

7007.0750 APPLICATION PRIORITY AND ISSUANCE TIMELINES.

Subpart 1. **Prioritizing 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 permit amendment within 90 days of receiving a complete application or for a 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 an application for an administrative amendment within 60 days of receiving the complete application.

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 for stationary sources not previously required to obtain part 70 or state total facility permit.** The agency may issue permits authorizing a modification or change 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 owners and operators have filed a complete application for the proposed modification or change;

B. the modification will subject the owners and operators of the stationary source to the requirement to obtain a permit for the first time;

C. 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 owners and operators of the stationary source; and

D. 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. The

owner or operator of a stationary source that obtains an installation and operation permit for a modification under item A, shall lose the right to operate the stationary source if the owners and operators fail to submit an application for a total facility permit in the time required by part 7007.0400, subpart 4, and shall be considered to be in violation of part 7007.0150, subpart 1.

Subp. 6. [Repealed, 22 SR 1237]

Subp. 7. Two-stage issuance of permits and permit amendments authorizing construction or modification.

A. If a permit or permit amendment:

- (1) authorizes construction or modification;
- (2) must follow the 45-day EPA review period procedures under part 7007.0950; and
- (3) includes either:

(a) 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; or

(b) an enforceable limitation assumed to avoid being subject to a new source review program under part C or D of the act,

then the agency shall send the permit to the permittee after the procedural requirements, including public participation procedures, of the applicable new source review program have been satisfied or after all requirements to avoid applicability of a new source review program have been completed including any required notice and comment period. The agency shall at the same time notify the permittee in writing that those permit conditions required by the new source review program or developed to avoid applicability of a 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.

Subp. 8. Two-stage issuance of permits subject to section 112(g)(2)(B) requirements.

A. If a permit or permit amendment is subject to the requirements of section 112(g)(2)(B) of the act, the agency shall send the permit to the permittee after all requirements of the section 112(g)(2)(B) program have been satisfied. The agency shall at the same time notify the permittee

in writing that those permit conditions required by the section 112(g)(2)(B) 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 Environmental Protection Agency'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 115.03; 116.07*

History: *18 SR 1059; 19 SR 1345; 22 SR 1237; 22 SR 2300; 23 SR 2224; 37 SR 991; 41 SR 763*

Published Electronically: *April 3, 2019*