

## **7007.1105 ELIGIBILITY FOR ENVIRONMENTAL MANAGEMENT SYSTEM (EMS) PROVISIONS IN STATE PERMITS.**

Subpart 1. **Eligibility for existing stationary sources.** If the commissioner determines that the owners and operators meet the requirements of items A and B, then the owners and operators of a stationary source applying for and qualifying for a state permit with the EMS provisions described in part 7007.1107, subparts 2 and 3, may request inclusion of the EMS provisions in its permit.

A. The owner or operator has implemented an ISO 14001-registered EMS at the stationary source, or has implemented an EMS conforming to the requirements of the ISO 14001 standard as determined by an EMS auditor.

B. The owners and operators have applied for a permit to establish facility-wide emission limits for the following pollutants, if they are emitted by the stationary source: NO<sub>x</sub>, SO<sub>2</sub>, PM, PM-10, CO, VOC, Pb, greenhouse gases, and hazardous air pollutants. The commissioner may establish emission limits for other regulated pollutants described under part 7007.0200, subpart 2, that are emitted by the stationary source.

Subp. 2. **Ineligibility for EMS provisions.** A stationary source is ineligible for the EMS provisions in part 7007.1107, subparts 2 and 3, if the commissioner determines the stationary source does not meet the conditions under subpart 1, item A, or for any of the grounds listed in part 7007.1000, subpart 2.

Subp. 3. **Transitional eligibility.** Owners and operators of a stationary source that has not been constructed at the time of application may apply prior to construction for a state permit that includes EMS provisions. Owners and operators of an existing stationary source that is applying for a new permit or renewing an existing permit and plan to implement an eligible EMS after permit application or issuance may also apply for a state permit that includes EMS provisions. In either case, the owners and operators must apply for a permit to establish facility-wide emission limits for the following pollutants, if they are emitted by the stationary source: NO<sub>x</sub>, SO<sub>2</sub>, PM, PM-10, CO, VOC, Pb, and hazardous air pollutants. The commissioner may establish emission limits for other regulated pollutants described under part 7007.0200, subpart 2, that are emitted by the stationary source. During the transitional period, the time between initial startup of the new stationary source and notification to the commissioner of its eligibility for the EMS provisions, or the time between an existing stationary source's permit issuance and its notification to the commissioner of its eligibility for the EMS provisions, the stationary source must comply with the customary permit conditions included in the permit. To establish eligibility for the EMS provisions after the transitional period, the stationary source must comply with items A to C.

A. The owner or operator must complete EMS development for the stationary source including at least one EMS audit within 365 days of initial start-up of the new stationary source, or within 365 days of permit issuance for the existing stationary source.

B. During the transitional period, summaries of EMS audit results must be sent directly to the commissioner by the EMS auditor within 45 days of the date the EMS audit was conducted at the stationary source.

C. The owner or operator must notify the commissioner after EMS audits of the full scope of the stationary source's EMS have been completed with no major nonconformances found and the summaries of EMS audit results have been submitted directly to the commissioner by the EMS auditor. The stationary source is eligible for the EMS provisions in part 7007.1107, subparts 2 and 3, seven working days after the notification is received by the commissioner, unless the commissioner denies the stationary source eligibility under subpart 2.

**Subp. 4. Grounds for loss of eligibility for EMS provisions.**

A. The stationary source is ineligible for the provisions described in part 7007.1107, subparts 2 and 3, if the stationary source no longer has an EMS as defined in part 7007.0100, subpart 9b. The owner or operator shall notify the commissioner in writing within seven working days upon learning that the stationary source no longer has an EMS as defined in part 7007.0100, subpart 9b. The owners and operators shall immediately comply with the customary permit conditions included in the permit.

B. If a major nonconformance is discovered during an EMS audit, a follow-up EMS audit must take place at the stationary source within six months of the date the EMS auditor discovered the major nonconformance, but the scope of the follow-up EMS audit may be limited to those owner or operator actions necessary to correct the major nonconformance. The EMS auditor shall send the commissioner a summary of the results of the audit discovering major nonconformance and the follow-up EMS audit within 45 days of their occurrence. The commissioner shall review the summaries of the EMS audit results and may determine the stationary source is no longer eligible for the EMS provisions if the EMS auditor found the same major nonconformance during the follow-up EMS audit. The owners and operators shall comply with the customary permit conditions upon receipt of written notification from the commissioner that the EMS provisions are no longer effective.

C. The commissioner may determine the stationary source is no longer eligible for the EMS provisions described in part 7007.1107, subparts 2 and 3, if the commissioner finds that unresolved noncompliance with applicable requirements or with the permit exists. If such a decision is made, the commissioner shall notify the owner or operator in writing that the EMS provisions of the permit are no longer effective and the stationary source shall comply with the customary permit conditions upon receipt of the commissioner's written notification.

Subp. 5. **Reinstating eligibility for EMS provisions.** If a stationary source loses eligibility for the EMS provisions under subpart 4, the owner or operator may reapply for eligibility by notifying the commissioner in writing that:

A. a period of one year has passed since the receipt of the ineligibility notification; and

B. following the stationary source's correction of the cause or causes of loss of eligibility for the EMS provisions, an EMS audit or EMS audits covering the full scope of the stationary source's EMS have been completed with no major nonconformances found and the summaries of EMS audit results have been submitted directly to the commissioner by the EMS auditor.

Subject to the commissioner's review of the summaries of EMS audit results, the commissioner shall notify the owner or operator in writing that the stationary source's eligibility for the EMS provisions has been reinstated effective the date of notification.

Subp. 6. **Change of ownership or control.** If there is a change of ownership or control at a stationary source, the stationary source may retain the EMS provisions in the permit if the full scope of the stationary source's EMS is audited no sooner than 12 or no later than 24 months of the date of change of ownership or control through one or more EMS audits. A summary of each EMS audit's results shall be sent directly from the EMS auditor to the commissioner within 45 days of completion of the EMS audit. The commissioner shall review the summary or summaries of EMS audit results. Based on that review, the commissioner shall determine whether the stationary source remains eligible under this part for the EMS provisions in its permit, and notify the stationary source of that determination in writing. If the commissioner determines the stationary source has lost eligibility for the EMS provisions, the stationary source shall comply with the customary permit conditions immediately upon receipt of the written notification.

Subp. 7. **Commissioner review of EMS auditor's documentation of findings.** The commissioner may request the owner or operator to provide the EMS auditor's documentation of findings when making the following determinations about a stationary source's eligibility for the EMS provisions:

- A. eligibility for existing stationary sources under subpart 1;
- B. ineligibility for EMS provisions under subpart 2;
- C. transitional eligibility under subpart 3;
- D. loss of eligibility under subpart 4;
- E. reinstating eligibility for EMS provisions under subpart 5; or
- F. change of ownership or control under subpart 6.

The owner or operator may request the commissioner to treat information submitted in the EMS auditor's documentation of findings as confidential by following the procedures established by part 7000.1300.

Subp. 8. **Stationary source notification of return to customary permit conditions.** The owner or operator may at any time notify the commissioner in writing that the stationary source will no longer operate under the EMS provisions and will instead comply with the customary permit conditions. This change of status is effective immediately upon the commissioner's receipt of the notification.

**Statutory Authority:** *MS s 116.07*

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