

**CHAPTER 7005**  
**MINNESOTA POLLUTION CONTROL AGENCY**  
**AIR QUALITY DIVISION**  
**AIR POLLUTION CONTROL**

**7005 0100 DEFINITIONS**  
**OPEN BURNING RESTRICTIONS AND**  
**PERMITTING REQUIREMENTS**

7005 0705 DEFINITIONS  
 7005 0715 OPEN BURNING RESTRICTIONS  
 7005 0725 OPEN BURNING PROHIBITIONS  
 7005 0735 PERMITS REQUIRED  
 7005 0745 PERMIT DENIAL  
 7005 0755 PERMIT REVOCATION  
 7005 0765 DEPARTMENT OF NATURAL  
 RESOURCES JURISDICTION  
 7005 0766 FIRE TRAINING  
 7005 0767 DELEGATED AUTHORITY  
 7005 0775 COMPLIANCE WITH OTHER LAWS  
 7005 0785 RECREATIONAL FIRES  
 7005 0795 OPEN BURNING ON FARMS  
 7005 0796 OPEN BURNING OF LEAVES  
 7005 0805 LIABILITY  
 7005 0815 PERMANENT TREE AND BRUSH  
 OPEN BURNING SITES

7005 1870 REPORTS  
 7005 1875 EMISSION INVENTORY  
 7005 1876 CALCULATION OF ACTUAL  
 EMISSIONS FOR EMISSION  
 INVENTORY  
 7005 3020 SCOPE  
 7005 3030 DEFINITIONS  
 7005 3040 CONDITIONS FOR PERMIT  
 7005 5030 EXHAUST EMISSION TEST  
 ABRASIVE BLASTING OF RESIDENTIAL,  
 CHILD CARE, AND SCHOOL BUILDINGS  
 7005 6010 APPLICABILITY  
 7005 6020 DEFINITIONS  
 7005 6030 TESTING  
 7005 6040 NOTIFICATION  
 7005 6050 CONTAINMENT  
 7005 6060 CLEANUP  
 7005 6070 RESTRICTIONS  
 7005 6080 VACUUM BLASTING

**7005.0100 DEFINITIONS.**

*[For text of subsps 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 subsps 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" 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 subsps 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 subsps 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);
- 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.

**Statutory Authority:** *MS s 116.07*

**History:** *17 SR 440*

**7005.0700** [Repealed, 16 SR 865]

### OPEN BURNING RESTRICTIONS AND PERMITTING REQUIREMENTS

#### **7005.0705 DEFINITIONS.**

Subpart 1. **Scope.** As used in parts 7005.0705 to 7005.0815 the terms defined in this part have the meanings given.

Subp. 2. **Agency.** "Agency" means the Minnesota Pollution Control Agency.

Subp. 3. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Pollution Control Agency.

Subp. 4. **Delegated authority.** "Delegated authority" means a town, home rule charter or statutory city or metropolitan county as defined in Minnesota Statutes, section 473.121, subdivision 4, authorized by the commissioner to issue open burning permits under part 7005.0767.

Subp. 5. **Incorporated land.** "Incorporated land" means land within a home rule charter or statutory city.

Subp. 6. **Land used for farming.** "Land used for farming" means land that is in agricultural use as defined in Minnesota Statutes, section 17.81.

Subp. 7. **Local authority.** "Local authority" means a local fire chief, fire marshal, fire warden, or local governmental official.

Subp. 8. **Nonattainment area.** "Nonattainment area" means a geographic region that has been:

A. designated by the agency as violating a state ambient air quality standard; or

B. 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. 9. Open burning.** "Open burning" means the burning of any matter if the resultant combustion products are emitted directly to the atmosphere without passing through a stack, duct, or chimney.

**Subp. 10. Owner or operator.** "Owner" or "operator" means a person who owns, leases, operates, controls, or supervises an open burning site, or who conducts open burning.

**Subp. 11. Practical.** "Practical" means technically feasible, available within the general area where the material to be burned is located, and available at a cost that is not prohibitive for most users.

**Subp. 12. Solid waste.** "Solid waste" has the meaning given it in Minnesota Statutes, section 116.06, subdivision 10.

**Statutory Authority:** *MS s 116.07*

**History:** *16 SR 865*

**7005.0710** [Repealed, 16 SR 865]

### **7005.0715 OPEN BURNING RESTRICTIONS.**

**Subpart 1. Open burning without a permit.** Except as provided in parts 7005.0785 and 7005.0795, open burning without an agency permit is allowed only on unincorporated land in attainment areas, and only if the owner or operator conducts the burning for the purposes described in subpart 3, according to the conditions in subpart 4, parts 7005.0725, 7005.0775, and 7005.0805, and prior notice has been given to the local authority.

**Subp. 2. Open burning with a permit.** Owners or operators of permanent tree and brush open burning sites must obtain permits under part 7005.0735, and are subject to the requirements of subpart 4 and parts 7005.0725, 7005.0735, 7005.0745, 7005.0755, 7005.0775, 7005.0805, and 7005.0815. Owners or operators who conduct open burning for the instruction and training of firefighters must obtain permits under part 7005.0735, and are subject to the requirements of part 7005.0725, except as otherwise provided in the permit issued by the commissioner, and parts 7005.0735, 7005.0745, 7005.0755, 7005.0766, 7005.0775, and 7005.0805. Owners or operators who conduct, cause, or permit open burning on incorporated land or in a nonattainment area must obtain permits under part 7005.0735, and are subject to the requirements of subpart 3 and parts 7005.0725, 7005.0735, 7005.0745, 7005.0755, and 7005.0805. Owners or operators who conduct, cause, or permit open burning in forest areas or on forest land as defined in Minnesota Statutes, section 88.01, subdivisions 6 and 7, must obtain permits from the Minnesota Department of Natural Resources if a permit is required by Minnesota Statutes, sections 88.16 and 88.17.

**Subp. 3. Purposes for burning.** Open burning is allowed if conducted for the following purposes:

A. elimination of fire or health hazards that cannot be abated by any other practical means;

B. disposal of vegetative matter for purposes of managing forests, prairies, or wildlife habitats;

C. ground thawing for utility repair and construction;

D. disposal of trees, brush, grass, and other vegetative matter in the development and maintenance of land and rights-of-way where chipping, composting, or other alternative methods are not practical;

E. consistent with Minnesota Statutes, section 18.024, the disposal of diseased shade trees as described in parts 1505.0230 and 1505.0320;

F. disposal of diseased or infested nursery stock, diseased bee hives under Minnesota Statutes, section 19.56, or dunnage as required under part 1505.1430; or

G. the disposal of burnable building material such as unpainted or untreated lumber, wood shakes, or other unpainted or untreated wood products generated by construction, where recycling, reuse, chipping, or other alternative disposal methods are not practical.

**Subp. 4. Conditions.** Open burning must be conducted according to the requirements in items A to J.

A. The prevailing wind at the time of the burning must be away from nearby residences and occupied buildings.

B. The burning must be conducted as far away from a road as possible and controlled so that a traffic hazard is not created.

C. The burning must be conducted consistent with article 11.101(b) of the Minnesota Uniform Fire Code as adopted in part 7510.3120.

D. The burning must not be conducted within one mile of an airport or landing strip unless the affected airport or landing strip is notified prior to burning.

E. The burning must not be conducted during the duration of an agency-declared air pollution alert, warning, emergency, or significant harm episode as outlined in parts 7005.2950 to 7005.3006; Minnesota Statutes, section 116.11; Code of Federal Regulations, title 40, part 51, subpart H; or Code of Federal Regulations, title 40, section 52.1220 (c)(1).

F. The person conducting the open burning shall give notice to the local authority and to the local Department of Natural Resources representative when within an area under Department of Natural Resources jurisdiction prior to any open burning. The notice must include the time and location of the fire.

G. Propane gas torches or other clean gas burning devices causing minimal pollution must be used to start the burning.

H. The person conducting the open burning must be present at the burn site from the commencement of the burning until the fire is completely extinguished and if a permit is required shall have a copy of the permit at the burning site at all times.

I. Fires must not be allowed to smolder with no flame present, except when conducted for the purpose of managing forests, prairies, or wildlife habitats.

J. Fires set or allowed to burn for the purpose of managing forests, prairies, or wildlife habitats must be managed according to a prescribed burn plan approved by the managing agency.

**Statutory Authority:** *MS s 116.07*

**History:** *16 SR 865*

**7005.0720** [Repealed, 16 SR 865]

**7005.0725 OPEN BURNING PROHIBITIONS.**

**Subpart 1. Prohibited materials.** No person shall conduct, cause, or permit open burning of oils, rubber, plastics, chemically treated materials, or other materials which produce excessive or noxious smoke such as tires, railroad ties, chemically treated lumber, composite shingles, tar paper, insulation, composition board, Sheetrock, wiring, paint, or paint filters.

**Subp. 2. Hazardous wastes.** No person shall conduct, cause, or permit open burning of hazardous waste as classified in chapter 7045 and Minnesota Statutes, section 116.06, subdivision 13, except as specifically provided in part 7045.0542, subpart 9.

Subp. 3. **Industrial solid waste.** No person shall conduct, cause, or permit open burning of solid waste generated from an industrial or manufacturing process or from a service or commercial establishment.

Subp. 4. **Demolition debris.** No person shall conduct, cause, or permit open burning of burnable building material generated from demolition of commercial or institutional structures. A farm building is not a commercial structure.

Subp. 5. **Salvage operations.** No person shall conduct, cause, or permit salvage operations by open burning.

Subp. 6. **Motor vehicles.** No person shall conduct, cause, or permit the processing of motor vehicles by open burning.

Subp. 7. **Garbage.** No person shall conduct, cause, or permit open burning of discarded material resulting from the handling, processing, storage, preparation, serving, or consumption of food, unless specifically allowed under part 7005.0795.

Subp. 8. **Burning ban.** No person shall conduct, cause, or permit open burning during a burning ban put into effect by a local authority, county, or a state agency.

**Statutory Authority:** *MS s 116.07*

**History:** *16 SR 865*

**7005.0730** [Repealed, 16 SR 865]

**7005.0735 PERMITS REQUIRED.**

Subpart 1. **Permits required.** No person shall conduct, cause, or permit open burning on incorporated land or in a nonattainment area without obtaining an open burning permit from the commissioner or a delegated authority under part 7005.0767. No person shall conduct, cause, or permit open burning at a permanent tree and brush open burning site as described in part 7005.0815 or for instruction and training of firefighters as described in part 7005.0766 without obtaining an open burning permit from the commissioner.

Subp. 2. **Permit conditions.** The commissioner or delegated authority shall issue an open burning permit if the commissioner or delegated authority finds that the burning is for one of the purposes in part 7005.0715, subpart 3, 7005.0766, or 7005.0815, and that the burning will be conducted according to the requirements of parts 7005.0705 to 7005.0815. The commissioner or delegated authority may impose other reasonable conditions in the permit on the conduct of the open burning if needed for the prevention of pollution or nuisance conditions. The burning shall be conducted during the dates established in the permit and conducted under the conditions of the permit.

Subp. 3. **Application process.** In areas where there is no delegated authority, the applicant shall obtain a permit application from the commissioner. After completing the application, the applicant shall submit the application to the local authority for its approval. Following the local authority approval, the application shall be submitted to the commissioner for a decision whether to issue a permit.

In areas where there is a delegated authority, the applicant shall obtain a permit application from the delegated authority. After completing the application, the applicant shall submit the application to the local authority for its approval. Following the local authority approval, the application shall be submitted to the delegated authority for a decision whether to issue a permit.

The application process for permanent tree and brush open burning sites is described in part 7005.0815, subparts 7 and 8.

To obtain a permit for fire training, an application must be submitted by the fire department or other entity seeking to conduct fire training directly to the commissioner by May 15 of each year. The application must describe the fire department's or other entity's annual training plans and identify the estimated number of structures that will need to be burned for training purposes.

Subp. 4. **Information requests.** The commissioner or delegated authority may request, and the applicant shall provide, any information additional to that required in the application form which the commissioner or delegated authority needs to determine if the open burning can be conducted in compliance with parts 7005.0705 to 7005.0815.

Subp. 5. **Permittees.** The permit application must be signed by all owners and operators, and the commissioner or delegated authority shall designate all owners and operators as copermittees when issuing the permit.

**Statutory Authority:** *MS s 116.07*

**History:** *16 SR 865*

**7005.0740** [Repealed, 16 SR 865]

**7005.0745 PERMIT DENIAL.**

The commissioner shall deny a permit application submitted pursuant to parts 7005.0705 to 7005.0815 if:

A. a practical alternative method of disposal of the material is available, such as chipping or composting;

B. the burning cannot be conducted according to the conditions established in parts 7005.0705 to 7005.0815; or

C. a nuisance condition would result from the burning.

**Statutory Authority:** *MS s 116.07*

**History:** *16 SR 865*

**7005.0750** [Repealed, 16 SR 865]

**7005.0755 PERMIT REVOCATION.**

A permit is subject to revocation by the commissioner, if:

A. a practical method of disposal of the material is found;

B. a fire hazard exists or develops during the course of the burning;

C. the permittee violates parts 7005.0705 to 7005.0815;

D. any of the conditions of the permit are violated; or

E. a nuisance condition has resulted from the burning.

**Statutory Authority:** *MS s 116.07*

**History:** *16 SR 865*

**7005.0760** [Repealed, 16 SR 865]

**7005.0765 DEPARTMENT OF NATURAL RESOURCES JURISDICTION.**

Designated Department of Natural Resources officers or fire wardens are authorized to accept applications and issue, deny, enforce, and revoke open burning permits on behalf of the commissioner for locations within their jurisdiction.

**Statutory Authority:** *MS s 116.07*

**History:** *16 SR 865*

**7005.0766 FIRE TRAINING.**

Subpart 1. **Structure burn training.** Except for owners or operators conducting fire training in specialized industrial settings pursuant to applicable federal, state, or local standards, owners or operators conducting open burning for the purpose of instruction and training of firefighters with regard to structures must follow the techniques described in Structural Burn Training Procedures for the Minnesota Technical College System. This document is written and published by the Regional State Fire Training Coordinator Staff, June 1987, and is incorporated by reference. It is not subject to frequent change. This publication is avail-

able at the Minnesota State Law Library and at the Fire Information, Research, and Education Center, 550 Cedar Street, Saint Paul, Minnesota 55101.

**Subp. 2. Restrictions.** Flammable or combustible liquids shall not be burned during fire training unless liquid fuels or arson investigation training is being conducted. The use of small amounts of uncontaminated diesel fuel or kerosene for ignition of live burn fires is not prohibited.

**Subp. 3. Liquid fuels training.** Fire training shall be conducted according to the conditions in items A to C when liquid fuels are burned.

A. The fuel must be completely contained within a lined structure, such as a cement- or metal-lined container.

B. The amount of fuel to be burned must be the minimum amount necessary to conduct the training.

C. If fuel is released from the lined structure, or if soil or groundwater contamination is suspected to have resulted from the burn, the spill must be reported and recovered as required under Minnesota Statutes, section 115.061.

**Subp. 4. Conditions.** Fire training must be conducted according to parts 7005.0715, subpart 4, items E to H, and 7005.0725, except as specifically authorized by the permit issued by the commissioner.

**Statutory Authority:** *MS s 116.07*

**History:** *16 SR 865*

#### **7005.0767 DELEGATED AUTHORITY.**

**Subpart 1. Delegated authority to issue permits.** A town or home rule charter or statutory city or metropolitan county may issue permits for open burning other than for fire training or permanent tree and brush burning conducted according to parts 7005.0705 to 7005.0805, if delegated authority is obtained as provided in subpart 2. Permits must be issued on a form approved by the commissioner and records must be maintained of all open burning permits issued.

**Subp. 2. Obtaining authority.** To obtain authority to issue open burning permits, a town or home rule charter or statutory city or metropolitan county must adopt parts 7005.0705 to 7005.0805 as a local ordinance governing open burning. After adopting this ordinance, the town or home rule charter or statutory city or metropolitan county must submit the following to the commissioner:

A. a written statement requesting the authorization;

B. the name of the person or persons authorized to issue the permits on behalf of the town or home rule charter or statutory city or metropolitan county and a certified copy of the motion passed by the town or home rule charter or statutory city or metropolitan county designating such person or persons; and

C. a copy of the local ordinance adopting parts 7005.0705 to 7005.0805.

**Subp. 3. Revocation of delegated authority.** The commissioner shall revoke the authority to issue open burning permits if:

A. permits are issued in violation of parts 7005.0705 to 7005.0805;

B. permits are issued on forms that have not been approved by the commissioner;

C. permits are issued by persons who have not been authorized by the delegated authority or whose names have not been provided to the commissioner;

D. the delegated authority fails to maintain records of open burning permits issued; or

E. the delegated authority requests removal of the authority.

**Statutory Authority:** *MS s 116.07*

**History:** *16 SR 865*

**7005.0770 [Repealed, 16 SR 865]**

**7005.0775 AIR POLLUTION CONTROL**

50

**7005.0775 COMPLIANCE WITH OTHER LAWS.**

Open burning must be conducted according to parts 7005.0705 to 7005.0815, local ordinances, state fire marshal rules, and statutes and rules of other state agencies, regardless of whether a permit is required by parts 7005.0705 to 7005.0815. Nothing in parts 7005.0705 to 7005.0815 shall be construed to allow open burning in those areas in which open burning is prohibited by other laws, rules, regulations, or ordinances which are more restrictive.

**Statutory Authority:** *MS s 116.07*

**History:** *16 SR 865*

**7005.0780** [Repealed, 16 SR 865]

**7005.0785 RECREATIONAL FIRES.**

Fires set for recreational, ceremonial, food preparation, or social purposes are allowed and do not require an agency permit. The material to be burned must be limited to a pile no larger than three feet in diameter by three feet high. Only unpainted and untreated wood, coal, or charcoal may be burned.

**Statutory Authority:** *MS s 116.07*

**History:** *16 SR 865*

**7005.0790** [Repealed, 16 SR 865]

**7005.0795 OPEN BURNING ON FARMS.**

A person who operates land used for farming may burn solid waste generated from the person's household or as part of the person's farming operation without an agency permit, as provided by Minnesota Statutes, section 17.135. The burning of the solid waste must comply with the conditions established in part 7005.0715, subpart 4, the prohibitions established in part 7005.0725, and the requirements of Minnesota Statutes, section 17.135.

**Statutory Authority:** *MS s 116.07*

**History:** *16 SR 865*

**7005.0796 OPEN BURNING OF LEAVES.**

A town or home rule charter or statutory city located outside the metropolitan area as defined in Minnesota Statutes, section 473.121, subdivision 2, by adoption of an ordinance, may permit open burning of dried leaves within the boundaries of the town or city, as provided by Minnesota Statutes, section 116.082. The burning of dried leaves must comply with the conditions established in parts 7005.0715, subpart 4, 7005.0725, 7005.0775, and 7005.0805.

**Statutory Authority:** *MS s 116.07*

**History:** *16 SR 865*

**7005.0800** [Repealed, 16 SR 865]

**7005.0805 LIABILITY.**

The granting of an open burning permit or allowance of open burning without a permit under any provisions of parts 7005.0705 to 7005.0815 does not excuse a person from consequences, damages, or injuries which may result from the open burning.

**Statutory Authority:** *MS s 116.07*

**History:** *16 SR 865*

**7005.0810** [Repealed, 16 SR 865]

**7005.0815 PERMANENT TREE AND BRUSH OPEN BURNING SITES.**

**Subpart 1. Permanent sites.** The commissioner shall issue permits authoriz-



ing continuous use of a site for open burning following the procedures and subject to the conditions established in this part and parts 7005.0725, 7005.0735, 7005.0745, 7005.0755, and 7005.0805.

**Subp. 2. Tree and brush burning only.** Only trees, tree trimmings, or brush shall be permitted to be burned at a permanent open burning site.

**Subp. 3. Alternatives to burning.** Only trees, tree trimmings, or brush that cannot be disposed of by an alternative method such as chipping, composting, or other method, shall be permitted to be burned at a permanent open burning site.

**Subp. 4. Location.** A permanent open burning site must not be located within:

A. 1,000 feet of an occupied building unless written permission is obtained from the building owner and occupant;

B. 1,000 feet of a public roadway;

C. one mile of an airport or landing strip unless written permission is obtained from the affected airport or landing strip;

D. 300 feet of a stream, river, lake, or other water body unless berms or other measures are used to ensure that ash or organic material does not enter the water body; or

E. a wetland as defined in part 7035.0300, subpart 119.

**Subp. 5. Site operation.** A permanent open burning site must be developed and operated according to items A to J.

A. A qualified attendant must be on duty at all times when the site is open for disposal of material to be burned and for the duration of any fire on the site.

B. Access to the site must be controlled through a gate that is locked when the attendant is not on duty.

C. A permanent sign indicating the times of operation, rates, the penalty for nonconforming dumping, and other pertinent information of use to the public must be posted at the site entrance.

D. Burning and ash storage areas must be designated and maintained.

E. Surface water drainage must be diverted around and away from the burning and ash storage areas.

F. Burning must be conducted according to the conditions in part 7005.0715, subpart 4, items A to E and G.

G. Prior notice must be given to the local authority of the time and duration of each burn.

H. Fugitive ash emissions must be controlled and ash residue must be collected periodically and disposed of in a permitted solid waste land disposal facility or other method allowed by applicable statutes and rules.

I. The fire must not be allowed to smolder with no flame present.

J. Fugitive dust emissions from access roads and the site must be controlled as required by part 7005.0550.

**Subp. 6. Site termination.** A permanent open burning site must be terminated in compliance with items A to D.

A. All unburned materials must be removed and disposed of through burning at another permitted burn site or by other method allowed by applicable statutes, rules, and ordinances.

B. All ash must be removed to a permitted solid waste land disposal facility or disposed of by other method allowed by applicable statutes, rules, and ordinances.

C. Areas affected by burning must be covered with soil and seeded to prevent erosion and to restore the site to a natural condition.

D. A sign must be posted informing the public that the site has been closed, and listing the closest disposal site alternative.

**Subp. 7. Application process.** Applicants for a permanent open burning site permit shall submit a complete application on a form provided by the commissioner. This application must be submitted at least 90 days before the date of the proposed operation of the permanent open burning site. The application must be submitted to the commissioner and must contain:

A. the name, address, and telephone number of all owners of the site proposed for use as the permanent open burning site;

B. if the operator for the proposed permanent open burning site is different from the owner, the name, address, and telephone number of the operator;

C. a general description of the materials to be burned, including the source and estimated quantity;

D. a topographic or similarly detailed map of the site and surrounding area within a one mile circumference showing all structures that might be affected by the operation of the site; and

E. any other information relevant to the operation of the site, or as requested by the commissioner to determine if the site can be operated in compliance with parts 7005.0705 to 7005.0815.

**Subp. 8. Permittees.** The permit application must be signed by all owners and operators of the proposed permanent open burning site, and the commissioner shall designate all owners and operators as copermitees when issuing the permit.

**Statutory Authority:** *MS s 116.07*

**History:** *16 SR 865*

**7005.0820** [Repealed, 16 SR 865]

**7005.1870 REPORTS.**

*For text of subps 1 to 3, see M.R.]*

**Subp. 4.** [Repealed, 17 SR 440]

**Statutory Authority:** *MS s 116.07*

**History:** *17 SR 440*

**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 30 of the year the inventory is due.

**Statutory Authority:** *MS s 116.07*

**History:** *17 SR 440*

## **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 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:

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

where:

a = the amount of VOC entering the process. A signed statement from the supplier 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<sub>2</sub> 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<sub>2</sub> = 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 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.

**Statutory Authority:** *MS s 116.07*

**History:** *17 SR 440*

**7005.3010** [Repealed, 17 SR 350]

**7005.3020 SCOPE.**

Parts 7005.3020 to 7005.3060 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:** *17 SR 350*

**7005.3030 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 7005.3020 to 7005.3060 unless the terms are defined in this part. For the purposes of parts 7005.3020 to 7005.3060, 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. 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. 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. **PM10.** "PM10" means particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers.

Subp. 12. [Repealed, 17 SR 350]

Subp. 13. [Repealed, 17 SR 350]

Subp. 14a. [Repealed, 17 SR 350]

*[For text of subp 19a, see M.R.]*

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.

*[For text of subp 20, see M.R.]*

**Statutory Authority:** *MS s 116.07*

**History:** *17 SR 350*

### 7005.3040 CONDITIONS FOR PERMIT.

Subpart 1. **In general.** No person shall commence construction of a major stationary source or major modification in:

A. a nonattainment area; or

B. in 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), unless the requirements of Code of Federal Regulations, title 40, chapter I, part 51, appendix S, as incorporated in subpart 2a, are first satisfied.

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 SO<sub>2</sub> 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.

Subp. 3. [Repealed, 17 SR 350]

Subp. 4. [Repealed, 17 SR 350]

Subp. 5. [Repealed, 17 SR 350]

Subp. 7. [Repealed, 17 SR 350]

Subp. 8. [Repealed, 17 SR 350]

**Statutory Authority:** *MS s 116.07*

**History:** *17 SR 350*

**7005.3050** [Repealed, 17 SR 350]

**7005.5030 EXHAUST EMISSION TEST.**

*[For text of subps 1 to 9, see M.R.]*

**Subp. 10. Reconstructed (KIT) vehicles.** All reconstructed (KIT) subject vehicles shall be tested for compliance with the exhaust emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the standards applicable to the year of manufacture of the engine installed in the vehicle.

**Subp. 11. Exchanged engines.** For the purposes of parts 7005.5010 to 7005.5105, a motor vehicle with an exchanged engine must be tested as described in items A to C.

A. Except as provided in item B, a motor vehicle must be tested for compliance with the exhaust emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the standards applicable to the model year of the vehicle's chassis.

B. A vehicle manufactured in model year 1991 or older that has received an exchanged or rebuilt engine, or other vehicle made from manufactured kit bodies (KIT cars), must be tested for compliance with the exhaust emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the standards applicable to the model year of the vehicle's chassis, unless the owner of the vehicle complies with the procedure in item C.

C. If a motor vehicle described in item B has not been inspected, or if it has been inspected and failed to meet the emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the standards applicable to the model year of the vehicle's chassis, the agency representative upon request by the motorist shall certify the year the engine was manufactured by checking the identification number of the engine block and by reviewing documentation provided by the vehicle owner. The vehicle must be tested for compliance with the exhaust emission standards in subpart 3, Table 1 or 2, whichever is in effect, using the year of the engine as certified by the agency representative. If the identification number on the block of the engine is absent and the vehicle owner is unable to provide documentation as to the engine year, the vehicle must be tested for compliance with the exhaust emission standards for model year 1976. If the agency representative determines that the engine was manufactured prior to 1976, the motor vehicle is not a subject vehicle.

Classification of a motor vehicle with an exchanged engine under parts 7005.5010 to 7005.5105, and receipt of a certificate of compliance or certificate of waiver for the motor vehicle shall not exempt the owner of the motor vehicle from the requirements of part 7005.1190 and Minnesota Statutes, section 325E.0951.

**Statutory Authority:** *MS s 116.92*

**History:** *17 SR 440*

### **ABRASIVE BLASTING OF RESIDENTIAL, CHILD CARE, AND SCHOOL BUILDINGS**

**7005.6010 APPLICABILITY.**

Parts 7005.6010 to 7005.6080 establish the procedures that a contractor shall follow to test for the presence of lead paint prior to abrasive blasting and to remove lead paint by abrasive blasting of the exterior of any residential build-

ing, child care building, school building, or any building within 100 feet of a residential, child care, or school building, or a playground.

**Statutory Authority:** *MS s 116.07; 144.878*

**History:** *16 SR 442*

### 7005.6020 DEFINITIONS.

Subpart 1. **Scope.** For the purposes of parts 7005.6010 to 7005.6080, the terms in subparts 2 to 15 have the meanings given them.

Subp. 2. **Abrasive blasting.** "Abrasive blasting" means the use of air pressure and an abrasive grit to remove surface coatings. Among the techniques specifically identified as abrasive blasting are dry abrasive blasting, wet abrasive blasting, modified-wet abrasive blasting and vacuum blasting.

Subp. 3. **Acid extraction.** "Acid extraction" means laboratory analysis of lead concentration according to Method 3050 as described in "Test Methods for Evaluating Solid Waste Volume 1A: Laboratory Manual Physical/Chemical Methods" SW-846, United States Environmental Protection Agency, Third Edition, November 1986. This document is incorporated by reference and is available through the Minitex interlibrary loan system. This document is not subject to frequent change.

Subp. 4. **Child care building.** "Child care building" means a building that incorporates a place where children are cared for or supervised at any time of the day or year.

Subp. 5. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Pollution Control Agency.

Subp. 6. **Contractor.** "Contractor" means a person or an organization who, for financial gain, directly performs or, through subcontracting or similar delegation, causes abrasive blasting to be performed.

Subp. 7. **Lead paint.** "Lead paint" means a coating that:

A. contains one-half of one percent (0.5 percent) total lead or more, as determined by the analytical methods of acid extraction or by X-ray fluorescence laboratory analyzer;

B. contains one milligram per square centimeter (1.0 mg/cm<sup>2</sup>) of lead or more, as determined by an X-ray fluorescence hand-held analyzer; or

C. causes a positive reaction when combined with sodium sulfide (Na<sub>2</sub>S).

Subp. 8. **Modified-wet abrasive blasting.** "Modified-wet abrasive blasting" means abrasive blasting with the addition of a minimum quantity of water to the air abrasive stream such that dispersal of particulate matter is suppressed with little or no adherence of waste material to the substrate.

Subp. 9. **Playground.** "Playground" means an area designated for children's play including a school building playground, a child care building playground, a play area of a public park, or an area that contains permanent play equipment.

Subp. 10. **Residential building.** "Residential building" means a single family or multiunit structure that is used or intended for use as human habitation, including every other structure located within the same lot.

Subp. 11. **School building.** "School building" means a building that contains a public school as defined in Minnesota Statutes, section 120.05, or a nonpublic school, church, or religious organization, or home-school in which a child is provided instruction in compliance with Minnesota Statutes, sections 120.101 and 120.102.

Subp. 12. **Sodium sulfide.** "Sodium sulfide" means a six to eight percent solution of sodium sulfide (Na<sub>2</sub>S) compound in water that reacts with lead at concentrations greater than 1.0 percent (10,000 ppm).

Subp. 13. **Total lead.** "Total lead" means the concentration of lead in paint,



determined by acid extraction or by X-ray fluorescence laboratory analyzer, expressed in units of parts per million (ppm) or percent (%).

Subp. 14. **Vacuum blasting.** "Vacuum blasting" means dry abrasive blasting with a blast nozzle that is surrounded by a chamber under negative air pressure that is held against the coated surface.

Subp. 15. **X-ray fluorescence analyzer.** "X-ray fluorescence analyzer" or "XRF analyzer" means:

A. a hand-held portable instrument that measures lead concentration (by fluorescence of lead atoms) by gamma radiation, expressed in milligrams per centimeter square (mg/cm<sup>2</sup>); or

B. a desktop laboratory instrument that measures lead concentration (by fluorescence of lead atoms) by gamma radiation, expressed in parts per million (ppm).

**Statutory Authority:** *MS s 116.07; 144.878*

**History:** *16 SR 442*

### 7005.6030 TESTING.

Subpart 1. **Testing required.** A contractor shall test a coating for lead concentration, using the methods required by this part, before using abrasive blasting to remove a coating from the exterior of a residential, child care, or school building, or any building within 100 feet of a residential, child care, or school building, or a playground.

Subp. 2. **Paint samples.** The contractor shall test all layers of paint on the following exterior surfaces from which paint is to be removed:

A. the paint on the original structure;

B. the paint on any addition to the original structure;

C. the paint on each separate structure; and

D. if surfaces have been painted or repainted at different times or with different paints, the paint on each surface.

Subp. 3. **Analysis.** The contractor shall analyze each paint sample for lead concentration using one of the methods in items A to D.

A. **Acid extraction.** If the contractor tests by acid extraction, the contractor shall analyze for total lead using paint samples that contain equal surface areas of all the paint coatings of the surface that is tested.

B. **X-ray fluorescence analyzer.** If the contractor tests using a hand-held portable XRF analyzer, the lead concentration for each surface shall be the mean value of at least five separate measurements for that surface. If the contractor tests using a desktop laboratory XRF analyzer, each paint sample shall contain equal surface areas of all paint coatings of the surface that is tested.

C. **Sodium sulfide (Na<sub>2</sub>S).** If the contractor tests using sodium sulfide and obtains a negative test result for lead on any surface painted before 1978, the contractor shall confirm the absence of lead paint by testing a sample from that surface with either acid extraction or an XRF analyzer in the manner required in item A or B.

D. **Other analysis methods.** The contractor may test for lead concentration using an analysis method not listed in items A to C only if the commissioner approves the analysis method in writing prior to its use. The commissioner shall approve an analysis method if the commissioner finds that the precision and accuracy of the method is comparable to the methods in item A or B.

Subp. 4. **Test results.** The contractor shall provide the test results to the building owner or administrator and the adult residents as part of the notice described in part 7005.6040, subpart 2, to the commissioner as part of the notice described in part 7005.6040, subpart 3, and shall retain the test results for a period not less than five years from the date of the test.

**Subp. 5. Waiver of testing.** A contractor may elect to conduct abrasive blasting of a residential, child care, or school building, or of any building within 100 feet of a residential, child care, or school building, or a playground, without testing to determine the presence and concentration of lead in paint if the contractor treats the paint as lead paint, so states in the notice of part 7005.6040, and otherwise complies with parts 7005.6010 to 7005.6080.

**Statutory Authority:** *MS s 116.07; 144 878*

**History:** *16 SR 442*

### 7005.6040 NOTIFICATION.

**Subpart 1. Notice required.** At least five days before the start of abrasive blasting of lead paint on the exterior of a residential, child care, or school building, or of any building within 100 feet of a residential, child care, or school building, or a playground, the contractor shall provide notice as described in items A and B.

A. Written notice as required in subpart 2 must be given to the owner or administrator and the adult residents of the building to be abrasive blasted, and to the owner or administrator and the adult residents of any residential, child care, or school buildings within 50 feet of the building to be abrasive blasted. The contractor must mail or physically hand the notice to the owner or administrator of a child care or school building. For residences, the contractor must mail, physically hand, or put on or under the door of each residence a notice for at least one adult resident of each single-family structure and one adult resident of each unit in a multifamily structure.

B. Written notice as required in subpart 3 must be given to the commissioner.

If the contractor postpones abrasive blasting more than five days from the anticipated start of abrasive blasting stated in the written notices required by this subpart, then the contractor shall, at least two days before the start of abrasive blasting, revise and redistribute the notices required by this subpart with the new days and hours during which abrasive blasting is anticipated.

**Subp. 2. Contents of notice to residents, administrator, and owner.** The notice required in subpart 1, item A, shall state that lead paint is present on the structure, shall provide the results of the test required by part 7005.6030 and the methods of analysis used, shall specify the days and the hours during which abrasive blasting is anticipated, and shall advise the owner or administrator and the adult residents to take the following actions before abrasive blasting begins:

A. close all doors, windows, and storm windows on the walls to be abrasive blasted and their adjoining walls, and on the walls of neighboring buildings that face the structure to be abrasive blasted and their adjoining walls;

B. completely seal from the outside with adhesive tape or caulking the outermost window or storm window to the window frame, the outermost door or storm door to the door frame, and air intake openings on the walls of the neighboring building that are specified in item A. Walls that adjoin the walls facing the abrasive blasting need only be sealed to a distance of 50 feet from the wall to be abrasive blasted;

C. turn off all air conditioning units on the walls to be abrasive blasted and their adjoining walls, and on the walls of neighboring buildings that face the structure to be abrasive blasted and their adjoining walls, and tightly cover all of these units with impermeable material; and

D. take inside or remove from the property within 50 feet of the structure to be abrasive blasted all children's toys and play equipment, or cover equipment that cannot be moved, and all pets, pet houses, and pet food and water bowls.

**Subp. 3. Contents of notice to commissioner.** The notice required in subpart 1, item B, shall state:

- A. the address and location of the building to be abrasive blasted;
- B. the scheduled starting and completion days and times;
- C. the results of the test required by part 7005.6030 and the method of analysis used;
- D. the name, business address, and telephone number of the contractor;
- E. a description of the building or buildings to be abrasive blasted, including whether each building is a residential, child care, or school building, or within 100 feet of a residential, child care, or school building, or a playground;
- F. a copy of the notice given to the owner or administrator and adult residents of each building under subparts 1 and 2;
- G. the abrasive blasting method the contractor plans to use;
- H. the procedures the contractor plans to use to comply with parts 7005.6010 to 7005.6080;
- I. the name and location of the waste disposal site where the debris collected as required by part 7005.6060 will be deposited; and
- J. any other information that the commissioner deems necessary to determine that the requirements of parts 7005.6010 to 7005.6080 will be followed.

**Statutory Authority:** *MS s 116.07; 144.878*

**History:** *16 SR 442*

#### **7005.6050 CONTAINMENT.**

**Subpart 1. Containment required.** The contractor shall apply containment, using the methods required by this part, before using abrasive blasting to remove lead paint from the exterior of a residential, child care, or school building, or a building within 100 feet of a residential, child care, or school building, or a playground. The contractor may utilize methods of removal by abrasive blasting or of containment other than those specified in this part only if the commissioner approves the alternative method of removal or containment in writing prior to its use. The commissioner shall approve the alternative method of removal or containment if the contractor demonstrates that the alternative containment method will prevent contamination of soil and house dust at least as well as the methods specified in this part.

**Subp. 2. Sealing the residential, child care, or school building.** Before abrasive blasting begins, the contractor shall:

A. fully close and completely seal from the outside with adhesive tape or caulking the outermost window or storm window to the window frame, the outermost door or storm door to the door frame, and air intake openings on the wall to be abrasive blasted and on the two adjoining walls to a distance of 50 feet from the wall to be abrasive blasted, if the building is a residential, child care, or school building;

B. tightly cover and seal with impervious plastic all air conditioning units and other air intake openings on the walls listed in item A; and

C. if a wall of a neighboring residential, child care, or school building is less than 20 feet from a wall to be abrasive blasted, suspend curtains between the wall to be abrasive blasted and the neighboring building that:

(1) are parallel to the wall being abrasive blasted;

(2) extend vertically from the ground to the height of the wall to be abrasive blasted or, if the curtains are located on the neighboring building, extend vertically from the ground to the height of the wall of the neighboring building which faces the wall to be abrasive blasted;

(3) extend horizontally for the width of the wall to be abrasive blasted or, if the curtains are located on the neighboring building, extend horizon-

tally for the width of the wall on the neighboring building which faces the wall to be abrasive blasted; and

(4) overlap at each seam a distance of at least 1-1/2 feet.

The contractor shall not conduct abrasive blasting if any windows or doors are open on any wall that faces the wall to be abrasive blasted, and on the adjoining walls to a distance of 50 feet from the wall to be abrasive blasted, of a neighboring residential, child care, or school building that is within a distance from a wall to be abrasive blasted that is less than or equal to the distance of ground cover required by subpart 3.

**Subp. 3. Ground cover.** Before abrasive blasting begins, the contractor shall completely cover, with impermeable tarpaulins, the ground beneath the wall or structure to be abrasive blasted by:

- A. laying the tarpaulins as close as possible to the building foundation;
- B. overlapping the tarpaulin edges by a distance not less than 1-1/2 feet;
- C. anchoring the tarpaulins at the foundation and along the overlapping edges to prevent separation; and
- D. covering the ground with tarpaulins for a distance of at least 25 feet in all directions from the area of blasting. For each story above the first, the contractor shall increase this distance by ten feet.

**Subp. 4. Additional containment required.** If visible emissions of particulate matter occur in the air or visible deposits occur on the ground at a distance from the structure greater than the distance of the ground cover, then the contractor shall immediately cease abrasive blasting until the contractor:

- A. adds additional ground cover, in the manner required in subpart 3, to a distance greater than the distance of visible particle transport or deposition;
- B. uses a curtain or curtains that prevent the dispersal of visible particles to a distance beyond the ground cover; or
- C. uses modified-wet abrasive blasting or vacuum blasting, instead of open dry abrasive blasting, to remove the lead paint.

**Statutory Authority:** *MS s 116.07; 144.878*

**History:** *16 SR 442*

#### 7005.6060 CLEANUP.

**Subpart 1. Cleanup.** At the end of each workday, the contractor shall recover and remove all blasting debris including used abrasive; wood, brick, or stucco dust; and paint particles from:

- A. the roof and the roof gutters of the building that was abrasive blasted, while ground covers remain in place;
- B. the ground covers in such a way as to not deposit any blasting debris on the ground; and
- C. all soil, grass, walkways, porches, patios, steps, outside window wells and door wells, shrub and flower beds, and any other places surrounding the building that was abrasive blasted and any neighboring buildings, so that no visible deposits remain.

**Subp. 2. Cleanup methods.** The contractor may remove the blasting debris by manual means or by vacuum, but shall not use an air pressure stream or a water stream which redistributes, but does not remove, the blasting debris. The contractor may use air pressure to remove particles from exterior walls, but only if ground covers are in place as required by part 7005.6050, subpart 3, and only before the adhesive tape or caulking seals and the curtains required by part 7005.6050, subpart 2, are removed.

**Subp. 3. Removal and transportation.** The contractor shall remove and transport all blasting debris from the property in such a way as to prevent any deposi-

tion of blasting debris on the property, the right-of-way, the walkway, or the roadway.

**Subp. 4. Disposal.** The contractor shall dispose of the blasting debris as required by either chapter 7035 or 7045, whichever applies.

**Statutory Authority:** *MS s 116.07; 144.878*

**History:** *16 SR 442*

#### **7005.6070 RESTRICTIONS.**

**Subpart 1. Wet abrasive blasting.** A contractor shall not use wet abrasive blasting to remove lead paint, but may use modified-wet abrasive blasting to remove lead paint if the contractor complies with parts 7005.6010 to 7005.6080.

**Subp. 2. Reuse of abrasive.** A contractor shall not reuse or recycle abrasive for abrasive blasting of lead paint unless the abrasive is cleaned prior to reuse by a dust collector that removes the lead paint particles or unless the abrasive is used only for vacuum blasting conducted as required in part 7005.6080.

**Subp. 3. Access of children.** The contractor shall make a reasonable effort to prevent children under the age of ten years from entering the area within 50 feet of abrasive blasting while it is occurring and until cleanup as required by part 7005.6060 is completed. If a child under the age of ten years comes within 50 feet of abrasive blasting while it is occurring, abrasive blasting shall immediately cease until the child leaves or is removed from the area.

**Subp. 4. Identification of contractor.** The contractor shall post its name and telephone number in letters and numbers at least four inches high on a vehicle at the property or on a sign posted on the property from the commencement of abrasive blasting until completion of the contractor's work at the building.

**Statutory Authority:** *MS s 116.07; 144.878*

**History:** *16 SR 442*

#### **7005.6080 VACUUM BLASTING.**

**Subpart 1. Certain contractors exempt from requirements.** A contractor that uses vacuum blasting to remove lead paint from all parts of a structure is exempt for that structure only from the requirements of subpart 2 if:

A. the contractor removes all paint by holding the workhead of the vacuum blasting unit at all times against the substrate;

B. all parts of the vacuum blasting equipment are in a condition that prevents emissions of particulate matter; and

C. no other method of abrasive blasting is used.

**Subp. 2. Inapplicable requirements.** Contractors described in subpart 1 are exempt from the following requirements:

A. part 7005.6040, subparts 1 and 2, to the extent that they require the contractor to notify the owner or administrator and adult residents of neighboring buildings;

B. part 7005.6050, subpart 4; and

C. part 7005.6050, subpart 2, item C.

For contractors described in subpart 1, the requirement of part 7005.6050, subpart 3, item D, of distance of ground cover is reduced to a minimum of 15 feet in all directions of the point of blasting and need not be increased according to the height of the structure.

**Statutory Authority:** *MS s 116.07; 144.878*

**History:** *16 SR 442,*