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- 1.1 Pollution Control Agency
- 1.2 Adopted Permanent Rules Relating to Storm Water Regulatory
- 1.3 Program
- 1.4 7001.0040 APPLICATION DEADLINES.
- 1.5 Subpart 1. **Application for new permit.** Except as
- 1.6 otherwise required by parts 7001.0530 and 7001.1040 or chapter
- 1.7 7090, a permit application for a new facility or activity may be
- 1.8 submitted at any time. However, it is recommended that the
- 1.9 permit application be submitted at least 180 days before the
- 1.10 planned date of the commencement of facility construction or of
- 1.11 the activity.
- 1.12 **For text of subs 2 to 4, see M.R.**
- 1.13 7001.1040 APPLICATION DEADLINE FOR NEW PERMITS.
- 1.14 **For text of item A, see M.R.**
- 1.15 B. Persons proposing activities that require a
- 1.16 general construction storm water permit under chapter 7090 must
- 1.17 submit an application provided by the agency prior to initiation
- 1.18 of construction.
- 1.19 7002.0220 DEFINITIONS.
- 1.20 **For text of subs 1 to 3, see M.R.**
- 1.21 Subp. 3a. **General construction storm water permit.**
- 1.22 "General construction storm water permit" means an NPDES general
- 1.23 permit for storm water discharges associated with construction
- 1.24 activity as defined in part 7090.0080, subpart 4.
- 1.25 Subp. 3b. **General industrial storm water permit.** "General
- 1.26 industrial storm water permit" means an NPDES general permit for
- 2.1 storm water discharges associated with industrial activity as
- 2.2 defined in part 7090.0080, subpart 6.
- 2.3 Subp. 3c. **Individual storm water permit.** "Individual
- 2.4 storm water permit" means an NPDES permit for storm water
- 2.5 discharges associated with a specific site and type of activity
- 2.6 as defined under Code of Federal Regulations, title 40, section
- 2.7 122.26(b)(4), (7), and (14)-(16). Fees for this permit are set
- 2.8 in part 7002.0310, subpart 2, item B, under "other nonmunicipal."
- 2.9 **For text of subs 4 to 9, see M.R.**
- 2.10 7002.0250 APPLICATION FEE.
- 2.11 A person who applies for a permit to construct, install,
- 2.12 modify, or operate a facility, or applies for a permit
- 2.13 modification as described in part 7001.0190, excluding changes
- 2.14 in ownership or control, name or address changes other than
- 2.15 changes in facility location, and interim and construction
- 2.16 short-form permits issued under chapter 7020, shall submit with
- 2.17 the application the appropriate application fee. Failure to
- 2.18 submit the fee renders the application incomplete and the agency
- 2.19 shall suspend processing of the application until the fee is
- 2.20 received. Application fees are nonrefundable.
- 2.21 7090.0010 SCOPE.
- 2.22 This chapter establishes the storm water permit program to
- 2.23 regulate discharges of storm water from municipal separate storm
- 2.24 sewer systems, construction activities, and industrial
- 2.25 activities for purposes of abating water pollution associated
- 2.26 with storm water discharges from these sources.
- 3.1 7090.0020 PERMIT PROCESS.

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

3.7 7090.0030 PERMIT REQUIREMENTS.

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

3.11 A. for municipal separate storm sewer systems under
3.12 part 7090.1010;

3.13 B. for construction activities under part 7090.2010;

3.14 C. for industrial activities under part 7090.3010;

3.15 and

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

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

3.25 7090.0040 PERMIT FEES.

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

4.2 7090.0060 INCORPORATION BY REFERENCE.

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

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

4.23 7090.0080 DEFINITIONS.

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

5.3 Subp. 2. **Best management practices.** "Best management

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

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

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

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

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

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

6.21 Subp. 8. **Municipal separate storm sewer system.**
6.22 "Municipal separate storm sewer system" or "MS4" means a
6.23 conveyance or system of conveyances including roads with
6.24 drainage systems, municipal streets, catch basins, curbs,
6.25 gutters, ditches, man-made channels, or storm drains:
6.26 A. owned or operated by a state, city, town, county,
6.27 district, association, or other public body, created by or
7.1 pursuant to state law, having jurisdiction over disposal of
7.2 sewage, industrial wastes, storm water, or other wastes,
7.3 including special districts under state law such as a sewer

7.4 district, flood control district, or drainage district or
7.5 similar entity, or an Indian tribe or an authorized Indian tribe
7.6 organization, or a designated and approved management agency
7.7 under section 208 of the federal Clean Water Act, United States
7.8 Code, title 33, section 1288, that discharges into waters of the
7.9 state;

7.10 B. designed or used for collecting or conveying storm
7.11 water;

7.12 C. that is not a combined sewer; and

7.13 D. that is not part of a publicly owned treatment
7.14 works as defined in Code of Federal Regulations, title 40,
7.15 section 122.2.

7.16 Municipal separate storm sewer systems do not include
7.17 separate storm sewers in very discrete areas, such as individual
7.18 buildings.

7.19 Subp. 9. **No exposure.** "No exposure" means that all
7.20 industrial materials or activities are protected by a storm
7.21 resistant shelter to prevent exposure to rain, snow, snow melt,
7.22 or runoff. "Industrial materials or activities" include, but
7.23 are not limited to, material handling equipment or activities,
7.24 industrial machinery, raw materials, intermediate products,
7.25 by-products, final products, or waste products. Material
7.26 handling activities include the storage, loading and unloading,
7.27 transportation, or conveyance of any raw material, intermediate
8.1 product, final product, or waste product.

8.2 Subp. 10. **Operator.** "Operator" means:

8.3 A. the person with primary operational control and
8.4 legal responsibility for the municipal separate storm sewer
8.5 system under part 7090.1000;

8.6 B. the person designated by the owner who has
8.7 day-to-day operational control or the ability to modify project
8.8 plans and specifications related to the storm water pollution
8.9 prevention plan under part 7090.2000; or

8.10 C. the person responsible for the overall operation
8.11 of an industrial facility under part 7090.3000.

8.12 Subp. 11. **Owner.** "Owner" means:

8.13 A. the person that owns the municipal separate storm
8.14 sewer system under part 7090.1000;

8.15 B. the person or party possessing the title of the
8.16 land on which the construction activities will occur; if the
8.17 construction activity is for a lease holder, the party or
8.18 individual identified as the lease holder; or the contracting
8.19 government agency responsible for the construction activity
8.20 under part 7090.2000; or

8.21 C. the person who owns an industrial facility or part
8.22 of an industrial facility under part 7090.3000.

8.23 Subp. 12. **Storm water or stormwater.** "Storm water" or
8.24 "stormwater" means storm water runoff, snow melt runoff, and
8.25 surface runoff and drainage. It includes the term "stormwater"
8.26 as used in agency documents.

8.27 Subp. 13. ~~**Surface waters.** "Surface waters" means all~~
9.1 ~~streams, lakes, ponds, marshes, wetlands, reservoirs, springs,~~
9.2 ~~rivers, drainage systems, waterways, watercourses, and~~
9.3 ~~irrigation systems whether natural or artificial, public or~~

9.4 ~~private.~~
9.5 ~~Subp. 14.~~ **Urbanized area.** "Urbanized area" means a land
9.6 area consisting of one or more places and the adjacent urban
9.7 fringe as defined by the United States Census Bureau. These
9.8 areas contain at least 50,000 people and an overall population
9.9 density of at least 1,000 people per square mile of land.
9.10 7090.1000 MUNICIPAL SEPARATE STORM SEWER SYSTEM PROGRAM.
9.11 Parts 7090.1000 to 7090.1040 state the requirements for
9.12 municipal separate storm sewer systems (MS4s) that are regulated
9.13 in accordance with Code of Federal Regulations, title 40,
9.14 section 122.26(a)(1)(iii) and (iv), and (a)(9)(i)(A), section
9.15 123.35(b), and Minnesota Statutes, section 115.03.
9.16 7090.1010 MS4 PERMIT REQUIREMENTS.
9.17 Subpart 1. **Permits required.** An NPDES/SDS storm water
9.18 permit is required ~~within the specified time period~~ for MS4s
9.19 identified in items A to C. An owner or operator of an MS4 must
9.20 submit a complete permit application requesting a permit. Once
9.21 an MS4 is required to obtain a permit, the requirement remains
9.22 in effect until the requirement is removed pursuant to subpart
9.23 4, item B.
9.24 A. MS4s located in an urbanized area in whole or in
9.25 part, that are regulated in accordance with Code of Federal
9.26 Regulations, title 40, section 122.26(a)(1)(iii) and (iv), and
10.1 (a)(9)(i)(A), including any publicly owned entity, such as a
10.2 military base, hospital, prison or correctional facility,
10.3 college, or university, with a potential resident capacity, bed
10.4 count occupancy, or average daily user population of 1,000 or
10.5 more.
10.6 B. MS4s that meet the following criteria must submit
10.7 a complete application for a permit within 18 months of meeting
10.8 the criteria:
10.9 (1) the entire jurisdiction of a city or township
10.10 that is partially regulated in accordance with Code of Federal
10.11 Regulations, title 40, section 122.26(a)(9)(i)(A);
10.12 (2) the MS4 is owned or operated by a
10.13 municipality with a population of 10,000 or more based on the
10.14 most recent decennial census or approved municipal boundary
10.15 adjustment under the provisions of Minnesota Statutes, chapter
10.16 414; or
10.17 (3) the MS4 is owned or operated by a
10.18 municipality with a population of at least 5,000 based on the
10.19 most recent decennial census or approved municipal boundary
10.20 adjustment under the provisions of Minnesota Statutes, chapter
10.21 414, and:
10.22 (a) discharges or has the potential to
10.23 discharge storm water into an outstanding resource value water
10.24 as identified in part 7050.0180, subparts 3 and 6; or
10.25 (b) discharges or has the potential to
10.26 discharge storm water into a trout lake or trout stream as
10.27 identified in part 6264.0050, subparts 2 and 4; or
11.1 (c) discharges or has the potential to
11.2 discharge to a water listed as impaired under section 303(d) of
11.3 the Clean Water Act, United States Code, title 33, section 1313,
11.4 except those waters listed as impaired solely for mercury (Hg)

11.5 or polychlorinated biphenyls (PCBs).

11.6 C. MS4s designated by the commissioner in accordance
11.7 with subparts 2 and 3 must submit a complete application for a
11.8 permit within 18 months of designation.

11.9 Subp. 2. **Designation criteria.** For purposes of this part,
11.10 "designation" means a determination by the commissioner that an
11.11 MS4 is subject to the permit requirements of this part. The
11.12 commissioner may designate an MS4 based on the following
11.13 criteria:

11.14 A. the MS4 contributes substantially to the pollutant
11.15 loadings of a physically interconnected MS4 that is regulated by
11.16 the NPDES storm water program in accordance with Code of Federal
11.17 Regulations, title 40, section 123.35(b)(4); or

11.18 B. the MS4 is determined to be a significant
11.19 contributor of pollutants to waters of the state or to have an
11.20 adverse impact on water quality based on any of the following
11.21 factors:

11.22 (1) high growth or growth potential;

11.23 (2) high population density;

11.24 (3) high seasonal population;

11.25 (4) impervious land cover;

11.26 (5) contiguity to an urbanized area as designated

11.27 by the United States Census Bureau;

12.1 (6) ineffective protection of water quality by

12.2 other programs;

12.3 (7) an approved or established total maximum

12.4 daily load that requires reduction of a pollutant associated

12.5 with storm water beyond what can be achieved with existing

12.6 programs; or

12.7 (8) proximity to a high quality water such as an

12.8 outstanding resource value water as identified in part

12.9 7050.0180, subparts 3 and 6, or trout stream as identified in

12.10 part 6264.0050, subpart 4.

12.11 Subp. 3. **Designation process.**

12.12 A. The commissioner shall issue a public notice
12.13 identifying MS4s that meet the designation criteria in subpart 2
12.14 and the commissioner's preliminary determination that the
12.15 designation should be granted.

12.16 B. The public notice must include, at a minimum:

12.17 (1) the address and telephone number of the main

12.18 agency office and the applicable agency regional office and a

12.19 statement that additional information may be obtained at these

12.20 offices;

12.21 (2) the name and address of the MS4, and if

12.22 different, of the facility or activity that is the subject of

12.23 the draft designation;

12.24 (3) a concise description of the facility or

12.25 activity that is the subject of the draft designation;

12.26 (4) the criteria under which the MS4 is proposed

12.27 for designation and the basis for designation;

13.1 (5) a statement that during the public comment

13.2 period a person may submit comments to the agency on the draft

13.3 designation or on the preliminary determination, and a statement

13.4 of the dates on which the comment period begins and ends. The

13.5 public comment period is 30 days unless a different public
13.6 comment period is specifically established by another agency
13.7 rule; and
13.8 (6) a brief description of the procedures for
13.9 reaching a final decision on the designation, including
13.10 procedures for requesting a public information meeting or a
13.11 contested case hearing and the nature of the two types of
13.12 proceedings; and any other procedures by which the public may
13.13 participate in the agency's consideration of the designation.
13.14 C. The commissioner shall distribute the public
13.15 notice in accordance with part 7001.0100, subpart 5.
13.16 D. A person may request a contested case hearing or
13.17 public information meeting regarding the designation
13.18 determination in accordance with part 7001.0130. If a contested
13.19 case hearing is held, the commissioner shall comply with the
13.20 procedures in part 7000.2000 before making a final determination.
13.21 E. The commissioner may make a final determination
13.22 designating an MS4 by finding that the MS4 meets the criteria
13.23 set forth in subpart 2.
13.24 Subp. 4. **Petition process.**
13.25 A. Any person may petition the commissioner for the
13.26 designation of an MS4. Upon receiving a signed written petition
13.27 for designation, the commissioner shall evaluate the petition
14.1 and determine if designation is appropriate under subpart 2. If
14.2 the commissioner determines that the designation should be
14.3 granted, the process for designation shall be followed in
14.4 accordance with subpart 3.
14.5 B. Any person may petition the commissioner to
14.6 reevaluate the designation of an MS4 for a determination that
14.7 the MS4 does not meet the criteria in subparts 1 and 2 and does
14.8 not need a permit. Upon receiving a signed written petition for
14.9 the reevaluation of a designation, the commissioner shall
14.10 evaluate the petition and determine if the MS4 no longer meets
14.11 the requirements for a permit under this part.
14.12 7090.1040 MS4 MINIMUM REQUIREMENTS.
14.13 Subpart 1. **Storm water pollution prevention program**
14.14 **required.** Owners or operators of permitted MS4s must have a
14.15 storm water pollution prevention program to address
14.16 environmental concerns related to storm water discharge. The
14.17 program must address the following minimum measures in
14.18 accordance with Code of Federal Regulations, title 40, section
14.19 122.34(b):
14.20 A. public education and outreach;
14.21 B. public participation/involvement;
14.22 C. illicit discharge detection and elimination;
14.23 D. construction site runoff control;
14.24 E. postconstruction runoff control; and
14.25 F. pollution prevention/good housekeeping.
14.26 Subp. 2. **Record keeping.** Owners or operators required to
14.27 have a storm water pollution prevention program under subpart 1
15.1 must maintain a copy of the program and make it available to the
15.2 agency upon request.
15.3 7090.2000 CONSTRUCTION PROGRAM.
15.4 Parts 7090.2000 to 7090.2060 state the requirements for

15.5 regulating storm water discharges to abate water pollution
15.6 during construction activities, which are regulated in
15.7 accordance with Code of Federal Regulations, title 40, section
15.8 122.26(a)(1) and (9)(i)(B), and Minnesota Statutes, section
15.9 115.03.

15.10 7090.2010 CONSTRUCTION ACTIVITY PERMIT REQUIREMENTS.

15.11 Subpart 1. **Permits required.** An NPDES/SDS construction
15.12 storm water permit is required if:

15.13 A. a person is conducting construction activity
15.14 ~~except for construction activities identified under part~~
15.15 ~~7090.2020~~; or

15.16 B. the commissioner determines that a discharge may
15.17 cause or contribute to a violation of an applicable state or
15.18 federal water quality rule or regulation. In making this
15.19 determination, the commissioner shall consider factors including
15.20 size of discharge, quantity and nature of discharge, and
15.21 location of discharge.

15.22 Subp. 2. **Permit application deadline.**

15.23 A. Owners and operators proposing activities that
15.24 require a construction storm water permit under this part must
15.25 submit a complete permit application provided by the agency
15.26 before conducting construction activity, or where a construction
16.1 site is covered under an existing construction storm water
16.2 permit, meet the subdivision registration requirements under
16.3 part 7090.2060, if applicable.

16.4 B. The permit application or subdivision registration
16.5 required under item A may be submitted electronically if such a
16.6 method of submittal is approved by the commissioner.
16.7 Notwithstanding the conditions of the construction storm water
16.8 permit, the effective date of a permit under an electronic
16.9 submittal must be established by the commissioner.

16.10 Subp. 3. **Compliance requirements for unpermitted**
16.11 **construction activity.** Owners and operators of construction
16.12 activities required to have a construction storm water permit
16.13 under this part that fail to submit a permit application or
16.14 subdivision registration under subpart 2 shall comply with the
16.15 storm water discharge design requirements, construction activity
16.16 requirements, and the requirements of Appendix A in the
16.17 construction storm water permit as incorporated by reference in
16.18 part 7090.0060.

16.19 7090.2020 NPDES/SDS CONSTRUCTION STORM WATER GENERAL PERMIT
16.20 COVERAGE.

16.21 Subpart 1. **Scope.** The commissioner shall notify owners
16.22 and operators of construction activities that disturb one to
16.23 less than five acres of soil and meet the requirements in
16.24 subpart 2 or 3 that they are covered under the NPDES/SDS
16.25 construction storm water general permit even if the owner or
16.26 operator has not submitted a permit application. Owners and
16.27 operators that meet the requirements of subpart 2 or 3 may
17.1 request an individual NPDES/SDS construction storm water permit
17.2 in accordance with chapter 7001.

17.3 Subp. 4- 2. **Emergency construction.**

17.4 A. Construction activities are required to minimize
17.5 the impacts of an emergency situation, including but not limited

17.6 to floods, tornadoes, and severe storms, presenting imminent
17.7 threat to human health, public drinking water, or the
17.8 environment ~~may begin before the submittal of a permit~~
17.9 ~~application if+.~~

17.10 ~~(1) The owner notifies must notify the~~
17.11 ~~commissioner when the construction activity begins; and~~
17.12 ~~(2) the owner and operator comply with the~~
17.13 ~~construction activity requirements, and the requirements of~~
17.14 ~~Appendix A in the construction storm water permit as~~
17.15 ~~incorporated by reference in part 7090.0060.~~

17.16 B. Emergency construction notification must be
17.17 completed by letter, telephone, or facsimile and include:

- 17.18 (1) the owner's name, and the name of the
17.19 construction company if different than the owner;
17.20 (2) the address or description of the location
17.21 where the construction activity is occurring;
17.22 (3) a list of the cities, counties, and townships
17.23 where the construction activity is occurring;
17.24 (4) the approximate acres to be disturbed by the
17.25 construction activity; and
17.26 (5) a brief description of the emergency
17.27 situation.

18.1 C. ~~A permit application must be submitted to the~~
18.2 ~~commissioner within seven days of the emergency construction~~
18.3 ~~start date.~~

18.4 ~~7090.2020 CONSTRUCTION ACTIVITY CONDITIONAL EXCLUSION.~~

18.5 ~~Subpart 1. **Scope.** Owners and operators responsible for~~
18.6 ~~the construction activities that meet the requirements in~~
18.7 ~~subparts 2 and 3 are conditionally excluded from the requirement~~
18.8 ~~to submit a permit application and have the option to either~~
18.9 ~~apply for a construction storm water permit or meet the~~
18.10 ~~requirements of part 7090.2030. An owner or operator conducting~~
18.11 ~~construction activity pursuant to this conditional exclusion~~
18.12 ~~that fails to comply with part 7090.2030 must submit a permit~~
18.13 ~~application.~~

18.14 ~~Subp. 2- 3. **Feedlots.** Construction activities are~~
18.15 ~~eligible under subpart 1 for the purposes of building a new or~~
18.16 ~~expanded animal feedlot, or manure storage area, or animal~~
18.17 ~~holding facility or performing related maintenance. The owner~~
18.18 ~~or operator must+ apply for and obtain the appropriate permit~~
18.19 ~~under part 7020.0405, other than an NPDES permit, and if no~~
18.20 ~~permit is required under part 7020.0405, the owner or operator~~
18.21 ~~must complete the preconstruction notification submittal~~
18.22 ~~requirements under part 7020.2000, subpart 5.~~

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

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

18.27 ~~C. apply for and obtain a construction short form~~
19.1 ~~permit as required under part 7020.0405, subpart 1, item D; or~~

19.2 ~~D. fulfill the preconstruction notification~~
19.3 ~~requirements under part 7020.2000, subpart 5.~~

19.4 ~~Owners and operators of feedlot construction activities~~
19.5 ~~that are not subject to the permit requirements under part~~

19.6 ~~7020.0405, subpart 1, or the notification requirements under~~
19.7 ~~part 7020.2000, subpart 5, must comply with the requirements of~~
19.8 ~~part 7090.2030 or apply for a construction storm water permit.~~

19.9 ~~Subp. 3. **Conservation practice projects.** Construction~~
19.10 ~~activities are eligible under subpart 1 if they disturb one to~~
19.11 ~~less than five acres of soil for purposes of a conservation~~
19.12 ~~practice project including a grassed waterway, terrace or~~
19.13 ~~diversion, water and sediment control basin, or other~~
19.14 ~~conservation practice that reduces erosion and controls sediment~~
19.15 ~~runoff. The owner or operator must:~~

19.16 ~~A. participate in a state or federal conservation~~
19.17 ~~program that includes financial assistance; and~~

19.18 ~~B. utilize the design standards, construction and~~
19.19 ~~materials specifications, and associated construction inspection~~
19.20 ~~requirements maintained by the United States Department of~~
19.21 ~~Agriculture, Natural Resources Conservation Service, and Board~~
19.22 ~~of Water and Soil Resources for conservation programs, or other~~
19.23 ~~design standards and specifications approved by these programs.~~

19.24 ~~7090.2030 BEST MANAGEMENT PRACTICES (BMPs) REQUIRED FOR~~
19.25 ~~CONDITIONAL EXCLUSION PROJECTS.~~

19.26 ~~Subpart 1. **Scope.** Owners and operators responsible for~~
19.27 ~~construction activities that meet the requirements for a~~
20.1 ~~conditional exclusion under part 7090.2020 must include the BMPs~~
20.2 ~~in subparts 2 to 6.~~

20.3 ~~Subp. 2. **Minimize size of disturbed area.** When permanent~~
20.4 ~~vegetation must be disturbed, the area of disturbance must be~~
20.5 ~~limited to the minimum required for the project.~~

20.6 ~~Subp. 3. **Sediment control.** Where disturbed areas have~~
20.7 ~~steep slopes or concentrated flow, buffers or other sediment~~
20.8 ~~control BMPs, such as silt fences or staked hay bales, must be~~
20.9 ~~used to minimize sediment from entering surface waters and~~
20.10 ~~subsurface drainage systems, including tile inlets. Sediment~~
20.11 ~~control BMPs must be established on down gradient perimeters~~
20.12 ~~before any upgradient construction activities begin, except for~~
20.13 ~~conservation practice projects such as grassed waterways and~~
20.14 ~~terraces that are constructed in five days or less, and in an~~
20.15 ~~area where soil disturbance has occurred before construction.~~
20.16 ~~These BMPs must remain in place until other temporary or final~~
20.17 ~~stabilization practices have been established.~~

20.18 ~~Subp. 4. **Soil stockpiles.** Topsoil or other temporary~~
20.19 ~~stockpiles of soil must be placed in locations where they will~~
20.20 ~~not be subject to erosion from channelized flow. If stockpiles~~
20.21 ~~are placed within 300 feet up slope of a surface water or tile~~
20.22 ~~inlet for more than three days, or when precipitation and runoff~~
20.23 ~~are imminent, a grass buffer or other equivalent sediment~~
20.24 ~~control BMPs, such as silt fences or staked hay bales, must be~~
20.25 ~~used between the soil stockpile and surface water or tile inlet.~~

20.26 ~~Subp. 5. **Temporary stabilization.**~~

20.27 ~~A. Where disturbed areas are not otherwise protected~~
21.1 ~~by permanent erosion control materials, disturbed areas must be~~
21.2 ~~seeded and temporarily stabilized until the seed establishes a~~
21.3 ~~permanent vegetative cover. Mulch or erosion control blanket~~
21.4 ~~must be applied to disturbed areas with steeper than 3:1 slopes~~
21.5 ~~within seven days after final grading, except for conservation~~

21.6 ~~practice projects such as terraces with slope lengths less than~~
21.7 ~~15 feet in area where soil disturbance has occurred before~~
21.8 ~~construction. Other temporary stabilization BMPs must be~~
21.9 ~~installed within the following time frames after final grading~~
21.10 ~~for the indicated slopes:~~

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

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

21.13 ~~B. For construction activities conditionally excluded~~
21.14 ~~under part 7090.2020, temporary stabilization may include any of~~
21.15 ~~the following BMPs that are effective for the site conditions:~~

21.16 ~~(1) compaction of the soil surface of~~

21.17 ~~concentrated flow areas to reduce soil erodibility;~~

21.18 ~~(2) grading along the contour and use surface~~

21.19 ~~roughing techniques such as slope tracking with tracked~~
21.20 ~~equipment;~~

21.21 ~~(3) application of mulch or erosion control~~

21.22 ~~blanket; and~~

21.23 ~~(4) installation of check dams such as fiber~~

21.24 ~~rolls; sand or gravel filled berms, including filled bags for~~

21.25 ~~removal; or geotextile erosion barriers across concentrated flow~~

21.26 ~~areas such as waterways.~~

21.27 ~~Subp. 6. **Final stabilization.** Disturbed areas, not~~

22.1 ~~including cropland, must be protected by permanent erosion~~

22.2 ~~control materials or other BMPs that achieve the equivalent of~~

22.3 ~~70 percent uniform vegetative cover. If construction is~~

22.4 ~~completed after the fall seeding cutoff date, dormant seeding~~

22.5 ~~must be applied or any of the temporary stabilization BMPs~~

22.6 ~~listed in subpart 5 that are effective and appropriate for the~~

22.7 ~~site conditions must be implemented, and seeding and final~~

22.8 ~~stabilization must be implemented as soon as feasible the~~

22.9 ~~following spring.~~

22.10 7090.2040 CONSTRUCTION ACTIVITY MINIMUM REQUIREMENTS.

22.11 Subpart 1. **Storm water pollution prevention plan required.**

22.12 Owners of construction activities required to have a

22.13 construction storm water permit under part 7090.2010, subpart 1,

22.14 must complete a storm water pollution prevention plan before

22.15 submitting a permit application and before conducting

22.16 construction activity.

22.17 Subp. 2. **Record keeping.** The storm water pollution

22.18 prevention plan must be kept on site and made available to the

22.19 agency within 72 hours of a request for review.

22.20 7090.2060 SUBDIVISION OWNER REGISTRATION.

22.21 For a construction site that is covered under an existing

22.22 construction storm water permit where the owner or operator

22.23 changes, the new owner or operator must:

22.24 A. obtain a permit and develop and implement the

22.25 storm water pollution prevention plan; or

22.26 B. submit to the commissioner a subdivision

23.1 registration form provided by the agency within seven days of

23.2 assuming operational control of the site, conducting

23.3 construction activity on their portion of the site, or of legal

23.4 transfer, sale, or closing on the property, and:

23.5 (1) implement the provisions of the site's

23.6 original storm water pollution prevention plan for the portion

23.7 of the site which the construction activities will impact; or
23.8 (2) develop and implement a storm water pollution
23.9 prevention plan for the portion of the site which the
23.10 construction activities will impact according to the
23.11 requirements of the construction storm water permit for the site.
23.12 C. The new owner or operator must comply with all
23.13 applicable requirements of the permit and the storm water
23.14 pollution prevention plan.
23.15 D. The new owner or operator must ensure that
23.16 activities do not render another party's erosion prevention and
23.17 sediment control BMPs ineffective.
23.18 7090.3000 INDUSTRIAL PROGRAM.
23.19 Parts 7090.3000 to 7090.3080 state the requirements for
23.20 industrial activities that are regulated in accordance with Code
23.21 of Federal Regulations, title 40, section 122.26(a)(1)(ii),
23.22 section 122.26(g)(1)-(4), and Minnesota Statutes, section 115.03.
23.23 7090.3010 INDUSTRIAL ACTIVITY PERMIT REQUIREMENTS.
23.24 Subpart 1. **Permits required.** An NPDES/SDS industrial
23.25 storm water permit is required:
23.26 A. for industrial activity; or
24.1 B. if the commissioner determines that a discharge
24.2 may cause or contribute to a violation of an applicable state or
24.3 federal water quality rule or regulation. In making this
24.4 determination, the commissioner shall consider factors including
24.5 size of discharge, quantity and nature of discharge, and
24.6 location of discharge.
24.7 Subp. 2. **Permit application deadline.** If a person
24.8 proposes to construct a new facility or engage in a new activity
24.9 for which a permit is required, the person shall submit a
24.10 complete permit application at least 180 days before the planned
24.11 date of the commencement of facility construction or of the
24.12 planned date of the commencement of the activity, whichever
24.13 occurs first.
24.14 7090.3040 INDUSTRIAL ACTIVITY MINIMUM REQUIREMENTS.
24.15 Subpart 1. **Storm water pollution prevention plan required.**
24.16 Owners or operators of industrial activities required to have an
24.17 industrial storm water permit under part 7090.3010, subpart 1,
24.18 must complete a storm water pollution prevention plan before
24.19 submitting a permit application.
24.20 Subp. 2. **Record keeping.** The storm water pollution
24.21 prevention plan must be kept at the industrial facility and made
24.22 available to the agency within 72 hours of a request for review.
24.23 7090.3060 CONDITIONAL EXCLUSION FOR NO EXPOSURE.
24.24 Subpart 1. **No exposure.** Discharges composed entirely of
24.25 storm water are not discharges associated with industrial
24.26 activity if there is no exposure of industrial materials and
25.1 activities to rain, snow, snowmelt, or runoff, and the facility
25.2 meets the requirements of this part.
25.3 Subp. 2. **Applicability.** An owner or operator required to
25.4 obtain an industrial storm water permit under part 7090.3010,
25.5 subpart 1, must either obtain a permit or certify a condition of
25.6 no exposure.
25.7 Subp. 3. **Application requirements.** An operator certifying
25.8 a condition of no exposure must submit to the commissioner an

25.9 application for no-exposure certification on a form provided by
25.10 the agency. An application for no-exposure certification must
25.11 be submitted to the commissioner once every five years.

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

25.14 A. where a complete and signed application has been
25.15 submitted to the commissioner; and

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

25.18 (1) a review of the application;

25.19 (2) an inspection of the facility; or

25.20 (3) other means that the commissioner finds

25.21 reasonably reliable.

25.22 Subp. 5. **Limitations.**

25.23 A. Construction activities that require a permit
25.24 under part 7090.2010, subpart 1, are not eligible for the
25.25 conditional no-exposure exclusion.

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

26.4 C. The no-exposure exclusion is conditional. If
26.5 circumstances change and the conditions for the no-exposure
26.6 exclusion no longer apply to the facility, the operator must
26.7 comply with the requirements of part 7090.3010. Where the
26.8 operator anticipates a change in circumstance and the conditions
26.9 for the no-exposure exclusion no longer apply, the operator
26.10 shall apply for and obtain a permit under part 7090.3010 before
26.11 the change of circumstance.

26.12 D. A certification of no exposure is nontransferable.

26.13 E. The commissioner retains the authority to deny the
26.14 no-exposure certification and require permit authorization as
26.15 provided under part 7090.3010.

26.16 7090.3080 NO-EXPOSURE CERTIFICATION.

26.17 The application for no-exposure certification must include
26.18 a no-exposure certification statement. A person who signs an
26.19 application for no-exposure certification must certify a
26.20 condition of no exposure in accordance with Code of Federal
26.21 Regulations, title 40, section 122.26(g)(4)(iv).

26.22 **REPEALER.** Minnesota Rules, parts 7001.1020, subparts 16a, 16b,
26.23 16c, 16d, 17a, and 28a; and 7001.1035, are repealed.