

**7151.9400 ALTERNATIVE DESIGN OR OPERATING PRACTICE.**

Subpart 1. **General.** An owner or operator may submit a petition to the commissioner for approval to use an alternative design or operating practice in lieu of the requirements of this chapter.

Subp. 2. **Petition.**

A. Each petition for approval to use an alternative design or operating practice must include:

- (1) the petitioner's name and address;
- (2) a statement of the petitioner's interest in the proposed action;
- (3) a full description of the proposed method, including all procedural steps and equipment used in the method;
- (4) comparative results obtained from using the proposed method with those obtained from using the relevant or corresponding methods in this chapter;
- (5) an assessment of any factors which may interfere with, or limit the use of, the proposed method; and
- (6) a description of the quality control procedures necessary to ensure the efficacy of the proposed method.

B. After receiving a petition for approval to use an alternative design or operating practice, the commissioner shall request any additional information on the proposed method which the commissioner reasonably requires to evaluate the method.

Subp. 3. **Procedure for petition review.** The commissioner's determination to approve or deny an alternative design or operating practice petition shall be based on a demonstration by the petitioner that the alternative design or operating practice, together with location characteristics, will prevent migration of stored substances into surface water and groundwater as effectively as the requirements of this chapter and will not endanger human health or the environment.

A. In approving or denying the petition, the commissioner shall consider:

- (1) the nature, toxicity, viscosity, and quantity of the product;
- (2) the technical feasibility of the proposed alternative design and operating practice;
- (3) the hydrogeologic setting of the facility, including the thickness of soils present between the tank system and groundwater;
- (4) factors that would influence the quality and mobility of the stored substance and the potential for it to migrate to surface water or groundwater; and

(5) any other factor necessary to determine equivalent protection.

Subp. 4. **Compliance.** The owner or operator shall comply with the approval of petition for alternative design or operating practice and all terms and conditions imposed on the approval of petition for alternative design or operating practice.

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

**History:** *23 SR 883*

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