

7007.0800 PERMIT CONTENT.

Subpart 1. **Scope.** The commissioner must include the permit conditions specified in this part in all permits, except where the requirement states that it applies only to part 70 permits or only to state permits. The permit must specify and reference the origin of and the authority for each term or condition and identify any difference in form from the requirement giving rise to the condition. Nothing in this part limits the commissioner's authority to put additional or more-stringent terms in a permit, to conduct inspections, or to request information.

Subp. 2. **Emission limitations and standards.** The permit must:

A. include emissions limitations, operational requirements, and other provisions needed to ensure compliance with all applicable requirements at the time of permit issuance. For part 70 permits, the requirements and limitations must include approved replicable methodologies identified by the source in its permit application if approved by the commissioner, provided that no approved replicable methodologies shall contravene any terms needed to comply with any applicable requirement or requirement of this part or circumvent any applicable requirement that would apply as a result of implementing the approved replicable method;

B. include any condition the commissioner determines to be necessary to protect human health and the environment;

C. state that, where another applicable requirement of the act is more stringent than any applicable requirement of regulations adopted under Title IV of the act (Acid Deposition Control), both provisions are incorporated into the permit and are enforceable by the administrator; and

D. contain provisions to ensure continuous compliance with applicable emissions limitations during periods of start-up and shutdown of an emissions unit.

Subp. 3. **Emissions units covered by permit.** The permit must cover any emissions unit within the stationary source for which there is an applicable requirement, and any unit that the commissioner believes should be covered to protect human health and the environment. However, if a stationary source is not a major source and the sole reason it is required to have a permit is because it is subject to federal standards described under part 7007.0250, subpart 2, then the permit must only cover emissions units regulated by those federal standards. The permit must include applicable requirements for fugitive emissions in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source in part 7007.0200, subpart 2.

Subp. 4. **Monitoring.** The commissioner must include the monitoring requirements in this subpart in all permits.

A. The permit must require the permittee to comply with all emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods adopted under section 114(a)(3) or 504(b) of the act.

B. For part 70 permits, where the applicable requirements do not require periodic testing or instrumental or noninstrumental monitoring (which may consist of record keeping designed to

serve as monitoring), the permit must require the permittee to conduct periodic monitoring sufficient to determine whether the stationary source is in compliance with applicable requirements. The monitoring requirements must be designed to yield reliable data from the relevant period that are representative of the stationary source's operation and must require the permittee to use terms, test methods, units, averaging periods, and other statistical conventions that are consistent with the emissions limitations and standards contained in the permit and with other applicable requirements. Record-keeping provisions may be sufficient to meet the requirements of this item.

C. For state permits, where periodic testing or instrumental or noninstrumental monitoring (which may consist of record keeping designed to serve as monitoring) is not required by item A, the permit must include monitoring requirements sufficient to determine whether a stationary source is in compliance with applicable requirements, if the commissioner finds that the monitoring is warranted by:

- (1) the likelihood of noncompliance;
- (2) the environmental impact of noncompliance; or
- (3) the likelihood that noncompliance could not be detected using means other than monitoring.

D. As necessary, the permit must require the permittee to install, use, and maintain monitoring equipment or use monitoring methods.

Subp. 5. **Record keeping.** The permit must incorporate all applicable requirements related to record keeping and require the permittee to maintain adequate records, including at least the following:

A. a requirement that the permittee maintain written records adequate to document compliance at the stationary source, including at a minimum:

- (1) the date, place, as defined in the permit, and time of sampling or measurements;
- (2) the date or dates analyses were performed;
- (3) the company or entity that performed the analyses;
- (4) the analytical techniques or methods used;
- (5) the results of the analyses; and
- (6) the operating conditions existing at the time of sampling or measurement;

B. a requirement that the permittee maintain written records describing any modification made at the stationary source under parts 7007.1250 and 7007.1350, as required by those provisions, but not otherwise regulated under the permit, and the emissions resulting from those modifications;

C. a requirement that the permittee retain written records of all monitoring data and support information for five years, or longer as specified by the commissioner, from the date of the monitoring sample, measurement, or report. Support information includes all calibration and

maintenance records, all original recordings for continuous monitoring instrumentation, and copies of all reports required by the permit. Records must be kept at the stationary source unless the permit allows otherwise; and

D. a requirement that the permittee retain copies of deviation reports required by subpart 6 for five years, or longer if requested by the commissioner, from the date the report is submitted to the commissioner.

Subp. 6. Reporting.

A. The permit must require the permittee to submit to the commissioner the reports described in this subpart. The permit must require that all reports be certified by a responsible official, consistent with part 7007.0500, subpart 3.

B. Deviation reporting time frames are described in subitems (1) and (2).

(1) For deviations that endanger human health or the environment, the permit must require the permittee to notify the commissioner as required in part 7019.1000, subpart 1.

(2) For all other deviations, the permit must require the permittee to submit a deviation report, on a form approved by the commissioner, at least semiannually. The report is due whether or not a deviation occurred during the reporting period. The midyear deviations report, covering deviations that occurred from January 1 to June 30, is due by July 30 each year and the end-of-year deviations report, covering deviations that occurred from July 1 to December 31, is due by January 30 each year.

C. All part 70 permits must require the permittee to submit progress reports at least every six months for any stationary source required to have a compliance schedule under part 7007.0500, subpart 2, item K, subitem (5). The progress reports must contain the deadlines for achieving the activities, milestones, or compliance required in the compliance schedule and dates when the activities, milestones, or compliance were actually achieved. If any deadlines in the schedule of compliance were not or will not be met, the report must note that, explain why, and include any preventive or corrective measures that have been or will be adopted as a result.

D. The permit must require submitting an annual compliance certification by January 31 each year. The certification must be on a form approved by the commissioner and must contain the following:

- (1) the facility name and permit number;
- (2) identification of the calendar year that the report covers;
- (3) identification of deviation reports covering the calendar year including the name of report (i.e., DRF-1 or DRF-2), the period covered by the report, and the date of the cover letter accompanying the report;
- (4) identification of any noncompliance with applicable requirements or a permit condition that has not been identified in deviation reports covering the calendar year;

- (5) a certification that meets the requirements of part 7007.0500, subpart 3;
- (6) the signature and title of a responsible official; and
- (7) additional requirements as may be specified under sections 114(a)(3) and 504(b) of the act.

E. To make the compliance certifications under item D, the owner or operator is allowed to use the following:

- (1) a monitoring protocol approved for the source according to Code of Federal Regulations, title 40, part 64, as amended; and
- (2) any other monitoring method incorporated into a permit issued under this chapter.

F. For deviations caused by emergencies, as defined in part 7007.1850, the permittee may assert an affirmative defense only if it meets all the requirements of part 7007.1850.

Subp. 7. Stationary sources with allowances.

A. For affected sources, the commissioner must include a permit condition prohibiting emissions exceeding any allowances that the owners and operators of a stationary source lawfully hold under Title IV of the act or the regulations adopted thereunder, except as provided in items B to D.

B. No permit amendment is required for increases in emissions that are authorized by allowances acquired under the acid rain program, provided that the increases do not require a permit amendment under any other applicable requirement.

C. There is no limit on the number of allowances held by the owners and operators of a stationary source. The owners and operators of a stationary source must not, however, use allowances as a defense to noncompliance with any other applicable requirement.

D. Any lawfully held allowance must be accounted for according to the procedures established in Code of Federal Regulations, title 40, part 73, as amended.

Subp. 8. Fee requirement. The permit must require payment of annual fees by owners or operators of a stationary source required to pay annual fees due under part 7002.0025.

Subp. 9. Additional compliance requirements. All permits must contain the following elements with respect to compliance:

A. inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee must allow the commissioner, or the commissioner's authorized representative or agent, to:

- (1) enter upon the permittee's premises where the stationary source is located or activity is conducted, or where records must be kept under the conditions of the permit;
- (2) have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(3) inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit. For purposes of this subpart, reasonable times include any time that the stationary source is operating; and

(4) sample or monitor any substances or parameters at any location:

(a) at reasonable times, to ensure compliance with the permit or applicable requirements; or

(b) as otherwise authorized by the act or state law;

B. a schedule of compliance if one is required under part 7007.0500, subpart 2, item K, meeting the description of that part; and

C. provisions establishing the permit shield described in part 7007.1800.

Nothing in this subpart limits the commissioner's authority under Minnesota Statutes, section 116.091, section 114 of the act (Record keeping, Inspections, Monitoring, and Entry), or other law.

Subp. 10. Emissions trading.

A. If requested by a permit applicant, the commissioner must include provisions allowing the permittee to trade emissions increases and decreases that occur within the permitted facility. No Title I modification may be made using this provision, and the trade may not result in the exceedance of any facility-wide emission limit in the permit. The commissioner must make trading available to the permittee only if the commissioner determines that the following are true:

(1) the unit-specific limits above which the permittee wishes to increase emissions were established solely to keep the stationary source as a whole from being subject to an applicable requirement described in part 7007.0100, subpart 7, items A to K, and are independent of otherwise applicable requirements;

(2) the stationary source's total emissions can be limited equally well, and compliance with applicable requirements may still be ensured, by allowing the proposed trading scenario; and

(3) the permit establishes replicable procedures to ensure the emission trades are quantifiable and enforceable.

B. The permit must require the permittee to provide the commissioner in writing at least seven working days before making the emissions trade the written notification described in this item. The notice must:

(1) state when the trade will be made;

(2) describe the change in emissions that will result; and

(3) describe how these increases and decreases in emissions will comply with the terms and conditions of the permit.

The permittee and the commissioner must each append the notice to their copy of the stationary source's permit.

Subp. 11. **Alternative operating scenarios.** The commissioner must include in the permit terms and conditions allowing for reasonably anticipated alternative operating scenarios identified by the stationary source in its application. The terms and conditions must:

A. require the owners or operators of the stationary source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which the stationary source is operating; and

B. ensure that the operation under each alternative operating scenario complies with all applicable requirements and the requirements of parts 7007.0100 to 7007.1850.

Subp. 12. **Operation in more than one location.** If requested by the applicant, the permit may allow a stationary source to be operated in more than one location during the course of the permit. No affected source is allowed this option. If more than one location is authorized, the permit must include the following:

A. identification of all geographic areas where the stationary source is authorized to operate during the course of the permit;

B. conditions that will ensure compliance with all applicable requirements at all authorized locations;

C. requirements that the owner or operator notify the commissioner at least ten days in advance of each change in location, providing the exact location where the source will operate for all part 70 permits and at least 48 hours in advance of each change in location for all other state permits; and

D. conditions that ensure compliance with all other provisions of parts 7007.0100 to 7007.1850.

Subp. 13. **Permit duration.** Each permit must specify the duration of the permit or state that the permit is nonexpiring.

Subp. 14. **Operation of control equipment.** If the commissioner determines that the provisions would substantially improve the likelihood of future permit compliance, the permit may specify operating and maintenance requirements for each piece of control equipment located at the stationary source or require the permittee to maintain an operation and maintenance plan on site.

Subp. 15. **Terms to include in reissuance.** The permit must indicate the terms that must be included in any reissuance of the permit under part 7007.0450, subpart 3.

Subp. 16. **General conditions.** A permit issued by the commissioner under parts 7007.0100 to 7007.1850 must include the general conditions in items A to O, either expressly or by reference to this subpart.

A. Unchallenged provisions of this permit remain valid despite any successful challenges to specific portions of the permit.

B. The permittee must comply with all conditions of the permit. Any permit noncompliance constitutes a violation of state law and, if the provision is federally enforceable, of the act. Violation is grounds for:

- (1) enforcement action by the commissioner or the EPA;
- (2) permit termination, revocation and reissuance, or amendment; or
- (3) denial of a permit reissuance application.

C. It is not a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity to maintain compliance with the conditions of this permit.

D. This permit may be reopened and amended or revoked for cause as provided in parts 7007.1600 to 7007.1700. The filing of a request by the permittee for a permit amendment, revocation and reissuance, or termination or filing of a notification of planned changes or anticipated noncompliance does not stay any permit condition, except as specifically provided in part 7007.1450, subpart 7.

E. This permit does not convey any property rights of any sort or any exclusive privilege.

F. The permittee must furnish to the commissioner, within a reasonable time, any information that the commissioner may request in writing to determine whether cause exists for reopening and amending or revoking the permit or to determine compliance with the permit. Upon request, the permittee must also furnish to the commissioner copies of records required to be kept by the permittee.

G. The commissioner's issuance of a permit does not release the permittee from any liability, penalty, or duty imposed by Minnesota or federal statutes or rules or local ordinances, except the obligation to obtain the permit or as specifically provided in the permit shield provision and part 7007.1800.

H. The commissioner's issuance of a permit does not prevent the future adoption by the commissioner of pollution control rules, standards, or orders more stringent than those now in existence and does not prevent the enforcement of these rules, standards, or orders against the permittee.

I. The commissioner's issuance of a permit does not obligate the commissioner to enforce local laws, rules, or plans beyond that authorized by Minnesota statutes.

J. The permittee must at all times properly operate and maintain the facilities and systems of treatment and control and the appurtenances related to them that are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures.

K. The permittee may not knowingly make a false or misleading statement, representation, or certification in a record, report, plan, or other document required to be submitted to the commissioner by the permit. The permittee must immediately upon discovery report to the commissioner an error or omission in these records, reports, plans, or other documents. The permittee may not falsify, tamper with, render inaccurate, or fail to install any monitoring device or method required to be maintained or followed by the permit.

L. The permittee must, when requested by the commissioner, submit within a reasonable time any information and reports that are relevant to pollution or the activities authorized under the permit.

M. If the permittee discovers, through any means, including notification by the commissioner, that noncompliance with a condition of the permit has occurred, the permittee must immediately take all reasonable steps to minimize the adverse impact on human health or the environment resulting from the noncompliance.

N. The permit is not transferable to any person except as provided in part 7007.1400, subpart 1, item E.

O. The permit authorizes the permittee to perform the activities described in the permit under the conditions of the permit. In issuing the permit, the state and commissioner assume no responsibility for damages to persons, property, or the environment caused by the activities of the permittee in the conduct of the permittee's actions, including those activities authorized, directed, or undertaken under the permit. To the extent the state and commissioner may be liable for the activities of state employees, the liability is explicitly limited to that provided in the Tort Claims Act, Minnesota Statutes, section 3.736.

Statutory Authority: *MS s 115.03; 116.062; 116.07*

History: *18 SR 1059; 19 SR 1775; 20 SR 2316; 22 SR 1237; 37 SR 991; 41 SR 763; 44 SR 1030; 46 SR 1209; 50 SR 365; 50 SR 369*

NOTE: The proposed amendment to subpart 6, item F, at 49 SR 563 was vetoed by the governor at 50 SR 369.

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