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- 1.1 Pollution Control Agency
- 1.2 Proposed Permanent Rules Relating to Storm Water Regulatory
- 1.3 Program
- 1.4 7001.0040 APPLICATION DEADLINES.
- 1.5 Subpart 1. **Application for new permit.** Except as
- 1.6 otherwise required by parts 7001.0530 and 7001.1040 or chapter
- 1.7 7090, a permit application for a new facility or activity may be
- 1.8 submitted at any time. However, it is recommended that the
- 1.9 permit application be submitted at least 180 days before the
- 1.10 planned date of the commencement of facility construction or of
- 1.11 the activity.
- 1.12 **For text of subps 2 to 4, see M.R.**
- 1.13 7001.1040 APPLICATION DEADLINE FOR NEW PERMITS.
- 1.14 **For text of item A, see M.R.**
- 1.15 B. Persons proposing activities that require a
- 1.16 general construction storm water permit under ~~this~~ chapter 7090
- 1.17 must submit an application provided by the agency prior to
- 1.18 initiation of construction.
- 1.19 7002.0220 DEFINITIONS.
- 1.20 **For text of subps 1 to 3, see M.R.**
- 1.21 Subp. 3a. **General construction storm water permit.**
- 1.22 "General construction storm water permit" means ~~a~~ an NPDES
- 1.23 general permit that is for storm water discharges associated
- 1.24 with construction activity as defined in part 7001.1020
- 1.25 7090.0080, subpart 16a 4.
- 1.26 Subp. 3b. **General industrial storm water permit.** "General
- 2.1 industrial storm water permit" means ~~a~~ an NPDES general permit
- 2.2 that is for storm water discharges associated with industrial
- 2.3 activity as defined in part 7001.1020 7090.0080, subpart 16b
- 2.4 6.
- 2.5 Subp. 3c. **Individual storm water permit.** "Individual
- 2.6 storm water permit" means ~~a~~ an NPDES permit that is for storm
- 2.7 water discharges associated with a specific site and type of
- 2.8 activity as defined in part 7001.1020, subpart 16c under Code of
- 2.9 Federal Regulations, title 40, section 122.26(b)(4), (7), and
- 2.10 (14)-(16). Fees for this permit are set in part 7002.0310,
- 2.11 subpart 2, item B, under "other nonmunicipal."
- 2.12 **For text of subps 4 to 9, see M.R.**
- 2.13 7002.0250 APPLICATION FEE.
- 2.14 A person who applies for a permit to construct, install,
- 2.15 modify, or operate a facility, or applies for a permit
- 2.16 modification as described in part 7001.0190, excluding changes
- 2.17 in ownership or control, name or address changes other than
- 2.18 changes in facility location, and interim and construction
- 2.19 short-form permits issued under chapter 7020, shall submit with
- 2.20 the application the appropriate application fee. Failure to
- 2.21 submit the fee renders the application incomplete and the agency
- 2.22 shall suspend processing of the application until the fee is
- 2.23 received. Application fees are nonrefundable.
- 2.24 7090.0010 SCOPE.
- 2.25 This chapter establishes the storm water permit program to
- 2.26 regulate discharges of storm water from municipal separate storm
- 3.1 sewer systems, construction activities, and industrial

3.2 activities for purposes of abating water pollution associated  
3.3 with storm water discharges from these sources.

3.4 7090.0020 PERMIT PROCESS.

3.5 Unless otherwise specifically stated under this chapter,  
3.6 the process of applying for, issuing, reissuing, revoking, or  
3.7 modifying storm water permits is as stated for National  
3.8 Pollutant Discharge Elimination System (NPDES) permits under  
3.9 chapter 7001.

3.10 7090.0030 PERMIT REQUIREMENTS.

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

3.14 A. for municipal separate storm sewer systems under  
3.15 part 7090.1010;

3.16 B. for construction activities under part 7090.2010;

3.17 C. for industrial activities under part 7090.3010;

3.18 and

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

3.23 Subp. 2. **NPDES/SDS permit.** If a person who discharges  
3.24 storm water into the waters of the state is required by  
3.25 Minnesota statutes or rules to obtain both a NPDES permit and a  
3.26 SDS permit, the issuance of a NPDES permit under this chapter  
4.1 satisfies the requirement to obtain both permits.

4.2 7090.0040 PERMIT FEES.

4.3 Application and annual fees for storm water permits are  
4.4 established under parts 7002.0210 to 7002.0310.

4.5 7090.0060 INCORPORATION BY REFERENCE.

4.6 For the purposes of parts 7090.2000 to 7090.2060, the storm  
4.7 water discharge design requirements, construction activity  
4.8 requirements, and the requirements of Appendix A in the  
4.9 Minnesota Pollution Control Agency document General Permit  
4.10 Authorization to Discharge Storm Water Associated With  
4.11 Construction Activity Under the National Pollutant Discharge  
4.12 Elimination System/State Disposal System Permit (NPDES/SDS)  
4.13 Program (construction storm water permit) are incorporated by  
4.14 reference. This document is subject to change every five  
4.15 years. For purposes of parts 7090.2000 to 7090.2060, all  
4.16 references to the construction storm water permit must be  
4.17 construed as referring to the most current version, which at the  
4.18 time this chapter was adopted was Permit No: MN R 100001,  
4.19 issued on August 1, 2003. This document can be found at the  
4.20 Minnesota State Law Library, Minnesota Judicial Center, 25  
4.21 Constitution Avenue, St. Paul, Minnesota 55155, the Minnesota  
4.22 Pollution Control Agency offices, and the Minnesota Pollution  
4.23 Control Agency Internet site at the following address:

4.24 <http://www.pca.state.mn.us/water/stormwater/stormwater-c.html>

4.25 7090.0080 DEFINITIONS.

4.26 Subpart 1. **Scope.** Terms employed in this chapter for  
5.1 which definitions are given in Minnesota Statutes, sections  
5.2 115.01 and 116.06, have the meanings given them in those  
5.3 sections. The terms specified in this part have the meanings

5.4 given them in this part.

5.5 **Subp. 2. Best management practices.** "Best management  
5.6 practices" or "BMPs" means practices to prevent or reduce the  
5.7 pollution of the waters of the state, including schedules of  
5.8 activities, prohibitions of practices, and other management  
5.9 practice, and also includes treatment requirements, operating  
5.10 procedures, and practices to control plant site runoff, spillage  
5.11 or leaks, sludge, or waste disposal or drainage from raw  
5.12 material storage.

5.13 **Subp. 3. Common plan of development or sale.** "Common plan  
5.14 of development or sale" means a contiguous area where multiple  
5.15 separate and distinct land disturbing activities may be taking  
5.16 place at different times, on different schedules, but under one  
5.17 proposed plan. "One plan" is broadly defined to include design,  
5.18 permit application, advertisement, or physical demarcation  
5.19 indicating that land-disturbing activities may occur.

5.20 **Subp. 4. Construction activity.** "Construction activity"  
5.21 means activities for the purpose of construction, including  
5.22 clearing, grading, and excavating, that result in land  
5.23 disturbance of equal to or greater than one acre, including the  
5.24 disturbance of less than one acre of total land area that is  
5.25 part of a larger common plan of development or sale if the  
5.26 larger common plan will ultimately disturb equal to or greater  
5.27 than one acre. This includes a disturbance to the land that  
6.1 results in a change in the topography, existing soil cover, both  
6.2 vegetative and nonvegetative, or the existing soil topography  
6.3 that may result in accelerated storm water runoff which may lead  
6.4 to soil erosion and movement of sediment. Construction activity  
6.5 does not include a disturbance to the land of less than five  
6.6 acres for the purpose of routine maintenance that is performed  
6.7 to maintain the original line and grade, hydraulic capacity, and  
6.8 original purpose of the facility.

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

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

6.17 **Subp. 7. Municipality.** "Municipality" means a county, a  
6.18 city, a town, the Metropolitan Council when acting under the  
6.19 provisions of Minnesota Statutes, chapter 473, or other  
6.20 governmental subdivision of the state responsible by law for the  
6.21 prevention, control, and abatement of water pollution.

6.22 **Subp. 8. Municipal separate storm sewer**  
6.23 **system.** "Municipal separate storm sewer system" or "MS4" means  
6.24 a conveyance or system of conveyances including roads with  
6.25 drainage systems, municipal streets, catch basins, curbs,  
6.26 gutters, ditches, man-made channels, or storm drains:

6.27 **A.** owned or operated by a state, city, town, county,  
7.1 district, association, or other public body, created by or  
7.2 pursuant to state law, having jurisdiction over disposal of  
7.3 sewage, industrial wastes, storm water, or other wastes,

7.4 including special districts under state law such as a sewer  
7.5 district, flood control district, or drainage district or  
7.6 similar entity, or an Indian tribe or an authorized Indian tribe  
7.7 organization, or a designated and approved management agency  
7.8 under section 208 of the federal Clean Water Act, United States  
7.9 Code, title 33, section 1288, that discharges into waters of the  
7.10 state;  
7.11 B. designed or used for collecting or conveying storm  
7.12 water;  
7.13 C. that is not a combined sewer; and  
7.14 D. that is not part of a publicly owned treatment  
7.15 works as defined in Code of Federal Regulations, title 40,  
7.16 section 122.2.  
7.17 Municipal separate storm sewer systems do not include  
7.18 separate storm sewers in very discrete areas, such as individual  
7.19 buildings.  
7.20 Subp. 9. **No exposure.** "No exposure" means that all  
7.21 industrial materials or activities are protected by a storm  
7.22 resistant shelter to prevent exposure to rain, snow, snow melt,  
7.23 or runoff. "Industrial materials or activities" include, but  
7.24 are not limited to, material handling equipment or activities,  
7.25 industrial machinery, raw materials, intermediate products,  
7.26 by-products, final products, or waste products. Material  
7.27 handling activities include the storage, loading and unloading,  
8.1 transportation, or conveyance of any raw material, intermediate  
8.2 product, final product, or waste product.  
8.3 Subp. 10. **Operator.** "Operator" means:  
8.4 A. the person with primary operational control and  
8.5 legal responsibility for the municipal separate storm sewer  
8.6 system under part 7090.1000;  
8.7 B. the person designated by the owner who has  
8.8 day-to-day operational control or the ability to modify project  
8.9 plans and specifications related to the storm water pollution  
8.10 prevention plan under part 7090.2000; or  
8.11 C. the person responsible for the overall operation  
8.12 of an industrial facility under part 7090.3000.  
8.13 Subp. 11. **Owner.** "Owner" means:  
8.14 A. the person that owns the municipal separate storm  
8.15 sewer system under part 7090.1000;  
8.16 B. the person or party possessing the title of the  
8.17 land on which the construction activities will occur; if the  
8.18 construction activity is for a lease holder, the party or  
8.19 individual identified as the lease holder; or the contracting  
8.20 government agency responsible for the construction activity  
8.21 under part 7090.2000; or  
8.22 C. the person who owns an industrial facility or part  
8.23 of an industrial facility under part 7090.3000.  
8.24 Subp. 12. **Storm water or stormwater.** "Storm water" or  
8.25 "stormwater" means storm water runoff, snow melt runoff, and  
8.26 surface runoff and drainage. It includes the term "stormwater"  
8.27 as used in agency documents.  
9.1 Subp. 13. **Surface waters.** "Surface waters" means all  
9.2 streams, lakes, ponds, marshes, wetlands, reservoirs, springs,  
9.3 rivers, drainage systems, waterways, watercourses, and

9.4 irrigation systems whether natural or artificial, public or  
9.5 private.

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

9.11 7090.1000 MUNICIPAL SEPARATE STORM SEWER SYSTEM PROGRAM.

9.12 Parts 7090.1000 to 7090.1040 state the requirements for  
9.13 municipal separate storm sewer systems (MS4s) that are regulated  
9.14 in accordance with Code of Federal Regulations, title 40,  
9.15 section 122.26(a)(1)(iii) and (iv), and (a)(9)(i)(A), section  
9.16 123.35(b), and Minnesota Statutes, section 115.03.

9.17 7090.1010 MS4 PERMIT REQUIREMENTS.

9.18 Subpart 1. Permits required. An NPDES/SDS storm water  
9.19 permit is required within the specified time period for MS4s  
9.20 identified in items A to C. An owner or operator of an MS4 must  
9.21 submit a complete permit application requesting a permit. Once  
9.22 an MS4 is required to obtain a permit, the requirement remains  
9.23 in effect until the requirement is removed pursuant to subpart  
9.24 4, item B.

9.25 A. MS4s located in an urbanized area in whole or in  
9.26 part, that are regulated in accordance with Code of Federal  
10.1 Regulations, title 40, section 122.26(a)(1)(iii) and (iv), and  
10.2 (a)(9)(i)(A), including any publicly owned entity such as a  
10.3 military base, hospital, prison or correctional facility,  
10.4 college, or university with a potential resident capacity, bed  
10.5 count occupancy, or average daily user population of 1,000 or  
10.6 more.

10.7 B. MS4s that meet the following criteria must submit  
10.8 a complete application for a permit within 18 months of meeting  
10.9 the criteria:

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

10.13 (2) the MS4 is owned or operated by a  
10.14 municipality with a population of 10,000 or more based on the  
10.15 most recent decennial census or approved municipal boundary  
10.16 adjustment under the provisions of Minnesota Statutes, chapter  
10.17 414; or

10.18 (3) the MS4 is owned or operated by a  
10.19 municipality with a population of at least 5,000 based on the  
10.20 most recent decennial census or approved municipal boundary  
10.21 adjustment under the provisions of Minnesota Statutes, chapter  
10.22 414, and:

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

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

11.2 (c) discharges or has the potential to  
11.3 discharge to a water listed as impaired under section 303(d) of  
11.4 the Clean Water Act, United States Code, title 33, section 1313,

11.5 except those waters listed as impaired solely for mercury (Hg)  
11.6 or polychlorinated biphenyls (PCBs).  
11.7 C. MS4s designated by the commissioner in accordance  
11.8 with subparts 2 and 3 must submit a complete application for a  
11.9 permit within 18 months of designation.  
11.10 Subp. 2. Designation criteria. For purposes of this part,  
11.11 "designation" means a determination by the commissioner that an  
11.12 MS4 is subject to the permit requirements of this part. The  
11.13 commissioner may designate an MS4 based on the following  
11.14 criteria:  
11.15 A. the MS4 contributes substantially to the pollutant  
11.16 loadings of a physically interconnected MS4 that is regulated by  
11.17 the NPDES storm water program in accordance with Code of Federal  
11.18 Regulations, title 40, section 123.35(b)(4); or  
11.19 B. the MS4 is determined to be a significant  
11.20 contributor of pollutants to waters of the state or to have an  
11.21 adverse impact on water quality based on any of the following  
11.22 factors:  
11.23 (1) high growth or growth potential;  
11.24 (2) high population density;  
11.25 (3) high seasonal population;  
11.26 (4) impervious land cover;  
11.27 (5) contiguity to an urbanized area as designated  
12.1 by the United States Census Bureau;  
12.2 (6) ineffective protection of water quality by  
12.3 other programs;  
12.4 (7) an approved or established total maximum  
12.5 daily load that requires reduction of a pollutant associated  
12.6 with storm water beyond what can be achieved with existing  
12.7 programs; or  
12.8 (8) proximity to a high quality water such as an  
12.9 outstanding resource value water as identified in part  
12.10 7050.0180, subparts 3 and 6, or trout stream as identified in  
12.11 part 6264.0050, subpart 4.  
12.12 Subp. 3. Designation process.  
12.13 A. The commissioner shall issue a public notice  
12.14 identifying MS4s that meet the designation criteria in subpart 2  
12.15 and the commissioner's preliminary determination that the  
12.16 designation should be granted.  
12.17 B. The public notice must include, at a minimum:  
12.18 (1) the address and telephone number of the main  
12.19 agency office and the applicable agency regional office and a  
12.20 statement that additional information may be obtained at these  
12.21 offices;  
12.22 (2) the name and address of the MS4, and if  
12.23 different, of the facility or activity that is the subject of  
12.24 the draft designation;  
12.25 (3) a concise description of the facility or  
12.26 activity that is the subject of the draft designation;  
12.27 (4) the criteria under which the MS4 is proposed  
13.1 for designation and the basis for designation;  
13.2 (5) a statement that during the public comment  
13.3 period a person may submit comments to the agency on the draft  
13.4 designation or on the preliminary determination, and a statement

13.5 of the dates on which the comment period begins and ends. The  
13.6 public comment period is 30 days unless a different public  
13.7 comment period is specifically established by another agency  
13.8 rule; and  
13.9 (6) a brief description of the procedures for  
13.10 reaching a final decision on the designation, including  
13.11 procedures for requesting a public information meeting or a  
13.12 contested case hearing and the nature of the two types of  
13.13 proceedings; and any other procedures by which the public may  
13.14 participate in the agency's consideration of the designation.  
13.15 C. The commissioner shall distribute the public  
13.16 notice in accordance with part 7001.0100, subpart 5.  
13.17 D. A person may request a contested case hearing or  
13.18 public information meeting regarding the designation  
13.19 determination in accordance with part 7001.0130. If a contested  
13.20 case hearing is held, the commissioner shall comply with the  
13.21 procedures in part 7000.2000 before making a final determination.  
13.22 E. The commissioner may make a final determination  
13.23 designating an MS4 by finding that the MS4 meets the criteria  
13.24 set forth in subpart 2.  
13.25 **Subp. 4. Petition process.**  
13.26 A. Any person may petition the commissioner for the  
13.27 designation of an MS4. Upon receiving a signed written petition  
14.1 for designation, the commissioner shall evaluate the petition  
14.2 and determine if designation is appropriate under subpart 2. If  
14.3 the commissioner determines that the designation should be  
14.4 granted, the process for designation shall be followed in  
14.5 accordance with subpart 3.  
14.6 B. Any person may petition the commissioner to  
14.7 reevaluate the designation of an MS4 for a determination that  
14.8 the MS4 does not meet the criteria in subparts 1 and 2 and does  
14.9 not need a permit. Upon receiving a signed written petition for  
14.10 the reevaluation of a designation, the commissioner shall  
14.11 evaluate the petition and determine if the MS4 no longer meets  
14.12 the requirements for a permit under this part.  
14.13 7090.1040 MS4 MINIMUM REQUIREMENTS.  
14.14 **Subpart 1. Storm water pollution prevention program**  
14.15 **required.** Owners or operators of permitted MS4s must have a  
14.16 storm water pollution prevention program to address  
14.17 environmental concerns related to storm water discharge. The  
14.18 program must address the following minimum measures in  
14.19 accordance with Code of Federal Regulations, title 40, section  
14.20 122.34(b):  
14.21 A. public education and outreach;  
14.22 B. public participation/involvement;  
14.23 C. illicit discharge detection and elimination;  
14.24 D. construction site runoff control;  
14.25 E. postconstruction runoff control; and  
14.26 F. pollution prevention/good housekeeping.  
14.27 **Subp. 2. Record keeping.** Owners or operators required to  
15.1 have a storm water pollution prevention program under subpart 1  
15.2 must maintain a copy of the program and make it available to the  
15.3 agency upon request.  
15.4 7090.2000 CONSTRUCTION PROGRAM.

15.5 Parts 7090.2000 to 7090.2060 state the requirements for  
15.6 regulating storm water discharges to abate water pollution  
15.7 during construction activities, which are regulated in  
15.8 accordance with Code of Federal Regulations, title 40, section  
15.9 122.26(a)(1) and (9)(i)(B), and Minnesota Statutes, section  
15.10 115.03.  
15.11 7090.2010 CONSTRUCTION ACTIVITY PERMIT REQUIREMENTS.  
15.12 Subpart 1. **Permits required.** An NPDES/SDS construction  
15.13 storm water permit is required if:  
15.14 A. a person is conducting construction activity  
15.15 except for construction activities identified under part  
15.16 7090.2020; or  
15.17 B. the commissioner determines that a discharge may  
15.18 cause or contribute to a violation of an applicable state or  
15.19 federal water quality rule or regulation. In making this  
15.20 determination, the commissioner shall consider factors including  
15.21 size of discharge, quantity and nature of discharge, and  
15.22 location of discharge.  
15.23 Subp. 2. **Permit application deadline.**  
15.24 A. Owners and operators proposing activities that  
15.25 require a construction storm water permit under this part must  
15.26 submit a complete permit application provided by the agency  
16.1 before conducting construction activity, or where a construction  
16.2 site is covered under an existing construction storm water  
16.3 permit, meet the subdivision registration requirements under  
16.4 part 7090.2060, if applicable.  
16.5 B. The permit application or subdivision registration  
16.6 required under item A may be submitted electronically if such a  
16.7 method of submittal is approved by the commissioner.  
16.8 Notwithstanding the conditions of the construction storm water  
16.9 permit, the effective date of a permit under an electronic  
16.10 submittal must be established by the commissioner.  
16.11 Subp. 3. **Compliance requirements for unpermitted**  
16.12 **construction activity.** Owners and operators of construction  
16.13 activities required to have a construction storm water permit  
16.14 under this part that fail to submit a permit application or  
16.15 subdivision registration under subpart 2 shall comply with the  
16.16 storm water discharge design requirements, construction activity  
16.17 requirements, and the requirements of Appendix A in the  
16.18 construction storm water permit as incorporated by reference in  
16.19 part 7090.0060.  
16.20 Subp. 4. **Emergency construction.**  
16.21 A. Construction activities required to minimize the  
16.22 impacts of an emergency situation including but not limited to  
16.23 floods, tornadoes, and severe storms, presenting imminent threat  
16.24 to human health, public drinking water, or the environment may  
16.25 begin before the submittal of a permit application if:  
16.26 (1) the owner notifies the commissioner when the  
16.27 construction activity begins; and  
17.1 (2) the owner and operator comply with the  
17.2 construction activity requirements, and the requirements of  
17.3 Appendix A in the construction storm water permit as  
17.4 incorporated by reference in part 7090.0060.  
17.5 B. Emergency construction notification must be



17.6 completed by letter, telephone, or facsimile and include:

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

17.9 (2) the address or description of the location  
17.10 where the construction activity is occurring;

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

17.13 (4) the approximate acres to be disturbed by the  
17.14 construction activity; and

17.15 (5) a brief description of the emergency  
17.16 situation.

17.17 C. A permit application must be submitted to the  
17.18 commissioner within seven days of the emergency construction  
17.19 start date.

17.20 7090.2020 CONSTRUCTION ACTIVITY CONDITIONAL EXCLUSION.

17.21 Subpart 1. **Scope.** Owners and operators responsible for  
17.22 the construction activities that meet the requirements in  
17.23 subparts 2 and 3 are conditionally excluded from the requirement  
17.24 to submit a permit application and have the option to either  
17.25 apply for a construction storm water permit or meet the  
17.26 requirements of part 7090.2030. An owner or operator conducting  
17.27 construction activity pursuant to this conditional exclusion  
18.1 that fails to comply with part 7090.2030 must submit a permit  
18.2 application.

18.3 Subp. 2. **Feedlots.** Construction activities are eligible  
18.4 under subpart 1 for purposes of building a new or expanded  
18.5 animal feedlot, manure storage area, or animal holding facility  
18.6 or performing related maintenance. The owner or operator must:

18.7 A. apply for and obtain an SDS permit as required  
18.8 under part 7020.0405, subpart 1, item B;

18.9 B. apply for and obtain an interim permit as required  
18.10 under part 7020.0405, subpart 1, item C;

18.11 C. apply for and obtain a construction short-form  
18.12 permit as required under part 7020.0405, subpart 1, item D; or

18.13 D. fulfill the preconstruction notification  
18.14 requirements under part 7020.2000, subpart 5.

18.15 Owners and operators of feedlot construction activities  
18.16 that are not subject to the permit requirements under part  
18.17 7020.0405, subpart 1, or the notification requirements under  
18.18 part 7020.2000, subpart 5, must comply with the requirements of  
18.19 part 7090.2030 or apply for a construction storm water permit.

18.20 Subp. 3. **Conservation practice projects.** Construction  
18.21 activities are eligible under subpart 1 if they disturb one to  
18.22 less than five acres of soil for purposes of a conservation  
18.23 practice project including a grassed waterway, terrace or  
18.24 diversion, water and sediment control basin, or other  
18.25 conservation practice that reduces erosion and controls sediment  
18.26 runoff. The owner or operator must:

18.27 A. participate in a state or federal conservation  
19.1 program that includes financial assistance; and

19.2 B. utilize the design standards, construction and  
19.3 materials specifications, and associated construction inspection  
19.4 requirements maintained by the United States Department of  
19.5 Agriculture, Natural Resources Conservation Service, and Board

19.6 of Water and Soil Resources for conservation programs, or other  
19.7 design standards and specifications approved by these programs.  
19.8 7090.2030 BEST MANAGEMENT PRACTICES (BMPs) REQUIRED FOR  
19.9 CONDITIONAL EXCLUSION PROJECTS.

19.10 Subpart 1. **Scope.** Owners and operators responsible for  
19.11 construction activities that meet the requirements for a  
19.12 conditional exclusion under part 7090.2020 must include the BMPs  
19.13 in subparts 2 to 6.

19.14 Subp. 2. **Minimize size of disturbed area.** When permanent  
19.15 vegetation must be disturbed, the area of disturbance must be  
19.16 limited to the minimum required for the project.

19.17 Subp. 3. **Sediment control.** Where disturbed areas have  
19.18 steep slopes or concentrated flow, buffers or other sediment  
19.19 control BMPs, such as silt fences or staked hay bales, must be  
19.20 used to minimize sediment from entering surface waters and  
19.21 subsurface drainage systems, including tile inlets. Sediment  
19.22 control BMPs must be established on down gradient perimeters  
19.23 before any upgradient construction activities begin, except for  
19.24 conservation practice projects such as grassed waterways and  
19.25 terraces that are constructed in five days or less, and in an  
19.26 area where soil disturbance has occurred before construction.  
19.27 These BMPs must remain in place until other temporary or final  
20.1 stabilization practices have been established.

20.2 Subp. 4. **Soil stockpiles.** Topsoil or other temporary  
20.3 stockpiles of soil must be placed in locations where they will  
20.4 not be subject to erosion from channelized flow. If stockpiles  
20.5 are placed within 300 feet up-slope of a surface water or tile  
20.6 inlet for more than three days, or when precipitation and runoff  
20.7 are imminent, a grass buffer or other equivalent sediment  
20.8 control BMPs, such as silt fences or staked hay bales, must be  
20.9 used between the soil stockpile and surface water or tile inlet.

20.10 Subp. 5. **Temporary stabilization.**

20.11 A. Where disturbed areas are not otherwise protected  
20.12 by permanent erosion control materials, disturbed areas must be  
20.13 seeded and temporarily stabilized until the seed establishes a  
20.14 permanent vegetative cover. Mulch or erosion control blanket  
20.15 must be applied to disturbed areas with steeper than 3:1 slopes  
20.16 within seven days after final grading, except for conservation  
20.17 practice projects such as terraces with slope lengths less than  
20.18 15 feet in area where soil disturbance has occurred before  
20.19 construction. Other temporary stabilization BMPs must be  
20.20 installed within the following time frames after final grading  
20.21 for the indicated slopes:

20.22 (1) slopes of 10:1 to 3:1, 14 days; and

20.23 (2) slopes flatter than 10:1, 21 days.

20.24 B. For construction activities conditionally excluded  
20.25 under part 7090.2020, temporary stabilization may include any of  
20.26 the following BMPs that are effective for the site conditions:

20.27 (1) compaction of the soil surface of

21.1 concentrated flow areas to reduce soil erodibility;

21.2 (2) grading along the contour and use surface

21.3 roughing techniques such as slope tracking with tracked  
21.4 equipment;

21.5 (3) application of mulch or erosion control

21.6 blanket; and  
21.7 (4) installation of check dams such as fiber  
21.8 rolls; sand or gravel-filled berms, including filled bags for  
21.9 removal; or geotextile erosion barriers across concentrated flow  
21.10 areas such as waterways.

21.11 Subp. 6. **Final stabilization.** Disturbed areas, not  
21.12 including cropland, must be protected by permanent erosion  
21.13 control materials or other BMPs that achieve the equivalent of  
21.14 70 percent uniform vegetative cover. If construction is  
21.15 completed after the fall seeding cutoff date, dormant seeding  
21.16 must be applied or any of the temporary stabilization BMPs  
21.17 listed in subpart 5 that are effective and appropriate for the  
21.18 site conditions must be implemented, and seeding and final  
21.19 stabilization must be implemented as soon as feasible the  
21.20 following spring.

21.21 7090.2040 CONSTRUCTION ACTIVITY MINIMUM REQUIREMENTS.

21.22 Subpart 1. **Storm water pollution prevention plan required.**  
21.23 Owners of construction activities required to have a  
21.24 construction storm water permit under part 7090.2010, subpart 1,  
21.25 must complete a storm water pollution prevention plan before  
21.26 submitting a permit application and before conducting  
21.27 construction activity.

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

22.4 7090.2060 SUBDIVISION OWNER REGISTRATION.

22.5 For a construction site that is covered under an existing  
22.6 construction storm water permit where the owner or operator  
22.7 changes, the new owner or operator must:

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

22.10 B. submit to the commissioner a subdivision  
22.11 registration form provided by the agency within seven days of  
22.12 assuming operational control of the site, conducting  
22.13 construction activity on their portion of the site, or of legal  
22.14 transfer, sale, or closing on the property, and:

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

22.18 (2) develop and implement a storm water pollution  
22.19 prevention plan for the portion of the site which the  
22.20 construction activities will impact according to the  
22.21 requirements of the construction storm water permit for the site.

22.22 C. The new owner or operator must comply with all  
22.23 applicable requirements of the permit and the storm water  
22.24 pollution prevention plan.

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

23.1 7090.3000 INDUSTRIAL PROGRAM.

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

23.6 7090.3010 INDUSTRIAL ACTIVITY PERMIT REQUIREMENTS.

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

23.9 A. for industrial activity; or

23.10 B. if the commissioner determines that a discharge  
23.11 may cause or contribute to a violation of an applicable state or  
23.12 federal water quality rule or regulation. In making this  
23.13 determination, the commissioner shall consider factors including  
23.14 size of discharge, quantity and nature of discharge, and  
23.15 location of discharge.

23.16 Subp. 2. **Permit application deadline.** If a person  
23.17 proposes to construct a new facility or engage in a new activity  
23.18 for which a permit is required, the person shall submit a  
23.19 complete permit application at least 180 days before the planned  
23.20 date of the commencement of facility construction or of the  
23.21 planned date of the commencement of the activity, whichever  
23.22 occurs first.

23.23 7090.3040 INDUSTRIAL ACTIVITY MINIMUM REQUIREMENTS.

23.24 Subpart 1. **Storm water pollution prevention plan required.**  
23.25 Owners or operators of industrial activities required to have an  
23.26 industrial storm water permit under part 7090.3010, subpart 1,  
24.1 must complete a storm water pollution prevention plan before  
24.2 submitting a permit application.

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

24.6 7090.3060 CONDITIONAL EXCLUSION FOR NO EXPOSURE.

24.7 Subpart 1. **No exposure.** Discharges composed entirely of  
24.8 storm water are not discharges associated with industrial  
24.9 activity if there is no exposure of industrial materials and  
24.10 activities to rain, snow, snowmelt, or runoff, and the facility  
24.11 meets the requirements of this part.

24.12 Subp. 2. **Applicability.** An owner or operator required to  
24.13 obtain an industrial storm water permit under part 7090.3010,  
24.14 subpart 1, must either obtain a permit or certify a condition of  
24.15 no exposure.

24.16 Subp. 3. **Application requirements.** An operator certifying  
24.17 a condition of no exposure must submit to the commissioner an  
24.18 application for no-exposure certification on a form provided by  
24.19 the agency. An application for no-exposure certification must  
24.20 be submitted to the commissioner once every five years.

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

24.23 A. where a complete and signed application has been  
24.24 submitted to the commissioner; and

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

24.27 (1) a review of the application;

25.1 (2) an inspection of the facility; or

25.2 (3) other means that the commissioner finds  
25.3 reasonably reliable.

25.4 Subp. 5. **Limitations.**

25.5 A. Construction activities that require a permit  
25.6 under part 7090.2010, subpart 1, are not eligible for the

25.7 conditional no-exposure exclusion.

25.8 B. The conditional no-exposure exclusion is available  
25.9 on a facilitywide basis only. Where exposure to industrial  
25.10 materials or activities exists at some but not all areas of the  
25.11 facility, a permit is required for storm water discharges from  
25.12 the exposed areas.

25.13 C. The no-exposure exclusion is conditional. If  
25.14 circumstances change and the conditions for the no-exposure  
25.15 exclusion no longer apply to the facility, the operator must  
25.16 comply with the requirements of part 7090.3010. Where the  
25.17 operator anticipates a change in circumstance and the conditions  
25.18 for the no-exposure exclusion no longer apply, the operator  
25.19 shall apply for and obtain a permit under part 7090.3010 before  
25.20 the change of circumstance.

25.21 D. A certification of no exposure is nontransferable.

25.22 E. The commissioner retains the authority to deny the  
25.23 no-exposure certification and require permit authorization as  
25.24 provided under part 7090.3010.

25.25 7090.3080 NO-EXPOSURE CERTIFICATION.

25.26 The application for no-exposure certification must include  
25.27 a no-exposure certification statement. A person who signs an  
26.1 application for no-exposure certification must certify a  
26.2 condition of no exposure in accordance with Code of Federal  
26.3 Regulations, title 40, section 122.26(g)(4)(iv).

26.4 **REPEALER.** Minnesota Rules, parts 7001.1020, subparts 16a, 16b,  
26.5 16c, 16d, 17a, and 28a; and 7001.1035, are repealed.