

POST-CLOSURE PERMIT

FOR

**BAE SYSTEMS
LAND & ARMAMENTS L.P.**

MND 980 824 890

FOR A

HAZARDOUS WASTE CONTAINMENT AND TREATMENT FACILITY

LOCATED AT

4800 EAST RIVER ROAD

FRIDLEY, MINNESOTA

NOVEMBER XX. 2012

**MINNESOTA POLLUTION CONTROL AGENCY
520 LAFAYETTE ROAD
ST. PAUL, MINNESOTA 55155-4194**

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ATTACHMENTS

I. Maps of the Facility

II. July 3, 1995 MPCA Memorandum

**STATE OF MINNESOTA
POLLUTION CONTROL AGENCY**

HAZARDOUS WASTE FACILITY POST-CLOSURE PERMIT

FOR

BAE SYSTEMS LAND & ARMAMENTS, L.P.

FOR A

HAZARDOUS WASTE CONTAINMENT AND TREATMENT FACILITY

EPA ID NO. MND 980 824 890

In accordance with the provisions of a June 8, 1983, Administrative Order and Interim Response by Consent (1983 Consent Order) between FMC Corporation (FMC), the Minnesota Pollution Control Agency (MPCA) and the U.S. Environmental Protection Agency (EPA), FMC was authorized to and did construct a containment/ treatment facility (CTF) for contaminated soils at 4800 East River Road, Fridley, Anoka County, Minnesota. The 1983 Consent Order additionally required FMC to meet specific requirements for the CTF following closure. Those requirements are equivalent to the current Facility Standards in the Minnesota Hazardous Waste Rules that are applicable to a hazardous waste landfill during the post-closure care period.

This Permit has been prepared based upon the information provided by BAE Systems Land & Armaments, L.P. (BAE Systems) in its most recent permit application (Part A and Part B) submitted November 14, 2011. The permit application and amendments are referenced throughout this Permit as the Permit Application and are incorporated into the Permit as an integral and enforceable part of this Permit.

BAE Systems is the owner and operator of the Facility and is referred to as the Permittee hereafter. The Facility is defined to be all the property owned and operated by the Permittee located at 4800 East River Road, located in the city of Fridley, Anoka County, Minnesota (latitude N45°-03'-30" and longitude W93°-16'). The Facility is delineated in Attachment I of this Permit, and is more fully described in Part I of the Permit. The Facility is regulated as a closed hazardous waste landfill under Minnesota waste management statutes and regulations. This Permit authorizes and requires the Permittee to conduct the following hazardous waste management activities.

1. To maintain a closed hazardous waste landfill for soils excavated at the Facility as part of a remedial action taken by FMC under Section 106(a) of the Comprehensive Environmental Response, Compensation and Liability Act (CERCLA) and the Minnesota Environmental Response and Liability Act (MERLA), Minn. Stat. ch. 115B and associated regulations.
2. To conduct post-closure activities for the hazardous waste landfill including ground water monitoring, leachate management, gas/vapor extraction and collection/disposal of hazardous waste produced by the post-closure activities.

The Permittee must at all times conduct the hazardous waste management activities in accordance with the terms and conditions of this Permit and any other requirements imposed by law or Minnesota Rules.

This Permit shall become effective on the date of <reissuance>, by the manager of the Minnesota Pollution Control Agency's (MPCA) Land and Water Quality Permits Section of the Industrial Division. This Permit was last reissued on May 9, 2007.

This Permit is effective until five years from date of reissuance or until terminated, revoked, or modified by the MPCA, whichever comes first. To obtain a future reissued Permit, the Permittee shall submit an application to the MPCA for reissuance of the Permit. In accordance with Minn. R. 7001.0040, subp. 3, an application for reissuance of this Permit must be submitted to the MPCA no later than 180 calendar days prior to the expiration date of this Permit.

DATE OF REISSUANCE: _____

Jeff T. Connell, Manager
Land & Air Compliance Section
Industrial Division

PART I - DESCRIPTION OF FACILITY

A. REGULATED UNITS

The regulated unit, the Hazardous Waste Containment and Treatment Facility, is located within the Facility, which is approximately 13.7 acres of open land owned by BAE Systems. The Facility is bounded on the west by East River Road; on the south and east by property owned by BNSF Railway Company; and on the north by a security fence and the parking lot of the manufacturing plant owned by ELT Minneapolis, LLC and partially leased by BAE Systems. The map included as Attachment 1 of this Permit and the Part B Permit Application "Zoning Map" dated September 20, 2011, depict the boundaries and location of the Facility. The Facility is legally described in Part A, Section B of the Permit Application.

FMC is the former owner of the Facility. Under terms of the agreement under which United Defense was sold by FMC in October 1997, FMC had assumed "principal management" of the Facility. On June 24, 2005, BAE Systems acquired United Defense. An additional agreement was subsequently reached between FMC and BAE Systems on October 30, 2008, whereby BAE Systems became the operator and owner of record. Therefore, BAE Systems is the owner and the operator of the Facility under this Permit.

In the past, the open land at the Facility had been used for the disposal of waste from operation of the adjacent naval ordnance manufacturing facility. Some of these wastes were hazardous substances as defined by Section 101 (14) of Comprehensive Environmental Response and Compensation Liability Act (CERCLA) and under Minn. Stat. § 115B.02, subd. 8 of the Minnesota Environmental Response and Liability Act (MERLA). The Facility is part of a site subject to actions under CERCLA and MERLA that are described in: (1) the June 8, 1983, Administrative Order and Interim Response by Consent (1983 Order) among FMC, the MPCA, and EPA for investigation of soil and ground water contamination and the construction of the Hazardous Waste Containment and Treatment Facility, and (2) the October 28, 1986, Response Order by Consent (1986 Consent Order) between FMC and the MPCA for implementation of a ground water remedy. Under those programs, the Facility is also part of the "FMC Site."

The regulated unit at the Facility is a closed landfill that was constructed to contain contaminated soils excavated at the FMC Site. The regulated unit was constructed as an interim response measure to abate ground water pollution, under the 1983 Consent Order. The landfill has surface dimensions of approximately 350 feet by 415 feet. Approximately 38,600 cubic yards of contaminated soil were placed in the landfill to an average depth of 15 feet below the original ground surface. The remainder of the landfill was filled with clean soil. The primary contaminant in the soil is trichloroethylene. Other contaminants include other volatile organic compounds and metals. Essential features of the landfill design include a double liner system, a leachate collection and removal system, a leak detection system, a multilayer cap, and a gas collection and treatment system for volatile organic compounds. Because the regulated unit performs both containment and treatment functions, it has been described as a CTF.

Wastes generated at the CTF include leachate removed from the leachate collection and leak detection systems and spent carbon from the gas extraction and treatment system (when carbon is used with the system). The leachate consists of precipitation that contacted contaminated soils in the CTF during construction. Leachate is pumped from the CTF to a sanitary sewer pursuant to a special discharge

permit between BAE Systems and the Metropolitan Council Environmental Services. Spent carbon, when used, is placed in Department of Transportation approved containers and shipped to a Resource Conservation and Recovery Act (RCRA) permitted off-site hazardous waste facility for treatment or disposal.

PART II - AUTHORIZED HAZARDOUS WASTE MANAGEMENT

A. SPECIFIC HAZARDOUS WASTES AUTHORIZED TO BE MANAGED

The CTF contains soils contaminated by various chlorinated and non-chlorinated organic solvents, base/neutrals and heavy metals. The major contaminants include trichloroethylene, trans-1-2-dichloroethylene, tetrachloroethylene, chloroform, lead and chromium. The CTF is considered closed and is not authorized to accept any additional contaminated soils for placement within the unit.

1. The Permittee is hereby authorized to manage the following hazardous wastes in the CTF under the conditions of this Permit:

<u>Hazardous Waste Code</u>	<u>Hazardous Waste Description</u>
F001	Trichloroethylene
D028	Tran-1-2-Dichloroethylene
F001	Tetrachloroethylene
D022	Chloroform
D008	Lead
D007	Chromium

PART III - COMPLIANCE SCHEDULES

A. REQUIRED SUBMITTALS

ACTIVITY	DUE DATE
1. Submit CTF-Annual Report (Part IV.F.5.a)	March 1st
2. Submit Annual Groundwater Monitoring Report to the MPCA Remediation Division (Part IV.F.5.b.)	July 1st
3. Submit revisions to financial assurance for post-closure care and corrective action costs (with any cost updates) (Part X.C.2)	July 1 st

PART IV - POST-CLOSURE CONDITIONS

A. OPERATION AND MAINTENANCE.

1. General

a. The Permittee shall at all times properly operate and maintain the CTF and systems of treatment and control, and associated appurtenances consistent with the proper operations of a closed hazardous waste landfill. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls. The Permittee shall install and maintain appropriate back-up and auxiliary systems as needed to remain in compliance with the terms and conditions of this Permit.

b. The Permittee shall monitor and maintain the CTF during the post-closure care period in accordance with:

- 1) The plans, specifications and reports identified in this Permit;
- 2) The Minnesota Hazardous Waste Rules Chapters 7001 and 7045; and
- 3) The conditions of this Permit and the attachments.

c. The Permittee shall prevent the discharge of hazardous waste from the CTF to the surface waters or ground waters of the State. The Permittee shall prevent hazardous waste from the CTF entering drains, sewer inlets, storm sewers, vents, tunnels, pipes, and other areas. The Permittee shall prevent the discharge of hazardous waste from the CTF to sanitary sewers except where authorized by the Commissioner or a local governmental unit with delegated pretreatment authority pursuant to the Clean Water Act.

d. The Permittee shall operate and maintain the CTF to minimize the possibility of fire, explosion, or other event that might allow hazardous wastes to escape into the air, land, or water.

e. The Permittee shall not engage in activities that would result in emissions of air contaminants causing violations of the ambient air quality standards set forth in Minn. R. 7005.0010 through 7005.0080.

B. POST-CLOSURE AND POST-CLOSURE CARE

1. **Performance standard.** The Permittee shall conduct post-closure care activities in accordance with Minn. R. 7045.0490, 7045.0492 and 7045.0538, subp. 7 and the post-closure care set forth in section D of the Permit Application.

2. **Amendment to Post-Closure Care Plan.** The Permittee shall request a permit modification to amend the post-closure care plan in accordance with Minn. R. 7045.0490 whenever changes in

operating plans, or Facility design, or events that occur during the post-closure period affect the post-closure plan. The Permittee may otherwise submit a request to amend the post-closure plan at any time during the post-closure period. The Post-Closure Care Plan and any amendments thereto are an integral and enforceable part of this Permit.

3. Post-closure care period. Post closure care of the Facility must continue for not less than 30 years after completing closure unless reduced or extended by the Commissioner pursuant to Minn. R. 7045.0492. The post closure care period for the facility is due to expire on 09-30-2013. Minn. R. 7045.0492, subp. 1.C states:

“Before the time that the postclosure care period is due to expire, the commissioner may extend the postclosure care period in accordance with the agency's permit modification procedures in chapter 7001 for the hazardous waste management unit or facility if it is found that the extended period is necessary to protect human health and the environment. This determination must be based on factors such as leachate or groundwater monitoring results that indicate a potential for migration of hazardous waste at levels which may be harmful to human health and the environment”.

The Commissioner has determined that post closure care will be extended for as long as hazardous waste remains in place within the regulated unit. The Commissioner has made this determination to extend the post closure care period beyond the 30-year period because it is necessary to protect human health and the environment. Thus, pursuant to Minn. R. 7045.0492, subp. 1.C., the post closure care period will continue until the Commissioner determines that post closure care is no longer needed. An owner operator may at any time make a demonstration to the Commissioner that post closure care of the land disposal facility is no longer necessary to protect human health and the environment. The MPCA will review the demonstration and the Commissioner will make a determination regarding extending the post closure care period. The post closure care period will continue as long as the permit is active.

4. Use of property. In accordance with Minn. R. 7045.0492, subp. 3, the Permittee shall not allow post-closure use of property on or in which hazardous wastes remain after closure if such use might disturb the integrity of the final cover, liners, or any other components of any containment system or the function of the CTF's monitoring systems, unless the Permittee can demonstrate to the Commissioner that such disturbance is necessary.

C. GAS EXTRACTION AND TREATMENT SYSTEM REQUIREMENTS

The Permittee shall operate, monitor, maintain and inspect the gas extraction and treatment systems in accordance with Sections D and I of the Permit Application. The gas extraction system can be operated with or without carbon filtration provided the exhaust gas does not exceed allowable emission rates for any contaminant.

D. GENERAL WASTE ANALYSIS

All waste removed from the leachate collection or leak detection systems shall be evaluated to determine if it is hazardous and shall be disposed of in accordance with the results of the evaluation.

1. Leachate removed from the leachate collection system shall be sampled and analyzed, at a minimum, annually unless liquids are not in sufficient quantity to allow collection. In the event that leachate is generated during the life of the Facility, liquids will be collected and removed from the sumps when the liquid level reaches the drainage pipe invert. The samples shall be analyzed using EPA methods 8260 for the Target Compound List in the FMC/United Defense Fridley Site Quality Assurance Project Plan dated March 2004. The QAPP and any MPCA approved amendments thereto are an integral and enforceable part of this Permit.

2. Liquids removed from the leak detection system shall be sampled and analyzed, at a minimum, annually unless liquids are not in sufficient quantity to allow collection. The samples shall be analyzed using EPA methods 8260 for the Target Compound List in the FMC/United Defense Fridley Site Quality Assurance Project Plan dated March 2004.

E. GROUND WATER MONITORING AND PROTECTION REQUIREMENTS

1. **Objectives.** In order to meet the ground water protection objectives identified in a. and b. below, the Permittee shall implement the programs established in this part of the Permit.

a. To ensure that human health and the environment are adequately protected.

b. To ensure that any releases from the CTF to the ground water will be captured by the ground water extraction system currently operating downgradient from the CTF.

2. **Background.**

Ground water contamination was present in all the CTF downgradient monitoring wells in the first round of sampling (February 1984). From 1984 to 2012, contamination has been present in all of the downgradient wells at various times. The highest levels of contamination have been in monitoring well MW-3 and have persisted since the initial sampling event. Contamination levels in the upgradient monitoring wells have been near or less than detection limits.

Using statistical analyses to check the integrity of the CTF, the MPCA determined that the spatial and temporal nature of contamination in the monitoring wells indicates that the integrity of the CTF has been compromised. The Permittee has maintained that the application of any statistical analyses is inappropriate because the contamination in the down gradient wells is due to soil and ground water contamination under and in the vicinity of the CTF that was never addressed during the initial soil investigation and subsequent excavation of the disposal areas.

Parts III. 2. & 3. of the reissued Post Closure Care Permit dated September 1993, required FMC to submit two reports that would help determine how the integrity of the CTF should be monitored in the future. The required reports were:

- a. An analysis of investigative techniques to determine the extent and magnitude of the source of contamination in the vicinity of the CTF.
- b. A hydrogeologic report that demonstrates that any release from the CTF would be captured by the currently operating recovery well system that was designed and implemented under the 1986 Consent Order.

The first report was requested to determine if it would be possible to delineate and remediate any contamination outside of the CTF which may be affecting the CTF monitoring well network. The second report was required in case the sources of contamination in the monitoring well network could not be delineated and remediated. The second report was to show that any release from the CTF would be captured by the recovery system that is continuously operated by the Permittee to capture contaminated ground water before it leaves the Facility.

In a letter from the MPCA's Permit and Review Unit (PRU) to United Defense, dated September 19, 1994, the PRU stated that the three potential investigative techniques proposed by United Defense to determine the extent and magnitude of the source of contamination in the vicinity of the CTF were not feasible. The three options were rejected for various reasons including potentially compromising the CTF, expense, and the potential for failure in defining the source of contamination. The PRU also stated in the letter that the evidence of capture documented in the hydrogeologic report was weak and that additional efforts would be required to show that any release from the CTF will be captured by the recovery wells under the 1986 Consent Order.

The Permittee has in the past evaluated the extent of the capture zone of the recovery wells using a calibrated mathematical model (Modflow). These efforts are being conducted under the 1986 Consent Order, which is being overseen by the MPCA's Remediation Division.

The Permittee has determined the capture zones of the recovery wells in both the shallow and deep alluvium hydrogeologic unit, as indicated in the 2010 Annual Monitoring report submitted to the MPCA March 2010. Based on the information provided, including an analysis of a capture zone analysis submitted with the 2010 Annual Monitoring Report, the capture zones are established and recovering product successfully. However, to avoid duplication of review of submittals by the Remediation Section under the 1986 Consent Order and by the hazardous waste program, the MPCA has determined that primary oversight for ground water issues will be handled by the MPCA's Remediation Section. The July 3, 1995, the MPCA Office Memorandum (Attachment II) details the nature of this relationship between the Site Remediation Section and the Hazardous Waste Division for the ground water monitoring and recovery system related to the Facility.

3. General Groundwater Monitoring Requirements.

The Permittee shall operate and maintain the groundwater monitoring system at the CTF throughout the post closure care period. All correspondence to and all data reporting shall be addressed to the Superfund Program as described above in Part IV.F.5.b. reporting.

4. Sampling

The Permittee shall sample ground water monitoring wells MW-1 through MW-5 and MW-17, and any other monitoring wells installed at the Facility in the future, twice per year in accordance with section E of the Permit Application. The samples shall be analyzed for the Target Compound List identified in the Sampling Protocol for CTF Monitoring Wells in section E to the Permit Application, and any MPCA approved future changes to the Sampling Protocol, using EPA method 8260.

5. Reporting

a. By March 1 of each year, the Permittee shall submit to the Commissioner a report that discusses the status of the CTF. The report shall include all data, analyses and supporting information relative to the CTF and shall follow the format used in submittal of annual reports to the MPCA under the prior hazardous waste facility permit. All information on post closure care activities for the gas extraction system, groundwater monitoring and leak detection/leachate collections systems, and ground water sampling results shall be reported in the annual report prepared for the Land Permits Unit.

b. The ground water measurement data and ground water sampling data from monitoring wells MW-1 through MW-5, and wells MW-17, and any other monitoring wells installed in the future at the Facility, shall be included in the annual report required to be submitted by the 1986 Consent Order to the Superfund Program, which is due no later than July 1 of each year. A copy of this report shall also be sent to the MPCA's Land Permits Unit.

6. Ground Water Protection Program

The Permittee shall comply with the ground water monitoring program which continues to be supervised by the Superfund Program. The Superfund Program will continue to oversee the ground water monitoring program as long as the capture zone of the recovery wells remains stable and defined as evident in annual reports submitted to and approved by the Superfund Program. However, if the MPCA determines that the capture zone is no longer defined or exceeds the area of capture by down and side gradient recovery wells, the groundwater monitoring shall be subject to the Corrective Action Program in accordance with Minn. R. 7045.0484, subp. 14.

a. The Permittee shall continue to effectively and timely pumpout the leachate collection and leak detection system sumps to prevent release of leachate to ground water.

b. The Permittee shall continue to work to define the target capture zone of the recovery wells as set by the overseeing Superfund Program. If MPCA determines that the recovery wells are not meeting the target capture zones, Permittee shall submit to the MPCA for review and approval a plan to modify the groundwater extraction system to ensure that the release is being meeting cleanup goals.

c. If the Permittee identifies or if the MPCA determines that the CTF is leaking, the Permittee shall submit to the MPCA for review and approval a ground water corrective action plan with a schedule for implementation within 30 days after identification of the release. Upon approval by the MPCA, the Permittee shall implement the plan.

d. The Permittee shall undertake the following actions:

1) If Permittee identifies a release to the leachate collection or leak detection systems, the Permittee shall notify the MPCA and shall remove the leachate in an effective and timely manner.

2) If a release to the leachate collection system is identified and that release is at a rate such that it cannot be removed in an effective or timely fashion, the Permittee shall immediately notify the MPCA and shall evaluate the CTF cover and make all necessary repairs within 30 days. If all necessary repairs cannot be completed within 30 days the MPCA shall receive a submitted work plan containing all repairs and a timeline for completion. Only upon receiving an MPCA work plan approval will extension of the 30 days be accepted.

3) If a release to the leak detection system is identified, the Permittee shall immediately notify the MPCA. If MPCA determines that the volume and/or quality of such a release has the potential to adversely impact ground water quality in volumes exceeding the capacity of the established groundwater extraction system, the Permittee shall submit to the MPCA for review and approval a plan, within 30 days after MPCA's request, for construction of a ground water extraction system at the CTF. The plan shall contain a schedule for implementation. After approval by the MPCA, the Permittee shall implement the plan within the time schedule in the plan.

F. CAP CARE

The Permittee shall maintain and survey the CTF cap as set forth in section I-2.a. of the Permit Application.

G. INSPECTIONS

The Permittee shall conduct inspections at the CTF and at all hazardous waste management units as required under the inspection plan set forth in section F of the Permit Application. Permittee shall also comply with the provisions of Minn. R. 7045.0452, subp. 5 and Minn. R. 7045.0538, subp. 7, item B.

H. PERSONNEL TRAINING

The Permittee shall not allow any employee to work at the CTF in a job related to hazardous waste management until that employee has received the initial training required by Minn. R. 7045.0454 and the Personnel Training Plan set forth in section H of the Permit Application. The Permittee shall also ensure that all employees at the CTF who work in one of these jobs shall take part in an annual review of their initial training.

I. SECURITY

The Permittee shall maintain a locked chain-link fence or other equivalent security system around the entire CTF. The fence shall be locked at times when the CTF is unattended and access to the unit shall be

provided only to persons who are authorized by the Permittee to enter the CTF. The Permittee shall post a sign legible from a distance of 25 feet with the legend, "Danger - Unauthorized Personnel Keep Out," at each entrance to the CTF.

J. REQUIRED COST ESTIMATES

The Permittee shall have a written cost estimate for post-closure care in accordance with Minn. R. 7045.0506 and for corrective action in accordance with Minn. R. 7045.0512. The Permittee's cost estimates for post-closure care and corrective action are set forth in section I of the Permit Application.

The Permittee must adjust the post-closure care cost estimates and the corrective action cost estimate for inflation by July 1 of each year.

The Permittee must revise the post-closure care cost estimates whenever a change in the post-closure plan increases the cost of post-closure care. The Permittee must revise the corrective action cost estimate whenever a change in the corrective action plan increases the cost of corrective action.

K. FINANCIAL ASSURANCE

1. Closure

The CTF was closed in accordance with Exhibit A of the 1983 Order. No financial assurance mechanism for closure cost is necessary for this Facility.

2. Post Closure

The Permittee has satisfied the financial assurance requirements of Minn. R. 7045.0508 by providing a letter of credit in the amount of the cost estimated to provide post closure care for the Facility. The Permittee shall continue to maintain such letter of credit unless the MPCA approves of the use of another mechanism as specified in Minn. R. 7045.0508.

3. Corrective Action

The Permittee has satisfied the financial assurance requirements of Minn. R. 7045.0514 by providing a letter of credit in the amount of the cost estimated to implement corrective action for the Facility. The Permittee shall continue to maintain such letter of credit unless the MPCA approves of the use of another mechanism as specified in Minn. R. 7045.0514.

L. LIABILITY COVERAGE

The need for liability insurance ceased at the time of closure completion. In accordance with Minn. R. 7045.0518, subp. 5, the CTF does not require liability insurance.

PART V. – EMERGENCY PROCEDURES

A. IMPLEMENTATION OF CONTINGENCY PLAN

In accordance with Minn. R. 7045.0466, subp. 3, the Permittee must ensure that the provisions of the contingency plan, set forth in section G. of the Permit Application, are carried out IMMEDIATELY whenever there is a release, fire, or explosion of hazardous waste or hazardous constituents which could threaten human health or the environment.

B. AMENDMENT OF CONTINGENCY PLAN

1. The Permittee shall amend the contingency plan whenever:
 - a. This Permit is revised,
 - b. Said plan fails in an emergency,
 - c. The Facility changes in its design, construction, operation, maintenance, or other circumstance in a way that increases the potential for fires, explosions, or the release of hazardous waste or hazardous constituents, or changes the response necessary in an emergency,
 - d. The designated emergency coordinator changes, or
 - e. The list of emergency equipment changes.
2. The Permittee shall maintain a copy of its contingency plan at the Facility at all times.
3. The Permittee shall submit a copy of its contingency plan to all local police departments, fire departments, hospitals, and all local and state emergency response teams that may be called upon to respond in an emergency situation at the Facility.

C. PREPAREDNESS AND PREVENTION

1. **Required equipment.** At a minimum, the Permittee shall maintain emergency equipment required by the contingency plan.
2. **Testing and maintenance of equipment.** The Permittee shall test and maintain all Facility communications or alarm systems, fire protection equipment, and spill control equipment to ensure proper operation in time of emergency. The maintenance and inspection of emergency equipment shall be conducted in accordance with the Inspection Plan set forth in Section 5 of the Permit Application.

3. **Access to communications or alarm system.** The Permittee shall ensure that whenever hazardous waste is being poured, mixed, spread, or otherwise handled, all personnel involved in the operation shall have immediate access to an internal alarm or emergency communication device, either directly or through visual and/or voice contact with another employee.

D. EMERGENCY COORDINATOR

In accordance with Minn. R. 7045.0468, subp. 1, the Permittee shall at all times have at least one (1) employee either on the Facility premises or on call with the responsibility for coordinating all emergency response measures. The following person qualifies as the emergency coordinator and assumes all responsibilities described in Part V. of this Permit.

Timothy Ruda, Environmental Operation Engineer
BAE Systems.
Telephone: (763) 572-6906

The Permittee may change the names of employees who qualify as emergency coordinator by contacting the MPCA and identifying the new emergency coordinator(s).

E. NOTIFICATION TO MPCA REGARDING SPILLS/LEAKS/RELEASES OF HAZARDOUS WASTE

1. **Scope.** Minn. Stat. §§ 115.061 and 116.061 require notification to the MPCA regarding discharges to water and air, respectively, for materials other than hazardous waste. Minn. R. 7045.0468, subp. 5, item B, and subp. 6 also provide requirements for reporting to the agency discharges of hazardous waste. Compliance under items 3 and 5 below satisfies the agency notification requirements regarding releases of hazardous waste at permitted hazardous waste facilities for both the rules and statutes cited above

All notifications required by items 3 and 5 below must be made to the Minnesota Duty Officer at one of the appropriate numbers provided below. Notification to the Minnesota Duty Officer satisfies the requirement for notifying the agency.

TWIN CITIES METRO AREA (AND OUTSIDE MINNESOTA): 651-649-5451

GREATER MINNESOTA: 1-800-422-0798

2. Statutory Language

MINN. STAT. § 115.061 DUTY TO NOTIFY AND AVOID WATER POLLUTION

(a) Except as provided in paragraph (b), it is the duty of every person to notify the agency of the discharge, accidental or otherwise, of any substance or material under its control which, if not recovered, may cause pollution of waters of the state, and the responsible person shall recover as rapidly and thoroughly as possible such substance or material and take immediately such other action as may be reasonably possible to minimize or abate pollution of waters of the state caused thereby.

(b) Notification is not required under paragraph (a) for a discharge of five gallons or less of petroleum, as defined in section 115C.02, subd 10. This paragraph does not affect the other requirements of paragraph (a).

3. Required Notification

a. The following actions constitute compliance with the agency reporting requirements of Minn. Stat. § 115.061 and with Minn. R. 7045.0468, subp. 5, item B, and subp. 6 regarding discharges of hazardous waste, other than releases to air, at permitted hazardous waste facilities.

The Minnesota Duty Officer must be notified immediately of any of the following discharges:

- 1) A fire, explosion, or discharge that could threaten human health or the environment outside the Facility.
- 2) A discharge to the secondary containment of a permitted unit that is NOT completely contained in the secondary containment and/or is NOT recovered in a timely manner.
- 3) All discharges to areas that could cause pollution of soil, surface water, or ground water.

4. Statutory Language:

MINN. STAT. § 116.061. AIR POLLUTION EMISSIONS ABATEMENT

Subd. 1. Emission notification required.

(a) A person who controls the source of an emission must notify the MPCA immediately of excessive or abnormal unpermitted emissions that:

- (1) May cause air pollution endangering human health.*
- (2) May cause air pollution damaging property; or*
- (3) Cause obnoxious odors constituting a public nuisance.*

(b) If a person who controls the source of an emission has knowledge of an event that has occurred and that will subsequently cause an emission described in paragraph (a), the person must notify the MPCA when the event occurs.

Subd. 2. Abatement required. A person who is required to notify the MPCA under subdivision 1 must take immediate and reasonable steps to minimize the emissions or abate the air pollution and obnoxious odors caused by the emissions.

Subd. 3. Exemption. The following are exempt from the requirements of subdivisions 1 and 2:

- 1) *emissions resulting from the activities of public fire services or law enforcement services;*
- 2) *emissions from motor vehicles, as defined in section 169.01, subdivision 3;*
- 3) *emissions from an agricultural operation deemed not a nuisance under section 561.19, subdivision 2; or*
- 4) *emissions from MPCA regulated sources that are routine or authorized by the agency.*

Subd. 4. Penalty exception. A person who notifies the agency of emissions under subdivision 1 and who complies with subdivision 2 shall not be subject to criminal prosecution under section 115.071, subdivision 2.

Subd. 5. Use of Notification. Any notice submitted under subdivision 1 is not admissible in any proceeding as an admission of causation.

5. Required Notification. Compliance with the statutory notification requirements above in Part V.E, and the requirement below in Part V.F, constitutes compliance with the agency reporting requirements of Minn. R. 7045.0468, subp. 5. item B, and subp. 6 regarding discharges of hazardous waste to the air at permitted hazardous waste facilities.

Notification must be provided for a fire, explosion, or discharge that could threaten human health or the environment outside the facility.

F. ADDITIONAL EMERGENCY COORDINATOR DUTIES AND NOTIFICATION TO OTHER AGENCIES

For reporting requirements regarding discovery of "noncompliance" with a condition of this Permit which could endanger human health or the environment, please refer to Part X.A., of this Permit.

Whenever the contingency plan is implemented; the emergency coordinator shall IMMEDIATELY:

1. Activate internal Facility alarms or communication systems,
2. Identify the character, exact source, amount, and areal extent of any released material,
3. Assess possible hazards to human health or the environment, considering both direct and indirect effects of the release, fire, explosion; effects from any toxic, irritating, or asphyxiating gases that are generated; and effects of any hazardous surface water run-off from water or chemical agents used to control fire and explosions, and

4. Carry out the appropriate provisions of the contingency plan set forth in Section 7 of the Permit Application.

If the emergency coordinator determines that:

- a. The hazardous waste or hazardous constituent release, fire, or explosion could threaten human health or the environment, outside the Facility as defined in Part I, of this Permit, or
- b. Evacuation of local areas may be advisable, or
- c. A released hazardous waste or hazardous constituent may cause pollution of the air, land resources, or waters of the state, the emergency coordinator shall IMMEDIATELY notify:
 - 1) Appropriate state and local authorities,
 - 2) The governmental official designated as the on-scene coordinator for that geographical area, or the National Response Center at (800) 424-8802.

The information in items a) through f) below shall be given to each of the above authorities at the time of the notification:

- a) Name and telephone number of reporter,
- b) Name and address of Facility,
- c) Date, time, and type of incident,
- d) Name and quantity of material involved,
- e) Extent of damages or injuries, if any, and
- f) The possible hazards to human health and/or the environment.

G. CONTAINMENT MEASURES

During an event that requires implementation of the contingency plan, the emergency coordinator shall ensure that releases, fires, and explosions do not occur, recur, or spread to other hazardous waste at the Facility. The emergency coordinator shall monitor for leaks, pressure build-up, gas generation, or ruptures in valves, pipes, or other equipment, wherever this is appropriate.

H. POST EMERGENCY CLEANUP

IMMEDIATELY after an event that requires implementation of the contingency plan, the Permittees shall provide for treating, storing, or disposing of recovered waste, contaminated soil, ground water, and any other contaminated material resulting from the emergency incident at the Facility, in a manner required by applicable laws and rules.

I. STARTUP OF OPERATIONS

The Permittee shall not recommence operations after an emergency until the EPA, MPCA, and local police and fire departments have been notified and the Facility is in compliance with Minn.

R. 7045.0470, subp. 2.

J. POST EMERGENCY REPORTING

WITHIN 15 DAYS after an event that requires implementation of the contingency plan as required by Minn. R. 7045.0466, subp. 3, the Permittee shall submit a written report to the Commissioner describing the incident, containing information as required by Minn. R. 7045.0470, subp. 3.

K. OPERATING RECORD

The Permittee shall note in the operating record the time, date, and details of any incident that requires implementation of the contingency plan.

PART VI. - AIR EMISSIONS OF ORGANIC COMPOUNDS

A. PROCESS VENTS

The Permittee shall comply with all applicable requirements of Minn. R. 7045.0549, regarding air emissions from process vents.

B. EQUIPMENT LEAKS

The Permittee shall comply with all applicable requirements of Minn. R. 7045.0551, regarding air emissions from equipment leaks. The Permittee shall monitor all equipment as required in the rule.

C. NOTIFICATION OF REGULATED ACTIVITY

The Permittee shall notify the MPCA of any waste management units which become subject to the requirements of Minn. R. 7045.0547 and 7045.0548, within 30 days of startup of the regulated activity.

PART VII. - LAND DISPOSAL REQUIREMENTS

A. GENERAL CONDITIONS.

1. The Permittee shall comply with all applicable land disposal restrictions in Minn. R. 7045.1390, which incorporates by reference 40 CFR pt. 268, with the exceptions to incorporation listed in Minn. R. 7045.1390 and 7045.0090. All of the requirements in this Part VII are subject to the exceptions to incorporation listed in Minn. R. 7045.1390 and Minn. R. 7045.0090.
2. A mixture of any restricted waste with nonrestricted waste(s) is a restricted waste under Minn. R. 7045.1300.
3. The Permittee shall not in any way dilute a restricted waste or the residual from treatment of a restricted waste as a substitute for adequate treatment to achieve compliance with the treatment standards in 40 CFR pt. 268, subp. D, to circumvent the effective date of a prohibition in 40 CFR pt. 268, subp. C, to otherwise avoid compliance with a prohibition in 40 CFR pt. 268, subp. C, or to circumvent a land disposal prohibition imposed by Section 3004 of RCRA.
4. The Permittee shall prepare and maintain a current list of the hazardous waste codes for all wastes handled by the CTF that are identified or listed in Minn. R. 7045.1320 to 7045.1335. The list shall include all wastes handled by the facility and their waste codes, and any associated treatment standards, and shall be updated through the inclusion of new treatment standards, as promulgated or amended. This list shall be provided to the MPCA representatives, or their designees, upon request.

B. TESTING AND RELATED REQUIREMENTS.

1. The Permittee shall test, in accordance with Minn. R. 7045.1315, any waste generated at the CTF, or use knowledge of the waste, to determine if the waste is restricted from land disposal.
2. For restricted wastes with treatment standards expressed as concentrations in the waste extract, as specified in 40 CFR § 268.40, the Permittee shall test the treatment residues, or an extract of such residues developed using the test methods described in 40 CFR § 268.40(b) (Method 1311, Toxicity Characteristic Leaching Procedure or TCLP) to assure that the treatment residues or extract meet the applicable treatment standards of 40 CFR § 268.40. Such testing shall be performed pursuant to the requirements of Minn. R. 7045.0458.
3. A restricted waste for which a treatment technology is specified in 40 CFR § 268.42 may be land disposed after it is adequately treated using that specified technology or an equivalent treatment method approved by the EPA under the procedures set forth in 40 CFR § 268.42.
4. For restricted wastes with treatment standards expressed as concentrations in the waste, as specified in 40 CFR § 268.40, the Permittee shall test the treatment residues (not an extract of such residues) to assure that the treatment residues meet the applicable treatment standards of 40 CFR § 268.40. Such testing shall be performed as required by 40 CFR § 268.40.

C. STORAGE PROHIBITIONS

1. The Permittee shall comply with all the applicable prohibitions on storage of restricted wastes specified in 40 CFR § 268.50.
2. The Permittee may store restricted wastes in tanks and containers solely for the purpose of the accumulation of such quantities of hazardous wastes as necessary to facilitate proper recovery, treatment, or disposal provided that:
 - a. Each container is clearly marked to identify its contents and the date each period of accumulation begins.
 - b. Each tank is clearly marked with a description of its contents, the quantity of each hazardous waste received, and the date each period of accumulation begins, or such information for each tank is recorded and maintained in the operating record at the Facility.
3. The Permittee may store restricted wastes for up to one (1) year unless the MPCA can demonstrate that such storage was not solely for the purpose of accumulating such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment or disposal.
4. The Permittee may store restricted wastes beyond one (1) year provided that the Permittee proves that such storage was solely for the purpose of accumulating such quantities of hazardous waste as are necessary to facilitate proper recovery, treatment or disposal.
5. The Permittee shall not store any liquid hazardous waste containing polychlorinated biphenyls (PCBs) at concentrations greater than or equal to 50 ppm unless the waste is stored in a storage facility that is a commercial storer of PCB waste as defined in 40 CFR § 761.3. This waste must be removed from storage and treated or disposed within one (1) year of the date when such wastes are first put into storage. Part XI.C.4 above, which allows storage for over one (1) year with specified demonstration, does not apply to PCB wastes.

PART VIII. - CORRECTIVE ACTION FOR SOLID WASTE MANAGEMENT UNITS

The Permittee maintains that currently, except as described and addressed in the October 28, 1986, Response Order by Consent between FMC and the MPCA, there are no known releases of hazardous waste or constituents requiring corrective action from any solid or hazardous waste management units (as defined in Minn. R. 7045.0020, subp. 36a.) at the Facility. If any information becomes available concerning other releases from solid or hazardous waste management units, the Commissioner may commence an action to modify this Permit to require the Permittee to undertake appropriate corrective action in accordance with Minn. R. 7045.0485, or otherwise proceed to amend the October 28, 1986, Response Order by Consent pursuant to the terms of that Order and applicable Minnesota statutes and rules.

PART IX. - RECORD KEEPING REQUIREMENTS

A. PLANS TO BE MAINTAINED AT THE FACILITY.

The Permittee shall maintain at all times a copy of the following plans at BAE System's plant, at 4800 East River Road, Fridley Minnesota, which is adjacent to the Facility.

1. A waste analysis plan set forth in Section C. of the Permit Application that meets the requirements of Minn. R. 7045.0458.
2. A personnel training plan set forth in Section H of the Permit Application that meets the requirements of Minn. R. 7045.0454.
3. An inspection plan set forth in Section F of the Permit Application, that meets the requirements of Minn. R. 7045.0452, subp. 5.
4. A ground water protection plan as set forth in this Permit and Section E of the Permit Application that meets the requirements of Minn. R. 7045.0484.
5. A post-closure plan set forth in Section I of the Permit Application that meets the requirements of Minn. R. 7045.0490 and 7045.0492.

B. OPERATING RECORD.

The Permittee shall keep written operating records at Permittee's adjacent Plant (4800 East River Road, Fridley, Minnesota) that contains the following information:

1. A copy of each manifest signed according to Minn. R. 7045.0265, subp. 1
2. The records and results of each waste analysis performed.
3. The records and results of each inspection performed.
4. The results of any monitoring performed at the CTF under this Permit.
5. All annual reporting requirements specified in Part X.C. of this Permit.
6. All Land Disposal Restricted waste notifications required by Minn. R. 7045.1390, which incorporates by reference 40 CFR § 268.7, with the exceptions to incorporation listed in Minn. R. 7045.1390.
7. Summary reports and details of all incidents which required implementation of the Contingency Plan.

C. PERSONNEL RECORDS.

The Permittee shall maintain at the Permittee's adjacent plant offices at all times a copy of the following personnel records:

1. The job title for each position at the Facility related to hazardous waste management and the name of the employee filling each job. The job title for each position at the CTF relevant to ensuring compliance with the post-closure requirements of Minn. R. 7045.0490, 7045.0492 and 7045.0538, subp. 7 and the requirements of this Permit:
2. A written job description of each position at the CTF identified by item 1. This description may be consistent in its degree of detail with descriptions for other similar positions in the same company location or bargaining unit, but must include at least the requisite skill, education, or other qualifications and duties of employees assigned to each such position;
3. A written description of the type and amount of both introductory and continuing training in accordance with the Personnel Training Plan set forth in Section H of the Permit Application that will be given to each person filling a position described by item 1, above.
4. Records that document the training provided to each employee filling a position referenced in item 1 above.

D. INSPECTION RECORDS

The Permittee shall record all inspections in an inspection log. These records must include the date and time of the inspection, the name of the inspector, a notation of the observations made, and the date and nature of any repairs or other remedial actions.

E. MONITORING AND TESTING RECORDS

In accordance with Minn. R. 7001.0150, subp. 2, items B. and C.:

1. The Permittee shall retain records of all monitoring information, including all calibration and maintenance records and all original strip chart recordings for continuous monitoring instrumentation, copies of all reports and records required by this Permit, and records of all data used to complete the Application for this Permit.
2. Records of monitoring information shall specify:
 - a. The date(s), exact place, and time(s) of sampling or measurements;
 - b. The individual(s) who performed the sampling or measurements;
 - c. The date(s) analyses were performed;
 - d. The individual(s) who performed the analyses;

- e. The analytical techniques for methods used; and
- f. The results of such analyses.

F. RETENTION AND DISPOSITION OF RECORDS.

The Permittee shall maintain all records for at least three (3) years after generation of the record unless the record is required by Minn. R. 7045.0478, subp. 3 or Minn. R. 7001.0720, subp. 2, item B to be kept for a longer period of time. This retention period is automatically extended during the course of and at least for the duration of an unresolved enforcement action regarding the Permittee and shall also be extended upon request of the Commissioner. These records shall be made available to the Commissioner upon request.

G. MONITORING WELL RECORDS

The Permittee shall maintain records from all applicable ground water monitoring wells and associated ground water surface elevations for the active life of the CTF and for the post-closure care period, as specified in Minn. R. 7001.0720, subp. 2, item B.

The Permittee shall preserve records from all ground water monitoring wells and associated ground water surface elevations through the post-closure care period.

All ground water monitoring well records shall be kept, including but not limited to:

1. Well construction records and soil boring logs;
2. Ground water data summaries;
3. Ground water laboratory analytical reports;
4. Ground water sampling records;
5. Monitoring well ground water elevation records;
6. Ground water flow direction and velocity;
7. Ground water level contour maps;
8. Site inspection records; and
9. Compliance monitoring evaluation reports.

PART X. - REPORTING REQUIREMENTS

A. REPORTING NONCOMPLIANCE.

As used herein, the term “noncompliance” refers to any failure, intentional or unintentional, avoidable or unavoidable, to satisfy any requirement of this Permit.

1. If the Permittee discovers that noncompliance with a condition of the Permit has occurred that could endanger human health, public drinking water supplies, or the environment, the Permittee shall, WITHIN 24 HOURS after the discovery of the noncompliance, orally notify the Commissioner. WITHIN FIVE (5) DAYS of the discovery of the noncompliance, the Permittee shall submit to the Commissioner a written description of the noncompliance; the cause of the noncompliance; the exact dates of the period of noncompliance; and, if the noncompliance has not been corrected, the anticipated time it is expected to continue and steps taken or planned to reduce, eliminate, and prevent recurrence of the noncompliance.

2. For noncompliance occurrences not required to be reported under Part X. A.1, above, the Permittee shall submit a written report to the Commissioner WITHIN 30 DAYS after the noncompliance is discovered.

B. REPORTING PLANNED CHANGES.

The Permittee shall give advance written notice to the Commissioner as soon as possible of any planned physical alteration of or addition to the CTF or the associated ground water monitoring or remediation system or to the Facility and of any activity that may result in noncompliance with their Permit or with any requirement of state or federal law. This notice does not relieve the Permittee of:

1. The requirement to obtain a modification of this Permit or,
2. Any liability for noncompliance with this Permit or the law.

C. ANNUAL REPORTING REQUIREMENTS.

1. Annual Report.

The Permittee shall submit an annual report to the MPCA no later than March 1 of each year, for the previous calendar year. The annual report must include the information required by Minn. R. 7045.0482, subp. 2.

a. By month and sump or standpipe, any analytical monitoring results and estimates of the volume of liquids removed and mass of contaminants removed from the leak detection and leachate collection systems.

b. For the gas extraction and treatment system, estimates of the volume of gas pumped out of the CTF; analytical monitoring results of the input air, output air and adsorption media; and estimates of the mass of contaminants removed from the CTF.

2. Financial Assurance for Post Closure and Corrective Action with Applicable Cost Estimate Updates

The Permittee shall by July 1 of each year submit to the MPCA updated of post-closure, corrective action financial assurance (with cost updates) and liability coverage to reflect current financial conditions.

D. CERTIFICATION AND SIGNATORY REQUIREMENTS

All reports or other information required to be submitted to the Commissioner in accordance with the terms and conditions of this Permit shall carry the certification required by Minn. R. 7001.0070 and 7001.0540.

E. SUBMITTAL OF WRITTEN REPORTS

The MPCA will designate a specific staff person to whom specific reports should be submitted. If not otherwise specified, written reports required to be submitted by the Permittee shall be sent to:

Minnesota Pollution Control Agency
Land & Air Compliance Section Manager
Industrial Division
Minnesota Pollution Control Agency
520 Lafayette Road North
St. Paul, Minnesota 55155-4194

PART XI. - REVIEW OF SUBMITTALS, AND EXTENSION OF SCHEDULES

A. REVIEW OF SUBMITTALS

The review of each submittal, document, report, or schedule (collectively referred to hereafter as "submittal") which is required to be submitted to the Commissioner for review and approval shall be as follows:

1. The Commissioner shall review each submittal made by the Permittee as required by this Permit. In the event the submittal is approved, it shall become an integral and enforceable part of this Permit. If the submittal is disapproved in whole or part, the Commissioner shall notify the Permittee in writing and shall explain the amendments or revisions that are necessary to bring the submittal into compliance with this Permit.

2. Within 30 calendar days of receipt of any notice of disapproval or modification, or on the first working day thereafter (if said 30th day fell on a Sunday or Holiday) the Permittee shall:

- a. submit revisions to correct inadequacies that led to disapproval, or
- b. state in writing the reasons why the submittal, as originally submitted, should be approved.

The Permittee may have longer than 30 days to respond if the longer time period is specified in the Commissioner's review letter referenced in paragraph 1.

3. If, within 30 calendar days from the date of the Permittee submittal under paragraph 2, above, the parties have not reconciled all issues with respect to the submittal, the Commissioner shall inform the Permittee of the second disapproval of the submittal and whether in the Commissioner's view, the Permittee may be in violation of the Permit. In such event, the matter may be referred for enforcement action.

4. The Commissioner and the Permittee shall provide the opportunity to consult with each other during the review of submittals or modifications.

B. EXTENSION OF SCHEDULES

All time extensions must be requested by the Permittee in writing. The requests shall specify the reasons why the extension is needed. Extensions shall only be granted for such a period of time as the Commissioner determines is reasonable under the circumstances. A requested extension shall not be effective until approved by the Commissioner. The burden shall be on the Permittee to demonstrate to the satisfaction of the Commissioner that the request for the extension has been submitted in a timely fashion and that good cause exists for granting the extension and that the extension shall have no adverse effect upon human health or the environment.

Extension of compliance schedule dates provided in this Permit may be granted if requests are submitted in a timely fashion and good cause exists for granting the extension, and if the extension would have no adverse effect upon human health or the environment.

PART XII. - GENERAL CONDITIONS

A. NO RELEASE FROM LIABILITY

Issuance of this Permit by the MPCA does not release the Permittee from any liability, penalty, or duty imposed by Minnesota or Federal statutes, rules or local ordinances, except the obligation to obtain this Permit.

B. THIRD PARTY LIABILITY

Issuance of this Permit by the MPCA does not release the Permittee from or affect any liability the Permittee may incur as a result of the operation of the permitted facility.

C. FUTURE RULES

This Permit does not prevent the future adoption by the MPCA of pollution control rules, standards, or orders more stringent than those now in existence and does not prevent or affect the enforcement of these rules, standards, or orders against the Permittee.

D. PROPERTY RIGHTS

This Permit does not convey a property right or an exclusive privilege.

E. OBLIGATION TO ENFORCE

This Permit does not obligate the MPCA Commissioner to enforce local laws, rules, or plans.

F. LIABILITY/RESPONSIBILITY

This Permit authorizes the Permittee to perform the activities described in this Permit under the conditions of this Permit. In issuing this Permit, the State and Commissioner assume no responsibility for injury to persons or damages to property or the environment caused by the activities of the Permittee in the conduct of their actions, including those activities authorized, directed, or undertaken under this Permit. To the extent the State and Commissioner is found in a court of law with proper jurisdiction to be liable for the activities of its employees, that liability is explicitly limited to that provided in the Tort Claims Act, Minn. Stat § 3.736.

G. DEFENSE UNDER OTHER STATUTES AND RULES

Compliance with the terms of this Permit does not constitute a defense to any action brought under Section 7003 of the Resource Conservation and Recovery Act, Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980 (42 U.S.C. 9601 et seq., commonly known as CERCLA), the Minnesota Environmental Response and Liability Act of 1983 (Minn. Stat. ch. 115B) and Minn. Stat. chs. 116, 400, 473, or any other Minnesota or Federal statutes, rules or regulations, or local ordinances.

H. MINIMUM STANDARDS

This Permit establishes minimum standards for the post-closure care of the CTF. Nothing in this Permit precludes the Permittee from taking additional steps to protect the public health or welfare or the environment so long as these additional steps are not inconsistent with the terms and conditions of this Permit. The Permittee are solely responsible for ensuring that the CTF adequately safeguards public health and welfare and the environment.

I. DUTY TO COMPLY

The Permittee shall perform the actions and conduct the activity authorized by this Permit in accordance with the plans and specifications approved by the MPCA and in compliance with the conditions of this Permit and applicable Local, State, and Federal hazardous waste laws, rules, ordinances, and regulations.

J. FALSE STATEMENTS

The Permittee shall not knowingly make a false or misleading statement, representation, or certification in a record, report, plan or other document submitted to the MPCA or to the Commissioner. The Permittee shall IMMEDIATELY upon discovery report to the Commissioner an error or omission in any such records, reports, plans, or other documents.

K. DUTY TO PROVIDE INFORMATION

The Permittee shall, when requested by the Commissioner, submit within a reasonable time the information and reports that are relevant to the control of pollution, regarding the construction or post closure care of the Facility covered by this Permit, or regarding the conduct and the activity covered by this Permit, in accordance with Minn. Stat. § 115.04 and 116.07, subd. 9.

L. INSPECTION AND ENTRY

When authorized by Minn. Stat. §§ 115.04, 115B.17, subd. 4, or 116.091, and upon presentation of proper credentials, the MPCA, or an authorized employee or agent of the MPCA, shall be allowed by the Permittee to examine and copy books, papers, records, or memoranda pertaining to the construction, modification, or post closure care of the Facility covered by this Permit or pertaining to the activity covered by this Permit.

M. DUTY TO MITIGATE

If the Permittee discovers, through any means, including notification by the MPCA, that noncompliance with a condition of the Permit has occurred, the Permittee shall promptly take all reasonable steps to minimize the adverse impacts on human health, public drinking water supplies, or the environment resulting from the noncompliance.

N. BANKRUPTCY

1. Notification of Bankruptcy

The Permittee shall notify the Commissioner by certified mail of the commencement of a voluntary or involuntary proceeding under United States Code, Title 11, Bankruptcy, naming the Permittee as debtor, WITHIN 10 DAYS after commencement of the proceeding. A guarantor of a corporate guarantee as specified in Minn. R. 7045.0508, subp. 7; and 7045.0514, subp. 7 shall make the notification if the Permittee is named as debtor, as required under the terms of the corporate guarantee.

2. Incapacity of Financial Institutions

The Permittee currently meet the requirements regarding Financial Assurance for Post Closure, and Corrective Action through the use of a letter of credit. The Permittee shall be deemed to be without such required financial assurance or liability coverage at any time that the Permittee is no longer able to satisfy the applicable requirements of the financial test as established in Minn. R. 7045.0504, subp. 7, 7045.0508, subp. 7, 7045.0514, subp. 7, and 7045.0518, subp. 6. If at any time during the term of the Permit, any financial institution or insurer providing such financial assurance or liability coverage is involved in bankruptcy proceedings, the Permittees shall be deemed to be without such required financial assurance or liability coverage. In such event, the Permittees shall have 60 days, upon notifying the MPCA of the bankruptcy proceeding, to obtain other means of financial assurance and liability coverage. Failure to do so shall constitute a violation of this Permit.

O. MODIFICATION, REVOCATION, AND REISSUANCE OF THIS PERMIT

This Permit may be modified, revoked and reissued, or revoked without reissuance for cause, as specified in Minn. R. 7001.0170 - 7001.0190 and Minn. R. 7001.0730.

The filing of a request for a permit modification, revocation and reissuance, or revocation without reissuance, or the notification of planned changes or anticipated noncompliance on the part of the Permittee does not stay the applicability or enforceability of a Permit condition.

Requests for modification of plans or specifications integral to this Permit must be approved by the Commissioner prior to implementing the requested change.

P. OPERATION DURING REISSUANCE PERIOD

If the Permittee wishes to continue an activity allowed by this Permit after the expiration date of this Permit, the Permittee shall submit a complete application for reissuance of the Permit at least 180 calendar days before this Permit expires, unless written permission for a later date has been granted by the Commissioner.

Q. CONTINUATION OF EXPIRED PERMIT

This Permit will remain in effect beyond the Permit's expiration date if the Permittee has submitted a timely and complete application for reissuance of the Permit provided that the Commissioner determines, based on available information, that both of the following are true:

1. The Permittee is in compliance with the terms and conditions of the expired Permit;
2. The Permittee continues at all times to work diligently and in good faith to meet the requirements and satisfy the concerns of the Commissioner with respect to the Permit Application; and
3. The Commissioner, through no fault of the Permittee, has not taken final action on the application before the expiration date of this Permit.

R. TRANSFER OF PERMITS

This Permit is not transferable to any person without the express written approval of the MPCA, and only after compliance with the requirements of Minn. R. 7001.0190 and 7045.0452, subp. 3 item D. A party to whom this Permit has been transferred shall comply with the terms and conditions of this Permit.

S. REQUIRED NOTICES TO NEW OWNERS OR OPERATORS

Before transferring ownership or operation of the Facility during the post-closure care period, the Permittee must notify the new owner or operator in writing of the requirements of Minn. R. ch. 7045 and all permitting requirements of Minn. R. ch. 7001. Failure of the Permittee to notify the new owner or operator of these requirements does not relieve the new owner or operator of the obligation to comply with all applicable requirements.

T. SEVERABILITY

The provisions of this Permit are severable, and if any provision of this Permit, or the application of any provision of this Permit to any circumstance is held invalid, the application of such provision to other circumstances and the remainder of this Permit shall not be affected thereby.

U. EMERGENCY PERMITS

The Permittee need not comply with the conditions of this Permit to the extent and for the duration that the noncompliance is authorized in an emergency Permit in accordance with Minn. R. 7001.0690.

V. AUTHORIZED SIGNATURES

The Permittee may allow an authorized representative to sign reports submitted in accordance with the requirements of this Permit in accordance with the conditions of Minn. R. 7001.0720, subp. 2, item F.

ATTACHMENT I
Maps of the Facility

ATTACHMENT II
OFFICE MEMORANDUM DATE JULY 3, 1995