

1 Pollution Control Agency
2 Adopted Permanent Rules Relating to Storm Water Regulatory
3 Program

4 7001.0040 APPLICATION DEADLINES.

5 Subpart 1. Application for new permit. Except as
6 otherwise required by parts 7001.0530 and 7001.1040 or chapter
7 7090, a permit application for a new facility or activity may be
8 submitted at any time. However, it is recommended that the
9 permit application be submitted at least 180 days before the
10 planned date of the commencement of facility construction or of
11 the activity.

12 [For text of subps 2 to 4, see M.R.]

13 7001.1040 APPLICATION DEADLINE FOR NEW PERMITS.

14 [For text of item A, see M.R.]

15 B. Persons proposing activities that require a
16 general construction storm water permit under chapter 7090 must
17 submit an application provided by the agency prior to initiation
18 of construction.

19 7002.0220 DEFINITIONS.

20 [For text of subps 1 to 3, see M.R.]

21 Subp. 3a. General construction storm water permit.

22 "General construction storm water permit" means an NPDES general
23 permit for storm water discharges associated with construction
24 activity as defined in part 7090.0080, subpart 4.

25 Subp. 3b. General industrial storm water permit. "General
26 industrial storm water permit" means an NPDES general permit for

1 storm water discharges associated with industrial activity as
2 defined in part 7090.0080, subpart 6.

3 Subp. 3c. **Individual storm water permit.** "Individual
4 storm water permit" means an NPDES permit for storm water
5 discharges associated with a specific site and type of activity
6 as defined under Code of Federal Regulations, title 40, section
7 122.26(b)(4), (7), and (14)-(16). Fees for this permit are set
8 in part 7002.0310, subpart 2, item B, under "other nonmunicipal."

9 [For text of subps 4 to 9, see M.R.]

10 7002.0250 APPLICATION FEE.

11 A person who applies for a permit to construct, install,
12 modify, or operate a facility, or applies for a permit
13 modification as described in part 7001.0190, excluding changes
14 in ownership or control, name or address changes other than
15 changes in facility location, and interim and construction
16 short-form permits issued under chapter 7020, shall submit with
17 the application the appropriate application fee. Failure to
18 submit the fee renders the application incomplete and the agency
19 shall suspend processing of the application until the fee is
20 received. Application fees are nonrefundable.

21 7090.0010 SCOPE.

22 This chapter establishes the storm water permit program to
23 regulate discharges of storm water from municipal separate storm
24 sewer systems, construction activities, and industrial
25 activities for purposes of abating water pollution associated
26 with storm water discharges from these sources.

1 7090.0020 PERMIT PROCESS.

2 Unless otherwise specifically stated under this chapter,
3 the process of applying for, issuing, reissuing, revoking, or
4 modifying storm water permits is as stated for National
5 Pollutant Discharge Elimination System (NPDES) permits under
6 chapter 7001.

7 7090.0030 PERMIT REQUIREMENTS.

8 Subpart 1. **Permit required.** A National Pollutant
9 Discharge Elimination System/State Disposal System (NPDES/SDS)
10 storm water permit is required:

11 A. for municipal separate storm sewer systems under
12 part 7090.1010;

13 B. for construction activities under part 7090.2010;

14 C. for industrial activities under part 7090.3010;

15 and

16 D. if a water quality management plan adopted
17 pursuant to section 208 of the Clean Water Act, United States
18 Code, title 33, section 1288, recommends that pollution control
19 requirements be applied to the discharge.

20 Subp. 2. **NPDES/SDS permit.** If a person who discharges
21 storm water into the waters of the state is required by
22 Minnesota statutes or rules to obtain both a NPDES permit and a
23 SDS permit, the issuance of a NPDES permit under this chapter
24 satisfies the requirement to obtain both permits.

25 7090.0040 PERMIT FEES.

26 Application and annual fees for storm water permits are

1 established under parts 7002.0210 to 7002.0310.

2 7090.0060 INCORPORATION BY REFERENCE.

3 For the purposes of parts 7090.2000 to 7090.2060, the storm
4 water discharge design requirements, construction activity
5 requirements, and the requirements of Appendix A in the
6 Minnesota Pollution Control Agency document General Permit
7 Authorization to Discharge Storm Water Associated With
8 Construction Activity Under the National Pollutant Discharge
9 Elimination System/State Disposal System Permit (NPDES/SDS)
10 Program (construction storm water permit) are incorporated by
11 reference. This document is subject to change every five
12 years. For purposes of parts 7090.2000 to 7090.2060, all
13 references to the construction storm water permit must be
14 construed as referring to the most current version, which at the
15 time this chapter was adopted was Permit No: MN R 100001,
16 issued on August 1, 2003. This document can be found at the
17 Minnesota State Law Library, Minnesota Judicial Center, 25
18 Constitution-Avenue Rev. Dr. Martin Luther King, Jr. Blvd., St.
19 Paul, Minnesota 55155, the Minnesota Pollution Control Agency
20 offices, and the Minnesota Pollution Control Agency Internet
21 site at the following address:
22 <http://www.pca.state.mn.us/water/stormwater/stormwater-c.html>.

23 7090.0080 DEFINITIONS.

24 Subpart 1. **Scope.** Terms employed in this chapter for
25 which definitions are given in Minnesota Statutes, sections
26 115.01 and 116.06, have the meanings given them in those

1 sections. The terms specified in this part have the meanings
2 given them in this part.

3 Subp. 2. **Best management practices.** "Best management
4 practices" or "BMPs" means practices to prevent or reduce the
5 pollution of the waters of the state, including schedules of
6 activities, prohibitions of practices, and other management
7 practice, and also includes treatment requirements, operating
8 procedures, and practices to control plant site runoff, spillage
9 or leaks, sludge, or waste disposal or drainage from raw
10 material storage.

11 Subp. 3. **Common plan of development or sale.** "Common plan
12 of development or sale" means one proposed plan for a contiguous
13 area where multiple separate and distinct land disturbing
14 activities may be taking place at different times, on different
15 schedules, but under one proposed plan. "One proposed plan" is
16 broadly defined to include design, permit application,
17 advertisement, or physical demarcation indicating that
18 land-disturbing activities may occur.

19 Subp. 4. **Construction activity.** "Construction activity"
20 means activities for the purpose of construction, including
21 clearing, grading, and excavating, that result in land
22 disturbance of equal to or greater than one acre, including the
23 disturbance of less than one acre of total land area that is
24 part of a larger common plan of development or sale if the
25 larger common plan will ultimately disturb equal to or greater
26 than one acre. This includes a disturbance to the land that
27 results in a change in the topography, existing soil cover, both

1 vegetative and nonvegetative, or the existing soil topography
2 that may result in accelerated storm water runoff which may lead
3 to soil erosion and movement of sediment. Construction activity
4 does not include a disturbance to the land of less than five
5 acres for the purpose of routine maintenance that is performed
6 to maintain the original line and grade, hydraulic capacity, and
7 original purpose of the facility.

8 Subp. 5. **Decennial census.** "Decennial census" means the
9 census of population and housing taken in each year ending in
10 zero, as defined by the United States Census Bureau.

11 Subp. 6. **Industrial activity.** "Industrial activity" means
12 the 11 categories of industrial activity which are directly
13 related to manufacturing, processing, or raw materials storage
14 areas at an industrial plant, as defined in Code of Federal
15 Regulations, title 40, section 122.26(b)(14)(i)-(xi).

16 Subp. 7. **Municipality.** "Municipality" means a county, a
17 city, a town, the Metropolitan Council when acting under the
18 provisions of Minnesota Statutes, chapter 473, or other
19 governmental subdivision of the state responsible by law for the
20 prevention, control, and abatement of water pollution.

21 Subp. 8. **Municipal separate storm sewer system.**
22 "Municipal separate storm sewer system" or "MS4" means a
23 conveyance or system of conveyances including roads with
24 drainage systems, municipal streets, catch basins, curbs,
25 gutters, ditches, man-made channels, or storm drains:

26 A. owned or operated by a state, city, town, county,
27 district, association, or other public body, created by or

1 pursuant to state law, having jurisdiction over disposal of
2 sewage, industrial wastes, storm water, or other wastes,
3 including special districts under state law such as a sewer
4 district, flood control district, or drainage district or
5 similar entity, or an Indian tribe or an authorized Indian tribe
6 organization, or a designated and approved management agency
7 under section 208 of the federal Clean Water Act, United States
8 Code, title 33, section 1288, that discharges into waters of the
9 state;

10 B. designed or used for collecting or conveying storm
11 water;

12 C. that is not a combined sewer; and

13 D. that is not part of a publicly owned treatment
14 works as defined in Code of Federal Regulations, title 40,
15 section 122.2.

16 Municipal separate storm sewer systems do not include
17 separate storm sewers in very discrete areas, such as individual
18 buildings.

19 Subp. 9. **No exposure.** "No exposure" means that all
20 industrial materials or activities are protected by a storm
21 resistant shelter to prevent exposure to rain, snow, snow melt,
22 or runoff. "Industrial materials or activities" include, but
23 are not limited to, material handling equipment or activities,
24 industrial machinery, raw materials, intermediate products,
25 by-products, final products, or waste products. Material
26 handling activities include the storage, loading and unloading,
27 transportation, or conveyance of any raw material, intermediate

1 product, final product, or waste product.

2 Subp. 10. **Operator.** "Operator" means:

3 A. the person with primary operational control and
4 legal responsibility for the municipal separate storm sewer
5 system under part 7090.1000;

6 B. the person designated by the owner who has
7 day-to-day operational control or the ability to modify project
8 plans and specifications related to the storm water pollution
9 prevention plan under part 7090.2000; or

10 C. the person responsible for the overall operation
11 of an industrial facility under part 7090.3000.

12 Subp. 11. **Owner.** "Owner" means:

13 A. the person that owns the municipal separate storm
14 sewer system under part 7090.1000;

15 B. the person or party possessing the title of the
16 land on which the construction activities will occur; if the
17 construction activity is for a lease holder, the party or
18 individual identified as the lease holder; or the contracting
19 government agency responsible for the construction activity
20 under part 7090.2000; or

21 C. the person who owns an industrial facility or part
22 of an industrial facility under part 7090.3000.

23 Subp. 12. **Storm water or stormwater.** "Storm water" or
24 "stormwater" means storm water runoff, snow melt runoff, and
25 surface runoff and drainage. It includes the term "stormwater"
26 as used in agency documents.

27 Subp. 13. ~~Surface-waters.~~ ~~---"Surface-waters"--means-all~~

1 ~~streams, lakes, ponds, marshes, wetlands, reservoirs, springs,~~
2 ~~rivers, drainage systems, waterways, watercourses, and~~
3 ~~irrigation systems whether natural or artificial, public or~~
4 ~~private.~~

5 Subp. ~~14~~. Urbanized area. "Urbanized area" means a land
6 area consisting of one or more places and the adjacent urban
7 fringe as defined by the United States Census Bureau. These
8 areas contain at least 50,000 people and an overall population
9 density of at least 1,000 people per square mile of land.

10 7090.1000 MUNICIPAL SEPARATE STORM SEWER SYSTEM PROGRAM.

11 Parts 7090.1000 to 7090.1040 state the requirements for
12 municipal separate storm sewer systems (MS4s) that are regulated
13 in accordance with Code of Federal Regulations, title 40,
14 section 122.26(a)(1)(iii) and (iv), and (a)(9)(i)(A), section
15 123.35(b), and Minnesota Statutes, section 115.03.

16 7090.1010 MS4 PERMIT REQUIREMENTS.

17 Subpart 1. **Permits required.** An NPDES/SDS storm water
18 permit is required ~~within the specified time period~~ for MS4s
19 identified in items A to C. An owner or operator of an MS4 must
20 submit a complete permit application requesting a permit. Once
21 an MS4 is required to obtain a permit, the requirement remains
22 in effect until the requirement is removed pursuant to subpart
23 4, item B.

24 A. MS4s located in an urbanized area in whole or in
25 part, that are regulated in accordance with Code of Federal
26 Regulations, title 40, section 122.26(a)(1)(iii) and (iv), and

1 (a)(9)(i)(A), including any publicly owned entity, such as a
2 military base, hospital, prison or correctional facility,
3 college, or university, with a potential resident capacity, bed
4 count occupancy, or average daily user population of 1,000 or
5 more.

6 B. MS4s that meet the following criteria must submit
7 a complete application for a permit within 18 months of meeting
8 the criteria:

9 (1) the entire jurisdiction of a city or township
10 that is partially regulated in accordance with Code of Federal
11 Regulations, title 40, section 122.26(a)(9)(i)(A);

12 (2) the MS4 is owned or operated by a
13 municipality with a population of 10,000 or more based on the
14 most recent decennial census or approved municipal boundary
15 adjustment under the provisions of Minnesota Statutes, chapter
16 414; or

17 (3) the MS4 is owned or operated by a
18 municipality with a population of at least 5,000 based on the
19 most recent decennial census or approved municipal boundary
20 adjustment under the provisions of Minnesota Statutes, chapter
21 414, and:

22 (a) discharges or has the potential to
23 discharge storm water into an outstanding resource value water
24 as identified in part 7050.0180, subparts 3 and 6; or

25 (b) discharges or has the potential to
26 discharge storm water into a trout lake or trout stream as
27 identified in part 6264.0050, subparts 2 and 4; or

1 (c) discharges or has the potential to
2 discharge to a water listed as impaired under section 303(d) of
3 the Clean Water Act, United States Code, title 33, section 1313,
4 except those waters listed as impaired solely for mercury (Hg)
5 or polychlorinated biphenyls (PCBs).

6 C. MS4s designated by the commissioner in accordance
7 with subparts 2 and 3 must submit a complete application for a
8 permit within 18 months of designation.

9 Subp. 2. **Designation criteria.** For purposes of this part,
10 "designation" means a determination by the commissioner that an
11 MS4 is subject to the permit requirements of this part. The
12 commissioner may designate an MS4 based on the following
13 criteria:

14 A. the MS4 contributes substantially to the pollutant
15 loadings of a physically interconnected MS4 that is regulated by
16 the NPDES storm water program in accordance with Code of Federal
17 Regulations, title 40, section 123.35(b)(4); or

18 B. the MS4 is determined to be a significant
19 contributor of pollutants to waters of the state or to have an
20 adverse impact on water quality based on any of the following
21 factors:

- 22 (1) high growth or growth potential;
23 (2) high population density;
24 (3) high seasonal population;
25 (4) impervious land cover;
26 (5) contiguity to an urbanized area as designated
27 by the United States Census Bureau;

1 (6) ineffective protection of water quality by
2 other programs;

3 (7) an approved or established total maximum
4 daily load that requires reduction of a pollutant associated
5 with storm water beyond what can be achieved with existing
6 programs; or

7 (8) proximity to a high quality water such as an
8 outstanding resource value water as identified in part
9 7050.0180, subparts 3 and 6, or trout stream as identified in
10 part 6264.0050, subpart 4.

11 Subp. 3. Designation process.

12 A. The commissioner shall issue a public notice
13 identifying MS4s that meet the designation criteria in subpart 2
14 and the commissioner's preliminary determination that the
15 designation should be granted.

16 B. The public notice must include, at a minimum:

17 (1) the address and telephone number of the main
18 agency office and the applicable agency regional office and a
19 statement that additional information may be obtained at these
20 offices;

21 (2) the name and address of the MS4, and if
22 different, of the facility or activity that is the subject of
23 the draft designation;

24 (3) a concise description of the facility or
25 activity that is the subject of the draft designation;

26 (4) the criteria under which the MS4 is proposed
27 for designation and the basis for designation;

1 (5) a statement that during the public comment
2 period a person may submit comments to the agency on the draft
3 designation or on the preliminary determination, and a statement
4 of the dates on which the comment period begins and ends. The
5 public comment period is 30 days unless a different public
6 comment period is specifically established by another agency
7 rule; and

8 (6) a brief description of the procedures for
9 reaching a final decision on the designation, including
10 procedures for requesting a public information meeting or a
11 contested case hearing and the nature of the two types of
12 proceedings; and any other procedures by which the public may
13 participate in the agency's consideration of the designation.

14 C. The commissioner shall distribute the public
15 notice in accordance with part 7001.0100, subpart 5.

16 D. A person may request a contested case hearing or
17 public information meeting regarding the designation
18 determination in accordance with part 7001.0130. If a contested
19 case hearing is held, the commissioner shall comply with the
20 procedures in part 7000.2000 before making a final determination.

21 E. The commissioner may make a final determination
22 designating an MS4 by finding that the MS4 meets the criteria
23 set forth in subpart 2.

24 **Subp. 4. Petition process.**

25 A. Any person may petition the commissioner for the
26 designation of an MS4. Upon receiving a signed written petition
27 for designation, the commissioner shall evaluate the petition

1 and determine if designation is appropriate under subpart 2. If
2 the commissioner determines that the designation should be
3 granted, the process for designation shall be followed in
4 accordance with subpart 3.

5 B. Any person may petition the commissioner to
6 reevaluate the designation of an MS4 for a determination that
7 the MS4 does not meet the criteria in subparts 1 and 2 and does
8 not need a permit. Upon receiving a signed written petition for
9 the reevaluation of a designation, the commissioner shall
10 evaluate the petition and determine if the MS4 no longer meets
11 the requirements for a permit under this part.

12 7090.1040 MS4 MINIMUM REQUIREMENTS.

13 Subpart 1. **Storm water pollution prevention program**
14 **required.** Owners or operators of permitted MS4s must have a
15 storm water pollution prevention program to address
16 environmental concerns related to storm water discharge. The
17 program must address the following minimum measures in
18 accordance with Code of Federal Regulations, title 40, section
19 122.34(b):

- 20 A. public education and outreach;
21 B. public participation/involvement;
22 C. illicit discharge detection and elimination;
23 D. construction site runoff control;
24 E. postconstruction runoff control; and
25 F. pollution prevention/good housekeeping.

26 Subp. 2. **Record keeping.** Owners or operators required to
27 have a storm water pollution prevention program under subpart 1

1 must maintain a copy of the program and make it available to the
2 agency upon request.

3 7090.2000 CONSTRUCTION PROGRAM.

4 Parts 7090.2000 to 7090.2060 state the requirements for
5 regulating storm water discharges to abate water pollution
6 during construction activities, which are regulated in
7 accordance with Code of Federal Regulations, title 40, section
8 122.26(a)(1) and (9)(i)(B), and Minnesota Statutes, section
9 115.03.

10 7090.2010 CONSTRUCTION ACTIVITY PERMIT REQUIREMENTS.

11 Subpart 1. **Permits required.** An NPDES/SDS construction
12 storm water permit is required if:

13 A. a person is conducting construction activity
14 ~~except-for-construction-activities-identified-under-part~~
15 ~~7090-2020~~; or

16 B. the commissioner determines that a discharge may
17 cause or contribute to a violation of an applicable state or
18 federal water quality rule or regulation. In making this
19 determination, the commissioner shall consider factors including
20 size of discharge, quantity and nature of discharge, and
21 location of discharge.

22 Subp. 2. **Permit application deadline.**

23 A. Owners and operators proposing activities that
24 require a construction storm water permit under this part must
25 submit a complete permit application provided by the agency
26 before conducting construction activity, or where a construction

1 site is covered under an existing construction storm water
2 permit, meet the subdivision registration requirements under
3 part 7090.2060, if applicable.

4 B. The permit application or subdivision registration
5 required under item A may be submitted electronically if such a
6 method of submittal is approved by the commissioner.

7 Notwithstanding the conditions of the construction storm water
8 permit, the effective date of a permit under an electronic
9 submittal must be established by the commissioner.

10 Subp. 3. **Compliance requirements for unpermitted**
11 **construction activity.** Owners and operators of construction
12 activities required to have a construction storm water permit
13 under this part that fail to submit a permit application or
14 subdivision registration under subpart 2 shall comply with the
15 storm water discharge design requirements, construction activity
16 requirements, and the requirements of Appendix A in the
17 construction storm water permit as incorporated by reference in
18 part 7090.0060.

19 7090.2020 NPDES/SDS CONSTRUCTION STORM WATER GENERAL PERMIT
20 COVERAGE.

21 Subpart 1. Scope. The commissioner shall notify owners
22 and operators of construction activities that disturb one to
23 less than five acres of soil and meet the requirements in
24 subpart 2 or 3 that they are covered under the NPDES/SDS
25 construction storm water general permit even if the owner or
26 operator has not submitted a permit application. Owners and
27 operators that meet the requirements of subpart 2 or 3 may

1 request an individual NPDES/SDS construction storm water permit
2 in accordance with chapter 7001.

3 Subp. ~~4~~ 2. Emergency construction.

4 A. Construction activities are required to minimize
5 the impacts of an emergency situation, including but not limited
6 to floods, tornadoes, and severe storms, presenting imminent
7 threat to human health, public drinking water, or the
8 environment ~~may-begin-before-the-submittal-of-a-permit~~
9 ~~application-if-~~.

10 ~~(1)~~ The owner ~~notifies~~ must notify the
11 commissioner when the construction activity begins, ~~and~~

12 ~~(2)-the-owner-and-operator-comply-with-the~~
13 ~~construction-activity-requirements,-and-the-requirements-of~~
14 ~~Appendix-A-in-the-construction-storm-water-permit-as~~
15 ~~incorporated-by-reference-in-part-7090-0060.~~

16 B. Emergency construction notification must be
17 completed by letter, telephone, or facsimile and include:

18 (1) the owner's name, and the name of the
19 construction company if different than the owner;

20 (2) the address or description of the location
21 where the construction activity is occurring;

22 (3) a list of the cities, counties, and townships
23 where the construction activity is occurring;

24 (4) the approximate acres to be disturbed by the
25 construction activity; and

26 (5) a brief description of the emergency
27 situation.

1 ~~E.--A-permit-application-must-be-submitted-to-the~~
2 ~~commissioner-within-seven-days-of-the-emergency-construction~~
3 ~~start-date.~~

4 ~~7090.2020-CONSTRUCTION-ACTIVITY-CONDITIONAL-EXCLUSION.~~

5 ~~Subpart-1.--Scope.--Owners-and-operators-responsible-for~~
6 ~~the-construction-activities-that-meet-the-requirements-in~~
7 ~~subparts-2-and-3-are-conditionally-excluded-from-the-requirement~~
8 ~~to-submit-a-permit-application-and-have-the-option-to-either~~
9 ~~apply-for-a-construction-storm-water-permit-or-meet-the~~
10 ~~requirements-of-part-7090.2030.--An-owner-or-operator-conducting~~
11 ~~construction-activity-pursuant-to-this-conditional-exclusion~~
12 ~~that-fails-to-comply-with-part-7090.2030-must-submit-a-permit~~
13 ~~application.~~

14 Subp. 2. 3. Feedlots. Construction activities are
15 ~~eligible-under-subpart-1~~ for the purposes of building a new or
16 expanded animal feedlot, or manure storage area, ~~or-animal~~
17 ~~holding-facility~~ or performing related maintenance. The owner
18 or operator must: apply for and obtain the appropriate permit
19 under part 7020.0405, other than an NPDES permit, and if no
20 permit is required under part 7020.0405, the owner or operator
21 must complete the preconstruction notification submittal
22 requirements under part 7020.2000, subpart 5.

23 ~~A.--apply-for-and-obtain-an-SDS-permit-as-required~~
24 ~~under-part-7020.0405,-subpart-1,-item-B,~~

25 ~~B.--apply-for-and-obtain-an-interim-permit-as-required~~
26 ~~under-part-7020.0405,-subpart-1,-item-C,~~

27 ~~C.--apply-for-and-obtain-a-construction-short-form~~

1 ~~permit-as-required-under-part-7020.0405, subpart 1, item D, or~~
2 ~~D,--fulfill-the-preconstruction-notification~~
3 ~~requirements-under-part-7020.2000, subpart 5.~~

4 ~~Owners-and-operators-of-feedlot-construction-activities~~
5 ~~that-are-not-subject-to-the-permit-requirements-under-part~~
6 ~~7020.0405, subpart 1, or the notification requirements under~~
7 ~~part-7020.2000, subpart 5, must-comply-with-the-requirements-of~~
8 ~~part-7090.2030 or apply for a construction storm-water permit.~~

9 ~~Subp. 3.--Conservation-practice-projects.--Construction~~
10 ~~activities-are-eligible-under-subpart 1 if they disturb one to~~
11 ~~less-than-five-acres-of-soil-for-purposes-of-a-conservation~~
12 ~~practice-project-including-a-grassed-waterway, terrace-or~~
13 ~~diversion, water-and-sediment-control-basin, or other~~
14 ~~conservation-practice-that-reduces-erosion-and-controls-sediment~~
15 ~~runoff.--The-owner-or-operator-must:~~

16 ~~A.--participate-in-a-state-or-federal-conservation~~
17 ~~program-that-includes-financial-assistance, and~~

18 ~~B.--utilize-the-design-standards, construction-and~~
19 ~~materials-specifications, and-associated-construction-inspection~~
20 ~~requirements-maintained-by-the-United-States-Department-of~~
21 ~~Agriculture, Natural-Resources-Conservation-Service, and-Board~~
22 ~~of-Water-and-Soil-Resources-for-conservation-programs, or-other~~
23 ~~design-standards-and-specifications-approved-by-these-programs.~~

24 ~~7090.2030-BEST-MANAGEMENT-PRACTICES-(BMPS)-REQUIRED-FOR~~
25 ~~CONDITIONAL-EXCLUSION-PROJECTS.~~

26 ~~Subpart 1.--Scope.--Owners-and-operators-responsible-for~~
27 ~~construction-activities-that-meet-the-requirements-for-a~~

1 conditional-exclusion-under-part-7090.2020-must-include-the-BMPs
2 in-subparts-2-to-6.

3 Subp.-2.--Minimize-size-of-disturbed-area.--When-permanent
4 vegetation-must-be-disturbed, the-area-of-disturbance-must-be
5 limited-to-the-minimum-required-for-the-project.

6 Subp.-3.--Sediment-control.--Where-disturbed-areas-have
7 steep-slopes-or-concentrated-flow, buffers-or-other-sediment
8 control-BMPs, such-as-silt-fences-or-staked-hay-bales, must-be
9 used-to-minimize-sediment-from-entering-surface-waters-and
10 subsurface-drainage-systems, including-tile-inlets.--Sediment
11 control-BMPs-must-be-established-on-down-gradient-perimeters
12 before-any-upgradient-construction-activities-begin, except-for
13 conservation-practice-projects-such-as-grassed-waterways-and
14 terraces-that-are-constructed-in-five-days-or-less, and-in-an
15 area-where-soil-disturbance-has-occurred-before-construction.
16 These-BMPs-must-remain-in-place-until-other-temporary-or-final
17 stabilization-practices-have-been-established.

18 Subp.-4.--Soil-stockpiles.--Topsoil-or-other-temporary
19 stockpiles-of-soil-must-be-placed-in-locations-where-they-will
20 not-be-subject-to-erosion-from-channelized-flow.--If-stockpiles
21 are-placed-within-300-feet-up-slope-of-a-surface-water-or-tile
22 inlet-for-more-than-three-days, or-when-precipitation-and-runoff
23 are-imminent, a-grass-buffer-or-other-equivalent-sediment
24 control-BMPs, such-as-silt-fences-or-staked-hay-bales, must-be
25 used-between-the-soil-stockpile-and-surface-water-or-tile-inlet.

26 Subp.-5.--Temporary-stabilization.

27 A.--Where-disturbed-areas-are-not-otherwise-protected

1 ~~by permanent erosion control materials, disturbed areas must be~~
2 ~~seeded and temporarily stabilized until the seed establishes a~~
3 ~~permanent vegetative cover. Mulch or erosion control blanket~~
4 ~~must be applied to disturbed areas with steeper than 3:1 slopes~~
5 ~~within seven days after final grading, except for conservation~~
6 ~~practice projects such as terraces with slope lengths less than~~
7 ~~15 feet in area where soil disturbance has occurred before~~
8 ~~construction. Other temporary stabilization BMPs must be~~
9 ~~installed within the following time frames after final grading~~
10 ~~for the indicated slopes:~~

- 11 ~~(1) slopes of 10:1 to 3:1, 14 days, and~~
12 ~~(2) slopes flatter than 10:1, 21 days.~~

13 ~~B. For construction activities conditionally excluded~~
14 ~~under part 7090.2020, temporary stabilization may include any of~~
15 ~~the following BMPs that are effective for the site conditions:~~

- 16 ~~(1) compaction of the soil surface of~~
17 ~~concentrated flow areas to reduce soil erodibility;~~
18 ~~(2) grading along the contour and use surface~~
19 ~~roughing techniques such as slope tracking with tracked~~
20 ~~equipment;~~
21 ~~(3) application of mulch or erosion control~~
22 ~~blanket; and~~
23 ~~(4) installation of check dams such as fiber~~
24 ~~rolls, sand or gravel filled berms, including filled bags for~~
25 ~~removal, or geotextile erosion barriers across concentrated flow~~
26 ~~areas such as waterways.~~

27 ~~Subp. 6. Final stabilization. Disturbed areas, not~~

~~1 including-cropland, must-be-protected-by-permanent-erosion
2 control-materials-or-other-BMPs-that-achieve-the-equivalent-of
3 70-percent-uniform-vegetative-cover.---If-construction-is
4 completed-after-the-fall-seeding-cutoff-date, dormant-seeding
5 must-be-applied-or-any-of-the-temporary-stabilization-BMPs
6 listed-in-subpart-5-that-are-effective-and-appropriate-for-the
7 site-conditions-must-be-implemented, and-seeding-and-final
8 stabilization-must-be-implemented-as-soon-as-feasible-the
9 following-spring.~~

10 7090.2040 CONSTRUCTION ACTIVITY MINIMUM REQUIREMENTS.

11 Subpart 1. Storm water pollution prevention plan required.

12 Owners of construction activities required to have a
13 construction storm water permit under part 7090.2010, subpart 1,
14 must complete a storm water pollution prevention plan before
15 submitting a permit application and before conducting
16 construction activity.

17 Subp. 2. Record keeping. The storm water pollution
18 prevention plan must be kept on site and made available to the
19 agency within 72 hours of a request for review.

20 7090.2060 SUBDIVISION OWNER REGISTRATION.

21 For a construction site that is covered under an existing
22 construction storm water permit where the owner or operator
23 changes, the new owner or operator must:

24 A. obtain a permit and develop and implement the
25 storm water pollution prevention plan; or

26 B. submit to the commissioner a subdivision

1 registration form provided by the agency within seven days of
2 assuming operational control of the site, conducting
3 construction activity on their portion of the site, or of legal
4 transfer, sale, or closing on the property, and:

5 (1) implement the provisions of the site's
6 original storm water pollution prevention plan for the portion
7 of the site which the construction activities will impact; or

8 (2) develop and implement a storm water pollution
9 prevention plan for the portion of the site which the
10 construction activities will impact according to the
11 requirements of the construction storm water permit for the site.

12 C. The new owner or operator must comply with all
13 applicable requirements of the permit and the storm water
14 pollution prevention plan.

15 D. The new owner or operator must ensure that
16 activities do not render another party's erosion prevention and
17 sediment control BMPs ineffective.

18 7090.3000 INDUSTRIAL PROGRAM.

19 Parts 7090.3000 to 7090.3080 state the requirements for
20 industrial activities that are regulated in accordance with Code
21 of Federal Regulations, title 40, section 122.26(a)(1)(ii),
22 section 122.26(g)(1)-(4), and Minnesota Statutes, section 115.03.

23 7090.3010 INDUSTRIAL ACTIVITY PERMIT REQUIREMENTS.

24 Subpart 1. **Permits required.** An NPDES/SDS industrial
25 storm water permit is required:

26 A. for industrial activity; or

1 B. if the commissioner determines that a discharge
2 may cause or contribute to a violation of an applicable state or
3 federal water quality rule or regulation. In making this
4 determination, the commissioner shall consider factors including
5 size of discharge, quantity and nature of discharge, and
6 location of discharge.

7 Subp. 2. **Permit application deadline.** If a person
8 proposes to construct a new facility or engage in a new activity
9 for which a permit is required, the person shall submit a
10 complete permit application at least 180 days before the planned
11 date of the commencement of facility construction or of the
12 planned date of the commencement of the activity, whichever
13 occurs first.

14 7090.3040 INDUSTRIAL ACTIVITY MINIMUM REQUIREMENTS.

15 Subpart 1. **Storm water pollution prevention plan required.**
16 Owners or operators of industrial activities required to have an
17 industrial storm water permit under part 7090.3010, subpart 1,
18 must complete a storm water pollution prevention plan before
19 submitting a permit application.

20 Subp. 2. **Record keeping.** The storm water pollution
21 prevention plan must be kept at the industrial facility and made
22 available to the agency within 72 hours of a request for review.

23 7090.3060 CONDITIONAL EXCLUSION FOR NO EXPOSURE.

24 Subpart 1. **No exposure.** Discharges composed entirely of
25 storm water are not discharges associated with industrial
26 activity if there is no exposure of industrial materials and

1 activities to rain, snow, snowmelt, or runoff, and the facility
2 meets the requirements of this part.

3 Subp. 2. **Applicability.** An owner or operator required to
4 obtain an industrial storm water permit under part 7090.3010,
5 subpart 1, must either obtain a permit or certify a condition of
6 no exposure.

7 Subp. 3. **Application requirements.** An operator certifying
8 a condition of no exposure must submit to the commissioner an
9 application for no-exposure certification on a form provided by
10 the agency. An application for no-exposure certification must
11 be submitted to the commissioner once every five years.

12 Subp. 4. **Certification issuance.** A certification of no
13 exposure must be issued to facilities:

14 A. where a complete and signed application has been
15 submitted to the commissioner; and

16 B. where the commissioner has verified that there is
17 no contact of storm water with industrial activities through:

18 (1) a review of the application;

19 (2) an inspection of the facility; or

20 (3) other means that the commissioner finds
21 reasonably reliable.

22 Subp. 5. **Limitations.**

23 A. Construction activities that require a permit
24 under part 7090.2010, subpart 1, are not eligible for the
25 conditional no-exposure exclusion.

26 B. The conditional no-exposure exclusion is available
27 on a facilitywide basis only. Where exposure to industrial

1 materials or activities exists at some but not all areas of the
2 facility, a permit is required for storm water discharges from
3 the exposed areas.

4 C. The no-exposure exclusion is conditional. If
5 circumstances change and the conditions for the no-exposure
6 exclusion no longer apply to the facility, the operator must
7 comply with the requirements of part 7090.3010. Where the
8 operator anticipates a change in circumstance and the conditions
9 for the no-exposure exclusion no longer apply, the operator
10 shall apply for and obtain a permit under part 7090.3010 before
11 the change of circumstance.

12 D. A certification of no exposure is nontransferable.

13 E. The commissioner retains the authority to deny the
14 no-exposure certification and require permit authorization as
15 provided under part 7090.3010.

16 7090.3080 NO-EXPOSURE CERTIFICATION.

17 The application for no-exposure certification must include
18 a no-exposure certification statement. A person who signs an
19 application for no-exposure certification must certify a
20 condition of no exposure in accordance with Code of Federal
21 Regulations, title 40, section 122.26(g)(4)(iv).

22 **REPEALER.** Minnesota Rules, parts 7001.1020, subparts 16a, 16b,
23 16c, 16d, 17a, and 28a; and 7001.1035, are repealed.