

CHAPTER 7007
MINNESOTA POLLUTION CONTROL AGENCY
AIR QUALITY DIVISION
PERMITS AND OFFSETS

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AIR EMISSION PERMITS

7007.0050 SCOPE.

Parts 7007.0100 to 7007.1850 apply to the issuance of permits to construct, modify, reconstruct, or operate emissions units, emission facilities, or stationary sources that emit any air pollutant, and to the revocation, reissuance, or amendment of those permits. Parts 7007.0100 to 7007.1850 apply to permits issued to stationary sources requiring permits under federal law at Code of Federal Regulations, title 40, part 70, as amended (Operating Permit Program), or under part C (Prevention of Significant Deterioration of Air Quality) or part D (Plan Requirements in Nonattainment Areas) of the act, and to stationary sources requiring permits solely under state law. Sources proposing construction or modifications subject to parts C and D of the act are subject to the permitting requirements of part 7007.3000 (incorporating by reference the provisions of Code of Federal Regulations, title 40, section 52.21) or parts 7007.4000 to 7007.4040 in addition to parts 7007.0100 to 7007.1850.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.0100 DEFINITIONS.

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

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

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

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

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

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

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

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

A. any standard, or other requirement provided for in Minnesota's implementation plan approved or promulgated by the EPA under title I of the act (Program and Activities), including any revisions to that plan promulgated in Code of Federal Regulations, title 40, part 52, as amended (Approval and Promulgation of Implementation Plans), except rules related to odor in parts 7011.0300 to 7011.0330;

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

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

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

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

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

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

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

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

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

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

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

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

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

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

P. any standard or other requirement pursuant to the Standards of Performance for Stationary Sources under chapter 7011, except rules related to odor in parts 7011.0300 to 7011.0330;

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

R. any reporting, monitoring, and testing requirement for stationary sources under chapter 7017;

S. any requirement under the emissions inventory provisions of chapter 7019;

T. any standard or other requirement of the acid deposition control rule under chapter 7021; and

U. any standard or other requirement related to noise pollution under chapter 7030.

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

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

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

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

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

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

Subp. 14. Modification. "Modification" means:

A. any change that constitutes a title I modification, as defined in subpart 26; or

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

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

(2) routine maintenance, repair, and replacement;

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

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

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

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

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

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

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

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

- A. nitrogen oxides (NO_x) or any volatile organic compound;
- B. any pollutant for which a state or national ambient air quality standard has been promulgated;
- C. any pollutant that is subject to any new source performance standard promulgated under section 111 of the act;
- D. any class I or II substance listed pursuant to section 602 of the act (Stratospheric Ozone Protection; Listing of class I and class II Substances); or
- E. any pollutant subject to a standard promulgated under section 112 or other requirements established under section 112 of the act (Hazardous Air Pollutants), including sections 112(g) (Modifications), (j) (Equivalent Emission Limitation by Permit), and (r) (Prevention of Accidental Releases), including the following:

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

(2) any pollutant for which the requirements of section 112(g)(2) of the act have been met, but only with respect to the individual source subject to the section 112(g)(2) requirement.

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

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

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

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

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

B. For a partnership or sole proprietorship: a general partner or the proprietor, respectively.

C. For a municipality, state, federal, or other public agency: either a principal executive officer or ranking elected official. For the purposes of this part, a principal executive officer of a federal agency includes the chief executive officer having responsibility for the overall operations of a principal geographic unit of the agency (for example, a regional administrator of EPA).

D. For affected sources:

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

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

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

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

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

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

A. any condition based on a requirement of a new source review program under part C (Prevention of Significant Deterioration of Air Quality) or part D (Plan Requirements for Nonattainment Areas) of the act and implementing state rules or federal regulations;

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

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

Subp. 26. **Title I modification.** "Title I modification" means any change that constitutes a modification under any provision of title I of the act, including:

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

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

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

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

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.0150 PERMIT REQUIRED.

Subpart 1. **Prohibition.** No person may construct, modify, reconstruct, or operate an emissions unit, emission facility, or stationary source except in compliance with an air emission permit from the agency. Exceptions to the requirement to obtain a permit are located in part 7007.0300. Exceptions to the requirement to obtain a permit amendment are located in parts 7007.1250 and 7007.1350. A person violates this subpart when the person begins actual construction on a new source, reconstruction, or modification prior to obtaining the permit or amendment, except as allowed in parts 7007.0750, subparts 6 and 7, and 7007.1450, subpart 7.

Subp. 2. **Permit required.** Part 7007.0200 describes which emission facilities, emissions units, and stationary sources in Minnesota are required to obtain a part 70 permit. Part 7007.0250 describes which emission facilities, emission units, and stationary sources in Minnesota are required to obtain a state permit. Part 7007.0300 describes emission units and stationary sources in Minnesota that are not required to obtain a permit. Part 70 and state permits required in parts 7007.0200 and 7007.0250 may alternately be obtained in the form of a general permit, if available, under part 7007.1100.

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

Subp. 4. **Calculation of potential to emit.** For purposes of parts 7007.0200 and 7007.0250, the owner or operator of a stationary source shall calculate the stationary source's potential to emit using the definition in part 7005.0100, subpart 35a.

Emissions caused by activities described in subpart 2 of the insignificant activities list in part 7007.1300 shall not be considered in the calculation of potential emissions. Emissions caused by activities described in subpart 3 of the insignificant activities list in part 7007.1300 shall be considered in the calculation of potential emissions if required by the agency under part 7007.0500, subpart 2, item C, subitem (2).

Calculations of emissions under this subpart are only intended to determine if a permit is required. When calculating emissions to determine if a permit amendment is required, the calculation method stated in part 7007.1200 shall be used.

Subp. 5. **Variations from federal requirements.** The agency shall not issue variances from any federal requirement to obtain an air quality permit, unless explicitly authorized to do so in writing by the administrator.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

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

Subpart 1. **Part 70 permit required.** The emission facilities, emission units, and stationary sources described in subparts 2 to 5 must obtain a part 70 permit from the agency. All provisions of parts 7007.0100 to 7007.1850 apply to part 70 permits unless the provision states that it applies only to state permits or general permits.

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

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

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

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

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

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

(1) coal cleaning plants (with thermal dryers);

(2) kraft pulp mills;

(3) Portland cement plants;

(4) primary zinc smelters;

(5) iron and steel mills;

(6) primary aluminum ore reduction plants;

(7) primary copper smelters;

(8) municipal incinerators capable of charging more than 250 tons of refuse

per day;

(9) hydrofluoric, sulfuric, or nitric acid plants;

(10) petroleum refineries;

- (11) lime plants;
- (12) phosphate rock processing plants;
- (13) coke oven batteries;
- (14) sulfur recovery plants;
- (15) carbon black plants (furnace process);
- (16) primary lead smelters;
- (17) fuel conversion plants;
- (18) sintering plants;
- (19) secondary metal production plants;
- (20) chemical process plants;
- (21) fossil-fuel boilers (or combination thereof) totaling more than 250,000,000 British thermal units per hour heat input;
- (22) petroleum storage and transfer units with a total storage capacity exceeding 300,000 barrels;
- (23) taconite ore processing plants;
- (24) glass fiber processing plants;
- (25) charcoal production plants;
- (26) fossil-fuel-fired steam electric plants of more than 250,000,000 British thermal units per hour heat input; or
- (27) all other stationary source categories regulated by a standard promulgated under section 111 or 112 of the act, but only with respect to those air pollutants that have been regulated for that category.

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

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

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

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

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

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

Subp. 4. **Solid waste incinerators.** A solid waste incineration unit required to obtain a permit under section 129(e) of the act (Solid Waste Combustion, Permits) must obtain a permit under this part.

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

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

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

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.0250 SOURCES REQUIRED TO OBTAIN A STATE PERMIT.

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

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

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

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

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

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

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

Subp. 5. **Part 70 permits.** Part 7007.0250 does not apply to a stationary source that is required to or chooses to obtain a part 70 permit under part 7007.0200. However, a stationary source that would otherwise be required to obtain a part 70 permit under part 7007.0200 may avoid that requirement by obtaining a state permit under this part which limits its emissions to levels below those that would trigger the requirement to obtain a part 70 permit.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.0300 SOURCES NOT REQUIRED TO OBTAIN A PERMIT.

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

A. any stationary source that is not described in part 7007.0200, subparts 2 to 5, or 7007.0250;

B. notwithstanding parts 7007.0200 and 7007.0250, any stationary source that would be required to obtain a permit solely because it is subject to Code of Federal Regulations, title 40, part 60, subpart AAA, Standards of Performance for New Residential Wood Heaters; and

C. notwithstanding parts 7007.0200 and 7007.0250, any stationary source that would be required to obtain a permit solely because it is subject to Code of Federal Regulations, title 40, part 61, subpart M, National Emission Standard for Hazardous Air Pollutants for Asbestos, section 61.145, Standard for Demolition and Renovation.

Subp. 2. **Emission inventory requirement.** Exemption from the requirement to obtain a permit under parts 7007.0100 to 7007.1850 does not constitute an exemption from the requirement to submit an emissions inventory under part 7019.0105.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.0350 EXISTING SOURCE APPLICATION DEADLINES AND SOURCE OPERATION DURING TRANSITION.

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

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

Category	SIC Code Range	Application Deadline
A	0000 to 2399, excluding 2041 and 2048	October 15, 1994
B	2400 to 2999 and 4953, excluding 2951 and 2952	January 15, 1995
C	3000 to 4499	March 15, 1995
D	4500 to 5099, excluding 4953	June 15, 1995
E	5100 to 8199	September 15, 1995
F	8200 to 9999, including 2041, 2048, 2951, and 2952	November 15, 1995

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

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

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

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

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

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

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

A. If a stationary source is operating under an air emission permit issued by the agency under parts 7001.1200 to 7001.1220 which has not expired as of October 18, 1993, and if the permittee submits a timely and complete application for reissuance under subpart 1, that permit shall be considered not to expire until a new permit is issued under parts 7007.0100 to 7007.1850. The preceding sentence also applies to stationary sources which have been operating under an air emission permit which was continued under part 7001.0160. The permittee shall continue to operate the stationary source in compliance with the terms of the existing permit and all applicable requirements.

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

Subp. 3. Application shield.

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

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

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

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

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

**7007.0400 PERMIT REISSUANCE APPLICATIONS AFTER TRANSITION;
NEW SOURCE AND PERMIT AMENDMENT APPLICATIONS.**

Subpart 1. Requirement for application. Applications for reissued permits after the transition period, and for permits for new stationary sources or amendments, shall be considered timely if they meet the requirements of this part.

Subp. 2. Permit reissuance after transition period. Stationary sources operating under permits issued by the agency under parts 7007.0100 to 7007.1850 shall apply for permit reissuance at least 180 days before the expiration of the existing permit, unless the permit specifies that the application must be submitted sooner. The agency shall require in a permit that a reissuance application be submitted sooner if the agency determines that an earlier application is needed to minimize the possibility of expiration prior to reissuance. The agency may make this determination if it anticipates a relatively lengthy permit review process due to the complexity of the stationary source or anticipated involvement of the public. In no event shall the permit require application for reissuance sooner than nine months prior to the expiration of the permit.

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

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.0450 PERMIT REISSUANCE APPLICATIONS AND CONTINUATION OF EXPIRING PERMITS.

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

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

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

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

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

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

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.0500 CONTENT OF PERMIT APPLICATION.

Subpart 1. **Standard application form and required information.**

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

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

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

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

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

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

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

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

C. The following emissions-related information:

(1) A permit application shall provide the information required by this part for every emissions unit within the stationary source, except as provided in subitem (2). Notwithstanding the first sentence, if a stationary source is not a major source and the sole reason it is required to have a permit is because it is subject to federal standards described under part 7007.0250, subpart 2, then the application need only provide information for the emissions units regulated by those federal standards. All permit applications shall include information about fugitive emissions in the same manner as stack emissions, regardless of whether the stationary source category in question is included in the list of stationary sources contained in the definition of major source in part 7007.0200, subpart 2.

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

(3) A permit application shall identify and describe all emission points in sufficient detail to determine the applicability of all applicable requirements. This shall include the location of emissions units, flow rates, and stack parameters (including, if required by the agency, height, diameter, and plume temperature) for all regulated air pollutants.

(4) A permit application shall identify rates of regulated air pollutants emitted in tons per year and also in such terms as are necessary to establish compliance consistent with the applicable standard reference test method. The application shall provide this information for potential emissions, as defined in part 7005.0100, subpart 35a. The application shall also include the emissions limits that will be imposed on the stationary source by applicable requirements.

(5) The permittee shall provide information, including how the calculation was made, on actual emission rates of regulated air pollutants emitted in tons per year. The permittee is exempt from this requirement if, in the preceding year, the permittee has submitted an emissions inventory as required by part 7019.0105.

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

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

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

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

(10) A permit application must explain the means by which the emissions information in subitems (1) to (9) is gathered, and provide the calculations on which they are based.

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

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

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

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

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

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

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

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

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

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

(1) A description of the compliance status of the stationary source at the time of application submittal with respect to all applicable requirements and the requirements of parts 7007.0100 to 7007.1850, and a description of the methods used to determine compliance, including a description of monitoring, record keeping, test methods, and operation and maintenance procedures for air pollution control equipment. The applicant shall identify in the description of compliance status any past modifications at the stationary source for which preconstruction review was required under parts C and D of the act but was not done.

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

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

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

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

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

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

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

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

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

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

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

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.0550 CONFIDENTIAL INFORMATION.

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

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.0600 COMPLETE APPLICATION AND SUPPLEMENTAL INFORMATION REQUIREMENTS.

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

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

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.0650 WHO RECEIVES AN APPLICATION.

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

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

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.0700 COMPLETENESS REVIEW.

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

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

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

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

the application or request shall be deemed incomplete. Applicants who have already made a change or commenced a modification at a permitted facility under part 7007.1450, shall provide the additional information within the time period specified by the agency.

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

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.0750 APPLICATION PRIORITY AND ISSUANCE TIMELINES.

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

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

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

(1) no meetings or hearings are requested under part 7007.0850, subpart 3, during the public comment period;

(2) there is no substantial adverse public comment on the application; and

(3) there is no substantial adverse EPA comment on the application.

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

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

(1) no meetings or hearings are requested under part 7007.0850, subpart 3, during the public comment period;

(2) there is no substantial adverse public comment on the application; and

(3) there is no substantial adverse EPA comment on the application.

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

C. The agency shall take final action on applications for permits or permit amendments not governed by items A and B within the period specified in this item. The agency shall take final action on such an application for a permit, permit reissuance, or major permit amendment within 18 months of receiving a complete application. The agency shall take final action on such an application for a minor or moderate permit amendment within six months of receiving a complete application, but not before the end of the administrator's 45-day review period in the case of part 70 permits. The agency shall take final action on a written request for an administrative amendment within 60 days of receiving the complete request.

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

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

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

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

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

Subp. 5. **Modification installation and operation permits.** The agency may issue permits authorizing a modification to a stationary source (an installation and operation permit) prior to issuance of an operating permit covering the entire stationary source (a total facility permit) if the agency finds:

- A. the stationary source has filed a timely application for a total facility permit;
- B. the delay resulting from issuing the installation and operation permit and the total facility permit at the same time would cause undue economic hardship on the stationary source; and
- C. the agency has sufficient information about the entire stationary source to be able to comply with the requirements of part 7007.1000.

The requirements of parts 7007.0100 to 7007.1850 that apply to modifications to a stationary source with a total facility permit shall also apply to modifications authorized under this part.

Subp. 6. **Construction of units subject to new source performance standards.**

A. It is not a violation of parts 7007.0100 to 7007.1850 to construct an affected facility, as that term is defined in Code of Federal Regulations, title 40, section 60.2, as amended (Standards of Performance for New Stationary Sources; Definitions), upon receiving from the agency written approval to construct the affected facility. For purposes of this subpart, construction of an affected facility includes modification or reconstruction, as described in Code of Federal Regulations, title 40, sections 60.14 and 60.15, as amended, making existing emissions units into affected facilities. No person may begin to operate the affected facility until receipt of a permit issued by the agency under parts 7007.0100 to 7007.1850.

B. The agency shall issue written approval to construct, or explain in writing why the approval will not be granted, within 60 days of receiving a complete permit application seeking authorization to construct and operate the affected facility. The application must be accompanied by a written request for approval to construct under this subpart, and a statement certified by a responsible official certifying that requirements of part C (Prevention of Significant Deterioration of Air Quality) or part D (Plan Requirements for Nonattainment Areas) of the act do not apply to the proposed construction. The agency's failure to respond within the 60-day period shall not be deemed approval to construct. The approval to construct shall only apply to the affected facility.

C. This subpart does not apply if the construction, reconstruction, or modification would be subject to the new source review requirements of part C (Prevention of Significant Deterioration of Air Quality) or part D (Plan Requirements for Nonattainment Areas) of the act.

D. This subpart does not relieve the applicant of the obligation to comply with the requirements of Minnesota Statutes, chapter 116D, prior to construction, if applicable.

Subp. 7. **Two-stage issuance of permits subject to federal new source review.**

A. If a permit or permit amendment is subject to the requirements of a new source review program under part C (Prevention of Significant Deterioration of Air Quality) or part D (Plan Requirements for Nonattainment Areas) of the act, the agency shall send the permit to the permittee after all requirements of the new source review program have been satisfied. The agency shall at the same time notify the permittee in writing that those permit conditions required by the new source review program and designated as such by the agency in the permit or amendment, and only those conditions, shall be considered issued.

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

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

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.0800 PERMIT CONTENT.

Subpart 1. **Scope.** The agency shall include the permit conditions specified in this part in all permits, except where the requirement states that it applies only to part 70 permits or only to state permits. The permit shall specify and reference the origin of and the authority for each term or condition, and shall identify any difference in form from the requirement giving rise to the condition. Nothing in this part shall be read to limit the agency's authority to put additional or more stringent terms in a permit, to conduct inspections, or to request information.

Subp. 2. **Emission limitations and standards.** The permit shall include emissions limitations, operational requirements, and other provisions needed to ensure compliance with all applicable requirements at the time of permit issuance. The permit shall also include any condition the agency determines to be necessary to protect human health and the environment. The permit shall state that, where another applicable requirement of the act is more stringent than any applicable requirement of regulations promulgated under title IV of the act (Acid Deposition Control), both provisions shall be incorporated into the permit and shall be enforceable by the administrator.

Subp. 3. **Emissions units covered by permit.** The permit shall cover any emissions unit within the stationary source for which there is an applicable requirement, and any unit which the agency believes should be covered in order to protect human health and the environment. However, if a stationary source is not a major source and the sole reason it is required to have a permit is because it is subject to federal standards described under part 7007.0250, subpart 2, then the permit shall only cover emissions units regulated by those federal standards. The permit shall include applicable requirements for fugitive emissions in the same manner as stack emissions, regardless of whether the source category in question is included in the list of sources contained in the definition of major source in part 7007.0200, subpart 2.

Subp. 4. **Monitoring.** The agency shall include the following monitoring requirements in all permits:

A. The permit shall require the permittee to comply with all emissions monitoring and analysis procedures or test methods required under the applicable requirements, including any procedures and methods promulgated pursuant to section 114(a)(3) or 504(b) of the act.

B. For part 70 permits, where the applicable requirements do not require periodic testing or instrumental or noninstrumental monitoring (which may consist of record keeping designed to serve as monitoring), the permit shall require the permittee to conduct periodic monitoring sufficient to determine whether the stationary source is in compliance with applicable requirements. The monitoring requirements shall be designed to yield reliable data from the relevant time period that are representative of the stationary source's operation, and shall require the permittee to use terms, test methods, units, averaging periods, and other statistical conventions that are consistent with the emissions limitations and standards contained in the permit, and with other applicable requirements. Record keeping provisions may be sufficient to meet the requirements of this item.

C. For state permits, where the applicable requirements do not require periodic testing or instrumental or noninstrumental monitoring, which may consist of record keeping

designed to serve as monitoring, the permit shall include monitoring requirements sufficient to determine whether a stationary source is in compliance with applicable requirements if the agency finds that such monitoring is warranted based on the likelihood of noncompliance, the environmental impact of noncompliance, or the likelihood that noncompliance could be detected using means other than monitoring.

D. As necessary, the permit shall require the permittee to install, use, and maintain monitoring equipment or use monitoring methods.

Subp. 5. Record keeping. The permit shall incorporate all applicable requirements related to record keeping and require the permittee to maintain adequate records, including at least the following:

A. A requirement that the permittee maintain records adequate to document compliance at the stationary source, including at a minimum:

(1) the date, place, as defined in the permit, and time of sampling or measurements;

(2) the date or dates analyses were performed;

(3) the company or entity that performed the analyses;

(4) the analytical techniques or methods used;

(5) the results of such analyses; and

(6) the operating conditions existing at the time of sampling or measurement.

B. A requirement that the permittee maintain records describing any modification made at the stationary source under parts 7007.1250 and 7007.1350, as required by those provisions, but not otherwise regulated under the permit, and the emissions resulting from those changes.

C. A requirement that the permittee retain records of all monitoring data and support information for a period of five years, or longer as specified by the commissioner, from the date of the monitoring sample, measurement, or report. Support information includes all calibration and maintenance records and all original strip-chart recordings for continuous monitoring instrumentation, and copies of all reports required by the permit. Records shall be kept at the stationary source unless the permit allows otherwise.

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

A. The permit shall require the permittee, in the event of any deviation from permit conditions which could endanger human health or the environment, to orally notify the commissioner within 24 hours of discovering the deviation. Within five days of the discovery of such a deviation, the permittee shall submit to the commissioner a written description of the deviation; the cause of the deviation; the exact dates of the period of the deviation; if the deviation has not been corrected, the anticipated time it is expected to continue; and steps taken or planned to reduce, eliminate, and prevent reoccurrence of the deviation. The permit shall require the permittee, in the event of any other type of deviation from permit conditions, including those attributable to upset conditions as defined in the permit, to report the deviation within two working days and provide the information required in this item. Unless stated otherwise in the permit, a report filed under this provision does not satisfy the requirement to notify the agency of shutdowns and breakdowns under part 7005.1880.

B. All part 70 permits shall require the permittee to submit progress reports at least every six months for any stationary source required to have a compliance schedule under part 7007.0500, subpart 2, item K, or any stationary source that is required to monitor under subpart 4 more frequently than every six months. The reports shall be more frequent than every six months if required by an applicable requirement. Other permits will require progress reports if the agency determines that they are necessary to ensure compliance with applicable requirements. All instances of deviations from permit conditions must be clearly identified in such reports. Such progress reports shall contain the following:

(1) Reports of any monitoring required under subpart 4. All instances of deviations from permit conditions must be clearly identified in such reports.

(2) In the case of stationary sources required to submit compliance schedules under part 7007.0500, subpart 2, item K, the deadlines for achieving the activities, mile-

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

C. The permit shall require periodic compliance certification in which the permittee certifies whether or not it is in compliance with applicable requirements and permit terms, including emission limitations, standards, or work practices. The permits shall:

(1) specify how often the permittee must submit the compliance certification; for part 70 permits, the frequency shall be at least annually or more often as specified in the applicable requirements;

(2) require that the compliance certification include the following:

(a) the identification of each applicable requirement and permit term that is the basis of the certification;

(b) the compliance status throughout the reporting period, noting whether compliance was continuous or intermittent;

(c) the method or methods used for determining the compliance status of the stationary source, noting whether the method conforms with permit conditions; and

(d) such other facts as the agency may require;

(3) in the case of part 70 permits, require that all compliance certifications be submitted to the administrator as well as to the agency, unless the administrator agrees that such submittals are not necessary;

(4) require that all compliance certifications be made by a responsible official consistent with part 7007.0500, subpart 3; and

(5) require such additional requirements as may be specified pursuant to sections 114(a)(3) and 504(b) of the act.

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

Subp. 7. Prohibition on exceedance of allowances. For affected sources, the agency shall include a permit condition prohibiting emissions exceeding any allowances that the stationary source lawfully holds under title IV of the act or the regulations promulgated thereunder, except as follows:

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

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

C. Any such allowance shall be accounted for according to the procedures established in Code of Federal Regulations, title 40, part 73, as amended.

Subp. 8. Fee requirement. The permit shall require payment of annual fees by owners or operators of a stationary source required to pay annual fees due under part 7002.0025.

Subp. 9. Additional compliance requirements. All permits shall contain the following elements with respect to compliance:

A. inspection and entry requirements that require that, upon presentation of credentials and other documents as may be required by law, the permittee shall allow the agency, or an authorized representative or agent of the agency, to perform the following:

(1) enter upon the permittee's premises where the stationary source is located or activity is conducted, or where records must be kept under the conditions of the permit;

(2) have access to and copy, at reasonable times, any records that must be kept under the conditions of the permit;

(3) inspect at reasonable times any facilities, equipment (including monitoring and air pollution control equipment), practices, or operations regulated or required under the permit. For purposes of this subpart, reasonable times include any time that the stationary source is operating; and

(4) sample or monitor any substances or parameters at any location:

(a) at reasonable times, for the purposes of assuring compliance with the permit or applicable requirements; or

(b) as otherwise authorized by the act or state law;

B. a schedule of compliance if one is required under part 7007.0500, subpart 2, item K, meeting the description of that part; and

C. provisions establishing the permit shield described in part 7007.1800.

Nothing in this subpart shall be read to limit the agency's authority under Minnesota Statutes, section 116.091, and section 114 of the act (Record keeping, Inspections, Monitoring, and Entry) or other law.

Subp. 10. Emissions trading.

A. If requested by a permit applicant, the agency shall include provisions allowing the permittee to trade emissions increases and decreases that occur within the permitted facility. No title I modification may be made using this provision, and the trade may not result in the exceedance of any emission limit in the permit. The agency shall make such trading available to the permittee only if it determines that all of the following are true:

(1) the unit-specific limits above which the permittee wishes to increase emissions were established solely to keep the stationary source as a whole from being subject to an applicable requirement described in part 7007.0100, subpart 7, items A to K, and are independent of otherwise applicable requirements;

(2) the stationary source's total emissions can be limited equally well, and compliance with applicable requirements may still be assured, by allowing the proposed trading scenario; and

(3) the permit establishes replicable procedures to ensure the emission trades are quantifiable and enforceable.

B. The permit shall require the permittee to provide the agency in writing at least seven working days before making the emissions trade the written notification described in this item. The notice shall state when the trade will be made and describe the change in emissions that will result. The notice shall also describe how these increases and decreases in emissions will comply with the terms and conditions of the permit. The permittee and the agency shall each append the notice to its copy of the stationary source's permit.

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

A. require the stationary source, contemporaneously with making a change from one operating scenario to another, to record in a log at the permitted facility a record of the scenario under which it is operating; and

B. ensure that the operation under each such alternative scenario complies with all applicable requirements and the requirements of parts 7007.0100 to 7007.1850.

Subp. 12. Operation in more than one location. If requested by the applicant, the permit may allow a stationary source to be operated in more than one location during the course of the permit. No affected source shall be allowed this option. If more than one location is authorized, the permit shall include the following:

A. identification of all geographic areas where the stationary source is authorized to operate during the course of the permit;

B. conditions that will assure compliance with all applicable requirements at all authorized locations;

C. requirements that the owner or operator notify the agency at least 20 days in advance of each change in location, providing the exact location where the source will operate; and

D. conditions that assure compliance with all other provisions of parts 7007.0100 to 7007.1850.

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

Subp. 14. **Operation of control equipment.** Each permit shall specify operating and maintenance requirements for each piece of control equipment located at the stationary source.

Subp. 15. **Terms to include in reissuance.** The permit shall indicate the terms that must be included in any reissuance of the permit under part 7007.0450, subpart 3.

Subp. 16. **General conditions.** Permits issued by the agency under parts 7007.0100 to 7007.1850 shall include the following general conditions, either expressly or by reference to this subpart.

A. Unchallenged provisions of this permit remain valid despite any successful challenges to specific portions of the permit.

B. The permittee must comply with all conditions of the permit. Any permit non-compliance constitutes a violation of the state law and, if the provision is federally enforceable, of the act. Such violation is grounds for enforcement action by the agency or the EPA; or for permit termination, revocation and reissuance, or amendment; or for denial of a permit reissuance application.

C. It is not a defense for a permittee in an enforcement action that it would have been necessary to halt or reduce the permitted activity in order to maintain compliance with the conditions of this permit.

D. This permit may be reopened and amended or revoked for cause as provided in parts 7007.1600 to 7007.1700. The filing of a request by the permittee for a permit amendment, revocation and reissuance, or termination, or of a notification of planned changes or anticipated noncompliance does not stay any permit condition, except as specifically provided in part 7007.1450, subpart 7.

E. This permit does not convey any property rights of any sort, or any exclusive privilege.

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

G. The agency's issuance of a permit does not release the permittee from any liability, penalty, or duty imposed by Minnesota or federal statutes or rules or local ordinances, except the obligation to obtain the permit or as specifically provided in the permit shield provision and part 7007.1800.

H. The agency's issuance of a permit does not prevent the future adoption by the agency of pollution control rules, standards, or orders more stringent than those now in existence and does not prevent the enforcement of these rules, standards, or orders against the permittee.

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

J. The permittee shall at all times properly operate and maintain the facilities and systems of treatment and control and the appurtenances related to them which are installed or used by the permittee to achieve compliance with the conditions of the permit. Proper operation and maintenance includes effective performance, adequate funding, adequate operator staffing and training, and adequate laboratory and process controls, including appropriate quality assurance procedures.

K. The permittee may not knowingly make a false or misleading statement, representation, or certification in a record, report, plan, or other document required to be submitted to the agency or to the commissioner by the permit. The permittee shall immediately upon discovery report to the commissioner an error or omission in these records, reports, plans, or other documents. The permittee may not falsify, tamper with, render inaccurate, or fail to install any monitoring device or method required to be maintained or followed by the permit.

L. The permittee shall, when requested by the commissioner, submit within a reasonable time any information and reports that are relevant to pollution or the activities authorized under this permit.

M. If the permittee discovers, through any means, including notification by the agency, that noncompliance with a condition of the permit has occurred, the permittee shall immediately take all reasonable steps to minimize the adverse impact on human health or the environment resulting from the noncompliance.

N. The permit is not transferable to any person except as provided in part 7007.1400, subpart 1, item E.

O. The permit authorizes the permittee to perform the activities described in the permit under the conditions of the permit. In issuing the permit, the state and agency assume no responsibility for damages to persons, property, or the environment caused by the activities of the permittee in the conduct of its actions, including those activities authorized, directed, or undertaken under the permit. To the extent the state and agency may be liable for the activities of its employees, that liability is explicitly limited to that provided in the Tort Claims Act, Minnesota Statutes, section 3.736.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.0850 PERMIT APPLICATION NOTICE AND COMMENT.

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

Subp. 2. Public notice and comment.

A. The agency shall comply with the following procedures before issuing, reissuing, or making a major amendment to any part 70 permit.

(1) The agency shall give notice:

- (a) by publication in a newspaper of general circulation in the area where the stationary source is located;
- (b) in a list provided to the public by the agency upon request;
- (c) to persons on a mailing list developed by the agency, including those who request in writing to be on the list; and
- (d) by other means if necessary to assure adequate notice to the affected public.

(2) The notice shall identify the name and location of the facility to be permitted; the name and address of the permittee; the name and address of the agency; the activity or activities involved in the permit action; the emissions change involved in any permit amendment; whether the facility has filed a pollution prevention progress report to the commissioner as required by Minnesota Statutes, section 115D.08; the name, address, and telephone number of a person from whom interested persons may obtain additional information, including copies of the permit draft, the application, all relevant supporting materials, and all other materials available to the agency that are relevant to the permit decision; a brief description of the comment procedures required by this part; and the time and place of any meeting or hearing that may be held, including a statement of procedures to request a meeting or hearing under subpart 3, unless a meeting or hearing has already been scheduled.

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

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

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

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

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

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

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

Subp. 3. **Requests for meetings and hearings.** During the public comment period, a person may request, in regard to any draft permit or amendment subject to public notice under subpart 2, items A to D: a public informational meeting pursuant to part 7001.0120, a contested case hearing pursuant to part 7001.0130, subpart 2, or placement of the permit on the agenda of an agency board meeting pursuant to part 7000.0500, subpart 6. The agency's decision to grant or deny the request for a public informational meeting or a contested case hearing shall be based on the standards in parts 7001.0120 and 7001.0130, and any meeting or hearing held shall be in accordance with those parts.

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

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.0900 REVIEW OF PART 70 PERMITS BY AFFECTED STATES.

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

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.0950 EPA REVIEW AND OBJECTION.

Subpart 1. **Review by EPA.** The agency shall provide to the administrator a copy of the following documents, unless the administrator agrees to accept a summary of the documents:

A. for part 70 permits, each application for a permit or permit amendment, each proposed permit or permit amendment, and each final permit or permit amendment; and

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

In the case of a part 70 permit, the proposed permit or permit amendment shall be provided to the administrator after the draft permit or permit amendment has been subject to public comment. In the case of a state permit, the draft permit or permit amendment may be provided to the administrator at the same time the draft permit or permit amendment is offered for public comment.

Subp. 2. EPA objection. In the case of a part 70 permit, the agency shall not issue a permit or an amendment if the administrator objects to its issuance in writing within 45 days of receipt of the proposed permit or amendment and any necessary supporting information. In the case of a state permit, the agency shall not issue a permit, or an amendment for which EPA review is provided under subpart 1, if the administrator objects to its issuance in writing within 30 days of receipt of the draft permit or amendment and any necessary supporting information.

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

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

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.1000 PERMIT ISSUANCE AND DENIAL.

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

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

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.1050 DURATION OF PERMITS.

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

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

Subp. 3. General permits. A general permit that applies to any stationary sources that would otherwise be required to have a part 70 permit shall expire five years after the date it is issued under part 7007.1100, subpart 4. A general permit that only applies to stationary sources that would otherwise be required to have a state permit shall not automatically expire unless the agency makes the permit an expiring one under subpart 5.

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

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

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

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

C. the stationary source is likely to make substantial changes within the next five years making it subject to additional applicable requirements.

This subpart does not apply to any title I condition.

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

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

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.1100 GENERAL PERMITS.

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

Subp. 2. Public participation. The agency shall follow the same public participation procedures in part 7007.0850, subparts 2 and 3, for individual permits except as stated otherwise in this subpart. The notice of the agency's intent to publish a general permit need not be published in newspapers of general circulation but shall be published in the State Register. The notice need not include any facility specific information. The notice issued by the agency shall identify criteria for stationary sources that qualify for the general permit and identify the geographic area in which it applies. The agency need not comply with part 7007.0850, subpart 2, item A, subitem (4), unless the stationary source category includes stationary sources subject to the requirement to obtain part 70 permits.

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

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

Subp. 5. Application. Stationary sources that would qualify for a general permit must apply to the agency for coverage under the terms of the general permit or must apply for an individual permit consistent with part 7007.0500. If a stationary source elects to apply for

coverage under the general permit, the stationary source must submit an application meeting the requirements of parts 7007.0100 to 7007.1850, unless the agency states in the public notice of the general permit that certain conditions do not apply. The application must include all information necessary to determine qualification for, and to assure compliance with, the general permit.

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

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

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.1150 WHEN A PERMIT AMENDMENT IS REQUIRED.

A. Parts 7007.1150 to 7007.1500 describe changes at a permitted stationary source that require a permit amendment or notice to the agency. Item C requires notice to the agency before pollution control equipment or replacement units with lower emissions are installed at a permitted stationary source. Parts 7007.1250 and 7007.1350 describe the two categories of modifications that may be made without obtaining a permit amendment, and the procedures that apply. Part 7007.1400 establishes the process for getting an administrative amendment to a permit. Part 7007.1450 establishes the process for getting a minor permit amendment, needed to make certain modifications resulting in emission increases below listed thresholds, and for getting moderate permit amendments, needed to make certain modifications resulting in emissions increases above the minor threshold levels. Part 7007.1500 establishes the process for getting major permit amendments, needed to make modifications that are not allowed under the other parts. Any modification that constitutes a title I modification, as defined in part 7007.0100, subpart 26, may only be made under part 7007.1500. Part 7007.1200 describes how emission changes should be calculated under parts 7007.1250 to 7007.1500.

B. No modification, as defined in part 7007.0100, subpart 14, may be made to a stationary source that is required to have a permit under parts 7007.0100 to 7007.1850 unless the modification is allowed under part 7007.1250 or 7007.1350, or an amendment is obtained under part 7007.1450 or 7007.1500. Administrative changes to a permit issued under parts 7007.0100 to 7007.1850 shall be made under part 7007.1400. If a change at a facility does not constitute a modification, no permit amendment is required.

C. Any person who, at a permitted stationary source: (i) installs air pollution control equipment, or (ii) replaces a unit identified in the permit with one that does not increase emissions of any regulated air pollutant, shall provide written notice to the agency. The notice must be received by the agency seven working days prior to the installation or replacement. The permittee and the agency shall attach the notice to the stationary source's permit. If the agency finds that the installation or replacement triggers new monitoring, record keeping, or reporting requirements under applicable requirements or parts 7007.0100 to 7007.1850, the agency shall initiate an amendment under part 7007.1400 or 7007.1500 to include the new requirements. If the installation or replacement constitutes a modification, this item does not apply, and the permittee shall follow the applicable procedures of part 7007.1250, 7007.1350, 7007.1450, or 7007.1500. If notice is provided as required by this item, the installation and operation of the additional equipment shall not be considered a violation of the permit.

D. Nothing in parts 7007.1150 to 7007.1500 shall be read to allow a modification to a stationary source that would violate an applicable requirement or, except as provided in part 7007.1350 or 7007.1450, subpart 8, to allow any activity that would violate any permit condition. The agency shall not issue any permit amendments which would result in the violation of an applicable requirement.

E. If a modification or other change at a stationary source would make the source subject for the first time to the requirement to obtain a state permit or a part 70 permit, the owner or operator shall obtain the appropriate permit before beginning actual construction of the modification or other change, notwithstanding parts 7007.1250 to 7007.1500. Nothing in this item shall be read to limit the agency's ability to issue permits authorizing installation and operation of a modification under part 7007.0750, subpart 5, or to limit a permittee's ability to obtain a major permit amendment restricting emissions to levels that would prevent the source from becoming subject to the requirement to obtain a part 70 permit.

F. The owner or operator of a stationary source that is required to have a permit under parts 7007.0050 to 7007.1850, but which does not yet have a permit, may make changes and modifications at the stationary source in compliance with parts 7007.1150 to 7007.1500, notwithstanding any reference to a permit in those parts. Any requirement for a permittee to obtain an amendment under parts 7007.1150 to 7007.1500 shall be read as a requirement for an owner or operator to obtain a permit from the agency under part 7007.0750, subpart 5.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.1200 CALCULATING EMISSION CHANGES FOR PERMIT AMENDMENTS.

When this method is required to be used, emission changes will be calculated by comparing the hourly emission rate of the stationary source, at maximum physical capacity, before and after the proposed physical or operational change. The emission rate shall be expressed as pounds per hour of any regulated air pollutant. When calculating emissions before and after the physical and operational change, physical and operational limitations on emissions will be considered only if they are or will be automatically required by applicable requirements or existing permit terms, or if they are integral to the process. The agency shall use the following to determine emission rate:

A. In cases where use of emission factors or related calculation methods clearly demonstrates whether or not the change will increase the emission level, the following emission factors or methods shall be used:

- (1) EPA emission factors as defined in part 7005.0100, subpart 10d, or other emission factors determined by the agency to be superior to EPA emission factors; or
- (2) if no EPA emission factors are specified, factors or related emissions calculation methods published by EPA or provided by the agency upon request of the permittee which relate to the specific source type. The permittee shall identify the source of the emission factor or calculation method in the application.

B. Material balances, continuous monitor data, or manual emissions tests may be used in cases where use of emission factors or related calculation methods under item A does not clearly demonstrate, to the agency's satisfaction, whether or not the change will increase the emission level, or where a permittee demonstrates to the agency's satisfaction that there are reasonable grounds to dispute the result obtained under item A. These methods may be used only to establish premodification emission rates from which postmodification emission rates may be calculated. Tests shall be conducted under such conditions as the agency shall specify. At least three valid test runs must be conducted. All operating parameters which may affect emissions must be held constant to the maximum feasible degree for all test runs.

C. The calculation method described in this part may not be relied on to determine whether a modification constitutes a title I modification. To determine if a modification constitutes a title I modification, the applicable federal calculation method must be used. A change that would not be considered to increase emissions using the calculation method in this part may nonetheless be considered a title I modification, particularly under the method of calculation required by part C (Prevention of Significant Deterioration of Air Quality) and part D (Plan Requirements in Nonattainment Areas) of the act.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.1250 INSIGNIFICANT MODIFICATIONS.

Subpart 1. **When an insignificant modification can be made.** The permittee may make a modification described in either item A or B at a permitted stationary source without getting a permit amendment, unless the modification is prohibited by subpart 2.

A. Construction or operation of any emissions unit, or undertaking any activity, on the insignificant activities list in part 7007.1300.

B. Any modification that will:

- (1) result in an increase of an air pollutant which is not listed in table 1; or
- (2) result in an increase of an air pollutant which is listed below, but in an amount less than the corresponding threshold:

Pollutant	Threshold
NO _x	2.28 pounds per hour
SO ₂	2.28 pounds per hour
VOCs	2.28 pounds per hour
PM-10	.855 pounds per hour
CO	5.70 pounds per hour
Lead	.025 pounds per hour

For purposes of this subpart, whether or not the modification will cause an increase in emissions shall be calculated as described in part 7007.1200. Modifications which would otherwise be insignificant under this part may be title I modifications, for which a major amendment is required, using the methods of calculation required under title I of the act. Permittees are reminded to review the definition of title I modifications and the requirements of title I of the act.

Subp. 2. **Insignificant modification exclusions.** A modification may not be made under this part if the modification:

- A. is a title I modification;
- B. would result in the violation of a permit emissions limit or any other permit term;
- C. is required to be authorized by a permit amendment under title IV of the act or Code of Federal Regulations, title 40, part 72, as amended; or
- D. is part of a single project, as described in subpart 5, which taken as a whole, would not be authorized under this part.

Subp. 3. **Record keeping requirements.** Except as described in subpart 4, modifications authorized under this part may be made without providing notice to the agency. However, the permittee shall keep a contemporaneous record of the modification. For changes authorized under subpart 1, item B, the permittee shall also keep calculations of the emissions increase as required by part 7007.1200, and a statement of the purpose for making the modification.

Subp. 4. **Agency notification required.** If a modification authorized under subpart 1, item B, together with other modifications made under subpart 1, item B, during the course of the permit term (or within a five-year period for a nonexpiring permit), have resulted in total increases of a pollutant in excess of four times the amount listed in subpart 1, item B, subitem (2), for that pollutant, the permittee shall notify the agency by seven working days after beginning actual construction of the last modification. The notice shall provide the information required to be kept in subpart 3 for each modification made under subpart 1, item B, during the period in question. The notice shall also include a certification by a responsible official, consistent with part 7007.0500, subpart 3, that the modifications listed were not part of a single project, as described in subpart 5, which taken as a whole, would not be authorized under subpart 1, item B. After any such notice has been sent, the permittee shall continue to keep track of modifications made under subpart 1, item B, and the permittee shall notify the agency again if emissions increases from these additional modifications total more than four times the amount listed in subpart 1, item B, subitem (2).

Subp. 5. **Determination of a single project.** If two or more modifications made at a stationary source are part of a single project, the emissions increases from these modifica-

tions shall be considered in the aggregate for purposes of this part. Generally, modifications will be considered part of a single project when the usefulness of one modification depends substantially on the completion of the other modification or modifications. In determining whether modifications are part of a single project, the agency will consider the amount of time that elapses between modifications, whether they were planned at the same time, and whether the modifications share a common purpose.

Subp. 6. **Enforcement action.** If a permittee makes a modification the permittee believes to fall under this part and the agency subsequently determines that the modification does not fall under this part, the agency may take enforcement action against the permittee.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.1300 INSIGNIFICANT ACTIVITIES LIST.

Subpart 1. **Insignificant activities.** The actions listed in this part, and operation of the emissions units listed in this part, are insignificant activities for purposes of parts 7007.0100 to 7007.1850. Listing in this part has no effect on any other law, including laws enforced by the agency other than parts 7007.0100 to 7007.1850, to which the activity may be subject.

Subp. 2. **Insignificant activities not required to be listed.** The activities described in this subpart are not required to be listed in a permit application under part 7007.0500, subpart 2, item C, subitem (2).

A. Fuel use:

(1) production of hot water for on-site personal use not related to any industrial process; and

(2) fuel use related to food preparation by a restaurant or cafeteria.

B. Plant upkeep:

(1) routine housekeeping or plant upkeep activities such as painting buildings, retarring roofs, or paving parking lots; and

(2) clerical activities such as operating copy machines and document printers, except operation of such units on a commercial basis.

C. Fabrication operations:

(1) equipment used for the inspection of metal products;

(2) equipment used exclusively for forging, pressing, drawing, spinning, or extruding cold metals;

(3) equipment used exclusively to mill or grind coatings and molding compounds where all materials charged are in paste form; and

(4) mixers, blenders, roll mills, or calendars for rubber or plastics for which no materials in powder are added and in which no organic solvents, diluents, or thinners are used.

D. Finishing operations:

(1) closed tumblers used for cleaning or deburring metal products without abrasive blasting; and

(2) equipment for washing or drying fabricated glass or metal products, if no VOCs are used in the process, and no gas, oil, or solid fuel is burned.

E. Storage tanks: pressurized storage tanks for anhydrous ammonia, liquid petroleum gas (LPG), liquid natural gas (LNG), or natural gas.

F. Wastewater treatment: stacks or vents to prevent escape of sewer gases through plumbing traps, not including those at wastewater treatment plants.

G. Cleaning operations: alkaline/phosphate cleaners and associated cleaners and associated burners.

H. Residential activities: typical emissions from residential structures, not including:

(1) fuel burning equipment with a capacity of 500,000 Btu/hour or greater;

(2) emergency backup generators; and

(3) incinerators.

I. Recreational activities: use of the following for recreational purposes:

- (1) fireplaces;
- (2) barbecue pits and cookers; and
- (3) kerosene fuel use.

J. Health care activities: activities and equipment directly associated with the diagnosis, care, and treatment of patients in medical or veterinary facilities or offices, not including support activities such as power plants, heating plants, emergency generators, incinerators, or other units affected by applicable requirements as defined in part 7007.0100, subpart 7.

K. Miscellaneous:

- (1) safety devices, such as fire extinguishers, if associated with a permitted emission source, but not including sources of continuous emissions;
- (2) flares to indicate danger to the public; and
- (3) fugitive emissions from operation of a passenger automobile, station wagon, pickup truck, or van, as defined in Minnesota Statutes, section 168.011, at a stationary source.

Subp. 3. **Insignificant activities required to be listed.** The activities described in this subpart must be listed in a permit application, and calculation of emissions from these activities shall be provided if required by the agency, under part 7007.0500, subpart 2, item C, subitem (2).

A. Fuel use: space heaters fueled by natural gas or propane.

B. Furnaces, boilers, and incinerators:

- (1) infrared electric ovens; and
- (2) fuel burning equipment of less than 500,000 Btu/hour capacity except where total capacity of equipment exceeds 2,000,000 Btu/hour when operated by one stationary source.

C. Fabrication operations: equipment used exclusively for forging, pressing, drawing, spinning, or extruding hot metals.

D. Finishing operations: open tumblers with a batch capacity of 1,000 pounds or less.

E. Storage tanks: fuel oil storage tanks with a capacity of less than 2,000 gallons.

F. Cleaning operations: commercial laundries, not including dry cleaners.

G. Emissions from a laboratory, as defined in this item. "Laboratory" means a place or activity devoted to experimental study or teaching in any science, or to the testing and analysis of drugs, chemicals, chemical compounds or other substances, or similar activities, provided that the activities described in this sentence are conducted on a laboratory scale. Activities are conducted on a laboratory scale if the containers used for reactions, transfers, and other handling of substances are designed to be easily and safely manipulated by one person. If a facility manufactures or produces products for profit in any quantity, it may not be considered to be a laboratory under this item. Support activities necessary to the operation of the laboratory are considered to be part of the laboratory. Support activities do not include the provision of power to the laboratory from sources that provide power to multiple projects or from sources which would otherwise require permitting, such as boilers that provide power to an entire facility.

H. Miscellaneous:

- (1) degreasing operations that do not exceed 145 gallons per 12 months;
- (2) equipment used exclusively for packaging lubricants or greases;
- (3) equipment used for hydraulic or hydrostatic testing;
- (4) brazing, soldering or welding equipment;
- (5) blueprint copiers and photographic processes;
- (6) equipment used exclusively for melting or application of wax; and

(7) nonasbestos equipment used exclusively for bonding lining to brake shoes.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.1350 CHANGES WHICH CONTRAVENE CERTAIN PERMIT TERMS.

Subpart 1. **Applicability.** A permittee may make changes allowed under parts 7007.0100 to 7007.1850 at a permitted facility without obtaining a permit amendment, even though the change contravenes a permit term, if the change:

A. does not violate a permit term related to monitoring (including test methods), record keeping, reporting, or compliance certification requirements;

B. does not result in emissions in excess of those explicitly allowed under the permit for any emissions unit or for the stationary source as a whole (whether expressed as a rate of emissions or in terms of total emissions);

C. does not violate any permit term limiting hours of operation, work practices, fuel usage, raw material usage, production levels, or throughput if the term has been established to limit emissions or ensure compliance with emissions limitations;

D. does not violate any other permit term where the agency has specifically stated in the permit that the term is not subject to change under this part;

E. is not a title I modification;

F. is not required to be authorized by a permit amendment under title IV of the act (Acid Deposition Control) or Code of Federal Regulations, title 40, part 72, as amended; and

G. is not an administrative amendment described in part 7007.1400.

Subp. 2. **Procedure.** Changes authorized under this part may not be made until seven working days after the air quality division of the agency receives written notice of the change. The notice shall include a certification by a responsible official describing the change to be made, identifying the term of the permit which is being contravened, stating that the change is authorized under this part, and briefly describing how it qualifies under this part. The permittee and the agency shall attach the notice to the stationary source's permit. If the agency finds that the proposed change is not authorized under this part, the agency shall notify the permittee of that finding and, if the proposed change could be made using other procedures, direct the permittee to those procedures.

Subp. 3. **Enforcement action.** If the permittee implements a change that the permittee believes qualifies under this part and the agency subsequently determines that the change does not qualify under this part, the agency may take an enforcement action against the permittee.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.1400 ADMINISTRATIVE PERMIT AMENDMENTS.

Subpart 1. **Administrative amendments allowed.** The agency may make the permit amendments described in this subpart through the administrative permit amendment process described in this part. An owner or operator of a stationary source shall request an administrative amendment if changes are to be made under item B or E:

A. an amendment to correct a typographical error;

B. an amendment to change the name, mailing address, or telephone number of any person identified in the permit, or that reflects a similar minor administrative change at the permitted facility. A change in the stationary source's location of operation is not covered by this item;

C. an amendment requiring the permittee to comply with additional, more frequent, or expanded monitoring, record keeping, or reporting requirements;

D. an amendment to eliminate monitoring, record keeping, or reporting requirements if they are rendered meaningless because the only emissions to which the requirements apply will no longer occur;

E. an amendment reflecting a change in ownership or operational control of a stationary source where the agency determines that no other change in the permit is necessary,

provided that a written agreement containing a specific date for transfer of permit responsibility, coverage, and liability between the current and new permittee has been submitted to the agency;

F. an amendment to incorporate into a permit the requirements from preconstruction review permits issued by the agency;

G. an amendment to clarify a permit term; and

H. an amendment to extend a deadline in a permit by no more than 120 days, provided that the agency may only extend a deadline established by an applicable requirement described in part 7007.0100, subpart 7, items A to K, if the agency has been delegated authority to make such extensions by the administrator.

Subp. 2. Initiating an administrative amendment. A permittee shall request in writing that the agency make an administrative permit amendment. A formal application complying with the terms of parts 7007.0100 to 7007.1850 is not required. The permittee shall specify the section of the permit that is to be amended, and the reason for the amendment. The agency may also make an administrative amendment upon its own initiative. If an administrative amendment initiated by the agency would impose additional or different requirements on the permittee, the permittee shall be notified of the proposed amendment 30 days prior to its taking effect, unless the permittee consents to less notice. If the permittee objects to the amendment, the amendment shall not be made under this part, but the agency may reopen the permit under parts 7007.1500 and 7007.1600.

Subp. 3. Timeline for final action. The agency shall take no more than 60 days from receipt of a request for an administrative permit amendment to take final action on such request. Amendments made by the agency under this part shall be made without public notice or an opportunity for public and affected states comment and hearing.

Subp. 4. Part 70 administrative amendment submitted to EPA. If the administrative permit amendment is to a part 70 permit, the agency shall submit a copy of the amended permit or permit amendment to the administrator, as required by the administrator.

Subp. 5. Provisions to which permit shield applies. The only administrative amendments to which the permit shield established by part 7007.1800 shall apply are those described in subpart 1, item F.

Subp. 6. Acid rain provision. Amendments to the acid rain portion of a permit to an affected source shall be governed by Code of Federal Regulations, title 40, part 72, as amended.

Subp. 7. When permittee may make change. Notwithstanding part 7007.0150, subpart 1, the permittee may make the change proposed in the administrative amendment request immediately after the request is received by the air quality division of the agency, if the change is described in subpart 1. However, if the change is of ownership or operational control, the new owner's or operator's right to operate the permitted stationary source under the previous sentence is contingent upon the new owner's or operator's compliance with the terms of the stationary source's permit.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.1450 MINOR AND MODERATE PERMIT AMENDMENTS.

Subpart 1. Minor and moderate amendment exclusions. The agency may amend a permit using the minor and moderate permit amendment processes described in this part if the amendments are described in subparts 2 and 3, and if the amendments do not:

A. amend existing permit terms related to monitoring (including test methods), record keeping, reporting, or compliance certification requirements other than adding new requirements, eliminating the requirements if they are rendered meaningless because the only emissions to which the requirements apply will no longer occur, or changing from one validated reference test method for a pollutant and source category to another;

B. seek to establish or amend a permit condition that is required to be based on a case-by-case determination of an emission limitation or other standard, or a source-specific determination of ambient impacts, or on a visibility or increment analysis;

C. seek to establish or amend a permit condition for which there is no corresponding underlying applicable requirement and that the stationary source has assumed to avoid an applicable requirement described in part 7007.0100, subpart 7, items A to K, to which the stationary source would otherwise be subject. Such terms and conditions include:

(1) a federally enforceable emissions cap assumed to avoid classification as a title I modification; and

(2) an alternative emissions limit approved pursuant to regulations promulgated under section 112(i)(5) of the act (Hazardous Air Pollutants; Schedule for Compliance; Early Reduction);

D. seek to allow a title I modification; and

E. violate a requirement of any agency rule that such change be made under the major permit amendment procedures.

Subp. 2. Minor amendment applicability. Except as provided in subpart 1, the agency may amend a permit to allow a modification under the minor permit amendment process of this part, if the modification will not cause an increase in emissions of an air pollutant listed below in an amount greater than the threshold:

Pollutant	Threshold
NO _x	9.13 pounds per hour
SO ₂	9.13 pounds per hour
VOCs	9.13 pounds per hour
PM-10	3.42 pounds per hour
CO	22.80 pounds per hour
Lead	.11 pounds per hour

For purposes of the previous sentence, whether or not the modification will cause an increase in emissions shall be calculated as described in part 7007.1200. Modifications which would otherwise qualify for a minor or moderate amendment under this part may be title I modifications, for which a major amendment is required, using the methods of calculation required under title I of the act. Permittees are reminded to review the definition of title I modifications and requirements of title I of the act.

Subp. 3. Moderate amendment applicability. Any amendment which meets the criteria of subpart 1, but which does not qualify as a minor permit amendment under subpart 2 and which is not a major permit amendment under part 7007.1500, may be made following the procedures applicable to moderate permit amendments under this part.

Subp. 4. Minor or moderate application requirements. An application requesting the use of minor or moderate permit amendment procedures shall meet the requirements of part 7007.0600, subpart 1, and shall also include the following:

A. a description of the modification, the emissions resulting from the modification, and any new applicable requirements that will apply if the modification occurs;

B. if the amendment is to a part 70 permit, the stationary source's suggested draft permit or draft amendment;

C. certification by a responsible official that the proposed amendment meets the criteria for use of minor or moderate permit modification procedures, including, in the case of minor permit amendments, a certification that any increase in emissions will be below the thresholds listed in subpart 2, and a request that such procedures be used;

D. certification by a responsible official that the change which the proposed amendment would allow is not part of a larger project which, taken as a whole, would not qualify for treatment as a minor or moderate permit amendment; and

E. in the case of amendments to part 70 permits, completed forms for the permitting authority to use to notify the administrator and affected states as required under subpart 5.

Subp. 5. EPA notification. In the case of applications for minor or moderate permit amendments to part 70 permits, the agency shall notify the administrator and affected states of the requested permit amendment within five working days of receipt of a complete permit amendment application to a part 70 permit. The agency promptly shall send any notice re-

garding agency refusal to accept affected states recommendations required under part 7007.0900, to the administrator and the affected states.

Subp. 6. **EPA review.** The agency will not issue a minor or moderate amendment to a part 70 permit until after the EPA has had 45 days to review the amendment or until the EPA has notified the agency that the EPA will not object to issuance of the permit amendment, whichever is first. The agency may process the application during this time period. The agency shall take final action on an application for a minor or moderate permit amendment within the deadlines set forth in part 7007.0750, subpart 2.

Subp. 7. **When permittee may make the proposed modification.**

A. The permittee may make the modification proposed in a minor permit amendment application seven working days after the application is received by the air quality division of the agency.

B. The permittee may begin actual construction on a modification proposed in a moderate permit amendment application upon receipt of a letter of approval from the agency authorizing such construction. However, the permittee may not commence operation of the modification until the amended permit has been issued.

Subp. 8. **Permittee's risk in commencing construction.** If the stationary source makes the modification allowed by subpart 7, item A, or commences construction upon receipt of a letter of approval as allowed by subpart 7, item B, and until the agency acts on the minor or moderate permit amendment application, the stationary source must comply with both the applicable requirements governing the modification and the proposed permit terms and conditions. During this time period, the stationary source need not comply with the existing permit terms and conditions it seeks to modify. However, if the stationary source fails to comply with its proposed permit terms and conditions during this time period, the existing permit terms and conditions it seeks to modify may be enforced against it. The permittee assumes the risk of losing any investment it makes toward implementing a modification prior to receiving a permit amendment authorizing the modification. The agency will not consider the possibility of the permittee suffering financial loss due to such investment when deciding whether to approve, deny, or approve in modified form a minor or moderate permit amendment.

Subp. 9. **Permit shield does not apply.** The permit shield under part 7007.1800 shall not apply to minor or moderate permit amendments.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.1500 MAJOR PERMIT AMENDMENTS.

Subpart 1. **Major permit amendment required.** A "major permit amendment" is required for any modification at a permitted stationary source that is not allowed under parts 7007.1250 and 7007.1350 and for which an amendment cannot be obtained under the administrative permit amendment provisions of part 7007.1400, or the minor or moderate permit amendment provisions of part 7007.1450. The following always require major permit amendments:

A. any amendment to existing monitoring, reporting, or record keeping requirements in the permit other than adding new requirements, eliminating the requirements if they are rendered meaningless because the only emissions to which the requirements apply will no longer occur, or changing from one validated reference test method for a pollutant and source category to another;

B. any amendment to establish or amend a permit condition that is required to be based on a case-by-case determination of an emission limitation or other standard, on a source-specific determination of ambient impacts, or on a visibility or increment analysis;

C. any amendment to establish or change a permit term or condition for which there is no corresponding underlying applicable requirement described in part 7007.0100, subpart 7, items A to K, and that the stationary source has assumed to avoid an applicable requirement to which the stationary source would otherwise be subject. Such terms and conditions include:

(1) a federally enforceable emissions cap assumed to avoid classification as a title I modification; and

(2) an alternative emissions limit approved pursuant to regulations promulgated under section 112(i)(5) of the act (Hazardous Air Pollutant; Schedule for Compliance; Early Reduction);

D. any amendment authorizing a title I modification; and

E. any amendment required by agency rule to be made under the major permit amendment procedures.

Subp. 2. Major amendment application requirements. To apply for a major permit amendment, the permittee shall follow the application procedures in parts 7007.0100 to 7007.1850 which are applicable to a new or renewed permit of the type being amended.

Subp. 3. Agency processing procedures. The agency shall process an application for a major permit amendment to a part 70 permit following the same procedures applicable to an application for a new or reissued part 70 permit, including procedures for public participation, administrator review, and affected states review. The agency shall process an application for a major amendment to a state permit following the same procedures applicable to an application for a new or reissued state permit, except that:

A. the agency shall not provide for public notice and comment under part 7007.0850 unless the major amendment is described in subpart 1, item C or D, and the administrator requires such notice, or the agency makes a determination to provide for public notice and comment under part 7007.0850, subpart 2, item C; and

B. the agency shall not submit the major amendment to EPA for review under part 7007.0950 unless the major amendment is described in subpart 1, item C or D, and the administrator requires such notice.

Subp. 4. Permit shield applies. The permit shield described in part 7007.1800 shall apply to amendments made through the major permit amendment process.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.1600 PERMIT REOPENING AND AMENDMENT BY AGENCY.

Subpart 1. Mandatory reopening. The agency shall reopen and amend a permit when:

A. Additional federal applicable requirements become applicable to a stationary source with a remaining permit term of three or more years or with a permit which is nonexpiring. Such a reopening and amendment shall be completed not later than 18 months after promulgation of the federal applicable requirement. No such reopening is required if the effective date of the requirement is later than the date on which the permit is due to expire.

B. Additional requirements, including excess emissions requirements, become applicable to an affected source under the acid rain program. Upon approval by the administrator, excess emissions offset plans shall be deemed to be incorporated into the permit.

C. The agency or the administrator determines that the permit contains a material mistake or that inaccurate statements were made in establishing the emissions standards, limitations, or other terms or conditions of the permit.

D. The administrator or the agency determines that the permit must be revised or revoked to assure compliance with the applicable requirements.

Subp. 2. Nonmandatory reopening. The agency may reopen and amend a permit when:

A. additional state applicable requirements become applicable to a permitted stationary source, and the effective date of the requirement is prior to the date on which the permit is due to expire;

B. alterations or modifications to the permitted facility will result in or have the potential to result in significant alteration of the nature or quantity of regulated air pollutants to be emitted by the permittee;

C. the commissioner of the agency receives information previously unavailable to the agency that shows that the terms and conditions of the permit do not accurately represent the actual circumstances relating to the permitted facility;

D. a court of competent jurisdiction invalidates or modifies a Minnesota or federal statute or rule or federal guideline upon which a condition of the permit is based;

E. an event occurs that is beyond the control of the permittee that necessitates modification of a compliance schedule in the permit; and

F. the commissioner finds that the permitted facility or activity endangers human health or the environment and that a change in the operation of the permitted facility or in the conduct of the permitted activity would remove the danger to human health or the environment.

Subp. 3. Reopening procedure. To reopen and amend a permit, the agency shall follow the procedures that apply to major permit amendments under parts 7007.0100 to 7007.1850, unless the amendment can be made as an administrative amendment under part 7007.1400. During the reopening, the agency may only make those amendments to the permit which are related to the grounds for the reopening under subparts 1 and 2. Mandatory reopenings under subpart 1 shall be made as expeditiously as practicable. In lieu of an application, the major permit amendment process will commence when the agency gives the permittee written notice of its intent to amend the permit. The agency shall not issue the amendment, or make public notice of the amendment where public notice is required, until at least 30 days after the agency has given the permittee notice of its intent to amend the permit, unless the permittee consents to less notice, or in the case of an emergency. In cases where public participation is required, only those portions of the permit which the agency proposes to amend shall be open for public comment or consideration at a meeting or hearing.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.1650 REOPENINGS FOR CAUSE BY EPA.

The administrator may reopen part 70 permits as provided in Code of Federal Regulations, title 40, section 70.7(g), as amended.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.1700 PERMIT REVOCATION BY AGENCY.

Subpart 1. Permit revocation without reissuance. The agency may revoke permits and not reissue them when:

A. there exists at the permitted facility unresolved noncompliance with applicable requirements or a condition of the permit, and the permittee refuses to undertake an enforceable schedule of compliance to resolve the noncompliance;

B. the permittee fails to disclose fully the facts relevant to issuance of the permit or submits false or misleading information to the agency or the administrator;

C. the agency finds that the permitted facility or activity endangers human health or the environment and that the danger cannot be removed by an amendment to the permit;

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

E. the permittee has failed to pay a penalty owed pursuant to court order, consent decree, stipulation agreement, schedule of compliance, or order issued under Minnesota Statutes, section 116.07.

Subp. 2. Revocation procedures. The agency shall give notice to the permittee of its intention to revoke a permit without reissuance. This notice must state that within 30 days of the receipt of the notice the permittee may request a contested case hearing be held on the proposed action, except that the agency may provide less notice in case of an emergency. If the permittee requests a contested case hearing, the agency shall hold the hearing in accordance with the rules of the Office of Administrative Hearings, parts 1400.5100 to 1400.8401.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.1750 FEDERAL ENFORCEABILITY.

A. All conditions of a permit issued under parts 7007.0100 to 7007.1850 are enforceable by the administrator and citizens under the act, unless designated otherwise in the permit under item B.

B. The agency shall designate a condition of a permit to be not enforceable by the administrator and citizens under the act if the condition is not required by:

(1) an applicable requirement listed in part 7007.0100, subpart 7, items A to K, including requirements provided in Minnesota's implementation plan approved by the administrator under title I of the act; or

(2) parts 7007.0100 to 7007.1850, after approval of Minnesota's part 70 program by the administrator under title V of the act.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.1800 PERMIT SHIELD.

A. The agency shall include in a permit a provision, known as a permit shield provision, stating that compliance with the conditions of the permit shall be deemed compliance with any applicable requirements as of the date of permit issuance. However, the shield shall only have legal effect if:

(1) the specific provision of the applicable requirement is identified in the permit as the basis of permit conditions; or

(2) the agency in acting on the application for the permit or major amendment, determines in writing that other requirements specifically identified are not applicable to the stationary source, and the permit includes the determination or a concise summary of it.

B. If the permit does not expressly state that a permit shield is provided, it shall be presumed not to provide such a shield.

C. Nothing in this part or in any permit shall alter or affect the following:

(1) the emergency order provisions of section 303 of the act, including the authority of the administrator under that section, and the agency's authority under the emergency powers provision of Minnesota Statutes, section 116.11;

(2) the liability of an owner or operator of a stationary source for any violation of applicable requirements prior to or at the time of permit issuance;

(3) the applicable requirements of the acid rain program, consistent with section 408(a) of the act; or

(4) the ability of the agency or EPA to obtain information through inspections, monitoring, and entry of a stationary source pursuant to Minnesota Statutes, section 116.091, and section 114 of the act.

D. The permit shield shall not be provided for permit conditions established through a minor or moderate permit amendment, or through an administrative amendment except as stated in part 7007.1400, subpart 1, item F.

E. The permit shield shall not be provided for a permit condition if the permittee knowingly submitted false or misleading information to the agency and the permit condition was based on that information.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.1850 EMERGENCY PROVISION.

A. An "emergency" means any situation arising from sudden and reasonably unforeseeable events beyond the control of the stationary source, including an act of God, that requires immediate corrective action to restore normal operation, and that causes the stationary source to exceed a technology-based emission limitation under the permit, due to unavoidable increases in emissions attributable to the emergency. An emergency shall not include noncompliance to the extent caused by improperly designed equipment, lack of preventative maintenance, careless or improper operation, or operator error. Consistent with this definition of emergency, the agency may state in the permit what types of situations will not be considered emergencies if they occur.

B. An emergency constitutes an affirmative defense to an action brought for non-compliance with such technology-based emission limitations if the conditions of item C are met.

C. The affirmative defense of emergency shall be demonstrated through properly signed, contemporaneous operating logs, or other relevant evidence that:

(1) an emergency occurred and that the permittee can identify the cause or causes of the emergency;

(2) the permitted facility was at the time being properly operated;

(3) the permittee submitted notice of the emergency to the agency within two working days of when the emission limitations were exceeded due to the emergency. This notice must contain a detailed description of the emergency, any steps taken to mitigate emissions, and corrective actions taken; and

(4) during the period of the emergency, the permittee took all reasonable steps to minimize levels of emissions that exceeded the emission limitations, standards, or regulations in the permit.

D. In any enforcement proceeding, the permittee seeking to establish the occurrence of an emergency has the burden of proof.

E. This provision is in addition to any emergency or upset provision contained in any applicable requirement.

F. This provision does not limit the emergency power of the agency under Minnesota Statutes, section 116.11.

Statutory Authority: *MS s 116.07*

History: *18 SR 1059*

7007.3000 PREVENTION OF SIGNIFICANT DETERIORATION OF AIR QUALITY.

Any person who constructs, modifies, reconstructs, or operates an emissions unit, emission facility, or stationary source must meet the requirements of Code of Federal Regulations, title 40, part 52.21(b)-(f) and (h)-(w), as amended, entitled "Prevention of Significant Deterioration of Air Quality," which is adopted and incorporated by reference.

All applications and other information required pursuant to Code of Federal Regulations, title 40, part 52.21, from emissions units, emission facilities, and stationary sources located in Minnesota shall be submitted to the commissioner.

Statutory Authority: *MS s 116.07*

History: *18 SR 580*

EMISSION FACILITY OFFSETS

7007.4000 SCOPE.

Parts 7007.4000 to 7007.4030 apply to persons who propose to construct a major stationary source or major modification in a nonattainment area and to persons who propose to construct a major stationary source or major modification in a designated attainment or unclassifiable area with emissions that would cause or contribute to a violation of a national ambient air quality standard in a nonattainment area.

Statutory Authority: *MS s 116.07*

History: *13 SR 2153; 17 SR 350; 18 SR 614*

7007.4010 DEFINITIONS.

Subpart 1. **Scope.** The definitions in Code of Federal Regulations, title 40, chapter I, part 51, appendix S, apply to the terms used in parts 7007.4000 to 7007.4030 unless the terms are defined in this part. For the purposes of parts 7007.4000 to 7007.4030, the following words have the meanings defined below.

Subp. 1a. [Repealed, 17 SR 350]

Subp. 1b. [Repealed, 17 SR 350]

Subp. 2. [Repealed, 17 SR 350]

Subp. 2a. [Repealed, 17 SR 350]

Subp. 2b. [Repealed, 17 SR 350]

Subp. 3. [Repealed, 13 SR 2153]

Subp. 3a. **Attainment area.** "Attainment area" means any geographic area that has been designated by the United States Environmental Protection Agency as "better than national standards" for any national ambient air quality standard in Code of Federal Regulations, title 40, chapter I, section 81.324, as amended.

Subp. 4. [Repealed, 13 SR 2153]

Subp. 5. [Repealed, 17 SR 350]

Subp. 6. [Repealed, 17 SR 350]

Subp. 7. [Repealed, 17 SR 350]

Subp. 7a. **Major stationary source.** "Major stationary source" means:

A. a major stationary source as defined in Code of Federal Regulations, chapter I, title 40, part 51, appendix S, (1990); or

B. a stationary source that emits or has the potential to emit 70 tons or more per year of PM₁₀ and that is located or that will locate in an area classified as "serious" under United States Code, title 42, section 7513, as amended.

Subp. 7b. **National ambient air quality standards.** "National ambient air quality standards" means any air quality standard promulgated in Code of Federal Regulations, title 40, part 50, as amended.

Subp. 8. [Repealed, 17 SR 350]

Subp. 9. [Repealed, 17 SR 350]

Subp. 10. **Nonattainment area.** "Nonattainment area" means any geographic region that has been designated by the United States Environmental Protection Agency as violating a national ambient air quality standard in Code of Federal Regulations, title 40, section 81.324, as amended.

Subp. 11. [Repealed, 17 SR 350]

Subp. 11a. **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. 14. [Repealed, 13 SR 2153]

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

Subp. 15. [Repealed, 13 SR 2153]

Subp. 16. [Repealed, 13 SR 2153]

Subp. 17. [Repealed, 13 SR 2153]

Subp. 18. [Repealed, 13 SR 2153]

Subp. 19. [Repealed, 13 SR 2153]

Subp. 19a. **Significant emissions increase.** "Significant emissions increase" means a net increase in emissions or the potential of a stationary source to emit any of the listed pollutants that would equal or exceed any of the rates of emissions in Code of Federal Regulations, title 40, part 51, Appendix S, Part II.A.10(i), as amended. Any net emissions increase that is considered significant for volatile organic compounds must be considered significant for ozone.

Subp. 19b. **Unclassifiable area.** "Unclassifiable area" means any geographic area that has been designated by the United States Environmental Protection Agency as "cannot be classified" for any national ambient air quality standard in Code of Federal Regulations, title 40, chapter I, section 81.324, as amended.

Subp. 20. **Volatile organic compounds.** "Volatile organic compounds" means any organic compound that participates in atmospheric photochemical reaction; that is, any organic compound other than those which the United States Environmental Protection Agency has designated as having negligible photochemical reactivity. Volatile organic compounds must be measured by a reference method, an equivalent method, an alternative method, or by procedures specified under Code of Federal Regulations, title 40, part 60. In cases where a reference method, equivalent method, or alternative method also measures nonreactive organic

compounds, an owner or operator may exclude the nonreactive organic compounds when determining compliance with a standard. As used in parts 7007.4000 to 7007.4030, the term "volatile organic compounds" does not include:

- A. Methane;
- B. Ethane;
- C. 1,1,1-Trichloroethane (Methyl Chloroform);
- D. Trichlorotrifluoroethane (Freon 113);
- E. Methyl chloroform;
- F. Methylene Chloride;
- G. Trichlorofluoromethane (CFC-11);
- H. Dichlorodifluoromethane (CFC-12);
- I. Chlorodifluoromethane (CFC-22);
- J. Trifluoromethane (FC-23);
- K. Trichlorotrifluoroethane (CFC-113);
- L. Dichlorotetrafluoroethane (CFC-114);
- M. Chloropentafluoroethane (CFC-115);

N. any other compound listed in table I, 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

O. any other compound determined by the United States Environmental Protection Agency to be negligibly photochemically reactive. These determinations are published in the Federal Register.

Statutory Authority: *MS s 116.07*

History: *L 1987 c 186 s 15; 13 SR 2153; 17 SR 350; 18 SR 614*

7007.4020 CONDITIONS FOR PERMIT.

Subpart 1. In general. Unless the requirements of Code of Federal Regulations, title 40, chapter I, part 51, appendix S, (1991), as incorporated in subpart 2a, are first satisfied, no person shall commence construction 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).

Subp. 2. [Repealed, 17 SR 350]

Subp. 2a. Modified federal standard. Persons subject to subpart 1 must comply with Code of Federal Regulations, title 40, chapter I, part 51, appendix S, (1991), with the following exceptions:

A. Code of Federal Regulations, title 40, chapter I, part 51, appendix S, part IV, section A, condition 1, footnotes 4 and 5, (1991), do not apply.

B. Code of Federal Regulations, title 40, chapter I, part 51, appendix S, part IV, section A, condition 3, is amended to read:

Emission reductions ("offsets") from existing sources in the same area of the proposed source (whether or not under the same ownership) are required such that there will be reasonable progress toward attainment of the applicable NAAQS. Offsets must be based on actual emissions as defined in Code of Federal Regulations, title 40, section 51.165(a)(3), as amended. Only intrapollutant emission offsets will be acceptable (e.g. hydrocarbon increases may not be offset against SO₂ reductions).

C. Code of Federal Regulations, title 40, part 51, appendix S, part IV, section A, condition 3, footnote 7, (1991), does not apply.

D. Code of Federal Regulations, title 40, part 51, appendix S, part IV, section A, footnote 8, (1991), does not apply.

E. Code of Federal Regulations, title 40, part 51, appendix S, part IV, section B, (1991), does not apply.

F. Code of Federal Regulations, title 40, part 51, appendix S, part IV, section C, (1991), applies except that, consistent with Code of Federal Regulations, title 40, section 51.165(3)(i)(A), as amended, the offset baseline shall be the actual emissions of the source from which offset credit is obtained.

G. Code of Federal Regulations, title 40, part 51, appendix S, part IV, section C, (5), (1991), does not apply.

Subp. 3. [Repealed, 17 SR 350]

Subp. 4. [Repealed, 17 SR 350]

Subp. 5. [Repealed, 17 SR 350]

Subp. 6. [Repealed, 13 SR 2153]

Subp. 7. [Repealed, 17 SR 350]

Subp. 8. [Repealed, 17 SR 350]

Statutory Authority: *MS s 116.07*

History: *L 1987 c 186 s 15; 13 SR 2153; 17 SR 350; 17 SR 3380; 18 SR 614*

7007.4030 LIMITATION ON USE OF OFFSETS.

To the extent that these parts create a program for the use of offsets or allow persons to purchase or obtain offsets, parts 7007.4000 to 7007.4030 shall not be construed to create a property right that requires compensation from the state should offsets later become unusable due to a change in an applicable emission limitation or standard of the agency.

Statutory Authority: *MS s 116.07*

History: *13 SR 2153; 17 SR 350; 18 SR 614*