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Solid Waste Expedited Permit Program

Waste/Solid Waste #3.01, July 2002

Authority

Minn. Stat. 116.07, subd. 4d(f) allows for applicants that wish to construct or expand a facility to offer to reimburse the agency for all costs of staff over time or consultant services needed to expedite permit review.

Definitions

The language in Minn. Stat. 116.07, subd. 4d(f) was originally drafted with the Air Quality Permitting Program in mind. Before the Solid Waste Program can implement this statute, the terms “construct” and “expand” as used in this statute need to be defined. For purposes of the Solid Waste Expedited Permit Program, the following definitions shall apply.

- **Construction** = new facility that requires a permit or a new design feature that requires a major modification prior to construction. For a new land disposal facility, the applicant must be able to obtain MPCA approval of its hydrogeologic evaluation through the completion of the Phase III Report within 2 months of requesting expedited status.
- **Expansion** = new capacity at an existing facility that will require a major modification prior to implementation.

Application Process

Applicants must first follow the normal procedures for preparing and submitting a solid waste management facility permit application. If the application can be processed within a reasonable time frame through normal agency review procedures, it is not necessary to expedite the permitting

process. If the applicant wishes to seek an expedited review process the following additional administrative steps must occur.

- Applicant requests expedited status by submitting form EXP-01SW. This form gets submitted to the SW Expedited Permit Coordinator (Kathy Holland-Hanson).
- The Coordinator calculates the number of hours needed to conduct the expedited review based on the type of facility and action being sought. A spreadsheet is being developed to assist with this calculation.
- The Coordinator will send out an e-mail requesting staff to volunteer for expedited review of the project.

The Coordinator selects volunteer(s) and routes an over time request memo through the appropriate supervisor(s) and manager(s) to the Division Director for approval. This will be done electronically to the Division Director level. The Division Director will need to print out a hard copy of the memo, sign it and route it back for placement in the project file.

- Once the Division Director approves the over time request, the Expedited Permit Administrator will calculate the expedited permit application fee and finalize the Income Agreement and send it out to the applicant for signature.
- Once the applicant has signed the Income Agreement and has submitted the calculated fee, the Administrator will send out a confirmatory e-mail to the staff volunteer(s), their supervisor(s) and to the Coordinator.



- The volunteer staff can then begin review of the project in over time status.

Expedited Permit Review Time Frame

Minn. Stat. 116.07, subd. 4j(c) currently requires that all solid waste management facility permits be reviewed for completeness within 30 days of receipt, and that within 180 days of receipt of a completed application, the agency shall approve, disapprove or delay decision on the application. This is the time frame established for normal agency review procedures in the Solid Waste Program. Since the focus of the Expedited Permit Program is to move the review along at a faster pace, it seems appropriate that an expedited time frame be established for completing a review under the Expedited Permit Program.

The volunteer staff shall make a determination on the completeness of the application within one week of receiving confirmation of their approval to work on the project. If the application is deemed to be incomplete, the applicant shall be notified in writing as to the items needed to complete the application and requested to submit those items within two weeks. Failure to do so may jeopardize the applicant's ability to continue in the Expedited Permit Program.

Upon receipt of a complete application, the volunteer staff should complete their technical review of the application within two months time. This time frame includes any time needed for comments and response between the agency and the applicant, so the applicant must also commit to expediting their response to any comments that staff has on the application. If the applicant is not willing or unable to do this, then the project should not be expedited. Success of the Expedited Permit Program will greatly depend on the applicant submitting a complete and technically adequate application.

At the end of the two month review period, volunteer staff should be ready to start drafting the permit. The draft permit should be placed on public notice no later than 10 weeks from the date the application is deemed to be complete.

The Expedited Permit Program only applies to the time frame needed to complete the technical review of a permit application, draft a permit in the Delta System, and place it on public notice. Once a draft permit is on public notice, certain events may occur that are beyond the MPCA's ability to predict or expedite (e.g. requests for public meetings or contested case hearings). If one of Solid Waste Expedited Permit Program

these events should occur during the public notice period, the MPCA will revert to standard administrative procedures and time frames for managing such requests.

Non-qualifying Projects

If the following conditions apply to the project, then the project will not be eligible for expedited status and the request shall be denied.

- **Mandatory EAW/EIS category.** Minn. Stat. 166.07, subd. 4d(f) does not extend to the environmental review process. The draft permit must include any requirements/conditions that result from the environmental review process. Therefore, the environmental review process must be completed before a draft permit may be placed on public notice. Typically, permitting staff review the application concurrently with the environmental review in order to provide technical support for the environmental review staff. Thus, by the time the environmental review process is complete, the permit review process is also essentially complete, eliminating the need to expedite the review.
- **Utilization Applications.** Most applications for utilization of solid waste will need to conduct a demonstration project or pilot study as part of the permit application process to collect data to complete the application. The demonstration project or pilot study will extend the review process conflicting with the expedited concept. Utilization applications may only be expedited after the completion of the demonstration project or pilot study if the standard review process would not otherwise be completed within two months from the date that the demonstration project or pilot study data has been submitted to the MPCA for review.
- **Metro Facilities.** Facilities located in the seven county metropolitan area must also undergo review by the Office of Environmental Assistance (OEA) for compliance with the Metropolitan Solid Waste Policy Plan (refer to Minn. Stat. 473.823). Minn. Stat. 166.07, subd. 4d(f) does not extend to the OEA's review process. Therefore, these projects must be able to demonstrate that they can complete the OEA review process within two



months from the time they request expedited review status.

- **Facilities Needing New CON Capacity.** MSW land disposal facilities that are subject to the Certificate of Need (CON) process that is issued by the OEA (refer to Minn. Stat. 115A.917) must be able to demonstrate that they can complete the CON process within two months from the time they request expedited review status.
- **Variances.** Applications that include a request for a variance from a rule requirement in accordance with Minn. R. 7000.7000 may qualify for expedited review status. As noted above, the expedited time frame only applies to the time needed to complete the technical review of a permit application, draft a permit in the Delta System, and place it on public notice. The public notice of the draft permit must identify the variance being sought. All variance requests must be approved by the MPCA Citizens' Board prior to permit issuance. Once the draft permit is off public notice, MPCA staff must prepare a Board Item for presentation to the MPCA Citizens' Board for final decision. The MPCA Citizens' Board process cannot be expedited and will likely add another two to three months to the ultimate permitting time frame between the public notice and permit issuance.

Review By Contractor

Minn. Stat. 166.07, subd. 4d(f) also gives the agency the authority to hire a consultant to conduct the expedited permit application review and prepare a draft permit.

All solid waste permits must be generated by using the MPCA's Delta Permitting System. Due to security issues, contractors reviewing permit applications under the Expedited Permit Program would not have direct access to the Delta System. In theory, worksheets that correspond to the solid waste Delta screens would need to be filled out by the reviewing contractor. This information would then be transferred into the Delta System by MPCA data entry staff. At this time, the Solid Waste Program does not have access to any data entry staff. Furthermore, there exist significant limitations in the Solid Waste Delta boilerplate language that requires detailed editing by technical staff before generating a permit. This is not something that can currently be managed by having a

contractor fill out a worksheet. Given these limitations, it is not appropriate to allow expedited permit review by outside contractors at this time for the Solid Waste Program. Should the Solid Waste Delta System be updated in the future, this option may then become available.

For More Information

For more information on the Solid Waste Expedited Permit Program, please contact Kathy Holland-Hanson:

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