

Office of the Revisor of Statutes

Administrative Rules



TITLE: Proposed Permanent Rules Relating to Waste Treated Seeds

AGENCY: Minnesota Pollution Control Agency

REVISOR ID: R-4806

MINNESOTA RULES: Chapters 7035 and 7045

The attached rules are approved for
publication in the State Register

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1.1 **Minnesota Pollution Control Agency**

1.2 **Proposed Permanent Rules Relating to Waste Treated Seeds**

1.3 **7035.0300 DEFINITIONS.**

1.4 Subpart 1. **Scope.** As used in parts 7035.0300 to 7035.2915 and 7035.3700, the
1.5 following terms have the meanings given them in this part.

1.6 *[For text of subparts 2 and 3, see Minnesota Rules]*

1.7 Subp. 3a. **Agricultural products.** "Agricultural products" has the meaning given in
1.8 Minnesota Statutes, section 273.13, subdivision 23, paragraph (i).

1.9 *[For text of subparts 4 to 16, see Minnesota Rules]*

1.10 Subp. 17. **Community water supply.** "Community water supply" has the meaning
1.11 given it "community water system" in part 4720.0100 4725.0100, subpart 23a.

1.12 *[For text of subparts 18 to 37, see Minnesota Rules]*

1.13 Subp. 37a. **Farming.** "Farming" means producing agricultural products. Farming does
1.14 not include:

1.15 A. processing, refining, packaging, or transporting agricultural products; or

1.16 B. providing spraying or harvesting services for agricultural products.

1.17 *[For text of subparts 38 to 65, see Minnesota Rules]*

1.18 Subp. 66. **Monitoring well.** "Monitoring well" has the meaning given it in part
1.19 4725.0100, subpart 30a means an excavation of any depth that otherwise meets the definition
1.20 given "environmental well" in Minnesota Statutes, section 103I.005, subdivision 8a.

1.21 *[For text of subparts 67 to 85, see Minnesota Rules]*

1.22 Subp. 86. **Public water supply.** "Public water supply" has the meaning given "public
1.23 water system" in part 4720.0100 4725.0100, subpart 37b.

2.1 [For text of subparts 87 to 98, see Minnesota Rules]

2.2 Subp. 98a. **Shoreland.** "Shoreland" has the meaning given in part 6120.2500, subpart
2.3 15.

2.4 [For text of subparts 99 to 105, see Minnesota Rules]

2.5 Subp. 105a. **Source-separated organic material.**

2.6 [For text of items A and B, see Minnesota Rules]

2.7 C. Source-separated organic material does not include:

2.8 (1) septage; ~~or~~

2.9 (2) sewage sludge, as defined in part 7041.0100, subpart 49~~;~~ or

2.10 (3) waste treated seed.

2.11 [For text of subparts 105b to 108, see Minnesota Rules]

2.12 Subp. 108a. **Surface water or surface waters.** "Surface water" or "surface waters"
2.13 has the meaning given "surface waters" in part 7050.0130, subpart 6.

2.14 [For text of subparts 109 to 111d, see Minnesota Rules]

2.15 Subp. 111e. **Treated seed.** "Treated seed" means seed that is treated, as defined in
2.16 Minnesota Statutes, section 21.81, subdivision 28.

2.17 [For text of subparts 112 to 116, see Minnesota Rules]

2.18 Subp. 116a. **Waste treated seed.** "Waste treated seed" has the meaning given in
2.19 Minnesota Statutes, section 115A.03, subdivision 37a. Waste treated seed includes treated
2.20 seed that will not be planted for the purpose of growing live plants in accordance with the
2.21 instructions on the treated seed container label. Treated seed planted for the purpose of
2.22 growing live plants in accordance with the instructions on the treated seed container label
2.23 is not waste treated seed.

3.1 *[For text of subpart 117, see Minnesota Rules]*

3.2 Subp. 117a. **Water-supply well.** "Water-supply well" has the meaning given in part
3.3 4725.0100, subpart 50a.

3.4 *[For text of subparts 118 to 121, see Minnesota Rules]*

3.5 **7035.2525 SOLID WASTE MANAGEMENT FACILITIES GOVERNED.**

3.6 *[For text of subpart 1, see Minnesota Rules]*

3.7 Subp. 2. **Exceptions.** Parts 7035.2525 to 7035.2915 do not apply to the following
3.8 solid waste management facilities or persons, except as indicated:

3.9 A. backyard compost sites must comply with only part 7035.2836, subpart 5, item
3.10 M;

3.11 *[For text of items B to K, see Minnesota Rules]*

3.12 L. small compost sites must ~~only~~ comply with only parts 7035.2535, subpart 1,
3.13 items A to E; 7035.2555; ~~and~~ 7035.2565; and 7035.2836, subpart 5, item M.

3.14 **7035.2535 GENERAL SOLID WASTE MANAGEMENT FACILITY**
3.15 **REQUIREMENTS.**

3.16 *[For text of subparts 1 to 4, see Minnesota Rules]*

3.17 Subp. 5. **Industrial solid waste management.** All industrial solid waste delivered to
3.18 a solid waste management facility must be managed by the owner or operator to protect
3.19 human health and the environment. The industrial solid waste management plan required
3.20 under part 7001.3300 must address items A to C, except that the industrial solid waste
3.21 management plan for a municipal solid waste combustor ash land disposal facility need not
3.22 comply with items B and C.

3.23 *[For text of item A, see Minnesota Rules]*

4.1 B. The plan must address how the following categories of waste will be managed
4.2 to comply with the requirements of item A, subitems (2) to (4), and, for waste treated seed
4.3 under subitem (13), with part 7035.3700:

4.4 *[For text of subitems (1) to (11), see Minnesota Rules]*

4.5 (12) spent activated carbon filters; ~~and~~

4.6 (13) waste treated seed; and

4.7 ~~(13)~~ (14) any other wastes that can be identified.

4.8 *[For text of items C to E, see Minnesota Rules]*

4.9 *[For text of subpart 6, see Minnesota Rules]*

4.10 **7035.2815 MIXED MUNICIPAL SOLID WASTE LAND DISPOSAL FACILITIES.**

4.11 *[For text of subparts 1 to 5, see Minnesota Rules]*

4.12 Subp. 6. **Intermittent, intermediate, and final cover system.** The owner or operator
4.13 of a mixed municipal solid waste land disposal facility must design and maintain a cover
4.14 system capable of minimizing infiltration of precipitation into the fill areas, preventing
4.15 surface water ponding on fill areas, controlling gas movement, preventing erosion of surface
4.16 and side slopes, reducing wind erosion and wind blown litter, minimizing the creation and
4.17 movement of dust, retaining slope stability, reducing effects of freeze-thaw and other weather
4.18 conditions, maintaining vegetative growth while minimizing root penetration of the low
4.19 permeability cover layer, and discouraging vector and burrowing animal intrusion into the
4.20 site. A complete cover system must consist of intermittent, intermediate, and final covers
4.21 as outlined in items A to E.

4.22 A. The owner or operator must place an intermittent cover upon all exposed solid
4.23 waste in accordance with the approved operation and maintenance manual for the site. The
4.24 owner or operator shall submit to the commissioner for approval a proposed cover system

that addresses the frequency and depth of placement and the material to be used as cover. The frequency of placement may be no less than once per week, except that waste treated seed must be covered immediately after being placed on the working face. The cover depth must be sufficient to cover the waste completely and must be at least six inches if soil or similar material is used. The commissioner, in approving the proposed cover system, must consider the characteristics of the proposed cover material, the characteristics of the solid waste, the leaching potential of the solid waste, the design and operation of the facility, and the potential for nuisance conditions if other than daily cover is proposed.

[For text of items B to E, see Minnesota Rules]

[For text of subparts 7 to 10, see Minnesota Rules]

Subp. 11. **Gas monitoring, collection, and treatment system.** The concentration of any explosive gas must not exceed its lower explosion limit at the property boundary or 25 percent of its lower explosion limit in and around facility structures or any other on-site monitoring point. A gas monitoring, collection, and treatment system must be designed to meet the requirements of items A to G.

[For text of items A to E, see Minnesota Rules]

F. The size of the gas collection system must be based on the volume and type of waste to be received at the site.

(1) The owner or operator must determine the need for a gas collection system and discuss in the engineering report how the need was determined. The commissioner shall review the determination during the permit review process and again at closure. Approval of a gas monitoring system without collection at the time of permitting shall not limit future requirements determined necessary by the commissioner based on the volume of gas generated at the facility, the proximity to residential or business property, or problems

experienced at the facility in maintaining vegetative growth or accumulation of gas in site structures.

(2) If waste treated seed is accepted at the facility, the operator must determine the maximum volume of waste treated seed that the facility can accept daily based on the size of the gas collection system.

[For text of item G, see Minnesota Rules]

[For text of subpart 12, see Minnesota Rules]

Subp. 13. **Operation and maintenance requirements.** A mixed municipal solid waste land disposal facility must be operated by a certified operator, as defined in parts 7048.0100 to 7048.1300. A certified operator must be present during the time that the facility is open to accept waste. The facility operations must meet the requirements of items A to W, at a minimum.

A. Solid waste must be spread and compacted in layers two feet or less in depth. When waste treated seed is placed on the working face, the operator must spread the waste treated seed across the working face to maintain slope stability and minimize localized settlement.

[For text of items B to W, see Minnesota Rules]

[For text of subparts 14 to 16, see Minnesota Rules]

7035.2836 COMPOST FACILITIES.

[For text of subparts 1 to 4, see Minnesota Rules]

Subp. 5. **Operation requirements for solid waste compost facility.** The owner or operator of a compost facility shall submit an operation and maintenance manual to the commissioner for approval with the facility permit application. The manual must include a

personnel training program plan, a leachate management plan, and a compost sampling plan and must comply with the operation requirements in items A to ~~L~~ M.

[For text of items A to L, see Minnesota Rules]

M. Waste treated seed must not be composted.

[For text of subparts 6 to 11, see Minnesota Rules]

7035.3700 WASTE TREATED SEED.

Subpart 1. **Scope.** This part applies to any person managing waste treated seed, including persons who own or operate land used for farming, dealers and other sellers of treated seed, owners or operators of a solid waste management facility, and any other person disposing of waste treated seed.

Subp. 2. **Status.** Waste treated seed managed as specified in this part is industrial solid waste. When managed as specified in this part, waste treated seed is exempt from the requirements of chapter 7045. Discarded containers that held treated seed are mixed municipal solid waste.

Subp. 3. **Requirements.** Waste treated seed must be managed in compliance with this part and with:

A. Minnesota Statutes, section 18B.075, which relates to pesticide-treated seed;

B. Minnesota Statutes, section 21.86, subdivision 2, paragraph (h), which relates to seeds treated with neonicotinoid pesticide; and

C. Minnesota Statutes, section 115A.993, which relates to prohibited disposal methods.

Subp. 4. **Prohibitions.** Waste treated seed must not be:

A. disposed of by burial, except:

8.1 (1) at a mixed municipal solid waste land disposal facility under part
8.2 7035.2815;

8.3 (2) at a land disposal facility with a liner and a leachate management system
8.4 that has been approved by the commissioner to accept waste treated seed. Land disposal
8.5 facilities accepting waste treated seed under this subitem must comply with part 7035.2815,
8.6 subparts 6, 11, and 13; or

8.7 (3) by a person who owns or operates land used for farming, if the waste
8.8 treated seed is generated as part of that person's farming operation and is buried on the land
8.9 used for farming in a nuisance-free, pollution-free, and aesthetic manner. This subitem does
8.10 not apply if regularly scheduled pickup of solid waste is reasonably available at the person's
8.11 farm, as determined by resolution of the county board of the county where the land used
8.12 for farming is located. Burial under this subitem must:

8.13 (a) be located more than 200 feet from any water-supply well used for
8.14 human or animal drinking water and be more than 1,000 feet from any public water supply;

8.15 (b) not be on land that is karst;

8.16 (c) not be within a wetland, floodplain, or shoreland;

8.17 (d) be no deeper than five feet above the water table;

8.18 (e) be deep enough or sufficiently backfilled to provide final cover of at
8.19 least two feet of soil, with the top foot capable of sustaining vegetative growth; and

8.20 (f) have the final cover contoured and sloped consistent with the planned
8.21 ultimate use of the burial location, to divert surface water drainage around and away from
8.22 the burial location and to prevent erosion, with a minimum two percent and maximum 20
8.23 percent slope;

9.1 B. burned, except in an energy recovery facility that is issued an air quality permit
9.2 by the commissioner to burn:

9.3 (1) industrial solid waste that is explicitly identified in the permit to be or to
9.4 include waste treated seed;

9.5 (2) mixed municipal solid waste; or

9.6 (3) refused-derived fuel prepared from mixed municipal solid waste;

9.7 C. composted;

9.8 D. used, donated, sold, or offered for human food;

9.9 E. used, donated, sold, or offered for animal feed, such as feed for livestock,
9.10 poultry, or wildlife; or

9.11 F. used, donated, sold, or offered for oil processing or for fuel or fuel production,
9.12 except as allowed in item B.

9.13 Subp. 5. **Preemption.** Unless explicitly superseded by controlling federal law,
9.14 instructions on treated seed container labels relating to disposition or disposal of waste
9.15 treated seed or disposition or disposal of treated seed containers do not preempt the
9.16 requirements of this part.

9.17 Subp. 6. **Regulatory jurisdiction.**

9.18 A. The agency has jurisdiction to implement and enforce this part, chapter 7035,
9.19 and chapter 7045.

9.20 B. The Department of Agriculture has jurisdiction to implement and enforce
9.21 chapter 1505 and Minnesota Statutes, chapters 18B and 21, including requirements for
9.22 registration and use of pesticides used to treat seeds and labeling of treated seed containers.

10.1 C. Local units of government that have entered into delegation agreements with
10.2 the Department of Agriculture under parts 1505.4000 to 1505.4130 have jurisdiction to
10.3 enforce requirements of the Department of Agriculture that are specified in their respective
10.4 delegation agreements.

10.5 D. Local units of government have jurisdiction to regulate management of
10.6 industrial solid waste and mixed municipal solid waste as specified in their respective solid
10.7 waste ordinances, as provided in Minnesota Statutes, chapters 115A, 400, and 473. Local
10.8 regulation must be consistent with this part but may further restrict location or manner of
10.9 waste treated seed burial.

10.10 **7045.0020 DEFINITIONS.**

10.11 [For text of subparts 1 to 58b, see Minnesota Rules]

10.12 Subp. 58c. **Monitoring well.** "Monitoring well" means an excavation of any depth
10.13 that otherwise meets the definition given "environmental well" in Minnesota Statutes, section
10.14 103I.005, subdivision 8a.

10.15 [For text of subparts 59 to 82, see Minnesota Rules]

10.16 Subp. 83. **Shoreland.** "Shoreland" has the meaning given in Minnesota Statutes,
10.17 section 103F.205, subdivision 4, and rules adopted pursuant to that section part 6120.2500,
10.18 subpart 15.

10.19 [For text of subparts 84 to 88, see Minnesota Rules]

10.20 Subp. 88a. **Surface water or surface waters.** "Surface water" or "surface waters"
10.21 has the meaning given "surface waters" in part 7050.0130, subpart 6.

10.22 [For text of subparts 89 to 96a, see Minnesota Rules]

10.23 Subp. 96b. **Treated seed.** "Treated seed" has the meaning given in part 7035.0300,
10.24 subpart 111e.

11.1 [For text of subparts 97 to 102c, see Minnesota Rules]

11.2 Subp. 102d. **Waste treated seed.** "Waste treated seed" has the meaning given in part
11.3 7035.0300, subpart 116a.

11.4 [For text of subparts 103 to 105, see Minnesota Rules]

11.5 Subp. 105a. **Water-supply well.** "Water-supply well" has the meaning given in part
11.6 4725.0100, subpart 50a.

11.7 [For text of subparts 106 to 109, see Minnesota Rules]

11.8 **7045.0120 EXEMPTIONS AND SPECIAL REQUIREMENTS.**

11.9 [For text of subpart 1, see Minnesota Rules]

11.10 Subp. 2. **Special requirements.** The following waste is exempt from the general
11.11 requirements of this chapter if managed as specified:

11.12 [For text of items A to E, see Minnesota Rules]

11.13 F. universal waste managed under part 7045.1400; ~~and~~

11.14 G. hazardous waste containing radioactive waste when it meets the eligibility
11.15 criteria and conditions of Code of Federal Regulations, title 40, part 266, subpart N,
11.16 Conditional Exemption for Low-Level Mixed Waste Storage, Treatment, Transportation
11.17 and Disposal, as amended. This exemption also pertains to:

11.18 (1) any mixture of a waste and an eligible radioactive mixed waste; and

11.19 (2) any waste generated from treating, storing, or disposing of an eligible
11.20 radioactive mixed waste.

11.21 Waste exempted under this item must meet the eligibility criteria and specified
11.22 conditions in Code of Federal Regulations, title 40, sections 266.225 and 266.230 (for
11.23 storage and treatment), as amended, and 266.310 and 266.315 (for transportation and

12.1 disposal), as amended. Waste that fails to satisfy these eligibility criteria and conditions is
12.2 regulated as hazardous waste~~;~~ and

12.3 H. waste treated seed and discarded containers that held treated seed, if the waste
12.4 treated seed and containers are managed under chapter 7035, including part 7035.3700.

12.5 **TERM CHANGE.** In Minnesota Rules, chapters 7035 and 7045, the terms "water supply
12.6 well" and "water supply wells" are changed to "water-supply well" and "water-supply wells,"
12.7 respectively.

12.8 **RENUMBERING INSTRUCTION.** In Minnesota Rules, part 7035.0300, the subparts
12.9 listed in column A are renumbered as the subparts listed in column B:

12.10	<u>Column A</u>	<u>Column B</u>
12.11	<u>Subpart 111a</u>	<u>Subpart 111f</u>
12.12	<u>Subpart 111b</u>	<u>Subpart 111g</u>
12.13	<u>Subpart 111c</u>	<u>Subpart 111h</u>
12.14	<u>Subpart 111d</u>	<u>Subpart 111i</u>

12.15 In Minnesota Rules, part 7045.0020, subpart 102c, is renumbered as subpart 102e.