

7083.4110 PRODUCT DEVELOPMENT PERMITS.

Subpart 1. **Local government may issue.** A local unit of government is authorized to issue a product development permit (PDP) for any proprietary treatment component or sequence during the development period. A local unit of government is authorized to grant a PDP to a Type I, Type II, or Type III system, as described under parts 7080.2200 to 7080.2300. A local unit of government is also authorized to grant a PDP to a Type IV system, as described under part 7080.2350, if treatment levels of the technologies meet or exceed requirements in the operating permit. The PDP is not an alternative to testing and registration.

Subp. 2. **Application contents.** An application for a PDP must include:

A. proof of an existing conforming system in compliance with all local requirements or a permit for a conforming system. The conforming system must be installed in its entirety before the PDP becomes valid;

B. a description of the product under development, including performance goals and a description of how the system will be used to treat sewage;

C. documentation by the manufacturer that provides for financial assurances to protect the owner, licensed businesses, and local units of government from claims and provides that the manufacturer will cover the correction of any potential public health threats or environmental damage resulting from the use of the product under development. Instruments of financial assurance include: an irrevocable letter of credit in the amount required by the local unit of government issued by an entity authorized to issue letters of credit in Minnesota; cash or a security deposit payable to the local unit of government in the amount required by the local unit of government; or any other financial assurance that satisfies the local unit of government;

D. documentation signed by the owner of the proposed product development site allowing access to the local unit of government and the agency and its employees or agents for inspection of the site;

E. an agreement to obtain all other required permits;

F. a declaration that the applicant meets all state requirements; and

G. other information required by the local unit of government.

Subp. 3. **Additional requirements.**

A. The local unit of government is authorized to stipulate additional requirements for a PDP necessary to ensure the performance of the conforming system, including, but not limited to, providing performance data to the local unit of government.

B. The system owner shall consent in writing to allow the manufacturer access to the system for the duration of the permit.

C. The product tester shall agree in writing to contact utility companies before excavation.

D. The manufacturer and product tester shall agree in writing to hold harmless, indemnify, and defend the agency and local unit of government from any conduct by the manufacturer or product tester that causes harm or injury to the site owner's property and indemnifies the agency and local unit of government from such claims.

Subp. 4. **PDP required for each site.** A PDP is a site-specific permit. Product development at multiple sites requires a PDP for each site.

Subp. 5. **Product developer has control.** During the term of the PDP, product development, testing, and sampling are under the full control of the product developer and all data collected is considered proprietary information.

Subp. 6. **PDP duration.** A PDP is valid for one year unless renewed by the local unit of government.

Subp. 7. **End of PDP period.** The product development period is over when the original PDP or any subsequently renewed permits have expired. At that time, the product developer shall, at the direction of the local unit of government, remove the product under development from the site, restore the real property to its original condition, and reestablish all appropriate plumbing and power connections for the conforming system.

Subp. 8. **Revocation or amendment of PDP.** The local unit of government is authorized to revoke or amend a PDP:

A. if the continued operation or presence of the product under development presents a risk to the public health or the environment, causes adverse effects on the proper function of the conforming system on the site, or leaks or discharges sewage on the surface of the ground;

B. if the product developer fails to comply with any requirement stipulated on the permit by the local unit of government; or

C. upon request of the site owner.

Statutory Authority: *MS s 115.03; 115.55*

History: *32 SR 1420*

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