

1 Rule as Proposed

2 6 MCAR S 4.0041 Offset rule.

3 A. [Unchanged.]

4 B. Applicability.

5 1. Except as provided in 2., this rule applies to persons  
6 who propose to construct or modify a subject emission facility,  
7 as defined in C.1718.

8 2. [Unchanged.]

9 C. Definitions. The definitions in rule APC 2 of the  
10 Minnesota Pollution Control Agency apply to the terms used in  
11 this rule unless the terms are defined herein. For the purposes  
12 of this rule, the following words have the meanings defined  
13 below.

14 1.-3. [Unchanged.]

15 4. "Gross increase in emissions" means the gross number  
16 of new tons per year of a nonattainment criteria pollutant that  
17 could be legally discharged from an emission facility. In  
18 determining the gross increase in emissions, the director shall  
19 include all nonattainment criteria pollutant discharges that the  
20 emission facility could emit but shall give a credit for all  
21 legally enforceable restrictions on or reductions of the  
22 nonattainment criteria pollutant discharges from an emission  
23 facility, such as a restriction in nonattainment criteria  
24 pollutant discharges that would result from installing required  
25 pollution control equipment. No credit may be allowed for any  
26 other reductions of or restrictions on nonattainment criteria  
27 pollutant discharges.

28 4.-7. Renumber as 5.-8.

29 ~~8.~~ 9. Net increase in emissions" means the net number of  
30 new tons per year of a nonattainment criteria pollutant that  
31 could be legally discharged from a-subject an emission facility.  
32 In determining the net increase in emissions, the director

33 ~~a.~~ shall include all nonattainment criteria pollutant  
34 discharges that the ~~subject~~ emission facility could emit but

35 ~~b.~~ shall give a credit for the following:

36 ~~(1)~~ a. all legally enforceable restrictions on or

APPROVED IN THE  
REVISOR OF STATUTES  
OFFICE BY:

1 reductions of the nonattainment criteria pollutant discharges  
 2 from the subject emission facility ~~(, such as a restriction on~~  
 3 nonattainment criteria pollutant discharges that would result  
 4 from installing required pollution control equipment); and

5 ~~(2)~~ b. any other restrictions on or reductions of  
 6 the nonattainment criteria pollutant discharges that the person  
 7 proposing the subject emission facility both obtains within the  
 8 same plant and agrees to include within the terms of any permit  
 9 issued for the subject emission facility.

10 9.-16. Renumber as 10.-17.

11 ~~17.~~ 18. "Subject emission facility" means:

12 a. An emission facility that is proposed to be  
 13 constructed or modified

14 ~~(1)~~ in any an area designated a nonattainment area  
 15 on the date the agency receives the completed permit application  
 16 for the proposed construction or modification, and where

17 ~~(2)~~ the construction or modification of which this  
 18 emission facility will result in a net gross increase in  
 19 emissions of at least five tons per year of lead or of at least  
 20 100 tons per year of a any other nonattainment criteria  
 21 pollutant~~;-er.~~

22 b. An emission facility that is proposed to be  
 23 modified

24 ~~(1)~~ in any an area designated a nonattainment area  
 25 on the date the agency receives the completed permit application  
 26 for the proposed modification; and that

27 ~~(2)~~ has existing restricted emissions of at least  
 28 five tons per year of lead or of at least 100 tons per year of  
 29 the any other nonattainment criteria pollutant~~;-and.~~

30 ~~(3)~~ The modification of ~~which-will~~ this emission  
 31 facility must result in a significant net increase in emissions  
 32 of the nonattainment criteria pollutant. A net increase in  
 33 emissions is significant if the rate of the increase is at least  
 34 the rate specified below:

35 ~~(a)~~ (1) carbon monoxide~~;-~~ 100 tons per year;

36 ~~(b)~~ (2) sulfur dioxide~~;-~~ 40 tons per year;

APPROVED IN THE  
 REVISOR OF STATUTES  
 OFFICE BY:

1           ~~(e)~~ (3) nitrogen oxides: 40 tons per year;

2           ~~(d)~~ (4) nonmethane hydrocarbons: 40 tons per year;

3           ~~(e)~~ (5) particulate matter: 25 tons per year;

4           ~~(f)~~ (6) lead: 0.6 tons per year; ~~or.~~

5           c. A plant that is proposed to be modified

6           ~~(1)~~ in any an area designated a nonattainment area  
7 on the date the agency receives the completed permit application  
8 for the proposed modification and that has existing restricted  
9 emissions of at least five tons per year of lead or of at least  
10 100 tons per year of any other nonattainment criteria pollutant.

11           ~~(2)~~-Which The proposed modification of this emission  
12 facility, when considered in aggregate with X, ~~will~~ must result  
13 in a significant net increase in emissions of the nonattainment  
14 criteria pollutant, where:

15           ~~(a)~~ X = the net increase in nonattainment  
16 criteria pollutant discharges resulting from any construction or  
17 modification of the plant which was permitted by the agency  
18 during the following time period: any time both within the 18  
19 months immediately prior to the date the agency receives the  
20 completed permit application for the proposed modification and  
21 during which the area within which the plant is located was  
22 designated a nonattainment area.

23           ~~(b)~~ A net increase in emissions is significant if  
24 the rate of the increase is at least the rate specified in b.~~(3)~~

25           18. Renumber as 19.

26           D. Conditions for permit. Except as provided in 5., the  
27 agency ~~shall~~ may not issue ~~permits~~ a permit for any a  
28 subject emission facility unless the permit applicant has  
29 satisfied the conditions in 1.-3. All permits issued for subject  
30 emission facilities ~~shall~~ must contain the conditions set forth  
31 in 4.

32           1. [Unchanged.]

33           2. Requirement to demonstrate a net air quality benefit.  
34 Prior to constructing or modifying a subject emission facility,  
35 the permit applicant shall demonstrate that the offsets to be  
36 provided are sufficient to result in a net air quality benefit,

1 as defined in C.78.

2 a.-b. [Unchanged.]

3 3.-4. [Unchanged.]

4 5. Exception from requirement to ~~get~~ obtain offsets.

5 a. A permit applicant proposing to construct or modify  
6 a resource recovery facility burning municipal solid waste shall  
7 is not be required to obtain sufficient offsets to demonstrate a  
8 net air quality benefit if the director determines that the  
9 permit applicant:

10 (1) a. has made its best efforts to obtain  
11 sufficient offsets to comply with this rule and has demonstrated  
12 that such efforts were unsuccessful;

13 (2) b. has obtained all available offsets; and

14 (3) c. agrees to continue to seek the necessary  
15 offsets and apply them when they become available.

16 b. The director shall determine that the permit  
17 applicant has made its best efforts if the permit applicant  
18 demonstrates that the requirement to obtain sufficient offsets  
19 creates an undue economic hardship for the permit applicant or  
20 is technologically unachievable.

21 (1) If the permit applicant seeks to obtain an  
22 exception on the grounds of undue economic hardship, it shall  
23 submit to the director the information set out in rule MPEA  
24 6(b)(5) 6 MCAR S 4.3007 B.5. of the Minnesota Pollution Control  
25 Agency.

26 (2) If the permit applicant seeks to obtain an  
27 exception on the grounds of technological unachievability, it  
28 shall submit to the director the information set out in rule  
29 MPEA-6(b)(6) 6 MCAR S 4.3007 B.6. of the Minnesota Pollution  
30 Control Agency.

31 E.-F. [Unchanged.]