



Stormwater Rules: Minnesota Rules 7090

Water Quality/Stormwater #6.01, August, 2005

Minnesota Rules Chapter 7090 were placed on public notice October 18, 2004, following work with stakeholders which began in the fall of 2003. These rules were published in the *State Register* on August 8, 2005, and became effective August 15, 2005. These rules are in response to the U. S. Environmental Protection Agency's Phase II stormwater rules published in 1999. They emulate the national laws already in effect and address pollution concerns associated with stormwater discharges from regulated municipal, industrial and construction activities in Minnesota.

Rule Overview

The rules address the requirements of both the Phase I and Phase II federal regulations by integrating these regulations in a new chapter, Minnesota Rules Chapter 7090. These rules require permit coverage for:

Municipally owned/operated industrial facilities,

Publicly owned/operated Municipal Separate Storm Sewer Systems (MS4s) located in urbanized areas as defined in federal rules and those designated by the new Minnesota rule Chapter 7090 and,

Construction activities that disturb one acre or more of soil or are part of a common plan of development that disturbing one acre or more.

The rules will also:

- Follow the federal expansion of the conditional no exposure exemption, which allows industrial facilities to

apply for exemption from permit coverage if they can verify that they have no industrial material or activities exposed to stormwater,

- Allow the general public a method of petitioning to have additional small MS4s regulated under the municipal stormwater general permit, and
- Ease the process for one to five acre soil disturbances for emergency construction and feedlots to obtain permit coverage.

Industrial Stormwater Rule Changes

These rules follow the federal rule change which expanded the ability to all industrial sectors (except for construction activity) to be excluded from permit coverage, following certification that the facility has no industrial material or activities exposed to stormwater. This is a conditional exclusion that has to be re-certified every five years, and permit coverage is necessary prior to any change in this status.

These rules also require municipalities with populations fewer than 100,000 that own or operate industrial type facilities, which were temporarily exempted under the federal 1991 Intermodal Surface Transportation Efficiency Act (ISTEA), to obtain permit coverage. Municipally owned or operated industrial facilities would include transportation and sand and gravel mining





operations. For more information, see MPCA fact sheet “A Guide to Minnesota’s Industrial Stormwater Permit for Municipally Owned or Operated Industrial Activity” (www.pca.state.mn.us/water/stormwater/stormwater-i.html#factsheets).

Municipal Stormwater Rule Changes

Minnesota’s stormwater rules now emulate federal rules and require about 200 MS4s located in the federally defined urbanized areas of Duluth Minn./Superior Wis., Fargo N.D./Moorhead Minn., Grand Forks N.D./East Grand Forks Minn., Lacrosse Wis./La Crescent Minn., Minneapolis/St. Paul, Rochester, and St. Cloud to be regulated under a National Pollutant Discharge Elimination System/State Disposal System (NPDES/SDS) permit. These communities have been under permit coverage since 2003, as required by the original federal rules.

Some of the fringe suburban communities had only part of their jurisdictional boundary within these urbanized areas. This rule now expands permit coverage for the entire city or township, not just the portion located in the urbanized area.

Publicly owned military bases, hospitals, prisons or correctional facilities, colleges or universities, within an urbanized area, with a potential average bed occupancy rate of 1,000 or more, are also required to have permit coverage.

The rules also require cities and townships to apply for permit coverage within 18 months of the effective date of this rule if their populations are

- 10,000 or greater or
- 5,000 or greater and may discharge stormwater to Outstanding Resource Value Waters, trout lakes or streams, or impaired waters.

Communities that qualify at the time this rule was published may be found at:
www.pca.state.mn.us/water/stormwater/stormwater-ms4.html.

Additional communities may be required to obtain permit coverage at the discretion of the Commissioner of the MPCA, or through petition by the general public. Those procedures are outlined in the rule.

Construction Stormwater Rule Changes

The stormwater rules incorporate the requirements of the most recent Construction Stormwater General Permit. The rules emulate federal rules, requiring permit coverage for construction sites that disturb one acre or more of soil or are part of a common plan of development that disturb one acre or more. Prior to March 10, 2003, only sites with five acres or more were required to have permit coverage.

For emergency construction (in response to floods, tornados, etc.) and feedlot construction between one and five acres of disturbance, the rules do not require a permit application be submitted to the Agency to receive permit coverage. In emergency situations, these small construction activities may begin immediately after the MPCA is notified with basic site information including:

- Contact name,
- Name/address of the construction company
- Address or location of the activity
- List of city, county, and townships where activity is occurring
- Approximate acreage of disturbance
- Brief description of the emergency situation

Notification to the MPCA can be done through letter, telephone, or facsimile sent to:

Construction Stormwater Program
Minnesota Pollution Control Agency
520 Lafayette Rd. N.
St. Paul MN 55155
Phone: 651/297-1457
Fax: 651/297-8683

***Note: In the case of small construction activity on feedlots, as long as construction is done under a feedlot permit, then the construction activity is covered.*