.03; 116.07*

History: *13 SR 1150; 30 SR 529*

Published Electronically: *July 13, 2009*

7001.3410 EXTENDED PERMIT NOTIFICATION AND TERMINATION PROCEDURES.

Subpart 1. **Notification contents.** Owners or operators of transfer facilities or source-separated organic material compost facilities operating under an extended permit shall submit to the agency, upon the anniversary of the expiration date of the permit, and every five years thereafter, a notification containing the following information:

- A. the facility name, address, mailing address, and facility contact name and telephone number;
- B. the permit number;
- C. any minor modifications that have been made at the facility since permit issuance or the date of last notification;
- D. a summary of annual updates, if any, to the industrial solid waste management plan required by part 7035.2535, subpart 5; the contingency action plan required by part 7035.2615; the emergency response plan required by part 7035.2595, subpart 5; the operations and maintenance plan required by part 7001.3300, item P; the inspection schedule required by part 7035.2535, subpart 4; the storm water pollution prevention plan if required under parts 7001.1000 to 7001.1100; and the closure plan as provided under part 7035.2625; and
- E. signatures and certifications in accordance with parts 7001.0060, 7001.0070, and 7001.3150.

Subp. 2. **Updates in the annual report.** For any minor modifications and for any changes to the plans and schedules listed under subpart 1, item D, the owner or operator shall include a description of any changes in the annual report submitted under part 7035.2585, item L. These changes are considered approved upon receipt by the agency, but the owner or operator must amend the plans or schedules if, at any time, the agency notifies the owner or operator that the plans or schedules are deficient.

Subp. 3. **Termination of extended permit operation as allowed under part 7001.3075.** The agency shall notify the owner or operator of a transfer facility or a source-separated organic material compost facility operating under an extended permit that the transfer facility or source-separated organic material compost facility is no longer eligible to operate under an extended permit and must be repermited under chapter 7001 under any of the following conditions:

- A. the transfer facility or source-separated organic material compost facility has unresolved noncompliance or has not been operated substantially in accordance with applicable standards;
- B. the owner or operator has made changes to the facility that require a major modification as described in part 7001.3075, subpart 3, without filing a permit application;
- C. the owner or operator has failed to update required plans or schedules or has submitted reports that contain material deficiencies and has not corrected those deficiencies; or
- D. the owner or operator has failed to submit the notification or the annual report required under part 7035.2585.

In the termination notice, the agency shall state the reasons why the agency proposes to require repermits of the facility and shall provide the owner or operator with 30 days to respond to the notice. Following receipt of the response, if any, the agency shall make a final determination and shall notify the owner and operator of that decision. Upon receipt of this final determination, the owner or operator may elect to seek to continue the operation of the transfer facility or source-separated organic material compost facility by submitting a permit application, or may close the facility. If the owner or operator elects to continue the operation, the owner or operator shall submit a permit application within 30 days of receipt of

the final determination. The commissioner shall process the application following the procedures in chapter 7001. If the owner or operator elects to close the facility, the owner or operator must notify the agency and initiate closure procedures within 30 days of receipt of the final determination.

Statutory Authority: *MS s 116.07*

History: *30 SR 529; 39 SR 857*

Published Electronically: *January 7, 2015*

7001.3425 FINAL APPLICATION INFORMATION REQUIREMENTS FOR DEMOLITION DEBRIS LAND DISPOSAL FACILITIES.

The application for a demolition debris land disposal facility permit must include the following information in addition to the information required by part 7001.3300:

- A. a calculation of site capacity and operating life;
- B. the detailed plans and engineer's report specifying the manner in which the facility will be constructed and operated to control run-on and run-off;
- C. a description of the procedures to be used in controlling the wind dispersion of particulate matter and fugitive dust;
- D. a phase development plan showing the progressive development of trench or area fills and the construction associated with each phase;
- E. a cross-section plan with a vertical scale of one inch equals ten feet and a horizontal scale of one inch equals 100 feet, including a minimum of two cross-sections per phase, perpendicular to one another, showing the existing grades, the excavation grade, the final grade, the water table profile, and the profile and identity of the bedrock, as applicable;
- F. a complete soils evaluation, including individual boring logs, as required in part 7035.2825;
- G. a hydrogeologic study completed in accordance with parts 7001.3275 and 7035.2825, the extent of which will be determined by the commissioner based on the location, proposed operational practices, and the types of waste expected;
- H. the methods to be followed to control noise and access to the facility;
- I. a list of the equipment to be used at the site including the model, capacity, number, and ability to handle bulky items;
- J. a description of the proposed ground water monitoring system required by part 7035.2825, subpart 12;
- K. a listing of any other permits required for the facility;
- L. an inspection procedure for the facility operator to determine that only permitted wastes are received at the facility; and
- M. any additional information the commissioner determines to be necessary to meet the requirements of parts 7035.2525 to 7035.2805 and 7035.2825.

Statutory Authority: *MS s 115.03; 116.07*

History: *13 SR 1150*

Published Electronically: *July 13, 2009*

7001.3450 FINAL APPLICATION INFORMATION REQUIREMENTS FOR REFUSE-DERIVED FUEL PROCESSING FACILITIES.

The final application for a refuse-derived fuel processing facility permit must include the following information in addition to the information required by part 7001.3300:

- A. a description of the area proposed to be used for separation of the solid waste into its components, such as ferrous metals, screenings, refuse-derived fuel materials, and residuals;
- B. a description of the facility design, including storage areas, prior to and after processing, processing areas, loading areas for removal of the waste components, and how the processed waste is further used in an on-site solid waste management facility;
- C. a description of the end products;
- D. a material flow and balance calculation used to design the facility;
- E. the design of an odor and a particulate or fugitive dust control system;
- F. the design, construction, and operating specifications;
- G. an operations plan including the specific manuals for operating the processing equipment and protective measures to prevent explosions;
- H. a description of the proposed end uses for each waste component; and
- I. any additional information necessary to meet the requirements of part 7035.2875.

Statutory Authority: *MS s 115.03; 116.07*

History: *13 SR 1150*

Published Electronically: *July 13, 2009*

7001.3475 FINAL APPLICATION INFORMATION REQUIREMENTS FOR MIXED MUNICIPAL SOLID WASTE LAND DISPOSAL FACILITIES.

The application for a mixed municipal solid waste land disposal facility permit must include the following information in addition to the information required by part 7001.3300:

- A. The needed capacity determined under Minnesota Statutes, section 115A.917, for Greater Minnesota, or, for facilities located in the metropolitan area, Minnesota Statutes, section 473.823, subdivision 6.
- B. A description of the waste types to be handled at the facility including any special handling procedures and areas designated for disposal of particular wastes.
- C. A description of the status of the Environmental Assessment Worksheet or Environmental Impact Statement.

D. Detailed plans and an engineering report describing how the applicant will design, construct, operate, and maintain the facility to comply with the requirements of parts 7035.2525 to 7035.2815 and 7035.2855. The submission must address the following items as specified in part 7035.2815:

- (1) the liner system, leak detection, and the leachate collection and removal system;
- (2) control of run-off and run-on;
- (3) management of collection, conveyance, and holding facilities associated with run-off and run-on control systems;
- (4) control of wind dispersion of particulate matter;
- (5) treatment of collected run-off, run-on, and leachate; and
- (6) a phase development plan consistent with site capacity including two cross-sections per phase with a vertical scale of one inch equals ten feet and a horizontal scale of one inch equals 100 feet, perpendicular to one another, showing the existing grade, the excavation grade, final grade, the water table profile, and the profile and identity of the underlying geology in accordance with the requirements of part 7035.2815.

The submission must include the design specifications, materials and test data, the rationale for the design, and identification of elements critical to the performance of the design.

E. Geologic and hydrogeologic information necessary to demonstrate compliance with part 7035.2815, as submitted in the hydrogeologic report required in part 7001.3275.

F. An operation and maintenance manual detailing the procedures site personnel will follow in order to comply with parts 7035.2525 to 7035.2815.

G. A description of how the applicant will inspect the facility, including the liner and cover systems, in order to meet the requirements of part 7035.2815. The applicant must include this information in the inspection plan submitted under part 7001.3300, item D.

H. Detailed plans and an engineering report describing the final cover applied to each cell at closure under parts 7035.2525 to 7035.2815 and a description of how the applicant will maintain and monitor the facility after closure under parts 7035.2525 to 7035.2815. The applicant must include this information in the closure and postclosure plans submitted under part 7001.3300, item J.

I. The proposed gas monitoring, collection, and treatment system required in part 7035.2815, subpart 11.

Statutory Authority: *MS s 115.03; 116.07*

History: *13 SR 1150*

Published Electronically: *July 13, 2009*

7001.3480 FINAL APPLICATION INFORMATION REQUIREMENTS FOR MUNICIPAL SOLID WASTE COMBUSTOR ASH LAND DISPOSAL FACILITIES.

The application for a municipal solid waste combustor ash land disposal facility permit must include the information in items A to I in addition to the information required by part 7001.3300.

A. A description of the ash and any other wastes proposed to be handled at the facility according to part 7035.2885, subpart 3, including the source and chemical and physical characteristics of the ash or other waste.

B. The proposed capacity of the site.

C. A description of how the requirements of part 7035.2885, subparts 4 and 5, regarding maximum leachable contaminant levels will be met. If the design of the land disposal facility liner does not meet the minimum specifications of part 7035.2885, subpart 11, item P, the application must include a contingency action plan describing steps which the owner or operator will take if the results of ash testing or actual leachate analysis exceed the limits allowed based on the design of the facility. All applications must include an assessment of the results of ash testing and actual leachate analysis representative of the ash to be accepted at the facility. This assessment must include the following items:

- (1) calculations of "results," as defined in part 7035.2885, subpart 4, item A;
- (2) assessment of trends over time in the results of ash testing and actual leachate analysis;

and

(3) descriptions of any anticipated changes in the design of, or waste combusted at, the waste combustor or combustors which generate ash to be accepted at the land disposal facility, and predictions of how those changes will affect the chemical and physical characteristics of the ash disposed of at the facility.

D. A description of the status of the Environmental Assessment Worksheet or Environmental Impact Statement.

E. Detailed plans and an engineering report describing how the applicant will design, construct, operate, and maintain the facility to comply with the requirements of parts 7035.2525 to 7035.2805 and 7035.2885. The submission must address the following items as specified in part 7035.2885:

- (1) the liner system, leak detection, and the leachate collection and removal system;
- (2) control of runoff and run-on;
- (3) management of collection, conveyance, and holding facilities associated with runoff and run-on control systems;
- (4) control of wind dispersion of particulate matter;
- (5) treatment of collected runoff, run-on, and leachate; and
- (6) a phase development plan consistent with site capacity including two cross-sections per phase with a vertical scale of one inch equals ten feet and a horizontal scale of one inch equals 100 feet, perpendicular to one another, showing the existing grade, the excavation grade, final grade, the water table profile, and the profile and identity of the underlying geology according to part 7035.2885.

The submission must include the design specifications, materials and test data, the rationale for the design, and identification of elements critical to the performance of the design.

F. Geologic and hydrogeologic information necessary to demonstrate compliance with part 7035.2885, as submitted in the hydrogeologic report required in part 7001.3275, subpart 2.

G. An operation and maintenance manual detailing the procedures site personnel will follow in order to comply with parts 7035.2525 to 7035.2805 and 7035.2885.

H. A description of how the applicant will inspect the facility, including the liner and cover systems, in order to meet the requirements of part 7035.2885. The applicant must include this information in the inspection plan submitted under part 7001.3300, item D.

I. Detailed plans and an engineering report describing the final cover applied to each cell at closure under parts 7035.2525 to 7035.2805 and 7035.2885 and a description of how the applicant will maintain and monitor the facility after closure under parts 7035.2525 to 7035.2805 and 7035.2885. The applicant must include this information in the closure and postclosure plans submitted under part 7001.3300, item J.

Statutory Authority: *MS s 115A.97*

History: *16 SR 2321*

Published Electronically: *July 13, 2009*

7001.3500 TERMS AND CONDITIONS OF SOLID WASTE MANAGEMENT FACILITY PERMITS.

Subpart 1. Terms of permit.

A. A solid waste land disposal facility permit is effective for ten years unless the approved closure plan submitted under part 7035.2625 indicates that the capacity of the facility will be reached in less than ten years, in which case the permit term is based on the estimated year of closure according to part 7035.2625.

B. Except as modified by part 7001.3075, subpart 3, other solid waste management facility permits are effective for a fixed term not to exceed five years as determined by the agency.

Subp. 2. **Site capacity.** A mixed municipal solid waste land disposal facility permit will state the certified capacity determined under Minnesota Statutes, sections 115A.917 and 473.823, subdivision 6, as well as the design capacity.

Subp. 3. **Additional general conditions.** Each draft and final solid waste management facility permit issued by the agency must contain the general conditions in part 7001.0150, subpart 3. In addition, each permit must contain the following general conditions:

A. The permittee must maintain records of all ground water monitoring data and ground water surface elevations for the active life of the facility and, for disposal facilities, for the postclosure care period. The permittee must also maintain an operating record in accordance with part 7035.2575 until closure of the facility.

B. The permittee may not start treatment, storage, or disposal of solid waste in a new solid waste management facility or in a modified portion of an existing solid waste management facility until:

(1) the commissioner has received a letter and as-built plans signed by the owner or operator and by an engineer registered in Minnesota certifying that the facility has been constructed or modified in compliance with the conditions of the permit;

(2) the commissioner has inspected the new or modified facility and has provided the owner or operator with a letter stating that the certification submitted is complete and approved; and

(3) the commissioner has approved the financial assurance amount and instrument to be used for the facility in accordance with parts 7035.2665 to 7035.2805.

Statutory Authority: *MS s 14.388; 115.03; 116.07*

History: *13 SR 1150; 30 SR 529; 37 SR 171*

Published Electronically: *July 31, 2012*

7001.3550 MODIFICATION OF SOLID WASTE MANAGEMENT FACILITY PERMITS; REVOCATION AND REISSUANCE OF PERMITS.

Subpart 1. **Scope.** In addition to parts 7001.0170, 7001.0180, and 7001.0190, subparts 2 and 3 apply to the modification, revocation, and reissuance of solid waste management facility permits.

Subp. 2. **Additional justification for modification of solid waste management facility permits or revocation and reissuance of permits.** In addition to the reasons listed in part 7001.0170, the commissioner may commence proceedings to modify a permit, or to revoke and reissue a permit if:

A. the commissioner determines that modification of a closure plan or a postclosure plan is required by part 7035.2625 or 7035.2645;

B. the permittee requests an extension of the 30-day or 60-day periods in parts 7035.2625 to 7035.2655;

C. the commissioner receives notification of closure under part 7035.2625 in advance of the date in the permit;

D. the commissioner determines that modification of the 20-year postclosure period provided in parts 7035.2645 and 7035.2655 is necessary;

E. the commissioner determines that the permittee has made the demonstration required by parts 7035.2645 and 7035.2655, so that disturbance of the integrity of the containment system is authorized;

F. the permittee files a request under parts 7035.2665 to 7035.2805 for a variance from the required level of financial responsibility;

G. the commissioner determines under parts 7035.2665 to 7035.2805 that an upward adjustment of the level of financial responsibility is required;

H. the commissioner determines that the corrective action program in part 7035.2615 has not brought the facility into compliance with the ground water protection standard within the specified period of time;

I. the commissioner determines that conditions applicable to facilities were not previously included in the facility's permit; and

J. the county in which the facility is located has not received a certificate of need or an amended certificate of need, as required by Minnesota Statutes, section 115A.917, or a facility owner in the metropolitan area has not received a certificate of need or an amended certificate of need in accordance with Minnesota Statutes, section 473.823, subdivision 6.

Subp. 3. **Minor modifications of permits.** In addition to the corrections or allowances listed in part 7001.0190, subpart 3, if the permittee consents, the commissioner may modify a permit to make the corrections or allowances in items A to G without following the procedures in parts 7001.0100 to 7001.0130:

A. change the expected year of closure under parts 7035.2625 and 7035.2635;

B. change schedules for final closure under parts 7035.2625 and 7035.2635;

- C. change the list of equipment in the permittee's contingency action plan;
- D. change the list of emergency contractors in the permittee's contingency or emergency plan;
- E. change the construction schedule for opening and closing approved phases in the permittee's development plans;
- F. change monitoring frequencies; and
- G. change a provision in the permit that will not result in an increase in the emission or discharge of a pollutant into the environment, or that will not reduce the agency's ability to monitor compliance with applicable statutes and rules.

For facilities in the metropolitan area, items A, B, and F must be reviewed and approved by the Metropolitan Council prior to agency approval of the modification.

Statutory Authority: *MS s 115.03; 116.07*

History: *13 SR 1150*

Published Electronically: *July 13, 2009*

7001.4000 [Repealed, 12 SR 2513]

Published Electronically: *July 13, 2009*

7001.4010 [Repealed, 12 SR 2513]

Published Electronically: *July 13, 2009*

7001.4020 [Repealed, 12 SR 2513]

Published Electronically: *July 13, 2009*

7001.4030 [Repealed, 12 SR 2513]

Published Electronically: *July 13, 2009*

7001.4035 [Repealed, 12 SR 2513]

Published Electronically: *July 13, 2009*

7001.4040 [Repealed, 12 SR 2513]

Published Electronically: *July 13, 2009*

7001.4050 [Repealed, 12 SR 2513]

Published Electronically: *July 13, 2009*

7001.4060 [Repealed, 12 SR 2513]

Published Electronically: *July 13, 2009*

7001.4070 [Repealed, 12 SR 2513]

Published Electronically: *July 13, 2009*

7001.4080 [Repealed, 12 SR 2513]

Published Electronically: *July 13, 2009*

7001.4090 [Repealed, 12 SR 2513]

Published Electronically: *July 13, 2009*

7001.4100 [Repealed, 12 SR 2513]

Published Electronically: *July 13, 2009*

7001.4110 [Repealed, 12 SR 2513]

Published Electronically: *July 13, 2009*

7001.4120 [Repealed, 12 SR 2513]

Published Electronically: *July 13, 2009*

7001.4130 [Repealed, 12 SR 4130]

Published Electronically: *July 13, 2009*

7001.4140 [Repealed, 12 SR 2513]

Published Electronically: *July 13, 2009*

7001.4150 [Repealed, 12 SR 2513]

Published Electronically: *July 13, 2009*

MAJOR FACILITY SUBSTANCE STORAGE PERMITS

7001.4200 SCOPE.

Parts 7001.0010 to 7001.0210 and 7001.4200 to 7001.4250 govern the application procedures, issuance, and conditions of major facility substance storage permits. Chapter 7000 shall be construed to supplement parts 7001.0010 to 7001.0210 and 7001.4200 to 7001.4250.

Statutory Authority: *MS s 115.03*

History: *23 SR 883*

Published Electronically: *July 13, 2009*

7001.4201 PURPOSE.

The purpose of parts 7001.4200 to 7001.4250 is to establish a major facility permit for aboveground storage of substances that reasonably ensures proper retention of those substances and detection of entry into any waters of the state in a manner that would be likely to pollute any waters of the state.

Safeguards established in the permit shall reflect:

- A. the nature, toxicity, viscosity, and quantity of the substance being stored;
- B. the potential for a storage tank system to fail;
- C. the potential for the failure of a storage tank system to have an adverse impact on the waters of the state;
- D. the hydrogeologic setting of the facility, including the thickness of and permeability of soils present between the tank system and groundwater;
- E. factors that influence the quality and mobility of the stored substance and the potential for it to migrate to surface water or groundwater; and
- F. any other factors necessary to prevent, control, or abate water pollution.

Statutory Authority: *MS s 115.03*

History: *23 SR 883*

Published Electronically: *July 13, 2009*

7001.4205 DEFINITIONS.

Subpart 1. **Scope.** The definitions in parts 7001.0010 and 7151.1200 apply to the terms used in parts 7001.4200 to 7001.4250 unless the terms are defined in this part.

Subp. 2. **Major facility.** "Major facility" means an assemblage of one or more aboveground storage tanks, including any indoor tanks, together with any associated secondary containment areas, appurtenances, and substance transfer areas, that are located at a single property or multiple contiguous properties and where the total substance design storage capacity of all such tanks at the site is 1,000,000 gallons or greater.

Subp. 3. **Major facility permit.** "Major facility permit" means a permit issued by the agency to a major facility pursuant to this chapter. Any tank meeting the definition of indoor tank is excluded from regulation under the terms and conditions of a major facility permit.

Subp. 4. **Substance.** "Substance" means any liquid material which is not gaseous or solid at ambient temperature and pressure that would be likely to pollute any waters of the state.

Statutory Authority: *MS s 115.03*

History: *23 SR 883*

Published Electronically: *July 13, 2009*

7001.4210 INCORPORATIONS BY REFERENCE.

Subpart 1. **Scope.** For purposes of this chapter, the documents in subpart 2 are incorporated by reference. The documents are not subject to frequent change. They are available at:

- A. the address shown in subpart 2; and

B. the agency library through the Minitex interlibrary loan system.

Subp. 2. **Referenced standards.** The documents incorporated by reference in this chapter are as follows: American Petroleum Institute (API), 1220 L Street Northwest, Washington, DC 20005:

- A. 650, Welded Steel Tanks for Oil Storage, Ninth Edition (1993);
- B. 651, Cathodic Protection of Aboveground Petroleum Storage Tanks, First Edition (1991);
- C. 652, Lining of Aboveground Petroleum Storage Tank Bottoms, First Edition (1991); and
- D. 653, Tank Inspection, Repair, Alteration, and Reconstruction, Second Edition (1995).

Statutory Authority: *MS s 115.03*

History: *23 SR 883*

Published Electronically: *July 13, 2009*

7001.4215 PUBLIC COMMENT.

If the permit applicant requests or the agency determines that issuance, reissuance, or modification of a permit involves issues that generate or are likely to generate significant material adverse comment from the public, based on previous adverse public comment on the proposed permit or related issues, the procedures in items A to C, prior to issuance, reissuance, or modification of the permit, apply.

A. The agency shall give notice:

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

B. The notice must identify:

- (1) the name and location of the facility to be permitted;
- (2) the name and address of the permittee;
- (3) the name and address of the agency;
- (4) the activity or activities proposed to be permitted;
- (5) the name, address, and telephone number of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, and all other materials available to the agency that are relevant to the permit decision;
- (6) a brief description of the comment procedures required by this part; and
- (7) the time and place of any meeting or hearing that may be held, including a statement of procedures to request a meeting or hearing under item C, unless a meeting or hearing has already been scheduled.

C. The agency shall provide at least 30 days for public comment and shall give notice of any public informational meeting or contested case hearing at least 30 days in advance of the meeting or hearing. The provisions of part 7001.0110 apply to public comments received under this part.

Statutory Authority: *MS s 115.03*

History: *23 SR 883; 25 SR 556*

Published Electronically: *July 13, 2009*

7001.4220 PERMIT APPLICATION.

If the applicant is requesting the issuance, modification, revocation and reissuance, or reissuance of a major facility substance storage permit, the applicant shall submit the following information to the commissioner:

- A. the information required by part 7001.0050;
- B. for each outdoor tank system:
 - (1) tank number;
 - (2) substance stored;
 - (3) design capacity in gallons;
 - (4) year of tank's installation;
 - (5) status of tank as active or out of service under part 7151.8200;
 - (6) tank construction material;
 - (7) method of tank fabrication (field-erected or shop-fabricated);
 - (8) tank wall construction;
 - (9) tank floor construction;
 - (10) substance level gauging mechanism;
 - (11) overfill protection system on tank;
 - (12) corrosion protection system for the underside of each tank floor;
 - (13) leak detection system;
 - (14) aboveground and underground piping location, fabrication, and preventative safeguards;
 - (15) date of the most recent out-of-service inspection and the method used to evaluate the tank;
 - (16) the scheduled or estimated date of the next out-of-service inspection; and
 - (17) secondary containment area information including:
 - (a) containment area number;
 - (b) tank number of each tank within the containment area;
 - (c) volume in gallons of the secondary containment area;
 - (d) construction materials including the dike walls and basin area; and

- (e) the permeability factor of the materials used to construct the containment area;
- C. for each indoor tank:
 - (1) tank number;
 - (2) substance stored;
 - (3) design capacity in gallons; and
 - (4) indoor containment method;
- D. site geology information:
 - (1) average or estimated depth to groundwater;
 - (2) native soil classification, between surface and groundwater;
 - (3) the calculated or estimated vertical permeability of native soil, not including any containment liner;
 - (4) average or estimated depth to bedrock;
 - (5) bedrock type and formation name; and
 - (6) existing tank or pipe-related site contamination or any investigation indicating no contamination; and
- E. any additional information necessary to process the major facility permit application.

Statutory Authority: *MS s 115.03*

History: *23 SR 883*

Published Electronically: *July 13, 2009*

7001.4230 RETENTION OF TANK AND SUBSTANCE TRANSMISSION LINE RECORDS.

If a substance storage facility is required to obtain a major facility permit under this chapter, the permittee shall retain the following data on file at the facility for the retention times specified for each of the following safeguards that are explicitly required by the terms and conditions of the permit:

- A. for each field-erected tank:
 - (1) external inspection results, for five years;
 - (2) internal inspection final reports, for the life of the tank;
 - (3) specifications for the tank floor coating, for the life of the coating;
 - (4) design specifications, including anode and rectifier placement, for the cathodic protection system, for the life of the system;
 - (5) record of results of all bimonthly rectifier reading results and annual cathodic protection surveys, for three years;
 - (6) specifications for the tank gauging system, for the life of the system;
 - (7) daily gauge readings, for three years;
 - (8) specifications for the overfill protection system, for the life of the system;

(9) record of results of annual testing or calibration of the gauging and overflow protection systems, for one year;

(10) records of leak testing, including date, method, operator, and results, for three years; and

(11) records of any major tank modifications or repairs, for the life of the tank;

B. for each underground substance transmission line:

(1) information addressing the line segment, including age, material, diameter, location shown on a scaled map, type of service, pressure rating, and any special conditions of service, for the life of the line;

(2) specifications for any leak safeguards, such as pipe coating or wrapping, cathodic protection, double walled, or leak detection system, for the life of the safeguard; and

(3) record of results of inspections and leak tests, including date, method, operator, and results, for three years; and

C. for each secondary containment area: records of visual inspections, for one year.

Unless otherwise addressed in the terms and conditions of the permit, the major facility permittee shall retain all data specified in this part. The permittee shall, upon agency request, make the data available to the agency for viewing and copying.

Statutory Authority: *MS s 115.03*

History: *23 SR 883; 25 SR 556*

Published Electronically: *July 13, 2009*

7001.4240 REDUCTION OR INCREASE OF SUBSTANCE STORAGE CAPACITY.

Subpart 1. **Major facilities which reduce substance storage capacity.** Any major facility operating pursuant to a major facility permit under this part, which reduces substance storage capacity so as to no longer meet the definition of a major facility under part 7001.4205, subpart 2, shall continue to comply with all terms and conditions of the major facility permit until the expiration of the permit.

Subp. 2. **Facilities which increase substance storage capacity.** Any substance storage facility which does not meet the definition of a major facility under part 7001.4205, subpart 2, on November 2, 1998, which proposes to increase substance storage capacity so as to meet the definition of a major facility, shall apply for and obtain a major facility permit under this part prior to increasing storage of substances at the facility.

Statutory Authority: *MS s 115.03*

History: *23 SR 883*

Published Electronically: *July 13, 2009*

7001.4250 NOTIFICATION REQUIREMENTS FOR FIELD-ERECTED TANKS.

The notification required for field-erected tanks is as described in items A to C.

A. Except as provided in item B, the permittee shall notify the commissioner, in writing, at least 60 days prior to implementation of any of the following:

- (1) construction or installation of any of the following:
 - (a) a new field-erected aboveground storage tank;
 - (b) a new underground substance transmission line appurtenant to an aboveground storage tank;
 - (c) a new floor in an existing field-erected aboveground storage tank;
 - (d) a secondary containment system for a field-erected aboveground storage tank;
 - (e) a cathodic protection system for a field-erected aboveground storage tank or for an underground line;
 - (f) an internal coating for a field-erected aboveground storage tank; or
 - (g) a release detection system for a field-erected aboveground storage tank.
- (2) relocation of a field-erected aboveground storage tank;
- (3) return to service of a closed field-erected aboveground storage tank;
- (4) deviations from American Petroleum Institute standards 650, 651, 652, and 653, if applicable;
- (5) change of substance stored in tank; or
- (6) deviation from schedules contained in the permit.

B. The permittee need not notify the commissioner of any construction or installation of a type listed in item A which is specifically required by the permit or excluded by the terms and conditions of the permit.

C. The permittee shall obtain the commissioner's written approval prior to placing any new field-erected tank or underground transmission line into service, returning to service any field-erected tank closed at the time of issuance of the permit, or deviating from schedules contained in the permit. The commissioner shall respond, in writing, within 30 days of receipt of the permittee's written request.

Statutory Authority: *MS s 115.03*

History: *23 SR 883*

Published Electronically: *July 13, 2009*

7001.4300 VARIANCES.

Any person who applies for a variance from any requirement of parts 7001.4200 to 7001.4250 shall comply with part 7000.7000. An application for a variance must be acted on by the agency pursuant to part 7000.7000 and Minnesota Statutes, section 116.07, subdivision 5. However, no variance may be granted that would result in noncompliance with applicable federal rules and regulations for aboveground storage tanks.

Statutory Authority: *MS s 115.03*

History: *23 SR 883*

Published Electronically: *July 13, 2009*

7001.4310 SCOPE.

Subpart 1. **Applicability.** Parts 7001.4310 to 7001.4390 apply to laboratories required to be certified under Minnesota Statutes, section 115.84, except as excluded in subpart 2.

Subp. 2. **Exclusions.** Certification under parts 7001.4310 to 7001.4390 does not apply to:

- A. laboratories that are private and for-profit;
- B. laboratories that perform drinking water analyses;
- C. laboratories that perform analyses for agency programs under Minnesota Statutes, chapters 115B and 115C; or
- D. laboratories that are certified under another similar program, such as that of the Minnesota Department of Health.

Statutory Authority: *MS s 115.84*

History: *39 SR 1718*

Published Electronically: *June 25, 2015*

7001.4320 DEFINITIONS.

Subpart 1. **Scope.** The terms used in parts 7001.4310 to 7001.4390 have the meanings given them in this part.

Subp. 2. **Agency.** "Agency" means the Minnesota Pollution Control Agency.

Subp. 3. **Agency program.** "Agency program" means a program or rule administered by the agency that requires submission of water data from a certified laboratory, such as the watershed program.

Subp. 4. **Analyte.** "Analyte" means the chemical substance, physical property, or organism analyzed in a sample.

Subp. 5. **Analyte group.** "Analyte group" means a set of analytes that can be determined using the same method or technology.

Subp. 6. **Certified laboratory.** "Certified laboratory" means a laboratory that has:

- A. met the requirements of parts 7001.4310 to 7001.4390;
- B. received a notice of certification from the agency;
- C. not voluntarily discontinued certification; and
- D. not been notified by the agency that certification is suspended or revoked.

Subp. 7. **Client.** "Client" means an entity that has arranged with a laboratory to perform tests and analyses to meet the requirements of an NPDES or SDS permit or other agency program or regulatory requirement.

Subp. 8. **Initial application.** "Initial application" means an application submitted by a laboratory that either has never had certification or has not met the requirements for either a renewal or revised application under part 7001.4360.

Subp. 9. **Laboratory.** "Laboratory" means a facility that performs analyses on water or wastewater to support demonstrations of compliance with agency program or regulatory requirements.

Subp. 10. **Method.** "Method" means a published scientific technique for performing a specific measurement. Method includes instructions for sample preparation, sample preservation, and sample analysis.

Subp. 11. **National pollutant discharge elimination system or NPDES.** "National pollutant discharge elimination system" or "NPDES" means the federal program authorized under subchapters III and IV of the Clean Water Act, United States Code, title 33.

Subp. 12. **Parameter.** "Parameter" means the chemical substance, physical property, or organism being measured.

Subp. 13. **Proficiency test.** "Proficiency test" means a test performed by a laboratory for a specific analyte or analyte group to determine the ability of a laboratory to employ applicable analytic methods and to produce an accurate measurement of the concentration of the analyte or analyte group in the sample.

Subp. 14. **Renewal application.** "Renewal application" means an application submitted by a laboratory to renew an existing certification.

Subp. 15. **Reporting limit.** "Reporting limit" means the lowest level of an analyte that can be accurately recovered from the matrix of interest, for example, the level of quantitation.

Subp. 16. **Revised application.** "Revised application" means an application that is submitted to make changes to an existing certification as specified in part 7001.4360, subpart 6.

Subp. 17. **State disposal system permit or SDS.** "State disposal system permit" or "SDS" means a state-only permit issued by the agency for the construction, installation, or operation of a disposal system that does not discharge a pollutant into the waters of the state from a point source.

Statutory Authority: *MS s 115.84*

History: *39 SR 1718*

Published Electronically: *June 25, 2015*

7001.4330 CERTIFICATION REQUIRED.

A laboratory that performs tests and analyses, the results of which must be reported to the agency to meet permit conditions or other agency program or regulatory requirements, must be certified for the parameters or methods required by the permit or agency program, unless the permit or agency program specifically exempts the parameters or methods from certification requirements.

Statutory Authority: *MS s 115.84*

History: *39 SR 1718*

Published Electronically: *June 25, 2015*

7001.4340 REQUIRED METHODS.

Subpart 1. General requirements.

A. The laboratory's analytical methods, sample collection, and preservation procedures must meet the requirements specified by the NPDES/SDS permit or agency program. The analytical methods, sample collection, and preservation procedures used to analyze samples for programs required by a federal agency must meet the requirements specified in the relevant parts of Code of Federal Regulations.

B. Laboratories must conduct analyses according to the methods in subparts 2 to 4.

Subp. 2. **Clean water methods.** For analysis of water or wastewater samples required by state and federal clean water rules and regulations, laboratories must use the methods and test procedures in Code of Federal Regulations, title 40, part 136, as amended.

Subp. 3. **Biosolids methods.** For analysis of sewage sludge samples required by state rules and federal regulations, laboratories must use the methods and test procedures in Code of Federal Regulations, title 40, part 503, as amended, and "Test Methods for Evaluating Solid Waste: Physical/Chemical Methods," Publication SW-846, United States Environmental Protection Agency (2007 and as subsequently amended and as published as final). Publication SW-846 is incorporated by reference, is not subject to frequent change, and is available at <http://www.epa.gov/epawaste/hazard/testmethods/sw846/online/index.htm>.

Subp. 4. **MPCA Laboratory Certification Program Manual.** The MPCA Laboratory Certification Program Manual, Minnesota Pollution Control Agency (2014 and as subsequently amended), is incorporated by reference, is not subject to frequent change, and is available at <http://www.pca.state.mn.us/4p44whk>.

Statutory Authority: *MS s 115.84*

History: *39 SR 1718*

Published Electronically: *June 25, 2015*

7001.4350 CERTIFICATION QUALIFICATION.

Subpart 1. **Personnel.** A laboratory must have staff with the education, training, or experience to meet the requirements of certification. At least one staff person must be identified as the laboratory administrator and that person's contact information must be provided with the certification application. The laboratory administrator must notify the agency when there are changes in contact information for the laboratory administrator no later than 30 days after the change occurs.

Subp. 2. **Quality system.** The laboratory must have a quality assurance and quality control program that meets the criteria specified in the agency's Laboratory Certification Program Manual, incorporated by reference under part 7001.4340, subpart 4, that includes:

- A. a quality assurance manual;
- B. standard operating procedures; and
- C. traceability, documentation, record keeping, and reporting.

Subp. 3. **Access to premises.** The laboratory must allow the agency and its members, employees, and agents access to the laboratory for inspection and evaluation purposes and must produce such information and records as the agency requests to determine compliance with this part.

Subp. 4. **Access to records.** The laboratory must maintain all records used to demonstrate the laboratory's compliance with certification requirements. If a laboratory analyzes samples from a client, records that support the client's test results must be made available to the client. Upon request, records must be made available to the agency.

Subp. 5. **Proficiency testing.** A laboratory must conduct proficiency testing as required under part 7001.4390.

Subp. 6. **Subcontracting.** A laboratory that has samples analyzed by another laboratory must use laboratories that have valid agency certification or similar certification.

Subp. 7. **Cease reporting.** A laboratory must not report analytical results after its certification has expired or been discontinued, suspended, or revoked.

Subp. 8. **Fees.** A laboratory must pay the fees required in part 7002.0435 within 30 days of receiving the invoice.

Subp. 9. **Response.** A laboratory must respond in writing to any written communication from the agency.

Statutory Authority: *MS s 115.84*

History: *39 SR 1718*

Published Electronically: *June 25, 2015*

7001.4360 APPLICATION FOR CERTIFICATION.

Subpart 1. **Application contents.** To apply for initial or renewal of certification, a laboratory's application must include the following information on a form provided by the agency:

- A. identifying information:
 - (1) the name of the laboratory;
 - (2) the physical location and postal mailing address of the laboratory;
 - (3) the owner or legally responsible party of the laboratory;
 - (4) the name, telephone number, and electronic mailing address of the laboratory administrator; and
 - (5) the name of at least one managing agent and the agent's signature attested by a notarial officer;
- B. the parameters and methods for which the laboratory seeks certification. A laboratory must apply for at least one parameter or method;
- C. a quality assurance manual meeting the standards of the agency's Laboratory Certification Program Manual. For a certification renewal, if the quality assurance manual was revised during the current certification year, the most recent version must be submitted;
- D. laboratory standard operating procedures for each parameter or method that meet the standards of the agency's Laboratory Certification Program Manual. For a certification renewal, if the standard operating procedures were revised during the current certification year, the revised version must be submitted;
- E. if the application is an initial request for certification, the most recent proficiency testing result for each parameter or method for which the laboratory is requesting certification. The proficiency testing must have been completed no more than 12 months prior to the date that the application is received by the agency and must meet the requirements of part 7001.4390;
- F. if the application is an initial request for certification, a list of the laboratory's detection limits and reporting limits for each parameter or method for which the laboratory is requesting certification; and
- G. any other additional information requested by the agency as necessary to determine compliance with parts 7001.4310 to 7001.4390.

Subp. 2. **Multiple locations.** The owner of laboratory facilities with multiple locations must submit a separate application for each laboratory location.

Subp. 3. **Change of address.** The laboratory administrator must notify the agency of changes in address no later than 30 days before the change occurs.

Subp. 4. **Application period.**

- A. Initial applications and revised applications may be submitted to the agency at any time.
- B. Renewal applications must be submitted between November 1 and November 30. If a certified laboratory fails to submit a renewal application by November 30, the certification expires on December 31.

Subp. 5. **Initial application.** An initial application must be submitted by a laboratory:

- A. that has never been certified under parts 7001.4310 to 7001.4390;
- B. that has had its certification revoked in total;
- C. with a certification that has expired for more than one year; and
- D. that has submitted an application that has remained incomplete for more than one year.

Subp. 6. **Revised application.** A laboratory with a valid certification must submit a revised application, including the information required in subpart 1, items D to F, to the agency to:

- A. add a category for which the laboratory does not currently have certification; or
- B. add a test method in a category for which the laboratory is already certified.

Subp. 7. **Conditions for reapplication.** A laboratory involved in an active enforcement action or with a suspended or revoked certification is not eligible to seek or renew certification for the affected parameters or methods until the laboratory receives confirmation from the agency that the corrective action associated with the enforcement action, suspension, or revocation is complete.

Subp. 8. **Alternate methods.** A laboratory must request approval for alternate methods by following the instructions provided in "Alternate Test Procedure Guidance" (document # p-eao2-12), Minnesota Pollution Control Agency (October 2014 and as subsequently amended). The guidance document is incorporated by reference, is not subject to frequent change, and is available at <http://www.pca.state.mn.us/index.php/view-document.html?gid=16155>. The agency's approval or denial of the request must be based on the requirements of the guidance document.

Statutory Authority: *MS s 115.84*

History: *39 SR 1718*

Published Electronically: *June 25, 2015*

7001.4370 GRANTING CERTIFICATION.

Subpart 1. **Term of certification.** Certifications are effective on the date of issuance and are valid through December 31 of the year issued unless suspended, revoked, or voluntarily discontinued.

Subp. 2. **Certification documents.** A laboratory must not alter or modify certification documents and must make them available upon the request of a client or regulatory agency.

Subp. 3. **Limit of certification.** Certification of a laboratory is not an endorsement by the agency of the quality or validity of the data generated by a laboratory. Certification does not guarantee the usability of data generated by a laboratory for an intended purpose. The users of laboratory results are responsible for determining whether to accept or reject analytical data from a certified laboratory.

Statutory Authority: *MS s 115.84*

History: *39 SR 1718*

Published Electronically: *June 25, 2015*

7001.4380 VOLUNTARY WITHDRAWAL OR DISCONTINUATION OF CERTIFICATION.

Subpart 1. **Agency notification.** If a laboratory chooses to withdraw its application for certification or discontinue its current certification, in total or in part, the laboratory must notify the agency in writing and specify the effective date of withdrawal or discontinuation and the parameters or methods for which certification is being withdrawn or discontinued. The laboratory must submit notification at least 30 days before the effective date of withdrawal or discontinuation.

Subp. 2. **Cease reporting.** After the effective date specified in subpart 1, the laboratory must not provide analytical results for compliance reporting or any agency program for the parameters and methods for which certification has been withdrawn or discontinued.

Subp. 3. **Client notification required.** At least 30 days before the effective date of the laboratory's discontinuation of certification, the laboratory must notify clients and affected regulatory agencies in writing of the discontinuation date and which parameters and methods will be affected. The laboratory must submit a copy of each client notification to the agency at the same time that the notification is sent under subpart 1.

Subp. 4. **No fee refund.** The agency does not refund fees if a laboratory voluntarily withdraws or discontinues its current certification.

Subp. 5. **Recertification.** To be recertified after voluntary discontinuation of certification, a laboratory must submit an application meeting the requirements for:

A. a revised application under part 7001.4360, subpart 6, if reapplying within one year of the date that certification was discontinued; or

B. an initial application under part 7001.4360, subpart 1, if certification has been discontinued for more than one year.

Statutory Authority: *MS s 115.84*

History: *39 SR 1718*

Published Electronically: *June 25, 2015*

7001.4390 PROFICIENCY TESTING.

Subpart 1. **Requirements.**

A. A laboratory must successfully complete at least one proficiency test for each parameter or method for which it applies for certification. The laboratory must complete the proficiency test no more than 12 months prior to submitting the application. If no proficiency test sample is available for an analyte, the laboratory is exempted from the requirements of this part only for that analyte.

B. Proficiency tests results must be included with the initial or revised certification application required under part 7001.4360.

C. Proficiency test samples that are analyzed as a part of a discharge monitoring report-quality assurance study required under federal regulations must meet the requirements of item A.

Subp. 2. **Laboratory testing of proficiency test study samples.** To ensure valid proficiency test results, the laboratory must:

A. obtain all proficiency test study samples as unknowns from a nationally recognized accreditation program approved vendor;

B. manage, analyze, report, and otherwise handle all proficiency test samples in the same manner as routine samples, including the same staff, procedures, equipment, and facilities used for routine analysis for the tested parameter or method;

C. employ the same calibration, quality control, acceptance criteria, sequence of analytical steps, number of replicates, and other standard operating procedures for proficiency test samples as used when analyzing routine samples; and

D. follow sample preparation steps for the proficiency test sample as instructed by the proficiency test sample provider.

Subp. 3. **Reporting results.**

A. A laboratory must submit the results of all proficiency tests to the agency no later than 30 days after the laboratory receives the results from the proficiency test sample provider.

B. A laboratory conducting proficiency testing as part of an initial or revised application must submit the results of proficiency testing as part of the application.

C. A laboratory must either provide a copy of the original results to the agency or authorize the proficiency test sample provider to provide all results directly to the agency.

D. Proficiency testing samples analyzed or reported to the proficiency test sample provider after the provider's study closing date are not valid for compliance with the proficiency testing requirements under this part.

Subp. 4. **Restrictions on exchanging information.** Prior to the time the results of the proficiency test are submitted to the agency:

A. a laboratory must not communicate proficiency test results to another laboratory, including intercompany communication; and

B. a laboratory must not attempt to obtain the assigned value of any proficiency test sample from a proficiency test sample provider or another laboratory.

Subp. 5. **Evaluation of results.**

A. A laboratory must demonstrate passing performance to the agency, as determined by the proficiency test sample provider, for each parameter or method reported.

B. A laboratory may use one proficiency test sample for multiple methods.

C. A laboratory must not request a revised report from the proficiency test sample provider when the requested revisions are the result of error on the part of the laboratory.

Subp. 6. Repeat proficiency tests.

- A. A laboratory may repeat proficiency tests after obtaining unacceptable results as follows:
- (1) if the first proficiency test result is unacceptable, the laboratory must resolve the suspected cause and complete a second proficiency test within 30 days of receiving the unacceptable result;
 - (2) if the second proficiency test result is unacceptable, the laboratory must:
 - (a) resolve the suspected cause and submit a corrective action report to the agency within 30 days of receiving the second unacceptable result; and
 - (b) order and complete a third proficiency test within 30 days of receiving the unacceptable result of the second proficiency test;
 - (3) if the third proficiency test result is unacceptable, the laboratory may not provide analytical results for compliance reporting or any agency program for the parameters and methods for which the laboratory failed to demonstrate acceptable proficiency test results. The laboratory may resume providing analytical results when the laboratory passes two proficiency tests in a row. These proficiency tests must be conducted at least 15 days apart. The laboratory must submit a corrective action report to the agency within 30 days of passing the second of the two proficiency tests.
- B. The Laboratory Certification Program Manual, incorporated by reference in part 7001.4340, subpart 4, governs when a portion of a multiple analyte group proficiency test is unacceptable.
- C. The agency may request additional information necessary to validate sample results generated during the testing period covered under this subpart.

Statutory Authority: *MS s 115.84*

History: *39 SR 1718*

Published Electronically: *June 25, 2015*