

1 Pollution Control Agency

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3 Adopted Rules Governing Hazardous Waste Priority Assessment

4 Criteria

5

6 Rules as Adopted

7 7044.0100 SCOPE.

8 Chapter 7044 governs the procedures for establishing a  
 9 permanent list of releases or threatened releases of hazardous  
 10 substances, pollutants, or contaminants required by Minnesota  
 11 Statutes, section 115B.17. This chapter establishes various  
 12 classifications for sites with releases or threatened releases,  
 13 describes the procedures for adding sites with releases or  
 14 threatened releases to or deleting sites from the permanent  
 15 list, provides for an annual review and update of the permanent  
 16 list, establishes the funding priority among classifications and  
 17 the funding priority within classifications, creates an annual  
 18 project list, and specifies a ranking system to be used in  
 19 scoring sites.

20 7044.0200 DEFINITIONS.

21 Subpart 1. Scope. As used in this chapter, the following  
 22 terms have the meanings given them, unless the context requires  
 23 otherwise.

24 Subp. 2. Miscellaneous terms. The following terms have  
 25 the meanings given them in the Environmental Response and  
 26 Liability Act (ERLA), Minnesota Statutes, chapter 115B: agency,  
 27 director, Federal Superfund Act, fund, hazardous substance,  
 28 hazardous waste, natural resources, owner of real property,  
 29 person, pollutant or contaminant, release, remedy or remedial  
 30 action, remove or removal, respond or response, and water.

31 Subp. 3. Advisory. "Advisory" means a warning by the  
 32 director, Minnesota Department of Health, Minnesota Department  
 33 of Natural Resources, or the Minnesota Department of Agriculture  
 34 issued to the public concerning a hazardous substance,  
 35 pollution, or contamination at or near a facility.

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1 Subp. 4. Emergency. "Emergency" means that there is an  
2 imminent risk of fire or explosion, that a temporary water  
3 supply is needed where an advisory has been issued, or that  
4 immediate adverse human health effects may be anticipated due to  
5 direct contact or inhalation and an advisory has been issued.

6 Subp. 5. Ground water or underground water. "Ground water"  
7 or "underground water" has the meaning given in chapter 7060.

8 Subp. 6. Rater. "Rater" means a member of the agency  
9 staff designated by the director to evaluate releases or  
10 threatened releases.

11 Subp. 7. Site. "Site" means any place or area where a  
12 hazardous substance, or a pollutant or contaminant, has been  
13 deposited, stored, disposed of, placed, or otherwise come to be  
14 located including:

15 A. a building, structure, installation, equipment,  
16 pipe or pipeline (including a pipe into a sewer or publicly  
17 owned treatment works), well, pit, pond, lagoon, impoundment,  
18 ditch, landfill, storage container, motor vehicle, rolling  
19 stock, or aircraft; or

20 B. a watercraft of any description, or other  
21 artificial contrivance used or capable of being used as a means  
22 of transportation on water.

23 Site does not include a consumer product in consumer use.

24 Subp. 8. Target. "Target" means affected populations or  
25 sensitive environments exposed or threatened with exposure due  
26 to a release or a threatened release.

27 7044.0300 CLASSIFICATION OF SITES.

28 The agency shall assign a site with a release or a  
29 threatened release to the following response action classes:

30 A. a declared emergency by the director;

31 B. the operation and maintenance at a site that has  
32 undergone previous response actions;

33 C. other response actions which may include the first  
34 year costs associated with operation and maintenance at a site;  
35 and

36 D. remedial investigations and feasibility studies

1 (RI/FS).

2 A site with a release or a threatened release may be  
3 assigned to more than one response action class and may be  
4 assigned more than once within a response action class if  
5 conditions at the site of the release or the threatened release  
6 or the diversity of hazardous substances, pollutants, or  
7 contaminants require multiple response actions. Assignment of a  
8 site with a release or a threatened release to a response action  
9 class must be based on the response action necessary to abate  
10 the known or suspected dangers associated with hazardous  
11 substances, pollutants, or contaminants at the site of the  
12 release or the threatened release. A site may be reclassified  
13 based on the findings and recommendations of a remedial  
14 investigation and feasibility study (RI/FS).

15 7044.0400 ADDITION OF SITES WITH RELEASES OR THREATENED RELEASES  
16 TO THE PERMANENT LIST OF PRIORITIES.

17 The agency shall rate sites with a release or a threatened  
18 release using the Hazard Ranking System (HRS) in the Federal  
19 Register, volume 47, pages 31219 to 31243 (July 16, 1982), as  
20 amended by part 7044.1000. All sites must be evaluated using  
21 part 7044.1200. A site disqualified by part 7044.1200 is not  
22 eligible for placement on the permanent list of priorities. All  
23 eligible sites must be assigned to a response action class based  
24 on the criteria in part 7044.0300. The site of the release or  
25 the threatened release must be added to the permanent list of  
26 priorities during the next annual update as specified in part  
27 7044.0600.

28 7044.0500 DELETION OF SITES FROM THE PERMANENT LIST OF  
29 PRIORITIES.

30 Subpart 1. Requirement. The agency shall delete a site  
31 from the permanent list of priorities at the next annual update  
32 following the completion of all response actions required at the  
33 site, or if the agency determines that the site no longer poses  
34 a threat to public health or welfare or the environment from a  
35 release or a threatened release of a hazardous substance,

1 pollutant, or contaminant. ,

2       Subp. 2. Deletion from a response action class. The  
3 agency shall delete a site from a response action class on the  
4 permanent list of priorities at the next annual update following  
5 the completion of response actions for that class at the site,  
6 or if the agency determines that portion of the site no longer  
7 poses a threat to public health or welfare or the environment  
8 from a release or a threatened release of a hazardous substance,  
9 pollutant, or contaminant.

10 7044.0600 ANNUAL UPDATE OF THE PERMANENT LIST OF PRIORITIES.

11       The agency shall annually update the permanent list of  
12 priorities. Notice of the annual update of the permanent list  
13 of priorities together with a proposed updated list must be  
14 published in the State Register to solicit public comments at  
15 least 30 days prior to agency action. A site may be  
16 reclassified or rescored based on information obtained during  
17 the 30-day comment period or based on information from a  
18 completed RI/FS if the director determines the new or additional  
19 facts warrant a reclassification or rescoring. A site may not  
20 be reclassified or rescored based on prior remedial, removal, or  
21 response actions.

22 7044.0700 FUNDING PRIORITY OF CLASSES.

23       The agency shall allocate Environmental Response and  
24 Liability Act (ERLA) funds to classes in the following order:

25       A. All sites classified as part 7044.0300, item A  
26 (Class A) receive first priority over all other classes for  
27 agency action. The agency shall also allocate ERLA funds to be  
28 held in reserve during the next year to fund emergencies that  
29 may be declared during the year. The amount of the contingency  
30 fund must be estimated based on the funds expended on declared  
31 emergencies in previous years. If the contingency fund is  
32 depleted before the end of the year, funds allocated for Class C  
33 or D projects that are not yet committed are available for  
34 response actions that must be taken in connection with a  
35 declared emergency.

1           B. After all Class A sites have ERLA funds allocated  
2 and a Class A contingency fund has been established, all sites  
3 classified as part 7044.0300, item B (Class B) receive next  
4 priority for ERLA funding. ERLA funds may not be spent for the  
5 purpose of operation or maintenance of a community water supply  
6 system with the exception of start-up operational and  
7 maintenance expenditures deemed necessary by the agency during  
8 the first year the system is in operation.

9           C. After all Class A sites have ERLA funds allocated  
10 and a Class A contingency fund has been established, and all  
11 Class B sites have ERLA funds allocated, the agency shall  
12 allocate ERLA funds to part 7044.0300, item C (Class C) and to  
13 part 7044.0300, item D (Class D) sites.

14           D. The director may reallocate excess ERLA funds from  
15 one class to another if the funding priorities in parts  
16 7044.0700 to 7044.0900 are complied with, and the director  
17 determines that a site on the permanent list of priorities is  
18 ready for the agency to proceed with a response action or RI/FS  
19 prior to the next annual update.

20           Class A contingency funds may not be transferred to another  
21 class.

22 7044.0800 FUNDING PRIORITY WITHIN CLASSIFICATIONS C AND D.

23           Sites listed in classifications C and D must be ranked  
24 according to their HRS scores. The director may allocate funds  
25 within each of the two classes to any site with a release or a  
26 threatened release that is within ten HRS points of the highest  
27 rated site within the class, based upon the cost of the  
28 necessary response actions; the effect of the release or the  
29 threatened release on public health, welfare, or the  
30 environment; and the administrative capabilities of the agency.

31 7044.0900 ANNUAL PROJECT LIST.

32           The agency shall establish a project list based on the  
33 amount of ERLA funds allocated by the agency for each class.  
34 The project list is a subset of the permanent list of  
35 priorities. The project list must contain the names of those

1 projects to which ERLA funding will be allocated and for which  
2 the response action or RI/FS is scheduled to begin during the  
3 year. Sites on the permanent list of priorities may be added to  
4 the project list and funded when the director determines that  
5 excess ERLA funds allocated by the agency are available as a  
6 result of, for example, a party assuming responsibility for work  
7 at a site or a cost saving in the response actions taken at a  
8 site. Class A sites not on the project list that develop or are  
9 brought to the attention of the director must be funded with  
10 Class A contingency funds as directed in part 7044.0700, item  
11 A. Before taking any removal and remedial action for a release  
12 or a threatened release of a hazardous substance, pollutant, or  
13 contaminant, the agency shall follow the procedures specified in  
14 Minnesota Statutes, section 115B.17. The project list must be  
15 revised annually. Funding for projects on the project list must  
16 remain in effect until the next project list is adopted or until  
17 the work for which the site was placed on the list is completed,  
18 whichever date is later.

19 7044.1000 HRS SCORING SYSTEM ADOPTED BY REFERENCE.

20 The agency shall rank sites utilizing the EPA's  
21 "Uncontrolled Hazardous Waste Ranking System" (commonly referred  
22 to as the HRS) published in the Federal Register, volume 47,  
23 pages 31219 to 31243 (July 16, 1982) with the following  
24 modifications:

25 A. Substitute the words "ground water" for the word  
26 "aquifer" wherever the word "aquifer" appears in the Hazard  
27 Ranking System.

28 B. Substitute Figure 8-3 from the Minnesota  
29 Hydrologic Guide, United States Department of Agriculture, Soil  
30 Conservation Service, St. Paul, Minnesota, circa 1976, for  
31 Figure 4 of the Hazard Ranking System.

32 C. Substitute Figure 1-1 from the Minnesota  
33 Hydrologic Guide for Figure 5 of the Hazard Ranking System.

34 D. Substitute Figure 1-2 from the Minnesota  
35 Hydrologic Guide for Figure 8 of the Hazard Ranking System.

1 7044.1100 REIMBURSEMENT FOR PAST REPOSE ACTIONS.

2 Reimbursement claims, by a private person for expenditures  
 3 made before July 1, 1983, to provide alternative water supplies  
 4 deemed necessary by the agency and the Department of Health to  
 5 protect the public health from contamination resulting from the  
 6 release of a hazardous substance, must be filed with the agency  
 7 within 12 months from the date parts 7044.0100 to 7044.1200  
 8 become effective. A reimbursement claim filed after the  
 9 12-month deadline is invalid. The agency shall consider  
 10 reimbursement of only the reasonable expenses for the types of  
 11 costs which would have been incurred by the agency. The agency  
 12 shall determine the amount of ERLA funds to be allocated to  
 13 reimbursement claims during the annual update.

14 7044.1200 PRESCREENING OF POTENTIAL HAZARDOUS WASTE SITES.

15	Prescreening of Potential Hazardous Waste Sites	Yes	No
16			
17			
18	Ground Water Route		
19			
20	1. If there is no observed release, is the		
21	containment score equal to zero?	___	___
22			
23	2. Is the toxicity/persistence score equal		
24	to zero?	___	___
25			
26			
27	Surface Water Route		
28			
29	1. If there is no observed release, is the		
30	containment score equal to zero?	___	___
31			
32	2. Is the toxicity/persistence score		
33	equal to zero?	___	___
34			
35			
36	Air Route		
37			
38	1. Does the observed release score equal zero?	___	___
39			
40	2. Are the reactivity/incompatibility and		
41	toxicity scores equal to zero?	___	___
42			
43			
44	Fire and Explosion		
45			
46	1. Are the ignitability, reactivity, and		
47	incompatibility scores equal to zero?	___	___
48			
49			
50	Direct Contact		
51			
52	1. Are the observed incident, accessibility,		
53	containment, or toxicity scores equal to zero?	___	___
54			

55 A site is not eligible for ERLA funding or inclusion on the

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- 1 permanent list of priorities, as defined in part 7044.0400, if
- 2 one or more questions in each of the five routes is answered
- 3 "yes."