

7007.1600 PERMIT REOPENING AND AMENDMENT BY AGENCY.

Subpart 1. **Mandatory reopening.** The agency shall reopen and amend a permit when:

A. Additional federal applicable requirements become applicable to a stationary source with a remaining permit term of three or more years or with a permit which is nonexpiring. Such a reopening and amendment shall be completed not later than 18 months after promulgation of the federal applicable requirement. An affected permittee must submit a permit application as required under part 7007.0400, subpart 3, to provide the information needed to issue the amendment. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire.

B. Additional requirements, including excess emissions requirements, become applicable to an affected source under the acid rain program. Upon approval by the administrator, excess emissions offset plans shall be deemed to be incorporated into the permit.

C. The agency or the administrator determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards, limitations, or other terms or conditions of the permit.

D. The administrator or the agency determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

Subp. 2. **Nonmandatory reopening.** The agency may reopen and amend a permit when:

A. additional state applicable requirements become applicable to a permitted stationary source, and the effective date of the requirement is prior to the date on which the permit is due to expire;

B. alterations or modifications to the permitted facility will result in or have the potential to result in significant alteration of the nature or quantity of regulated air pollutants to be emitted by the permittee;

C. the commissioner of the agency receives information previously unavailable to the agency that shows that the terms and conditions of the permit do not accurately represent the actual circumstances relating to the permitted facility;

D. a court of competent jurisdiction invalidates or modifies a Minnesota or federal statute or rule or federal guideline upon which a condition of the permit is based;

E. an event occurs that is beyond the control of the permittee that necessitates modification of a compliance schedule in the permit; and

F. the commissioner finds that the permitted facility or activity endangers human health or the environment and that a change in the operation of the permitted facility or

in the conduct of the permitted activity would remove the danger to human health or the environment.

Subp. 3. **Reopening procedure.** To reopen and amend a permit, the agency shall follow the procedures that apply to major permit amendments under parts 7007.0100 to 7007.1850, unless the amendment can be made as an administrative amendment under part 7007.1400. During the reopening, the agency may only make those amendments to the permit which are related to the grounds for the reopening under subparts 1 and 2. Mandatory reopenings under subpart 1 shall be made as expeditiously as practicable. In lieu of an application, the major permit amendment process will commence when the agency gives the permittee written notice of its intent to amend the permit. The agency shall not issue the amendment, or make public notice of the amendment where public notice is required, until at least 30 days after the agency has given the permittee notice of its intent to amend the permit, unless the permittee consents to less notice, or in the case of an emergency. In cases where public participation is required, only those portions of the permit which the agency proposes to amend shall be open for public comment or consideration at a meeting or hearing.

Statutory Authority: *MS s 115.03; 116.07*

History: *18 SR 1059; 41 SR 763*

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