

7007.1142 CAPPED PERMIT; ISSUING AND CHANGING PERMIT STATUS.**Subpart 1. Issuing, denying, and revoking capped permit.**

A. To be eligible to receive a capped permit and for the commissioner to issue a capped permit, the owners and operators of a stationary source must meet the following conditions:

- (1) the owners and operators have submitted a complete application for a capped permit;
- (2) the commissioner determines that the stationary source qualifies for the capped permit option under parts 7007.1140 to 7007.1148 for which the application was submitted; and
- (3) the commissioner has reason to believe that the stationary source will comply with the capped permit.

B. The commissioner shall deny an application for a capped permit if the commissioner determines that the stationary source does not qualify for the capped permit option under parts 7007.1140 to 7007.1148 for which the application was submitted or that the stationary source will not be able to comply with the capped permit. The grounds for permit denial in parts 7007.1000, subpart 1, item H, and part 7007.1000, subpart 2, items B to G, also constitute grounds for the commissioner to deny a capped permit application.

C. The commissioner may revoke a capped permit, if the commissioner finds that any of the grounds under subpart 6 or under part 7007.1700, subpart 1, exist, by following the procedure in part 7007.1700, subpart 2.

Subp. 1a. Changes that trigger new source performance standards. If a change or modification made at a stationary source that is operating under a capped permit results in the stationary source being subject to a new source performance standard listed under part 7007.1140, subpart 2, item E, or if the change or modification adds an emissions unit subject to the standards listed in part 7007.0300, the owner or operator must submit to the commissioner:

- A. the information required by the standard by the time specified in the standard;
- B. written notice that contains a description of the change; and
- C. a copy of the applicable new source performance standard part, with the applicable portions of the new source performance standard highlighted, including the applicable parts of Code of Federal Regulations, title 40, part 60, subpart A, as amended, or a new source performance standard form provided by the commissioner that identifies applicable portions of the new source performance standard.

Subp. 2. Changes or modifications; ineligibility for permit option. If the owner or operator intends to make a change or modification at a stationary source issued a capped permit which results in the stationary source becoming ineligible for that permit option or being unable to meet the requirements for that permit option, but which will result in the stationary source being eligible for the other capped permit option, then the owner or operator must comply with items A to C.

A. The owners and operators must submit the required permit application to the commissioner before making the change or beginning actual construction on the modification. The public participation process in part 7007.1144 does not apply to applications in which a stationary source is transferring from one capped permit option to another.

B. The owner or operator may make the change or begin actual construction on and start-up of the modification proposed in the permit application seven working days after the permit application is received by the commissioner.

C. Until the commissioner acts on the permit application, the owner or operator must comply with the requirements of the capped permit option for which the owners and operators applied, and all applicable requirements. During this time period, the owner or operator need not comply with the capped permit requirements specific to the option under which the owners and operators currently hold a capped permit.

Subp. 3. **Changes or modifications; ineligibility for capped permit.** The owners and operators of a stationary source that has been issued a capped permit must submit a registration, part 70, state, or general permit application before making a change or modification which results in the stationary source no longer qualifying for either capped permit option under parts 7007.1140 to 7007.1148. The owner or operator may not begin actual construction on the modification until the required registration, part 70, state, or general permit for the stationary source is obtained, or an installation and operation permit for the modification is obtained under part 7007.0750, subpart 5. Once a stationary source has made a change or modification rendering it ineligible for either capped permit option under parts 7007.1140 to 7007.1148, the stationary source may only become eligible for a capped permit again if it meets the requirements of subpart 4.

Subp. 3a. **Regulatory changes; ineligibility for capped permit.**

A. If a stationary source covered by a capped permit becomes subject to a new regulatory requirement that results in the stationary source no longer being able to qualify for or meet the requirements for the current permit, then the owners and operators must:

(1) submit a written notification to the commissioner within 30 days of the effective date of a new regulation that results in the stationary source no longer being able to qualify for or meet the requirements for the capped permit. The notification must include a description of the regulatory change and a statement of what type of permit application the owners and operators will submit; and

(2) submit either a part 70, state, or general permit application within 180 days of the effective date of the regulatory change.

B. The owners and operators must submit the required permit application for the appropriate air emission permit within the time limits given in item A. If the owners and operators fail to submit the required permit application in the time required, the owners and operators are considered to not hold a valid permit and are in violation of part 7007.0150, subpart 1.

Subp. 4. **Reinstating eligibility.** If through the addition of listed control equipment as defined in part 7011.0060, permanent removal of emissions units, or implementation of pollution prevention

practices the stationary source reinstates eligibility for a capped permit under parts 7007.1140 to 7007.1148, the owners and operators may reapply for a capped permit. If the stationary source reinstates eligibility for a capped permit due to implementation of pollution prevention practices, the owner or operator shall submit a description of the pollution prevention practices with the capped permit application for the commissioner's review and approval. For purposes of this subpart, "pollution prevention practices" means eliminating or reducing at the source the quantity or toxicity of regulated air pollutants, or hazardous air pollutants that are not regulated air pollutants, used by or emitted from the stationary source. Emission reductions are not reductions if the decrease is solely the result of a decrease in production at the stationary source.

Subp. 5. Changing name, ownership, or control.

A. Prior to a change of the name of the stationary source or any mailing address listed in the permit, the owners and operators must submit a request for change of the name or address on a form provided by the commissioner. The commissioner shall reissue the capped permit to the owners and operators with the changed name or mailing address. Issuance of a capped permit with a new name or mailing address voids and supersedes the previously issued capped permit.

B. Prior to a change in the ownership or control of a stationary source issued a capped permit under parts 7007.1140 to 7007.1148, the new owners and operators must submit a request for change of the owner or operator on a form provided by the commissioner. If the commissioner determines that the new owners and operators meet the requirements of parts 7007.1140 to 7007.1148 for capped permit issuance, then the commissioner shall issue the capped permit to the new owners and operators. Issuance of a capped permit to the new owners and operators of an eligible stationary source voids and supersedes the capped permit of the previous owners and operators.

Public participation procedures in part 7007.1144 do not apply to the issuance of a capped permit for a change of stationary source name, mailing address, ownership, or control.

Subp. 6. Agency request for different type of permit application. The owners and operators shall submit an application for a part 70, state, or general permit, or a different capped permit option, within 120 days of the commissioner's written request for the application if the commissioner determines that:

A. the stationary source has a history of noncompliance with applicable requirements or with its capped permit;

B. the stationary source no longer qualifies for its capped permit;

C. the stationary source qualifies for the other capped permit option under parts 7007.1140 to 7007.1148;

D. the applicable requirements to which the stationary source is subject are about to or have changed substantially;

E. the permit application contains material mistakes or inaccurate statements to establish eligibility for the emissions standards, limitations, or other terms or conditions of the permit;

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

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

Subp. 7. **Voiding existing permit.** The commissioner shall void a part 70, state, or registration permit for a stationary source which is issued a capped permit. A stationary source that is covered under the terms of a general permit is no longer covered by the general permit when it is issued a capped permit. The commissioner shall void a capped permit issued under one capped permit option for a stationary source that is issued a capped permit for a different capped permit option. The commissioner shall void a capped permit for a stationary source that is issued a registration, part 70, state, or general permit.

Statutory Authority: *MS s 115.03; 116.07*

History: *29 SR 626; 37 SR 991; 41 SR 763*

Published Electronically: *April 3, 2019*