

7007.1143 CAPPED PERMIT; GENERAL REQUIREMENTS.

Subpart 1. **Capped permit certifications.** A responsible official, as defined in part 7007.0100, subpart 21, shall sign and certify any capped permit application, report, compliance certifications, and record keeping, testing, or monitoring submitted pursuant to parts 7007.1140 to 7007.1148 with regard to truth, accuracy, and completeness. The certification and any other certification required by parts 7007.1140 to 7007.1148 must state that, based on information and belief formed after reasonable inquiry, the statements and information in the document are true, accurate, and complete. The certification that is submitted with a capped permit application must additionally state that the stationary source will be operated in compliance with all applicable requirements, and must be signed by a responsible official of both the owner and the operator of the stationary source if they are not the same.

Subp. 2. **Capped permit content.** A capped permit must identify the stationary source, the owner and operator of the stationary source, where the stationary source is allowed to operate, and shall state as follows: "The permittee shall comply with Minnesota Rules, parts 7007.1140 to 7007.1148, that pertain to capped permit [insert option 1 or option 2 whichever one applies], and all applicable requirements, including development of a compliance plan and all record keeping, monitoring, and reporting described in parts 7007.1140 to 7007.1148."

Subp. 3. **Emission inventory required.** The owner or operator of a stationary source issued a capped permit under parts 7007.1140 to 7007.1148 must submit an annual emission inventory to the commissioner under parts 7019.3000 to 7019.3100.

Subp. 4. **Record retention, access to records, and inspections.**

A. The owner or operator of a stationary source issued a capped permit under parts 7007.1140 to 7007.1148 must maintain at the stationary source for a period of five years from the date the record was made all information required to be recorded under applicable state and federal rules and parts 7007.1140 to 7007.1148. The owner or operator must make these records available for examination and copying upon request of the commissioner, and must upon request submit these records to the commissioner by the time specified by the commissioner in the request. A stationary source with a capped permit may maintain records at an office of the owner or operator of the stationary source for all years prior to the current calendar year of operation.

B. The owner or operator of a stationary source issued a capped permit under parts 7007.1140 to 7007.1148 must provide the commissioner, or an authorized representative or agent of the commissioner, access to the stationary source, including allowing the collection of samples, and records to the extent provided under Minnesota Statutes, section 116.091, or other law, upon presentation of credentials and other documents required by law.

C. Nothing in this subpart shall be read to limit the commissioner's, agency's, or administrator's authority under Minnesota Statutes, section 116.091, section 114 of the act, or other law.

Subp. 5. **No circumvention; permit shield.**

A. The owner or operator of a stationary source that obtains a capped permit is subject to enforcement action for operation without a permit if the commissioner later determines that the stationary source does not qualify for the capped permit.

B. The permit shield under part 7007.1800 does not apply to capped permits.

Subp. 6. **Operating in more than one location.** Upon application, an applicant may request that the capped permit allow a stationary source to be operated in more than one location. If more than one location is proposed in the permit application, the owner or operator must identify all geographic areas where the stationary source is authorized to operate during the course of the permit.

Subp. 7. **General conditions.** Capped permits issued by the commissioner under parts 7007.1140 to 7007.1148 must include the general conditions in items A to O, which are included in the permit by reference to this part as a whole.

A. Unchallenged provisions of the 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 state law and, if the provision is federally enforceable, of the act. The violation is grounds for enforcement action by the commissioner, the agency, or the EPA or for permit revocation.

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 the permit.

D. The permit may be revoked for cause as provided in part 7007.1142, subpart 1. The filing of a request by the permittee for a different type of permit, a different capped permit option, revocation or termination of the permit, or a notification of planned changes or anticipated noncompliance does not stay any permit condition, except as specifically provided in part 7007.1142, subpart 2.

E. The permit does not convey any property right of any sort or any exclusive privilege.

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

G. The commissioner's issuance of the 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 a permit.

H. The commissioner's issuance of the 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 commissioner's issuance of the permit does not obligate the commissioner 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 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 the permit.

M. If the permittee discovers, through any means, including notification by the commissioner, 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.

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, the agency, and the commissioner 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, the agency, and the commissioner may be liable for the activities of their employees, that liability is explicitly limited to that provided in the Tort Claims Act, Minnesota Statutes, section 3.376.

Subp. 8. **Inapplicable parts.** Parts 7007.0500; 7007.0501; 7007.0600 to 7007.0950; 7007.1000, subpart 1, items A to G; 7007.1100 to 7007.1130; 7007.1150 to 7007.1250; 7007.1350 to 7007.1650; and 7007.1800 do not apply to capped permits issued under parts 7007.1140 to 7007.1148.

Subp. 9. **Applicable parts.** Parts 7007.1140 to 7007.1148 continue to apply to a stationary source issued a capped permit until a new capped, registration, state, part 70, or general permit is issued to the stationary source or the commissioner determines that the stationary source does not require any air emissions permit under part 7007.1050, subpart 7.

Statutory Authority: *MS s 116.07*

History: *29 SR 626; 46 SR 1209*

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