



Minnesota Department of Agriculture

Permitting Efficiency and Goal Report

Bulk Agricultural Chemical Facility and Chemigation

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Table of Contents

Executive Summary	3
Introduction	4
Background.....	5
Program Outlook.....	6

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Executive Summary

The Minnesota Department of Agriculture (MDA) issues two permits that fall under the reporting requirements of M.S. 17.03. These are the bulk agricultural chemical storage permits and the chemigation permits. Statewide, there are a total of 615 bulk agricultural chemical storage permits and 1537 chemigation permits (with 1904 operators-each operator requires a separate permit) issued by the MDA. Bulk agricultural chemical storage permits are issued one time with a fee of \$100 whereas chemigation permits have a one-time fee of \$250 (pesticides)/ \$50 (fertilizer). Permits may be issued for pesticides, fertilizer or both.

Turnaround time averages from 9-19 days for bulk agricultural chemical storage permits and 13 days for chemigation permits.

Note that “agricultural chemicals” is statutorily defined as both pesticide and fertilizer products.

Bulk Agricultural Chemicals

Permits are required for the storage of bulk agricultural chemicals under MS 18B.14 and 18C.305. The MDA is required under MS 18B.14 (pesticides) to issue permits within 30 days after a complete application is received. A permit and safeguard is not required for agricultural commodity producers who store, on their own property, for their own use, 6,000 gallons of liquid commercial fertilizer or less.

From January 1, 2011 to June 30, 2011 the MDA received **31** permit applications and issued **31** permits. Average time from receipt to issuance was **19** days, compared to the 150 days mandated by statute for environmental permits. From January 1, 2010 to December 31, 2010 the MDA received **58** permit applications and issued **58** permits. Average time from receipt to issuance was **9** days.

Chemigation

Permits are required for the application of agricultural chemicals through irrigation systems under MS 18B.08 (pesticides) and 18C.205 (fertilizer).

The MDA’s chemigation permitting program operates under “permit-by-rule” which allows a person to apply fertilizers and pesticides through irrigation systems provided that they submit a permit application and the required fee to the MDA prior to chemigating and provided that they certify that they have complied with all rule requirements.

From January 1, 2011 to June 30, 2011 the MDA received **35** permit applications and issued **35** permits. Average time from receipt to issuance was **13** days compared to the 150 days mandated by statute for environmental permits. From January 1, 2010 to December 31, 2010 the MDA received **83** permit applications and issued approximately **83** permits. Looking at available data, it was not possible to determine the turnaround time but it is believed to be about the same. Seventy-four percent of the sites are permitted for both fertilizer and pesticide; 4% are permitted only for fertilizer; 22% are permitted only for pesticide (primarily greenhouses and nurseries).

Introduction

17.03 POWERS AND DUTIES OF COMMISSIONER.

Subd. 11a. Permitting efficiency goal and report.

(a) It is the goal of the Department of Agriculture that environmental and resource management permits be issued or denied within 150 days of the submission of a completed permit application. The commissioner of agriculture shall establish management systems designed to achieve the goal.

(b) The commissioner shall prepare semiannual permitting efficiency reports that include statistics on meeting the goal in paragraph (a). The reports are due February 1 and August 1 of each year. For permit applications that have not met the goal, the report must state the reasons for not meeting the goal, steps that will be taken to complete action on the application, and the expected timeline. In stating the reasons for not meeting the goal, the commissioner shall separately identify delays caused by the responsiveness of the proposer, lack of staff, scientific or technical disagreements, or the level of public engagement. The report must specify the number of days from initial submission of the application to the day of determination that the application is complete. The report for the final quarter of the fiscal year must aggregate the data for the year and assess whether program or system changes are necessary to achieve the goal. The report must be posted on the department web site and submitted to the governor and the chairs of the House of Representatives and Senate committees having jurisdiction over agriculture policy and finance.

Protection of the environment from the contamination from agricultural chemicals has been recognized by the Minnesota Legislature since the late 1970's. Rules for the storage of dry and liquid bulk fertilizer were adopted by the Department in the 1970's. Significant amendments to the Minnesota Pesticide Control Law (M.S.18B) and the Fertilizer, Soil Amendment and, Plant Amendment (M.S. 18C) occurred in 1989 with the adoption of the Minnesota Groundwater Act of 1989 and the subsequent rules that were adopted by the MDA in the early 1990's.

Statute requires a responsible person to be issued a permit by the MDA before storage of agricultural chemicals or chemigation occur. Rules adopted under statute provide technical, performance-based requirements for compliance.

The MDA is cognizant of time, weather and crop stage constraints that are placed on applicants and works toward the goal of issuing permits in the least amount of time necessary to ensure adequate environmental protection and compliance with the rules and statutory requirements.

Background

Bulk Agricultural Chemicals

The MDA operates the bulk agricultural chemical permitting program with 1.0 FTE. The MDA has standardized their permit application process to eliminate unnecessary and duplicative forms.

Approximately 75% of the permits submitted each year are for new sites while the remainder is for “substantial alterations” to an existing permit.

Once a permit application is received with the required one-time fee, \$100 for a new site/\$50 for the substantial alteration of an existing site, the permit application is reviewed for completeness and the responsible person is informed of any deficiencies or additional information needed. In many instances, construction drawings are either absent or deficient in detail; these drawing are required to insure that construction will not result in the release of agricultural chemicals into the environment. There is no engineering requirement; however, in certain instances the MDA strongly recommends that a civil engineer be used/or consulted with for structural and soil issues.

A new permit application and fee must be submitted when a storage site changes ownership. MDA reviews the old permit and the new permit and then informs the responsible person of any additional information necessary for permitting.

All application forms are available online as PDFs and must be submitted by hard copy.

Chemigation

The MDA operates its chemigation permitting program with a 0.3 FTE administrative assistant and a 0.3 program technical FTE.

Once a permit application is received, either online or as a hard copy, with the required one-time fee of \$250 (pesticides) \$50 (fertilizer), a permit is granted provided that all required information including the operator certification that all antipollution requirements have been complied for the site. In many instances, the responsible person and/or the site of permitting is difficult to determine. Gathering accurate information sometimes requires multiple phone calls and mailings for verification, which increases turnaround time.

When sites change operators, a permit is required for the new operator, which may result in multiple permits issued for the same physical location. A person operating the system is responsible for obtaining the permit and complying with all regulatory requirements.

Permit application, fees and certification can be applied for online at the MDA website, <http://www.mda.state.mn.us>, or by hard copy.

Program Outlook

Bulk Agricultural Chemicals

The MDA is seeing an increase in larger facilities and tanks being constructed. These facilities and tanks require more time for permit review than the types of facilities being constructed twenty years ago. The net effect is that, in the future, permit review may be delayed for smaller facilities due to the time requirements for larger facilities. New, unproven environmental technologies also require review outside the normal permitting process.

The MDA anticipates that changes may need to be considered in future years as the program needs shift and circumstances change. For example, a licensed professional engineer may need to be employed for certain large scale permits or alterations of existing permitted structures. Inspection resources may need to be redirected to permitted sites during and upon completion of construction. It is not anticipated that these types of changes would detrimentally impact neither permitting efficiency nor the goals established by the legislature.

Chemigation

The MDA does not anticipate significant changes to the chemigation program. Permitting turnaround is acceptable and overall compliance with chemigation is generally satisfactory. As resources permit, the MDA intends to increase educational and regulatory activities with regard to chemigation. Increased coordination of program activities, with other state and local agencies, will be explored as opportunities develop.