Pollution Control Agency

Adopted Permanent Rules Relating to Air Emission Permit Fees

Rules as Adopted

AIR EMISSION PERMIT FEES

7001.0140 FINAL DETERMINATION.

[For text of subpart 1, see M.R.]

Subp. 2. **Agency findings.** The following findings by the agency constitute justification for the agency to refuse to issue a new or modified permit, to refuse permit reissuance, or to revoke a permit without reissuance:

[For text of items A to E, see M.R.]

F. that with respect to the facility or activity to be permitted, the proposed permittee has not complied with any requirement under chapter 7002 or 7046 to pay permit fees or emission fees; or

[For text of item G, see M.R.]

[For text of subp 3, see M.R.]

7001.0180 JUSTIFICATION TO COMMENCE REVOCATION WITHOUT REISSUANCE OF PERMIT.

The following constitute justification for the commissioner to commence proceedings to revoke a permit without reissuance:

[For text of items A to C, see M.R.]

D. the permittee has failed to comply with any requirement under chapter 7002 or 7046 to pay permit fees or emission fees; or

[For text of item E, see M.R.]

7002.0005 SCOPE.

Parts 7002.0005 to 7002.0085 apply to all persons required to obtain an air emission permit or an indirect source permit from the Minnesota Pollution Control Agency under parts 7001.1200 to 7001.1350 or under Title V of the federal Clean Air Act Amendments of 1990, Public Law Number 101-549, Statutes at

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Large, volume 104, pages 2399 et seq.

7002.0015 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 7002.0005 to 7002.0085, the terms defined in this part have the meanings given them. The definitions in parts 7001.0010, 7001.1260, and 7005.0010 to 7005.3060 apply unless the terms are defined in this part.

Subp. 2. **Affected facility.** "Affected facility" means any facility for which the owner or operator of the facility must obtain an air emission permit under parts 7001.1200 to 7001.1220 or under Title V of the federal Clean Air Act Amendments of 1990, Public Law Number 101-549, Statutes at Large, volume 104, pages 2399 et seq.

Subp. 3. **Emission inventory.** "Emission inventory" means the inventory of actual emissions required under part 7005.1875.

Subp. 4. **Regulated pollutant.** "Regulated pollutant" means the following:

A. Nitrogen oxides (NO_x) or any volatile organic compound.

B. Any pollutant for which a national ambient air quality standard has been promulgated, except carbon monoxide.

7002.0025 ANNUAL EMISSION FEE RATES.

Subpart 1. **Calculation of fee.** Operators of affected facilities shall pay an annual emission fee for each ton of a regulated pollutant emitted to the air by the facility. The fee shall be based on the actual emission tonnages as established in the most recent available emission inventory. The fees shall be $X for each ton of any regulated pollutant. The value of "X" is as determined in part 7002.0045.

Subp. 2. **New facilities.** New emission facilities that have been issued a permit, but have not yet been required to submit emissions data, shall pay a fee of $770.

Subp. 3. **Estimated potential to emit.** If an emission facility fails to submit actual emissions data as required by part 7005.1870, subpart 4, or 7005.1875, whichever is in effect

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when the inventory is due, the annual emission fee for that facility shall be based on the estimated potential-to-emit of that facility, as defined in part 7005.0100, subpart 35a.

7002.0035 AIR QUALITY ANNUAL FEE TARGET.

The annual fee target shall be set as described in items A, B, and C.

A. For fiscal year 1993, the unadjusted fee target shall be $5,093,000.

B. For fiscal year 1994 and thereafter, the unadjusted fee target shall be the greater of the following:

(1) the sum of:

(a) the amount directly appropriated to the Air Quality Division from the environmental fund for that fiscal year; and

(b) the Air Quality Division's portion of the appropriation from the environmental fund to the agency's general support program, as determined by using the indirect cost allocation plan approved by the Minnesota Department of Finance under Minnesota Statutes, section 16A.127, subdivision 4; or

(2) the amount calculated by multiplying $25 per ton, adjusted for inflation since 1989, times the number of tons of each regulated pollutant listed in the most recent available emission inventory. A maximum of 4,000 tons per pollutant per facility shall be used for this calculation. The adjustment for inflation shall be in accordance with the adjustment described by the United States Environmental Protection Agency in rules adopted under title V of the federal Clean Air Act Amendments of 1990, Public Law Number 101-549, Statutes at Large, volume 104, pages 2399, et seq.

C. The amounts described in items A and B must be adjusted as follows:

(1) if the agency failed to collect its fee target the previous year, after making reasonable efforts to do so, the shortfall must be added to the next year's fee target;

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(2) if the agency collected more than its fee target the previous year, the excess must be subtracted from the next year's fee target; and

(3) for any year, the commissioner may increase the fee target by up to five percent to reflect the anticipated fee nonpayment rate. This increase must not be considered for purposes of calculating a deficit or surplus under subitems (1) and (2).

7002.0045 COMPUTATION OF THE DOLLAR PER TON FIGURE.

The dollar per ton figure "X" used in part 7002.0025 shall be computed as follows:

X = (F - I - P)/T

where:

X = Dollars per ton.

F = Total annual fee target, as determined in this part.

I = Total amount to be billed as indirect source permit fees for the previous calendar year, part 7002.0055.

P = Total amount to be billed as new permit fees for the previous calendar year, part 7002.0025, subpart 2.

T = Total number of tons of all regulated pollutants listed in the most recent annual emissions inventory.

7002.0055 INDIRECT SOURCE PERMIT FEES.

Subpart 1. **Schedule.** A person who applies for a permit to construct, modify, or reconstruct an indirect source as defined in part 7001.1260, subpart 5, shall be assessed fees according to the following schedule~~:~~. Surcharges apply to new permit applications if the basis for the surcharge is present in the proposed project. Surcharges apply to modified permit applications if the basis for the surcharge is present in the proposed modification.

Basic charges	Fee
New permit application	$1,605
Permit modification application	$1,205
Surcharges	
Involves 5,000 or more parking spaces	

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or 700,000 or more square feet	$2,005
Noise variance applied for	$3,265
On-site contamination affects facility	$800
Requires binding commitments for new roadway improvements	$1,205
Requires involvement of more than one governmental unit or roadway authority	$400
New permit application that involves more than one ~~applicant~~ owner, except governmental coapplicants acting in regulatory capacity	$2,005
Permit application formally amended during application review process to change size ~~of~~ or scope of project, except minor changes as defined in subpart 3	$1,205
Contains an entertainment or sports facility with a peak attendance level of 10,000 or more people or 10,000 or more parking spaces	$1,605
Involves a change in ownership except from single owner to single owner	$1,205

Subp. 2. **Fees nonrefundable.** The fees in subpart 1 shall be determined by the division manager upon application for an indirect source permit, or when it becomes apparent that a surcharge shall apply. A bill for the amount due shall be sent after January 1 of the following calendar year. Fees paid under this part are nonrefundable, regardless of whether a permit is eventually issued.

Subp. 3. **Minor changes.** The amendment of a permit application during the application review process shall be considered minor for purposes of this part if it would have been considered a minor modification under part 7001.1350 or if an agency approved trip analysis shows that the change would not increase vehicle trips in any intersection in any hour by 100 trips or more.

7002.0065 PAYMENT OF FEES.

A person submitting the fee shall make it payable to the Minnesota Pollution Control Agency, and shall submit it to the division manager. The fee shall be paid within 60 days of receipt of an invoice from the division manager.

7002.0075 NOTIFICATION OF ERROR.

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A person who thinks that the assessed fee is in error shall provide a written explanation of the person's position to the commissioner along with the assessed fee. The commissioner shall, within 60 days of the receipt of the person's written explanation, either provide a written explanation of why the fee was not in error and shall not be refunded, or, if the commissioner finds that the assessed fee was in error, the overpayment shall be refunded to the person or credited to the person's account.

7002.0085 LATE PAYMENT FEE.

An owner or operator of an affected facility shall pay a late payment fee of 20 percent of the payment due for failure to make payment within 30 days of the payment due date, and shall pay an additional ten percent of the original payment due for each additional 30-day period ~~or portion thereof~~ that the payment is late.

7002.0095 EFFECTIVE DATE.

Parts 7002.0005 to 7002.0085 are effective July 1, 1992.

7005.0100 DEFINITIONS.

[For text of subps 1 to 8a, see M.R.]

Subp. 9a. **Division manager.** "Division manager" means the division manager of the Air Quality Division of the Minnesota Pollution Control Agency.

[For text of subps 10 and 10b, see M.R.]

Subp. 10c. **EPA efficiency factor.** "EPA efficiency factor" means the control efficiency listed in the Aerometric and Emissions Reporting System (AEROS) Manual Series, Volume 5: AEROS Manual of Codes, EPA-450/2-76-005, United States Environmental Protection Agency, Office of Air and Waste Management, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, April 1976, which is incorporated by reference and is available through the Minitex interlibrary loan system.

Subp. 10d. **EPA emission factor.** "EPA emission factor"

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means the emission factor listed in AIRS Facility Subsystem Source Classification Codes and Emission Factor Listing for Criteria Air Pollutants, EPA 450/4-90-003, United States Environmental Protection Agency, Office of Air and Waste Management, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, March 1990, which is incorporated by reference and is available at the state law library and through the Minitex interlibrary loan system.

[For text of subps 11 to 30, see M.R.]

Subp. 30a. **PM-10.** "PM-10" means particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers.

[For text of subps 31 to 42c, see M.R.]

Subp. 45. **Volatile organic compound (VOC).** "Volatile organic compound (VOC)" means any organic compound which participates in atmospheric photochemical reactions. This includes any organic compound other than the following compounds:

A. methane;

B. ethane;

C. 1,1,1-trichloroethane (methyl chloroform);

D. trichlorotrifluoroethane (CFC-113);

E. methylene chloride;

F. trichlorofluoromethane (CFC-11);

G. dichlorodifluoromethane (CFC-12);

H. chlorodifluoromethane (CFC-22);

I. trifluoromethane (FC-23);

J. dichlorotetrafluoroethane (CFC-114);

K. chloropentafluoroethane (CFC-115);

L. dichlorotrifluoroethane (HCFC-129);

M. tetrafluoroethane (HFC-134a);

N. dichlorofluoroethane (HCFC-141b);

O. chlorodifluoroethane (HCFC-142b);

P. 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);

Q. pentafluoroethane (HFC-125);

R. 1,1,2,2-tetrafluoroethane (HFC-134);

S. 1,1,1-trifluoroethane (HFC-143a);

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T. 1,1-difluoroethane (HFC-152a);

U. any other compound listed in table 1, as amended, of the United States Environmental Protection Agency's Recommended Policy on Control of Volatile Organic Compounds, Federal Register, volume 42, page 35314, July 8, 1977; or

V. any other compound determined by the United States Environmental Protection Agency to be negligibly photochemically reactive, upon publication of the determination in the Federal Register.

7005.1875 EMISSION INVENTORY.

Subpart 1. **Owners or operators.** All owners or operators of affected facilities, as defined in part 7002.0015, subpart 2, shall submit an annual emission inventory report to the agency, in a format specified by the commissioner, relating to carbon monoxide and all regulated pollutants as defined in part 7002.0015, subpart 4. The report shall be submitted on or before April 1 of the year following the year being reported. A person who signs the report shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision by qualified personnel. The information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I understand that the data provided in this document will be used by the MPCA to calculate a fee, which the facility will be required to pay under Minnesota Rules, part 7002.0025, based on the tons of pollution emitted by the facility."

Subp. 2. **Owner or operator error in reporting data.** If an owner or operator discovers an error in the data after having submitted it to the agency, the owner or operator shall submit corrected data, with a written explanation of the mistake and why it occurred. If the commissioner agrees that the correction is appropriate, the commissioner shall correct the data in the

inventory. However, for purposes of assessing the emission fee under part 7002.0025, the commissioner shall not recognize any correction submitted by an owner or operator which would result in a reduction of tons emitted if the correction is submitted after November ~~31~~ 30 of the year the inventory is due.

7005.1876 CALCULATION OF ACTUAL EMISSIONS FOR EMISSION INVENTORY.

Subpart 1. **Method.**

A. Except as provided in item B, all calculations of actual emissions required under part 7005.1875 shall be based on the operating data supplied in the emission inventory, multiplied by an emission factor. The emission factor used in this calculation shall be an EPA emission factor or, where no EPA emission factor is available, an emission factor generated by the agency. An emission factor generated by the agency shall be calculated using engineering methods consistent with the methods used by the EPA to calculate EPA emission factors. Control equipment efficiency shall be based on the average of the range of EPA efficiency factors or shall be based on the efficiency verified by a performance test conducted according to part 7005.1860, provided the performance test took place in the year for which emissions are being calculated.

B. The alternative method described in subpart 2 shall be used by the affected facility to calculate actual emissions in its emissions inventory instead of the method described in item A if data as described in subpart 2 is available for the facility. The alternative methods described in subparts 3, 4, and 5 may be used by the facility without advance notification to the division manager. The method described in subpart 6 may be used, provided that the proposal is submitted to the division manager by October 1 of the year for which the emissions are being calculated, beginning in 1993. The commissioner shall reject data submitted using the methods described in subparts 2 to 5 if the conditions set forth for the method are not fully met.

Subp. 2. **Continuous emission monitor (CEM) data.** If an

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affected facility has collected emissions data through use of a continuous emission monitor (CEM), the facility shall report that data to the agency in its emission inventory. The requirements in items A to C must be met.

A. The CEM operation must have been in compliance with all of the requirements of parts 7005.1850, 7005.1870, and 7005.1880; any other applicable state or federal laws pertaining to CEM operation; and all applicable air emission permit conditions.

B. The total operating time of the applicable emission unit and the total operating time of the CEM must be included in the report.

C. An explanation of how the emissions were calculated based on the CEM data must be included in the report. For CEM downtime, this calculation must apply EPA emission factors, stack test data as specified in subpart 3, a permit emission limit, or the method of reporting CEM downtime specified by the United States Environmental Protection Agency in rules adopted under section 412 of the federal Clean Air Act Amendments of 1990, Public Law Number 101-549, Statutes at Large, volume 104. This method may be used by any facility with a CEM, regardless of whether federal regulations require them to use it.

Subp. 3. **Stack test data.** Emission factors from stack tests may be used for the calculation of emissions, provided that the following conditions are met:

A. all the requirements of part 7005.1860, all other applicable state and federal laws, and all applicable air emission permit conditions relating to stack testing have been complied with; and

B. the test was performed during the calendar year for which the emissions are being calculated.

Subp. 4. **Volatile organic compound (VOC) material balance.** A material balance method may be used to calculate VOC emissions. A person using material balance to calculate VOC emissions shall determine the total VOC emissions (E) as follows:

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$$E = (a - b - c) * (1 - d)$$

where:

a = the amount of VOC entering the process. A signed statement from the supplier ~~separate from~~ or the material safety data sheet must be submitted stating the maximum amount of VOC in any material that was used in the process.

b = the amount of VOC incorporated permanently into the product. This includes VOC's chemically transformed in production. It does not include latent VOC 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, if any, leaving the process as waste, or otherwise not incorporated into the product and not emitted to the air.

d = the overall efficiency, or the product of capture efficiency and control efficiency, of any device used to capture and/or control VOC emissions, expressed as a decimal fraction of 1.00. This overall efficiency shall be based on the average of the range of EPA efficiency factors, or shall be based on the overall efficiency verified by a performance test conducted according to part 7005.1860, provided that the performance test took place in the year for which emissions are being calculated.

Subp. 5. **SO_2 material balance.** A person may determine sulfur dioxide 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 American Society of Testing and Materials (ASTM) methods. The sulfur dioxide emissions shall be determined by using the following equation: $SO_2 = \%S/100 \times F/2000 \times 2$.

where:

SO_2 = Sulfur dioxide emissions from a batch of fuel.

%S = Weight percent sulfur in the fuel being burned.

F = Amount of fuel burned by weight in pounds.

2000 = Pounds per ton.

2 or 64/32 = Pounds of sulfur dioxide per pound of sulfur

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in one pound-mole.

The total sulfur dioxide emissions for the year shall be the sum total of the individual batch totals.

Subp. 6. **Facility proposal.** If none of the alternative methods in subparts 2 to 5 would give an accurate representation of the facility's actual emissions, or none of the methods listed is technically or economically feasible, the affected facility may propose an alternative method for calculating the emissions. The proposal shall include:

A. an explanation of why none of the alternative methods in subparts 2 to 5 give an accurate representation of emissions, or why the methods are not technically or economically feasible;

B. a detailed description of the proposed method; and

C. a comparison of the accuracy of the proposed method with the alternatives in subparts 2 to 5.

The proposal shall be submitted to the commissioner by October 1 of the year for which the emissions are being calculated, beginning in 1993. The commissioner shall accept the affected facility's proposal if the commissioner finds that the proposal is equally or more representative of the facility's emissions than alternatives in subparts 2 to 5, excluding the technically or economically infeasible alternatives. If the commissioner rejects the proposal, the commissioner shall do so by February 1 of the year the inventory is due.

REPEALER. Minnesota Rules, parts 7002.0010, 7002.0020, 7002.0030, 7002.0040, 7002.0050, 7002.0060, 7002.0070, 7002.0080, 7002.0090, 7002.0100, 7002.0110, and 7005.1870, subpart 4, are repealed.

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