

CHAPTER 7007
MINNESOTA POLLUTION CONTROL AGENCY
PERMITS AND OFFSETS

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AIR EMISSION PERMITS

7007.0050 SCOPE.

Parts 7007.0100 to 7007.1850 apply to the issuance of permits to construct, modify, reconstruct, or operate emissions units, emission facilities, or stationary sources that emit any air pollutant, and to the

revocation, reissuance, or amendment of those permits. Parts 7007.0100 to 7007.1850 apply to permits issued to owners and operators of stationary sources requiring permits under federal law at Code of Federal Regulations, title 40, part 70, as amended (Operating Permit Program), or under part C (Prevention of Significant Deterioration of Air Quality) or part D (Plan Requirements in Nonattainment Areas) of the act, or under section 112(g)(2)(B) of the act (hazardous air pollutants), and to stationary sources requiring permits solely under state law. Owners and operators of sources proposing construction or modifications subject to parts C and D of the act are subject to the permitting requirements of part 7007.3000, incorporating by reference the provisions of Code of Federal Regulations, title 40, section 52.21, or parts 7007.4000 to 7007.4040 in addition to parts 7007.0100 to 7007.1850. Owners and operators proposing construction or reconstruction of sources subject to section 112(g)(2)(B) of the act are subject to the requirements of part 7007.3010, incorporating by reference the provisions of Code of Federal Regulations, title 40, sections 63.40 to 63.44, in addition to parts 7007.0100 to 7007.1850.

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7007.0100 DEFINITIONS.

Subpart 1. **Scope.** The definitions in this part apply to the terms used in parts 7007.0050 to 7007.1850. The definitions in parts 7000.0100 and 7005.0100 apply to the terms used in parts 7007.0050 to 7007.1800 unless the terms are otherwise defined in this part.

Subp. 2. **Act.** "Act" means the Clean Air Act, as amended, United States Code, title 42, section 7401, et seq., as amended.

Subp. 3. **Administrator.** "Administrator" means the administrator of the United States Environmental Protection Agency (EPA) or the administrator's designee.

Subp. 4. **Affected source.** "Affected source" means a source that includes one or more affected units.

Subp. 5. **Affected state.** "Affected state" means any state:

- A. whose air quality may be affected and that is contiguous to Minnesota; or
- B. that is within 50 miles of the permitted source.

Subp. 6. **Affected unit.** "Affected unit" means an emissions unit that is subject to any acid rain emissions reduction requirement or acid rain emissions limitation under title IV of the act (Acid Deposition Control) and rules promulgated thereunder.

Subp. 7. **Applicable requirement.** "Applicable requirement" means all the following as they apply to emissions units in a stationary source (including requirements that have been promulgated or approved by the EPA or the commissioner through rulemaking at the time of issuance but have future effective compliance dates):

- A. any standard, or other requirement provided for in Minnesota's implementation plan approved or promulgated by the EPA under title I of the act (Program and Activities), including any revisions to that plan promulgated in Code of Federal Regulations, title 40, part 52, as amended (Approval and Promulgation of Implementation Plans);

B. any preconstruction review requirement of regulations promulgated under title I of the act, including part C (Prevention of Significant Deterioration of Air Quality), part D (Plan Requirements for Nonattainment Areas), or section 112(g)(2)(B) (construction or reconstruction of major source of hazardous air pollutants) and the emission facility offset rule in parts 7007.4000 to 7007.4030, and any term or condition of any preconstruction permit issued pursuant to those regulations or parts 7007.4000 to 7007.4030;

C. any standard or other requirement under section 111 (Standard of Performance for New Stationary Sources of the Act, including section 111(d)) (Standards of Performance for Existing Sources; Remaining Useful Life of a Source);

D. any standard or other requirement for hazardous air pollutants, or other requirement under section 112 of the act (Hazardous Air Pollutants), including any requirement concerning accident prevention under section 112(r)(7) of the act;

E. any standard or other requirement of the acid rain program under title IV of the act, or the regulations promulgated under it;

F. any requirements established pursuant to section 504(b) (Permit Requirements and Conditions; Monitoring and Analysis) or section 114(a)(3) (Record keeping, Inspections, Monitoring, and Entry; Authority of Administrator or Authorized Representative) of the act;

G. any standard or other requirement governing solid waste incineration, under section 129 (Solid Waste Combustion) of the act;

H. any standard or other requirement for consumer and commercial products, under section 183(e) (Federal Ozone Measures; Control of Emissions from Certain Sources) of the act;

I. any standard or other requirement for tank vessels under section 183(f) (Federal Ozone Measures; Tank Vessel Standards) of the act;

J. any standard or other requirement of the regulations promulgated to protect stratospheric ozone under title VI of the act (Stratospheric Ozone Protection), unless the administrator has determined that such requirements need not be contained in a part 70 permit;

K. any national ambient air quality standard adopted under section 109 of the act (National Primary and Secondary Air Quality Standards) or increment or visibility requirement under part C of title I of the act (Prevention of Significant Deterioration of Air Quality), but only as it would apply to temporary sources permitted pursuant to section 504(e) of the act (Permit Requirements and Conditions; Temporary Sources);

L. any national ambient air quality standard adopted under section 109 of the act or increment or visibility requirement under part C of title I of the act not addressed in item K;

M. any state ambient air quality standard under chapter 7009;

N. any requirement to pay an emissions fee under part 7002.0025;

O. any standard or other requirement of the air pollution episodes rule in parts 7009.1000 to 7009.1110;

P. any standard or other requirement pursuant to the Standards of Performance for Stationary Sources under chapter 7011;

Q. any standard or other requirement regulating a specific hazardous pollutant under chapter 7011;

- R. any reporting, monitoring, and testing requirement for stationary sources under chapter 7017;
- S. any requirement under the emissions inventory provisions of chapter 7019;
- T. any standard or other requirement of the acid deposition control rule under chapter 7021;
- U. any standard or other requirement related to noise pollution under chapter 7030;
- V. any standard or other requirement established under section 169A (Visibility Protection for Federal Class I Areas) or 169B (Visibility) of the act including emission limits established in the determination of best available retrofit technology; and
- W. any standard or other requirement of the federal Clean Air Interstate Rule or a regulation adopted under it.

Subp. 7a. **Block average.** As used in air emission permits issued under this chapter, a "block average" is an average determined after the end of a specific time block, such as three hours, eight hours, or 24 hours, for that time block. The average is determined by summing all data points for the time period, and dividing the sum by the number of data points. For example, a daily-calculated, 24-hour block average is calculated by summing all one-hour data points from the previous 24-hour period, from midnight to midnight, and dividing the total by the number of data points. A new block average is recalculated for each discrete, nonoverlapping time block, unless specified otherwise in an applicable requirement or compliance document.

Subp. 7b. **Capped emission permit or capped permit.** "Capped emission permit" or "capped permit" means a state permit issued under parts 7007.1140 to 7007.1148. All capped permit requirements are contained in rule. There are no site-specific permit requirements. The capped permit allows owners and operators of a stationary source to make changes provided emissions remain below thresholds and all other conditions in parts 7007.1140 to 7007.1148 are met. The permit is designed for certain noncomplex facilities for which site-specific conditions are not necessary.

Subp. 7c. **CO₂ equivalent emissions or CO₂e.** "CO₂ equivalent emissions" or "CO₂e" has the meaning given under subpart 24a.

Subp. 7d. **Customary permit conditions.** "Customary permit conditions" means the permit conditions related to amendments, deviation reporting, and calculation frequency that are included in a state permit with environmental management systems (EMS) provisions and are applicable if the owners and operators of a stationary source are establishing or have lost eligibility for the EMS provisions.

Subp. 8. **Designated representative.** "Designated representative" means a responsible natural person authorized by the owners and operators of an affected source and of all affected units at the source, as evidenced by a certificate of representation submitted in accordance with Code of Federal Regulations, part 72, subpart B, as amended (Acid Rain Program Permits Regulation), to represent and legally bind each owner and operator, as a matter of federal law, in matters pertaining to the acid rain program under title IV of the act.

Subp. 8a. **Deviation.** "Deviation" means any noncompliance with an applicable requirement or permit condition.

Subp. 9. **Draft permit.** "Draft permit" means the version of the permit which the agency offers for public participation under part 7007.0850 and, in the case of a state permit, to the administrator for review in compliance with part 7007.0950.

Subp. 9a. **Emission point.** "Emission point" means the stack, chimney, vent, or other functionally equivalent opening whereby emissions are exhausted to the atmosphere.

Subp. 9b. **Environmental management system or EMS.** "Environmental management system" or "EMS" means an ongoing program of planning, implementing, reviewing, and improving the actions at a stationary source that the owner or operator takes to meet its environmental obligations and legal requirements, and to improve environmental performance, as measured by pollutants emitted or discharged, waste generated, or other objective measures. An EMS for a stationary source conforms to the requirements of the ISO 14001 standard, "Environmental management systems - Specification with guidance for use" published by the International Organization for Standardization (ISO), 2004. An EMS for a stationary source is either registered to the ISO 14001 EMS standard by a certification body accredited by the ANSI-ASQ National Accreditation Board (ANAB), or is an EMS that conforms to the requirements of the ISO 14001 EMS standard as determined by an EMS auditor.

Subp. 9c. **EMS audit.** "EMS audit" means a systematic, independent, and documented verification process, conducted by an EMS auditor, objectively obtaining and evaluating evidence to determine whether a stationary source's EMS conforms to the requirements of the ISO 14001 EMS standard. EMS audits meet the requirements of:

- A. ISO 19011: Guidelines for quality and/or environmental management systems auditing, ISO, 2002;
- B. ISO/International Electrotechnical Commission (IEC) Guide 66: General requirements for bodies operating assessment and certification/registration of environmental management systems, ISO, 1999;
- C. IAF Guidance on the Application of ISO/IEC Guide 66, International Accreditation Forum (IAF), 2003; and
- D. Advisories, ANSI-ASQ National Accreditation Board (ANAB).

The full scope of the stationary source's EMS is audited in a two-year period.

Subp. 9d. **EMS auditor.** "EMS auditor" means a person certified as an EMS lead auditor by RABQSA International (RABQSA) to conduct ISO 14001 EMS audits who is not an owner, operator, or employee of the stationary source or a subsidiary, division, or subdivision of an owner, operator, or employee of the stationary source. Other than previous EMS audits, an EMS auditor shall not have provided EMS or other environmental consulting services to the audited stationary source within the two years prior to the EMS audit.

Subp. 9e. **EMS auditor's documentation of findings.** "EMS auditor's documentation of findings" means any of an EMS auditor's records of evidence of conformance or nonconformance with the requirements of the ISO 14001 EMS standard collected and verified in the course of an EMS audit. Sources of information leading to verified evidence may include, but are not limited to, interviews, observations, and reviews of electronic databases, documents, records, reports from external sources, and the owner or operator's performance analysis or internal audits.

Subp. 9f. **EMS provisions.** "EMS provisions" means the requirements in part 7007.1107, subparts 2 and 3, which are alternatives to customary permit conditions. An owner or operator with an environmental management system may apply to have the EMS provisions included in its state permit.

Subp. 10. **Environmental Protection Agency or EPA.** "Environmental Protection Agency" or "EPA" means the United States Environmental Protection Agency.

Subp. 11. **Final permit.** "Final permit" means the version of permit issued by the agency pursuant to the procedures in parts 7007.0100 to 7007.1850.

Subp. 12. **General permit.** "General permit" means a permit issued pursuant to the requirements of part 7007.1100.

Subp. 12a. **Hazardous air pollutant or HAP.** "Hazardous air pollutant" or "HAP" means any air pollutant listed in section 112(b) of the act.

Subp. 12b. **Listed control equipment.** "Listed control equipment" has the meaning given in part 7011.0060, subpart 4.

Subp. 12c. **Major nonconformance.** "Major nonconformance" means a failure to establish, implement, or maintain a numbered element of the ISO 14001 EMS standard that has the potential to cause a violation of regulatory, legal, or other environmental requirements. This definition applies to owners and operators of a stationary source applying for or holding a state permit that includes EMS provisions. A major nonconformance is identified by an EMS auditor.

Subp. 13. **Major source.** "Major source" means a stationary source as defined in part 7007.0200, subpart 2.

Subp. 14. **Modification.** "Modification" means:

- A. any change that constitutes a title I modification, as defined in subpart 26; or
- B. any physical change or change in the method of operation of an emissions unit, emission facility, or stationary source that results in an increase in the emission of a regulated air pollutant. Emissions are considered to increase if there is an increase in the rate of emissions of any regulated air pollutant, or new emissions of a regulated air pollutant not previously emitted, from any unit at the source. To determine if there is an increase in the rate of emissions, the agency shall compare the pounds per hour of emissions at maximum capacity before and after the physical or operational change, using the method of calculation described in part 7007.1200. Subitems (1) to (5) are not, by themselves, considered modifications under this definition:

- (1) a physical change or a change in the method of operation that is explicitly allowed under a permit, or allowed under a court order, consent decree, stipulation agreement, schedule of compliance, or order issued by the agency if the document states that no permit amendment is required;

- (2) routine maintenance, repair, and replacement;

- (3) an increase in production rate of an existing emissions unit if that increase is not in violation of a permit condition, applicable requirement, court order, consent decree, stipulation agreement, schedule of compliance, or order issued by the agency;

- (4) an increase in the hours of operation that does not increase the rate of emissions and is not in violation of a permit condition, applicable requirement, court order, consent decree, stipulation agreement, schedule of compliance, or order issued by the agency; and

- (5) use of an alternative fuel if the source is ordered to switch fuels by the state or federal government.

Subp. 15. **Part 70 permit.** "Part 70 permit" means a permit issued under part 7007.0200 and Code of Federal Regulations, title 40, part 70, as amended (Operating Permit Program).

Subp. 16. **Part 70 permit program.** "Part 70 permit program" means a program for issuance, amendment, and reissuance of part 70 permits in Minnesota approved by the administrator.

Subp. 17. **Permit.** "Permit" means any permit issued under parts 7007.0100 to 7007.1850, including part 70 permits, state permits, registration permits, and general permits.

Subp. 18. **Proposed permit.** "Proposed permit" means the version of a part 70 permit that the agency proposes to issue and forwards to the administrator for review in compliance with part 7007.0950.

Subp. 18a. **Registration permit.** "Registration permit" means a permit issued under parts 7007.1110 to 7007.1130.

Subp. 19. **Regulated air pollutant.** "Regulated air pollutant" means the following:

- A. nitrogen oxides (NO_x) or any volatile organic compound;
- B. any pollutant for which a state or national ambient air quality standard has been promulgated;
- C. any pollutant that is subject to any new source performance standard promulgated under section 111 of the act;
- D. any class I or II substance listed pursuant to section 602 of the act (Stratospheric Ozone Protection; Listing of class I and class II Substances);

E. any pollutant subject to a standard promulgated under section 112 or other requirements established under section 112 of the act (Hazardous Air Pollutants), including sections 112(g)(2)(B) (construction or reconstruction of major source of hazardous air pollutants), 112(j) (Equivalent Emission Limitation by Permit), and 112(r) (Prevention of Accidental Releases), including the following:

(1) any pollutant subject to requirements under section 112(j) of the act. If the administrator fails to promulgate a standard by the date established pursuant to section 112(e) of the act (Schedule for Standards and Review), any pollutant for which a subject source would be major shall be considered to be regulated on the date 18 months after the applicable date established pursuant to section 112(e) of the act; and

(2) any pollutant for which the requirements of section 112(g)(2)(B) (construction or reconstruction of a major source of hazardous air pollutants) of the act have been met, but only with respect to the individual source subject to the section 112(g)(2)(B) requirement; or

F. greenhouse gases as defined in part 7005.0100, subpart 11d.

Subp. 20. **Reissuance.** "Reissuance" means the process by which a permit is reissued at the end of its term.

Subp. 21. **Responsible official.** "Responsible official" means one of the following:

A. For a corporation: a president, secretary, treasurer, or vice-president of the corporation in charge of a principal business function, or any other person who performs similar policy or decision-making functions for the corporation, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and either:

(1) the facilities employ more than 250 persons or have gross annual sales or expenditures exceeding \$25,000,000 (in second quarter 1980 dollars); or

(2) the delegation of authority to such representatives is approved in advance by the agency.

B. For a partnership or sole proprietorship: a general partner or the proprietor, respectively, or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more manufacturing, production, or operating facilities applying for or subject to a permit and the delegation of authority to a representative is approved in advance by the agency.

C. For a municipality, state, federal, or other public agency: either a principal executive officer or ranking elected official or a duly authorized representative of such person if the representative is responsible for the overall operation of one or more facilities applying for or subject to a permit and the delegation of authority to a representative is approved in advance by the agency. For the purposes of this part, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (for example, a regional administrator of EPA).

D. For affected sources:

(1) The designated representative is the responsible official insofar as actions, standards, requirements, or prohibitions under title IV of the act or the regulations promulgated under it are concerned.

(2) The designated representative may also be the responsible official for any other purposes under parts 7007.0100 to 7007.1850.

Subp. 21a. **Rolling average.** As used in air emission permits issued under this chapter, a "rolling average" is an average determined once each specified time frequency, such as daily or monthly, for a specific time period, such as 30 days, 12 months, or 365 days. The average is calculated by summing all data points for the time period and dividing the total by the number of data points. For example, a daily-calculated, 365-day rolling average is calculated once each day by summing all daily data points from the previous 365 days, and dividing by the number of data points. A new rolling average is recalculated for each time frequency, unless specified otherwise in an applicable requirement or compliance document.

Subp. 21b. **Rolling sum.** As used in this chapter and in air emission permits issued under this chapter, a "rolling sum" is a sum determined once each specified time frequency, such as daily or monthly, for a specific time period, such as 30 days, 12 months, or 365 days. The sum is determined by adding all time-frequency data points determined at the specified frequency for the time period. For example, a 12-month rolling sum is calculated once each month by summing the monthly emission data from the previous 12 months. A new rolling sum is recalculated for each time frequency, unless specified differently in an applicable requirement or compliance document.

Subp. 22. **State.** "State" means the state of Minnesota.

Subp. 23. **State permit.** "State permit" means a permit issued under part 7007.0250.

Subp. 24. **Stationary source.** "Stationary source" has the meaning given it in part 7005.0100, subpart 42c.

Subp. 24a. **Subject to regulation.** "Subject to regulation" means, for any air pollutant, that the pollutant is subject to either a provision in the Clean Air Act or a nationally applicable regulation codified by the administrator in Code of Federal Regulations, title 40, chapter I, subchapter C (Air Programs), that requires actual control of the quantity of emissions of that pollutant and the control requirement has taken effect and is operative to control, limit, or restrict the quantity of emissions of that pollutant released from the regulated activity, except that greenhouse gases (GHGs) as defined under part 7005.0100, subpart 11d, are

not subject to regulation unless, as of July 1, 2011, the GHGs emissions are at a stationary source emitting or having the potential to emit 100,000 tons per year (tpy) CO₂ equivalent emissions. "CO₂ equivalent emissions" or "CO₂e" represent an amount of GHGs emitted and that are computed by multiplying the mass amount of emissions for each of the six greenhouse gases in the pollutant GHGs, by the gas's associated global warming potential under Table A-1 to subpart A of Code of Federal Regulations, title 40, part 98, Global Warming Potentials, as amended, and summing the resultant value for each to compute emissions as CO₂e.

Subp. 24b. **Summary of EMS audit results.** "Summary of EMS audit results" is a document signed by an EMS auditor, describing the date and scope of the audit, and conformance, minor nonconformance, or any major nonconformance found in the course of an EMS audit. For major nonconformance, the summary of EMS audit results summarizes the objective evidence found by the EMS auditor, describes corrective actions planned or completed by the owners and operators of the stationary source, and details follow-up audit activity planned or completed by the EMS auditor.

Subp. 25. **Title I condition.** "Title I condition" means one of the following types of permit conditions based on requirements of title I of the act:

A. any condition based on a requirement of a new source review program under part C (Prevention of Significant Deterioration of Air Quality) or part D (Plan Requirements for Nonattainment Areas) or a preconstruction review program under section 112(g)(2)(B) (construction or reconstruction of a major source of hazardous air pollutants) of the act and implementing state rules or federal regulations;

B. any condition based on a source-specific determination of ambient impacts imposed for the purpose of achieving or maintaining attainment with a national ambient air quality standard and which was part of a state implementation plan approved by the EPA or submitted to the EPA and pending approval under section 110 of the act;

C. any condition for which there is no corresponding underlying applicable requirement and that the owners and operators of the stationary source have assumed to avoid being subject to a new source review program under part C (Prevention of Significant Deterioration of Air Quality) or part D (Plan Requirements for Nonattainment Areas) or a preconstruction review program under section 112(g)(2)(B) of the act or implementing state rules or federal regulations; and

D. any condition which is part of a plan approved by the EPA or submitted to the EPA and pending approval under section 111(d) (Standards of Performance for New Stationary Sources) or section 129 (Solid Waste Combustion) of the act.

Subp. 26. **Title I modification.** "Title I modification" means any change that constitutes any of the following:

A. Construction or reconstruction of a major hazardous air pollutant source as defined in Code of Federal Regulations, title 40, section 63.41, as amended, or any other rules adopted by the administrator under section 112(g)(2)(B) of the act.

B. A new source review modification: major modification as defined in Code of Federal Regulations, title 40, section 52.21(b)(2) or 51.165(a)(1)(v), as amended, or any other rules adopted by the administrator under part C or D of the act.

C. A new source review major stationary source: a modification at a stationary source that is not an existing major stationary source where the modification by itself would exceed major stationary source thresholds as defined in Code of Federal Regulations, title 40, section 52.21(b)(1)(i).

D. A new source performance standards modification: any modification as defined in Code of Federal Regulations, title 40, section 60.14, as amended, or any other rules adopted by the administrator under section 111 of the act.

E. A hazardous air pollutant modification: any modification as defined in Code of Federal Regulations, title 40, section 61.15, as amended, or any other rules adopted by the administrator under section 112 of the act.

F. Plantwide applicability limit (PAL) establishment, renewal, or increase: establishment, renewal, or increase in emissions of an actual PAL as defined in Code of Federal Regulations, title 40, section 51.165, paragraph (f), or 52.21, paragraph (aa), as amended, or in any other rules adopted by the administrator under part C or D of the act.

G. Any other change that constitutes a modification under any provision of title I of the act.

Subp. 27. **Transition period or transition.** "Transition period" or "transition" means the time period from October 18, 1993, until three years after EPA grants full program approval as determined in Code of Federal Regulations, title 40, section 70.4(e).

Subp. 28. [Repealed, 23 SR 2224]

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7007.0150 PERMIT REQUIRED.

Subpart 1. Prohibition.

A. No person may construct, modify, reconstruct, or operate an emissions unit, emission facility, or stationary source until plans for it have been submitted to the agency and a written permit for it has been granted by the agency. Exceptions to the requirement to obtain a permit are located in part 7007.0300. Exceptions to the requirement to obtain a permit amendment are located in parts 7007.1250 and 7007.1350.

B. Requirements related to greenhouse gases for the timing to construct modifications are as follows:

(1) if, on July 1, 2011, owners or operators held a part 70 or state air emission permit or compliance schedule that was issued before July 1, 2011, and that authorizes or allows a pending modification, the owners and operators may not begin actual construction of any modification until the owners and operators assess the emissions of GHGs as CO₂e under Code of Federal Regulations, title 40, section 52.21; and

(2) if the permit or compliance schedule issued before July 1, 2011, does not address the requirements for GHGs under Code of Federal Regulations, title 40, section 52.21, and emissions are above the GHG threshold, the owners and operators must submit a new application and receive a new permit or schedule before construction can begin.

C. Owners or operators must retain records on site of the owners' or operators' determination under item B of CO₂e emissions related to a modification for five years from the date of the calculation or until July 1, 2016, whichever is sooner, if the following conditions apply:

- (1) the owners or operators held a permit or compliance schedule issued before July 1, 2011, that included a pending modification;
- (2) the owners or operators made calculations of CO₂e related to the pending modification by June 30, 2012; and
- (3) the owners and operators did not submit a new permit application to address GHG emissions from the pending modification.

D. Items B and C do not apply to stationary sources that are covered by registration permits under parts 7007.1110 to 7007.1130 or capped permits under parts 7007.1140 to 7007.1147.

E. By July 1, 2011, an owner or operator holding any existing part 70 or state facility permit must calculate whether the facility's potential to emit greenhouse gases meets or exceeds the permit threshold for greenhouse gases in part 7007.0200, subpart 2.

(1) If the potential to emit greenhouse gases as CO₂e does not exceed the permit threshold for greenhouse gases, the owner or operator must retain records of the calculation on site until January 2, 2016.

(2) If the potential to emit greenhouse gases as CO₂e exceeds the permit threshold for greenhouse gases, then the owner or operator must notify the Pollution Control Agency by June 30, 2011, if the facility can retain its current permit or submit an application by July 1, 2012, to revise the permit.

Subp. 2. **Permit required.** Part 7007.0200 describes which emission facilities, emissions units, and stationary sources in Minnesota are required to obtain a part 70 permit. Part 7007.0250 describes which emission facilities, emission units, and stationary sources in Minnesota are required to obtain a state permit. Part 7007.0300 describes emission units and stationary sources in Minnesota that are not required to obtain a permit. Part 70 and state permits required in parts 7007.0200 and 7007.0250 may alternately be obtained in the form of a general permit, if available, under part 7007.1100. Permits may also alternately be obtained in the form of a registration permit under parts 7007.1110 to 7007.1130, if the stationary source qualifies under those parts; or in the form of a capped permit under parts 7007.1140 to 7007.1148, if the stationary source qualifies under those parts.

Subp. 3. **Environmental policy act.** The requirements of parts 7007.0100 to 7007.1850 are in addition to the applicable requirements of Minnesota Statutes, chapter 116D, which may apply before a permit can be issued.

Subp. 4. **Calculation of potential to emit.**

A. For purposes of parts 7007.0200 and 7007.0250, the owners and operators of a stationary source shall calculate the stationary source's potential to emit using the definition in part 7005.0100, subpart 35a, except as provided in subitems (1) to (4).

(1) Emissions caused by activities described in subpart 2 of the insignificant activities list in part 7007.1300 shall not be considered in the calculation of potential emissions.

(2) Emissions caused by activities described in subpart 3 of the insignificant activities list in part 7007.1300 shall be considered in the calculation of potential emissions if required by the agency under part 7007.0500, subpart 2, item C, subitem (2).

(3) Emissions caused by any conditionally insignificant activity must be considered in the calculation of potential emissions if required by the agency under part 7007.0500, subpart 2, item C, subitem (2).

(4) If a stationary source consists in part of emissions units that could have qualified as a conditionally exempt stationary source under chapter 7008 but for the presence of other noneligible emissions units, potential emissions caused by emissions from those units may be based on the limits imposed under chapter 7008 provided that general and technical standards of chapter 7008 are met with regard to those emissions units.

Calculations of emissions under this subpart are only intended to determine if a permit is required.

B. To make the determination of whether a permit is required, the owners and operators of a stationary source shall use the potential to emit calculation method described in item A. To determine what type of permit is required, if a permit is required, the control equipment efficiency determined by part 7011.0070 for listed control equipment at a stationary source may be used in calculating emissions if the owner or operator is in compliance with parts 7011.0060 to 7011.0080.

C. When calculating emissions to determine if a permit amendment is required, the calculation method stated in part 7007.1200 shall be used.

Subp. 5. **Variations from federal requirements.** The agency shall not issue variances from any federal requirement to obtain an air quality permit, unless explicitly authorized to do so in writing by the administrator. Nothing in parts 7007.0100 to 7007.1850 shall allow a variance from federal applicable requirements as defined in part 7007.0100, subpart 7, items A to K.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059; 19 SR 1345; 20 SR 2316; 21 SR 165; 22 SR 1237; 27 SR 1579; 29 SR 626; 37 SR 991*

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7007.0200 SOURCES REQUIRED OR ALLOWED TO OBTAIN A PART 70 PERMIT.

Subpart 1. **Part 70 permit required.** The owners and operators of any emission facilities, emission units, and stationary sources described in subparts 2 to 5 must obtain a part 70 permit from the agency. All provisions of parts 7007.0100 to 7007.1850 apply to part 70 permits unless the provision states that it applies only to state permits, registration permits, capped permits, or general permits. If the owners and operators of a stationary source are required to obtain a part 70 permit by subpart 2, item B or C, the owners and operators shall also separately determine under subpart 2, item A, if the stationary source is a major source subject to major source requirements under section 112 of the act.

Subp. 2. **Major sources.** Any "major source," which means any stationary source that is described in item A, B, or C, must obtain a permit under this part.

A. A major source under section 112 of the act (Hazardous Air Pollutants), which is defined as:

(1) For pollutants other than radionuclides, any stationary source that emits or has the potential to emit, in the aggregate, ten tons per year or more of any hazardous air pollutant which has been listed pursuant to section 112(b) of the act, 25 tons per year or more of any combination of such hazardous air pollutants, or such lesser quantity as the administrator may establish by rule.

(2) Notwithstanding subitem (1), emissions from any oil or gas exploration or production well (with its associated equipment) and emissions from any pipeline compressor or pump station shall not be aggregated with emissions from other similar units, whether or not such units are in a contiguous area or under common control, to determine whether such units or stations are major sources.

(3) For radionuclides, major source shall have the meaning specified by the administrator by rule.

B. A major stationary source of air pollutants, as defined in section 302 of the act (General Provisions; Definitions), that directly emits or has the potential to emit, 100 tons per year or more of any air pollutant (including any major source of fugitive emissions of any such pollutant, as determined by rule by the administrator) and, effective July 1, 2011, 100,000 tons per year CO₂e of greenhouse gases. The fugitive emissions of a stationary source shall not be considered in determining whether it is a major stationary source for the purposes of section 302(j) of the act, unless the stationary source belongs to one of the following categories of stationary sources:

- (1) coal cleaning plants (with thermal dryers);
- (2) kraft pulp mills;
- (3) Portland cement plants;
- (4) primary zinc smelters;
- (5) iron and steel mills;
- (6) primary aluminum ore reduction plants;
- (7) primary copper smelters;
- (8) municipal incinerators capable of charging more than 250 tons of refuse per day;
- (9) hydrofluoric, sulfuric, or nitric acid plants;
- (10) petroleum refineries;
- (11) lime plants;
- (12) phosphate rock processing plants;
- (13) coke oven batteries;
- (14) sulfur recovery plants;
- (15) carbon black plants (furnace process);
- (16) primary lead smelters;
- (17) fuel conversion plants;
- (18) sintering plants;
- (19) secondary metal production plants;
- (20) chemical process plants;
- (21) fossil-fuel boilers (or combination thereof) totaling more than 250,000,000 British thermal units per hour heat input;
- (22) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;

- (23) taconite ore processing plants;
- (24) glass fiber processing plants;
- (25) charcoal production plants;
- (26) fossil-fuel-fired steam electric plants of more than 250,000,000 British thermal units per hour heat input; or
- (27) all other stationary source categories regulated by a standard promulgated under section 111 or 112 of the act.

C. A major stationary source as defined in part D of title I of the act (Plan Requirements for Nonattainment Areas) including:

(1) for ozone nonattainment areas, stationary sources with the potential to emit 100 tons or more per year of volatile organic compounds or oxides of nitrogen in areas classified as marginal or moderate, 50 tons or more per year in areas classified as serious, 25 tons or more per year in areas classified as severe, and ten tons or more per year in areas classified as extreme; except that the references in this unit to 100, 50, 25, and ten tons per year of nitrogen oxides shall not apply with respect to any stationary source for which the administrator has made a finding, under section 182(f)(1) or (2) of the act, that requirements under section 182(f) of the act do not apply;

(2) for ozone transport regions established pursuant to section 184 of the act, stationary sources with the potential to emit 50 tons or more per year of volatile organic compounds (VOC's);

(3) for carbon monoxide nonattainment areas that are classified as serious and in which stationary sources contribute significantly to carbon monoxide levels as determined under rules issued by the administrator, stationary sources with the potential to emit 50 tons or more per year of carbon monoxide; and

(4) for particulate matter (PM-10) nonattainment areas classified as serious, stationary sources with the potential to emit 70 tons or more per year of PM-10.

Subp. 3. **Affected sources.** An affected source, as defined in part 7007.0100, subpart 4, must obtain a permit under this part.

Subp. 4. **Solid waste incinerators, waste combustors.** A solid waste incineration unit, or waste combustor as defined in part 7011.1201, subpart 46, must obtain a permit under this part if it is:

- A. a major source under subpart 2;
- B. required to obtain a permit under section 129(e) of the act (Solid Waste Combustion, Permits); or
- C. a new or existing waste combustor for which a performance standard has been promulgated under section 129(a)(1) of the act.

Subp. 5. **Other part 70 sources.** Another stationary source which the administrator requires by rule to obtain a permit in compliance with Code of Federal Regulations, title 40, part 70, as amended (Operating Permit Program) must obtain a permit under this part. Stationary sources which the EPA administrator may require by rule to obtain a part 70 permit include those described in Code of Federal Regulations, title 40, section 70.3(b)(1), as amended.

Subp. 6. **Sources allowed to obtain a part 70 permit.** A stationary source not already required to obtain a part 70 permit under subparts 1 to 5 which is subject to a standard, limitation, or other requirement

under section 111 or 112 of the act, including area sources, may choose to obtain a part 70 permit under subpart 2.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059; 18 SR 2584; 19 SR 1345; 20 SR 2316; 28 SR 1482; 29 SR 626; 37 SR 991*

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7007.0250 SOURCES REQUIRED TO OBTAIN A STATE PERMIT.

Subpart 1. **State permit required.** The owners and operators of stationary sources described in this part must obtain a state permit from the agency under this part. All provisions of parts 7007.0100 to 7007.1850 apply to state permits unless the provision states that it applies only to part 70 permits, general permits, capped permits, or registration permits.

Subp. 2. **NSPS/NESHAP state permits.** Owners and operators of a stationary source must obtain a permit under this part if:

A. the stationary source contains an affected facility, as that term is defined in Code of Federal Regulations, title 40, section 60.2, as amended, that is subject to a standard under Code of Federal Regulations, title 40, part 60, as amended (Standards of Performance for New Stationary Sources); or

B. the stationary source is subject to a standard under Code of Federal Regulations, title 40, part 61, as amended (National Emission Standards for Hazardous Air Pollutants).

Subp. 3. **SIP required state permit.** Owners and operators of a stationary source must obtain a permit under this part if the agency notifies the owners and operators that such a permit is needed as part of a state implementation plan to be submitted to the EPA to demonstrate attainment with a national ambient air quality standard.

Subp. 4. **PTE threshold required state permit.** Owners and operators of a stationary source must obtain a permit under this part if the source has the potential to emit any pollutant listed below at a rate equal to or greater than the following amounts, in tons per year:

Pollutant	Threshold
Lead	0.5 tons per year
SO ²	50.0 tons per year
PM-10	25.0 tons per year
VOCs	100.0 tons per year

Subp. 5. **Part 70 permits.** Part 7007.0250 does not apply to owners and operators of a stationary source that are required to or choose to obtain a part 70 permit under part 7007.0200. However, owners and operators of a stationary source that would otherwise be required to obtain a part 70 permit under part 7007.0200 may avoid that requirement by obtaining a state permit under this part which contains federally enforceable conditions to limit its emissions to levels below those that would trigger the requirement to obtain a part 70 permit.

Subp. 6. **Waste combustors.** Owners and operators of a waste combustor, as defined in part 7011.1201, must obtain a permit under this part unless the waste combustor is:

- A. a Class IV waste combustor located at a hospital; or
- B. a waste combustor subject to the exemptions in part 7011.1215, subpart 3.

Notwithstanding the exemptions in items A and B, owners and operators of a Class IV waste combustor that does not comply with the stack height requirements of part 7011.1235, subpart 1, but uses alternative techniques to achieve equivalent ambient pollution concentrations, must obtain a permit under this part. The permit obtained shall not be a registration permit under parts 7007.1110 to 7007.1130.

Subp. 7. **Registration permits.** Owners and operators of a stationary source that are required to obtain a state permit from the agency under this part, or that choose to obtain a state permit to limit the stationary source's emissions to levels below those that would trigger the requirement to obtain a part 70 permit, may elect to instead obtain a registration permit under parts 7007.1110 to 7007.1130, if the stationary source qualifies under those parts.

Subp. 8. **Capped permits.** Owners and operators of a stationary source that are required to obtain a state permit from the agency under this part, or that choose to obtain a state permit to limit the stationary source's emissions to levels below those that would trigger the requirement to obtain a part 70 permit, may elect to instead obtain a capped permit under parts 7007.1140 to 7007.1148, if the stationary source qualifies under those parts.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059; 18 SR 2584; 19 SR 1345; 20 SR 2316; 29 SR 626; 37 SR 991*

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7007.0300 SOURCES NOT REQUIRED TO OBTAIN A PERMIT.

Subpart 1. **No permit required.** The owners and operators of the following stationary sources are not required to obtain a permit under parts 7007.0100 to 7007.1850:

- A. any stationary source that is not described in part 7007.0200, subparts 2 to 5, or 7007.0250;
- B. notwithstanding parts 7007.0200 and 7007.0250, any stationary source that would be covered by a permit solely because it is subject to one or more of the following new source performance standards:
 - (1) Code of Federal Regulations, title 40, part 60, subpart AAA, Standards of Performance for New Residential Wood Heaters (incorporated by reference at part 7011.2950);
 - (2) Code of Federal Regulations, title 40, part 60, subpart JJJ, Standards of Performance for Petroleum Dry Cleaners (incorporated by reference at part 7011.3250);
 - (3) Code of Federal Regulations, title 40, part 60, subpart Kb, Standards of Performance for Volatile Organic Liquid Storage Vessels (including Petroleum Liquid Storage Vessels) for Which Construction, Reconstruction or Modification Commenced after July 23, 1984 (incorporated by reference at part 7011.1520, item C), if all storage vessels subject to this standard at the stationary source each have a capacity greater than or equal to 40 cubic meters and less than 75 cubic meters;
 - (4) Code of Federal Regulations, title 40, part 60, subpart Dc, Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units (incorporated by reference at part

7011.0570), if all steam generating units subject to this standard at the stationary source are only capable of combusting natural gas or propane;

(5) Code of Federal Regulations, title 40, part 60, subpart IIII, Standards of Performance for Stationary Compression Ignition Internal Combustion Engines (incorporated by reference at part 7011.2305), if all engines subject to this standard at the stationary source each have a displacement less than 30 liters per cylinder and did not rely on performance testing of the affected unit to demonstrate compliance with the standard; and

(6) Code of Federal Regulations, title 40, part 60, subpart JJJJ, Standards of Performance for Stationary Spark Ignition Internal Combustion Engines (incorporated by reference at part 7011.2310), if all engines did not rely on performance testing of the affected unit to demonstrate compliance with the standard;

C. notwithstanding parts 7007.0200 and 7007.0250, any stationary source that would be covered by a permit solely because it is subject to Code of Federal Regulations, title 40, part 61, subpart M, National Emission Standard for Hazardous Air Pollutants for Asbestos, section 61.145, Standard for Demolition and Renovation, or 61.154, Standard for Active Waste Disposal Sites (incorporated by reference at part 7011.9920);

D. any stationary source with only emissions units listed as insignificant activities in part 7007.1300, subparts 2 and 3, and conditionally insignificant activities. The owner or operator must maintain records that demonstrate that a permit is not required. These records shall contain a list of all emissions units and the Minnesota Rules citation that defines those emissions units as an insignificant activity or conditionally insignificant activity. The records shall be permanently kept at the stationary source or a central office and be readily available for examination and copying by the commissioner or a representative of the commissioner;

E. a conditionally exempt stationary source; and

F. notwithstanding parts 7007.0200 and 7007.0250, any stationary source that would be covered by a permit solely because it is subject to one or more new source performance standards under Code of Federal Regulations, title 40, part 60, and that is subject only to the notification and record-keeping provisions of the applicable standards.

Subp. 2. [Repealed, 21 SR 165]

Statutory Authority: *MS s 116.07*

History: *18 SR 1059; 19 SR 1345; 20 SR 2316; 21 SR 165; 22 SR 1237; 23 SR 2224; 27 SR 1579; 28 SR 1482; 32 SR 904; 37 SR 991*

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7007.0325 BIOGENIC CARBON DIOXIDE EXCLUSION FROM APPLICABILITY THRESHOLDS.

Subpart 1. **Biogenic carbon dioxide exclusion.** To calculate the potential to emit GHGs as CO₂e for the purpose of determining the applicability of new source review/prevention of significant deterioration (NSR/PSD) and part 70 requirements, biogenic carbon dioxide shall not be included in the total amount of GHGs as CO₂e until the date on which biogenic carbon dioxide emissions must be included under federal law. Biogenic carbon dioxide emissions are carbon dioxide emissions resulting from the combustion or

decomposition of nonfossilized and biodegradable organic material originating from plants, animals, or microorganisms, including products, by-products, residues, and waste from agriculture, forestry, and related industries as well as the nonfossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of nonfossilized and biodegradable organic material.

Subp. 2. **Additional exclusions.** Until the date on which biogenic carbon dioxide emissions must be included under federal law in determining either the applicability of new source review/prevention of significant deterioration or part 70 requirements, biogenic carbon dioxide emissions are also excluded from:

A. emissions-increase calculations under parts 7007.0100, subpart 14, and 7007.1200, subpart 2 or 3;

B. recordkeeping for GHGs as CO₂e for stationary sources that are covered by general permits (part 7007.1100), registration permits (parts 7007.1110 to 7007.1130), and capped permits (parts 7007.1140 to 7007.1147); and

C. compliance reporting for registration permits under part 7019.3020, items B, C, and D, and for capped permits under part 7019.3020, item E.

Statutory Authority: *MS s 116.07*

History: *37 SR 991*

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7007.0350 EXISTING SOURCE APPLICATION DEADLINES AND SOURCE OPERATION DURING TRANSITION.

Subpart 1. **Transition applications under this part; deadline based on SIC code.** Initial permit applications under parts 7007.0100 to 7007.1850 for an emission unit, emission facility, or stationary source in operation on October 18, 1993, shall be considered timely if they meet the requirements of this part.

A. Owners and operators of an existing stationary source with a Standard Industrial Classification (SIC) Code number in the left column of the following table shall submit a permit application by the corresponding date in the right column:

Category	SIC Code Range	Application Deadline
A	0000 to 2399, excluding 1422, 1423, 1429, 1442, 1446, 2041, and 2048	January 15, 1995
B	2400 to 2999 and 4953, excluding 2951 and 2952	April 15, 1995
C	3000 to 4499	June 15, 1995
D	4500 to 5099, excluding 4953	September 15, 1995

E	5100 to 8199	December 15, 1995
F	8200 to 9999, including 1422, 1423, 1429, 1442, 1446, 2041, 2048, 2951, and 2952	February 15, 1996

B. If more than one SIC code describes activities at the stationary source, the SIC code that represents the primary type of activity of the stationary source shall be used. If no single SIC code represents the primary type of activity of the stationary source, the lowest SIC code that describes activities at the stationary source shall be used.

C. If a single owner or operator is responsible for filing applications for three or more stationary sources under this subpart, the owner or operator may request the agency to allow it to submit one or more of its applications according to a subsequent deadline of this subpart. Such a request shall be made by the owner or operator in writing no later than 60 days before the application deadline which the applicant is seeking to postpone. The agency shall approve in writing such requests if they more evenly distribute the owner's or operator's stationary sources among the application deadlines in item A.

D. An application date for a stationary source or group of stationary sources may be deferred by the commissioner under the following circumstances: a source or sources will soon be subject to a new federal requirement that will affect the source's application or the commissioner finds that it will reduce the agency's administrative burden by deferring the application deadline for sources required to obtain a state permit. The application dates for sources required to submit a part 70 permit application shall be deferred to a date no later than one year after the administrator grants part 70 program approval to Minnesota, and the application dates for sources required to submit a state permit application may not be deferred more than two years after EPA program approval. The source or sources are required to submit the permit application by the new date specified by the commissioner under this item.

E. The owners and operators of a stationary source must comply with the applicable deadline in this part, even though the stationary source may be operating under a permit issued by the agency under parts 7001.1200 to 7001.1220 (the permit rules in effect before October 18, 1993), and the permit is not due to expire until after the applicable deadline in this part. If a stationary source is operating under a permit issued by the agency under parts 7001.1200 to 7001.1220, and the permit expires after October 18, 1993, but before the applicable deadline, the owners and operators need not reapply before expiration of the permit, but shall comply with the applicable deadline in this part.

F. Except as provided in subitems (1) and (2), the agency waives its authority to take enforcement action against the owner or operator of a stationary source for failure to obtain a permit authorizing operation under parts 7001.1200 to 7001.1220, if the owners and operators file a timely and complete permit application under this part. This waiver does not apply to:

(1) an owner's or operator's failure to obtain a permit required under the federal preconstruction review programs of part C (Prevention of Significant Deterioration of Air Quality) or part D (Plan Requirements for Nonattainment Areas) of the act, or regulations promulgated under them; or

(2) an owner's or operator's failure to obtain an amendment under parts 7001.1200 to 7001.1220 for modifications to a stationary source for which a permit had been obtained under those parts.

Subp. 2. Compliance with permit or applicable requirements during transition.

A. If a stationary source is operating under an air emission permit issued by the agency under parts 7001.1200 to 7001.1220 which has not expired as of October 18, 1993, and if the permittee submits a

timely and complete application for reissuance under subpart 1, that permit shall be considered not to expire until a new permit is issued under parts 7007.0100 to 7007.1850. The preceding sentence also applies to stationary sources which have been operating under an air emission permit which was continued under part 7001.0160. The permittee shall continue to operate the stationary source in compliance with the terms of the existing permit and all applicable requirements.

B. If an owner or operator of a stationary source has filed an application for a permit but not yet received it, the stationary source shall be operated in compliance with all applicable requirements until the permit is issued.

Subp. 3. Application shield.

A. If an owner or operator of an emissions unit, emission facility, or stationary source in operation on October 18, 1993, submits an application that is timely under this part and complete under part 7007.0600, the continued operation of the stationary source pending agency review of the permit application is not a violation of part 7007.0150, subpart 1.

B. If after the completeness determination made pursuant to part 7007.0700, the applicant fails to submit, by the deadline specified in writing by the agency, any additional information identified as being needed to process the application, the protection provided in item A does not apply.

Subp. 4. Preservation of enforcement authority. The agency reserves its authority to take enforcement action against any source that violated the permitting requirements of parts 7001.1200 to 7001.1220 prior to their repeal or that violates any permit issued under those parts, except as provided under subpart 1, item E. Nothing in parts 7007.0100 to 7007.1850 shall be read to limit the administrator's authority to enforce parts 7001.1200 to 7001.1220 prior to their repeal or permits issued under those parts.

Subp. 5. Acid rain sources. Stationary sources subject to the requirement to obtain Phase II acid rain permits under title IV of the act shall submit permit applications or amendments to permit applications to the agency by January 1, 1996, for sulfur dioxide, and January 1, 1998, for nitrogen dioxide.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059; 19 SR 1345; 19 SR 1666; 20 SR 2316; 37 SR 991*

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7007.0400 PERMIT REISSUANCE APPLICATIONS AFTER TRANSITION; NEW SOURCE AND PERMIT AMENDMENT APPLICATIONS; TOTAL FACILITY APPLICATIONS FOR SOURCES NEWLY SUBJECT TO A PART 70 OR STATE PERMIT TOTAL FACILITY REQUIREMENT.

Subpart 1. Requirement for application. Applications for reissued permits after the transition period shall be considered timely if they meet the requirements of subpart 2. Applications for permits for new stationary sources or amendments shall be considered timely if they meet the requirements of subpart 3. An application for a total facility permit from owners and operators of a stationary source that, because of a modification or change at the stationary source, become subject to the requirement to obtain a part 70 or state permit for the first time after the application deadline in part 7007.0350, subpart 1, and that were issued a permit for the installation and operation of the change or modification under part 7007.0750, subpart 5, shall be considered timely if it meets the requirements of subpart 4.

Subp. 2. Permit reissuance after transition period. Stationary sources operating under permits issued by the agency under parts 7007.0100 to 7007.1850 shall apply for permit reissuance at least 180 days

before the expiration of the existing permit, unless the permit specifies that the application must be submitted sooner. The agency shall require in a permit that a reissuance application be submitted sooner if the agency determines that an earlier application is needed to minimize the possibility of expiration prior to reissuance. The agency may make this determination if it anticipates a relatively lengthy permit review process due to the complexity of the stationary source or anticipated involvement of the public. In no event shall the permit require application for reissuance sooner than nine months prior to the expiration of the permit.

Subp. 3. **New permits and amendments to existing permits.** Owners and operators seeking to obtain a new permit for a new stationary source or a permit amendment to an existing permit may submit the application at any time. It is recommended that the permit application for a new stationary source or an amendment be submitted at least 180 days before the planned date for beginning actual construction of the new stationary source or beginning actual construction of the modification of the existing stationary source, although the agency may take up to 18 months to take final action on the permit or major amendment under part 7007.0750, subpart 2. If the reason for the application for an amendment is the adoption of a new or amended federal applicable requirement, and the remaining life of the permit is three years or longer, the permittee shall file an application for an amendment within nine months of promulgation of the applicable requirement. The preceding sentence does not apply if the effective date of the requirement is later than the date on which the permit is due to expire.

Subp. 4. **Applications; newly subject to requirement to obtain part 70 or state total facility permit due to modification.** If a modification at an existing, unpermitted stationary source would make the source subject for the first time to the requirement to obtain either a part 70 or state total facility permit after the application deadline in part 7007.0350, subpart 1, and the agency issues a permit authorizing installation or operation of the modification under part 7007.0750, subpart 5, the owners and operators shall submit an application for a total facility permit:

A. within 180 days after commencing operation of the modification that triggered the permit requirement, if the owners and operators are applying for a state, registration, or general permit; or

B. within 365 days after commencing operation of the modification that triggered the permit requirement, if the owners and operators are applying for a part 70 permit.

Subp. 5. **Applications; newly subject to requirement to obtain part 70 or state total facility permit due to new regulations.** If a new regulation affecting a stationary source would make the source subject for the first time to the requirement to obtain a part 70 or state permit, the owners and operators shall submit an application for a total facility permit within 365 days of the effective date of the regulation.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059; 19 SR 1345; 23 SR 2224; 37 SR 991*

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7007.0450 PERMIT REISSUANCE APPLICATIONS AND CONTINUATION OF EXPIRING PERMITS.

Subpart 1. **Reissuance applications.** Permits being reissued are subject to the same procedural requirements that apply to initial permit application and issuance.

Subp. 2. **Title I conditions.** Any title I condition shall remain in effect without regard to permit expiration or reissuance, and shall be restated in the reissued permit.

Subp. 3. **Continuation of an expiring permit.** If the owner or operator of a stationary source has submitted a timely and complete application for reissuance of a permit, the permit shall not expire until the permit has been reissued or the reissuance has been denied, unless the agency determines that any of the following are true:

A. the permittee is not in substantial compliance with the terms and conditions of the expired permit or with a stipulation agreement or compliance schedule designed to bring the permittee in compliance with the permit;

B. the agency, as a result of an action or failure to act of the permittee, has been unable to take final action on the application on or before the expiration date of the permit; or

C. the permittee has submitted an application with major deficiencies or has failed to properly supplement the application in a timely manner after being informed of deficiencies.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

Published Electronically: *November 29, 2007*

7007.0500 CONTENT OF PERMIT APPLICATION.

Subpart 1. Standard application form and required information.

A. The applicant shall submit an application on a standard application form provided by the agency. The agency may create different forms for different types of stationary sources. Regardless of whether the particular information is required by a form, an applicant must include all information needed to determine the applicability of, or to impose, any applicable requirement, or to evaluate the emission fee amount required by chapter 7002.

B. For complicated stationary sources, the agency recommends but does not require that the applicant arrange for a preapplication meeting with the agency's air quality division. Small business stationary sources, as defined in Minnesota Statutes, section 116.96, subdivision 6, may seek assistance in preparing permit applications under the small business air quality compliance assistance act in Minnesota Statutes, sections 116.95 to 116.99.

C. In addition to the requirements of this part, applicants for permits subject to a new source review program under part C (Prevention of Significant Deterioration of Air Quality) or part D (Plan Requirements for Nonattainment Areas) of the act shall also comply with the application requirements of part 7007.3000 or parts 7007.4000 to 7007.4030, respectively.

D. Applicants for permits subject to preconstruction requirements under section 112(g)(2)(B) (construction or reconstruction of major source of hazardous air pollutants) of the act shall also comply with the application requirements of part 7007.3010, incorporating by reference the provisions of Code of Federal Regulations, title 40, sections 63.40 to 63.44.

E. An applicant is not required to show that its emissions do not cause a violation of ambient air quality standards, unless the agency notifies the applicant that such information is required, or unless the source is required to make such a showing under the preconstruction review requirements of part 7007.3000 or parts 7007.4000 to 7007.4030.

F. This part describes the standard information that will be required in a permit application. It does not limit the agency's statutory authority for requiring information in addition to that which is specifically listed.

Subp. 2. **Information included.** Applicants shall submit the following information as required by the standard application form:

A. Information identifying the stationary source and its owners and operators, including company name and address (and plant name and address if different from the company name), owner's name and agent, and contact telephone numbers including names of plant site manager or contact, and the person preparing the application if different.

B. A description of the stationary source's processes and products (by Standard Industrial Classification Code or SIC Code) including any associated with each alternate scenario identified by the stationary source.

C. The following emissions-related information:

(1) A permit application shall provide the information required by this part for every emissions unit within the stationary source, except as provided otherwise in subitems (2) to (11). Notwithstanding the first sentence, 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 application need only provide information for the emissions units regulated by those federal standards. All permit applications shall include information about fugitive emissions in the same manner as stack emissions, regardless of whether the stationary source category in question is included in the list of stationary sources contained in the definition of major source in part 7007.0200, subpart 2.

(2) The application need not include the information required by this part for any activity listed on the insignificant activities list in part 7007.1300 or for conditionally insignificant activities, except as provided in this subitem. The application shall include a list identifying any activity at the stationary source described in subparts 3 and 4 of the insignificant activities list and conditionally insignificant activities. If requested by the agency, the permittee shall provide a calculation of emissions from any activity described in subparts 3 and 4 of the insignificant activities list and conditionally insignificant activities. The agency shall request such a calculation if it finds that the emissions from those activities, in addition to other emissions from the stationary source, could make the stationary source subject to different applicable requirements under parts 7007.0100 to 7007.1850.

(3) A permit application shall identify and describe each emission point in sufficient detail to verify the applicability of all applicable requirements. This shall include the location of all emission points, and the location of all emissions units and processes venting through each emission point. In addition, if the exhaust gas flow rate and temperature, and the stack height and diameter of an emission point are needed to determine applicability of or show compliance with any applicable requirement, this information shall be provided. For stationary sources that are major sources of sulfur dioxide, particulate matter less than ten microns, or nitrogen oxides according to part 7007.0200, subpart 2, items B and C, the exhaust gas flow rate and temperature, and stack height and diameter shall be provided for all emission points of the pollutant or pollutants for which the source is major.

(4) The permit application shall specify the potential emissions, as defined in part 7005.0100, subpart 35a, in tons per year from the stationary source as a whole. These potential emissions shall be specified for each regulated air pollutant and each hazardous air pollutant that is not yet a regulated air pollutant, as defined in part 7007.0100, subparts 12a and 19, except that pollutants which are regulated

solely under section 112(r) of the act need not be included and pollutants regulated solely under section 602 of the act need not be included. Pollutants in part 7007.0325 are excluded until they must be included under federal law. In addition, for each emissions unit subject to an applicable requirement, the permit application shall specify, in tons per year, the potential emissions of the same pollutants referenced in the previous sentence. If the applicable requirement contains a standard reference test method which is to be used to establish compliance, the permit application shall specify the potential emissions in the same units as are used in the test method.

(5) The permit application shall also include the emission limits that will be imposed on the stationary source by applicable requirements.

(6) A permit application shall provide the information on actual emissions for the preceding calendar year required in this subitem. Notwithstanding the previous sentence, if actual emission data are not available for the preceding calendar year, the application shall provide an estimate of actual annual emissions required in this subitem.

(a) The permittee shall provide actual emission rates, in tons per year, of criteria pollutants and of greenhouse gases as CO₂e unless the permittee has submitted an emissions inventory as required by parts 7019.3000 and 7019.3010.

(b) For stationary sources that are major sources under part 7007.0200, subpart 2, the permittee shall provide actual emission rates, in total tons per year, or if emissions of a hazardous air pollutant are less than one ton per year, in pounds per year, of each hazardous air pollutant for the stationary source as a whole.

(7) A permit application shall include the following information to the extent it is emissions-related: fuels, fuel use, raw materials, production rates, and operating schedules.

(8) A permit application shall identify and describe all air pollution control equipment and compliance monitoring devices or activities. A permit application shall also contain the design operating efficiency of the air pollution control equipment. The permit application shall identify all air pollution control equipment located at the stationary source which the stationary source elects not to operate.

(9) A permit application shall describe any work practice or physical limitation on stationary source operation that affects emissions of regulated air pollutants.

(10) A permit application shall include additional information if required by any applicable requirements (such as information related to stack height limitations developed pursuant to section 123 of the act).

(11) A permit application must explain the means by which the emissions information in subitems (1) to (10) is gathered, and provide the calculations on which they are based.

D. The following information regarding applicable requirements and test methods:

(1) A permit application must include a complete listing of the citations and titles of all applicable requirements to which the permittee is subject. Citations must be to the latest codification of the regulatory requirements at the time of application.

(2) If the owners and operators of a stationary source are required to test the stationary source's emissions to determine compliance, a permit application must include either: a citation to a rule or regulation establishing the test method for measuring emissions or, if such a rule or regulation does not exist, a description of the method that the applicant believes is the appropriate method to measure emissions.

E. Other specific information that may be necessary to implement and enforce other applicable requirements or requirements of parts 7007.0100 to 7007.1850, or to determine the applicability of such requirements. The agency may request the applicant to provide such information in a supplemental submittal.

F. For part 70 permit applications only, an explanation of any proposed exemptions from otherwise applicable requirements.

G. The applicant may propose permit terms and conditions which would allow the permittee to trade emissions increases and decreases within the permitted facility. This trading option is available solely for purposes of complying with a federally enforceable emissions cap that is established in the permit independent of otherwise applicable requirements, under conditions in part 7007.0800, subpart 10. The application shall include proposed replicable procedures and permit terms that ensure the emissions are quantifiable and enforceable.

H. The applicant may request the agency to allow in the permit alternative operating scenarios. If such a request is made, the application shall provide all the information required by this part for each proposed scenario. This option is only available under the conditions in part 7007.0800, subpart 11.

I. The applicant may request the agency to allow in the permit for the stationary source to operate at more than one location during the term of the permit. This option is available only under the conditions in part 7007.0800, subpart 12.

J. For state permit applications only, a description of the compliance status of the stationary source with respect to all applicable requirements and the requirements of parts 7007.0100 to 7007.1850, and a description of the methods used to determine compliance, including a description of monitoring, record keeping, and test methods.

K. For part 70 permit applications only, a compliance plan that contains the following:

(1) A description of the compliance status of the stationary source at the time of application submittal with respect to all applicable requirements and the requirements of parts 7007.0100 to 7007.1850, and a description of the methods used to determine compliance, including a description of monitoring, record keeping, and test methods. The applicant shall identify in the description of compliance status any past modifications at the stationary source for which preconstruction review was required under section 112(g)(2)(B) (construction or reconstruction of major source of hazardous air pollutants) of the act and parts C and D of the act but was not done.

(2) For applicable requirements with which the stationary source is in compliance, a statement that the stationary source will continue to comply with such requirements.

(3) For applicable requirements that are known to become effective during the permit term, a statement that the stationary source will meet such requirements on a timely basis.

(4) For applicable requirements for which the stationary source is not in compliance at the time of application submittal, a proposed schedule of compliance. Such a schedule shall include a date specific schedule of remedial measures, including an enforceable sequence of actions with milestones, leading to compliance in the shortest reasonable period of time. The proposed schedule of compliance shall begin at the time of permit application, but the applicant may project its compliance status at the time the permit is expected to be issued. This compliance schedule shall resemble and be at least as stringent as that contained in any judicial consent decree, stipulation agreement, or administrative order to which

the stationary source is subject. The compliance schedule shall be supplemental to, and shall not sanction noncompliance with, the applicable requirements on which it is based.

L. For part 70 permit applications only, a proposed schedule for submitting progress reports under part 7007.0800, subpart 6, item B. The proposed schedule shall provide for reporting at least every six months for any stationary source required to have a compliance schedule under this subpart, or any stationary source required by an applicable requirement to monitor every six months or more often.

M. For part 70 permit applications only, a proposed schedule for submission of compliance certifications during the permit term, to be submitted no less frequently than annually. The schedule shall provide for more frequent compliance certifications if required by an applicable requirement.

N. If subject to the following laws, a statement of whether the stationary source has:

(1) prepared a pollution prevention plan and submitted a pollution prevention progress report to the commissioner as required by the Minnesota Toxic Pollution Prevention Act, Minnesota Statutes, sections 115D.07 and 115D.08; and

(2) submitted a toxic chemical release form as required by United States Code, title 42, section 11023.

Subp. 3. **Application certification.** A responsible official, as defined in part 7007.0100, subpart 21, shall sign and certify any application, report, or compliance certification submitted pursuant to parts 7007.0100 to 7007.1850 with regard to truth, accuracy, and completeness. This certification and any other certification required by parts 7007.0100 to 7007.1850 shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. This subpart shall be complied with by both the owner and the operator of the stationary source if they are not the same.

Subp. 4. **Title IV source application.** Affected sources shall use nationally standardized forms for acid rain portions of permit applications and compliance plans, as required by Code of Federal Regulations, title 40, part 72, as amended. The compliance plan content requirements of subpart 2 shall apply to the acid rain portion of the affected source's permit application, except as specifically superseded by Code of Federal Regulations, title 40, part 72, as amended.

Subp. 5. **Environmental review.** The applicant shall state in the application whether an environmental assessment worksheet or an environmental impact statement is required for the activity for which the permit is sought under Minnesota Statutes, chapter 116D, or implementing regulations, or under United States Code, title 42, sections 4331 et seq., as amended.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059; 19 SR 1345; 20 SR 2316; 21 SR 165; 22 SR 1237; 22 SR 2300; 27 SR 1579; 37 SR 991*

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7007.0501 ADDITIONAL CONTENTS REQUIRED IN A PERMIT APPLICATION FOR A WASTE COMBUSTOR.

Subpart 1. **Additional requirements.** In addition to the information required by part 7007.0500, a person who requests an air emission permit for a waste combustor subject to parts 7011.1201 to 7011.1285 shall submit to the commissioner the information required by subparts 2 to 7.

Subp. 2. **Information required.** The application must contain information describing the solid wastes to be combusted, the combustion system, and the method of operating the combustion system and must include the information in items A to E. The documents referred to in this subpart are incorporated by reference in part 7011.1205.

A. A current solid waste composition study, consisting of the results of an analysis of the solid wastes or mixtures of solid wastes to be combusted, which uses the sampling methods prescribed in "Test Methods for Evaluating Solid Waste," SW-846, or any other sampling method approved in writing by the commissioner. The commissioner shall approve a sampling method where the commissioner determines that the precision and accuracy of the method are equivalent to that of the method set forth in "Test Methods for Evaluating Solid Waste," SW-846.

The study shall include all of the analyses in subitems (1) to (4).

(1) A fractional analysis of the solid waste, including percentage by weight of combustible and noncombustible materials in the solid waste stream and a solid waste sort that identifies, at a minimum, the percent by weight of paper, cardboard, plastic, ferrous and nonferrous metals, solid wastes which contain mercury, glass, organic, and inorganic material in the solid waste stream. The fractional analysis shall identify recyclable and problem materials.

(2) A proximate analysis of the solid waste, which shall include the percentage of volatile matter, moisture content, ash content, and fixed carbon by difference. Analysis methods used to determine the proximate analysis of the solid waste shall be performed in accordance with ASTM methods E897, E790, and E830 for volatile matter, moisture content, and ash content, respectively.

(3) An ultimate analysis of the solid waste, which shall include the percentage of carbon, hydrogen, nitrogen, oxygen, sulfur, chlorine, and oxygen by difference. Analysis methods used to determine the ultimate analysis of the solid waste shall be performed in accordance with ASTM methods E777, E778, E775, and E776 for carbon and hydrogen, nitrogen, sulfur, and chlorine, respectively.

(4) The heat value of the solid waste. Analysis methods used to determine the heat value of the solid waste shall be performed in accordance with either ASTM E955 or any other analysis method approved in writing by the commissioner. The commissioner shall approve an analysis method where the commissioner determines precision and accuracy of the method are equivalent to that of the methods set forth in ASTM E955.

B. A detailed engineering description of each waste combustor unit, including:

(1) the manufacturer's name and model number, if determined at the time of application for an air emission permit;

(2) the type of combustion system;

(3) a description of the auxiliary fuel system, including the type and feed rate system controls available for the fuel systems and the number, size, and location of burners;

(4) the design capacity of each waste combustor unit;

(5) a description of solid waste handling and solid waste feed controls, including a description of the fuel feed equipment, automatic feed controls, shutoff devices, and the maximum feed rate for which the equipment was designed in pounds per hour;

(6) location and description of devices and controls which indicate temperature and air flow; and

(7) for waste combustors which combust solid waste with another fuel, other than the auxiliary fuel, a description of how solid waste and other fuels are combined.

C. A description of the site, including storage space for solid waste, noncombustible materials, chemicals, recyclables, the solid wastes not allowed to be combusted by part 7011.1220, and ash.

D. A description of the ash handling facilities, including on-site storage, and transport within the boundaries of the stationary source or emission facility.

E. If the unit load is measured using a method other than steam flow as allowed by part 7011.1260, subpart 3, item A, subitem (2), a description of the alternative method that meets part 7011.1265, subpart 4a.

Subp. 3. **Performance test data.** In applications for permit reissuance, the permit application shall contain summary performance test data collected under the requirements of part 7011.1270 which represent the current operating practices of the waste combustor.

Subp. 4. **Industrial solid waste management plan.** The application shall contain an industrial waste management plan in accordance with part 7011.1250.

Subp. 5. **Solid wastes which contain mercury.** The application for Class C, D, III, and IV waste combustors shall contain a plan to separate solid wastes which contain mercury in accordance with part 7011.1255.

Subp. 6. **Reducing the level of toxic contaminants in ash.** An application for waste combustors which will combust mixed municipal solid waste or refuse-derived fuel must contain the information described in items A and B.

A. The application shall describe the specific functions to be performed, activities to be undertaken, and the timing of these functions and activities to the maximum extent feasible and prudent, in order to:

(1) reduce the total content and leachable levels of toxic contaminants in ash, including, but not limited to, cadmium and lead;

(2) reduce the quantity of ash including, but not limited to, the amount of noncombustibles in the solid waste stream; and

(3) reduce the quantity of solid waste processing residuals that require disposal.

B. An applicant seeking reissuance of a permit to combust mixed municipal solid waste or refuse-derived fuel must provide, for each of the previous five years, the amount of waste combusted, the amount of flue gas conditioning chemicals used, and the amount of ash disposed. The ratio of ash generated less flue gas conditioning agents to waste combusted shall be computed for each of the previous five years. The application shall also include data on the constituents of the waste combustor's ash and how to further reduce the level of toxic contaminants in the ash.

Subp. 7. **Ash management plan.** The application shall include the applicant's plan for disposal of the ash generated by the waste combustor, treatment of water generated from quenching the ash at the facility, and any plans which the applicant has for ash utilization. The plans shall include the sites and processes for management and final disposal of the ash, and shall identify any permits the waste combustor owner needs to use each site or process, including permits for leachate treatment.

Subp. 8. **Class IV stack height.** Class IV applications shall include the applicant's design for installation and operation of equipment to achieve ambient pollutant concentrations that would have been achieved with the use of the minimum stack height required in part 7011.1235, subpart 1.

Statutory Authority: *MS s 116.07*

History: *18 SR 2584; 22 SR 1975*

Published Electronically: *November 29, 2007*

7007.0502 MERCURY EMISSIONS REDUCTION PLANS.

Subpart 1. **Statewide mercury air emissions goal.** The statewide mercury air emissions goal of 789 pounds per year from Minnesota sources, is to be achieved by December 31, 2025, as described in the agency's total maximum daily load study approved by the United States Environmental Protection Agency on March 27, 2007.

Subp. 2. **Applicability.** The owners or operators of an existing mercury emission source must comply with this part. For the purposes of this part, "existing mercury emission source" means that the owners or operators have been issued an air emission permit by the agency as of the effective date of this part. For initial applicability, owners or operators must calculate emissions following methods in part 7019.3030 for the calendar year preceding the effective date of this part. If, after the effective date of this part, the actual mercury emissions from the existing mercury emission source are below the threshold of three pounds per year or more for three consecutive years, then the stationary source is no longer considered a mercury emission source and is not subject to this part. The owner or operator must:

- A. retain records of the actual mercury emissions for the qualifying three years on site for five years from the date the determination was made;
- B. make the records available for inspection and submit the records, within specified timelines, upon request of the commissioner; and
- C. immediately resume compliance with applicable requirements for mercury emission sources if a physical or operational change causes the stationary source to again become a mercury emission source. Owners or operators must resubmit a mercury emissions reduction plan under subpart 3 within 12 months of again becoming a mercury emission source.

Subp. 3. **Mercury emissions reduction plan.** Owners or operators of an existing mercury emission source must prepare a mercury emissions reduction plan as described in this part unless the mercury emission source is:

- A. a mercury emission source subject to Minnesota Statutes, sections 216B.68 to 216B.688;
- B. a mercury emission source that is a stationary source that has only combustion devices and the combustion emissions of the source are from only natural gas, liquid propane gas, propane, or oil fuels;
- C. a mercury emission source subject to a performance standard for mercury in part 7011.0561 for electric generating units; parts 7011.1201 to 7011.1285 and 7011.1350 to 7011.1370 for waste combustors or incinerators; and part 7011.7050 or 7011.7055 for boilers, except that units subject to part 7011.7050 or 7011.7055 must also comply with subpart 6, item C, subitem (2);
- D. a mercury emission source that:

(1) holds a Minnesota industrial storm water multisector general permit as required by part 7090.3010;

(2) has a primary SIC code in Sector M or Sector N of the Minnesota industrial storm water multisector general permit;

(3) is required to prepare a mercury management plan under part 7090.3010; and

(4) is in compliance with the provisions of the mercury management plan; or

E. a mercury emission source that has an emissions limit or enforceable schedule of mercury reductions when the emissions limit or reductions are equal to or greater than those required in subpart 6. The emissions limit or enforceable schedule of mercury reductions may be in an air emission permit or an enforceable agreement that is in effect with the commissioner.

Subp. 4. Mercury emissions reduction plan; submittal deadlines.

A. The owners or operators of an existing mercury emission source that does not meet an exception under subpart 3 must prepare and submit a mercury emissions reduction plan to the commissioner no later than June 30, 2015, for approval and inclusion in a permit or other enforceable document, or as provided under item B.

B. The owners or operators of an existing mercury emission source that is a ferrous mining or processing facility must submit a mercury emissions reduction plan by December 30, 2018, for approval and inclusion in a permit or other enforceable document.

Subp. 5. Mercury emissions reduction plan elements and format.

A. The owners or operators of an existing mercury emission source must submit a mercury emissions reduction plan that complies with this item:

(1) the plan must be submitted in a format specified by the commissioner and must contain:

(a) a description of the specific control equipment, processes, materials, or work practices that will be employed to achieve the applicable control efficiencies, reductions, or allowable emissions and work practices listed in subpart 6 and a schedule for adopting the processes or installation of equipment;

(b) the mercury reduction, control efficiency, or emission rate that each emissions unit will achieve once the plan for that emissions unit is fully implemented;

(c) a description of how operating parameters will be optimized to maintain the mercury control efficiency in the plan;

(d) a proposed periodic monitoring and record-keeping system for proposed control equipment, processes, materials, or work practices or citation to an applicable requirement for monitoring and record keeping consistent with chapter 7017. An evaluation of the use of a continuous mercury emission monitoring system must be included in the plan;

(e) if the plan includes elements that meet the definition of a modification under part 7007.0100, subpart 14, or requires an air permit amendment or notification under part 7007.1150, a projected schedule for submitting the appropriate permit applications; and

(f) the date that the mercury reductions proposed in the plan will be demonstrated. This date must be no later than January 1, 2025, or as specified in subpart 6; or

(2) if the owner or operator determines that the mercury reductions listed in subpart 6, if applicable, are not technically achievable by the identified compliance date, the owners or operators may submit an alternative plan to reduce mercury emissions, in a format specified by the commissioner. The alternative plan must contain:

(a) the plan elements in item A, substituting the owners' or operators' proposed reduction for the requirements under subpart 6;

(b) a detailed explanation of why the mercury reductions listed in subpart 6 are not technically achievable;

(c) a demonstration that air pollution control equipment, work practices, or the use of alternative fuels or raw materials have been optimized such that the source is using the best controls for mercury that are technically feasible; and

(d) an estimate of the annual mass of mercury emitted under the requirements of subpart 6 and the proposed alternative plan.

B. The commissioner shall identify plan deficiencies and notify the owners or operators of the deficiencies.

Subp. 6. **Mercury control and work practices.** Unless the requirements of subpart 3 are met, the owners or operators of an existing mercury emission source that is in a source category listed in this subpart and required to submit a plan under subpart 4 must include in the plan the minimum mercury control requirements for source categories listed in this subpart.

A. For ferrous mining or processing:

(1) the plan must address the indurating furnace or kiln of a taconite processing facility or the rotary hearth furnace of a direct-reduced iron facility and must demonstrate that by January 1, 2025, mercury emissions from the indurating furnace or kiln or rotary hearth furnace do not exceed 28 percent of the mercury emitted in 2008 or 2010, whichever is greater. The commissioner shall determine the mercury emitted in 2008 and 2010. If the facility held a Minnesota Pollution Control Agency construction permit but was operating in 2010 at less than 75 percent of full capacity, the operating furnace must not exceed 28 percent of the mercury potential to emit included in the permit authorizing construction; and

(2) the plan may accomplish reductions as:

(a) 28 percent of 2008 or 2010 emissions for each furnace;

(b) 28 percent of 2008 or 2010 emissions across all furnaces at a single stationary source; or

(c) 28 percent of 2008 or 2010 emissions across furnaces at multiple stationary sources. Owners of the stationary sources must enter into an enforceable agreement as provided by Minnesota Statutes, section 115.071, subdivision 1, to reduce mercury emissions between the stationary sources. If this option is selected, the reduction plan must include the enforceable agreement. Execution of an enforceable agreement under this part does not relieve the owner or operator of the obligation to obtain a permit or permit amendment if otherwise required under this chapter.

B. For iron and steel melters, the plan must demonstrate that, by June 30, 2018, mercury emissions from the iron or steel melter shall not exceed 77×10^{-6} pounds of mercury per ton (35 milligrams per ton) of iron or steel produced. For purposes of this item:

(1) "iron or steel melter" means a stationary source where shredded motor vehicle scrap or other undifferentiated shredded ferrous scrap is melted to produce steel or iron products;

(2) "motor vehicle scrap" means vehicle or automobile bodies, including automobile body hulks, that have been processed through a shredder. Motor vehicle scrap does not include miscellaneous vehicle parts, such as wheels, bumpers, or other components that do not contain mercury switches; and

(3) "undifferentiated shredded ferrous scrap" means white goods or industrial equipment that has been processed through a shredder and the component parts were not separated and sorted prior to shredding.

C. For the purposes of this item, "boiler," "industrial boiler," "commercial boiler," and "institutional boiler" have the meanings given under Code of Federal Regulations, title 40, section 63.7575 or 63.11237, except that a waste heat boiler, process heater, electric generating unit as defined under part 7011.0561, subpart 2, and autoclave are excluded from the definition of boiler under this item. For industrial, commercial, and institutional (ICI) coal-fired boilers, the plan must demonstrate mercury emissions reductions of 70 percent from emissions calculated for initial applicability at each ICI coal-fired boiler with actual mercury emissions of five pounds per year or more. Initial applicability is calculated using the method described in subpart 2.

(1) A reduction plan under this part is not required if:

(a) actual mercury emissions from the ICI coal-fired boiler, considering existing controls, are less than five pounds per year; or

(b) actual mercury emissions from the ICI coal-fired boiler are greater than five pounds per year and 70 percent of the mercury present in the fuel when combusted is captured and not emitted.

(2) If the exemptions in subitem (1) are not met, the owner or operator must evaluate actual mercury emissions that will be achieved under the federal regulations incorporated under part 7011.7050 or 7011.7055 relative to the 70 percent reduction. If the emission limits, control equipment, or operating practices under the federal regulations do not achieve the 70 percent reduction, the owner or operator must ensure that by January 1, 2018, mercury emissions are reduced by at least 70 percent from the levels calculated for the initial applicability of this item.

D. For mercury emission sources with processes that individually emit three or more pounds of mercury per year and that are not otherwise identified in items A to C, owners or operators must submit a plan to the commissioner that shows that air pollution control equipment, work practices, or the use of alternative fuels or raw materials has been optimized such that the actual, annual amount of mercury emitted is reduced by 70 percent or greater from the input of mercury to the process or processes emitting mercury.

Subp. 7. **Posting of plans.** The commissioner shall electronically post the mercury emissions reduction plans submitted by the owners or operators of an existing mercury emission source on the agency's Internet site. A person may request to receive notification from the commissioner of plans received.

Subp. 8. **Mercury emissions reduction plan implementation.** The owner or operator must implement the mercury emissions reduction plan as approved by the commissioner. The owners or operators must submit annual progress reports to the commissioner by April 1 of each year starting with the year following plan approval until one full year after achievement of the reduction as described in the plan. The report must provide the status of facility modifications and actions taken in the preceding 12 months on each of the plan elements in subpart 5.

Subp. 9. Modifications of plans.

A. The owners or operators of an existing mercury emission source may request modification of the approved mercury emissions reduction plan or enforceable agreement by submitting a written request to the commissioner. The request must include:

- (1) a description of the modification;
- (2) reasons for the modification; and

(3) if the request is to modify the mercury reduction, the information required under subpart 5, item A, subitem (1), for the requested new reduction.

B. The owners or operators may not implement any proposed plan modifications until the commissioner approves the modification, issues an amended permit, or revises an enforceable agreement, as applicable.

Statutory Authority: *MS s 116.07*

History: *39 SR 386*

Published Electronically: *October 1, 2014*

7007.0550 CONFIDENTIAL INFORMATION.

A person may request the agency to treat information submitted under parts 7007.0100 to 7007.1850 as confidential by following the procedures established by part 7000.1300. Where the agency is required to submit information to the EPA, the confidentiality of that information will be governed by Code of Federal Regulations, title 40, part 2, as amended.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

Published Electronically: *November 29, 2007*

7007.0600 COMPLETE APPLICATION AND SUPPLEMENTAL INFORMATION REQUIREMENTS.

Subpart 1. **Complete application.** To be deemed complete, an application must provide all information required by part 7007.0500, except that an application for a permit amendment under parts 7007.1450 and 7007.1500 need supply information only if it is related to the proposed amendment. Information required under part 7007.0500 must be sufficient to evaluate the subject stationary source and its application and to determine all applicable requirements. The application shall also contain a certification from a responsible official consistent with part 7007.0500, subpart 3.

Subp. 2. **Duty to supplement or correct application.** Any applicant who fails to submit any relevant facts or who has submitted incorrect information in an application for a permit or permit amendment shall, upon becoming aware of such failure or incorrect submittal, promptly submit such supplementary facts or corrected information. In addition, an applicant must provide additional information as necessary to address any requirements that become applicable to the stationary source after the date it filed a complete application but prior to release of a draft permit.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

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7007.0650 WHO RECEIVES AN APPLICATION.

Subpart 1. **Applications submittal.** Permit applicants shall submit two printed copies of the complete application and all supplemental information requested by the agency to the information coordinator, Air Quality Division, Minnesota Pollution Control Agency. Upon request of the agency, the applicant shall submit additional copies of the application directly to the administrator, affected states, and other governmental entities with the legal right to review the application, or submit additional copies to the agency to be forwarded to these parties.

Subp. 2. **Computerized application submittal.** Applicants may in addition submit applications in computer-readable format specified by the agency, which may be through submission of a floppy disk or through electronic data submittal. If the information is submitted in computer-readable format, the agency may allow the applicant to submit fewer printed copies than required in subpart 1, however at least one copy of the application certification required by part 7007.0500, subpart 3, shall always be required to be provided on paper.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

Published Electronically: *November 29, 2007*

7007.0700 COMPLETENESS REVIEW.

A. Within one week of receipt of an application other than a minor amendment application, the agency shall notify the applicant in writing that it has received the application.

B. Within 60 days of receipt of an application other than a minor amendment application, the agency shall notify the applicant in writing of whether the application is complete. If the agency fails to make the completeness determination required above within the 60-day period, the application shall be deemed complete. A completeness determination under this subpart triggers timelines for permit issuance under part 7007.0750, retroactive to the date the complete application was received by the agency, but does not limit the agency's ability to request additional information.

C. If an application or a written request for an administrative amendment is incomplete, the agency shall identify the incomplete portions of the application or request and outline the actions needed to complete the application or request.

D. If, during processing of a permit application that has been deemed complete, a minor permit amendment application, or a written request for an administrative amendment, the agency determines that additional information is necessary to evaluate or take final action on that application or request, it may request such information in writing, and, after consultation with the applicant, set a deadline for a response. In the request for additional information, the agency shall briefly explain why the additional information is needed. If an applicant fails to respond to requests for additional information within the time period requested, the application or request shall be deemed incomplete. Applicants who have already made a

change or begun actual construction of a modification at a permitted facility under part 7007.1450, shall provide the additional information within the time period specified by the agency.

E. Items A and B do not apply to written requests for administrative amendments.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059; 23 SR 2224*

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7007.0750 APPLICATION PRIORITY AND ISSUANCE TIMELINES.

Subpart 1. **Prioritization of applications.** In deciding which permit applications to act on, the agency shall give priority to applications for construction or modification of a stationary source.

Subp. 2. **Application processing and issuance deadlines.**

A. Within 12 months of receiving a complete application for a permit to construct a new stationary source or for a major permit amendment to construct a modification, the agency shall have completed the public notice process and comment period required by part 7007.0850, unless the agency has denied the application. The agency shall take final action on the application within 60 days of the end of the public comment period if:

- (1) no meetings or hearings are requested under part 7007.0850, subpart 3, during the public comment period;
- (2) there is no substantial adverse public comment on the application; and
- (3) there is no substantial adverse EPA comment on the application.

If any of the circumstances in subitems (1) to (3) occur, the agency shall take final action on the application within 18 months of receiving the complete application.

B. Within six months of receiving a complete application for a moderate amendment to construct a modification for which the agency has decided to provide public notice under part 7007.0850, subpart 2, the agency shall have completed the public notice process and comment period, unless the agency has denied the application. The agency shall take final action on the permit within 60 days of the end of the public comment period if:

- (1) no meetings or hearings are requested under part 7007.0850, subpart 3, during the public comment period;
- (2) there is no substantial adverse public comment on the application; and
- (3) there is no substantial adverse EPA comment on the application.

If any of the circumstances in subitems (1) to (3) occur, the agency shall take final action within nine months of receiving the complete application.

C. The agency shall take final action on applications for permits or permit amendments not governed by items A and B within the period specified in this item. The agency shall take final action on such an application for a permit, permit reissuance, or major permit amendment within 18 months of receiving a complete application. The agency shall take final action on such an application for a minor permit amendment within 90 days of receiving a complete application or for a moderate permit amendment within six months of receiving a complete application, but not before the end of the administrator's 45-day

review period in the case of part 70 permits. The agency shall take final action on a written request for an administrative amendment within 60 days of receiving the complete request.

D. If the applicant is required to submit additional information under part 7007.0700, item D, and if the applicant takes more than 30 days to provide the information, the agency may extend a deadline under item A, B, or C by the amount of time it takes to provide the information. The agency may also extend the deadlines under items A, B, and C upon written request of the applicant.

E. Deadlines for agency action under this part may be extended as described in this item for permitting actions subject to environmental review under Minnesota Statutes, chapter 116D, and implementing regulations. If the prohibition on final governmental decisions under part 4410.3100 is in effect at any time 90 days prior to the deadline or later, the agency shall extend the deadline until 90 days after the prohibition ends.

F. The deadlines in this subpart do not apply to the extent they deviate from the requirements of federal regulations at Code of Federal Regulations, title 40, section 72.73, as amended (Acid Rain Permits Regulation).

Subp. 3. **Final action.** For purposes of this part and triggering judicial review, final agency action on a request or an application includes issuing the permit or amendment, denying the request or application, issuing a revised permit or amendment, or failing to take any of these actions by the deadline applicable under this part. However, the previous sentence shall not prevent the agency from issuing a permit or amendment or denying a request or application after a deadline has passed. If the agency denies the request or application it shall explain why. If the agency revises a proposed permit or amendment which has been subject to EPA review, it shall resubmit the amendment to the administrator.

Subp. 4. **Transition period.** The timelines in subpart 2, item C, do not apply to applications received prior to the date three years after EPA grants full program approval.

Subp. 5. **Modification (installation and operation) permits for stationary sources not previously required to obtain part 70 or state total facility permit.** The agency may issue permits authorizing a modification or change to a stationary source (an installation and operation permit) prior to issuance of an operating permit covering the entire stationary source (a total facility permit) if the agency finds:

A. the owners and operators have filed a complete application for the proposed modification or change;

B. the modification will subject the owners and operators of the stationary source to the requirement to obtain a permit for the first time;

C. the delay resulting from issuing the installation and operation permit and the total facility permit at the same time would cause undue economic hardship on the owners and operators of the stationary source; and

D. the agency has sufficient information about the entire stationary source to be able to comply with the requirements of part 7007.1000.

The requirements of parts 7007.0100 to 7007.1850 that apply to modifications to a stationary source with a total facility permit shall also apply to modifications authorized under this part. The owner or operator of a stationary source that obtains an installation and operation permit for a modification under item A, shall lose the right to operate the stationary source if the owners and operators fail to submit an application for a total facility permit in the time required by part 7007.0400, subpart 4, and shall be considered to be in violation of part 7007.0150, subpart 1.

Subp. 6. [Repealed, 22 SR 1237]

Subp. 7. Two-stage issuance of part 70 permits and part 70 permit amendments authorizing construction or modification.

A. If a part 70 permit or part 70 permit amendment authorizing construction or modification:

(1) is subject to the requirements of a new source review program under part C (Prevention of Significant Deterioration of Air Quality) or part D (Plan Requirements for Nonattainment Areas) of the act; or

(2) would include an enforceable limitation assumed to avoid being subject to a new source review program under part C or D of the act,

the agency shall send the permit to the permittee after all requirements of the new source review program have been satisfied or after all requirements to avoid applicability of new source review have been completed including any required notice and comment period. The agency shall at the same time notify the permittee in writing that those permit conditions required by the new source review program or developed to avoid applicability of new source review and designated as such by the agency in the permit or amendment, and only those conditions, shall be considered issued.

B. The agency shall issue the remaining permit conditions (those not issued under item A) after the EPA's 45-day review period described in part 7007.0950, and in compliance with all other applicable provisions of parts 7007.0100 to 7007.1850. If there is no change to the remaining permit conditions, the agency shall issue the remaining permit conditions by means of notifying the permittee in writing that the remaining permit conditions of the permit previously sent under item A shall be considered issued.

C. The permittee may begin actual construction and operation of a stationary source or modification upon issuance of the conditions under item A to the extent authorized by those conditions.

Subp. 8. Two-stage issuance of permits subject to section 112(g)(2)(B) requirements.

A. If a permit or permit amendment is subject to the requirements of section 112(g)(2)(B) of the act, the agency shall send the permit to the permittee after all requirements of the section 112(g)(2)(B) program have been satisfied. The agency shall at the same time notify the permittee in writing that those permit conditions required by the section 112(g)(2)(B) program and designated as such by the agency in the permit or amendment, and only those conditions, shall be considered issued.

B. The agency shall issue the remaining permit conditions (those not issued under item A) after the Environmental Protection Agency's 45-day review period described in part 7007.0950, and in compliance with all other applicable provisions of parts 7007.0100 to 7007.1850. If there is no change to the remaining permit conditions, the agency shall issue the remaining permit conditions by means of notifying the permittee in writing that the remaining permit conditions of the permit previously sent under item A shall be considered issued.

C. The permittee may begin actual construction and operation of a stationary source or modification upon issuance of the conditions under item A to the extent authorized by those conditions.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059; 19 SR 1345; 22 SR 1237; 22 SR 2300; 23 SR 2224; 37 SR 991*

Published Electronically: *January 24, 2013*

7007.0800 PERMIT CONTENT.

Subpart 1. **Scope.** The agency shall 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 shall specify and reference the origin of and the authority for each term or condition, and shall identify any difference in form from the requirement giving rise to the condition. Nothing in this part shall be read to limit the agency'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 shall include emissions limitations, operational requirements, and other provisions needed to ensure compliance with all applicable requirements at the time of permit issuance. The permit shall also include any condition the agency determines to be necessary to protect human health and the environment. The permit shall state that, where another applicable requirement of the act is more stringent than any applicable requirement of regulations promulgated under title IV of the act (Acid Deposition Control), both provisions shall be incorporated into the permit and shall be enforceable by the administrator.

Subp. 3. **Emissions units covered by permit.** The permit shall cover any emissions unit within the stationary source for which there is an applicable requirement, and any unit which the agency believes should be covered in order 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 shall only cover emissions units regulated by those federal standards. The permit shall 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 agency shall include the following monitoring requirements in all permits:

A. The permit shall 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 promulgated pursuant to 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 shall require the permittee to conduct periodic monitoring sufficient to determine whether the stationary source is in compliance with applicable requirements. The monitoring requirements shall be designed to yield reliable data from the relevant time period that are representative of the stationary source's operation, and shall 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 shall include monitoring requirements sufficient to determine whether a stationary source is in compliance with applicable requirements; if the agency finds that such 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 shall require the permittee to install, use, and maintain monitoring equipment or use monitoring methods.

Subp. 5. **Record keeping.** The permit shall 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 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 such analyses; and
- (6) the operating conditions existing at the time of sampling or measurement.

B. A requirement that the permittee maintain 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 changes.

C. A requirement that the permittee retain records of all monitoring data and support information for a period of 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 and all original recordings for continuous monitoring instrumentation, and copies of all reports required by the permit. Records shall be kept at the stationary source unless the permit allows otherwise.

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

Subp. 6. **Reporting.** The permit shall require the permittee to submit to the agency the reports described in this subpart. The permit shall require that all reports be certified by a responsible official consistent with part 7007.0500, subpart 3.

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

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

(2) For all other deviations, the permit shall 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 which occurred during the period from January 1 to June 30, is due by July 30 of each year and the end-of-year deviations report, covering deviations which occurred during the period from July 1 to December 31, is due by January 30 of each year.

B. All part 70 permits shall 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 (4). Such progress reports shall contain the deadlines for achieving the activities, milestones,

or compliance required in the compliance schedule and dates when such activities, milestones, or compliance were actually achieved. If any deadlines in the schedule of compliance were not or will not be met, the report shall note that, explain why, and include any preventive or corrective measures that have been or will be adopted as a result.

C. The permit shall require submittal of an annual compliance certification by January 31 of each year to the agency. In the case of part 70 permits, compliance certifications shall be submitted to the administrator as well as the agency, unless the administrator agrees that the submittals are not necessary. The certification shall be on a form approved by the commissioner and shall 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 submitted 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 submitted to the agency 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 as defined in part 7007.0100, subpart 21; and
- (7) additional requirements as may be specified pursuant to sections 114(a)(3) and 504(b) of the act.

Notwithstanding any other provision in an applicable requirement, for the purpose of submission of compliance certifications under this item, the owner or operator is not prohibited from using the following in addition to any specified methods:

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

D. All progress reports and compliance documents described in this subpart are available for public inspection and copying at the agency upon request, subject to the provisions of part 7000.1200 and Minnesota Statutes, chapter 13, and section 116.075.

E. 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, which includes notifying the agency within two working days of when the emission limitations were exceeded due to the emergency.

Subp. 7. **Prohibition on exceedance of allowances.** For affected sources, the agency shall 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 promulgated thereunder, except as follows:

A. No permit amendment shall be required for increases in emissions that are authorized by allowances acquired pursuant to the acid rain program, provided that such increases do not require a permit amendment under any other applicable requirement.

B. No limit shall be placed on the number of allowances held by the owners and operators of a stationary source. The owners and operators of a stationary source may not, however, use allowances as a defense to noncompliance with any other applicable requirement.

C. Any such allowance shall 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 shall 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 shall 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 shall allow the agency, or an authorized representative or agent of the agency, to perform the following:

(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, for the purposes of assuring 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 shall be read to limit the agency's authority under Minnesota Statutes, section 116.091, and 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 agency shall 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 agency shall make such trading available to the permittee only if it determines that all of 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 assured, 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 shall require the permittee to provide the agency in writing at least seven working days before making the emissions trade the written notification described in this item. The notice shall state when the trade will be made and describe the change in emissions that will result. The notice shall also describe how these increases and decreases in emissions will comply with the terms and conditions of the permit. The permittee and the agency shall each append the notice to its copy of the stationary source's permit.

Subp. 11. **Alternative scenarios.** Terms and conditions allowing for reasonably anticipated alternative operating scenarios identified by the stationary source in its application. Such terms and conditions shall:

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 such alternative 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 shall be allowed this option. If more than one location is authorized, the permit shall 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 assure compliance with all applicable requirements at all authorized locations;

C. requirements that the owner or operator notify the agency 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 assure compliance with all other provisions of parts 7007.0100 to 7007.1850.

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

Subp. 14. **Operation of control equipment.** If the commissioner determines that such 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 shall indicate the terms that must be included in any reissuance of the permit under part 7007.0450, subpart 3.

Subp. 16. **General conditions.** Permits issued by the agency under parts 7007.0100 to 7007.1850 shall include the following general conditions, 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 the state law and, if the provision is federally enforceable, of the act. Such violation is grounds for enforcement action by the agency or the EPA; or for permit termination, revocation and reissuance, or amendment; or for 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 in order 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 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 shall furnish to the agency, within a reasonable time, any information that the agency 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 shall also furnish to the agency copies of records required to be kept by the permittee.

G. The agency'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 agency's issuance of a permit does not prevent the future adoption by the agency 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 agency's issuance of a permit does not obligate the agency to enforce local laws, rules, or plans beyond that authorized by Minnesota statutes.

J. The permittee shall at all times properly operate and maintain the facilities and systems of treatment and control and the appurtenances related to them which 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 agency or to the commissioner by the permit. The permittee shall 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 shall, when requested by the commissioner, submit within a reasonable time any information and reports that are relevant to pollution or the activities authorized under this permit.

M. If the permittee discovers, through any means, including notification by the agency, that noncompliance with a condition of the permit has occurred, the permittee shall 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 agency assume no responsibility for damages to persons, property, or the environment caused by the activities of the permittee in the conduct of its actions, including those activities authorized, directed, or undertaken under the permit. To the extent the state and agency may be liable for the activities of its employees, that liability is explicitly limited to that provided in the Tort Claims Act, Minnesota Statutes, section 3.736.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059; 19 SR 1775; 20 SR 2316; 22 SR 1237; 37 SR 991*

Published Electronically: *January 24, 2013*

7007.0801 CONDITIONS FOR AIR EMISSION PERMITS FOR WASTE COMBUSTORS.

Subpart 1. **Additional permit conditions.** In addition to the conditions in part 7007.0800, an air emission permit for a waste combustor shall contain conditions as specified in subpart 2 or 3. In amending, modifying, or reissuing a waste combustor's air emissions permit which contains a provision that restricts mercury emissions from the facility, the commission shall, at a minimum, continue that permit restriction at the same level unless the applicant demonstrates that no good cause exists to do so.

Subp. 2. **Mixed municipal solid waste or refuse-derived fuel waste combustors.** An air emissions permit for a waste combustor combusting mixed municipal solid waste or refuse-derived fuel shall:

A. prohibit construction of the waste combustor unless the permittee has an ash management method approved by the commissioner;

B. prohibit operation until the ash management facility approved in item A is available to accept ash;

C. require measurement of the noncombustible fraction of solid waste;

D. provide a schedule for the testing of waste combustor ash as required in part 7035.2910;

E. require the implementation of an industrial waste management plan as described in part 7011.1250;

F. for Class C, D, III, and IV waste combustors, require the implementation of a plan as described in part 7011.1255 to identify, separate, and collect solid wastes which contain mercury before the mercury is combusted; and

G. include operating conditions that ensure that the facility will continue to emit mercury emissions less than 50 percent of the applicable standard if the waste combustor elects to conduct mercury emissions testing as allowed in part 7011.1270 and Minnesota Statutes, section 116.85. If the permit must be amended in order to include these conditions, the procedures of part 7007.1400 shall be used.

Subp. 3. **Waste combustors of nonmixed municipal solid waste.** An air emissions permit for a waste combustor which does not combust mixed municipal solid waste or refuse-derived fuel shall:

- A. prohibit initiation of operation of the waste combustor unless the permittee has an ash management plan approved by the commissioner;
- B. provide a schedule for testing of waste combustor ash;
- C. require the implementation of an industrial waste management plan as described in part 7011.1250;
- D. require the implementation of a plan as described in part 7011.1255 to identify, separate, and collect solid wastes which contain mercury before the mercury is combusted;
- E. for Class IV waste combustors, require the installation and operation of equipment necessary to achieve ambient pollutant concentrations that would have been achieved with the use of the minimum stack height required in part 7011.1235, subpart 1; and
- F. include operating conditions that ensure that the facility will continue to emit mercury emissions less than 50 percent of the applicable standard if the waste combustor elects to conduct annual mercury emissions testing as allowed in part 7011.1270 and Minnesota Statutes, section 116.85. If the permit must be amended in order to include these conditions, the procedures of part 7007.1400 shall be used.

Statutory Authority: *MS s 116.07*

History: *18 SR 2584; 22 SR 1975*

Published Electronically: *November 29, 2007*

7007.0850 PERMIT APPLICATION NOTICE AND COMMENT.

Subpart 1. **Technical support document.** For part 70 permits, the agency shall develop a statement that sets forth the legal and factual basis for the draft permit conditions, including references to the applicable statutory or regulatory provisions. The agency shall send this statement to the EPA and to any other person who requests it.

Subp. 2. **Public notice and comment.**

- A. The agency shall comply with the following procedures before issuing, reissuing, or making a major amendment to any part 70 permit.
 - (1) The agency shall give notice:
 - (a) by publication in a newspaper of general circulation in the area where the stationary source is located;
 - (b) in a list provided to the public by the agency upon request;
 - (c) to persons on a mailing list developed by the agency, including those who request in writing to be on the list; and
 - (d) by other means if necessary to assure adequate notice to the affected public.
 - (2) The notice shall identify the name and location of the facility to be permitted; the name and address of the permittee; the name and address of the agency; the activity or activities involved in the permit action; the emissions change involved in any permit amendment; whether the facility has

filed a pollution prevention progress report to the commissioner as required by Minnesota Statutes, section 115D.08; the name, address, and telephone number of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, and all other materials available to the agency that are relevant to the permit decision; a brief description of the comment procedures required by this part; and the time and place of any meeting or hearing that may be held, including a statement of procedures to request a meeting or hearing under subpart 3, unless a meeting or hearing has already been scheduled.

(3) The agency shall provide at least 30 days for public comment and shall give notice of any public informational meeting or contested case hearing at least 30 days in advance of the meeting or hearing. The provisions of part 7001.0110 applies to public comments received under this part.

(4) The agency shall keep a record of the commenters and also of the issues raised during the public participation process, so that the administrator can determine whether a citizen petition may be granted. The records shall be available to the public.

B. Before issuing or reissuing a state permit, the agency shall comply with the procedures in item A, subitems (1) to (3). However, instead of providing notice in a newspaper of general circulation as required by item A, subitem (1), unit (a), the agency may provide the notice in the State Register or other EPA approved general circulation notice procedure. The requirements of this item also apply to any major amendment to a state permit described in part 7007.1500, subpart 1, items C and D, if authorized or required by the administrator.

C. If the agency determines that a proposed major amendment to a state permit not described in item B involves issues that generate or are likely to generate significant material adverse comment from the public, based on previous adverse public comment on the proposed amendment or related issues, the agency shall comply with the procedures of item A, subitems (1) to (3), before issuing the amendment. However, the agency may provide the notice required by this item in either a newspaper of general circulation or the State Register.

D. (1) If the agency determines that a proposed minor or moderate amendment to a permit involves issues that generate or are likely to generate significant material adverse comment from the public, based on previous adverse public comment on the proposed amendment or related issues, the agency shall comply with the procedures of item A, subitems (1) to (3), before issuing the amendment. However, the agency may provide the notice required by this item in either a newspaper of general circulation or the State Register.

(2) A proposed minor permit amendment may be made subject to the public notice and comment procedures only if the agency notifies the permittee of its determination within 15 working days of receiving the minor amendment application. If the permittee has properly proceeded with a modification under part 7007.1450, subpart 7, before receiving the agency's determination, the permittee will not be subject to enforcement action for proceeding, but will be required to cease construction and operation of the modification within a reasonable period. The agency will consult with the permittee on when it is reasonable to cease construction and operation. A proposed moderate permit amendment may be made subject to the public notice and comment procedures any time prior to the agency's issuance of a letter of approval authorizing construction under part 7007.1450, subpart 7.

E. The agency shall upon request provide a list which summarizes current activities involving permit applications, minor, moderate, and major amendment applications, and requests for administrative amendments. The agency may use an electronic bulletin board in lieu of a written list.

Subp. 3. **Petitions for meetings and hearings.** During the public comment period, a person may, in regard to any draft permit or amendment subject to public notice under subpart 2, items A to D, petition for:

- A. a public informational meeting pursuant to parts 7000.0650, subpart 4, and 7001.0110, subpart 3;
- B. a contested case hearing pursuant to part 7000.1800; or
- C. placement of the permit on the agenda of an agency board meeting pursuant to part 7000.0650, subpart 3.

The decision to grant or deny the petition for a public informational meeting shall be based on the criteria in part 7001.0120 and any meeting held shall be in accordance with that part. The decision to grant or deny the petition for a contested case hearing shall be based on the criteria in part 7000.1900 and any hearing held shall be in accordance with parts 7000.1700 to 7000.2200, and 7001.0130.

Subp. 4. **Additional procedures for permits containing title I conditions.** In addition to the requirements of this part, the agency shall also comply with all other federal requirements for public participation applicable to permits and permit amendments which include title I conditions, including requirements in Code of Federal Regulations, title 40, sections 51.102, 51.161, and 51.166(Q), as amended, to the extent applicable.

Statutory Authority: *MS s 14.06; 116.07*

History: *18 SR 1059; 19 SR 1310*

Published Electronically: *November 29, 2007*

7007.0900 REVIEW OF PART 70 PERMITS BY AFFECTED STATES.

The agency shall give notice of each draft part 70 permit, or major amendment to a part 70 permit, to any affected state on or before the time that the agency provides this notice to the public as required by part 7007.0850. The agency shall notify the administrator and any affected state in writing of any refusal by the agency to accept all recommendations for the proposed permit that the affected state submitted during the public comment period. The notice shall include the agency's reasons for not accepting any such recommendation.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

Published Electronically: *November 29, 2007*

7007.0950 EPA REVIEW AND OBJECTION.

Subpart 1. Review by EPA.

A. The agency shall provide to the administrator a copy of the following documents, unless the administrator agrees to accept a summary of the documents:

- (1) for part 70 permits, each application for a permit or permit amendment, each proposed permit or permit amendment, and each final permit or permit amendment; and

(2) for state permits, each application for a permit, each draft permit, each final permit, each application for a major permit amendment described in part 7007.1500, subpart 1, item C or D, and the draft and final versions of each such major permit amendment.

B. In the case of a part 70 permit, either:

(1) the draft permit or permit amendment must be provided to the administrator at the beginning of the public comment period, and the proposed permit or permit amendment must be provided to the administrator after the conclusion of public comment; or

(2) a permit or permit amendment that is identified as both a draft and a proposed permit or permit amendment may be provided to the administrator at the beginning of the public comment period, subject to the limitations of subpart 2. This document shall be clearly identified as a draft/proposed permit or permit amendment. The public notice for the draft/proposed permit or permit amendment shall state that the agency is seeking concurrent review of the permit or permit amendment, and that the 30-day public review period and the 45-day EPA review period will begin at the same time.

C. In the case of a state permit, the draft permit or permit amendment may be provided to the administrator at the same time the draft permit or permit amendment is offered for public comment.

Subp. 2. EPA objection.

A. In the case of a part 70 permit, and except as provided in item B, the agency shall not issue a permit or permit amendment if the administrator objects to its issuance in writing within 45 days of receipt of the proposed permit or permit amendment and any necessary supporting information.

B. In the case of a part 70 permit, when the administrator is provided with a draft/proposed permit or permit amendment at the beginning of the public comment period, the agency may issue the permit 45 days after the administrator's receipt of the draft/proposed permit or permit amendment and any necessary supporting information except as provided in subitem (1), (2), or (3).

(1) If the agency makes changes to the draft/proposed permit or permit amendment other than modifications that would meet the requirements for an administrative amendment under part 7007.1400, subpart 1, the agency shall provide a revised proposed permit or permit amendment to the administrator. The agency shall not issue the permit or permit amendment if the administrator objects to its issuance in writing within 45 days of receipt of the revised proposed permit or permit amendment and any necessary supporting information.

(2) If, within 45 days of receipt of the draft/proposed permit or permit amendment the administrator notifies the agency in writing that the administrator seeks additional time for review, the agency shall not issue the permit or permit amendment if the administrator objects to its issuance in writing within 45 days of the conclusion of the public comment period.

(3) If the agency receives from the public any adverse comments on any applicable requirement of the permit during the 30-day comment period, the agency shall provide the comments to the administrator. The agency shall not issue the permit or permit amendment if the administrator objects to its issuance in writing within 45 days of receipt of the comments and, if applicable, the revised proposed permit or permit amendment and any necessary supporting information.

C. In the case of a state permit, the agency shall not issue a permit, or an amendment for which EPA review is provided under subpart 1, if the administrator objects to its issuance in writing within 30 days of receipt of the draft permit or amendment and any necessary supporting information.

Subp. 3. **Public petitions to administrator regarding part 70 permits.** If the administrator does not object in writing to a part 70 permit or a major amendment to a part 70 permit under subpart 2, any person may petition the administrator within 60 days after the expiration of the administrator's 45-day review period to make such objection. Any such petition shall be based only on objections to the part 70 permit or the amendment that were raised with reasonable specificity during the public comment period provided in part 7007.0850, unless the petitioner demonstrates that it was impracticable to raise such objections within such period, or unless grounds for such objection arose after such period. If the administrator objects to the part 70 permit or the amendment as a result of a petition filed under this subpart prior to agency issuance, the agency shall not issue the permit or the amendment until the administrator's objection has been resolved. If the permit or the amendment was issued prior to the administrator's objection but after the end of the EPA's 45-day review period, the agency shall reopen or revoke the permit or the amendment under part 7007.1600 or 7007.1700 to satisfy the EPA's objection. Until amended or revoked, the permit shall remain in effect. In any case, the owners and operators of the stationary source will not be in violation of the requirement to have submitted a timely and complete application. The administrator may also amend, terminate, or revoke a part 70 permit under the administrator's authority under Code of Federal Regulations, title 40, section 70.8(d), as amended.

Subp. 4. **Additional procedures for permits containing title I conditions.** In addition to the requirements in subparts 1 to 3, the agency shall also comply with all other federal requirements for EPA review applicable to permits and permit amendments which include title I conditions.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059; 28 SR 1482; 37 SR 991*

Published Electronically: *January 24, 2013*

7007.1000 PERMIT ISSUANCE AND DENIAL.

Subpart 1. **Preconditions for issuance.** The agency shall issue a permit or permit amendment, or reissue a permit only if it determines that all of the following conditions have been met:

A. The agency has received a complete application for a permit, permit amendment, or permit reissuance, except that a complete application need not be received before issuance of a general permit under part 7007.1100, subpart 4.

B. The agency has complied with the public participation procedures for permit issuance, if required by part 7007.0850.

C. The agency has complied with the procedures for notifying and responding to affected states, if required by part 7007.0900.

D. If the administrator's review is required by part 7007.0950, the administrator has received a copy of the permit and any notices required and has not objected to issuance of the permit within the time period specified, or the administrator has objected but the objection has been resolved to the administrator's satisfaction.

E. The conditions of the permit provide for compliance with all applicable requirements and the requirements of parts 7007.0100 to 7007.1850, or include a schedule to achieve such compliance.

F. The permit does not reflect a variance from any federally enforceable applicable requirement or requirement of parts 7007.0100 to 7007.1850.

G. The agency anticipates that the applicant will, with respect to the stationary source and activity to be permitted, comply with all conditions of the permit.

H. All applicable provisions of Minnesota Statutes, chapter 116D, and the rules adopted under Minnesota Statutes, chapter 116D, have been fulfilled.

Subp. 2. **Grounds for denial.** The following constitute grounds for the agency to refuse to issue a new or modified permit, or to refuse permit reissuance:

A. The agency is unable to make any of the determinations required under subpart 1.

B. There exists at the stationary source to be permitted unresolved noncompliance with applicable state or federal pollution control statutes or rules administered by the agency, or conditions of a previous or existing air emission permit, and the applicant will not undertake a schedule of compliance to resolve the noncompliance.

C. An applicant has failed to disclose fully all facts relevant to the stationary source or activity to be permitted, or the applicant has knowingly submitted false or misleading information to the agency.

D. The permitted facility or activity would endanger human health or the environment and the danger cannot be removed by an amendment to the permit.

E. With respect to the stationary source or activity to be permitted, the applicant has not complied with the requirement to pay fees under chapter 7002.

F. With respect to the stationary source or activity to be permitted, the applicant has failed to pay a penalty owed pursuant to court order, consent decree, stipulation agreement, schedule of compliance, or an order issued under Minnesota Statutes, section 116.072.

G. The applicant has failed to prepare a pollution prevention plan or submit a pollution prevention progress report to the commissioner as required by Minnesota Statutes, sections 115D.07 and 115D.08.

Subp. 3. **No default issuance.** Failure of the agency to act on a permit application shall not be deemed issuance by default.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

Published Electronically: *November 29, 2007*

7007.1050 DURATION OF PERMITS.

Subpart 1. **Part 70 permits.** A part 70 permit shall expire five years after issuance, except for title I conditions as provided in subpart 4. The agency may issue part 70 permits for stationary sources, other than affected sources, that expire in less than five years but not less than three years if necessary to evenly distribute the rate of reissuance applications in subsequent years and if the permittee consents.

Subp. 2. **State permits and capped permits.** A state permit or capped permit shall not automatically expire unless the agency makes the permit an expiring one under subpart 5.

Subp. 3. **General permits.** A general permit that applies to any stationary sources that would otherwise be required to have a part 70 permit shall expire five years after the date it is issued under part 7007.1100, subpart 4. A general permit that only applies to stationary sources that would otherwise be

required to have a state permit shall not automatically expire unless the agency makes the permit an expiring one under subpart 5.

Subp. 3a. **Registration permits.** A registration permit shall not expire.

Subp. 4. **Title I conditions.** Title I conditions, and the permittee's obligation to comply with them, shall not expire, regardless of the expiration of the other conditions of the permit.

Subp. 5. **Expiring state, capped, and general permits.** The agency may elect to make state permits, capped permits, and general permits (except general permits that apply to stationary sources otherwise required to have a part 70 permit) expire five years or more after issuance if the permittee requests an expiring permit or if the agency determines that an expiring permit would significantly improve the likelihood of continuing compliance with applicable requirements and the terms of the permit. Grounds for such a determination include, but are not limited to, the following:

A. the stationary source has a history of noncompliance with applicable requirements or with an air emissions permit;

B. the applicable requirements to which the stationary source is currently subject are expected to change substantially within the next five years; or

C. the owners and operators of the stationary source are likely to make substantial changes within the next five years making the stationary source subject to additional applicable requirements.

This subpart does not apply to any title I condition.

Subp. 6. **Effect of permit expiration.** Except as provided in part 7007.0450, subpart 3, permits issued under parts 7007.0100 to 7007.1850 shall expire at the expiration date stated in the permit. Permit expiration terminates the stationary source's right to operate, even if the permit contains title I conditions which do not expire.

Subp. 7. **Voiding an existing permit.** The agency shall void a permit issued under parts 7001.1200 to 7001.1220 or 7007.0050 to 7007.1850, if it determines that the stationary source no longer requires the permit under existing law. A permittee may request the agency to void a permit. An agency determination to void a permit under this subpart must be in writing and shall explicitly identify the permit in question and state why the permit is no longer required. The agency shall send any such determination to the permittee.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059; 19 SR 1345; 23 SR 2224; 29 SR 626; 37 SR 991*

Published Electronically: *January 24, 2013*

7007.1075 PERMIT REQUIREMENTS FOR AFFECTED SOURCES.

Code of Federal Regulations, title 40, part 72, as amended, entitled "Permits Regulation," is adopted and incorporated by reference, for purposes of implementing an acid rain program that meets the requirements of title IV of the act. The term "permitting authority" means the agency. The provisions of this part apply to affected sources and take precedence if they conflict with or are not included in parts 7007.0100 to 7007.1850.

Statutory Authority: *MS s 116.07*

History: *19 SR 1666*

Published Electronically: *November 29, 2007*

7007.1100 GENERAL PERMITS.

Subpart 1. **Criteria.** If the agency determines that numerous similar stationary sources are subject to the same or substantially similar regulatory requirements, the agency may issue a permit required under parts 7007.0200 and 7007.0250 in the form of a general permit applying to multiple sources following the procedures in subparts 2 to 7. The agency may also issue general permits under this part which apply only to specific portions of stationary sources, including air pollution control equipment, if the specific portions are subject to the same or substantially similar regulatory requirements. The agency shall not issue general permits for affected sources under the acid rain program unless general permits are authorized by regulations promulgated under title IV of the act (Acid Deposition Control).

Subp. 2. **Public participation.** The agency shall follow the same public participation procedures in part 7007.0850, subparts 2 and 3, for individual permits except as stated otherwise in this subpart. The notice of the agency's intent to publish a general permit need not be published in newspapers of general circulation but shall be published in the State Register. The notice need not include any facility specific information. The notice issued by the agency shall identify criteria for stationary sources that qualify for the general permit and identify the geographic area in which it applies. If the general permit is sector-based, the notice shall state whether the owners and operators of a stationary source holding a registration permit issued under parts 7007.1110 to 7007.1130 or a capped permit issued under parts 7007.1140 to 7007.1148 must apply for the sector-based general permit. The agency need not comply with part 7007.0850, subpart 2, item A, subitem (4), unless the stationary source category includes stationary sources subject to the requirement to obtain part 70 permits.

Subp. 3. **EPA and affected state review.** If the stationary source category to which the general permit applies includes stationary sources that would otherwise require individual part 70 permits, the agency shall comply with all provisions for EPA and affected state review and objection in parts 7007.0900 and 7007.0950. The agency shall comply with provisions for EPA review and objection under part 7007.0950 in the case of all other general permits.

Subp. 4. **Issuance in general.** Following the close of the comment period and any public meeting or contested case hearing ordered, the agency may issue the general permit. If the general permit applies to any stationary sources that would otherwise be required to have a part 70 permit, the general permit shall include all requirements of parts 7007.0100 to 7007.1850 applicable to part 70 permits. All general permits shall include the requirements applicable to state permits. However, nothing in this subpart shall be construed to require the agency to include in the general permit stationary source specific information incompatible with the concept of a general permit.

Subp. 5. **Application.** Owners and operators of stationary sources that would qualify for a general permit must apply to the agency for coverage under the terms of the general permit or must apply for an individual permit consistent with part 7007.0500. If the owners and operators of a stationary source elect to apply for coverage under the general permit, they must submit an application meeting the requirements of parts 7007.0100 to 7007.1850, unless the agency states in the public notice of the general permit that certain conditions do not apply. The application must include all information necessary to determine qualification for, and to assure compliance with, the general permit.

Subp. 6. **Issuance of general permit to a stationary source.** The agency may issue a general permit to the owners and operators of a stationary source without repeating the notice and comment procedures required under part 7007.0850, subpart 2. However, the agency shall make available to the public upon request a list of facilities for which a general permit application has been received.

Subp. 7. **Permit shield.** Notwithstanding the permit shield provisions of part 7007.1800, the owners and operators of a stationary source that obtain a general permit shall be subject to enforcement action for operation without a permit if the stationary source is later determined not to qualify for the conditions and terms of the general permit.

Subp. 8. **Change of name, ownership, or control of stationary source issued a general permit.**

A. Prior to a change of the name of the stationary source or any mailing address listed in the permit, the owners and operators must submit a request for change of the name or address on a form provided by the commissioner. The commissioner shall reissue the general permit to the owners and operators with the changed name or mailing address. Issuance of a general permit with a new name or mailing address voids and supersedes the previously issued general permit.

B. Prior to a change in the ownership or control of a stationary source issued a general permit under this part, the new owner or operator must submit a change of ownership request form provided by the commissioner. If the commissioner determines that the new owners and operators meet the eligibility requirements of the general permit for general permit issuance, then the commissioner shall issue the general permit to the new owners and operators. Issuance of a general permit to the new owners and operators of an eligible stationary source voids and supersedes the general permit of the previous owner or operator. If the commissioner determines the new owners and operators do not meet the eligibility requirements, the new owners and operators shall submit a permit application for a registration, state, or part 70 permit within 120 days of the commissioner's written request for the application.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059; 23 SR 2224; 29 SR 626; 32 SR 904; 37 SR 991*

Published Electronically: *January 24, 2013*

7007.1102 INCORPORATIONS BY REFERENCE.

For the purpose of parts 7007.0100, subparts 9b, 9c, and 9e; 7007.1105; and 7007.1107, the documents in items A to E are incorporated by reference. These documents are subject to change, including numbering, title, consolidation, reorganization, and minor wording revisions. The ISO documents are published by the International Organization for Standardization (ISO), Geneva, Switzerland. The documents in items A to C are available at the American National Standards Institute (ANSI), New York, New York 10036 (www.ansi.org), or through the Minitex interlibrary loan system.

A. ISO 14001: Environmental management systems - Specification with guidance for use, ISO, 2004.

B. ISO 19011: Guidelines for quality and/or environmental management systems auditing, ISO, 2002.

C. ISO/International Electrotechnical Commission (IEC) Guide 66: General requirements for bodies operating assessment and certification/registration of environmental management systems, ISO, 1999.

D. IAF Guidance on the Application of ISO/IEC Guide 66, International Accreditation Forum (IAF), 2003. This publication is available through IAF (www.iaf.nu).

E. Advisories, ANSI-ASQ National Accreditation Board (ANAB). These publications are available through ANAB, P.O. Box 3005, Milwaukee, Wisconsin 53201-0586 (www.anab.org).

Statutory Authority: *MS s 116.07*

History: *29 SR 626; 32 SR 904*

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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_x, SO₂, 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_x, SO₂, 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*

History: *29 SR 626; 37 SR 991*

Published Electronically: *January 24, 2013*

7007.1107 APPLICATION AND PERMIT CONTENT RELATED TO INCLUSION OF EMS PROVISIONS IN STATE PERMITS.

Subpart 1. **Application content.** Owners and operators of a stationary source applying for inclusion of the EMS provisions in subparts 2 and 3 in a state permit must:

A. Submit an application meeting the requirements of parts 7007.0100 to 7007.1850. If the owners and operators have submitted a complete application for a state, part 70, capped, or general permit prior to the application deadline in part 7007.0350 or 7007.0400 and are eligible for a state permit with EMS provisions, then owners and operators applying for inclusion of EMS provisions may supplement information in a previous application to meet the application content requirements listed in this subpart.

B. For SO₂, PM-10, and NO_x emitted by the source:

- (1) comply with part 7007.1148, subpart 1 or 2, ambient air quality assessment; or

(2) demonstrate to the satisfaction of the commissioner that the one-hour, three-hour, and 24-hour SO₂; the 24-hour PM-10; and annual NO₂ concentrations predicted at and beyond the property line of the stationary source through site-specific modeling are lower than the corresponding standards in part 7009.0080.

The application must specify which method was used for each pollutant emitted and include a summary of the results of the assessment. In performing the assessment, the owner or operator may assume specific limits or conditions it is proposing to be included in the permit.

C. Provide information in the application on a form approved by the commissioner to demonstrate that the stationary source meets the eligibility requirements in part 7007.1105 for a state permit that includes the EMS provisions. This application form must be accompanied by a summary of EMS audit results for the stationary source's most recent EMS audit.

Subp. 2. **EMS provisions: flexibility in amendment, reporting, and calculation procedures.** If a stationary source meets the eligibility requirements in part 7007.1105, the agency shall include the conditions specified in this subpart in the stationary source's state permit.

A. When calculating emission changes to determine if an amendment is necessary, an owner or operator need only follow the methods described under part 7007.1200, subpart 2, for any pollutant with a facility-wide emission limit. Part 7007.1200, subpart 3, does not apply.

B. A semiannual deviation report is required in the reporting period under part 7007.0800, subpart 6, item A, subitem (2), except that the deviation report is due only if a deviation occurred in the reporting period.

C. An owner or operator shall comply with the requirements related to calculation frequency in subitems (1) to (3).

(1) If the actual emissions of any pollutant listed in this subitem are less than the "Eligibility Limit for Reduced Calculation" for that pollutant for the previous calendar year, then the owner or operator may calculate and record actual emissions for that pollutant on a calendar year basis. The owner or operator shall by January 30 of each year calculate and record the sum of actual emissions for the previous calendar year. This calculation must be made pursuant to the requirements of the permit. Unless otherwise specified in the permit, this calculation must include all emissions units at the stationary source, except for insignificant activities under part 7007.1300, subparts 2 and 3, and conditionally insignificant activities under chapter 7008. The following pollutants have the listed "Eligibility Limit for Reduced Calculation":

- (a) any single HAP, 2.5 tons/year;
- (b) total HAP, 6.25 tons/year;
- (c) NO_x, 25 tons/year;
- (d) SO₂, 25 tons/year;
- (e) PM, 25 tons/year;
- (f) PM-10, 25 tons/year;
- (g) VOC, 25 tons/year;
- (h) CO, 25 tons/year;
- (i) Pb, 0.050 tons/year; and

(j) CO₂e, 25,000 tons/year.

(2) If actual emissions for the previous calendar year exceed the "Eligibility Limit for Reduced Calculation" for a pollutant listed in subitem (1), then the stationary source is no longer eligible for annual calculations for that pollutant under subitem (1). The permit shall specify the customary permit conditions for calculation frequency if the stationary source becomes ineligible for the reduced calculation frequency under subitem (1). To reinstate eligibility for reduced calculation frequency under subitem (1) for a pollutant, the owner or operator shall demonstrate that actual emissions for that pollutant are below the "Eligibility Limit for Reduced Calculation" in subitem (1) for 12 consecutive months using the customary permit conditions for calculation frequency.

(3) The commissioner may require the owner or operator to monitor operating parameters and may establish conditions in the permit such that if an operating parameter is exceeded, more frequent calculation than that specified under subitem (1) is required. The commissioner shall establish these permit conditions if the commissioner determines that an annual calculation is not sufficient to ensure that the stationary source will remain below the facility-wide emission limits established in the permit.

Subp. 3. **Requirements related to inclusion of EMS provisions.** If a stationary source meets the eligibility requirements in part 7007.1105 and requests the inclusion of the EMS provisions in subpart 2, the agency shall include in the stationary source's state permit the conditions specified in items A to C.

A. The permit shall include the customary permit conditions related to amendments, deviations reporting, and calculation frequency.

B. An EMS audit of the stationary source by an EMS auditor must be conducted at least every two years.

C. A summary of EMS audit results shall be sent directly from the EMS auditor to the commissioner within 45 days of the date of any EMS audit, if requested by the commissioner or as required under part 7007.1105, subparts 1 to 6.

Statutory Authority: *MS s 116.07*

History: *29 SR 626; 37 SR 991*

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7007.1110 REGISTRATION PERMIT GENERAL REQUIREMENTS.

Subpart 1. **Stationary sources that may obtain a registration permit.** Owners and operators of a stationary source that qualifies for a registration permit under this part and part 7007.1115 (Option A), 7007.1120 (Option B), 7007.1125 (Option C), or 7007.1130 (Option D) may elect to apply to the commissioner for a registration permit instead of a part 70, state, capped, or general permit, except as provided in subpart 2.

Subp. 2. **Stationary sources that may not obtain a registration permit.**

A. Owners and operators of a stationary source may not obtain a registration permit if they are required to obtain a permit under parts 7007.0200, subpart 3 (acid rain affected sources), 7007.0200, subpart 4 (solid waste incinerators, waste combustors), 7007.0200, subpart 5 (other part 70 sources), 7007.0250, subpart 3 (state implementation plan required state permit), or 7007.0250, subpart 6 (waste combustors).

B. Owners and operators of a stationary source may not obtain a registration permit if air quality specific conditions or limits not contained in parts 7007.1110 to 7007.1130 were assumed:

- (1) as a mitigation measure in an environmental impact statement;
- (2) in obtaining a negative declaration in an environmental assessment worksheet; or
- (3) in demonstrating compliance with any state or national ambient air quality standard.

C. Owners and operators of a stationary source may not obtain a registration permit if the stationary source is subject to a new source performance standard except when the stationary source is subject only to the notification and record-keeping requirements of that standard, or when the standard is one of the following:

(1) Code of Federal Regulations, title 40, part 60, subpart Dc, Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units (incorporated by reference in part 7011.0570);

(2) Code of Federal Regulations, title 40, part 60, subpart K, Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction or Modification Commenced After June 11, 1973 and Prior to May 19, 1978 (incorporated by reference in part 7011.1520, item A);

(3) Code of Federal Regulations, title 40, part 60, subpart Ka, Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction or Modification Commenced After May 18, 1978 and Prior to July 23, 1984 (incorporated by reference in part 7011.1520, item B);

(4) Code of Federal Regulations, title 40, part 60, subpart Kb, Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Storage Vessels) for Which Construction, Reconstruction or Modification Commenced After July 23, 1984 (incorporated by reference in part 7011.1520, item C);

(5) Code of Federal Regulations, title 40, part 60, subpart DD, Standards of Performance for Grain Elevators (incorporated by reference in part 7011.1005, subpart 2);

(6) Code of Federal Regulations, title 40, part 60, subpart EE, Standards of Performance for Surface Coating of Metal Furniture (incorporated by reference in part 7011.2550);

(7) Code of Federal Regulations, title 40, part 60, subpart SS, Standards of Performance for Industrial Surface Coating: Large Appliances (incorporated by reference in part 7011.2565);

(8) Code of Federal Regulations, title 40, part 60, subpart JJJ, Standards of Performance for Petroleum Dry Cleaners (incorporated by reference in part 7011.3250);

(9) Code of Federal Regulations, title 40, part 60, subpart OOO, Standards of Performance for Nonmetallic Mineral Processors (incorporated by reference in part 7011.3350), except that a stationary source subject to this performance standard may not obtain a registration permit if subpart 2b applies;

(10) Code of Federal Regulations, title 40, part 60, subpart TTT, Standards of Performance for Industrial Surface Cleaning of Plastic Parts for Business Machines (incorporated by reference in part 7011.2580);

(11) Code of Federal Regulations, title 40, part 60, subpart I, Standards of Performance for Hot Mix Asphalt Facilities (incorporated by reference in part 7011.0909);

(12) Code of Federal Regulations, title 40, part 60, subpart GG, Standards of Performance for Stationary Gas Turbines (incorporated by reference in part 7011.2350);

(13) Code of Federal Regulations, title 40, part 60, subpart IIII, Standards of Performance for Stationary Compression Ignition Internal Combustion Engines (incorporated by reference in part 7011.2305), but only if the compression ignition internal combustion engine has a displacement less than 30 liters per cylinder; and

(14) Code of Federal Regulations, title 40, part 60, subpart JJJJ, Standards of Performance for Stationary Spark Ignition Internal Combustion Engines (incorporated by reference in part 7011.2310).

Subp. 2b. **Additional limitations on stationary source eligibility for a registration permit.** A stationary source may not obtain an option B, C, or D registration permit if:

A. the source qualifies for a sector-based state general permit available under part 7007.1100, unless specifically allowed under the general permit; or

B. the commissioner determines that site-specific permit requirements are needed to ensure compliance with applicable requirements or to protect human health or the environment.

Owners and operators of a stationary source that hold a registration permit and are eligible for a sector-based general permit that is available on or before January 1, 2007, shall apply for the general permit on or before December 31, 2008.

Subp. 3. **Registration permit application.** Items A to D apply to registration permit applications submitted under parts 7007.1110 to 7007.1130.

A. The owners and operators of a stationary source must apply for a registration permit prior to the applicable deadline in parts 7007.0350 and 7007.0400. If the owners and operators have submitted a complete application for a state, part 70, or general permit prior to the application deadline in part 7007.0350 or 7007.0400 and are eligible for a registration permit, then the owners and operators may apply for a registration permit and shall request to have the original application voided.

B. The owners and operators of a stationary source must submit the registration permit application on a standard application form provided by the commissioner. The commissioner may create different application forms for the different registration permit options available under parts 7007.1115 to 7007.1130.

C. Any owner or operator of a stationary source who fails to submit any relevant facts or who has submitted incorrect information in an application for a registration permit shall, upon becoming aware of such failure or incorrect information, promptly submit to the commissioner such supplementary facts or corrected information. This requirement applies both while the permit application is pending before the commissioner and after a registration permit is issued.

D. If the commissioner determines during review of the application that additional information is needed to evaluate the registration permit application or to verify that the stationary source qualifies for a registration permit under parts 7007.1110 to 7007.1130, the commissioner may request the information from the applicant, and the applicant shall submit the information to the commissioner by the date specified in the request.

Subp. 4. **Registration permit certifications.** All registration permit applications, reports, and record keeping, testing, or monitoring submittals to the commissioner under parts 7007.1110 to 7007.1130 shall include a certification made by a responsible official. The certification shall state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. The certification that is submitted with a registration permit application must additionally state that the stationary source will be operated in compliance with all applicable requirements, and shall be

signed by a responsible official of both the owner and the operator of the stationary source if they are not the same.

Subp. 5. **Registration permit issuance, denial, and revocation.** The commissioner shall issue a registration permit to the owners and operators of a stationary source if the owners and operators have submitted a complete application for a registration permit and the commissioner determines that the stationary source qualifies for the registration permit under parts 7007.1110 to 7007.1130 for which the application was submitted, and the commissioner anticipates that the stationary source will comply with the registration permit. The commissioner shall deny an application for a registration permit if the commissioner determines that the stationary source does not qualify for the registration permit under parts 7007.1110 to 7007.1130 for which the application was submitted or that the stationary source will not be able to comply with the registration permit. The grounds for permit denial in part 7007.1000, subparts 1, item H, and 2, items B to G, also constitute grounds for the commissioner to deny a registration permit application. The commissioner may revoke a registration permit, if the commissioner finds that any of the grounds under subpart 16 or under part 7007.1700, subpart 1, exist, by following the procedure in part 7007.1700, subpart 2.

Subp. 6. **Registration permit content.** A registration permit shall identify the stationary source, the owner and operator of the stationary source, where the stationary source is allowed to operate, and shall state as follows: "The permittee shall comply with Minnesota Rules, part 7007.1110, part [insert 7007.1115, 7007.1120, 7007.1125, or 7007.1130, whichever one applies], and all applicable requirements."

Subp. 7. **Registration permit compliance requirements.** The owner and operator of the stationary source issued a registration permit, shall:

- A. comply with this part, including the general conditions in subpart 21;
- B. comply with part 7007.1115 (Option A), 7007.1120 (Option B), 7007.1125 (Option C), or 7007.1130 (Option D), whichever applies;
- C. comply with all applicable requirements; and
- D. if a stationary source qualifies for a registration permit, but has less than 12 months of emissions data, calculate the emission limit each month during normal operation for the first 12 months under registration permit option C or D on a form provided by the commissioner which uses one of the following formulas:

$$(1) N = 0.95 (\text{annual limit in option C or D}) + 0.0045 (\text{annual limit in option C or D})(n-1)$$

Where: n = number of months in operation;

N = emission limit for month n; or

$$(2) P = L/12$$

Where L = annual limit in option C or D.

P = the emission limit for each month.

The actual emissions for each month must be below the calculated emission limit, N or P, for each pollutant.

Subp. 8. **Emission inventory required for stationary sources issued registration permits.** The owner or operator of a stationary source issued a registration permit under parts 7007.1110 to 7007.1130 must submit an annual emission inventory to the commissioner under parts 7019.3000 to 7019.3100.

Subp. 9. Record retention, access to records, and inspections for stationary sources issued registration permits.

A. The owner or operator of a stationary source issued a registration permit under parts 7007.1110 to 7007.1130 must maintain at the stationary source, or at the main office for an unattended stationary source, for a period of five years from the date the record was made all information required to be recorded under applicable state and federal rules, and part 7007.1115, 7007.1120, 7007.1125, or 7007.1130, whichever part applies to the stationary source. The owner or operator must make these records available for examination and copying upon request of the commissioner, and must upon request submit these records to the commissioner by the time specified by the commissioner in the request. A stationary source with a registration permit may maintain records at an office of the owner or operator of the stationary source for all years prior to the current calendar year of operation.

B. The owner or operator of a stationary source issued a registration permit under parts 7007.1110 to 7007.1130 must provide the commissioner, or an authorized representative or agent of the commissioner, access to the stationary source (including allowing the collection of samples), and records to the extent provided under Minnesota Statutes, section 116.091, or other law, upon presentation of credentials and other documents required by law.

Nothing in this subpart shall be read to limit the commissioner's, agency's, or administrator's authority under Minnesota Statutes, section 116.091, section 114 of the act, or other law.

Subp. 10. Changes or modifications at stationary sources issued registration permits that trigger certain new source performance standards. If a change or modification made at a stationary source issued a registration permit results in the stationary source being subject to a new source performance standard listed under subpart 2, item C, or if the change or modification adds an emissions unit subject to the standards listed in part 7007.0300, the owner or operator must submit to the commissioner:

- A. the information required by the standard in the time specified in the standard;
- B. with the notice in item A, a written notice containing a description of the change if the change triggers a new source performance standard; and
- C. with the notice in item A, a copy of the applicable new source performance standard, with the applicable portions of the new source performance standard (NSPS) highlighted (including applicable parts of Code of Federal Regulations, title 40, part 60, subpart A, General Provisions), or an NSPS checklist form provided by the commissioner that identifies applicable portions of the new source performance standard.

Subp. 11. Change rendering stationary source ineligible for a registration permit or that changes the applicable registration permit option. If the owner or operator makes a change at a stationary source issued a registration permit which increases emissions, including a change described in subpart 10, and results in the stationary source no longer being able to qualify for or meet the requirements for its registration permit, and the change is not a modification, as defined in part 7007.0100, subpart 14, then the owners and operators must:

- A. within 30 days of making the change, submit a written notification to the commissioner that includes a description of the change, and a statement of what type of permit application the owner or operator will submit; and
- B. if the change results in the requirement for the submittal of a registration permit application under a different option, then the registration permit application shall be submitted with the 30-day notice

required under item A, or within 180 days of making the change, submit the required part 70, state, or general permit application.

If the owners and operators fail to submit the required permit application in the time required by this subpart, the owners and operators lose their right to operate the stationary source and shall be considered to be in violation of part 7007.0150, subpart 1. Once a stationary source has made a change rendering it ineligible for all registration permit options under parts 7007.1110 to 7007.1130, the stationary source may only become eligible for a registration permit again if it meets the requirements of subpart 14.

Subp. 11a. Regulatory change rendering stationary source ineligible for registration permit or changing applicable registration permit option.

A. If a stationary source covered by a registration permit becomes subject to a new regulatory requirement that results in the stationary source no longer being able to qualify for or meet the requirements for the current registration permit, then the owner or operator must:

(1) within 30 days of the effective date of the regulation:

(a) submit a written notification to the commissioner that includes a description of the regulatory change and a statement of what type of permit application the owners and operators will submit; and

(b) if the stationary source is eligible for a different registration permit option, submit an application for another registration permit option category; and

(2) if the stationary source is not eligible for any registration permit option, submit an application for a part 70, state, or general permit application within 180 days of the effective date of the regulatory change.

B. Once a stationary source has made a change rendering it ineligible for all registration permit options under parts 7007.1110 to 7007.1130, the stationary source may become eligible for a registration permit again only if it meets the requirements of subpart 14.

C. If the owner or operator fails to submit the required permit application in the time required by this subpart, the owner or operator is considered to not hold a valid permit and is in violation of part 7007.0150, subpart 1. The owner or operator must submit the required permit application for the appropriate air emission permit within the time limits given in item A.

Subp. 12. Modification rendering stationary source ineligible for its current registration permit option. Items A to C apply to the owner or operator of a stationary source that has been issued a registration permit and that wants to make a modification which results in the stationary source no longer being able to meet the requirements for the registration permit option for which it was issued a registration permit, but which will result in the stationary source being eligible for another registration permit option.

A. The owners and operators must submit the required permit application to the commissioner before beginning actual construction on the modification.

B. The owners and operators may begin actual construction on and start-up of the modification proposed in the permit application seven working days after the permit application is received by the commissioner.

C. Until the commissioner acts on the permit application, the owners and operators must comply with the requirements of the registration permit option for which the owners and operators applied, and all applicable requirements. During this time period, the owners and operators need not comply with

the registration permit requirements specific to the option under which the owners and operators currently hold a registration permit.

Subp. 13. **Modification rendering stationary source ineligible for a registration permit.** The owners and operators of a stationary source that has been issued a registration permit must submit a part 70, state, or general permit application before making a modification which results in the stationary source no longer qualifying for any registration permit option under parts 7007.1110 to 7007.1130. The owner or operator may not begin actual construction on the modification until the required part 70, state, or general permit for the stationary source is obtained, or an installation and operation permit for the modification is obtained under part 7007.0750, subpart 5. Once a stationary source has made a modification rendering it ineligible for all registration permit options under parts 7007.1110 to 7007.1130, the stationary source may only become eligible for a registration permit again if it meets the requirements of subpart 14.

Subp. 14. **Addition of control equipment, removal of emission units, or pollution prevention practices which result in or reinstate registration permit eligibility.** If through the addition of listed control equipment, permanent removal of emissions units, or implementation of pollution prevention practices the stationary source qualifies for or reinstates eligibility for a registration permit under parts 7007.1110 to 7007.1130, the owners and operators may apply for a registration permit. If the stationary source qualifies for or reinstates eligibility for a registration permit due to implementation of pollution prevention practices, the owner or operator shall submit a description of the pollution prevention practices with the registration permit application for the commissioner's review and approval. For purposes of this subpart, "pollution prevention practices" means eliminating or reducing the quantity or toxicity of regulated air pollutants, or hazardous air pollutants that are not regulated air pollutants, used by or emitted from the stationary source. Emission reductions are not reductions if the decrease is solely the result of a decrease in production at the stationary source.

Subp. 15. **Change of name, ownership, or control of stationary source issued a registration permit.**

A. Prior to a change of the name of the stationary source or any mailing address listed in the permit, the owners and operators must submit a request for change of the name or address on a form provided by the commissioner. The commissioner shall reissue the registration permit to the owners and operators with the changed name or mailing address. Issuance of a registration permit with a new name or mailing address voids and supersedes the previously issued registration permit.

B. Prior to a change in the ownership or control of a stationary source issued a registration permit under parts 7007.1110 to 7007.1130, the new owner or operator must submit a change of ownership request form provided by the commissioner. If the commissioner determines that the new owner or operator meets the requirements of parts 7007.1110 to 7007.1130 for registration permit issuance, then the commissioner shall issue the registration permit to the new owner or operator. Issuance of a registration permit to the new owner or operator of an eligible stationary source voids and supersedes the registration permit of the previous owner or operator.

Subp. 15a. **Relocation of stationary source issued a registration permit.** This subpart does not apply if the registration permit already authorizes operation in more than one location under subpart 20 and the proposed relocation is within the scope of that authorization. This subpart applies only to a stationary source that has been issued a registration permit under parts 7007.1110 to 7007.1130 and that:

A. is relocating within or to an area that is classified as attainment with respect to the National Ambient Air Quality Standards;

- B. does not trigger the need for air dispersion modeling for the relocated source;
- C. will qualify for the same type of registration permit at the new location; and
- D. will not operate a stationary source in both the existing and new locations at the same time for any period of time.

Prior to a change in the location of a stationary source that meets the criteria in items A to D, the owner or operator must provide 45 days advance written notice to the commissioner, stating the exact location where the source will operate. If any of items A to D are not met, the owner or operator must obtain a new permit for the new location prior to operation in the new location.

Subp. 16. **Agency request for a different type of permit application.** The owners and operators shall submit an application for a part 70, state, capped, or general permit, or a different registration permit option, within 120 days of the commissioner's written request for the application if the commissioner determines that:

- A. the stationary source has a history of noncompliance with applicable requirements or with its registration permit;
- B. the stationary source does not qualify for a registration permit;
- C. the stationary source qualifies for a different registration permit option under parts 7007.1110 to 7007.1130;
- D. the applicable requirements to which the stationary source is subject are about to or have changed substantially;
- E. the permit application contains material mistakes or inaccurate statements related to establishing eligibility for the emissions standards, limitations, or other terms or conditions of the permit and correction of such mistakes or statements would result in ineligibility for the permit applied for;
- F. alterations or modifications to the permitted facility will result in or have the potential to result in alteration in the nature or quantity of regulated air pollutants to be emitted by the permittee such that the permittee is no longer eligible for the permit it holds; or
- G. the commissioner receives information previously unavailable to the commissioner that shows that the terms and conditions of the permit do not accurately represent the actual circumstances of the permitted facility.

Subp. 17. **Voiding an existing permit.** The commissioner shall void a part 70, capped, or state permit for a stationary source which is issued a registration permit. A stationary source which is covered under the terms of a general permit is no longer covered by the general permit when it is issued a registration permit. The commissioner shall void a registration permit issued under one registration permit option for a stationary source that is issued a registration permit for a different registration permit option. The commissioner shall void a registration permit for a stationary source that is issued a part 70, state, capped, or general permit.

Subp. 18. **No circumvention; permit shield.**

- A. The owner or operator of a stationary source that obtains a registration permit shall be subject to enforcement action for operation without a permit if the commissioner later determines that the stationary source does not qualify for the registration permit.
- B. The permit shield under part 7007.1800 shall not apply to registration permits.

Subp. 19. **List of registration permit facilities.** The commissioner shall make available to the public upon request a list of facilities that have been issued registration permits under parts 7007.1110 to 7007.1130.

Subp. 20. **Operation in more than one location.** If requested by the applicant, the registration permit may allow a stationary source to be operated in more than one location. If more than one location is proposed by the permittee, the permittee shall:

A. include in the application an identification of all geographic areas where the stationary source is authorized to operate during the course of the permit; and

B. notify the commissioner at least 48 hours in advance of each change in location, providing the exact location where the source will operate.

Subp. 21. **Registration permit; general conditions.** Registration permits issued by the commissioner under parts 7007.1110 to 7007.1130 shall include the general conditions in items A to O, which are included in the permit by reference to part 7007.1110 as a whole.

A. Unchallenged provisions of the 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. Such violation is grounds for enforcement action by the commissioner, the agency, or the EPA; or for permit revocation.

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 in order to maintain compliance with the conditions of the permit.

D. The permit may be revoked for cause as provided in subpart 5. The filing of a request by the permittee for a different type of permit, a different registration permit option, for revocation or termination of this permit, or for a notification of planned changes or anticipated noncompliance does not stay any permit condition, except as specifically provided in subpart 12.

E. The permit does not convey any property right of any sort, or any exclusive privilege.

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

G. The commissioner's issuance of the 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 a permit.

H. The commissioner's issuance of the permit does not prevent the future adoption by the agency 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 the permit does not obligate the commissioner to enforce local laws, rules, or plans beyond that authorized by Minnesota Statutes.

J. The permittee shall at all times properly operate and maintain the facilities and systems of treatment and control and the appurtenances related to them which 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 shall 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 shall, 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 shall 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.

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, the agency, and the commissioner assume no responsibility for damages to persons, property, or the environment caused by the activities of the permittee in the conduct of its actions, including those activities authorized, directed, or undertaken under the permit. To the extent the state, the agency, and the commissioner may be liable for the activities of its employees, that liability is explicitly limited to that provided in the Tort Claims Act, Minnesota Statutes, section 3.376.

Subp. 22. **Parts that do not apply to registration permits.** Parts 7007.0500 to 7007.0950; 7007.1000, subpart 1; 7007.1100; 7007.1150 to 7007.1250; 7007.1350 to 7007.1650; and 7007.1800 do not apply to registration permits under parts 7007.1110 to 7007.1130.

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7007.1115 REGISTRATION PERMIT OPTION A.

Subpart 1. **Eligibility.** The owners and operators of a stationary source may apply for a registration permit under this part if the stationary source is required to obtain a permit solely because it is subject to a new source performance standard listed in part 7007.1110, subpart 2, item C, and the owner or operator does not anticipate making changes in the next year which will cause the stationary source to require a permit for other reasons. Insignificant activities at the stationary source listed in part 7007.1300, subparts 2 and 3, and conditionally insignificant activities, are not considered in the eligibility determination under this subpart.

Subp. 2. **Application content.** An application for a registration permit under this part must contain the following:

A. information identifying the stationary source and its owners and operators, including company name and address (plant name and address if different from the company name), owner's name

and agent, and contact telephone numbers, including names of plant site manager or contact, and the person preparing the application if different;

B. a description of the stationary source's processes and products, by Standard Industrial Classification (SIC) code; and

C. a copy of the applicable new source performance standards (NSPS) listed in part 7007.1110, subpart 2, item C, with the applicable portions of the standards highlighted, including applicable parts of Code of Federal Regulations, title 40, part 60, subpart A, General Provisions, or an NSPS checklist form provided by the commissioner, for each affected facility as defined in Code of Federal Regulations, title 40, section 60.2.

Insignificant activities at the stationary source listed in part 7007.1300, subparts 2 and 3, and conditionally insignificant activities, are not required to be included in the application.

Subp. 3. **Compliance requirements.** The owners and operators of a stationary source issued a registration permit under this part must:

A. meet the eligibility requirements of subpart 1 at all times;

B. comply with part 7007.1110; and

C. comply with all applicable requirements, including new source performance standards.

Statutory Authority: *MS s 116.07*

History: *19 SR 1345; 20 SR 2316; 21 SR 165; 27 SR 1579; 37 SR 991*

Published Electronically: *January 24, 2013*

7007.1120 REGISTRATION PERMIT OPTION B.

Subpart 1. **Eligibility.** The owners and operators of a stationary source may apply for a registration permit under this part if:

A. the stationary source purchases or uses less than 2,000 gallons of VOC-containing materials on a calendar year basis;

B. the only emissions from the stationary source are from VOC-containing materials, or are from insignificant activities under part 7007.1300, subparts 2 and 3, or are from conditionally insignificant activities meeting the requirements of parts 7008.4000 and 7008.4110; and

C. the owner or operator does not anticipate making changes in the next 12 months which will cause the stationary source to purchase or use 2,000 gallons or more of VOC-containing materials on a calendar year basis.

Subp. 2. **Application content.** An application for a registration permit under this part must contain the following:

A. information identifying the stationary source and its owners and operators, including company name and address (plant name and address if different from the company name), owner's name and agent, and contact telephone numbers, including names of plant site manager or contact, and the person preparing the application if different;

B. a description of the stationary source's processes and products by Standard Industrial Classification (SIC) code;

C. a copy of the applicable new source performance standards (NSPS) listed in part 7007.1110, subpart 2, item C, with the applicable portions of the standards highlighted, including applicable parts of Code of Federal Regulations, title 40, part 60, subpart A, General Provisions, or an NSPS checklist form provided by the commissioner, for each affected facility as defined in Code of Federal Regulations, title 40, section 60.2;

D. a statement of whether the owner or operator will base records required under subpart 3 on the purchase or use of VOC-containing materials; and

E. the gallons of VOC-containing materials purchased or used in a calendar year. If the stationary source has not been operated, the owner or operator shall estimate the gallons of VOC-containing materials that will be purchased or used on a calendar year basis during normal operation using a worksheet provided by the commissioner. If the stationary source has been operated less than 12 months or has not been operated a full calendar year on the date of application under this part, the owner or operator shall calculate gallons of VOC-containing materials purchased or used by multiplying 12 months by the larger of the two following monthly averages:

- (1) the average monthly gallons purchased or used; or
- (2) the estimated average monthly gallons purchased or used for normal operation.

Insignificant activities at the stationary source listed in part 7007.1300, subparts 2 and 3, and conditionally insignificant activities are not required to be included in the application.

Subp. 3. **Compliance requirements.** The owner or operator of a stationary source issued a registration permit under this part shall:

A. calculate and record by April 1 of each calendar year the total amount of VOC-containing materials purchased or used (whichever was stated in the permit application) during the previous calendar year;

B. maintain the calculation itself and any receipts, invoices, or similar documents used to determine the total amount of VOC-containing materials purchased or used in item A;

C. purchase or use (whichever was stated in the permit application) less than 2,000 gallons of VOC-containing materials each calendar year;

D. have emissions from the stationary source only from VOC-containing materials or from insignificant activities under part 7007.1300, subparts 2 and 3, or from conditionally insignificant activities described in and meeting the requirements of parts 7008.4000 and 7008.4110;

E. comply with part 7007.1110; and

F. comply with all applicable requirements, including new source performance standards.

Subp. 4. **Calculation method.** For purposes of this part, "VOC-containing materials" include hazardous air pollutant-containing VOC. Under this part, gallons of VOC equals volume percentage of VOC multiplied by the gallons of VOC-containing material, except that if the owner or operator ships VOC off-site for recycling, the amount recycled may be subtracted from the amount of VOC used. "Recycling" means the reclamation or reuse, as defined in part 7045.0020, of a VOC. If the owner or operator ships VOC off-site for recycling, the owner or operator shall keep records of the amount of material shipped off-site for recycling and the calculations done to determine the amount to subtract. Records may be MSDS, invoices, shipping papers, or hazardous waste manifests.

Statutory Authority: *MS s 116.07*

History: *19 SR 1345; 20 SR 2316; 21 SR 165; 22 SR 1237; 23 SR 2224; 27 SR 1579; 32 SR 904; 37 SR 991*

Published Electronically: *January 24, 2013*

7007.1125 REGISTRATION PERMIT OPTION C.

Subpart 1. **Eligibility.** The owners and operators of a stationary source may apply for a registration permit under this part if the stationary source consists of only indirect heating units (boilers), reciprocating internal combustion engines, and/or emissions from use of VOC-containing materials, and meets the following criteria:

- A. all emissions units at the stationary source are included under calculations 1, 2A, 2B, and 3 in subpart 4, are insignificant activities under part 7007.1300, subparts 2 and 3, or are conditionally insignificant activities;
- B. all fuels burned at the stationary source are listed in Table 1 or 2 of subpart 4;
- C. the stationary source does not burn fuels which exceed the sulfur limits listed in Table 1 or 2 in subpart 4;
- D. the stationary source does not burn bituminous or subbituminous coal in hand-fed boilers;
- E. all VOC emissions from the stationary source are included under calculation 3 or all VOC emissions from the stationary source are from conditionally insignificant activities in compliance with parts 7008.4000 and 7008.4100;
- F. the 12-month rolling sum of calculations determined under calculations 1, 2A, 2B, and 3 in subpart 4 is less than 50;
- G. the owner or operator does not anticipate making changes in the next 12 months which will cause the stationary source to be ineligible for this type of registration permit under items A to F and H; and
- H. the stationary source does not use or generate nitrous oxide, other than from combustion units, and does not use or generate hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride.

Subp. 2. **Application content.** An application for a registration permit under this part must contain the following:

- A. information identifying the stationary source and its owners and operators, including company name and address (plant name and address if different from the company name), owner's name and agent, and contact telephone numbers, including names of plant site manager or contact, and the person preparing the application if different;
- B. a description of the stationary source's processes and products, by Standard Industrial Classification (SIC) code;
- C. a copy of the applicable new source performance standards (NSPS) listed in part 7007.1110, subpart 2, item C, with the applicable portions of the standards highlighted, including applicable parts of Code of Federal Regulations, title 40, part 60, subpart A, General Provisions, or an NSPS checklist form provided by the commissioner, for each affected facility as defined in Code of Federal Regulations, title 40, section 60.2;

D. a statement of whether the owner or operator will base records required under subpart 3 on the purchase or the use of VOC-containing materials, on the purchase or use of fuels, and on hours of operation; and

E. the calculations required by subpart 4. If the stationary source has not been operated, the owner or operator shall estimate the gallons of VOC-containing materials, amount of fuels burned, and hours of operation on a 12-month rolling sum basis during normal operation in performing the calculations required in subpart 4. If the stationary source has been operated less than 12 months on the date of application under this part, the owner or operator shall perform the calculation in subpart 4 by calculating gallons of VOC-containing materials purchased or used, amount of fuels purchased or used, or hours of operation by multiplying by 12 the larger of the following:

(1) the average monthly gallons of VOC-containing materials purchased or used, amount of fuel purchased or used, or hours of operation;

(2) calculating an estimated monthly average for normal operations.

Insignificant activities at the stationary source listed in part 7007.1300, subparts 2 and 3, and conditionally insignificant activities, are not required to be included in the application.

Subp. 3. **Compliance requirements for Option C sources.** Unless a stationary source is eligible under subpart 3a, the owners and operators of a stationary source issued a registration permit under this part shall comply with all of the requirements in items A to K.

A. If the stationary source determined eligibility in the permit application, in whole or in part, by calculating VOC actual emissions from VOC-containing materials purchased or used (whichever was stated in the permit application) in calculation 3 in subpart 4, the owner or operator must:

(1) record by the last day of each month, the amount of each VOC-containing material purchased or used (whichever was stated in the permit application) for the previous month;

(2) maintain a record of the material safety data sheet (MSDS), or a signed statement from the supplier stating the maximum VOC content, for each VOC-containing material purchased or used (whichever was stated in the permit application); and

(3) using calculation 3 in subpart 4, recalculate and record by the last day of each month the 12-month rolling sum of the actual VOC emissions from all VOC-containing materials purchased or used (whichever was stated in the permit application) for the previous 12 months, the date the calculation was made, and the calculation itself.

B. If the stationary source determined eligibility in the permit application, in whole or in part, by using fuel burned in calculation 1 or 2A in subpart 4, the owner or operator must:

(1) for each unit type, record by the last day of each month the 12-month rolling sum of the amount of each fuel purchased or used (whichever was stated in the permit application) for the previous 12 months;

(2) record the sulfur content of each fuel purchased or used (whichever was stated in the permit application), and maintain for each batch of fuel a record of the vendor certifications of sulfur content or test results by an independent laboratory using the ASTM method listed for the fuel in Table 1 or Table 2 (whichever applies), if a sulfur threshold is stated for that fuel in Table 1 or 2 in subpart 4; and

(3) using calculations 1 and 2A in subpart 4, for each unit type, recalculate and record by the last day of each month the 12-month rolling sum of emissions for the previous 12 months, the date the calculation was made, and the calculation itself.

C. If the stationary source determined eligibility in the permit application, in whole or in part, by using hours of operation in calculation 2B in subpart 4, the owner or operator must, for each emissions unit included in calculation 2B:

(1) record each by the last day of each month the hours operated, rounded to the nearest hour for the previous month; and

(2) using calculation 2B in subpart 4, recalculate and record by the last day of each month the 12-month rolling sum of emissions for each emissions unit for the previous 12 months, the date the calculation was made, and the calculation itself.

D. The owner or operator must add together and record by the last day of each month the 12-month rolling sum of the calculations made in items A to C for the previous 12 months. This sum is the eligibility number.

E. The owner or operator must not burn any fuels at the stationary source that are not listed in Table 1 or Table 2 of subpart 4, or that exceed the sulfur content limits listed in Table 1 or Table 2, and must not burn bituminous or subbituminous coal in any hand-fed indirect heating unit (boiler).

F. The 12-month rolling sum determined by the calculation in item D, the eligibility number, shall not exceed 50.

G. The owner or operator must have emissions from the stationary source only from indirect heating units (boilers, except hand-fed boilers burning bituminous or subbituminous coal), from reciprocating internal combustion engines, from insignificant activities under part 7007.1300, subparts 2 and 3, from conditionally insignificant activities, and/or from use of VOC-containing materials.

H. The owner or operator must comply with part 7007.1110.

I. The owner or operator must comply with all applicable requirements, including new source performance standards.

J. The owner or operator shall keep the following information on site for emission points venting emission units included in subpart 4, calculation 1, which burn coal, coke, wood, bark, number 5 or 6 residual oil, or number 4 distillate oil:

(1) the location of the emission points;

(2) the potential emissions, as defined in part 7007.0150, subpart 4, item A, in pounds per hour of sulfur dioxide and PM-10; and

(3) the gas flow rate and temperature, stack height, and diameter.

K. If the registration permit was issued before January 2, 2011, the owner or operator must begin record keeping for greenhouse gases as CO₂e on January 2, 2011, for example, tracking whether any insignificant activities no longer qualify as such.

Subp. 3a. **Compliance requirements for low-emitting Option C sources.** If the eligibility number determined by the calculation in item D is less than 25 for the previous calendar year, the owner or operator of a stationary source issued a registration permit under this part shall comply with all of the requirements in items A to E.

A. If the stationary source determined eligibility in the permit application, in whole or in part, by calculating VOC actual emissions from VOC-containing materials purchased or used (whichever was stated in the permit application) in calculation 3 in subpart 4, the owner or operator must:

(1) maintain records of the amount of each VOC-containing material purchased or used (whichever was stated in the permit application) each calendar year;

(2) maintain a record of the material safety data sheet (MSDS), or a signed statement from the supplier stating the maximum VOC content, for each VOC-containing material purchased or used (whichever was stated in the permit application); and

(3) using calculation 3 in subpart 4, recalculate and record by April 1 of each calendar year the sum of the actual VOC emissions from all VOC-containing materials purchased or used (whichever was stated in the permit application), and the calculation itself for the previous calendar year.

B. If the stationary source determined eligibility in the permit application, in whole or in part, by using fuel burned in calculation 1 or 2A in subpart 4, the owner or operator must:

(1) for each unit type, record by April 1 of each calendar year the sum of the amount of each fuel purchased or used (whichever was stated in the permit application) for the previous calendar year;

(2) record the sulfur content of each fuel purchased or used (whichever was stated in the permit application), and maintain for each batch of fuel a record of the vendor certifications of sulfur content or test results by an independent laboratory using the ASTM method listed for the fuel in Table 1 or Table 2 in subpart 4 (whichever applies), if a sulfur threshold is stated for that fuel in Table 1 or Table 2 in subpart 4; and

(3) using calculations 1 and 2A in subpart 4, for each unit type, recalculate and record by April 1 of each calendar year the sum of emissions and the calculation itself for the previous calendar year.

C. If the stationary source qualified in the permit application, in whole or in part, by using hours of operation in calculation 2B in subpart 4, the owner or operator must, for each emissions unit included in calculation 2B:

(1) record by April 1 of each calendar year the hours operated, rounded to the nearest hour for the previous calendar year; and

(2) using calculation 2B in subpart 4, recalculate and record by April 1 of each calendar year the sum of emissions for each emissions unit and the calculation itself for the previous calendar year.

D. The owner or operator must add together and record by April 1 of each calendar year the sum of the calculations made in items A to C. This sum, the eligibility number, shall not exceed 25 to be eligible under this subpart. If the eligibility number exceeds 25, then the owner or operator must comply with subpart 3 and have an eligibility number of less than 25 for two consecutive calendar years before eligibility for this subpart is reinstated.

E. The owner or operator must comply with subpart 3, items E and G to J.

Subp. 4. **Tables and calculations.** The tables and calculations in this subpart shall be used to determine whether a stationary source is eligible for a registration permit under this part. For the purposes for fuel specifications listed in calculations 1 and 2A, the Annual Book of American Society for Testing and Materials Standards (ASTM), 100 Barr Harbor Drive, West Conshocken, PA 19428-2959, volumes 4.05, 5.01, 5.03, and 5.05 (1993) are incorporated by reference. ASTM is the author and publisher. These

publications are available through the Minitex interlibrary loan system (University of Minnesota Library). These documents are subject to frequent change.

Calculation 1. Indirect Heating Emissions Units. For stationary sources with indirect heating emissions units, multiply the 12-month rolling sum of each fuel used by the multiplication factor (MF) listed in Table 1. Add the results of all the calculations to arrive at the calculation 1 total. The following formula determines the calculation 1 total:

STEP 1: fuel type used (in units specified) x MF = fuel type total

STEP 2: fuel type 1 total + fuel type 2 total + ... fuel type *n* total = Calculation 1 total

TABLE 1

FUEL USED (units burned/year)-[specification]	SULFUR LIMIT	MULTIPLICATION FACTOR (MF)
anthracite coal (tons)-[ASTM D 388(Vol 05.05)]	2.38%	4.64E-02
bituminous coal (tons)-[ASTM D 388(Vol 05.05)]	2.10%	4.10E-02
sub bituminous coal (tons)-[ASTM D 388 (Vol 05.05)]	1.66%	2.91E-02
lignite A coal (tons)-[ASTM D 388(Vol 05.05)]	1.26%	1.89E-02
petroleum coke (tons)-[ASTM C 1160(Vol 04.05)]	2.33%	4.55E-02
untreated domestic wood and bark (tons)-[ASTM D 1165(Vol 04.09)]	n/a	8.40E-03
kerosene (gallons)-[ASTM D 3699(Vol 05.03)]	0.50%	3.59E-05
No. 1 and No. 2 distillate (gallons)-[ASTM D 396(Vol 05.01)]	0.50%	3.59E-05
No. 4 distillate (gallons)-[ASTM D 396(Vol 05.01)]	1.80%	1.40E-04
No. 5 and No. 6 residual (gallons)-[ASTM D 396(Vol 05.01)]	1.80%	1.46E-04
liquefied petroleum gas (LPG) (gallons)-[ASTM D 1835(Vol 05.01 and 05.05)]	n/a	1.05E-05
dry or commercial pipeline natural gas (cubic feet)-this must be a mixture of ethane, methane, not more than five percent propane and not more than one percent butane	n/a	1.40E-07

Calculation 2. Reciprocating Internal Combustion Engine Emission Units. A stationary source with one or more reciprocating internal combustion (RIC) engines shall, for each RIC engine, use either calculation 2A or 2B. Stationary sources with RIC engine emission units burning fuels not listed in Table 2, however, must use calculation 2B.

Calculation 2A. RIC Engine Fuel Usage Calculation. For stationary sources with one or more RIC engines, multiply the 12-month rolling sum of each fuel used by the multiplication factor (MF) from Table 2. Add the results of each calculation to determine the total for that RIC engine. The following formula determines the calculation 2A total:

STEP 1: fuel type used (in specified units) x MF = fuel type total

STEP 2: fuel type 1 total + fuel type 2 total + ... fuel type *n* total = Calculation 2A total

TABLE 2

FUEL USED (units burned/year)-[specification]	SULFUR LIMIT	MULTIPLI- CATION FACTOR (MF)
No. 1 and No. 2 diesel, and kerosene (gallons)-[ASTM 975(Vol 05.01)]	0.5%	3.09E-04
liquefied petroleum gas (LPG) (gallons)-[ASTM D 1835(Vol 05.01 and 05.05)]	n/a	6.95E-05
dry or commercial pipeline natural gas (cubic feet)-[as defined in Table 1]	n/a	1.70E-06

Calculation 2B. RIC Engine Operating Hours Calculation. For stationary sources with one or more RIC engines, multiply the design capacity of the engine in horsepower by the 12-month rolling sum of hours operated and by the multiplication factor 1.22E-05. The owner or operator shall perform this calculation for each RIC engine, then add the results of all the calculations to arrive at the calculation 2B total. The following formula determines the calculation 2B total:

STEP 1: engine horsepower design capacity x hours operated x 1.22E-05 = RIC engine total

STEP 2: RIC engine 1 total + RIC engine 2 total + ... RIC engine *n* total = Calculation 2B total

Calculation 3. VOC Emissions Units. An owner or operator of a stationary source which purchases or uses VOC-containing materials shall, for each material purchased or used which contains VOC, multiply a factor of ten by the weight factor (WF) of the VOC in the material (weight of VOC per weight of VOC-containing material) by the density of the material (in pounds per gallon) by the 12-month rolling sum of gallons of that material purchased or used. The owner or operator shall perform this calculation for each material purchased or used which contains VOC (including VOC purchased or used for cleaning) and add the results of the calculations to arrive at the calculation 3 total. In determining the WF and the density, the owner or operator shall use the maximum listed in the material safety data sheets (MSDS) or a signed statement from the supplier for each VOC-containing material. The following formula determines the calculation 3 total:

STEP 1: $10 \text{ [WF} \times \text{density of the material (lb/gal)} \times (1 \text{ ton}/2,000 \text{ lb)} \times \text{the 12-month rolling sum of material purchased or used (gallons)}] = \text{material total}$

STEP 2: material 1 + material 2 + ... material n total = Calculation 3 total

Subp. 5. **Transition period.** Any owner or operator of a stationary source that holds a registration permit option C and is ineligible for a registration permit option C on or after January 1, 2007, shall apply for another type of permit on or before December 31, 2008.

Statutory Authority: *MS s 116.07*

History: *19 SR 1345; 20 SR 2316; 21 SR 165; 23 SR 2224; 27 SR 1579; 32 SR 904; 37 SR 991*

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7007.1130 REGISTRATION PERMIT OPTION D.

Subpart 1. **Eligibility.** The owners and operators of a stationary source may apply for a registration permit under this part if the stationary source meets the following criteria:

A. all emissions units at the stationary source are either included in calculations in subpart 4, or are insignificant activities under part 7007.1300, subparts 2 and 3, or are conditionally insignificant activities;

B. the 12-month rolling sum of actual emissions at the stationary source for each pollutant are less than or equal to the thresholds in subpart 5; and

C. the owner or operator does not anticipate making changes in the next year which will cause the stationary source's 12-month rolling sum of actual emissions to exceed any threshold in tons per year listed in subpart 5.

Subp. 2. **Application content.** An application for a registration permit under this part must contain all of the following requirements:

A. information identifying the stationary source and its owners and operators, including company name and address (plant name and address if different from the company name), owner's name and agent, and contact telephone numbers, including names of plant site manager or contact, and the person preparing the application if different;

B. a description of the stationary source's processes and products, by Standard Industrial Classification (SIC) code;

C. a copy of the applicable new source performance standards (NSPS) listed in part 7007.1110, subpart 2, item C, with the applicable portions of the standards highlighted, including applicable parts of Code of Federal Regulations, title 40, part 60, subpart A, General Provisions, or an NSPS checklist form provided by the commissioner, for each affected facility as defined in Code of Federal Regulations, title 40, section 60.2;

D. a statement of whether the owner or operator will base records required under subpart 3 on the purchase or the use of VOC-containing or hazardous air pollutant-containing materials and on the purchase or use of fuels;

E. the calculations required by subpart 4, and the total actual emissions per pollutant that result from those calculations. A stationary source in which the only hazardous air pollutant (HAP) emissions are VOC emissions and that has actual VOC emissions less than five tons per year is not required to calculate

emissions of HAPs. If the stationary source has not been operated, the owner or operator shall estimate actual emissions during normal operation in performing the calculations required by subpart 4. If the stationary source has been operated less than 12 months on the date of application under this part, the owner or operator shall estimate actual emissions by multiplying by 12 the larger of the following:

- (1) the average monthly actual emissions; or
- (2) the estimated average monthly actual emissions during normal operation;

F. if the calculations required by subpart 4 used control equipment efficiencies for listed control equipment determined by part 7011.0070, a copy of the portion of the control equipment manufacturer's specifications with the operating parameters required to be monitored under part 7011.0080 highlighted, and if the efficiency is based on an alternative control efficiency under part 7011.0070, subpart 2, a copy of the performance test plan with the operating parameters highlighted. The owner or operator of a hot mix asphalt plant shall provide a copy of the portion of the control equipment manufacturer's specifications with the operating parameters required to be monitored under part 7011.0917, subpart 7, or the information to support an alternative operating range required by part 7011.0917, subpart 1; and

G. if the calculations required by subpart 4 used emission factors established by a performance test approved by the commissioner under parts 7017.2001 to 7017.2060 and reflected use of control equipment that is not listed in part 7011.0070, a copy of the portion of the control equipment manufacturer's specifications which includes the operating parameters. If the emissions are discharged to the control equipment through a hood, then the owner or operator must evaluate, on a form provided by the commissioner, whether the hood conforms to the design and operating practices recommended in "Industrial Ventilation - A Manual of Recommended Practice, American Conference of Governmental Industrial Hygienists," and must include with the permit application the certification required in part 7011.0072, subpart 2.

Insignificant activities at the stationary source listed in part 7007.1300, subparts 2 and 3, or conditionally insignificant activities, are not required to be included in the application.

Subp. 3. Compliance requirements for Option D sources. Unless a stationary source is eligible under subpart 3a, the owner or operator of a stationary source issued a permit under this part shall comply with all of the requirements in items A to N.

A. If the stationary source determined eligibility in the permit application, in whole or in part, by calculating VOC and hazardous air pollutant actual emissions from VOC-containing or hazardous air pollutant-containing materials, purchased or used (whichever was stated in the permit application), the owner or operator must:

(1) record by the last day of each month, the amount of each VOC-containing or hazardous air pollutant-containing material purchased or used (whichever was stated in the permit application), and the VOC and hazardous air pollutant content for the previous calendar month;

(2) maintain a record of the material safety data sheet (MSDS), or a signed statement from the supplier stating the maximum VOC or hazardous air pollutant content, for each VOC-containing or hazardous air pollutant-containing material purchased or used (whichever was stated in the permit application);

(3) recalculate and record by the last day of each month the 12-month rolling sum of actual VOC and hazardous air pollutant emissions from VOC-containing and hazardous air pollutant-containing

materials purchased or used (whichever was stated in the permit application) for the previous 12 months, the date the calculation was made, and the calculation itself; and

(4) if the owner or operator assumes a reduction of emissions in using the materials balance method under subpart 4, item D, due to recycling of material off site, keep records of the amount of material shipped off site for recycling and the calculations done to determine the amount to subtract. Acceptable records include the material safety data sheets, invoices, shipping papers, and hazardous waste manifests.

A stationary source in which the only hazardous air pollutant (HAP) emissions are VOC emissions and that has actual VOC emissions less than five tons per year is not required to maintain records and perform the calculations of HAPs emissions under subitems (1) to (3).

B. If the stationary source determined eligibility in the permit application, in whole or in part, by using fuel burned in the calculations in subpart 4, the owner or operator must:

(1) record by the last day of each month the amount of each fuel purchased or used (whichever was stated in the permit application) for the previous month; and

(2) recalculate and record by the last day of each month the 12-month rolling sum of emissions for the previous 12 months, the date the calculation was made, and the calculation itself. This calculation must also include greenhouse gases as CO₂e effective January 2, 2011.

C. If the stationary source qualified in the permit application, in whole or in part, by using hours of operation in the calculations in subpart 4, the owner or operator must:

(1) record by the last day of each month the hours operated for each emissions unit, rounded to the nearest hour for the previous month; and

(2) recalculate and record by the last day of each month the 12-month rolling sum of emissions for the previous 12 months, the date the calculation was made, and the calculations itself.

D. If the stationary source determined eligibility in the permit application, in whole or in part, by calculating actual emissions under subpart 4 based on the quantity of material handled or throughput, or product produced, the owner or operator must:

(1) record by the last day of each month for each material handled or throughput and for each product produced, the amount of the material handled or throughput and the amount of product produced for the previous month; and

(2) recalculate and record by the last day of each month for each material handled or throughput and for each product produced, the 12-month rolling sum of emissions for the previous 12 months, the date the calculation was made, and the calculation itself.

E. The owner or operator must recalculate and record by the last day of each month, pursuant to subpart 4, the 12-month rolling sum of actual emissions from the stationary source for the previous 12 months, the date the calculation was made, and the calculation itself. This calculation must include all emissions units at the stationary source and the information required by subpart 4, item B, subitem (3), if continuous emissions monitor (CEM) data is used in the calculation. This calculation need not include emissions from insignificant activities under part 7007.1300, subparts 2 and 3, or conditionally insignificant activities.

F. If the stationary source qualified in the permit application, in whole or in part, by using control equipment efficiencies for:

(1) listed control equipment determined under part 7011.0070, the owner or operator shall comply with parts 7011.0060 to 7011.0080, except that the owner or operator of a hot mix asphalt plant shall comply instead with part 7011.0917. If the calculations required by subpart 4 used control equipment efficiencies based on an alternative control efficiency under part 7011.0070, subpart 2, the owner or operator shall also comply with the operating parameters of the performance test that established the alternative control efficiency; or

(2) control equipment that is not listed in part 7011.0070, the owner or operator shall comply with subpart 6 and with the operating parameters of the performance test that established the emission factor. The owner or operator may operate this control equipment before conducting a performance test and establishing an emission factor, but the owner or operator must calculate actual emissions assuming an uncontrolled emission factor for the period of operation prior to the date the performance test is conducted.

G. The 12-month rolling sum of actual emissions from the stationary source determined pursuant to subpart 4 must not exceed the thresholds in subpart 5 for any pollutant.

H. Comply with part 7007.1110.

I. Comply with all applicable requirements including new source performance standards.

J. If the calculation of actual emissions required by subpart 2, item E, for the application or by subpart 3, item E, for compliance verification exceeds five tons per year of sulfur dioxide or particulate matter less than ten microns, the owner or operator shall keep the following at the stationary source for all emission units venting to these emission points:

(1) the location of the emission points;

(2) the potential emissions, as defined in part 7007.0150, subpart 4, in pounds per hour of sulfur dioxide and PM-10; and

(3) the gas flow rate and temperature, stack height, and diameter.

K. If the stationary source determined eligibility in the permit application, in whole or in part, by using fuel sulfur data in the calculations in subpart 4, the owner or operator must:

(1) record by the last day of each month the amount of each fuel burned for each batch of fuel for the previous month;

(2) maintain a record of the fuel sulfur content verified by vendor certification or measured by an independent laboratory using ASTM methods for each batch of fuel received; and

(3) recalculate and record by the last day of each month the 12-month rolling sum of SO₂ emissions for the previous 12 months, the date the calculation was made, and the calculation itself using the calculation method in subpart 4.

L. If the stationary source determined eligibility in the permit application, in whole or in part, by using hours of operation in the calculations in subpart 4, the owner or operator must:

(1) record by the last day of each month the hours operated for each emissions unit, rounded to the nearest hour for the previous month; and

(2) recalculate and record by the last day of each month the 12-month rolling sum of emissions for the previous 12 months, the date the calculation was made, and the calculation itself.

M. If the stationary source determined eligibility in the permit application, in whole or in part, by calculating actual emissions as CO₂e of hydrofluorocarbons, perfluorocarbons, nitrous oxide, and sulfur hexafluoride, purchased or used (whichever was stated in the permit application), the owner or operator must:

(1) record, by the last day of each month, the amount purchased or used (whichever was stated in the permit application) of each material containing hydrofluorocarbons, perfluorocarbons, nitrous oxide, and sulfur hexafluoride and the mass content of these pollutants for the previous calendar month;

(2) maintain a record of the material safety data sheet (MSDS) or a signed statement from the supplier stating the maximum content of hydrofluorocarbons, perfluorocarbons, nitrous oxide, and sulfur hexafluoride in each material containing hydrofluorocarbons, perfluorocarbons, nitrous oxide, and sulfur hexafluoride purchased or used (whichever was stated in the permit application);

(3) calculate and record, by the last day of each month, the 12-month rolling sum of actual emissions as CO₂e of hydrofluorocarbons, perfluorocarbons, nitrous oxide, and sulfur hexafluoride purchased or used (whichever was stated in the permit application) for the previous 12 months, the date the calculation was made, and the calculation itself; and

(4) if the owner or operator assumes a reduction of emissions in using the material balance method under subpart 4, item D, due to recycling or disposal of material off-site, keep records of the amount of material shipped off-site for recycling and the calculations done to determine the amount to subtract. Acceptable records include monitoring records, material safety data sheets, invoices, shipping papers, and hazardous waste manifests.

N. If the stationary source determined eligibility in the permit application, in whole or in part, by calculating actual emissions as CO₂e of carbon dioxide, nitrous oxide, or methane resulting from a chemical process such as fermentation, wastewater treatment, or decomposition, the owner or operator must:

(1) record, by the last day of each month, the amount of carbon dioxide, nitrous oxide, or methane generated by the chemical processes for the previous calendar month;

(2) calculate and record, by the last day of each month, the 12-month rolling sum of actual emissions as CO₂e of carbon dioxide, nitrous oxide, or methane for the previous 12 months, the date the calculation was made, and the calculation itself; and

(3) if the owner or operator assumes a reduction of emissions in using the material balance method under subpart 4, item D, due to the collection and reuse, recycling, or disposal of carbon dioxide, nitrous oxide, or methane on-or off-site, keep records of the amount of carbon dioxide, nitrous oxide, or methane used or shipped off-site and the calculations done to determine the amount to subtract. Acceptable records include monitoring records, invoices, shipping papers, operating data for air pollution control equipment, or process equipment.

Subp. 3a. **Compliance requirements for low-emitting Option D sources.** If the actual emissions for the previous calendar year of each pollutant are less than the emission eligibility limits for each pollutant listed in Table 3A, then the owner or operator shall comply with all of the requirements in items A to H.

A. If the stationary source determined eligibility in the permit application, in whole or in part, by calculating greenhouse gases (GHGs) as CO₂e, VOC, and HAP actual emissions from GHGs-containing, VOC-containing, or HAP-containing materials, purchased or used (whichever was stated in the permit application), the owner or operator must:

(1) maintain records of the amount of each GHGs-containing, VOC-containing, or HAP-containing material purchased or used (whichever was stated in the permit application), and the GHGs or VOC content each calendar year;

(2) maintain a record of the material safety data sheet (MSDS), or a signed statement from the supplier stating the maximum GHGs, VOC, or HAP content, for each GHGs-containing, VOC-containing, or HAP-containing material purchased or used (whichever was stated in the permit application); and

(3) calculate and record, by April 1 of each calendar year, the sum of actual GHGs emissions as CO₂e, VOC emissions, and hazardous air emissions from GHGs-containing, VOC-containing, and HAP-containing materials purchased or used (whichever was stated in the permit application), and the calculation itself for the previous calendar year.

A stationary source in which the only HAP emissions are VOC emissions and that has actual VOC emissions less than five tons per year is not required to maintain records and perform the calculations of HAP emissions under subitems (1) to (3).

B. If the stationary source determined eligibility in the permit application, in whole or in part, by using fuel burned in the calculations in subpart 4, the owner or operator must:

(1) maintain records of the amount of each fuel purchased or used each calendar year (whichever was stated in the permit application); and

(2) calculate and record by April 1 of each calendar year the sum of the emissions, and the calculation itself for the previous calendar year.

C. If the stationary source determined eligibility in the permit application, in whole or in part, by using hours of operation in the calculations in subpart 4, the owner or operator must:

(1) maintain records of the hours operated for each emissions unit for each calendar year, rounded to the nearest hour; and

(2) calculate and record by April 1 each calendar year the sum of the emissions, and the calculations itself for the previous calendar year.

D. If the stationary source determined eligibility in the permit application, in whole or in part, by calculating actual emissions under subpart 4 based on the quantity of material handled or throughput, or product produced, the owner or operator must:

(1) maintain records each calendar year of the amount of each material handled or throughput and for each product produced, the amount of the material handled or throughput, and the amount of product produced; and

(2) calculate and record by April 1 of each calendar year for each material handled or throughput and for each product produced, the sum of the emissions and the calculation itself for the previous calendar year.

E. By April 1 of each calendar year, the owner or operator must calculate and record, pursuant to subpart 4, the sum of actual emissions from the stationary source, and the calculation itself for the previous calendar year. This calculation must include all emissions units at the stationary source, except for insignificant activities under part 7007.1300, subparts 2 and 3, and the information required by subpart 4, item B, subitem (3), if continuous emissions monitor (CEM) data is used in the calculation. The sum of actual emissions for each pollutant from the stationary source must not exceed the emission eligibility

limits in Table 3A for any pollutant. If the emission eligibility limit in Table 3A is exceeded for any pollutant, then the stationary source is no longer eligible under this subpart and must comply with subpart 3 and have actual emissions for each pollutant below the eligibility limits in Table 3A for two consecutive calendar years before eligibility for this subpart is reinstated.

F. The owners and operators must comply with subpart 3, items F and H to J.

TABLE 3A

OPTION D EMISSION ELIGIBILITY LIMITS FOR
REDUCED RECORD KEEPING

POLLUTANT	ELIGIBILITY LIMIT FOR REDUCED RECORD KEEPING
HAP	2.5 tons/year for a single HAP 6.25 tons/year total for all HAPs
PM	25 tons/year
PM-10	25 tons/year for an Attainment Area 0 tons/year for a Nonattainment Area
VOC	25 tons/year
SO ₂	25 tons/year
NO _x	25 tons/year
CO	25 tons/year
Pb	0.05 tons/year
CO ₂ e	25,000 tons/year

G. If the stationary source determined eligibility in the permit application, in whole or in part, by using fuel sulfur data in the calculations in subpart 4, the owner or operator must:

- (1) maintain records of the amount of each fuel burned for each batch of fuel for each calendar year;
- (2) maintain a record of the fuel sulfur content verified by vendor certification or measured by an independent laboratory using ASTM methods for each batch of fuel received; and
- (3) calculate and record by April 1 of each calendar year the sum of SO₂ emissions and the calculation itself for the previous calendar year using the calculation method in subpart 4.

H. If the stationary source determined eligibility in the permit application, in whole or in part, by using hours of operation in the calculations in subpart 4, the owner or operator must:

- (1) maintain records of the number of hours operated for each emissions unit, rounded to the nearest hour for each calendar year; and
- (2) calculate and record by April 1 of each calendar year the sum of emissions and the calculation itself for the previous calendar year.

Subp. 4. **Calculation of actual emissions.** The owner or operator of a stationary source may use a calculation worksheet provided by the commissioner for calculating actual emissions under this part, or may use the calculation methods under items A to E. The owner or operator must calculate actual emissions for each emissions unit, except that similar emissions units may be aggregated for emission calculation purposes. The owner or operator of a stationary source shall use the calculation method in item B instead of the calculation method in item A if the data described in item B are available for the stationary source. The alternative methods described in items C, D, and E may be used by the owner or operator without advance notification to the commissioner. The commissioner shall reject data submitted using the methods described in items B to E if the conditions set forth for the method are not fully met. To prevent double counting of emissions, the owners and operators must select one calculation method under this subpart for each emissions unit at the stationary source. Fugitive dust emissions must be included in the calculations under this subpart only if the stationary source is in a category listed in part 7007.0200, subpart 2, item B, subitems (1) to (27).

A. All calculations of actual emissions required under this part shall be based on the stationary source's operating parameters, and must use the following equation:

$$E = OP \times UEF \times [1 - CE], \text{ where}$$

E = Actual Emissions in tons per year

OP = Operating Parameter as required by the Uncontrolled Emission Factor (hours of operation or units produced)

UEF = Uncontrolled Emission Factor (pounds of pollutant per hour of operation or units produced) as defined in part 7005.0100, subpart 10a, for uncontrolled emissions

CE = Control Efficiency (percent expressed as a decimal fraction of 1.00) determined according to part 7011.0070 for listed control equipment.

B. If the owner or operator of the stationary source has collected emissions data through use of a continuous emission monitor (CEM) in compliance with the preconditions in subitems (1) and (2), the owner or operator shall use the CEM data to calculate actual emissions, the calculation shall be based on all of the CEM data, and the following requirements shall be met:

- (1) the CEM has been certified by the commissioner;
- (2) the CEM data have not been rejected by the commissioner due to failure by the owner or operator to comply with all requirements of parts 7017.1002 to 7017.1220; all applicable permit conditions; and any other applicable state or federal laws pertaining to CEM operation;
- (3) the total operating time of the applicable emissions unit and the total operating time of the CEM for the previous 12 consecutive months must be included in the permit application and in the monthly records required in subpart 3; and
- (4) an explanation of how the emissions were calculated based on the CEM data must be included in the permit application and in the monthly records required in subpart 3. In calculating actual emissions, the owner or operator must use the rated capacity of the flow unless the CEM provides actual data on the flow rate. For periods when the CEM is down and the emission unit is operating, the CEM data shall be substituted with emission data calculated using data obtained from the CEM. The CEM must have recorded data for at least 90 percent of the hours the emission unit was operated for the calendar year. The substitute CEM data must be representative of emission unit operation and, if applicable, of the control equipment operation during the period of CEM downtime. If substitute CEM data meeting these conditions

is not available, emissions during periods of CEM downtime shall be calculated using emission factors as specified in item A or performance test data as specified in item C.

C. Emission factors from performance tests may be used for the calculation of actual emissions, provided that:

(1) the emissions unit is either an uncontrolled unit (for the tested pollutant) or is fitted with air pollution control equipment subject to the monitoring and record-keeping requirements of parts 7011.0060 to 7011.0080 or is fitted with air pollution equipment that has met the requirements of subpart 6; and

(2) the performance tests met all the requirements of parts 7017.2001 to 7017.2060, and all other applicable state rules and federal regulations governing performance tests. The owner or operator of a stationary source that uses an emission factor developed from a performance test shall use the calculation method under item A.

D. A material balance method may be used to calculate greenhouse gases as CO₂e and VOC actual emissions. The owner or operator of a stationary source that uses material balance to calculate greenhouse gases as CO₂e and VOC actual emissions shall determine total greenhouse gases as CO₂e and VOC actual emissions (\bar{E}) using the equation in this item. A separate calculation must be made for each individual gas comprising the pollutant greenhouse gases and the results converted to CO₂e. The amount of CO₂e from each individual gas comprising the pollutant greenhouse gases must be added together for the total tons per year of CO₂e.

$$E = (a - b - c) \times (1 - d), \text{ where}$$

a = the amount of VOC or each individual gas comprising the pollutant greenhouse gases entering the process or the amount of carbon dioxide, nitrous oxide, or methane generated. A signed statement from the supplier or the material safety data sheet must be submitted stating the maximum amount of VOC or each individual gas comprising the pollutant greenhouse gases in any material that was used in the process.

b = the amount of VOC or each individual gas comprising the pollutant greenhouse gases incorporated permanently into the product. This includes VOCs or each individual gas comprising the pollutant greenhouse gases chemically transformed in production. It does not include latent VOC or each individual gas comprising the pollutant greenhouse gases remaining in the product that will at some time be released to the atmosphere. An explanation of this calculation must also be submitted.

c = the amount of VOC or each individual gas comprising the pollutant greenhouse gases, if any, leaving the process as waste, or otherwise not incorporated into the product and not emitted to the air.

d = the control efficiency (percent expressed as a decimal fraction of 1.00) determined according to part 7011.0070.

E. The owner or operator of a stationary source may determine sulfur dioxide actual emissions by measuring the sulfur content of the fuel and assuming that all of the sulfur in the fuel is oxidized to sulfur dioxide. The sulfur content of each batch of fuel received must be measured by an independent laboratory using ASTM methods or verified by vendor certification. The sulfur dioxide actual emissions shall be determined for each batch of fuel received by using the following equation:

$$SO_2 = \%S/100 \times F/2,000 \times 2, \text{ where}$$

SO₂ = Sulfur dioxide emissions from a batch of fuel in tons.

%S = Weight percent sulfur in the fuel being burned.

F = Amount of fuel burned by weight in pounds.

2,000 = Pounds per ton.

2 or 64/32 = Pounds of sulfur dioxide per pound of sulfur in one pound-mole.

The total sulfur dioxide emissions for the year shall be the sum total of the individual batch totals.

Subp. 5. **Emissions thresholds.** The owner or operator must calculate actual emissions for the stationary source using the calculations under subpart 4 and the calculated 12-month rolling sum of actual emissions must be less than or equal to the thresholds listed in Table 3.

TABLE 3

OPTION D EMISSIONS THRESHOLDS

POLLUTANT	THRESHOLD (ton/year)
HAP	5 tons/year for a single HAP 12.5 tons/year total for all HAPs
PM	50 tons/year
PM-10	50 tons/year for an Attainment Area 25 tons/year for a Nonattainment Area
VOC	50 tons/year
SO ₂	50 tons/year
NO _x	50 tons/year
CO	50 tons/year
Pb	0.5 tons/year
CO ₂ e	50,000 tons/year

Subp. 6. **Control equipment general requirements for control equipment that is not listed in part 7011.0070.** If the stationary source qualified in the permit application, in whole or in part, or demonstrates compliance, in whole or in part, by using an emission factor determined through a performance test that reflects the use of control equipment that is not listed in part 7011.0070, the owner or operator shall:

A. operate the control equipment whenever operating the emission units controlled by the control equipment in compliance with this item. The control equipment shall at all times be operated in the range established by the control equipment manufacturer's specifications for each control equipment parameter that is required to be monitored by the approved test plan during the performance test, or within the operating parameters set by the commissioner as the result of the most recent performance test conducted under parts 7017.2001 to 7017.2060, if those are more restrictive. The control equipment must have been manufactured by a control equipment manufacturer as defined in part 7011.0060, subpart 3. The monitoring parameters shall indicate that the control equipment is operating under the same conditions as during the

performance test. If the commissioner determines such monitoring parameters do not exist, then an emission factor may not be established through a performance test under this part;

- B. maintain the control equipment according to the requirements of part 7011.0075, subpart 2;
- C. operate the monitoring equipment for each parameter required to be monitored as part of the approved test at all times the control equipment is required to operate;
- D. record each parameter required to be monitored at least every 24 hours when in operation or more frequently, if the commissioner determines that more frequent monitoring is required to determine the control equipment is operating under the same conditions as during the performance test;
- E. report to the commissioner any recorded reading outside the specification or range of specification of any monitored parameter required by the approved test plan in accordance with the deadlines in part 7007.0800, subpart 6, item A, subitem (2), except that owners or operators shall make this report only if a deviation occurred in the reporting period;
- F. conduct additional performance tests, upon request of the commissioner or the administrator, to verify the accuracy of the emission factor or for any of the reasons specified in part 7017.2020, subpart 1;
- G. in the event of a shutdown or breakdown of control or process equipment or deviations which would endanger human health or the environment, comply with part 7019.1000;
- H. recalculate the actual emissions if the owner or operator becomes aware of information indicating that the emission factor determined through the performance test is no longer representative; and
- I. if the emissions are discharged to the control equipment through a hood, maintain at the stationary source the evaluation of each hood, and record each month the fan rotation speed, fan power draw, or face velocity of each hood, or other comparable air flow indication method.

Statutory Authority: *MS s 116.07*

History: *19 SR 1345; 20 SR 2316; 20 SR 2253(NO. 42); 21 SR 165; 22 SR 1237; 23 SR 1764; 23 SR 2224; 27 SR 1579; 28 SR 1482; 32 SR 904; 37 SR 991*

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7007.1140 CAPPED PERMIT ELIGIBILITY REQUIREMENTS.

Subpart 1. **Sources that may obtain a capped permit.** Owners and operators of a stationary source that qualifies for capped permit option 1 under part 7007.1141, subpart 1, or capped permit option 2 under part 7007.1141, subpart 2, may elect to apply to the commissioner for a capped permit instead of a part 70, state, registration, or general permit, except as provided in item B. The owners and operators of a stationary source may apply for a capped permit under this part if the stationary source meets the following criteria:

A. The owners and operators apply for capped permit option 1 or capped permit option 2 and meet the requirements of subitems (1) or (2).

(1) For option 1, all emissions units at the stationary source are either included in calculations in part 7007.1146; are insignificant activities under part 7007.1300, subpart 2; or are insignificant activities under part 7007.1300, subpart 3, for which emission factors or other calculation methods do not exist.

(2) For option 2, all emissions units at the stationary source are either included in calculations in part 7007.1146, or are insignificant activities under part 7007.1300, subpart 2 or 3, or are conditionally insignificant activities described in chapter 7008.

B. The 12-month rolling sum of actual emissions at the stationary source for each pollutant is less than or equal to the thresholds in option 1 or option 2. If the source has not been operated or has operated for less than 12 months, the 12-month sum of estimated actual emissions is less than or equal to the thresholds in part 7007.1141.

C. The owner or operator does not anticipate making changes in the next year which will cause the stationary source's 12-month rolling sum of actual emissions to exceed any threshold in tons per year listed in part 7007.1141.

D. The owner or operator complies with part 7007.1148, ambient air quality assessment.

Subp. 2. Sources that may not obtain a capped permit.

A. Owners and operators of a stationary source may not obtain a capped permit if they are required to obtain a permit under parts 7007.0200, subpart 3, acid rain affected sources; 7007.0200, subpart 4, solid waste incinerators and waste combustors; 7007.0200, subpart 5, other part 70 sources; 7007.0250, subpart 3, state implementation plan required state permit; or 7007.0250, subpart 6, waste combustors.

B. A stationary source may not obtain a capped permit if air quality specific conditions or limits not contained in parts 7007.1140 to 7007.1148 were assumed:

- (1) as a mitigation measure in an environmental impact statement;
- (2) in obtaining a negative declaration in an environmental assessment worksheet; or
- (3) in demonstrating compliance with any state or national ambient air quality standards.

C. A stationary source may not obtain a capped permit if it produces fuel grade ethanol or if a sector-based state general permit is available except as allowed under part 7007.1100, subpart 2.

D. A stationary source may not obtain a capped permit if the commissioner determines site-specific permit requirements are needed to ensure compliance with applicable requirements or to protect human health or the environment.

E. No stationary source may obtain a capped permit if it is subject to a new source performance standard other than one of the following:

(1) Code of Federal Regulations, title 40, part 60, subpart Dc, Standards of Performance for Small Industrial-Commercial-Institutional Steam Generating Units, incorporated by reference in part 7011.0570;

(2) Code of Federal Regulations, title 40, part 60, subpart I, Standards of Performance for Hot Mix Asphalt Facilities, incorporated by reference in part 7011.0909;

(3) Code of Federal Regulations, title 40, part 60, subpart K, Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction or Modification Commenced After June 11, 1973, and Prior to May 19, 1978, incorporated by reference in part 7011.1520, item A;

(4) Code of Federal Regulations, title 40, part 60, subpart Ka, Standards of Performance for Storage Vessels for Petroleum Liquids for Which Construction, Reconstruction or Modification Commenced after May 18, 1978, and Prior to July 23, 1984, incorporated by reference in part 7011.1520, item B;

(5) Code of Federal Regulations, title 40, part 60, subpart Kb, Standards of Performance for Volatile Organic Liquid Storage Vessels (Including Petroleum Storage Vessels) for Which Construction, Reconstruction or Modification Commenced After July 23, 1984, incorporated by reference in part 7011.1520, item C;

(6) Code of Federal Regulations, title 40, part 60, subpart DD, Standards of Performance for Grain Elevators, incorporated by reference in part 7011.1005, subpart 2;

(7) Code of Federal Regulations, title 40, part 60, subpart EE, Standards of Performance for Surface Coating of Metal Furniture, incorporated by reference in part 7011.2550;

(8) Code of Federal Regulations, title 40, part 60, subpart GG, Standards of Performance for New Stationary Gas Turbines, incorporated by reference in part 7011.2350;

(9) Code of Federal Regulations, title 40, part 60, subpart SS, Standards of Performance for Industrial Surface Coating: Large Appliances, incorporated by reference in part 7011.2565;

(10) Code of Federal Regulations, title 40, part 60, subpart XX, Standards of Performance for New Bulk Gasoline Terminals, incorporated by reference in part 7011.1550;

(11) Code of Federal Regulations, title 40, part 60, subpart JJJ, Standards of Performance for Petroleum Dry Cleaners, incorporated by reference in part 7011.3250;

(12) Code of Federal Regulations, title 40, part 60, subpart TTT, Standards of Performance for Industrial Surface Cleaning of Plastic Parts for Business Machines, incorporated by reference in part 7011.2580;

(13) Code of Federal Regulations, title 40, part 60, subpart IIII, Standards of Performance for Stationary Compression Ignition Internal Combustion Engines, incorporated by reference in part 7011.2305, but only if the compression ignition internal combustion engine has a displacement less than 30 liters per cylinder or is an emergency engine with a displacement greater than 30 liters per cylinder; and

(14) Code of Federal Regulations, title 40, part 60, subpart JJJJ, Standards of Performance for Stationary Spark Ignition Internal Combustion Engines, incorporated by reference in part 7011.2310.

Statutory Authority: *MS s 116.07*

History: *29 SR 626; 32 SR 904; 37 SR 991*

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7007.1141 CAPPED PERMIT EMISSION THRESHOLDS.

Subpart 1. Option 1 emission thresholds.

- A. HAP, 9.0 tons per year for a single HAP, 20 tons per year total for all HAPs;
- B. PM, 90 tons per year;
- C. PM-10, 90 tons per year;
- D. VOC, 90 tons per year;
- E. SO₂, 90 tons per year;
- F. NO_x, 90 tons per year;
- G. CO, 90 tons per year;

- H. Pb, 0.50 tons per year; and
- I. CO₂e, 90,000 tons per year.

Subp. 2. **Option 2 emission thresholds.**

- A. HAP, 8.0 tons per year for a single HAP, 20 tons per year total for all HAP's;
- B. PM, 75 tons per year;
- C. PM-10, 75 tons per year;
- D. VOC, 85 tons per year;
- E. SO₂, 90 tons per year;
- F. NO_x, 85 tons per year;
- G. CO, 85 tons per year;
- H. Pb, 0.50 tons per year; and
- I. CO₂e, 85,000 tons per year.

Statutory Authority: *MS s 116.07*

History: *29 SR 626; 37 SR 991*

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7007.1142 CAPPED PERMIT ISSUANCE AND CHANGE OF PERMIT STATUS.

Subpart 1. **Capped permit issuance, denial, and revocation.** The commissioner shall issue a capped permit to the owners and operators of a stationary source if the owners and operators have submitted a complete application for a capped permit, the commissioner determines that the stationary source qualifies for the capped permit option under parts 7007.1140 to 7007.1148 for which the application was submitted, and the commissioner anticipates that the stationary source will comply with the capped permit. The commissioner shall deny an application for a capped permit if the commissioner determines that the stationary source does not qualify for the capped permit option under parts 7007.1140 to 7007.1148 for which the application was submitted or that the stationary source will not be able to comply with the capped permit. The grounds for permit denial in parts 7007.1000, subpart 1, item H, and part 7007.1000, subpart 2, items B to G, also constitute grounds for the commissioner to deny a capped permit application. The commissioner may revoke a capped permit, if the commissioner finds that any of the grounds under subpart 6 or under part 7007.1700, subpart 1, exist, by following the procedure in part 7007.1700, subpart 2.

Subp. 2. **Changes or modifications rendering stationary source ineligible for its current capped permit option.** If the owner or operator intends to make a change or modification at a stationary source issued a capped permit which results in the stationary source becoming ineligible for that permit option or being unable to meet the requirements for that permit option, but which will result in the stationary source being eligible for the other capped permit option, then the owner or operator must comply with items A to C.

A. The owners and operators must submit the required permit application to the commissioner before making the change or beginning actual construction on the modification. The public participation process in part 7007.1144 does not apply to applications in which a stationary source is transferring from one capped permit option to another.

B. The owner or operator may make the change or begin actual construction on and start-up of the modification proposed in the permit application seven working days after the permit application is received by the commissioner.

C. Until the commissioner acts on the permit application, the owner or operator must comply with the requirements of the capped permit option for which the owners and operators applied, and all applicable requirements. During this time period, the owner or operator need not comply with the capped permit requirements specific to the option under which the owners and operators currently hold a capped permit.

Subp. 3. Changes or modifications rendering stationary source ineligible for either capped permit option. The owners and operators of a stationary source that has been issued a capped permit must submit a registration, part 70, state, or general permit application before making a change or modification which results in the stationary source no longer qualifying for either capped permit option under parts 7007.1140 to 7007.1148. The owner or operator may not begin actual construction on the modification until the required registration, part 70, state, or general permit for the stationary source is obtained, or an installation and operation permit for the modification is obtained under part 7007.0750, subpart 5. Once a stationary source has made a change or modification rendering it ineligible for either capped permit option under parts 7007.1140 to 7007.1148, the stationary source may only become eligible for a capped permit again if it meets the requirements of subpart 4.

Subp. 3a. Regulatory change rendering stationary source ineligible for capped permit.

A. If a stationary source covered by a capped permit becomes subject to a new regulatory requirement that results in the stationary source no longer being able to qualify for or meet the requirements for the current permit, then the owners and operators must:

(1) submit a written notification to the commissioner within 30 days of the effective date of a new regulation that results in the stationary source no longer being able to qualify for or meet the requirements for the capped permit. The notification must include a description of the regulatory change and a statement of what type of permit application the owners and operators will submit; and

(2) submit either a part 70, state, or general permit application within 180 days of the effective date of the regulatory change.

B. The owners and operators must submit the required permit application for the appropriate air emission permit within the time limits given in item A. If the owners and operators fail to submit the required permit application in the time required, the owners and operators are considered to not hold a valid permit and are in violation of part 7007.0150, subpart 1.

Subp. 4. Reinstatement of eligibility for capped permit through addition of air pollution control equipment, removal of emission units, or implementation of pollution prevention practices. If through the addition of listed control equipment as defined in part 7011.0060, permanent removal of emissions units, or implementation of pollution prevention practices the stationary source reinstates eligibility for a capped permit under parts 7007.1140 to 7007.1148, the owners and operators may reapply for a capped permit. If the stationary source reinstates eligibility for a capped permit due to implementation of pollution prevention practices, the owner or operator shall submit a description of the pollution prevention practices with the capped permit application for the commissioner's review and approval. For purposes of this subpart, "pollution prevention practices" means eliminating or reducing at the source the quantity or toxicity of regulated air pollutants, or hazardous air pollutants that are not regulated air pollutants, used by or emitted

from the stationary source. Emission reductions are not reductions if the decrease is solely the result of a decrease in production at the stationary source.

Subp. 5. Change of name, ownership, or control of stationary source issued a capped permit.

A. Prior to a change of the name of the stationary source or any mailing address listed in the permit, the owners and operators must submit a request for change of the name or address on a form provided by the commissioner. The commissioner shall reissue the capped permit to the owners and operators with the changed name or mailing address. Issuance of a capped permit with a new name or mailing address voids and supersedes the previously issued capped permit.

B. Prior to a change in the ownership or control of a stationary source issued a capped permit under parts 7007.1140 to 7007.1148, the new owners and operators must submit a request for change of the owner or operator on a form provided by the commissioner. If the commissioner determines that the new owners and operators meet the requirements of parts 7007.1140 to 7007.1148 for capped permit issuance, then the commissioner shall issue the capped permit to the new owners and operators. Issuance of a capped permit to the new owners and operators of an eligible stationary source voids and supersedes the capped permit of the previous owners and operators.

Public participation procedures in part 7007.1144 do not apply to the issuance of a capped permit for a change of stationary source name, mailing address, ownership, or control.

Subp. 6. Agency request for different type of permit application. The owners and operators shall submit an application for a part 70, state, or general permit, or a different capped permit option, within 120 days of the commissioner's written request for the application if the commissioner determines that:

A. the stationary source has a history of noncompliance with applicable requirements or with its capped permit;

B. the stationary source no longer qualifies for its capped permit;

C. the stationary source qualifies for the other capped permit option under parts 7007.1140 to 7007.1148;

D. the applicable requirements to which the stationary source is subject are about to or have changed substantially;

E. the permit application contains material mistakes or inaccurate statements to establish eligibility for the emissions standards, limitations, or other terms or conditions of the permit;

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

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

Subp. 7. Voiding an existing permit. The commissioner shall void a part 70, state, or registration permit for a stationary source which is issued a capped permit. A stationary source that is covered under the terms of a general permit is no longer covered by the general permit when it is issued a capped permit. The commissioner shall void a capped permit issued under one capped permit option for a stationary source that is issued a capped permit for a different capped permit option. The commissioner shall void a capped permit for a stationary source that is issued a registration, part 70, state, or general permit.

Statutory Authority: *MS s 116.07*

History: *29 SR 626; 37 SR 991*

Published Electronically: *January 24, 2013*

7007.1143 CAPPED PERMIT GENERAL REQUIREMENTS.

Subpart 1. **Capped permit certifications.** A responsible official, as defined in part 7007.0100, subpart 21, shall sign and certify any capped permit application, report, compliance certifications, and record keeping, testing, or monitoring submitted pursuant to parts 7007.1140 to 7007.1148 with regard to truth, accuracy, and completeness. The certification and any other certification required by parts 7007.1140 to 7007.1148 must state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. The certification that is submitted with a capped permit application must additionally state that the stationary source will be operated in compliance with all applicable requirements, and must be signed by a responsible official of both the owner and the operator of the stationary source if they are not the same.

Subp. 2. **Capped permit content.** A capped permit must identify the stationary source, the owner and operator of the stationary source, where the stationary source is allowed to operate, and shall state as follows: "The permittee shall comply with Minnesota Rules, parts 7007.1140 to 7007.1148, that pertain to capped permit [insert option 1 or option 2 whichever one applies], and all applicable requirements, including development of a compliance plan and all record keeping, monitoring, and reporting described in parts 7007.1140 to 7007.1148."

Subp. 3. **Emission inventory required for stationary sources issued capped permits.** The owner or operator of a stationary source issued a capped permit under parts 7007.1140 to 7007.1148 must submit an annual emission inventory to the commissioner under parts 7019.3000 to 7019.3100.

Subp. 4. **Record retention, access to records, and inspections for stationary sources issued capped permits.**

A. The owner or operator of a stationary source issued a capped permit under parts 7007.1140 to 7007.1148 must maintain at the stationary source for a period of five years from the date the record was made all information required to be recorded under applicable state and federal rules and parts 7007.1140 to 7007.1148. The owner or operator must make these records available for examination and copying upon request of the commissioner, and must upon request submit these records to the commissioner by the time specified by the commissioner in the request. A stationary source with a capped permit may maintain records at an office of the owner or operator of the stationary source for all years prior to the current calendar year of operation.

B. The owner or operator of a stationary source issued a capped permit under parts 7007.1140 to 7007.1148 must provide the commissioner, or an authorized representative or agent of the commissioner, access to the stationary source, including allowing the collection of samples, and records to the extent provided under Minnesota Statutes, section 116.091, or other law, upon presentation of credentials and other documents required by law.

C. Nothing in this subpart shall be read to limit the commissioner's, agency's, or administrator's authority under Minnesota Statutes, section 116.091, section 114 of the act, or other law.

Subp. 5. **No circumvention; permit shield.**

A. The owner or operator of a stationary source that obtains a capped permit is subject to enforcement action for operation without a permit if the commissioner later determines that the stationary source does not qualify for the capped permit.

B. The permit shield under part 7007.1800 does not apply to capped permits.

Subp. 6. **Operation in more than one location.** If requested by the applicant, the capped permit may allow a stationary source to be operated in more than one location. If more than one location is proposed by the owner or operator, the owner or operator shall include in the application an identification of all geographic areas where the stationary source is authorized to operate during the course of the permit.

Subp. 7. **Capped permit general conditions.** Capped permits issued by the commissioner under parts 7007.1140 to 7007.1148 must include the general conditions in items A to O, which are included in the permit by reference to this part as a whole.

A. Unchallenged provisions of the 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. The violation is grounds for enforcement action by the commissioner, the agency, or the EPA or for permit revocation.

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 in order to maintain compliance with the conditions of the permit.

D. The permit may be revoked for cause as provided in part 7007.1142, subpart 1. The filing of a request by the permittee for a different type of permit, a different capped permit option, revocation or termination of the permit, or a notification of planned changes or anticipated noncompliance does not stay any permit condition, except as specifically provided in part 7007.1142, subpart 2.

E. The permit does not convey any property right of any sort or any exclusive privilege.

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

G. The commissioner's issuance of the 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 a permit.

H. The commissioner's issuance of the permit does not prevent the future adoption by the agency 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 the permit does not obligate the commissioner to enforce local laws, rules, or plans beyond that authorized by Minnesota Statutes.

J. The permittee shall at all times properly operate and maintain the facilities and systems of treatment and control and the appurtenances related to them which 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 shall 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 shall, 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 shall 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.

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, the agency, and the commissioner assume no responsibility for damages to persons, property, or the environment caused by the activities of the permittee in the conduct of its actions, including those activities authorized, directed, or undertaken under the permit. To the extent the state, the agency, and the commissioner may be liable for the activities of their employees, that liability is explicitly limited to that provided in the Tort Claims Act, Minnesota Statutes, section 3.376.

Subp. 8. **Parts that do not apply to capped permits.** Parts 7007.0500; 7007.0501; 7007.0600 to 7007.0950; 7007.1000, subpart 1, items A to G; 7007.1100 to 7007.1130; 7007.1150 to 7007.1250; 7007.1350 to 7007.1650; and 7007.1800 do not apply to capped permits issued under parts 7007.1140 to 7007.1148.

Subp. 9. **Parts that always apply to capped permits.** Parts 7007.1140 to 7007.1148 continue to apply to a stationary source issued a capped permit until a new capped, registration, state, part 70, or general permit is issued to the stationary source or the commissioner determines that the stationary source does not require any air emissions permit under part 7007.1050, subpart 7.

Statutory Authority: *MS s 116.07*

History: *29 SR 626*

Published Electronically: *November 29, 2007*

7007.1144 CAPPED PERMIT PUBLIC PARTICIPATION.

Subpart 1. **Notice of applications received.** The agency shall electronically post notice of receipt of an application for a capped permit at the Minnesota Pollution Control Agency Internet site www.pca.state.mn.us/air/permits/capped.html. A person may request to receive notification from the agency of applications received.

Subp. 2. **Contents of notice.** The notice must identify the name and location of the facility to be permitted; the facility's primary Standard Industrial Classification code and short title; whether it is an existing facility or a new facility; a brief description of the comment procedures required by this part including the dates on which the comment period commences and terminates; and the name, address,

telephone number, and electronic mail address of a person from whom interested persons may obtain additional information, including copies of the application and information on facility emissions.

Subp. 3. **Length of comment period.** The agency shall provide 30 calendar days for comment.

Subp. 4. **Contents of written comments.** During the comment period established under subpart 3, an interested person may submit written comments on the eligibility of the applicant for the capped permit. A person who submits comments under this subpart shall include:

A. a statement of the person's interest in the permit application and any information related to a facility's eligibility for the capped permit;

B. a statement of the action the person wishes the agency to take; and

C. the reasons supporting the person's position, stated with sufficient specificity as to allow the commissioner to investigate the merits of the person's positions.

Subp. 5. **Petition for contested case hearing.** During the 30-day comment period, the person may also submit a petition for a contested case hearing on the application pursuant to part 7000.1800 or for placement of the permit on the agenda of an agency board meeting pursuant to part 7000.0650, subpart 3. The decision to grant or deny the petition for a contested case hearing shall be based on the criteria in part 7000.1900 and any hearing shall be held according to parts 7000.1750 to 7000.2200.

The public participation process requirements in this part do not apply to applications under part 7007.1142, subparts 2 and 5, in which a stationary source is transferring from one capped permit option to another or there is a change in name, mailing address, ownership, or control of the stationary source.

Statutory Authority: *MS s 116.07*

History: *29 SR 626*

Published Electronically: *November 29, 2007*

7007.1145 CAPPED PERMIT APPLICATION.

Subpart 1. **Application procedures and request for additional information.** Items A to C apply to capped permit applications submitted under parts 7007.1140 to 7007.1148.

A. The owners and operators of a stationary source must submit an application for a capped permit on a current standard application form provided by the commissioner. The owners and operators may supplement information in a previous application to meet the application content requirements in subpart 2. The commissioner may create different application forms for the two capped permit options available under parts 7007.1140 to 7007.1148.

B. Any owner or operator of a stationary source who fails to submit any relevant facts or who has submitted incorrect information in an application for a capped permit shall, upon becoming aware of the failure or incorrect information, promptly submit to the commissioner the supplementary facts or corrected information. This requirement applies both while the permit application is pending before the commissioner and after a capped permit is issued.

C. If the commissioner determines during review of the application that additional information is needed to evaluate the capped permit application or to verify that the stationary source qualifies for a capped permit under parts 7007.1140 to 7007.1148, the commissioner may request the information from the

applicant, and the applicant shall submit the information to the commissioner by the date specified in the request.

Subp. 2. **Information included.** This subpart describes the standard information that will be required in a capped permit application. It does not limit the agency's statutory authority for requiring information in addition to that which is specifically listed. Applicants shall submit the following information as required by the standard application form:

A. The owners and operators shall specify whether they are applying for capped permit option 1 or 2 under part 7007.1141 at the time of application.

B. Information identifying the stationary source and its owners and operators, including company name and address, plant name and address if different from the company name, owner's name and agent, and contact telephone numbers and electronic mail address, including the name of a plant site manager or contact, and the person preparing the application if different.

C. A description of the stationary source's processes and products, by Standard Industrial Classification (SIC) code and North American Industry Classification System (NAICS).

D. The following emissions-related information:

(1) A permit application shall provide the information required by this part for every emissions unit within the stationary source, except as provided otherwise in subitems (2) to (9) and information about fugitive emissions in the same manner as stack emissions, except that fugitive dust emissions from activities in part 7007.1300, subpart 3, item J, must be included in the calculations under this subpart only if the stationary source is in a category in part 7007.0200, subpart 2, item B, subitems (1) to (27).

(2) The application shall include information about insignificant activities and conditionally insignificant activities as follows:

(a) For capped permit option 1, the application need not include the information required by this part for any activity listed on the insignificant activities list in part 7007.1300, subpart 2, and those activities in subpart 3 for which emission factors or other calculation methods do not exist. The application shall include a list identifying all activities at the stationary source described in part 7007.1300, subpart 3, of the insignificant activities list and conditionally insignificant activities described in chapter 7008. The owner or operator shall also provide a calculation of emissions from any activity described in part 7007.1300, subpart 3, for which emission factors or calculation methods exist and conditionally insignificant activities except as otherwise allowed by this subpart.

(b) For capped permit option 2, the application need not include the information required by this part for any activity listed on the insignificant activities list in part 7007.1300 or for conditionally insignificant activities described in chapter 7008, except as provided in this subitem. The application shall include a list identifying any activity at the stationary source described in part 7007.1300, subpart 3, and conditionally insignificant activities. If requested by the agency, the owner or operator shall provide a calculation of emissions from any activity described in part 7007.1300, subpart 3, and conditionally insignificant activities. The agency shall request such a calculation if it finds that the emissions from those activities, in addition to other emissions from the stationary source, could make the stationary source subject to different applicable requirements under parts 7007.0100 to 7007.1850 or not eligible for capped permit option 2 under parts 7007.1140 to 7007.1148.

(3) A permit application shall identify and describe each emission point in sufficient detail to verify the applicability of all applicable requirements. This shall include the location of all emission points and the location of all emissions units and processes venting through each emission point, the exhaust gas flow rate and temperature, and the stack height and diameter of an emission point.

(4) The permit application shall specify the potential emissions, as defined in part 7005.0100, subpart 35a, in pounds per hour from each emission unit and actual emissions in tons per year from the stationary source as a whole. These emissions shall be specified for each regulated air pollutant and each hazardous air pollutant that is not yet a regulated air pollutant, as defined in part 7007.0100, subparts 12a and 19, except that pollutants which are regulated solely under section 112(r) of the act need not be included and pollutants regulated solely under section 602 of the act need not be included.

(5) A permit application shall include the following information to the extent it is emissions-related: fuels, fuel use, raw materials, production rates, and operating schedules.

(6) If the calculations required by part 7007.1147 used control equipment efficiencies for listed control equipment determined by part 7011.0070, the permit application shall identify and describe the listed control equipment.

(7) A permit application must explain the means by which the emissions information in subitems (1) to (9) is gathered, and provide the calculations on which they are based. Emission calculations may be done using an agency worksheet if one exists for an emission unit or process.

(8) The calculations required by part 7007.1147, and the total actual emissions per pollutant that result from those calculations. If the stationary source has not been operated or has operated less than 12 months, the owner or operator shall estimate the 12-month sum of actual emissions in performing the calculations required by part 7007.1147.

(9) Identification of the method the source used to comply with part 7007.1148, ambient air quality assessment and a summary of the assessment results.

E. A complete listing of the citations and titles of all applicable requirements to which the permittee is subject. Citations must be to the latest codification of the regulatory requirements at the time of application.

F. The applicant may request the agency to allow in the permit for the stationary source to operate at more than one location during the term of the permit. This option is available only under the conditions in part 7007.1143, subpart 6.

G. A description of the compliance status of the stationary source with respect to all applicable requirements and the requirements of parts 7007.0100 to 7007.1850.

Subp. 3. **Environmental review.** The applicant shall state in the application whether an environmental assessment worksheet or an environmental impact statement is required for the activity for which the permit is sought under Minnesota Statutes, chapter 116D, or implementing regulations, or under United States Code, title 42, sections 4331 et seq., as amended.

Statutory Authority: *MS s 116.07*

History: *29 SR 626; 37 SR 991*

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7007.1146 CAPPED PERMIT COMPLIANCE REQUIREMENTS.

Subpart 1. **Capped permit compliance requirements.** The owner and operator of the stationary source issued a capped permit must:

- A. comply with parts 7007.1140 to 7007.1148;
- B. comply with all applicable requirements;
- C. for the 12-month rolling sum of actual emissions from the stationary source determined pursuant to part 7007.1146, not exceed the applicable thresholds in part 7007.1141 for any pollutant;
- D. for the sum of actual NO_x emissions from the stationary source in a calendar year determined under this part, not exceed the estimated future annual NO_x emissions in units of tons per year used to comply with part 7007.1148; and
- E. if a stationary source qualifies for a capped permit, but has less than 12 months of emissions data, calculate the emission limit each month during normal operation for the first 12 months under capped permit option 1 or 2 on a form provided by the commissioner which uses one of the following formulas:

$$(1) N = 0.95 (\text{annual limit in option 1 or 2}) + 0.0045 (\text{annual limit in option 1 or 2})(n-1)$$

Where: n = number of months in operation;

N = emission limit through month n; or

$$(2) P = L/12$$

Where: L = annual limit in option 1 or 2.

P = emission limit for each month.

The actual emissions for each month must be below the calculated emission limit, N or P, for each pollutant.

Subp. 2. **Record keeping requirements.** The owners and operators of a stationary source issued a capped permit shall comply with all of the requirements relevant to the stationary source in items A to G. The owners and operators of a stationary source issued a capped permit shall comply with items H and I at all times.

A. If the stationary source determined eligibility in the permit application, in whole or in part, or demonstrates compliance, in whole or in part, by using a material balance that relies on the content of materials in the calculations in part 7007.1147, the owner or operator must:

(1) record, by the last day of each month, the amount of each pollutant-containing material (for example: VOC, greenhouse gases, particulate matter or solids, or HAP) purchased or used, and the relevant pollutant content for the previous calendar month;

(2) maintain a record of the material safety data sheet (MSDS), or a signed statement from the supplier stating the maximum solids, VOC, greenhouse gases, or hazardous air pollutant content, for each pollutant-containing material purchased or used;

(3) if the owner or operator assumes a reduction of emissions in using the materials balance method under part 7007.1147, subpart 5, due to recycling of material off site, keep records of the amount of material shipped off site for recycling and the calculations done to determine the amount to subtract. Acceptable records include the material safety data sheets, invoices, shipping papers, and hazardous waste manifests; and

(4) recalculate and record by the last day of each month the 12-month rolling sum of actual emissions from the pollutant-containing materials purchased or used for the previous 12 months, the date the calculation was made, and the calculation itself.

B. If the stationary source determined eligibility in the permit application, in whole or in part, or demonstrates compliance, in whole or in part, by using the quantity of fuel purchased or used in the calculations in part 7007.1147, the owner or operator must:

(1) record by the last day of each month the amount of each fuel purchased or used, whichever was stated in the permit application, for the previous month; and

(2) recalculate and record by the last day of each month the 12-month rolling sum of emissions for the previous 12 months, the date the calculation was made, and the calculation itself.

C. If the stationary source determined eligibility in the permit application, in whole or in part, or demonstrates compliance, in whole or in part, by using fuel sulfur data in the calculations in part 7007.1147, the owner or operator must:

(1) record by the last day of each month the amount of each fuel burned for each batch of fuel for the previous month;

(2) maintain a record of the fuel sulfur content certified by the supplier or independent laboratory for each batch of fuel received; and

(3) recalculate and record by the last day of each month the 12-month rolling sum of SO₂ emissions for the previous 12 months, the date the calculation was made, and the calculation itself using the calculation method in part 7007.1147, subpart 6.

D. If the stationary source determined eligibility in the permit application, in whole or in part, or demonstrates compliance, in whole or in part, by using hours of operation in the calculations in part 7007.1147, the owner or operator must:

(1) record by the last day of each month the hours operated for each emissions unit, rounded to the nearest hour for the previous month; and

(2) recalculate and record by the last day of each month the 12-month rolling sum of emissions for the previous 12 months, the date the calculation was made, and the calculation itself.

E. If the stationary source determined eligibility in the permit application, in whole or in part, or demonstrates compliance, in whole or in part, by using the quantity of material handled or throughput, or product produced in the calculations in part 7007.1147, the owner or operator must:

(1) record by the last day of each month, the amount of each material handled or throughput and the amount of each product produced for the previous month; and

(2) recalculate and record by the last day of each month for each material handled or throughput and for each product produced, the 12-month rolling sum of emissions for the previous 12 months, the date the calculation was made, and the calculation itself.

F. If the stationary source qualified in the permit application, in whole or in part, or demonstrates compliance, in whole or in part, by using control equipment efficiencies for listed control equipment determined under part 7011.0070, the owners and operators shall comply with parts 7011.0060 to 7011.0080, except that the owners and operators of a hot mix asphalt plant shall comply instead with part 7011.0917. If the calculations required by part 7007.1147 used control equipment efficiencies based on an alternative control efficiency under part 7011.0070, subpart 2, the owners and operators shall also operate

within the monitoring and operating parameters of the performance test that established the alternative control efficiency.

G. If a change made at a stationary source issued a capped permit results in the stationary source being subject to a new source performance standard listed under part 7007.1140, subpart 2, item E, or if the change adds an emissions unit subject to the standards listed in part 7007.0300, the owner or operator must submit to the commissioner:

- (1) the information required by the standard in the time specified in the standard;
- (2) with the notice in subitem (1), a written notice containing a description of the change if the change triggers a new source performance standard; and
- (3) with the notice in subitem (1), a copy of the applicable new source performance standard (NSPS), with the applicable portions of the new source performance standard highlighted, including applicable parts of Code of Federal Regulations, title 40, part 60, subpart A, General Provisions, or an NSPS checklist form provided by the commissioner that identifies applicable portions of the new source performance standard.

H. The owner or operator must recalculate and record by the last day of each month, pursuant to part 7007.1147, the 12-month rolling sum of actual emissions from the stationary source for the previous 12 months, the date the calculation was made, and the calculation itself. This calculation must include all emissions units at the stationary source and the information required by part 7007.1147, subpart 2, item C, if continuous emissions monitor (CEM) data is used in the calculation. For capped option 1, this calculation need not include emissions from insignificant activities under part 7007.1300, subpart 2, or insignificant activities under part 7007.1300, subpart 3, for which emission factors do not exist or alternative emissions calculation methods do not exist. For capped option 2, this calculation need not include emissions from insignificant activities under part 7007.1300, subparts 2 and 3, or conditionally insignificant activities described in chapter 7008.

I. The owner or operator of a stationary source with a capped permit must keep daily operating records that would allow the owner or operator to calculate actual emissions of any pollutant for which a threshold has been established under part 7007.1141 for that period of time not previously accounted for in the 12-month rolling sum calculation required under item H. The owner or operator shall provide these records and calculations if requested to do so by the commissioner. If the capped permit was issued by January 2, 2011, the owner or operator must begin record keeping for greenhouse gases on January 2, 2011.

Subp. 3. **Prechange analysis.** Prior to making a physical or operational change which increases emissions at a stationary source with a capped permit, the owner or operator must:

- A. demonstrate that the estimated actual annual emissions at the stationary source using the methods in part 7007.1147 after the change is made are less than the applicable pollutant threshold in part 7007.1141;
- B. if the change results in increased SO₂, NO_x, or PM-10 emissions, demonstrate, using a method in part 7007.1148, that ambient air quality standards will continue to be met after the change is made; and
- C. keep records of the prechange analyses required under items A and B on site.

The owner or operator may use worksheets provided by the agency for the demonstrations required under items A and B.

Subp. 4. **Compliance plan.** The owner or operator of a stationary source must develop a written plan containing the following:

- A. a list of the state and federal requirements that apply to the stationary source; and
- B. a list of the actions, including monitoring, record keeping, and reporting requirements, on a daily, monthly, and yearly basis that the stationary source must do to be in compliance with its capped permit option.

The owner or operator shall complete the compliance plan within 60 days of receiving a capped permit and keep a copy of the current compliance plan on site at all times. The owner or operator must update the plan within 15 working days after any change that would alter the elements of the plan as described under items A and B. If requested by the commissioner, the owner or operator shall provide a copy of the current compliance plan to the commissioner.

Subp. 5. **Reporting.** An owner or operator of a source with a capped permit must submit to the agency the reports described under items A to E. All reports required under a capped permit shall be certified by a responsible official consistent with part 7007.1143, subpart 1.

- A. Deviation reporting time frames as described in subitems (1) and (2).
 - (1) For deviations that endanger human health or the environment, the permittee shall notify the commissioner as required in part 7019.1000, subpart 1. The permittee may assert the affirmative defense of emergency only if it meets all the requirements of part 7007.1850, which includes notifying the agency within two working days of when the emission limitations were exceeded due to the emergency.
 - (2) For all other deviations, the permittee shall submit a deviation report, on a form approved by the commissioner, at least semiannually except the deviation report is due only if a deviation occurred in the reporting period. The midyear deviations report, covering deviations which occurred during the period from January 1 to June 30, is due by July 30 of each year and the end-of-year deviations report, covering deviations which occurred during the period from July 1 to December 31, is due by January 30 of each year.
- B. An annual compliance certification submitted by January 31 of each year to the agency. The certification shall be on a form approved by the commissioner and shall 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 submitted covering the calendar year including the name of the report, such as 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 submitted to the agency covering the calendar year; and
 - (5) the signature and title of a responsible official as defined in part 7007.0100, subpart 21.
- C. An annual emission inventory to the commissioner under parts 7019.3000 to 7019.3100. For the emissions inventory, the owner or operator shall use the same calculation methods it uses to demonstrate compliance with the thresholds in part 7007.1141.

D. A list of the equipment existing at the facility in a format specified by the commissioner. This list shall be submitted at the end of the previous calendar year with the emissions inventory required under item C.

E. If an owner or operator is allowed to operate in more than one location under part 7007.1143, subpart 6, notification to the commissioner at least 48 hours in advance of each change in location, providing the exact location where the source will operate and a statement that the source complies with part 7007.1148, ambient air quality assessment.

Statutory Authority: *MS s 116.07*

History: *29 SR 626; 37 SR 991*

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7007.1147 CAPPED PERMIT CALCULATION OF ACTUAL EMISSIONS.

Subpart 1. **Methods used.** The owner or operator of a stationary source may use a calculation worksheet provided by the commissioner for calculating actual emissions under this part that is based on the calculation methods in subparts 2 to 6 or may use the calculation methods under subparts 2 to 6. The owner or operator must calculate actual emissions for each material or fuel used in each emissions unit, except that similar emissions units may be aggregated for emission calculation purposes. The owner or operator of a stationary source must use the calculation method in subpart 2 if the data described in subpart 2 are available for an emissions unit. The owner or operator must use the calculation method in subpart 3 if the data described in subpart 3 are available, unless data described in subpart 2 are available. The alternative methods described in subparts 4, 5, and 6 may be used by the owner or operator without advance notification to the commissioner. The commissioner shall reject data submitted using the methods described in subparts 2 to 6 if the conditions set forth for the method are not fully met. To prevent double counting of emissions, the owner or operator must select one calculation method under this subpart for each emissions unit at the stationary source. Fugitive dust emissions from activities listed in part 7007.1300, subpart 3, item J, must be included in the calculations under this subpart only if the stationary source is in a category listed in part 7007.0200, subpart 2, item B, subitems (1) to (27).

Subp. 2. **Continuous emission monitor data.** If the owner or operator of the stationary source has collected emissions data through use of a continuous emission monitor (CEM) in compliance with the preconditions in items A and B, the owner or operator shall use the CEM data to calculate actual emissions, the calculation must be based on all of the CEM data, and the following requirements must be met:

- A. the CEM has been certified by the commissioner;
- B. the CEM data have not been rejected by the commissioner due to failure by the owner or operator to comply with all requirements of parts 7017.1002 to 7017.1220, parts 7007.1140 to 7007.1148, and any other applicable state or federal laws pertaining to CEM operation;
- C. the total operating time of the applicable emissions unit and the total operating time of the CEM for the previous 12 consecutive months must be included in the permit application and in the monthly records required in part 7007.1146, subpart 2, item H; and
- D. an explanation of how the emissions were calculated based on the CEM data must be included in the permit application and in the monthly records required in part 7007.1146. Except for facilities subject to part 7017.1020, for periods when the CEM is down and the emissions unit is operating, missing emissions data shall be substituted with CEM data recorded during a representative period of operation of

the emissions unit, and, if applicable, of the control equipment operation during the same calendar year for which the inventory is being submitted. The CEM must have recorded data for at least 90 percent of the hours the emission unit was operated for the calendar year for which the inventory is being submitted. If substitute CEM data meeting these conditions is not available, emissions during periods of CEM downtime shall be calculated using performance test data as specified in subpart 3, or 4 if data is not available under subpart 3.

Subp. 3. **Performance test data.** Emission factors from performance tests may be used for the calculation of actual emissions, provided that the performance tests met all the requirements of parts 7017.2001 to 7017.2060, and all other applicable state rules and federal regulations governing performance tests, except that alternative control efficiencies shall only be developed from performance tests conducted using control equipment listed in part 7011.0070. To use emission factors from performance tests, the owner or operator must conduct the performance test under worst case conditions, as defined in part 7017.2005, subpart 8. The owner or operator of a stationary source that uses an emission factor developed from a performance test shall use the calculation method under subpart 4. Any emission factor for VOC that is derived from a performance test must reflect, to the satisfaction of the commissioner, the actual mass of VOC compounds emitted.

Subp. 4. **General calculation method.** All calculations of actual emissions required under this part shall be based on the stationary source's operating parameters, and must use the following equation:

$E = OP \times UEF \times [1 - CE]$ where:

E = actual emissions in tons per year.

OP = operating parameter as required by the uncontrolled emission factor (hours of operation, fuel purchased or used, quality of material handled or throughput, or product produced).

UEF = uncontrolled emission factor (pounds of pollutant per hour of operation or units produced) as defined in part 7005.0100, subpart 10a, for uncontrolled emissions.

CE = control efficiency (percent expressed as a decimal fraction of 1.00) determined according to part 7011.0070 for listed control equipment.

Subp. 5. **Material balance method.** A material balance method may be used to calculate actual emissions. The owner or operator of a stationary source that uses material balance to calculate actual emissions shall determine total actual emissions (E) using the following equation:

$E = (a - b - c) \times (1 - d)$, where:

a = the amount of the relevant pollutant, such as VOC, particulate matter, or HAP, entering the process. A signed statement from the supplier or the material safety data sheet (MSDS) must be submitted stating the maximum amount of the pollutant in any material that was used in the process. If a material content range is given on the MSDS or by the supplier, the highest number in the range shall be used for this calculation.

b = the amount of the relevant pollutant incorporated permanently into the product. This includes VOCs chemically transformed in production. It does not include latent VOC remaining in the product that will at some time be released to the atmosphere. It also includes any solids transferred to the product during a coating operation. Technical justification for this calculation must also be submitted.

c = the amount of the relevant pollutant, if any, leaving the process as waste, or otherwise not incorporated into the product and not emitted to the air and the technical justification for this calculation. If the actual amount of the relevant pollutant in the waste is unknown, then $c = 0$.

d = the control efficiency (percent expressed as a decimal fraction of 1.00) determined according to part 7011.0070.

Subp. 6. **Fuel sulfur data.** The owner or operator of a stationary source may determine sulfur dioxide actual emissions by measuring the sulfur content of the fuel and assuming that all of the sulfur in the fuel is oxidized to sulfur dioxide. The sulfur content of each batch of fuel received must be certified by the supplier or an independent laboratory. The sulfur content shall be determined using American Society for Testing and Materials (ASTM) methods. The sulfur dioxide actual emissions shall be determined by using the following equation:

$SO_2 = \%S/100 \times F/2,000 \times 2$, where:

SO_2 = Sulfur dioxide emissions from a batch of fuel in tons.

%S = Weight percent sulfur in the fuel being burned.

F = Amount of fuel burned by weight in pounds.

2,000 = Pounds per ton.

2 or 64/32 = Pounds of sulfur dioxide per pound of sulfur in one pound-mole.

The total sulfur dioxide emission for the year must be the sum total of the individual batch totals.

Statutory Authority: *MS s 116.07*

History: *29 SR 626*

Published Electronically: *November 29, 2007*

7007.1148 AMBIENT AIR QUALITY ASSESSMENT.

Subpart 1. **Methods used.** An owner or operator of a stationary source with emissions of SO_2 , PM-10, or NO_x applying for a capped permit or a state permit with EMS provisions, or required to do a prechange analysis for a pollutant under part 7007.1146, subpart 3, must comply with either subpart 2 or 3 for each relevant pollutant (SO_2 , PM-10, and NO_x). A stationary source with less than 12 months of emissions data or performing a prechange analysis under part 7007.1146, subpart 3, shall use estimated actual annual emissions for NO_x . In performing this analysis, the stationary source shall not assume any specific limits or conditions not contained in parts 7007.1140 to 7007.1148. If a stationary source used control equipment efficiencies in parts 7011.0060 to 7011.0080 for calculations in part 7007.1147, then these efficiencies should be included in determining hourly potential emissions under this part.

Fugitive dust emissions from unpaved roads and parking lots do not need to be included for either of the methods unless the commissioner determines emissions from those fugitive dust sources may be large enough to significantly impact the assessment. Emission units with an hourly potential emission rate of less than 0.1 pounds per hour of PM-10, NO_x , or SO_2 do not need to be included in either of the methods.

Subp. 2. CAPS electronic spreadsheet method.

A. An owner or operator may use an electronic spreadsheet, called CAPS, provided by the agency to enter emissions data, and (1) stack height and distance to the property line, or (2) dispersion factors for each stack/vent at the stationary source to perform the ambient air quality assessment. The CAPS electronic spreadsheet is incorporated by reference and is available at the Minnesota Pollution Control Agency Internet site www.pca.state.mn.us/air/permits/capped.html. It is not subject to frequent change.

B. The owner or operator shall enter into the CAPS spreadsheet the potential emissions of SO₂ and PM-10 in units of pounds per hour for each emissions unit at the stationary source for which calculations were performed under part 7007.1147 unless otherwise allowed by this part. The owner or operator shall enter into the CAPS spreadsheet the estimated future annual NO_x emissions in units of tons per year which were calculated using the methods in part 7007.1147. The one-hour, three-hour, and 24-hour SO₂; the 24-hour PM-10; and the annual NO₂ concentrations predicted at and beyond the property line of the stationary source using the spreadsheet must be lower than the corresponding standard in part 7009.0080.

C. The owner or operator must use the default dispersion factors in CAPS or develop dispersion factors using the Minnesota Pollution Control Agency Dispersion Information Screening Procedures for Emission Risk Screening Evaluations (DISPERSE) program or the Environmental Protection Agency SCREEN3 program. DISPERSE or DISPERSE with Emphasis on DISPERSE Look-up Table and DISPERSE Batch Programs, Minnesota Pollution Control Agency (October 21, 2003) is incorporated by reference, is not subject to frequent change, and is available on the Minnesota Pollution Control Agency Internet site www.pca.state.mn.us/air/permits/capped.html. SCREEN3 is incorporated by reference in subpart 3.

Subp. 3. SCREEN3 method.

A. An owner or operator may use EPA's SCREEN3 model, or its most recent version, to perform the ambient air quality assessment. The owner or operator shall model potential SO₂ and PM-10 emissions in units of pounds per hour and estimated future annual NO_x emissions in units of tons per year using the most recent version of EPA's screen model.

B. EPA's screen model is described in SCREEN3 Model User's Guide, EPA-454/B-95-004, United States Environmental Protection Agency, Office of Air Quality Planning and Standards, September 1995, which is incorporated by reference and is not subject to frequent change. This publication and copies of the SCREEN3 model are available from the Pollution Control Agency library through the Minitex interlibrary loan system, through the National Technical Information Service (NTIS), Springfield, VA, 1-800-553-6847, or at the Environmental Protection Agency Internet site www.epa.gov/scram001/tt22.htm#screen3.

C. The owner or operator shall model the potential emissions of SO₂ and PM-10 in units of pounds per hour for each emissions unit at the stationary source for which calculations were performed under part 7007.1147 unless otherwise allowed by this part. The owner or operator shall model the estimated future annual NO_x emissions in units of tons per year which were calculated using the methods in part 7007.1147. The one-hour, three-hour, and 24-hour SO₂; the 24-hour PM-10; and annual NO₂ concentrations predicted at and beyond the property line of the stationary source using SCREEN3 must be lower than the corresponding standard in part 7009.0080.

D. When using SCREEN3 to estimate concentrations for standard averaging times longer than one hour, the owner or operator shall multiply the maximum one-hour concentration predicted by SCREEN3 by the following factors: 0.9 for the three-hour concentration, 0.4 for the 24-hour concentration, and 0.08 for the annual concentration.

The commissioner may request the owner or operator to provide the data used to complete the air quality assessment performed under this subpart or subpart 2.

Nothing in this part shall be construed to allow violation of any national or state ambient air quality standards. If the commissioner requests it, the owner or operator must demonstrate compliance with the

national or state ambient air quality standards using an alternative method or for other pollutants and averaging times for which standards exist.

Statutory Authority: *MS s 116.07*

History: *29 SR 626*

Published Electronically: *November 29, 2007*

7007.1150 WHEN A PERMIT AMENDMENT IS REQUIRED.

A. Parts 7007.1150 to 7007.1500 describe changes at a permitted stationary source that require a permit amendment or notice to the agency. Item C requires notice to the agency before pollution control equipment or replacement units with lower emissions are installed at a permitted stationary source. Parts 7007.1250 and 7007.1350 describe the two categories of modifications that may be made without obtaining a permit amendment, and the procedures that apply. Part 7007.1400 establishes the process for getting an administrative amendment to a permit. Part 7007.1450 establishes the process for getting a minor permit amendment, needed to make certain modifications resulting in emission increases below listed thresholds, and for getting moderate permit amendments, needed to make certain modifications resulting in emissions increases above the minor threshold levels. Part 7007.1500 establishes the process for getting major permit amendments, needed to make modifications that are not allowed under the other parts. Any modification that constitutes a title I modification, as defined in part 7007.0100, subpart 26, may only be made under part 7007.1500. Part 7007.1200 describes how emission changes should be calculated under parts 7007.1250 to 7007.1500.

B. No modification, as defined in part 7007.0100, subpart 14, may be made to a stationary source that is required to have a permit under parts 7007.0100 to 7007.1850 unless the modification is allowed under part 7007.1250 or 7007.1350, or an amendment is obtained under part 7007.1450 or 7007.1500. Administrative changes to a permit issued under parts 7007.0100 to 7007.1850 shall be made under part 7007.1400. If a change at a facility does not constitute a modification, no permit amendment is required unless the change is described under part 7007.1500, subpart 1. If a change does not constitute a modification, notification may still be required under item C.

C. A written notice to the agency shall be sent by any person who, at a permitted stationary source, makes a change that: (i) does not increase emissions of any regulated air pollutant; (ii) does not constitute a title I modification; and (iii) does not constitute any other type of modification, if the change is one of the following:

- (1) installing air pollution control equipment;
- (2) replacing a unit identified in the permit; and
- (3) replacing air pollution control equipment with listed control equipment, as defined in part 7011.0060, subpart 4, which has an equivalent or better removal efficiency of regulated pollutants previously controlled with the control equipment being replaced.

The written notice must be received by the agency seven working days prior to the installation or replacement. The permittee and the agency shall attach the notice to the stationary source's permit. If the agency finds that the installation or replacement triggers new monitoring, record keeping, or reporting requirements under applicable requirements or parts 7007.0100 to 7007.1850, the agency shall initiate an amendment under part 7007.1400 or 7007.1500 to include the new requirements. If the installation or replacement constitutes a title I modification or other type of modification, this item does not apply, and the

permittee shall follow the applicable procedures of part 7007.1250, 7007.1350, 7007.1450, or 7007.1500. If notice is provided as required by this item, the installation and operation of the additional equipment shall not be considered a violation of the permit.

D. Nothing in parts 7007.1150 to 7007.1500 shall be read to allow a modification to a stationary source that would violate an applicable requirement or, except as provided in part 7007.1350 or 7007.1450, subpart 8, to allow any activity that would violate any permit condition. The agency shall not issue any permit amendments which would result in the violation of an applicable requirement.

E. If a modification or other change at a stationary source would make the source subject for the first time to the requirement to obtain a state permit or a part 70 permit, the owners and operators shall obtain the appropriate permit before beginning actual construction of the modification or other change, notwithstanding parts 7007.1250 to 7007.1500. Nothing in this item shall be read to limit the agency's ability to issue permits authorizing installation and operation of a modification under part 7007.0750, subpart 5, or to limit a permittee's ability to obtain a major permit amendment restricting emissions to levels that would prevent the source from becoming subject to the requirement to obtain a part 70 permit.

F. The owners and operators of a stationary source that are required to have a permit under parts 7007.0050 to 7007.1850, and that have submitted a timely application as required under part 7007.0350, subpart 1, or 7007.0400, subpart 4 or 5, but do not yet have a permit, may make changes and modifications at the stationary source in compliance with parts 7007.1150 to 7007.1500, notwithstanding any reference to a permit in those parts. Any requirement for such a permittee to obtain an amendment under parts 7007.1150 to 7007.1500 shall be read as a requirement for owners and operators to obtain a permit from the agency under part 7007.0750, subpart 5.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059; 19 SR 1345; 20 SR 2316; 23 SR 2224; 37 SR 991*

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7007.1200 CALCULATING EMISSION CHANGES FOR PERMIT AMENDMENTS.

Subpart 1. **How to calculate emission changes.** When this part is required to be used, the method of calculation in subpart 2 must be used to determine first whether a modification is a title I modification. To calculate emission changes for a modification that is not a title I modification, the method in subpart 3 shall then be used. To verify whether the modification or other change at a stationary source might make the stationary source subject for the first time to the requirement to obtain a state or part 70 permit, the calculation method in part 7007.0150, subpart 4, must be used.

Subp. 2. **Calculation methods to determine if the proposed change is a title I modification.** To determine if a modification is a title I modification, the applicable federal calculation method must be used. To determine the applicable methods to calculate emission changes for a title I modification, the permittee must refer to the federal regulations listed in part 7007.0100, subpart 26. Parts 7011.0060 to 7011.0080 may be used in this calculation if the stationary source is in compliance with parts 7011.0060 to 7011.0080. A change that would not be considered to increase emissions using the calculation method in subpart 3 may nonetheless be considered a title I modification, particularly under the calculation method required by part C (prevention of significant deterioration of air quality), part D (plan requirements in nonattainment areas), and section 112(g)(2)(B) (construction or reconstruction of a major source of hazardous air pollutants) of the act.

Subp. 3. **Calculation method for modifications that are not title I modifications.** Emissions changes for a modification must be calculated by comparing the hourly emission rate of the stationary source, at maximum physical capacity, before and after the proposed physical or operational change. The emission rate shall be expressed as pounds per hour of any regulated air pollutant. Items A to C shall be used to determine emission changes for modifications that are not title I modifications.

A. When calculating emissions before and after the physical and operational change, physical and operational limitations and emission decreases will be considered only if they:

(1) are or will be automatically required by an applicable requirement including parts 7011.0060 to 7011.0080;

(2) are or will be automatically required by an existing permit;

(3) are integral to the process;

(4) are proposed as a permit term and condition in the application for a minor, moderate, or major modification under part 7007.1450 or 7007.1500; or

(5) are calculated in records kept at the stationary source where reductions rendered the modification insignificant under part 7007.1250.

B. In cases where use of emission factors or related calculation methods clearly demonstrates whether or not the change will increase the emission level, the emission factors as defined in part 7005.0100, subpart 10a, shall be used.

C. Material balances, continuous monitor data, or manual emissions tests may be used in cases where use of emission factors or related calculation methods under item B does not clearly demonstrate, to the agency's satisfaction, whether or not the change will increase the emission level, or where a permittee demonstrates to the agency's satisfaction that there are reasonable grounds to dispute the result obtained under item B. These methods may be used only to establish premodification emission rates from which postmodification emission rates may be calculated. Tests shall be conducted under such conditions as the agency shall specify. At least three valid test runs must be conducted. All operating parameters which may affect emissions must be held constant to the maximum feasible degree for all test runs.

Subp. 4. **Record-keeping requirements.** When this part applies and the permittee determines that no permit amendment or agency notification is required prior to making the change, the permittee must retain records of all calculations required under this part. For expiring permits, these records shall be kept for a period of five years from the date the change was made or until permit reissuance, whichever is longer. For nonexpiring permits, these records shall be kept for a period of five years from the date that the change was made. The records shall be kept at the stationary source for the current calendar year of operation and may be kept at the stationary source or office of the stationary source for all other years. The records may be maintained in either electronic or paper format.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059; 19 SR 1345; 20 SR 2316; 22 SR 2300; 23 SR 2224; 32 SR 904*

Published Electronically: *November 29, 2007*

7007.1250 INSIGNIFICANT MODIFICATIONS.

Subpart 1. **When an insignificant modification can be made.** The permittee may make a modification described in either item A or B at a permitted stationary source without getting a permit

amendment, unless the modification is prohibited by subpart 2. However, if the modification triggers new monitoring, record keeping, or reporting requirements under applicable requirements or parts 7007.0100 to 7007.1850, the permittee shall initiate an administrative amendment under part 7007.1400 to include the new requirements no more than 30 days after making the modification.

A. Construction or operation of any emissions unit, or undertaking any activity, that is on the insignificant activities list in part 7007.1300, subparts 2 and 3, or that is described as and meets the requirements of a conditionally insignificant activity under parts 7008.4000 and 7008.4110.

B. Any modification that will:

- (1) result in an increase of a regulated air pollutant which is not listed in table 1; or
- (2) result in an increase of an air pollutant which is listed in table 1, but in an amount less than the corresponding threshold.

Table 1

Pollutant		Threshold
NO _x	2.28	pounds per hour
SO ²	2.28	pounds per hour
VOCs	2.28	pounds per hour
PM-10	0.855	pounds per hour
CO	5.70	pounds per hour
Lead	0.025	pounds per hour

For purposes of this subpart, whether or not the modification will cause an increase in emissions shall be calculated as described in part 7007.1200. An owner or operator may not use control equipment efficiencies for listed control equipment determined by part 7011.0070 to qualify for an insignificant modification, unless the specifications for the control equipment are from a control equipment manufacturer, as defined in part 7011.0060, subpart 3. Modifications which would otherwise be insignificant under this part may be title I modifications, for which a major amendment is required, using the methods of calculation required under title I of the act. Permittees are reminded to review the definition of title I modifications and the requirements of title I of the act.

Subp. 2. **Insignificant modification exclusions.** A modification may not be made under this part if the modification:

- A. is a title I modification;
- B. would result in the violation of a permit emissions limit or any other permit term;
- C. is required to be authorized by a permit amendment under title IV of the act or Code of Federal Regulations, title 40, part 72, as amended;
- D. is part of a single project, as described in subpart 5, which taken as a whole, would not be authorized under this part; or

E. is described under part 7007.1500, subpart 1 (Major permit amendment required).

Subp. 3. **Record-keeping requirements.** Except as described in subpart 4, modifications authorized under this part may be made without providing notice to the agency. However, the permittee shall keep a record of the modification for all changes authorized under subpart 1, items A and B, except for those activities described in part 7007.1300, subpart 2. For changes authorized under subpart 1, item B, and part 7007.1300, subpart 3, item I, the permittee shall also keep calculations of the emissions increase as required by part 7007.1200, subpart 4, and a statement of the purpose for making the modification.

Subp. 4. **Agency notification required.** If a modification authorized under subpart 1, item B, together with other modifications made under subpart 1, item B, during the course of the permit term (or within a five-year period for a nonexpiring permit), have resulted in total increases of a pollutant in excess of four times the amount listed in subpart 1, item B, subitem (2), for that pollutant, the permittee shall notify the agency by seven working days after beginning actual construction of the last modification. The notice shall provide the information required to be kept in subpart 3 for each modification made under subpart 1, items A and B, except for those activities described in part 7007.1300, subpart 2, during the period in question. The notice shall also include a certification by a responsible official, consistent with part 7007.0500, subpart 3, that the modifications listed were not part of a single project, as described in subpart 5, which taken as a whole, would not be authorized under subpart 1, item B. After any such notice has been sent, the permittee shall continue to keep track of modifications made under subpart 1, item B, and the permittee shall notify the agency again if emissions increases from these additional modifications total more than four times the amount listed in subpart 1, item B, subitem (2).

Subp. 5. **Determination of a single project.** If two or more modifications made at a stationary source are part of a single project, the emissions increases from these modifications shall be considered in the aggregate for purposes of this part. Generally, modifications will be considered part of a single project when the usefulness of one modification depends substantially on the completion of the other modification or modifications. In determining whether modifications are part of a single project, the agency will consider the amount of time that elapses between modifications, whether they were planned at the same time, and whether the modifications share a common purpose.

Subp. 6. **Enforcement action.** If a permittee makes a modification the permittee believes to fall under this part and the agency subsequently determines that the modification does not fall under this part, the agency may take enforcement action against the permittee.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059; 19 SR 1345; 20 SR 2316; 22 SR 1237; 23 SR 2224; 32 SR 904*

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7007.1251 [Repealed, 22 SR 1237]

Published Electronically: *November 29, 2007*

7007.1300 INSIGNIFICANT ACTIVITIES LIST.

Subpart 1. **Insignificant activities.** The actions listed in this part, and operation of the emissions units listed in this part, are insignificant activities for purposes of parts 7007.0100 to 7007.1850. Listing in this part has no effect on any other law, including laws enforced by the agency other than parts 7007.0100 to 7007.1850, to which the activity may be subject.

Subp. 2. **Insignificant activities not required to be listed.** The activities described in this subpart are not required to be listed in a permit application under part 7007.0500, subpart 2, item C, subitem (2).

A. Fuel use:

- (1) production of hot water for on-site personal use not related to any industrial process;
- (2) fuel use related to food preparation by a restaurant or cafeteria; and
- (3) fuel burning equipment with a capacity less than 19,000 Btu per hour, but only if the combined total capacity of all fuel burning equipment at the stationary source with a capacity less than 19,000 Btu per hour is less than or equal to 420,000 Btu per hour. For example: Facility A has ten fuel burning emission units, each with a capacity of 18,000 Btu per hour. The ten units are all an insignificant activity under this subitem, because their combined capacity is less than 420,000 Btu per hour (i.e., $10 \times 18,000 \text{ Btu/hr} = 180,000 \text{ Btu/hr} \leq 420,000 \text{ Btu/hr}$). Facility B has 31 fuel burning emission units, each with a capacity of 18,000 Btu/hr. None of the 31 units are an insignificant activity under this subitem, because their total combined capacity is greater than 420,000 Btu per hour (i.e., $31 \times 18,000 \text{ Btu/hr} = 558,000 \text{ Btu/hr} > 420,000 \text{ Btu/hr}$).

B. Plant upkeep:

- (1) routine housekeeping or plant upkeep activities not associated with primary production processes at the stationary source, such as painting buildings, retarring roofs, or paving parking lots, but excluding use of spray paint equipment (refer to subpart 3, item K, for use of spray paint equipment that may be considered a listed insignificant activity);
- (2) routine maintenance of buildings, grounds, and equipment;
- (3) use of vacuum cleaning systems and equipment for portable steam cleaning;
- (4) clerical activities such as operating copy machines and document printers, except operation of such units on a commercial basis;
- (5) janitorial activities; and
- (6) sampling connections used exclusively to withdraw materials for laboratory analysis and testing.

C. Fabrication operations:

- (1) equipment used for the inspection of metal products;
- (2) equipment used exclusively for forging, pressing, drawing, spinning, or extruding cold metals;
- (3) equipment used exclusively to mill or grind coatings and molding compounds where all materials charged are in paste form; and
- (4) mixers, blenders, roll mills, or calendars for rubber or plastics for which no materials in powder form are added and in which no organic solvents, diluents, or thinners are used.

D. Processing operations:

- (1) closed tumblers used for cleaning or deburring metal products without abrasive blasting;
- (2) equipment for washing or drying fabricated glass or metal products, if no VOCs are used in the process, and no gas, oil, or solid fuel is burned;

(3) equipment venting particulate matter (PM) or particulate matter less than ten microns (PM-10) inside a building (for example: buffing, polishing, carving, cutting, drilling, machining, routing, sanding, sawing, surface grinding, or turning equipment) provided that emissions from the equipment are:

- (a) is vented inside of the building 100 percent of the time; and
 - (b) does not use air filtering systems used to control indoor air emissions; and
- (4) blast cleaning operations using suspension of abrasive in water.

E. Storage tanks:

- (1) pressurized storage tanks for anhydrous ammonia, liquid petroleum gas (LPG), liquid natural gas (LNG), or natural gas;
- (2) storage tanks holding lubricating oils;
- (3) above and below ground fuel oil storage tanks with a combined total tankage capacity less than 100,000 gallons; and
- (4) gasoline storage tanks with a combined total tankage capacity of less than 2,000 gallons.

F. Drain, waste, and vent piping:

- (1) stacks or vents to prevent escape of sewer gases through plumbing traps, not including emissions associated with processing at wastewater treatment plants;
- (2) sewer maintenance access covers and shafts;
- (3) sludge and septage landspreading sites;
- (4) sludge loadout pumping operations for publicly owned treatment works with a design flow less than 5,000,000 gallons per day; and
- (5) odor control systems on components of publicly owned treatment works collection systems.

G. Residential activities: typical emissions from residential structures, not including:

- (1) fuel burning equipment with a total capacity of 420,000 Btu/hour or greater; and
- (2) emergency backup generators.

H. Recreational activities: use of the following for recreational purposes:

- (1) fireplaces;
- (2) barbecue pits and cookers; and
- (3) kerosene fuel use.

I. Health care activities: activities and equipment directly associated with the diagnosis, care, and treatment of patients in medical or veterinary facilities or offices, not including support activities such as power plants, heating plants, emergency generators, incinerators, or other units affected by applicable requirements as defined in part 7007.0100, subpart 7.

J. Miscellaneous:

- (1) safety devices, such as fire extinguishers, if associated with a permitted emission source, but not including sources of continuous emissions;

- (2) flares to indicate danger to the public;
- (3) vehicle exhaust emissions from the operation of mobile sources at a stationary source;
- (4) purging of natural gas lines;
- (5) natural draft hoods, natural draft ventilation, comfort air conditioning, or comfort ventilating systems not designed or used to remove air contaminants generated by, or released from specific units of equipment;
- (6) funeral home embalming processes and associated ventilation systems; and
- (7) use of consumer products, including hazardous substances as that term is defined in the Federal Hazardous Substances Act, where the product is used at academic and health care institutions in the same manner as normal consumer use.

K. Demonstration projects conducted by a teaching institution, where the sole purpose of a demonstration project is to provide an actual functional example of a process unit operation to the students or other interested parties, where actual operating hours of each emission unit shall not exceed a total of 350 hours in a calendar year and where the emissions unit is not used to dispose of waste materials.

Subp. 3. **Insignificant activities required to be listed.** The activities described in this subpart must be listed in a permit application, and calculation of emissions from these activities shall be provided if required by the agency, under part 7007.0500, subpart 2, item C, subitem (2). If emissions units listed in this subpart are subject to additional requirements under section 114(a)(3) of the act (Monitoring Requirements) or section 112 of the act (Hazardous Air Pollutants), or if part of a title I modification, or, if accounted for, make a stationary source subject to a part 70 permit, emissions from the emissions units must be calculated in the permit application.

A. Fuel use: space heaters fueled by kerosene, natural gas, or propane, but only if the combined total capacity of all space heaters at the stationary source is less than or equal to 420,000 Btu per hour. A space heater is a heating unit that is not connected to piping or ducting to distribute the heat.

B. Furnaces and boilers:

- (1) infrared electric ovens; and
- (2) indirect heating equipment with a capacity less than 420,000 Btu per hour, but only if the total combined capacity of all indirect heating equipment at the stationary source with a capacity less than 420,000 Btu per hour is less than or equal to 1,400,000 Btu per hour. For example: Facility A has three furnaces, each with a capacity of 400,000 Btu per hour. The three units are all an insignificant activity to be listed under this subitem, because their combined capacity is less than 1,400,000 Btu per hour. Facility B has six furnaces, each with a capacity of 400,000 Btu per hour. None of the six units is an insignificant activity under this subitem, because their total combined capacity is greater than 1,400,000 Btu per hour. For purposes of this subitem, "indirect heating equipment" has the meaning given under part 7011.0500, subpart 9.

C. Fabrication operations: equipment used exclusively for forging, pressing, drawing, spinning, or extruding hot metals.

D. Processing operations: open tumblers with a batch capacity of 1,000 pounds or less.

E. Storage tanks:

(1) gasoline storage tanks with a combined total tankage capacity of not more than 10,000 gallons; and

(2) nonhazardous air pollutant VOC storage tanks with a combined total tankage capacity of not more than 10,000 gallons of nonhazardous air pollutant VOCs and with a vapor pressure of not more than 1.0 psia at 60 degrees Fahrenheit.

F. Cleaning operations: commercial laundries, not including dry cleaners and industrial launderers.

G. Emissions from a laboratory, as defined in this item. "Laboratory" means a place or activity devoted to experimental study or teaching in any science, or to the testing and analysis of drugs, chemicals, chemical compounds or other substances, or similar activities, provided that the activities described in this sentence are conducted on a laboratory scale. Activities are conducted on a laboratory scale if the containers used for reactions, transfers, and other handling of substances are designed to be easily and safely manipulated by one person. If a facility manufactures or produces products for profit in any quantity, it may not be considered to be a laboratory under this item. Support activities necessary to the operation of the laboratory are considered to be part of the laboratory. Support activities do not include the provision of power to the laboratory from sources that provide power to multiple projects or from sources which would otherwise require permitting, such as boilers that provide power to an entire facility.

H. Miscellaneous:

- (1) equipment used exclusively for packaging lubricants or greases;
- (2) equipment used for hydraulic or hydrostatic testing;
- (3) brazing, soldering, or welding equipment;
- (4) blueprint copiers and photographic processes;
- (5) equipment used exclusively for melting or application of wax;
- (6) nonasbestos equipment used exclusively for bonding lining to brake shoes; and
- (7) cleaning operations: alkaline/phosphate cleaners, associated cleaners, and associated burners.

I. Individual emission units at a stationary source, each of which have a potential to emit the following pollutants in amounts less than:

- (1) 4,000 pounds per year of carbon monoxide;
- (2) 2,000 pounds per year each of nitrogen oxide, sulfur dioxide, particulate matter, particulate matter less than ten microns, VOCs (including hazardous air pollutant-containing VOCs), and ozone; and
- (3) 1,000 tons per year of CO₂e.

J. Fugitive dust emissions from unpaved entrance roads and parking lots, except that a stationary source applying for an Option D registration permit under part 7007.1130 must include fugitive dust emissions in calculations when required under part 7007.1130, subpart 4.

K. Infrequent use of spray paint equipment for routine housekeeping or plant upkeep activities not associated with primary production processes at the stationary source, such as spray painting of buildings, machinery, vehicles, and other supporting equipment.

Subp. 4. **Insignificant activities required to be listed in a part 70 application.** If the owners and operators are applying for a part 70 permit, emissions units with emissions less than all the following limits but not included in subpart 2 must be listed in a part 70 permit application:

A. potential emissions of 5.7 pounds per hour or actual emissions of two tons per year of carbon monoxide;

B. potential emissions of 2.28 pounds per hour or actual emissions of one ton per year for particulate matter, particulate matter less than ten microns, nitrogen oxide, sulfur dioxide, and VOCs;

C. for hazardous air pollutants, emissions units with:

(1) potential emissions of 25 percent or less of the hazardous air pollutant thresholds listed in subpart 5; or

(2) combined HAP actual emissions of one ton per year unless the emissions unit emits one or more of the following HAPs: carbon tetrachloride; 1,2-dibromo-3-chloropropane; ethylene dibromide; hexachlorobenzene; polycyclic organic matter; antimony compounds; arsenic compounds, including inorganic arsine; cadmium compounds; chromium compounds; lead compounds; manganese compounds; mercury compounds; nickel compounds; selenium compounds; 2,3,7,8-tetrachlorodibenzo-p-dioxin; or dibenzofuran. If the emissions unit emits one or more of the HAPs listed in this subitem, the emissions unit is not an insignificant activity under this subitem; and

D. potential emissions up to 10,000 tons per year or actual emissions up to 1,000 tons per year CO₂e.

Calculation of emissions from the emissions units listed in this subpart shall be provided if required by the agency under part 7007.0500, subpart 2, item C, subitem (2). If emissions units listed under this subpart are subject to additional requirements under section 114(a)(3) of the act (Monitoring Requirements) or section 112 of the act (Hazardous Air Pollutants), or are part of a title I modification, or if accounted for, make a stationary source subject to a part 70 permit emissions from the emissions units must be calculated in the permit application. If the applicant is applying for a state permit or an amendment to a state permit, this subpart does not apply.

Subp. 5. **Hazardous air pollutant threshold table.**

CAS#	Chemical Name	De Minimis Level (tons/year)
57147	1,1-Dimethyl hydrazine	0.008
79005	1,1,2-Trichloroethan	1
79345	1,1,2,2-Tetrachloroethane	0.3
96128	1,2-Dibromo-3-chloropropane	0.01
122667	1,2-Diphenylhydrazine	0.09
106887	1,2-Epoxybutane	1
75558	1,2-Propylenimine (2-Methyl aziridine)	0.003
120821	1,2,4-Trichlorobenzene	10

106990	1,3-Butadiene	0.07
542756	1,3-Dichloropropene	1
1120714	1,3-Propane sultone	0.03
106467	1,4-Dichlorobenzene(p)	3
123911	1,4-Dioxane (1,4-Diethyleneoxide)	6
53963	2-Acetylaminofluorine	0.005
532274	2-Chloroacetophenone	0.06
79469	2-Nitropropane	1
540841	2,2,4-Trimethylpentane	5
1746016	2,3,7,8-Tetrachlorodibenzo-p-dioxin	6E-07
584849	2,4-Toluene diisocyanate	0.1
51285	2,4-Dinitrophenol	1
121142	2,4-Dinitrotoluene	0.02
94757	2,4-D, salts, esters (2,4-Dichlorophenoxy acetic acid)	10
95807	2,4-Toluene diamine	0.02
95954	2,4,5-Trichlorophenol	1
88062	2,4,6-Trichlorophenol	6
91941	3,3-Dichlorobenzidene	0.2
119904	3,3'-Dimethoxybenzidine	0.1
119937	3,3'-Dimethyl benzidine	0.008
92671	4-Aminobiphenyl	1
92933	4-Nitrobiphenyl	1
100027	4-Nitrophenol	5
101144	4,4-Methylene bis(2-chloroaniline)	0.2
101779	4,4'-Methylenedianiline	1
534521	4,6-Dinitro-o-cresol, and salts	0.1
75070	Acetaldehyde	9
60355	Acetamide	1
75058	Acetonitrile	4
98862	Acetophenone	1
107028	Acrolein	0.04
79061	Acrylamide	0.02
79107	Acrylic acid	0.6
107131	Acrylonitrile	0.3

107051 Allyl chloride	1
62533 Aniline	1
71432 Benzene	2
92875 Benzidine	0.0003
98077 Benzotrichloride	0.006
100447 Benzyl chloride	0.1
57578 beta-Propiolactone	0.1
92524 Biphenyl	10
117817 Bis(2-ethylhexyl)phthalate(DEHP)	5
542881 Bis(chloromethyl)ether	0.0003
75252 Bromoform	10
156627 Calcium cyanamide	10
133062 Captan	10
63252 Carbaryl	10
75150 Carbon disulfide	1
56235 Carbon tetrachloride	1
463581 Carbonyl sulfide	5
120809 Catechol	5
133904 Chloramben	1
57749 Chlordane	0.01
7782505 Chlorine	0.1
79118 Chloroacetic acid	0.1
108907 Chlorobenzene	10
510156 Chlorobenzilate	0.4
67663 Chloroform	0.9
107302 Chloromethyl methyl ether	0.1
126998 Chloroprene	1
1319773 Cresols/Cresylic acid (isomers and mixture)	1
95487 o-Cresol	1
108394 m-Cresol	1
106445 p-Cresol	1
98828 Cumene	10
334883 Diazomethane	1
132649 Dibenzofuran	5

72559 DDE (p,p'-Dichlorodiphenyldichloroethylene)	0.01
84742 Dibutylphthalate	10
111444 Dichloroethyl ether (Bis(2-chloroethyl)ether)	0.06
62737 Dichlorvos	0.2
11422 Diethanolamine	5
64675 Diethyl sulfate	1
60117 Dimethyl aminoazobenzene	1
79447 Dimethyl carbamoyl chloride	0.02
68122 Dimethyl formamide	1
131113 Dimethyl phthalate	10
77781 Dimethyl sulfate	0.1
106898 Epichlorohydrin	2
140885 Ethyl acrylate	1
100414 Ethyl benzene	10
51796 Ethyl carbamate (Urethane)	0.8
75003 Ethyl chloride	10
106934 Ethylene dibromide (Dibromoethane)	0.1
107062 Ethylene dichloride (1,2-Dichloroethane)	0.8
107211 Ethylene glycol	10
151564 Ethylene imine (Aziridine)	0.003
75218 Ethylene oxide	0.1
96457 Ethylene thiourea	0.6
75343 Ethylidene dichloride (1,1-Dichloroethane)	1
50000 Formaldehyde	2
76448 Heptachlor	0.02
118741 Hexachlorobenzene	0.01
87683 Hexachlorobutadiene	0.9
77474 Hexachlorocyclopentadiene	0.1
67721 Hexachloroethane	5
822060 Hexamethylene,-1,6-diisocyanate	0.02
680319 Hexamethylphosphoramide	0.01
110543 Hexane	10
302012 Hydrazine	0.004
7647010 Hydrochloric acid	10

7664393 Hydrogen fluoride	0.1
123319 Hydroquinone	1
78591 Isophorone	10
58899 Lindane (hexachlorocyclohexane, gamma)	0.01
108316 Maleic anhydride	1
67561 Methanol	10
72435 Methoxychlor	10
74839 Methyl bromide (Bromomethane)	10
74873 Methyl chloride (Chloromethane)	10
71556 Methyl chloroform (1,1,1-Trichloroethane)	10
78933 Methyl ethyl ketone (2-Butanone)	10
60344 Methyl hydrazine	0.06
74884 Methyl iodide (Iodomethane)	1
108101 Methyl isobutyl ketone	10
624839 Methyl isocyanate	0.1
80626 Methyl methacrylate	10
1634044 Methyl tert-butyl ether	10
12108133 Methylcyclopentadienyl manganese	0.1
75092 Methylene chloride (Dichloromethane)	10
101688 Methylene diphenyl diisocyanate	0.1
91203 Naphthalene	10
98953 Nitrobenzene	1
62759 N-Nitrosodimethylamine	0.001
69892 N-Nitrosomorpholine	1
684935 N-Nitroso-N-methylurea	0.0002
121697 N,N-Dimethylaniline	1
90040 o-Anisidine	1
95534 o-Toluidine	4
56382 Parathion	0.1
82688 Pentachloronitrobenzene (Quintobenzene)	0.3
87865 Pentachlorophenol	0.7
108952 Phenol	0.1
75445 Phosgene	0.1
7803512 Phosphine	5

7723140 Phosphorous	0.1
85449 Phthalic anhydride	5
1336363 Polychlorinated biphenyls (Aroclors)	0.009
106503 p-Phenylenediamine	10
123386 Propionaldehyde	5
114261 Propoxur (Baygone)	10
78875 Propylene dichloride (1,2-Dichloropropane)	1
75569 Propylene oxide	5
91225 Quinoline	0.006
106514 Quinone	5
100425 Styrene	1
96093 Styrene oxide	1
127184 Tetrachloroethylene (Perchloroethylene)	10
7550450 Titanium tetrachloride	0.1
108883 Toluene	10
8001352 Toxaphene (chlorinated camphene)	0.01
79016 Trichloroethylene	10
121448 Triethylamine	10
1582098 Trifluralin	9
108054 Vinyl acetate	1
593602 Vinyl bromide (bromoethene)	0.6
75014 Vinyl chloride	0.2
75354 Vinylidene chloride (1,1-Dichloroethylene)	0.4
1330207 Xylenes (isomers and mixture)	10
108383 m-Xylenes	10
95476 o-Xylenes	10
106423 p-Xylenes	10
- Arsenic and inorganic arsenic compounds	0.005
7784421 Arsine	0.1
- Antimony compounds (except those specifically listed)*	5
1309644 Antimony trioxide	1
1345046 Antimony trisulfide	0.1
7783702 Antimony pentafluoride	0.1
28300745 Antimony potassium tartrate	1

- Beryllium compounds (except Beryllium salts)	0.008
- Beryllium salts	0.00002
- Cadmium compounds	0.01
130618 Cadmium oxide	0.01
- Chromium compounds (except Hexavalent and Trivalent)	5
- Hexavalent Chromium compounds	0.002
- Trivalent Chromium compounds	5
10025737 Chromic chloride	0.1
744084 Cobalt metal (and compounds, except those specifically listed)*	0.1
10210681 Cobalt carbonyl	0.1
62207765 Fluomine	0.1
- Coke oven emissions	0.03
- Cyanide compounds (except those specifically listed)*	5
143339 Sodium cyanide	0.1
151508 Potassium cyanide	0.1
- Glycol ethers (except those specifically listed)*	5
110805 2-Ethoxy ethanol	10
111762 Ethylene glycol monobutyl ether	10
108864 2-Methoxy ethanol	10
- Lead and compounds (except those specifically listed)*	0.01
75741 Tetramethyl lead	0.01
78002 Tetraethyl lead	0.01
7439965 Manganese and compounds (except those specifically listed)*	0.8
12108133 Methylcyclopentadienyl manganese	0.1
- Mercury compounds (except those specifically listed)*	0.01
10045940 Mercuric nitrate	0.01
748794 Mercuric chloride	0.01
62384 Phenyl mercuric acetate	0.01
- Elemental Mercury	0.01
- Mineral fiber compounds (except those specifically listed)*	a
1332214 Asbestos	a
- Erionite	a
- Silica (crystalline)	a
- Talc (containing asbestos from fibers)	a

- Glass wool	a
- Rock wool	a
- Slag wool	a
- Ceramic fibers	a
- Nickel compounds (except those specifically listed)*	1
13463393 Nickel Carbonyl	0.1
12035722 Nickel refinery dust	0.08
- Nickel subsulfide	0.04
- Polycyclic organic matter-POM (except those specifically listed)*	0.01
56553 Benz(a)anthracene	0.01
50328 Benzo(a)pyrene	0.01
205992 Benzo(b)fluoranthene	0.01
57976 7,12-Dimethylbenz(a)anthracene	0.01
225514 Benz(c)acridine	0.01
218019 Chrysene	0.01
53703 Dibenz(ah)anthracene	0.01
189559 1,2:7,8-Dibenzopyrene	0.01
193395 Indeno(1,2,3-cd)pyrene	0.01
- Dioxins & Furans (TCDD equivalent)**	-
7782492 Selenium and compounds (except those specifically listed)*	0.1
7488564 Selenium sulfide (mono and di)	0.1
7783075 Hydrogen selenide	0.1
10102188 Sodium selenite	0.1
13410010 Sodium selenate	0.1
9999918 Radionuclides (including radon)	b

* - For this chemical group, specific compounds or subgroups are named specifically in this table. For the remainder of the chemicals of the chemical group, a single de minimis value is listed, which applies to compounds which are not named specifically.

** - The "toxic equivalent factor" method in EPA/625/3-89-016 (U.S. EPA (1989) Interim procedures for estimating risk associated with exposure to mixtures) should be used for PCDD/PCDF mixtures. A different de minimis level will be determined for each mixture depending on the equivalency factors used which are compound specific. For purposes of this part, the document EPA/625/3-89-016, Interim Procedures for Estimating Risk Associated with Exposure to Mixtures, U.S. EPA (1989), is incorporated by reference. The Environmental Protection Agency is the author and publisher. This document is available at the University of Minnesota through the Minitex interlibrary loan system. This document is subject to frequent change.

a - De minimis values are zero. Currently available data do not support assignment of a "trivial" emission rate; therefore, the value assigned will be policy based.

b - The EPA relies on Code of Federal Regulations, title 40, part 61, subparts B and I, and Appendix E, and assigns a de minimis level based on an effective dose equivalent of 0.3 millirem per year for a seven-year exposure period that would result in a cancer risk of one per million. The individual radionuclides subject to de minimis levels are contained in Code of Federal Regulations, title 40, part 61.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059; 19 SR 1345; 20 SR 2316; 21 SR 165; 22 SR 1237; 23 SR 2224; 27 SR 1579; 28 SR 1482; 32 SR 904; 37 SR 991*

Published Electronically: *January 24, 2013*

7007.1350 CHANGES WHICH CONTRAVENE CERTAIN PERMIT TERMS.

Subpart 1. **Applicability.** A permittee may make changes allowed under parts 7007.0100 to 7007.1850 at a permitted facility without obtaining a permit amendment, even though the change contravenes a permit term, if the change:

A. does not violate a permit term related to monitoring (including test methods), record keeping, reporting, or compliance certification requirements;

B. does not result in emissions in excess of those explicitly allowed under the permit for any emissions unit or for the stationary source as a whole (whether expressed as a rate of emissions or in terms of total emissions);

C. does not violate any permit term limiting hours of operation, work practices, fuel usage, raw material usage, production levels, or throughput if the term has been established to limit emissions or ensure compliance with emissions limitations;

D. does not violate any other permit term where the agency has specifically stated in the permit that the term is not subject to change under this part;

E. is not a title I modification;

F. is not required to be authorized by a permit amendment under title IV of the act (Acid Deposition Control) or Code of Federal Regulations, title 40, part 72, as amended; and

G. is not an administrative amendment described in part 7007.1400.

Subp. 2. **Procedure.** Changes authorized under this part may not be made until seven working days after the air quality division of the agency receives written notice of the change. The notice shall include a certification by a responsible official describing the change to be made, identifying the term of the permit which is being contravened, stating that the change is authorized under this part, and briefly describing how it qualifies under this part. The permittee and the agency shall attach the notice to the stationary source's permit. If the agency finds that the proposed change is not authorized under this part, the agency shall notify the permittee of that finding and, if the proposed change could be made using other procedures, direct the permittee to those procedures.

Subp. 3. **Enforcement action.** If the permittee implements a change that the permittee believes qualifies under this part and the agency subsequently determines that the change does not qualify under this part, the agency may take an enforcement action against the permittee.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

Published Electronically: *November 29, 2007*

7007.1400 ADMINISTRATIVE PERMIT AMENDMENTS.

Subpart 1. **Administrative amendments allowed.** The agency may make the permit amendments described in this subpart through the administrative permit amendment process described in this part. An owner or operator of a stationary source shall request an administrative amendment if changes are to be made under item B or E:

- A. an amendment to correct a typographical error;
- B. an amendment to change the name, mailing address, or telephone number of any person identified in the permit, or that reflects a similar minor administrative change at the permitted facility. A change in the stationary source's location of operation is not covered by this item;
- C. an amendment requiring the permittee to comply with additional, more frequent, or expanded, testing, monitoring, record keeping, or reporting requirements;
- D. an amendment to eliminate monitoring, record keeping, or reporting requirements if:
 - (1) the requirements are rendered meaningless because the only emissions to which the requirements apply will no longer occur;
 - (2) the change is to eliminate one validated reference test method for a pollutant and source category in order to add another;
 - (3) the requirements are redundant to or less strict than other existing requirements;
 - (4) the requirements are technically incorrect and their elimination does not affect the accuracy of the data generated or of the monitoring information recorded or reported; or
 - (5) the emission unit to which the monitoring, record keeping, or reporting requirement applies no longer exists or has been permanently disabled from use at the stationary source;
- E. an amendment reflecting a change in ownership or operational control of a stationary source where the agency determines that no other change in the permit is necessary, provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the agency;
- F. an amendment to incorporate into a permit the requirements from preconstruction review permits issued by the agency, incorporate into a permit the requirements from standards adopted under Code of Federal Regulations, title 40, part 63, as amended (National Emission Standards for Hazardous Air Pollutants for Source Categories), or to lower the plantwide emission limits in permits with Plantwide Applicability Limits to reflect the impact of standards adopted under Code of Federal Regulations, title 40, part 63, as amended;
- G. an amendment to clarify the meaning of a permit term;
- H. an amendment to extend a deadline in a permit by no more than 120 days, provided that the agency may only extend a deadline established by an applicable requirement described in part 7007.0100, subpart 7, items A to K, if the agency has been delegated authority to make such extensions by the administrator. Notwithstanding the previous sentence, the agency may do an administrative amendment

to extend a testing deadline in a permit up to 365 days if the agency finds that the extension is needed to allow the permittee to test at worst case conditions as required by part 7017.2025, subpart 2;

I. an amendment to remove any condition from a permit which was based on an applicable requirement that has been repealed, but only if the permit condition:

(1) is neither required nor replaced by another applicable requirement; and

(2) was not established for a specific facility to protect human health and the environment, to prevent pollution, as a mitigation measure in an environmental impact statement, or to obtain a negative declaration in an environmental assessment worksheet;

J. an amendment to correct or update a citation to an applicable requirement where the corresponding permit condition is not changed; and

K. an amendment to include operating conditions that ensure that waste combustors emit mercury at less than 50 percent of the applicable standard.

Subp. 2. **Initiating an administrative amendment.** A permittee shall request in writing that the agency make an administrative permit amendment. A formal application complying with the terms of parts 7007.0100 to 7007.1850 is not required. The permittee shall specify the section of the permit that is to be amended, and the reason for the amendment. The agency may also make an administrative amendment upon its own initiative. If an administrative amendment initiated by the agency would impose additional or different requirements on the permittee, the permittee shall be notified of the proposed amendment 30 days prior to its taking effect, unless the permittee consents to less notice. If the permittee objects to the amendment, the amendment shall not be made under this part, but the agency may reopen the permit under parts 7007.1500 and 7007.1600.

Subp. 3. **Timeline for final action.** The agency shall take no more than 60 days from receipt of a request for an administrative permit amendment to take final action on such request. Amendments made by the agency under this part shall be made without public notice or an opportunity for public and affected states comment and hearing.

Subp. 4. **Part 70 administrative amendment submitted to EPA.** If the administrative permit amendment is to a part 70 permit, the agency shall submit a copy of the amended permit or permit amendment to the administrator, as required by the administrator.

Subp. 5. **Provisions to which permit shield applies.** The only administrative amendments to which the permit shield established by part 7007.1800 shall apply are those described in subpart 1, item F.

Subp. 6. **Acid rain provision.** Amendments to the acid rain portion of a permit to an affected source shall be governed by Code of Federal Regulations, title 40, part 72, as amended.

Subp. 7. **When permittee may make change.** Notwithstanding part 7007.0150, subpart 1, the permittee may make the change proposed in the administrative amendment request immediately after the request is received by the air quality division of the agency, if the change is described in subpart 1. However, if the change is of ownership or operational control, the new owner's or operator's right to operate the permitted stationary source under the previous sentence is contingent upon the new owner's or operator's compliance with the terms of the stationary source's permit.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059; 20 SR 2316; 22 SR 1237; 22 SR 1975; 37 SR 991*

Published Electronically: *January 24, 2013*

7007.1450 MINOR AND MODERATE PERMIT AMENDMENTS.

Subpart 1. **Minor and moderate amendment exclusions.** The agency may amend a permit using the minor and moderate permit amendment processes described in this part if the amendments are described in subparts 2 and 3, and if the amendments are not described in part 7007.1500, subpart 1 (Major permit amendment required).

Subp. 2. **Minor amendment applicability.** Except as provided in subpart 1, the agency may amend a permit to change permit conditions, unless the change to permit conditions otherwise requires a major amendment or can be made through an administrative amendment. The agency may allow a modification under the minor permit amendment process of this part if the modification will not cause an increase in emissions of an air pollutant listed below in an amount greater than the threshold. If a regulatory change results in existing insignificant activities no longer qualifying as such, the owners and operators must submit an application within 120 days of the regulation's effective date to incorporate those emission units or activities into the facility's permit:

Pollutant	Threshold
NO _x	9.13 pounds per hour
SO ₂	9.13 pounds per hour
VOCs	9.13 pounds per hour
PM-10	3.42 pounds per hour
CO	22.80 pounds per hour
Lead	.11 pounds per hour

For purposes of this part, whether or not the proposed change will cause an increase in emissions shall be calculated as described in part 7007.1200. Modifications or changes to permit conditions which would otherwise qualify for a minor or moderate amendment under this part may be title I modifications, for which a major amendment is required, using the methods of calculation required under title I of the act. Permittees are reminded to review the definition of title I modifications and requirements of title I of the act.

Subp. 3. **Moderate amendment applicability.** Any amendment which meets the criteria of subpart 1, but which does not qualify as a minor permit amendment under subpart 2 and which is not a major permit amendment under part 7007.1500, may be made following the procedures applicable to moderate permit amendments under this part.

Subp. 4. **Minor or moderate application requirements.** An application requesting the use of minor or moderate permit amendment procedures shall meet the requirements of part 7007.0600, subpart 1, and shall also include the following:

- A. a description of:
 - (1) the modification, change to permit conditions, or regulatory change;
 - (2) the emissions associated with the modification, change to permit conditions, or regulatory change;

(3) the emission units or activities affected by the modification, change to permit conditions, or regulatory change; and

(4) any new applicable requirements that will apply if the modification or change occurs;

B. if the amendment is to a part 70 permit, the owners' and operators' suggested draft permit or draft amendment;

C. certification by a responsible official that the proposed amendment meets the criteria for use of minor or moderate permit amendment procedures, including, in the case of minor permit amendments, a certification that any increase in emissions will be below the thresholds listed in subpart 2, and a request that such procedures be used;

D. certification by a responsible official that the change which the proposed amendment would allow is not part of a larger project which, taken as a whole, would not qualify for treatment as a minor or moderate permit amendment; and

E. in the case of amendments to part 70 permits, completed forms for the permitting authority to use to notify the administrator and affected states as required under subpart 5.

Subp. 5. **EPA notification.** In the case of applications for minor or moderate permit amendments to part 70 permits, the agency shall notify the administrator and affected states of the requested permit amendment within five working days of receipt of a complete permit amendment application to a part 70 permit. The agency promptly shall send any notice regarding agency refusal to accept affected states recommendations required under part 7007.0900, to the administrator and the affected states.

Subp. 6. **EPA review.** The agency will not issue a minor or moderate amendment to a part 70 permit until after the EPA has had 45 days to review the amendment or until the EPA has notified the agency that the EPA will not object to issuance of the permit amendment, whichever is first. The agency may process the application during this time period. The agency shall take final action on an application for a minor or moderate permit amendment within the deadlines set forth in part 7007.0750, subpart 2.

Subp. 7. **When permittee may make the proposed modification or change.**

A. The permittee may make the modification or change proposed in a minor permit amendment application seven working days after the application is received by the air quality division of the agency.

B. The permittee may begin actual construction on a modification proposed in a moderate permit amendment application upon receipt of a letter of approval from the agency authorizing such construction. However, the permittee may not conduct start-up of the modification until the amended permit has been issued.

Subp. 8. **Permittees' risk in commencing construction.** If the owners or operators of the stationary source make the modification or change allowed by subpart 7, item A, or begin actual construction upon receipt of a letter of approval as allowed by subpart 7, item B, and until the agency acts on the minor or moderate permit amendment application, the stationary source must comply with both the applicable requirements governing the modification and the proposed permit terms and conditions. During this time period, the stationary source need not comply with the existing permit terms and conditions it seeks to change. However, if the permittees fail to comply with the proposed permit terms and conditions during this time period, the existing permit terms and conditions may be enforced against the permittees. The permittees assume the risk of losing any investment the permittees made toward implementing a modification or change prior to receiving a permit amendment authorizing the modification or change. The agency will not consider

the possibility of the permittees suffering financial loss due to such investment when deciding whether to approve, deny, or approve in modified form a minor or moderate permit amendment.

Subp. 9. **Permit shield does not apply.** The permit shield under part 7007.1800 shall not apply to minor or moderate permit amendments.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059; 19 SR 1345; 20 SR 2316; 22 SR 1237; 23 SR 2224; 37 SR 991*

Published Electronically: *January 24, 2013*

7007.1500 MAJOR PERMIT AMENDMENTS.

Subpart 1. **Major permit amendment required.** A "major permit amendment" is required for any change to permit conditions or any modification at a permitted stationary source that is not allowed under parts 7007.1250 and 7007.1350 and for which an amendment cannot be obtained under the administrative permit amendment provisions of part 7007.1400, or the minor or moderate permit amendment provisions of part 7007.1450. The following always require major permit amendments:

A. any significant amendment to existing monitoring, reporting, or record keeping requirements in the permit other than:

- (1) adding new requirements;
- (2) eliminating the requirements if they are rendered meaningless because the only emissions to which the requirements apply will no longer occur;
- (3) eliminating one validated reference test method for a pollutant and source category in order to add another;
- (4) eliminating the requirements that are redundant to or less strict than other existing requirements;
- (5) eliminating the requirements that are technically incorrect where the elimination does not affect the accuracy of the data generated or of the monitoring information recorded or reported; or
- (6) eliminating the requirements for an emission unit that no longer exists or has been permanently disabled from use at the stationary source;

B. any amendment to establish or amend a permit condition that is required to be based on a case-by-case determination of an emission limitation or other standard, on a source-specific determination of ambient impacts, or on a visibility or increment analysis;

C. any amendment to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement described in part 7007.0100, subpart 7, items A to K, and that the stationary source has assumed to avoid an applicable requirement to which the stationary source would otherwise be subject. Such terms and conditions include:

- (1) a federally enforceable emissions cap assumed to avoid classification as a title I modification; and
- (2) an alternative emissions limit approved pursuant to regulations promulgated under section 112(i)(5) of the act (Hazardous Air Pollutant; Schedule for Compliance; Early Reduction);

D. any amendment authorizing a title I modification, which includes construction or reconstruction of a major source of hazardous air pollutants under section 112(g)(2)(B) of the act; and

E. any amendment required by agency rule to be made under the major permit amendment procedures.

Subp. 2. **Major amendment application requirements.** To apply for a major permit amendment, the permittee shall follow the application procedures in parts 7007.0100 to 7007.1850 which are applicable to a new or renewed permit of the type being amended.

Subp. 3. **Agency processing procedures.** The agency shall process an application for a major permit amendment to a part 70 permit following the same procedures applicable to an application for a new or reissued part 70 permit, including procedures for public participation, administrator review, and affected states review. The agency shall process an application for a major amendment to a state permit following the same procedures applicable to an application for a new or reissued state permit, except that:

A. the agency shall not provide for public notice and comment under part 7007.0850 unless the major amendment is described in subpart 1, item C or D, and the administrator requires such notice, or the agency makes a determination to provide for public notice and comment under part 7007.0850, subpart 2, item C; and

B. the agency shall not submit the major amendment to EPA for review under part 7007.0950 unless the major amendment is described in subpart 1, item C or D, and the administrator requires such notice.

Subp. 3a. **Making existing facilities into affected facilities subject to new source performance standards.**

A. The owner or operator of a stationary source may construct an affected facility, as that term is defined in Code of Federal Regulations, title 40, section 60.2, as amended (Standards of Performance for New Stationary Sources; Definitions), upon receiving from the agency written approval to construct the affected facility. For purposes of this subpart, construction of an affected facility includes only modification or reconstruction, as described in Code of Federal Regulations, title 40, sections 60.14 and 60.15, as amended, making an existing facility into an affected facility. No person may begin to operate the affected facility until receipt of a major amendment issued by the agency under this part.

B. The agency shall issue written approval to construct, or explain in writing why the approval will not be granted, within 60 days of receiving a complete permit application seeking authorization to construct and operate the affected facility. The application must be accompanied by a written request for approval to construct under this subpart, and a statement certified by a responsible official certifying that requirements of part C (Prevention of Significant Deterioration of Air Quality) or part D (Plan Requirements for Nonattainment Areas) of the act do not apply to the proposed construction. The approval to construct shall only apply to the affected facility.

C. This subpart does not apply if the construction, reconstruction, or modification would be subject to the new source review requirements of part C (Prevention of Significant Deterioration of Air Quality) or part D (Plan Requirements for Nonattainment Areas) of the act.

D. This subpart does not relieve the applicant of the obligation to comply with the requirements of Minnesota Statutes, chapter 116D, prior to construction, if applicable.

Subp. 4. **Permit shield.** The permit shield described in part 7007.1800 shall apply to amendments made through the major permit amendment process, except that the permit shield does not apply to construction carried out under subpart 3a prior to issuance of a major permit amendment.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059; 20 SR 2316; 22 SR 1237; 22 SR 2300; 23 SR 2224; 37 SR 991*

Published Electronically: *January 24, 2013*

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. 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 116.07*

History: *18 SR 1059*

Published Electronically: *November 29, 2007*

7007.1650 REOPENINGS FOR CAUSE BY EPA.

The administrator may reopen part 70 permits as provided in Code of Federal Regulations, title 40, section 70.7(g), as amended.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

Published Electronically: *November 29, 2007*

7007.1700 PERMIT REVOCATION BY AGENCY.

Subpart 1. **Permit revocation without reissuance.** The agency may revoke permits and not reissue them when:

A. there exists at the permitted facility unresolved noncompliance with applicable requirements or a condition of the permit, and the permittee refuses to undertake an enforceable schedule of compliance to resolve the noncompliance;

B. the permittee fails to disclose fully the facts relevant to issuance of the permit or submits false or misleading information to the agency or the administrator;

C. the agency finds that the permitted facility or activity endangers human health or the environment and that the danger cannot be removed by an amendment to the permit;

D. the permittee has failed to comply with any requirement under chapter 7002 to pay fees; or

E. the permittee has failed to pay a penalty owed pursuant to court order, consent decree, stipulation agreement, schedule of compliance, or order issued under Minnesota Statutes, section 116.07.

Subp. 2. **Revocation procedures.** The agency shall give notice to the permittee of its intention to revoke a permit without reissuance. This notice must state that within 30 days of the receipt of the notice the permittee may request a contested case hearing be held on the proposed action, except that the agency may provide less notice in case of an emergency. If the permittee requests a contested case hearing, the agency shall hold the hearing in accordance with the rules of the Office of Administrative Hearings, parts 1400.5100 to 1400.8401.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

Published Electronically: *November 29, 2007*

7007.1750 FEDERAL ENFORCEABILITY.

A. All conditions of a permit issued under parts 7007.0100 to 7007.1850 are enforceable by the administrator and citizens under the act, unless designated otherwise in the permit under item B.

B. The agency shall designate a condition of a permit to be not enforceable by the administrator and citizens under the act if the condition is not required by:

(1) an applicable requirement listed in part 7007.0100, subpart 7, items A to K, including requirements provided in Minnesota's implementation plan approved by the administrator under title I of the act; or

(2) parts 7007.0100 to 7007.1850, after approval of Minnesota's part 70 program by the administrator under title V of the act.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

Published Electronically: *November 29, 2007*

7007.1800 PERMIT SHIELD.

A. The agency shall include in a permit a provision, known as a permit shield provision, stating that compliance with the conditions of the permit shall be deemed compliance with any applicable requirements as of the date of permit issuance. However, the shield shall only have legal effect if:

(1) the specific provision of the applicable requirement is identified in the permit as the basis of permit conditions; or

(2) the agency in acting on the application for the permit or major amendment, determines in writing that other requirements specifically identified are not applicable to the stationary source, and the permit includes the determination or a concise summary of it.

B. If the permit does not expressly state that a permit shield is provided, it shall be presumed not to provide such a shield.

C. Nothing in this part or in any permit shall alter or affect the following:

(1) the emergency order provisions of section 303 of the act, including the authority of the administrator under that section, and the agency's authority under the emergency powers provision of Minnesota Statutes, section 116.11;

(2) the liability of an owner or operator of a stationary source for any violation of applicable requirements prior to or at the time of permit issuance;

(3) the applicable requirements of the acid rain program, consistent with section 408(a) of the act; or

(4) the ability of the agency or EPA to obtain information through inspections, monitoring, and entry of a stationary source pursuant to Minnesota Statutes, section 116.091, and section 114 of the act.

D. The permit shield shall not be provided for permit conditions established through a minor or moderate permit amendment, or through an administrative amendment except as stated in part 7007.1400, subpart 1, item F.

E. The permit shield shall not be provided for a permit condition if the permittee knowingly submitted false or misleading information to the agency and the permit condition was based on that information.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

Published Electronically: *November 29, 2007*

7007.1850 EMERGENCY PROVISION.

A. An "emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the owners and operators of the stationary source, including an act of God, that requires immediate corrective action to restore normal operation, and that causes the stationary source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error. Consistent with this definition of emergency, the agency may state in the permit what types of situations will not be considered emergencies if they occur.

B. An emergency constitutes an affirmative defense to an action brought for noncompliance with such technology-based emission limitations if the conditions of item C are met.

C. The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) an emergency occurred and that the permittee can identify the cause or causes of the emergency;

(2) the permitted facility was at the time being properly operated;

(3) the permittee submitted notice of the emergency to the agency within two working days of when the emission limitations were exceeded due to the emergency. This notice must contain a detailed description of the emergency, any steps taken to mitigate emissions, and corrective actions taken; and

(4) during the period of the emergency, the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission limitations, standards, or regulations in the permit.

D. In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.

E. This provision is in addition to any emergency or upset provision contained in any applicable requirement.

F. This provision does not limit the emergency power of the agency under Minnesota Statutes, section 116.11.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059; 37 SR 991*

Published Electronically: *January 24, 2013*

7007.3000 PREVENTION OF SIGNIFICANT DETERIORATION OF AIR QUALITY.

Any person who constructs, modifies, reconstructs, or operates an emissions unit, emission facility, or stationary source must meet the requirements of Code of Federal Regulations, title 40, part 52.21, as amended, entitled "Prevention of Significant Deterioration of Air Quality," which is adopted and incorporated by reference.

All applications and other information required pursuant to Code of Federal Regulations, title 40, part 52.21, from emissions units, emission facilities, and stationary sources located in Minnesota shall be submitted to the commissioner.

Statutory Authority: *MS s 116.07*

History: *18 SR 580; 32 SR 904*

Published Electronically: *November 29, 2007*

7007.3010 CONSTRUCTION OR RECONSTRUCTION OF A MAJOR SOURCE OF HAZARDOUS AIR POLLUTANTS UNDER SECTION 112(g)(2)(B) OF THE ACT.

Any person who constructs or reconstructs a major hazardous air pollutant source as defined in Code of Regulations, title 40, section 63.41, except electric utility steam generating units, stationary sources in deleted source categories under section 112(C)(9) of the act, and research and development activities, must meet the requirements of Code of Federal Regulations, title 40, part 63, subpart B, sections 63.40 to 63.44, as amended, entitled "Requirements for Control Technology," which is adopted and incorporated by reference, except sections 63.42(a) and 63.42(b) are not included.

All applications and other information required pursuant to Code of Federal Regulations, title 40, part 63, subpart B, sections 63.40 to 63.44, from emissions units, emission facilities, and stationary sources located in Minnesota shall be submitted to the commissioner.

Statutory Authority: *MS s 116.07*

History: *22 SR 2300*

Published Electronically: *November 29, 2007*

EMISSION FACILITY OFFSETS

7007.4000 SCOPE.

Parts 7007.4000 to 7007.4030 apply to persons who propose to construct a major stationary source or major modification in a nonattainment area and to persons who propose to construct a major stationary source or major modification in a designated attainment or unclassifiable area with emissions that would cause or contribute to a violation of a national ambient air quality standard in a nonattainment area.

Statutory Authority: *MS s 116.07*

History: *13 SR 2153; 17 SR 350; 18 SR 614*

Published Electronically: *November 29, 2007*

7007.4010 DEFINITIONS.

Subpart 1. **Scope.** The definitions in Code of Federal Regulations, title 40, chapter I, part 51, appendix S, apply to the terms used in parts 7007.4000 to 7007.4030 unless the terms are defined in this part. For the purposes of parts 7007.4000 to 7007.4030, the following words have the meanings defined below.

Subp. 1a. [Repealed, 17 SR 350]

Subp. 1b. [Repealed, 17 SR 350]

Subp. 2. [Repealed, 17 SR 350]

Subp. 2a. [Repealed, 17 SR 350]

Subp. 2b. [Repealed, 17 SR 350]

Subp. 3. [Repealed, 13 SR 2153]

Subp. 3a. **Attainment area.** "Attainment area" means any geographic area that has been designated by the United States Environmental Protection Agency as "better than national standards" for any national ambient air quality standard in Code of Federal Regulations, title 40, chapter I, section 81.324, as amended.

Subp. 4. [Repealed, 13 SR 2153]

Subp. 5. [Repealed, 17 SR 350]

Subp. 6. [Repealed, 17 SR 350]

Subp. 7. [Repealed, 17 SR 350]

Subp. 7a. **Major stationary source.** "Major stationary source" means:

A. a major stationary source as defined in Code of Federal Regulations, chapter I, title 40, part 51, appendix S, (1990); or

B. a stationary source that emits or has the potential to emit 70 tons or more per year of PM10 and that is located or that will locate in an area classified as "serious" under United States Code, title 42, section 7513, as amended.

Subp. 7b. **National ambient air quality standards.** "National ambient air quality standards" means any air quality standard promulgated in Code of Federal Regulations, title 40, part 50, as amended.

Subp. 8. [Repealed, 17 SR 350]

Subp. 9. [Repealed, 17 SR 350]

Subp. 10. **Nonattainment area.** "Nonattainment area" means any geographic region that has been designated by the United States Environmental Protection Agency as violating a national ambient air quality standard in Code of Federal Regulations, title 40, section 81.324, as amended.

Subp. 11. [Repealed, 17 SR 350]

Subp. 11a. [Repealed, 28 SR 1482]

Subp. 12. [Repealed, 17 SR 350]

Subp. 13. [Repealed, 17 SR 350]

Subp. 14. [Repealed, 13 SR 2153]

Subp. 14a. [Repealed, 17 SR 350]

Subp. 15. [Repealed, 13 SR 2153]

Subp. 16. [Repealed, 13 SR 2153]

Subp. 17. [Repealed, 13 SR 2153]

Subp. 18. [Repealed, 13 SR 2153]

Subp. 19. [Repealed, 13 SR 2153]

Subp. 19a. **Significant emissions increase.** "Significant emissions increase" means a net increase in emissions or the potential of a stationary source to emit any of the listed pollutants that would equal or exceed any of the rates of emissions in Code of Federal Regulations, title 40, part 51, Appendix S, Part II.A.10(i), as amended. Any net emissions increase that is considered significant for volatile organic compounds must be considered significant for ozone.

Subp. 19b. **Unclassifiable area.** "Unclassifiable area" means any geographic area that has been designated by the United States Environmental Protection Agency as "cannot be classified" for any national ambient air quality standard in Code of Federal Regulations, title 40, chapter I, section 81.324, as amended.

Subp. 20. [Repealed, 28 SR 1482]

Statutory Authority: *MS s 116.07*

History: *L 1987 c 186 s 15; 13 SR 2153; 17 SR 350; 18 SR 614; 28 SR 1482*

Published Electronically: *November 29, 2007*

7007.4020 CONDITIONS FOR PERMIT.

Subpart 1. **In general.** Unless the requirements of Code of Federal Regulations, title 40, chapter I, part 51, appendix S, (1991), as incorporated in subpart 2a, are first satisfied, no person shall commence construction, as defined in appendix S, part (II), section (A), of a major stationary source or major modification in:

- A. a nonattainment area; or
- B. an attainment area or unclassifiable area if that major stationary source or major modification would cause or contribute to a violation of a national ambient air quality standard in a nonattainment area as determined by the significance levels established in Code of Federal Regulations, title 40, chapter I, part 51, appendix S, part III, (1991).

Subp. 2. [Repealed, 17 SR 350]

Subp. 2a. **Modified federal standard.** Persons subject to subpart 1 must comply with Code of Federal Regulations, title 40, chapter I, part 51, appendix S, (1991), with the following exceptions:

- A. Code of Federal Regulations, title 40, chapter I, part 51, appendix S, part IV, section A, condition 1, footnotes 4 and 5, (1991), do not apply.

B. Code of Federal Regulations, title 40, chapter I, part 51, appendix S, part IV, section A, condition 3, is amended to read:

Emission reductions ("offsets") from existing sources in the same area of the proposed source (whether or not under the same ownership) are required such that there will be reasonable progress toward attainment of the applicable NAAQS. Offsets must be based on actual emissions as defined in Code of Federal Regulations, title 40, section 51.165(a)(3), as amended. Only intrapollutant emission offsets will be acceptable (e.g. hydrocarbon increases may not be offset against SO₂ reductions).

C. Code of Federal Regulations, title 40, part 51, appendix S, part IV, section A, condition 3, footnote 7, (1991), does not apply.

D. Code of Federal Regulations, title 40, part 51, appendix S, part IV, section A, footnote 8, (1991), does not apply.

E. Code of Federal Regulations, title 40, part 51, appendix S, part IV, section B, (1991), does not apply.

F. Code of Federal Regulations, title 40, part 51, appendix S, part IV, section C, (1991), applies except that, consistent with Code of Federal Regulations, title 40, section 51.165(3)(i)(A), as amended, the offset baseline shall be the actual emissions of the source from which offset credit is obtained.

G. Code of Federal Regulations, title 40, part 51, appendix S, part IV, section C, (5), (1991), does not apply.

Subp. 3. [Repealed, 17 SR 350]

Subp. 4. [Repealed, 17 SR 350]

Subp. 5. [Repealed, 17 SR 350]

Subp. 6. [Repealed, 13 SR 2153]

Subp. 7. [Repealed, 17 SR 350]

Subp. 8. [Repealed, 17 SR 350]

Statutory Authority: *MS s 116.07*

History: *L 1987 c 186 s 15; 13 SR 2153; 17 SR 350; 17 SR 3380; 18 SR 614; 23 SR 2224*

Published Electronically: *November 29, 2007*

7007.4030 LIMITATION ON USE OF OFFSETS.

To the extent that these parts create a program for the use of offsets or allow persons to purchase or obtain offsets, parts 7007.4000 to 7007.4030 shall not be construed to create a property right that requires compensation from the state should offsets later become unusable due to a change in an applicable emission limitation or standard of the agency.

Statutory Authority: *MS s 116.07*

History: *13 SR 2153; 17 SR 350; 18 SR 614*

Published Electronically: *November 29, 2007*

7007.5000 BEST AVAILABLE RETROFIT TECHNOLOGY.

Subpart 1. **Incorporation by reference.** Code of Federal Regulations, title 40, part 51.301 (Definitions), as amended, is incorporated by reference. Appendix Y (Guidelines for Best Available Retrofit Technology (BART) Determinations Under the Regional Haze Rule) of Code of Federal Regulations, title 40, part 51, as amended, is incorporated by reference.

Subp. 2. **BART determination.** The owner or operator of a stationary source shall submit a best available retrofit technology (BART) analysis to the commissioner if the commissioner determines the stationary source is subject to BART according to Code of Federal Regulations, title 40, part 51, Appendix Y (Guidelines for BART Determinations Under the Regional Haze Rule). The owner or operator shall prepare the BART analysis according to section IV of Appendix Y of Code of Federal Regulations, title 40, part 51, as directed by the commissioner. The owner or operator of a stationary source shall submit the BART analysis 180 days after receipt of written notification by the commissioner that a BART analysis is required. The commissioner shall make the BART determination according to Appendix Y of Code of Federal Regulations, title 40, part 51.

Subp. 3. **BART implementation.** The owner of each BART-eligible source subject to BART shall install and operate BART no later than five years after the United States Environmental Protection Agency approval of Minnesota's regional haze state implementation plan. The owner or operator of each source subject to BART shall operate and maintain the control equipment or work practices required by this part and shall establish procedures to ensure such equipment or work practices are properly operated and maintained.

Statutory Authority: *MS s 116.07*

History: *32 SR 904*

Published Electronically: *November 29, 2007*