



# **Minnesota Department of Agriculture**

## **Permitting Efficiency and Goal Report**

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*Bulk Agricultural Chemical Facility and Chemigation*

February 1, 2014

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Pursuant to Minn. Stat. § 3.197, the cost of preparing this report was approximately \$500.00

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# Executive Summary

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The Minnesota Department of Agriculture (MDA) issues two 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 658 bulk agricultural chemical storage permits and 2,103 chemigation permits issued by the MDA. Bulk agricultural chemical storage permits are issued one time with a 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 (pesticides, or pesticides and fertilizer) or \$50 (fertilizer only). Permits may be issued for pesticides, fertilizer or both.

Permit issuance times during the July 1, 2013 to December 31, 2013 timeframe were 21 days or less for bulk agricultural chemical storage permits and 32 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 (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 July 1, 2013 to December 31, 2013 the MDA received 39 new and substantial alteration permit applications and issued 39 permits. Average time from receipt of a complete application to issuance was five days.

Several factors enable the MDA to provide prompt turn-around time on bulk agricultural chemical storage permit applications. Experienced MDA staff have created substantial compliance assistance offerings that support the program. The exchange of information with applicants and contractors prior to submission of their permit application creates efficiencies. 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 fertilizers and pesticides through irrigation systems provided 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 July 1, 2013 to December 31, 2013 the MDA received 26 permit applications and issued 26 permits. Average time from receipt of a complete application to issuance was 15 days. Ninety-six

percent of the permits issued were permitted for fertilizer-only while four percent were permitted for both pesticide and fertilizer.

The MDA is able to issue chemigation permits shortly 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 MDA staff contacting the applicant by phone or email.

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

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### **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 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

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### ***Bulk Agricultural Chemicals***

The MDA operates the bulk agricultural chemical permitting program with 1.0 FTE and a 0.1 FTE administrative assistant. The MDA has standardized the permit application process to eliminate unnecessary and duplicative forms. Approximately 59 percent of the permit applications submitted during this timeframe were 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; 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 0.1 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, fertilizer and pesticide), \$50 (fertilizer only), 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

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## ***Bulk Agricultural Chemicals***

The MDA continues to see increasingly complex and 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. New 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 to review more complex permits. 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.