

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*

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