

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 must:

A. include emissions limitations, operational requirements, and other provisions needed to ensure compliance with all applicable requirements at the time of permit issuance. For part 70 permits, the requirements and limitations must include approved replicable methodologies identified by the source in its permit application if approved by the commissioner, provided that no approved replicable methodologies shall contravene any terms needed to comply with any applicable requirement or requirement of this part or circumvent any applicable requirement that would apply as a result of implementing the approved replicable method;

B. include any condition the commissioner determines to be necessary to protect human health and the environment;

C. 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; and

D. contain provisions to ensure continuous compliance with applicable emissions limitations during periods of start-up and shutdown of an emissions unit.

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 periodic testing or instrumental or noninstrumental monitoring (which may consist of record keeping designed to serve as monitoring) is not required by item A, 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 by:

- (1) the likelihood of noncompliance;
- (2) the environmental impact of noncompliance; or
- (3) the likelihood that noncompliance could not 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 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.

D. A requirement that the permittee retain copies of deviation reports required by subpart 6 for a period of five years, or longer if requested by the commissioner, from the date of submittal of the report to the agency.

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. Deviation reporting time frames are described in subitems (1) and (2).

(1) For deviations that endanger human health or the environment, the permit shall require the permittee to notify the commissioner as required in part 7019.1000, subpart 1.

(2) For all other deviations, the permit shall require the permittee to submit a deviation report, on a form approved by the commissioner, at least semiannually. The report is due whether or not a deviation occurred during the reporting period. The midyear deviations report, covering deviations which occurred during the period from January 1 to June 30, is due by July 30 of each year and the end-of-year deviations report, covering deviations which occurred during the period from July 1 to December 31, is due by January 30 of each year.

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, subitem (5). Such progress reports shall contain the deadlines for achieving the activities, milestones, 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 submittal of an annual compliance certification by January 31 of each year to the agency. In the case of part 70 permits, compliance certifications shall be submitted to the administrator as well as the agency, unless the administrator agrees that the submittals are not necessary. The certification shall be on a form approved by the commissioner and shall contain the following:

- (1) the facility name and permit number;
- (2) identification of the calendar year that the report covers;
- (3) identification of deviation reports submitted covering the calendar year including the name of report (i.e. DRF-1 or DRF-2), the period covered by the report, and the date of the cover letter accompanying the report;
- (4) identification of any noncompliance with applicable requirements or a permit condition that has not been identified in deviation reports submitted to the agency covering the calendar year;
- (5) a certification that meets the requirements of part 7007.0500, subpart 3;
- (6) the signature and title of a responsible official as defined in part 7007.0100, subpart 21; and
- (7) additional requirements as may be specified pursuant to sections 114(a)(3) and 504(b) of the act.

Notwithstanding any other provision in an applicable requirement, for the purpose of submission of compliance certifications under this item, the owner or operator is not prohibited from using the following in addition to any specified methods:

- (a) a monitoring protocol approved for the source pursuant to Code of Federal Regulations, title 40, part 64, as amended; and
- (b) any other monitoring method incorporated into a permit issued under this chapter.

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.

E. For deviations caused by emergencies, as defined in part 7007.1850, the permittee may assert an affirmative defense only if it meets all the requirements of part 7007.1850, which includes notifying the agency within two working days of when the emission limitations were exceeded due to the emergency.

Subp. 7. **Prohibition on exceedance of allowances.** For affected sources, the agency shall include a permit condition prohibiting emissions exceeding any allowances that the owners and operators of a stationary source lawfully hold 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 owners and operators of a stationary source. The owners and operators of a 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 facility-wide 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 operating 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 owners or operators of 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 the stationary source is operating; and

B. ensure that the operation under each such alternative operating 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 ten days in advance of each change in location, providing the exact location where the source will operate for all part 70 permits and at least 48 hours in advance of each change in location for all other state permits; 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.** If the commissioner determines that such provisions would substantially improve the likelihood of future permit compliance, the permit may specify operating and maintenance requirements for each piece of control equipment located at the stationary source or require the permittee to maintain an operation and maintenance plan on site.

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 noncompliance 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 115.03; 116.07*

History: *18 SR 1059; 19 SR 1775; 20 SR 2316; 22 SR 1237; 37 SR 991; 41 SR 763*

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