

7017.2020 PERFORMANCE TESTS GENERAL REQUIREMENTS.

Subpart 1. **Testing required.** The owner or operator of an emission facility shall arrange to conduct a performance test at any emission facility at the times required by an applicable requirement or compliance document and at additional times if the commissioner requests a performance test in order to:

- A. evaluate a permit application;
- B. determine compliance with an applicable requirement or compliance document;
- C. determine compliance subsequent to a performance test that indicated noncompliance or where compliance could not be determined due to errors in following a test method, lack of or inaccurate documentation, or because the requirements of parts 7017.2001 to 7017.2060 were not met;
- D. determine the compliance status of an emission facility following an inspection of the facility by agency staff during which indicators of noncompliance were found;
- E. determine the compliance status of an emission facility following a modification to the emission facility that the commissioner determines could cause an increase in the amount of emissions of any air pollutant from that facility; or
- F. quantify the emissions from an emission facility where the commissioner has determined a possible environmental or public health concern.

EPA may request a performance test under this part for the reasons listed in items A to F and may make the decisions that the commissioner makes under parts 7017.2001 to 7017.2060 and any other Minnesota rule or statute for that performance test. EPA's authority to require performance testing under its own regulations or under the Clean Air Act is not affected by this part.

Subp. 2. **Testing company.** The performance test shall be conducted by a testing company unless a compliance document allows the owner or operator to conduct the performance test or to contract with an alternative entity that does not meet the criteria of the definition of testing company, or unless the agency, EPA, or any authorized employee or agent of the agency or EPA is conducting the performance test.

Subp. 3. **Safety and access.** The owner or operator of the emission facility shall provide a safe working platform and safe access to the platform at the sampling site.

Subp. 4. **Verification of test results.** The results of a performance test are not final until a complete report, as defined in part 7017.2035, subpart 3, is submitted and the commissioner gives written verification of the compliance status of the emission facility. Upon verification of the test results, the duration of the compliance status that

the performance test determines for the emission facility begins with the date of the performance test. Nothing in this subpart prevents the use of any evidence to establish the existence of a violation before the date of the performance test, or excuses noncompliance between the date of the performance test and the commissioner's written verification of it.

Subp. 5. **Test runs.** Each performance test shall consist of at least three separate test runs using the applicable test method, except that one test run shall be required for opacity determination. However, the commissioner shall require more test runs to be conducted if the applicable requirement or compliance document requires additional test runs or determination of emissions at more than one process or operating condition.

Data reduction for opacity shall be conducted in accordance with part 7017.2060, subparts 5 and 6. For all other pollutants, the arithmetic mean of the test runs is the result of the performance test. In the event that a sample is accidentally lost or conditions occur in which one of three test runs must be discontinued because of forced shutdown, failure of an irreplaceable portion of the sample train, extreme meteorological conditions, or other circumstances beyond the control of the owner or operator and the testing company, compliance may, upon the commissioner's approval, be determined using the arithmetic mean of the two remaining test runs. The owner or operator shall document in the test report all reasons for excluding a test run or failing to conduct a test run.

Subp. 6. **Evidence of noncompliance.** The results of a performance test that have been rejected or deemed incomplete or indeterminate by the commissioner due to failure to comply with parts 7017.2001 to 7017.2060 and performance tests which are not subject to parts 7017.2001 to 7017.2060 may still be used in establishing violations pursuant to part 7017.0100 if they represent credible evidence of such violations. This includes, but is not limited to, results of tests:

- A. that were started but abandoned before completing all the required test runs;
- B. submitted without the required notification or test plan;
- C. that are incomplete due to lack of emission facility operating data in the test report; and
- D. conducted under unrepresentative operating conditions or conditions that deviated from the test plan.

Statutory Authority: *MS s 116.07*

History: *18 SR 1412; 21 SR 693; 23 SR 145; 23 SR 1764; 32 SR 904*

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