



Minnesota Department of Agriculture

Permitting Efficiency and Goal Report

Bulk Agricultural Chemical Facility and Chemigation

August 1, 2014

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 (2) permits that fall under the reporting requirements of Minnesota Statutes, Chapter 17.03, Subd. 11a. These are the bulk agricultural chemical storage permits and the chemigation permits. Statewide, there are a total of 663 bulk agricultural chemical storage permits and 2,241 chemigation permits issued by the MDA. Bulk agricultural chemical storage permits are issued with a one-time fee of \$100 for a new permit and a \$50 fee when a firm substantially alters their existing permit. Chemigation permits have a one-time fee of \$250 (pesticide, or pesticide and fertilizer) or \$50 (fertilizer only). Permits may be issued for pesticide, fertilizer or both.

Permit issuance times from January 1, 2014 to June 30, 2014 were 10 days or less for bulk agricultural chemical storage permits and 64 days or less for chemigation permits which meets the requirements of the authorizing statute and is consistent with past performance.

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 (pesticide) 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, 6,000 gallons of liquid commercial fertilizer or less on their own property for their own use.

From January 1, 2014 to June 30, 2014 the MDA received 38 new and substantial alteration permit applications and issued 38 permits. Average time from receipt of a complete application to issuance was three (3) days.

Several factors enable the MDA to provide prompt turn-around time on bulk agricultural chemical storage permit applications. Experienced MDA staff offer substantial compliance assistance to applicants. The exchange of information with applicants and contractors prior to submission of their permit application makes the process more efficient. When complete permit applications are submitted with all required information, the MDA is able to complete the final review and issue the storage permit in an informed and timely manner.

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 fertilizer and pesticide through irrigation systems provided they submit a complete and accurate permit application, pay the required fee to the MDA, and certify by signature that they have complied with all rule requirements.

From January 1, 2014 to June 30, 2014, the MDA received 169 permit applications and issued 169 permits. Average time from receipt of an application to issuance was 13 days. Eighty-three (83%) percent of the permits issued were permitted for fertilizer-only while 17% percent were permitted for both pesticide and fertilizer.

The MDA is able to issue chemigation permits after complete applications are submitted to the MDA because of the “permit-by-rule” process. Applicants submit a “permit-by-rule” application to the MDA and certify on the application that they meet the rule and pay the fee.

The MDA then sends a confirmation letter to the applicant with a permit number and the applicant is then considered permitted. Incomplete applications are usually resolved by the MDA staff contacting the applicant by phone or email.

The MDA is charged with the responsibility of protecting people and the environment by ensuring agricultural chemicals are managed responsibly. The safeguards each program provides are an important part of MDA’s mission.

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 1970s. Rules for the storage of dry and liquid bulk fertilizer were adopted by the Department in the 1970s. 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 1990s.

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 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 1.7 FTE and a 0.2 FTE administrative assistant. The MDA has standardized the permit application process to eliminate unnecessary and duplicative forms. Approximately 47 percent of the permit applications submitted from January 1, 2014 to June 30, 2014 was for new permits while the remaining applications were for “substantial alterations” to an existing permit.

Once a permit application is received with the required one-time fee, \$100 for a new site and \$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; however, 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 consulted to address structural and soil issues.

A new permit application and fee must be submitted when a storage site changes ownership. The 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 but must be submitted by hard copy.

Chemigation

The MDA operates its chemigation permitting program with a 0.2 FTE administrative assistant and a 0.4 program technical FTE.

Once a permit application is received, either online or as a hard copy, with the required one-time fee of \$250 (pesticide, fertilizer and pesticide), \$50 (fertilizer only), a permit is granted provided that the application is complete including the operator certification that all antipollution requirements have been installed and are operational for the site. In some 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. The 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, www.mda.state.mn.us, or by hard copy.

Program Outlook

Bulk Agricultural Chemicals

The MDA continues to see increasingly complex and larger facilities and tanks being constructed. These newer facilities and tanks require more time for permit review. New environmental technologies also require review outside the normal permitting process.

The MDA anticipates future program changes may need to be considered to review these more complex facilities. For example, in the future 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 program changes would have a negative impact on permitting efficiency or 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 continue to increase educational information and outreach in the chemigation program. Increased coordination of program activities, with other state and local agencies, will be explored as opportunities develop.