

4420.0030 RELEASE PERMIT PROCEDURES AND REQUIREMENTS.

Subpart 1. **Scope of release permit conditions.** The board may impose reasonable and appropriate release permit conditions to mitigate or minimize the adverse impacts of the release on human health or the environment and to provide the board with information adequate to monitor compliance with the release permit and for analysis relating to future applications.

Subp. 2. **Evaluation and preparation.** The application must be evaluated, and the draft release permit documents must be prepared, using an interdisciplinary approach that will ensure the integrated use of the natural and environmental sciences. The review shall include involvement of the following disciplines, as appropriate: microbiology, ecology, public health, biological safety, agronomy, plant biology, risk assessment, molecular biology, biochemistry, entomology, vertebrate biology, physical and biological containment, and other appropriate disciplines.

Subp. 3. **Draft release permit documents.** Within 45 days of acceptance of the application, the chair must prepare the draft release permit documents and publish notice of their availability in the EQB Monitor. The chair must provide a copy of the draft release permit documents to: each member of the EQB, the Environmental Conservation Library, the Legislative Reference Library, the regional development commission and regional development library for the region in which the release is proposed, governmental units with approval authority over the release, and local governmental units within whose boundaries the release is proposed, and any other person upon written request.

The board may order that the preparation and notice of the draft release permit documents be delayed for not more than 30 days if the application is for a release on multiple sites, for multiple years, or for organisms with different ecological impacts, or if the board determines that more time is needed to complete the preparation and notice of the draft release permit documents due to the complexity of the application.

Subp. 4. **Notice content.** The notice of the draft release permit documents must include, but is not limited to:

- A. the identification of the applicant;
- B. the comment period and the requirements of subpart 7;
- C. a concise description and location of the proposed release;
- D. the preliminary decision of the chair to propose issuance or denial of the release permit;
- E. locations where documents are available for public review;
- F. the address and telephone number of the office of the chair; and

G. information on how a person can receive all notices pertaining to this release.

This notice may be combined with the notice of EAW availability required under part 4410.1500.

Subp. 5. **Notice distribution.** The chair must distribute the notice of the draft release permit documents in the following manner:

- A. mailed to the applicant;
- B. mailed to all persons who have registered their names and addresses on the mailing list under part 4420.0060, subpart 1; and
- C. to any interested person upon request.

Subp. 6. **Comment period.** A 30-day period for review and comment on the draft release permit documents begins the day notice of the draft release permit documents is published in the EQB Monitor. Comments received after the close of the comment period need not be considered by the board.

Subp. 7. **Comments.** Written comments may address the accuracy and completeness of the material contained in the application, potential impacts that may warrant further investigation before the release is approved, the adequacy of the draft release permit documents, additional permit conditions, and the need for a contested case hearing.

Written comments shall include the following:

- A. a statement of the person's interest in the application or the draft release permit documents;
- B. a statement of the action the person wishes the board to take;
- C. the reasons supporting the person's position; and
- D. if a person requests a contested case hearing, the comments must include a statement of the rationale and facts supporting findings that meet the requirements of subpart 9, item A, to hold a contested case hearing and an identification of the issues that the person proposes to address at the hearing.

Subp. 8. **Public meetings.** One or more public meetings may be held during the public comment period to gather comments on the application and draft release permit documents if the chair determines that a meeting is necessary or useful. Public notice of the meetings shall be given prior to the meetings including mailed notice to persons registered pursuant to part 4420.0060, subpart 2, governmental units with approval authority over the release, and publication in a newspaper of general circulation in the county where the proposed release would take place. All meetings shall be open to the public.

Subp. 9. **Standard for contested case hearing.** The board must hold a contested case hearing when it finds all of the following:

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

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

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

Subp. 10. **Requirements for contested case hearing.** When the board decides to hold a contested case hearing, the chair must prepare a notice of and an order for hearing, that includes:

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 release permit documents, including any identification numbers on the draft release permit documents, and the dates of issuance of the public notice and draft release permit documents;

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

D. the address and telephone number of the office of the chair; and

E. information on how a person can receive all notices pertaining to this release.

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, and the rules of the Office of Administrative Hearings, parts 1400.5100 to 1400.8402.

Subp. 11. **Release permit action.** The board shall review the record and issue, modify and issue, deny, or order a hearing on the release permit within 30 days of the close of the comment period unless:

A. if a contested case hearing is ordered pursuant to subpart 9, then a decision on the release permit must be made within 30 days after the issuance of the report of the administrative law judge; and

B. if an EIS is ordered pursuant to part 4410.1700, a decision on the release permit must be made within 30 days after the determination of adequacy of a final EIS.

Statutory Authority: *MS s 116C.94*

History: *17 SR 139*

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