

**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*

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