

## CHAPTER 7001

### MINNESOTA POLLUTION CONTROL AGENCY

### PERMITS

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#### 7001.0010 DEFINITIONS.

*[For text of subps 1 and 2, see M.R. 1985]*

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.

*[For text of subp 4, see M.R. 1985]*

**Statutory Authority:** *MS s 115.03*

**History:** *10 SR 2235*

#### 7001.0020 SCOPE.

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

*[For text of items A to J, see M R. 1985]*

K. The processing of certifications under section 401 of the Clean Water Act, United States Code, title 33, section 1341, to the extent provided by parts 7001.1400 to 7001 1470.

**Statutory Authority:** *MS s 115.03*

**History:** *10 SR 2235*

#### 7001.0520 PERMIT REQUIREMENTS.

*[For text of subpart 1, see M R 1985]*

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

A. The accumulation by generators of hazardous waste on site for fewer than 90 days as provided in part 7045 0292.

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

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

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

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

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

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

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

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

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

*[For text of subps 3 and 4, see M R 1985]*

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

**History:** *10 SR 1688*

**7001.0560 GENERAL INFORMATION REQUIREMENTS FOR PART B OF APPLICATION.**

Part B of the application must contain the following information:

*[For text of items A to F, see M R. 1985]*

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

*[For text of items H to U, see M.R 1985]*

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

**History:** *10 SR 1212*

**7001.0580 PART B INFORMATION REQUIREMENTS FOR STORAGE OR TREATMENT TANKS.**

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

*[For text of item A, see M R. 1985]*

B. A description of the system to be used to contain the tank and any

spills or releases of hazardous waste from the tank, demonstrating compliance with part 7045.0528, subpart 5, and where applicable, subpart 9, including at a minimum the following.

*[For text of item B, subitems (1) to (3), see M.R. 1985]*

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

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

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

**Statutory Authority:** *MS s 116 07 subd 4*

**History:** *10 SR 1212*

#### **7001.0590 PART B INFORMATION REQUIREMENTS FOR SURFACE IMPOUNDMENTS.**

Except as otherwise provided in part 7045 0532, subpart 1, if the applicant proposes to store, treat, or dispose of hazardous waste in surface impoundment facilities, the applicant shall submit detailed plans and specifications accompanied by an engineering report which collectively includes the following information in addition to the information required by part 7001.0560:

*[For text of items A to J, see M.R. 1985]*

K. A waste management plan for hazardous waste F028 and treatment residues and soil contaminated with hazardous wastes F020, F021, F022, F023, F026, F027, and F028 listed under part 7045.0135, subpart 2, describing how the surface impoundment is or will be designed, constructed, operated, and maintained to meet the requirements of part 7045.0532, subpart 10. This plan must address the following items as specified in part 7045.0532, subpart 10:

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

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

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

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

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

**History:** *10 SR 1212*

#### **7001.0600 PART B INFORMATION REQUIREMENTS FOR WASTE PILES.**

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

*[For text of items A to K, see M.R. 1985]*

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

waste pile that is not enclosed is or will be designed, constructed, operated, and maintained to meet the requirements of part 7045.0534, subpart 10. This submission must address the following items as specified in part 7045.0534, subpart 10:

- (1) the volume, physical, and chemical characteristics of the wastes to be disposed in the waste pile, including their potential to migrate through soil or to volatilize or escape into the atmosphere;
- (2) the attenuative properties of underlying and surrounding soils or other materials;
- (3) the mobilizing properties of other materials codisposed with these wastes; and
- (4) the effectiveness of additional treatment, design, or monitoring techniques.

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

**History:** *10 SR 1212*

**7001.0610 PART B INFORMATION REQUIREMENTS FOR LAND TREATMENT.**

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

*[For text of items A to H, see M.R. 1985]*

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

- (1) the volume, physical, and chemical characteristics of the wastes, including their potential to migrate through soil or to volatilize or escape into the atmosphere;
- (2) the attenuative properties of underlying and surrounding soils or other materials;
- (3) the mobilizing properties of other materials codisposed with these wastes; and
- (4) the effectiveness of additional treatment, design, or monitoring techniques.

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

**History:** *10 SR 1212*

**7001.0620 PART B INFORMATION REQUIREMENTS FOR LANDFILLS.**

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

*[For text of items A to I, see M.R. 1985]*

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

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

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

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

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

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

**History:** *10 SR 1212*

#### **7001.0650 INTERIM STATUS.**

*[For text of subps 1 and 2, see M.R. 1985]*

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

*[For text of subps 4 to 7, see M.R. 1985]*

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

**History:** *10 SR 70*

### **401 CERTIFICATIONS**

#### **7001.1400 APPLICABILITY.**

Parts 7001.1400 to 7001.1470 govern the processing of certifications by the agency under section 401 of the Clean Water Act, United States Code, title 33, section 1341 (hereinafter "section 401 certifications"). Parts 7001.0010 to 7001.0210 apply to the processing of section 401 certifications except as specifically otherwise provided in parts 7001.1400 to 7001.1470. In applying parts 7001.0010 to 7001.0210 to the processing of section 401 certifications, the word "permit" shall be construed to mean "section 401 certification" and the term "permittee" shall be construed to mean "certificate holder." Parts 7000.0100 to 7000.1600, 7001.0010 to 7001.0210, and 7001.1400 to 7001.1470 shall be construed to complement each other.

**Statutory Authority:** *MS s 115.03*

**History:** *10 SR 2235*

#### **7001.1410 DEFINITIONS.**

**Subpart 1. Scope.** The definitions in Minnesota Statutes, section 115.01 apply to the terms used in parts 7001.1400 to 7001.1470 unless those terms are defined in this part.

As used in parts 7001.1400 to 7001.1470, the terms in subparts 2 to 4 have the meanings given them.

**Subp. 2. Director.** "Director" means the director of the Minnesota Pollution Control Agency.

Subp. 3. **Clean Water Act.** "Clean Water Act" means the federal Water Pollution Control Act, as amended, commonly referred to as the Clean Water Act, United States Code, title 33, sections 1251 et seq.

Subp. 4. **National pollutant discharge elimination system.** "National pollutant discharge elimination system" means the national program for issuing, modifying, revoking and reissuing, terminating, monitoring, and enforcing permits, and imposing and enforcing pretreatment requirements under sections 307, 318, 402, and 405 of the Clean Water Act, United States Code, title 33, sections 1317, 1328, 1342, and 1345.

**Statutory Authority:** *MS s 115.03*

**History:** *10 SR 2235*

### 7001.1420 REQUIREMENT TO APPLY FOR CERTIFICATION.

Any person who is required by section 401 of the Clean Water Act, United States Code, title 33, section 1341, to obtain a certification from the state of Minnesota shall make application to the agency.

**Statutory Authority:** *MS s 115.03*

**History:** *10 SR 2235*

### 7001.1430 APPLICATION DEADLINES.

Part 7001.0040, subparts 1 and 2 apply to applications for issuance, modification, revocation and reissuance, or reissuance of a section 401 certification, except that the time period referenced in part 7001.0040, subpart 1, shall be 90 days instead of 180 days.

**Statutory Authority:** *MS s 115.03*

**History:** *10 SR 2235*

### 7001.1440 PUBLIC NOTICE OF APPLICATION AND PRELIMINARY DETERMINATION.

Subpart 1. **Public notice required.** Except as provided in subpart 2, the director shall prepare and issue public notices in accordance with the requirements of part 7001.0100, subpart 4, except that the public comment period shall be established by the director on a case-by-case basis after considering the scope, nature, and potential impacts on water quality of the project. In no event shall the public comment period be less than ten days.

Subp. 2. **Exception.** The director is not required to prepare and distribute a public notice pursuant to part 7001.0100, subpart 4, if the director finds that a federal agency or department has prepared and distributed or will prepare and distribute a public notice concerning a section 401 certification in accordance with the public notice requirements applicable to the federal agency or department under federal statutes or regulations, so long as the notice is actually prepared and distributed.

**Statutory Authority:** *MS s 115.03*

**History:** *10 SR 2235*

### 7001.1450 FINAL DETERMINATION.

Subpart 1. **Action required.** The agency shall make final determinations with respect to section 401 certifications by taking one of the following actions:

A. Issue, reissue, revoke and reissue, or modify a section 401 certification in accordance with part 7001.0140, subpart 1 and upon making a finding that the discharge which is the subject of the section 401 certification will comply with sections 301, 302, 303, 306, and 307 of the Clean Water Act, United States Code, title 33, sections 1311, 1312, 1313, 1316, and 1317.

B Deny or revoke a section 401 certification upon making the findings set forth in part 7001.0140, subpart 2 or the findings set forth in subpart 2.

C. Waive the agency's authority to issue a section 401 certification in accordance with part 7001.1460.

**Subp 2. Denial of certification required.** The agency shall deny a section 401 certification if the agency finds that the issuance will result in a discharge of a radiological, chemical, or biological warfare agent.

**Statutory Authority:** *MS s 115.03*

**History:** *10 SR 2235*

#### **7001.1460 WAIVER.**

With respect to the discharge that is the subject of the application, the agency is considered to have waived its authority to issue a section 401 certification under the following circumstances:

A. If the agency notifies the applicant in writing that it is waiving the agency's authority to certify the project. If issuance of the waiver is conditional, the notification shall specify the conditions that must be met.

B. If the agency fails or refuses to make a final determination on an application for a section 401 certification within one year after receipt of the application and the agency's failure or refusal to act is not a result of the applicant's failure or refusal to cure a deficiency in the application as required by the director pursuant to part 7001.0090.

**Statutory Authority:** *MS s 115.03*

**History:** *10 SR 2235*

#### **7001.1470 TERMS AND CONDITIONS OF SECTION 401 CERTIFICATIONS.**

**Subpart 1. General terms required.** A section 401 certification issued by the agency shall include the following:

A. The name and address of the certificate holder.

B. A statement that the agency has examined the section 401 certification application and any other information furnished by the applicant and bases its certification upon an evaluation of this information that is relevant to water quality considerations.

C. A statement that there is reasonable assurance that the activity will be conducted in a manner that will not violate applicable water quality standards.

D. The terms and conditions in part 7001.0150, except that the provisions of part 7001.0150, subpart 1 do not apply to section 401 certifications. In addition to the special conditions in part 7001.0150, subpart 2, a section 401 certification shall contain the special conditions described in subpart 2.

**Subp. 2. NPDES conditions.** A section 401 certification shall contain the special conditions described in part 7001.1080, subparts 2 to 9, which conditions shall be established in the same manner as special conditions are established under part 7001.1080 for national pollutant discharge elimination system permits.

**Statutory Authority:** *MS s 115.03*

**History:** *10 SR 2235*