

Minnesota Attorney General: Administrative Rules Proceedings

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August 20, 2018

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RULE REVIEW CHECKLIST

File No. 1564 Docket No. 05.0009.0701

DATE RECEIVED 1/26/89 ADOPTED W/O HEARING Y

REVIEW DATE 2/9/89 EMERGENCY RULE _____

DUE DATE 2/9/89 REVISOR APPROVED _____

APPROVED 2/6/89 REVISOR DISAPPROVED _____

DISAPPROVED _____ FILED W/SEC. OF STATE _____

WITHDRAWN _____ RETURNED TO AGENCY _____

✓ Rule as adopted (4 copies)

_____ ~~Notice to Solicit Outside Information/Opinion (if applicable)~~
- _____ ~~Date published in State Register~~
- _____ ~~Comments~~

_____ ~~Petition for Adoption of a Rule (if applicable)~~

✓ Board's Authorizing Resolution
- 10/18/88 Date adopted

✓ Proposed Rule
- yes Revisor's Certificate

✓ Notice of Intent to Adopt Rule
- 116.07 Statutory Authority
- ~~yes~~ Small Business Statement
- no Expenditure of public money statement
- yes Signature

✓ Statement of Need and Reasonableness (if applicable)
- yes Small Business Statement
- _____ Fees - § 16A.128

✓ Affidavit of Mailing Notice of Intent to Adopt Rule
- 10/24/88 Date (30)/25 days before adoption
- ok Notice attached
- yes Copy of rule or summary attached

✓ Publication in State Register
- 10/31/88 Date 30/25 days before adoption

_____ 180-day deadline from:
- n/a Effective date of law requiring rule (14.12) (both rules)
- 11/30/88 end of comment period (§ 14.26) (rules without hearing)
- _____ ~~effective date of statutory authority (§ 14.29) (emergency rules)~~

✓ Resolution Adopting
- 1/24/89 Date adopted

✓ Findings of Fact, Conclusions & Order Adopting
- 1/24/89 Date

_____ ~~Written requests, submissions or comments~~

_____ Declaration of attorney
- Jocelyn Olson Name of SAAG representing agency

_____ ~~Notice of Submission to Atty. Gen. (if applicable)~~

_____ ~~Aff. of Mailing Notice to Atty. Gen. (if applicable)~~

ATTORNEY GENERAL

February 10, 1988

JOCELYN F. OLSON
Assistant Attorney General

CHRISTIE B. ELLER
Assistant Attorney General

6-9421

In the Matter of the Adopted Rule Relating to
Air Quality and Air Quality Permitting

The above-referenced rule has been approved as to its legality by the Attorney General on February 6, 1989.

Enclosed is the agency's copy of the approved rule. This office has already filed two copies with the Secretary of State who will forward one copy to the Revisor of Statutes. The fourth is being retained by this division of the Attorney General's Office for its records.

Also enclosed are any petitions, requests, submission or comments received by the agency and any extra copies of documents which the agency submitted to the Attorney General.

In order for a permanent rule without a hearing to become effective, your agency must publish a notice of adoption in the State Register in accoradance with Minn. Stat. §14.27. An emergency rule becomes effective five working days after approval by the Attorney General; however, the agency must publish a notice in the State Register in accordance with Minn. Stat. §14.34.

If you have any questions in this regard, please contact me.

CBE:rer
Enclosures

cc: Maryanne Hruby
Executive Director
Legislative Commission to Review
Administrative Rules

William Brown
Chief Administrative Law Judge
Office of Administrative Hearings

HUBERT H. HUMPHREY, III
ATTORNEY GENERAL

STATE OF MINNESOTA
OFFICE OF THE ATTORNEY GENERAL
ST. PAUL 55155

ADDRESS REPLY TO:
SUITE 200
520 LAFAYETTE ROAD
ST. PAUL, MN 55155
TELEPHONE: (612) 297-1075

January 25, 1989

Read 1/26 JK

Ms. Christie Eller
Assistant Attorney General
Office of the Attorney General
515 Transportation Building
John Ireland Blvd.
St. Paul, MN 55155

Re: In the Matter of Proposed Amendment to Rules Governing Air Quality and Air Quality Permitting

Dear Ms. Eller:

On January 24, 1989, the Minnesota Pollution Control Agency adopted the above-captioned rule amendment governing air quality and air quality permitting. Enclosed for your review are the following:

1. Rules as adopted (original and three copies).

2. Findings of Fact, Conclusions, and Order Adopting Rule Amendments (two copies).

3. Certificate of Resolution Adopting Rules.

4. Certificate of Agency's Authorizing Resolution.

5. Notice of Intent to Adopt Rules Without a Public Hearing and rules as proposed (13 S.R. 1086, October 31, 1988).

6. Notice of Intent to Adopt Rules Without a Public Hearing, as mailed.

7. Affidavit of Mailing the Notice of Intent to Adopt Rules Without a Public Hearing and Certificate of Mailing List.

8. Rules as proposed.

9. Statement of Need and Reasonableness.

10. Declaration of Counsel.

As indicated in the Findings of Fact, the Agency did not

seek outside opinion prior to proposing the rule amendments. There were no comments received during the comment period on the proposed rule amendments. No person requested notification of the date of submission of the rules to the Attorney General.

Very truly yours,

Jocelyn F. Olson

JOCELYN F. OLSON
Assistant Attorney General

Pollution Control Agency

Adopted Permanent Rules Relating to Air Quality and Air Quality Permitting

Rules as Adopted

7001.0020 SCOPE.

Except as otherwise specifically provided, parts 7001.0010 to 7001.0210 apply to the following:

A. to H. [Unchanged.]

I. An agency permit required for the construction, modification, reconstruction, or operation of an air emission facility or stationary source except those activities permitted under parts 7005.0700 to 7005.0820. Parts 7001.0100, subparts 4 and 5 and 7001.0110 do not apply to permits for construction, modification, or reconstruction of a stationary source with a potential controlled net increase of a single criteria pollutant of less than 100 tons per year or to permits for operation of a facility or stationary source with an actual emission rate of a single criteria pollutant of less than 500 tons per year. Part 7001.0100, subpart 5, item C, does not apply to permits for construction, modification, or reconstruction of a stationary source with a potential controlled net increase of a single criteria pollutant of 100 tons per year to 250 tons per year or to permits for operation of a facility or stationary source with an actual emission rate of a single criteria pollutant of 500 tons per year to 5,000 tons per year. Part 7001.0040, subpart 1, applies to permits for air emission facilities or stationary sources, except that for a permit not subject to a Minnesota or federal public notice requirement, the time period referenced in that subpart shall be 90 days.

J. and K. [Unchanged.]

7001.1200 SCOPE.

Parts 7001.1200 to 7001.1220 apply to the issuance of permits for emissions units, air emission facilities or

stationary sources, and supplement the agency permit rules in parts 7001.0010 to 7001.0210.

7001.1210 PERMIT REQUIREMENT.

Subpart 1. **Permit required.** Except as provided in subpart 2, no person may construct, modify, reconstruct, or operate an emissions unit, emission facility, stationary source, or control equipment without obtaining an air emission permit from the agency.

Subp. 2. **Exemptions.** A person who constructs, modifies, reconstructs, or operates an emissions unit, emission facility, or stationary source that meets one or more of the following exclusions need not obtain an air emission permit from the agency:

A. a stationary source with potential emissions of a single criteria pollutant of less than 25 tons per year, except:

(1) an emissions unit, emission facility, or stationary source subject to parts 7005.0900 to 7005.0960, Control of Odors in the Ambient Air;

(2) a stationary source or emission facility subject to new source performance standards; and

(3) a stationary source with potential lead emissions of at least 1,000 pounds per year;

B. to D. [Unchanged.]

E. a storage tank for petroleum liquid with a capacity of less than 40,000 gallons;

F. a dry bulk agricultural commodity facility with an annual commodity throughput of less than 45,000 tons;

G. an incinerator with a maximum refuse burning capacity of less than 1,000 pounds per hour, unless thermally treating hazardous waste; and

H. a concrete batching facility that produces less than 200,000 cubic yards of concrete per year.

7001.1215 PERMIT APPLICATION.

In addition to the information required by part 7001.0050, a person who requests an air emission permit shall submit the

following information to the commissioner:

A. to D. [Unchanged.]

7001.1220 SPECIAL CONDITIONS FOR AIR EMISSION FACILITY PERMITS.

In addition to the special conditions in part 7001.0150, subpart 2, and if applicable to the circumstances, an air emission permit may contain special conditions including but not limited to the following:

A. standards of performance for air pollutants from an emissions unit, emission facility, or stationary source;

B. to D. [Unchanged.]

7002.0020 DEFINITIONS.

Subpart 1. to 3. [Unchanged]

Subp. 4. **Commissioner.** "Commissioner" means the commissioner of the Minnesota Pollution Control Agency.

Subp. 5. [Unchanged.]

Subp. 6. **Major emission facility.** "Major emission facility" means a stationary source having potential emissions of 100 tons per year or more of sulfur dioxide or particulate matter.

Subp. 7. [Unchanged.]

Subp. 8. [See Repealer.]

7002.0100 AIR QUALITY PERMIT FEE SCHEDULE.

Subpart 1. **Scope.** The fees established in this part are applicable to facilities and indirect sources which require an air emission permit under part 7001.1210 (permit rules, air emission permits) or an indirect source permit under part 7001.1270 (permit rules, indirect source permits). For the purpose of this part, the terms used have the meanings given them in part 7005.0100 (air pollution control rules, definitions).

Subp. 2. **Application fee.** A person making application for an air emission permit or an indirect source permit shall submit with the application an application fee of $80.

Subp. 3. and 4. [Unchanged.]

Subp. 5. **Annual fees.** All persons required to obtain an air emission permit shall pay the following applicable annual fee:

A. $1,040 for a major emission facility; or

B. $240 for a stationary source other than a major emission facility.

The agency shall not charge an annual fee for a stationary source with potential emissions of a single pollutant of more than 25 tons per year but less than 50 tons per year unless the stationary source also discharges lead to the ambient air.

Subp. 6. [Unchanged.]

7005.0100 DEFINITIONS.

Subpart 1. to 24. [Unchanged.]

Subp. 24a. **Modification.** "Modification" means a physical change or a change in the operation of an emissions unit, emission facility, or stationary source that is not allowed under a permit, stipulation agreement, or an applicable air pollution control rule, and that results in an increase in the emission of an air pollutant.

Subp. 25. to 29. [Unchanged.]

Subp. 30. **Owner or operator.** "Owner or operator" means a person who owns, leases, operates, controls, or supervises an emissions unit, emission facility, or stationary source.

Subp. 31. to 35a. [Unchanged.]

Subp. 35b. **Reconstruction.** "Reconstruction" means replacement of depreciable components of an existing emissions unit to which a New Source Performance Standard or state air pollution control rule is applicable, to the extent that the fixed capital cost of the depreciable components exceeds 50 percent of the fixed capital cost of depreciable components that would be required to construct a comparable entirely new emissions unit.

Subp. 35c. and 35d. [Unchanged.]

Subp. 37. **Shutdown.** "Shutdown" means the cessation of operation of an emissions unit, emission facility, stationary

source, or control equipment for any purpose.

Subp. 39. to 42. [Unchanged.]

Subp. 42a. **Startup.** "Startup" means the setting into operation of an emissions unit, emission facility, stationary source, or control equipment for any purpose.

Subp. 42b. and 44. [Unchanged.]

7005.0116 OPACITY STANDARD ADJUSTMENT.

Subpart 1. **Application for permit modification.** An owner or operator of an emission facility may file an application for a permit modification under parts 7005.0200 to 7005.0280 for adjustment of the opacity standard applicable to an emissions unit. In addition to the items required under parts 7005.0200 to 7005.0280, the application must contain data that demonstrates that:

A. based on tests conducted under parts 7005.1850 to 7005.1880, the emissions unit is in compliance with the applicable standard of performance for particulate matter and all other standards of performance, except the opacity standard;

B. the stationary source is in compliance with all applicable standards of performance except the opacity standard at the emissions unit for which adjustments are being sought or have already been permitted by the agency; and

C. the stationary source was operated in a manner to minimize the opacity of emissions at the emissions unit during the performance tests conducted under item A.

Subp. 2. **Atmospheric dispersion modeling.** If the data submitted under subpart 1 indicates that an adjustment of the opacity standard may cause or contribute to a violation of an ambient air quality standard, the agency shall require the owner or operator to conduct atmospheric dispersion modeling and include the results of the modeling in the application for a permit modification. However, a stationary source that has potential emissions of particulate matter of less than 25 tons per year is not required to conduct modeling. Modeling must be performed according to "Guidelines on Air Quality Models,"

EPA-450/2-78-027R, as amended by supplemental updates, or methods that the commissioner finds to be comparably reliable. The Guidelines are incorporated by reference. The Guidelines are written and published by the USEPA, Office of Air and Radiation, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711. The guidelines are subject to frequent change and are available from the Minnesota State Law Library, Ford Building, 117 University Avenue, Saint Paul, Minnesota 55155.

Subp. 3. **Opacity adjustment determination and permit modification.** The agency shall set an adjusted opacity standard at the most restrictive level which the performance tests conducted under subpart 1, items A and C demonstrate the emissions unit is capable of meeting and shall modify the permit to establish the adjusted opacity standard, if the requirements of subparts 1 and 2 are met and the stationary source, with the adjusted opacity standard, would meet any one of the following:

A. to C. [Unchanged.]

7005.0520 TABLE 2.

Source Gas Volume, DSCFM[a]	Concentration GR/DSCF[b]
7,000 or less	0.100
8,000	0.096
9,000	0.092
10,000	0.089
20,000	0.071
30,000	0.062
40,000	0.057
50,000	0.053
60,000	0.050
80,000	0.045
100,000	0.042
120,000	0.040
140,000	0.038
160,000	0.036
180,000	0.035
200,000	0.034
300,000	0.030
400,000	0.027
500,000	0.025
600,000	0.024
800,000	0.021

1,000,000 or more	0.020	

[a]Dry standard cubic feet per minute

[b]Grains per dry standard cubic foot.

7005.1310 METHOD OF MEASUREMENT.

Subpart 1. [Unchanged.]

Subp. 2. **Method.** Fallout sampling devices shall be placed at one or more locations beyond the premises on which an emissions unit or units are located, upwind and downwind of the premises. The sampling devices shall be exposed to substances settling out of the ambient air for a period of one hour. The presence of red-colored spots on the gelatin indicates that acidic substances have settled out of the air while the presence of blue-colored spots on the gelatin indicates that alkaline substances have settled out of the air. The number of spots visible on samplers exposed upwind of premises to be subtracted from the number of spots visible on samplers exposed downwind of the same premises. The difference in the number of spots, if any, shall be construed to be attributable to emissions occurring on the premises under investigation.

Subp. 3. [Unchanged.]

7005.1600 SUBSTITUTE DEVICES FOR FABRIC FILTERS.

Subpart 1. [Unchanged.]

Subp. 2. **Other control equipment.** Compliance with any applicable provision of parts 7005.1550 to 7005.1610 which refers to a control equipment specification shall be demonstrated in accordance with this part if the referenced control equipment is not used.

A. The owner or operator of the emissions unit, or vendor of emission control equipment, shall make available to the commissioner sufficient information as may be required to demonstrate that the substitute equipment will provide the degree of emission control which, in the judgment of the commissioner, is at least as stringent as that which would be achieved by using the equipment specified in the applicable

standard. To the maximum extent practicable, the determination of equivalent degree of emission control will be based upon operation at the actual conditions at which the substitute device is, or will be, operated on the emissions unit. Factors which will be considered include, but are not limited to, total mass collection efficiency, collection efficiency versus particle size reliability, and maintenance practices associated with proper operation of the substitute device. The method used to determine the total mass collection efficiency and particle size distribution must be approved by the commissioner.

B. The owner or operator of the emissions unit, or vendor of emission control equipment, shall submit to the commissioner performance data including, but not limited to, total mass collection efficiency and collection efficiency versus particle size of the substitute control device under actual operating conditions which are representative of those of the existing or planned operating conditions.

C. [Unchanged.]

Subp. 3. [Unchanged.]

7005.2860 STANDARDS OF PERFORMANCE FOR CERTAIN COAL HANDLING FACILITIES.

The owner or operator of a new or existing coal handling facility which is located within the Minneapolis-Saint Paul Air Quality Control Region or within the boundaries of the city of Duluth shall perform the following abatement measures unless otherwise exempt by portions of these parts:

A. to F. [Unchanged.]

G. Enclosed coal handling facilities or emissions units not specifically covered by any other provision in these parts. If exhaust gases from any enclosed coal handling facility exceed 20 percent opacity, then the owner or operator of such facility shall select and implement one of the following further controls:

(1) and (2) [Unchanged.]

H. and I. [Unchanged.]

7005.2950 AIR POLLUTION EPISODES.

Parts 7005.2950 to 7005.3006 apply to any owner or operator of any emission facility or stationary source having allowable emissions of any air pollutant of 250 or more tons per year located within or having air pollutant emissions affecting any area within Minnesota for which an air pollution alert, air pollution warning, air pollution emergency, or air pollution significant harm episode has been declared by the commissioner.

7005.2960 DEFINITIONS.

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Allowable emission.** "Allowable emission" means the emission rate calculated using the maximum rated capacity of the emission facility or stationary source, unless the emission facility or stationary source is subject to enforceable permit conditions which limit the operating rate or hours of operation or both, and the applicable standard of performance in agency rules or the standard in the permit, whichever is more stringent.

Subp. 5. to 10. [Unchanged.]

7005.2990 CONTROL ACTIONS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Episode emission reduction plan.** The owner or operator of each emission facility or stationary source located within the state having allowable air pollutant emissions of at least 250 tons per year shall within 90 days of the effective date these parts submit to the commissioner an episode emission reduction plan to be implemented at the facility or stationary source in the event of a declaration by the commissioner of an air pollution episode. The plan shall be consistent with the emission reduction objectives in subpart 4 and shall designate at least two individuals to be notified in the event of the declaration of an air pollution episode. The plan shall be subject to the approval of the commissioner. If the commissioner finds that the plan is inconsistent with such emission reduction objectives the plan shall be returned to the

owner or operator along with a written statement of the reason(s) for disapproval. The owner or operator shall correct the deficiency within 30 days of notification of disapproval and shall resubmit the plan to the commissioner.

Subp. 4. and 5. [Unchanged.]

REVISOR INSTRUCTION. In Minnesota Rules, part 7005.0390, amend the headnote to read: "Table I: Existing Indirect Heating Equipment."; part 7005.0400, amend the headnote to read: "Table II: New Indirect Heating Equipment;" and part 7005.1850, subpart 8, amend the headnote to read: "Combined or separated emissions."

In Minnesota Rules, chapter 7002, change "director" to "commissioner" where it refers to the chief executive officer of the Pollution Control Agency.

REPEALER. Minnesota Rules, part 7002.0020, subpart 8, is repealed.

10:05AM

STATE OF MINNESOTA
DEPARTMENT OF STATE
FILED
FEB 10 1989
James Andreas Thare
Secretary of State

APPROVED AS TO FORM AND LEGALITY.
Feb 6 19 89
HUBERT H. HUMPHREY, III
ATTORNEY GENERAL
BY Christie B Elles
ASSISTANT ATTORNEY GENERAL

CERTIFICATE OF AGENCY'S AUTHORIZING RESOLUTION

I, Gerald L. Willet, do hereby certify that I am the Commissioner of the Minnesota Pollution Control Agency, an Agency duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Pollution Control Agency duly and properly held on the 27th day of September, 1988, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified.

BE IT RESOLVED, that the Commissioner of the Minnesota Pollution Control Agency (Agency) is hereby granted the authority to sign and to give notice of the Agency's intent to adopt, without a public hearing, the attached amendments to rules of the MPCA governing Air Quality, to all persons who have registered their names with the Agency for that purpose and publish the notice in the State Register, and to perform any acts incidental thereto, including making any form changes in the rules that the Revisor of Statutes requires the Agency make in order to obtain the Revisor's certification as required by Minnesota Statute section 14.07 subd. 2 (1986).

BE IT FURTHER RESOLVED, that in the event a public hearing becomes necessary, the Commissioner is hereby granted the authority to call a hearing for the purpose of promulgating said rules to perform any and all acts incidental thereto, including, but not limited to signing an order for and Notice of Hearing, as well as acting as the Agency's representative at all hearings.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 18th day of October, 1988.

Gerald L. Willet

GERALD L. WILLET, Commissioner

Pollution Control Agency

Proposed Permanent Rules Relating to Air Quality and Air Quality Permitting

Rules as Proposed

7001.0020 SCOPE.

Except as otherwise specifically provided, parts 7001.0010 to 7001.0210 apply to the following:

A. to H. [Unchanged.]

I. An agency permit required for the construction, modification, reconstruction, or operation of an air emission facility or stationary source except those activities permitted under parts 7005.0700 to 7005.0820. Parts 7001.0100, subparts 4 and 5 and 7001.0110 do not apply to permits for construction, modification, or reconstruction of a ~~facility~~ stationary source with a potential controlled net increase of a single criteria pollutant of less than 100 tons per year or to permits for operation of a facility or stationary source with an actual emission rate of a single criteria pollutant of less than 500 tons per year. Part 7001.0100, subpart 5, item C, does not apply to permits for construction, modification, or reconstruction of a ~~facility~~ stationary source with a potential controlled net increase of a single criteria pollutant of 100 tons per year to 250 tons per year or to permits for operation of a facility or stationary source with an actual emission rate of a single criteria pollutant of 500 tons per year to 5,000 tons per year. Part 7001.0040, subpart 1, applies to permits for air emission facilities or stationary sources, except that for a permit not subject to a Minnesota or federal public notice requirement, the time period referenced in that subpart shall be 90 days.

J. and K. [Unchanged.]

7001.1200 SCOPE.

Parts 7001.1200 to 7001.1220 apply to the issuance of

Approved by Revisor DSN

permits for emissions units, air emission ~~facility permits~~ facilities or stationary sources, and supplement the agency permit rules in parts 7001.0010 to 7001.0210.

7001.1210 PERMIT REQUIREMENT.

Subpart 1. **Permit required.** Except as provided in subpart 2, no person may construct, modify, reconstruct, or operate an emissions unit, emission facility, stationary source, or control equipment without obtaining an air emission ~~facility~~ permit from the agency.

Subp. 2. **Exemptions.** A person who constructs, modifies, reconstructs, or operates an emissions unit, emission facility, or stationary source that meets one or more of the following exclusions need not obtain an air emission ~~facility~~ permit from the agency:

A. a ~~total emission facility~~ stationary source with potential emissions of a single criteria pollutant of less than 25 tons per year, except:

(1) ~~a~~ an emissions unit, emission facility, or stationary source subject to parts 7005.0900 to 7005.0960, Control of Odors in the Ambient Air;

(2) a stationary source or emission facility subject to ~~federal~~ new source performance standards; and

(3) a ~~total emission facility~~ stationary source with potential lead emissions of at least 1,000 pounds per year;

B. to D. [Unchanged.]

E. ~~a facility that uses less than 10,000 gallons of solvent borne coating per year;~~

~~F.~~ a storage tank for petroleum liquid with a capacity of less than 40,000 gallons;

~~G.~~ F. a dry bulk agricultural commodity facility with an annual commodity throughput of less than 45,000 tons;

~~H.~~ G. an incinerator with a maximum refuse burning capacity of less than 1,000 pounds per hour, unless thermally treating hazardous waste; and

~~I.~~ H. a concrete batching facility that produces

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less than 200,000 cubic yards of concrete per year.

7001.1215 PERMIT APPLICATION.

In addition to the information required by part 7001.0050, a person who requests an air emission ~~facility~~ permit shall submit the following information to the commissioner:

A. to D. [Unchanged.]

7001.1220 SPECIAL CONDITIONS FOR AIR EMISSION FACILITY PERMITS.

In addition to the special conditions in part 7001.0150, subpart 2, and if applicable to the circumstances, an air emission ~~facility~~ permit may contain special conditions including but not limited to the following:

A. standards of performance for air pollutants from an emissions unit, emission facility, or stationary source;

B. to D. [Unchanged.]

7002.0020 DEFINITIONS.

Subpart 1. to 3. [Unchanged]

Subp. 4. **Commissioner.** "Commissioner" means the ~~chief executive officer~~ commissioner of the Minnesota Pollution Control Agency.

Subp. 5. [Unchanged.]

Subp. 6. **Major emission facility.** "Major emission facility" means a ~~facility~~ stationary source having potential emissions of 100 tons per year or more of sulfur dioxide or particulate matter.

Subp. 7. [Unchanged.]

Subp. 8. [See Repealer.]

7002.0100 AIR QUALITY PERMIT FEE SCHEDULE.

Subpart 1. **Scope.** The fees established in this part are applicable to facilities and indirect sources which require an air emission ~~facility~~ permit under part 7001.1210 (permit rules, air emission ~~facility~~ permits) or an indirect source permit under part 7001.1270 (permit rules, indirect source permits). For the purpose of this part, the terms used have the meanings given them in part 7005.0100 (air pollution control rules,

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definitions).

Subp. 2. **Application fee.** A person making application for an air emission ~~facility~~ permit or an indirect source permit shall submit with the application an application fee of $80.

Subp. 3. and 4. [Unchanged.]

Subp. 5. **Annual fees.** All persons required to obtain an air emission ~~facility~~ permit shall pay the following applicable annual fee:

A. $1,040 for a major emission facility; or

B. $240 for ~~an emission facility~~ a stationary source other than a major emission facility.

The agency shall not charge an annual fee for ~~an emission facility~~ a stationary source with potential emissions of a single pollutant of more than 25 tons per year but less than 50 tons per year unless the ~~facility~~ stationary source also discharges lead to the ambient air.

Subp. 6. [Unchanged.]

7005.0100 DEFINITIONS.

Subpart 1. to 24. [Unchanged.]

Subp. 24a. **Modification.** "Modification" means a physical change or a change in the operation of an emissions unit, emission facility, or stationary source that is not allowed under a permit, stipulation agreement, or an applicable air pollution control rule, and that results in an increase in the emission of an air pollutant.

Subp. 25. to 29. [Unchanged.]

Subp. 30. **Owner or operator.** "Owner or operator" means a person who owns, leases, operates, controls, or supervises an emissions unit, emission facility, or stationary source.

Subp. 31. to 35a. [Unchanged.]

Subp. 35b. **Reconstruction.** "Reconstruction" means replacement of depreciable components of an existing ~~emission source~~ emissions unit to which a New Source Performance Standard or state air pollution control rule is applicable, to the extent that the fixed capital cost of the depreciable components

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exceeds 50 percent of the fixed capital cost of depreciable components that would be required to construct a comparable entirely new ~~emission-source~~ emissions unit.

Subp. 35c. and 35d. [Unchanged.]

Subp. 37. **Shutdown.** "Shutdown" means the cessation of operation of an emissions unit, emission facility, stationary source, or control equipment for any purpose.

Subp. 39. to 42. [Unchanged.]

Subp. 42a. **Startup.** "Startup" means the setting into operation of an emissions unit, emission facility, stationary source, or control equipment for any purpose.

Subp. 42b. and 44. [Unchanged.]

7005.0116 OPACITY STANDARD ADJUSTMENT.

Subpart 1. **Application for permit modification.** An owner or operator of an emission facility may file an application for a permit modification under parts 7005.0200 to 7005.0280 for adjustment of the opacity standard applicable to an ~~emission source~~ emissions unit. In addition to the items required under parts 7005.0200 to 7005.0280, the application must contain data that demonstrates that:

A. based on tests conducted under parts 7005.1850 to 7005.1880, the ~~emission-source~~ emissions unit is in compliance with the applicable standard of performance for particulate matter and all other standards of performance, except the opacity standard;

B. the ~~total-emission-facility~~ stationary source is in compliance with all applicable standards of performance except the opacity standard at the ~~emission-sources~~ emissions unit for which adjustments are being sought or have already been permitted by the agency; and

C. the ~~total-emission-facility~~ stationary source was operated in a manner to minimize the opacity of emissions at the ~~emission-source~~ emissions unit during the performance tests conducted under item A.

Subp. 2. **Atmospheric dispersion modeling.** If the data

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submitted under subpart 1 indicates that an adjustment of the opacity standard may cause or contribute to a violation of an ambient air quality standard, the agency shall require the owner or operator to conduct atmospheric dispersion modeling and include the results of the modeling in the application for a permit modification. However, a ~~total emission facility~~ stationary source that has potential emissions of particulate matter of less than 25 tons per year is not required to conduct modeling. Modeling must be performed according to "Guidelines on Air Quality Models ~~(OAQPS No. 1.2-080, United States Environmental Protection Agency, Office of Air Quality Planning and Standards, 1978)~~," EPA-450/2-78-027R, as amended by supplemental updates, or methods that the commissioner finds to be comparably reliable. The Guidelines are incorporated by reference. The Guidelines are written and published by the USEPA, Office of Air and Radiation, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711. The guidelines are subject to frequent change and are available from the Minnesota State Law Library, Ford Building, 117 University Avenue, Saint Paul, Minnesota 55155.

Subp. 3. **Opacity adjustment determination and permit modification.** The agency shall set an adjusted opacity standard at the most restrictive level which the performance tests conducted under subpart 1, items A and C demonstrate the ~~emission source~~ emissions unit is capable of meeting and shall modify the permit to establish the adjusted opacity standard, if the requirements of subparts 1 and 2 are met and the ~~total emission facility~~ stationary source, with the adjusted opacity standard, would meet any one of the following:

A. to C. [Unchanged.]

7005.0520 TABLE 2.

Source Gas Volume, DSCFM[a]	Concentration GR/DSCF[b]
7,000 or less	0.100
8,000	0.096
9,000	0.092

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10,000	0.089
20,000	0.071
30,000	0.062
40,000	0.057
50,000	0.053
60,000	0.050
80,000	0.045
100,000	0.042
120,000	0.040
140,000	0.038
160,000	0.036
180,000	0.035
200,000	0.034
300,000	0.030
400,000	0.027
500,000	0.025
600,000	0.024
800,000	0.021
1,000,000 or more	0.020

[a]Dry standard cubic feet per minute

[b]Grains per dry standard cubic foot.

7005.1310 METHOD OF MEASUREMENT.

Subpart 1. [Unchanged.]

Subp. 2. **Method.** Fallout sampling devices shall be placed at one or more locations beyond the premises on which ~~a source or sources~~ an emissions unit or units are located, upwind and downwind of ~~such~~ the premises. The sampling devices shall be exposed to substances settling out of the ambient air for a period of one hour. The presence of red-colored spots on the gelatin indicates that acidic substances have settled out of the air while the presence of blue-colored spots on the gelatin indicates that alkaline substances have settled out of the air. The number of spots visible on samplers exposed upwind of premises to be subtracted from the number of spots visible on samplers exposed downwind of the same premises. The difference in the number of spots, if any, shall be construed to be attributable to emissions occurring on the premises under investigation.

Subp. 3. [Unchanged.]

7005.1600 SUBSTITUTE DEVICES FOR FABRIC FILTERS.

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Subpart 1. [Unchanged.]

Subp. 2. **Other control equipment.** Compliance with any applicable provision of parts 7005.1550 to 7005.1610 which refers to a control equipment specification shall be demonstrated in accordance with this ~~section~~ part if the referenced control equipment is not used.

A. The owner or operator of the ~~emission-source~~ emissions unit, or vendor of emission control equipment, shall make available to the commissioner sufficient information as may be required to demonstrate that the substitute equipment will provide the degree of emission control which, in the judgment of the commissioner, is at least as stringent as that which would be achieved by using the equipment specified in the applicable standard. To the maximum extent practicable, the determination of equivalent degree of emission control will be based upon operation at the actual conditions at which the substitute device is, or will be, operated on the ~~emission-source~~ emissions unit. Factors which will be considered include, but are not limited to, total mass collection efficiency, collection efficiency versus particle size reliability, and maintenance practices associated with proper operation of the substitute device. The method used to determine the total mass collection efficiency and particle size distribution must be approved by the commissioner.

B. The owner or operator of the ~~emission-source~~ emissions unit, or vendor of emission control equipment, shall submit to the commissioner performance data including, but not limited to, total mass collection efficiency and collection efficiency versus particle size of the substitute control device under actual operating conditions which are representative of those of the existing or planned operating conditions.

C. [Unchanged.]

Subp. 3. [Unchanged.]

7005.2860 STANDARDS OF PERFORMANCE FOR CERTAIN COAL HANDLING FACILITIES.

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The owner or operator of a new or existing coal handling facility which is located within the Minneapolis-Saint Paul Air Quality Control Region or within the boundaries of the city of Duluth shall perform the following abatement measures unless otherwise exempt by portions of these parts:

A. to F. [Unchanged.]

G. Enclosed coal handling facilities or ~~emission sources~~ emissions units not specifically covered by any other provision in these parts. If exhaust gases from any enclosed coal handling facility exceed 20 percent opacity, then the owner or operator of such facility shall select and implement one of the following further controls:

(1) and (2) [Unchanged.]

H. and I. [Unchanged.]

7005.2950 AIR POLLUTION EPISODES.

Parts 7005.2950 to 7005.3006 apply to any owner or operator of any emission facility or stationary source having allowable emissions of any air pollutant of 250 or more tons per year located within or having air pollutant emissions affecting any area within ~~the state of~~ Minnesota for which an air pollution alert, air pollution warning, air pollution emergency, or air pollution significant harm episode has been declared by the commissioner.

7005.2960 DEFINITIONS.

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Allowable emission.** "Allowable emission" means the emission rate calculated using the maximum rated capacity of the emission facility or stationary source, unless the emission facility or stationary source is subject to enforceable permit conditions which limit the operating rate or hours of operation or both, and the applicable standard of performance ~~set forth~~ in agency rules or the standard ~~set forth~~ in the permit, whichever is more stringent.

Subp. 5. to 10. [Unchanged.]

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7005.2990 CONTROL ACTIONS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Episode emission reduction plan.** The owner or operator of each emission facility or stationary source located within the state having allowable air pollutant emissions of at least 250 tons per year shall within 90 days of the effective date these parts submit to the commissioner an episode emission reduction plan to be implemented at the facility or stationary source in the event of a declaration by the commissioner of an air pollution episode. The plan shall be consistent with the emission reduction objectives ~~set forth~~ in subpart 4 and shall designate at least two individuals to be notified in the event of the declaration of an air pollution episode. The plan shall be subject to the approval of the commissioner. If the commissioner finds that the plan is inconsistent with such emission reduction objectives the plan shall be returned to the owner or operator along with a written statement of the reason(s) for disapproval. The owner or operator shall correct the deficiency within 30 days of notification of disapproval and shall resubmit the plan to the commissioner.

Subp. 4. and 5. [Unchanged.]

REVISOR INSTRUCTION. In Minnesota Rules, part 7005.0390, amend the headnote to read: "Table I: Existing Indirect Heating Equipment."; part 7005.0400, amend the headnote to read: "Table II: New Indirect Heating Equipment;" and part 7005.1850, subpart 8, amend the headnote to read: "Combined or separated emissions."

In Minnesota Rules, chapter 7002, change "director" to "commissioner" where it refers to the chief executive officer of the Pollution Control Agency.

REPEALER. Minnesota Rules, part 7002.0020, subpart 8, is repealed.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Air Quality and Air Quality Permitting

AGENCY: Pollution Control Agency

MINNESOTA RULES: Chapters 7001; 7002; 7005

INCORPORATION BY REFERENCE:

Rule Number: Part 7005.0116, subpart 2

Material Incorporated: Guidelines on Air Quality Models EPA-450/2-78-027R, published by USEPA, Office of Air and Radiation, Office of Air Quality Planning and Standards.

The attached rules are approved for publication in the State Register

David S. Niss
Assistant Revisor

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendments to Permit Rules Scope, Minn. Rules Part 7001.0200; Permit Rules, Air Emission Facility Permits, Minn Rules Part 7001.1200 to 7001.1220; Permit Fees, Air Quality Permit Fees, Minn. Rules Part 7002.0010 to 7002.0110; Air Pollution Control: General Provisions, Definitions, Minn. Rules Part 7005.0100, and Opacity Standard Adjustment, Minn. Rules Part 7005.0116; Standards of Performance For Indirect Heating Fossil Fuel Burning Equipment, Minn. Rules Part 7005.0300 to 7005.0400; Standards of Performance For Industrial Process Equipment, Minn. Rules Part 7005.0450 to 7000.0520; Emission Standards for Acid and Alkaline Fallout, Method of Measurement, Minn. Rules 7005.1310; Emission Standards for Asbestos Substitute Devices For Fabric Filters, Minn. Rules 7005.1600; Continuous Monitoring, Minn. Rules 7005.1850; Standards of Performance For Certain Coal Handling Facilities, Minn. Rules Part 7005.2860; Air Pollution Episodes, Minn. Rules Part 7005.2950 to 7005.3006.

NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING

Notice is hereby given that the Minnesota Pollution Control Agency (Agency) intends to adopt the above-entitled rule amendments without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rule amendments without a public hearing in Minn. Stat. section 14.22 to 14.28 (1986). The Agency's authority to adopt the rule is set forth in Minn. Stat. section 116.07, subd. 4 (1986).

All persons have until 4:30 p.m. on November 30, 1988, to submit comments in support of or in opposition to the proposed rule amendments or any part or subpart of the rule amendments. Comment is encouraged. Each comment should identify the portion of the proposed rule amendments addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule amendments within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address and is encouraged to identify the portion of the proposed rule amendments addressed, the reason for the request, and any change proposed. If a public hearing is required, the Agency will proceed pursuant to Minn. Stat. section 14.131 to 14.20 (1986).

Comments or written requests for a public hearing must be submitted to:

Ms. Elizabeth Henderson
Staff Engineer
Minnesota Pollution Control
Division of Air Quality
520 Lafayette Road North
St. Paul, Minnesota 55155
(612) 296-7554

The proposed rule amendments may be modified if the modifications are supported by data and views submitted to the Agency and do not result in a substantial change in the proposed rule amendments as noticed.

The proposed rule amendments, if adopted, will bring air quality rule terminology into agreement with proposed amendments to Minn. Rules ch. 7005.0100 in conjunction with proposed amendments to the Offset Rules, Minn. Rules Parts 7005.3010 to 7005.3060, which are being promulgated in a separate rulemaking proceeding. The rule amendments will also change Minn. Rules Part 7005.0520, Table 2 to reference "dry" standard cubic feet per minute in reference to exhaust gases from industrial equipment; and will delete Minn. Rules Part 7001.1210, Subpart 2, Item E. which exempts facilities using less than 10,000 gallons of solvent borne coating per year from air emission facility permitting requirements. A copy of the proposed rule amendments is enclosed. One free copy of the rule amendments is available upon request from Ms. Henderson at the address and telephone number stated above.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule amendments and identifies the data and information relied upon to support the proposed rule amendments has been prepared and is available from Ms. Henderson upon request.

You are hereby advised, pursuant to Minn. Stat. section 14.115 (1986), "Small business considerations in rulemaking," that the proposed rule amendments will not affect small businesses as defined in Minn. Stat. section 14.115 (1986) because the basic requirements of the rules remain unchanged.

If no hearing is required, upon adoption of the rule amendments, the rule amendments and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the rule amendments as adopted, must submit a written request to Ms. Henderson.

DATED: October 18, 1988

Gerald L. Willet

Gerald L. Willet, Commissioner

Pollution Control Agency

Proposed Permanent Rules Relating to Air Quality and Air Quality Permitting

Rules as Proposed

7001.0020 SCOPE.

Except as otherwise specifically provided, parts 7001.0010 to 7001.0210 apply to the following:

A. to H. [Unchanged.]

I. An agency permit required for the construction, modification, reconstruction, or operation of an air emission facility or stationary source except those activities permitted under parts 7005.0700 to 7005.0820. Parts 7001.0100, subparts 4 and 5 and 7001.0110 do not apply to permits for construction, modification, or reconstruction of a ~~facility~~ stationary source with a potential controlled net increase of a single criteria pollutant of less than 100 tons per year or to permits for operation of a facility or stationary source with an actual emission rate of a single criteria pollutant of less than 500 tons per year. Part 7001.0100, subpart 5, item C, does not apply to permits for construction, modification, or reconstruction of a ~~facility~~ stationary source with a potential controlled net increase of a single criteria pollutant of 100 tons per year to 250 tons per year or to permits for operation of a facility or stationary source with an actual emission rate of a single criteria pollutant of 500 tons per year to 5,000 tons per year. Part 7001.0040, subpart 1, applies to permits for air emission facilities or stationary sources, except that for a permit not subject to a Minnesota or federal public notice requirement, the time period referenced in that subpart shall be 90 days.

J. and K. [Unchanged.]

7001.1200 SCOPE.

Parts 7001.1200 to 7001.1220 apply to the issuance of

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permits for emissions units, air emission ~~facility permits~~ facilities or stationary sources, and supplement the agency permit rules in parts 7001.0010 to 7001.0210.

7001.1210 PERMIT REQUIREMENT.

Subpart 1. Permit required. Except as provided in subpart 2, no person may construct, modify, reconstruct, or operate an emissions unit, emission facility, stationary source, or control equipment without obtaining an air emission ~~facility~~ permit from the agency.

Subp. 2. Exemptions. A person who constructs, modifies, reconstructs, or operates an emissions unit, emission facility, or stationary source that meets one or more of the following exclusions need not obtain an air emission ~~facility~~ permit from the agency:

A. a ~~total emission facility~~ stationary source with potential emissions of a single criteria pollutant of less than 25 tons per year, except:

(1) ~~a~~ an emissions unit, emission facility, or stationary source subject to parts 7005.0900 to 7005.0960, Control of Odors in the Ambient Air;

(2) a stationary source or emission facility subject to ~~federal~~ new source performance standards; and

(3) a ~~total emission facility~~ stationary source with potential lead emissions of at least 1,000 pounds per year;

B. to D. [Unchanged.]

E. ~~a facility that uses less than 10,000 gallons of solvent borne coating per year;~~

~~P.~~ a storage tank for petroleum liquid with a capacity of less than 40,000 gallons;

~~G.~~ F. a dry bulk agricultural commodity facility with an annual commodity throughput of less than 45,000 tons;

~~H.~~ G. an incinerator with a maximum refuse burning capacity of less than 1,000 pounds per hour, unless thermally treating hazardous waste; and

~~I.~~ H. a concrete batching facility that produces

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less than 200,000 cubic yards of concrete per year.

7001.1215 PERMIT APPLICATION.

In addition to the information required by part 7001.0050, a person who requests an air emission ~~facility~~ permit shall submit the following information to the commissioner:

A. to D. [Unchanged.]

7001.1220 SPECIAL CONDITIONS FOR AIR EMISSION FACILITY PERMITS.

In addition to the special conditions in part 7001.0150, subpart 2, and if applicable to the circumstances, an air emission ~~facility~~ permit may contain special conditions including but not limited to the following:

A. standards of performance for air pollutants from an emissions unit, emission facility, or stationary source;

B. to D. [Unchanged.]

7002.0020 DEFINITIONS.

Subpart 1. to 3. [Unchanged]

Subp. 4. **Commissioner.** "Commissioner" means the ~~chief executive officer~~ commissioner of the Minnesota Pollution Control Agency.

Subp. 5. [Unchanged.]

Subp. 6. **Major emission facility.** "Major emission facility" means a ~~facility~~ stationary source having potential emissions of 100 tons per year or more of sulfur dioxide or particulate matter.

Subp. 7. [Unchanged.]

Subp. 8. [See Repealer.]

7002.0100 AIR QUALITY PERMIT FEE SCHEDULE.

Subpart 1. **Scope.** The fees established in this part are applicable to facilities and indirect sources which require an air emission ~~facility~~ permit under part 7001.1210 (permit rules, air emission ~~facility~~ permits) or an indirect source permit under part 7001.1270 (permit rules, indirect source permits). For the purpose of this part, the terms used have the meanings given them in part 7005.0100 (air pollution control rules,

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definitions).

Subp. 2. **Application fee.** A person making application for an air emission ~~facility~~ permit or an indirect source permit shall submit with the application an application fee of $80.

Subp. 3. and 4. [Unchanged.]

Subp. 5. **Annual fees.** All persons required to obtain an air emission ~~facility~~ permit shall pay the following applicable annual fee:

A. $1,040 for a major emission facility; or

B. $240 for ~~an emission facility~~ a stationary source other than a major emission facility.

The agency shall not charge an annual fee for ~~an emission facility~~ a stationary source with potential emissions of a single pollutant of more than 25 tons per year but less than 50 tons per year unless the ~~facility~~ stationary source also discharges lead to the ambient air.

Subp. 6. [Unchanged.]

7005.0100 DEFINITIONS.

Subpart 1. to 24. [Unchanged.]

Subp. 24a. **Modification.** "Modification" means a physical change or a change in the operation of an emissions unit, emission facility, or stationary source that is not allowed under a permit, stipulation agreement, or an applicable air pollution control rule, and that results in an increase in the emission of an air pollutant.

Subp. 25. to 29. [Unchanged.]

Subp. 30. **Owner or operator.** "Owner or operator" means a person who owns, leases, operates, controls, or supervises an emissions unit, emission facility, or stationary source.

Subp. 31. to 35a. [Unchanged.]

Subp. 35b. **Reconstruction.** "Reconstruction" means replacement of depreciable components of an existing ~~emission source~~ emissions unit to which a New Source Performance Standard or state air pollution control rule is applicable, to the extent that the fixed capital cost of the depreciable components

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exceeds 50 percent of the fixed capital cost of depreciable components that would be required to construct a comparable entirely new ~~emission-source~~ emissions unit.

Subp. 35c. and 35d. [Unchanged.]

Subp. 37. **Shutdown.** "Shutdown" means the cessation of operation of an emissions unit, emission facility, stationary source, or control equipment for any purpose.

Subp. 39. to 42. [Unchanged.]

Subp. 42a. **Startup.** "Startup" means the setting into operation of an emissions unit, emission facility, stationary source, or control equipment for any purpose.

Subp. 42b. and 44. [Unchanged.]

7005.0116 OPACITY STANDARD ADJUSTMENT.

Subpart 1. **Application for permit modification.** An owner or operator of an emission facility may file an application for a permit modification under parts 7005.0200 to 7005.0280 for adjustment of the opacity standard applicable to an ~~emission source~~ emissions unit. In addition to the items required under parts 7005.0200 to 7005.0280, the application must contain data that demonstrates that:

A. based on tests conducted under parts 7005.1850 to 7005.1880, the ~~emission-source~~ emissions unit is in compliance with the applicable standard of performance for particulate matter and all other standards of performance, except the opacity standard;

B. the ~~total-emission-facility~~ stationary source is in compliance with all applicable standards of performance except the opacity standard at the ~~emission-sources~~ emissions unit for which adjustments are being sought or have already been permitted by the agency; and

C. the ~~total-emission-facility~~ stationary source was operated in a manner to minimize the opacity of emissions at the ~~emission-source~~ emissions unit during the performance tests conducted under item A.

Subp. 2. Atmospheric dispersion modeling. If the data

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submitted under subpart 1 indicates that an adjustment of the opacity standard may cause or contribute to a violation of an ambient air quality standard, the agency shall require the owner or operator to conduct atmospheric dispersion modeling and include the results of the modeling in the application for a permit modification. However, a ~~total-emission-facility~~ stationary source that has potential emissions of particulate matter of less than 25 tons per year is not required to conduct modeling. Modeling must be performed according to "Guidelines on Air Quality Models ~~(OAQPS-No.-1.2-0807-United-States Environmental-Protection-Agency,-Office-of-Air-Quality-Planning and-Standards,-1978)~~," EPA-450/2-78-027R, as amended by supplemental updates, or methods that the commissioner finds to be comparably reliable. The Guidelines are incorporated by reference. The Guidelines are written and published by the USEPA, Office of Air and Radiation, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711. The guidelines are subject to frequent change and are available from the Minnesota State Law Library, Ford Building, 117 University Avenue, Saint Paul, Minnesota 55155.

Subp. 3. **Opacity adjustment determination and permit modification.** The agency shall set an adjusted opacity standard at the most restrictive level which the performance tests conducted under subpart 1, items A and C demonstrate the ~~emission-source~~ emissions unit is capable of meeting and shall modify the permit to establish the adjusted opacity standard, if the requirements of subparts 1 and 2 are met and the ~~total emission-facility~~ stationary source, with the adjusted opacity standard, would meet any one of the following:

A. to C. [Unchanged.]

7005.0520 TABLE 2.

Source Gas Volume, DSCFM[a]	Concentration GR/DSCF[b]
7,000 or less	0.100
8,000	0.096
9,000	0.092

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10,000	0.089
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160,000	0.036
180,000	0.035
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400,000	0.027
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600,000	0.024
800,000	0.021
1,000,000 or more	0.020

[a]Dry standard cubic feet per minute

[b]Grains per dry standard cubic foot.

7005.1310 METHOD OF MEASUREMENT.

Subpart 1. [Unchanged.]

Subp. 2. **Method.** Fallout sampling devices shall be placed at one or more locations beyond the premises on which ~~a source or sources~~ an emissions unit or units are located, upwind and downwind of ~~such~~ the premises. The sampling devices shall be exposed to substances settling out of the ambient air for a period of one hour. The presence of red-colored spots on the gelatin indicates that acidic substances have settled out of the air while the presence of blue-colored spots on the gelatin indicates that alkaline substances have settled out of the air. The number of spots visible on samplers exposed upwind of premises to be subtracted from the number of spots visible on samplers exposed downwind of the same premises. The difference in the number of spots, if any, shall be construed to be attributable to emissions occurring on the premises under investigation.

Subp. 3. [Unchanged.]

7005.1600 SUBSTITUTE DEVICES FOR FABRIC FILTERS.

Approved by Revisor _____

Subpart 1. [Unchanged.]

Subp. 2. Other control equipment. Compliance with any applicable provision of parts 7005.1550 to 7005.1610 which refers to a control equipment specification shall be demonstrated in accordance with this ~~section~~ part if the referenced control equipment is not used.

A. The owner or operator of the ~~emission source~~ emissions unit, or vendor of emission control equipment, shall make available to the commissioner sufficient information as may be required to demonstrate that the substitute equipment will provide the degree of emission control which, in the judgment of the commissioner, is at least as stringent as that which would be achieved by using the equipment specified in the applicable standard. To the maximum extent practicable, the determination of equivalent degree of emission control will be based upon operation at the actual conditions at which the substitute device is, or will be, operated on the ~~emission source~~ emissions unit. Factors which will be considered include, but are not limited to, total mass collection efficiency, collection efficiency versus particle size reliability, and maintenance practices associated with proper operation of the substitute device. The method used to determine the total mass collection efficiency and particle size distribution must be approved by the commissioner.

B. The owner or operator of the ~~emission source~~ emissions unit, or vendor of emission control equipment, shall submit to the commissioner performance data including, but not limited to, total mass collection efficiency and collection efficiency versus particle size of the substitute control device under actual operating conditions which are representative of those of the existing or planned operating conditions.

C. [Unchanged.]

Subp. 3. [Unchanged.]

7005.2860 STANDARDS OF PERFORMANCE FOR CERTAIN COAL HANDLING FACILITIES.

Approved by Revisor _____

The owner or operator of a new or existing coal handling facility which is located within the Minneapolis-Saint Paul Air Quality Control Region or within the boundaries of the city of Duluth shall perform the following abatement measures unless otherwise exempt by portions of these parts:

A. to F. [Unchanged.]

G. Enclosed coal handling facilities or ~~emission sources~~ emissions units not specifically covered by any other provision in these parts. If exhaust gases from any enclosed coal handling facility exceed 20 percent opacity, then the owner or operator of such facility shall select and implement one of the following further controls:

(1) and (2) [Unchanged.]

H. and I. [Unchanged.]

7005.2950 AIR POLLUTION EPISODES.

Parts 7005.2950 to 7005.3006 apply to any owner or operator of any emission facility or stationary source having allowable emissions of any air pollutant of 250 or more tons per year located within or having air pollutant emissions affecting any area within ~~the state of~~ Minnesota for which an air pollution alert, air pollution warning, air pollution emergency, or air pollution significant harm episode has been declared by the commissioner.

7005.2960 DEFINITIONS.

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Subp. 4. **Allowable emission.** "Allowable emission" means the emission rate calculated using the maximum rated capacity of the emission facility or stationary source, unless the emission facility or stationary source is subject to enforceable permit conditions which limit the operating rate or hours of operation or both, and the applicable standard of performance ~~set forth~~ in agency rules or the standard ~~set forth~~ in the permit, whichever is more stringent.

Subp. 5. to 10. [Unchanged.]

Approved by Revisor _____

7005.2990 CONTROL ACTIONS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. Episode emission reduction plan. The owner or operator of each emission facility or stationary source located within the state having allowable air pollutant emissions of at least 250 tons per year shall within 90 days of the effective date these parts submit to the commissioner an episode emission reduction plan to be implemented at the facility or stationary source in the event of a declaration by the commissioner of an air pollution episode. The plan shall be consistent with the emission reduction objectives ~~set-forth~~ in subpart 4 and shall designate at least two individuals to be notified in the event of the declaration of an air pollution episode. The plan shall be subject to the approval of the commissioner. If the commissioner finds that the plan is inconsistent with such emission reduction objectives the plan shall be returned to the owner or operator along with a written statement of the reason(s) for disapproval. The owner or operator shall correct the deficiency within 30 days of notification of disapproval and shall resubmit the plan to the commissioner.

Subp. 4. and 5. [Unchanged.]

REVISOR INSTRUCTION. In Minnesota Rules, part 7005.0390, amend the headnote to read: "Table I: Existing Indirect Heating Equipment."; part 7005.0400, amend the headnote to read: "Table II: New Indirect Heating Equipment;" and part 7005.1850, subpart 8, amend the headnote to read: "Combined or separated emissions."

In Minnesota Rules, chapter 7002, change "director" to "commissioner" where it refers to the chief executive officer of the Pollution Control Agency.

REPEALER. Minnesota Rules, part 7002.0020, subpart 8, is repealed.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Air Quality and Air Quality Permitting

AGENCY: Pollution Control Agency

MINNESOTA RULES: Chapters 7001; 7002; 7005

INCORPORATION BY REFERENCE:

Rule Number: Part 7005.0116, subpart 2

Material Incorporated: Guidelines on Air Quality Models EPA-450/2-78-027R, published by USEPA, Office of Air and Radiation, Office of Air Quality Planning and Standards.

The attached rules are approved for publication in the State Register

David S. Niss
Assistant Revisor

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendments to Permit Rules Scope, Minn. Rules Part 7001.0200; Permit Rules, Air Emission Facility Permits, Minn. Rules Part 7001.1200 to 7001.1220; Permit Fees, Air Quality Permit Fees, Minn. Rules Part 7002.0010 to 7002.0110; Air Pollution Control: General Provisions, Definitions, Minn. Rules Part 7005.0100, and Opacity Standard Adjustment, Minn. Rules Part 7005.0116; Standards of Performance For Indirect Heating Fossil Fuel Burning Equipment, Minn. Rules Part 7005.0300 to 7005.0400; Standards of Performance For Industrial Process Equipment, Minn. Rules Part 7005.0450 to 7005.0520; Emission Standards for Acid and Alkaline Fallout, Method of Measurement, Minn. Rules 7005.1310; Emission Standards for Asbestos Substitute Devices For Fabric Filters, Minn Rules 7005.1600; Continuous Monitoring, Minn. Rules 7005.1850; Standards of Performance For Certain Coal Handling Facilities, Minn. Rules Part 7005.2860; Air Pollution Episodes, Minn. Rules Part 7005.2950 to 7005.3006.

STATEMENT OF NEED AND REASONABLENESS

I. INTRODUCTION

The Minnesota Pollution Control Agency (Agency) is proposing to adopt amendments to the following rules contained in Minn. Rules chapters 7001, 7002 and 7005: Permit Rules Scope, Minn. Rules Part 7001.0200; Permit Rules, Air Emission Facility Permits, Minn. Rules Part 7001.1200 to 7001.1220; Permit Fees, Air Quality Permit Fees, Minn. Rules Part 7002.0010 to 7002.0110; Air Pollution Control: General Provisions, Definitions, Minn. Rules Part 7005.0100, and Opacity Standard Adjustment, Minn. Rules Part 7005.0116; Standards of Performance For Indirect Heating Fossil Fuel Burning Equipment, Minn. Rules Parts 7005.0300 to 7005.0400; Standards of Performance For Industrial

Process Equipment, Minn. Rules Parts 7005.0450 to 7005.0520; Emission Standards for Acid and Alkaline Fallout, Method of Measurement, Minn. Rules Part 7005.1310; Emission Standards for Asbestos, Substitute Devices For Fabric Filters, Minn. Rules 7005.1600; Continuous Monitoring, Minn. Rules Part 7005.1850; Standards of Performance For Certain Coal Handling Facilities, Minn. Rules Part 7005.2860; Air Pollution Episodes, Minn. Rules Parts 7005.2950 to 7005.3006.

Minn. Rules chapter 7005 sets forth the allowable emissions from various sources of air pollution and procedures for determining and maintaining compliance with these limitations. Minn. Rules chs. 7001 and 7002 contain permitting requirements and permit fee requirements for various sources of air pollution. These amendments are necessary to bring the rules into agreement with changes being made to Minn. Rules ch. 7005.0100 in conjunction with proposed amendments to the Offset Rules, Minn. Rules Parts 7005.3010 to 7005.3060. Many of the terms affected by the Offset Rule amendments are terms that are used generally throughout rules regarding air pollution. Therefore it is necessary to correct the usage of those terms in the remainder of the air pollution control rules.

In addition, the Agency is proposing a minor change to Air Quality Rules, Standards of Performance for Industrial Process Equipment, Table 2, Minn. Rules Part 7005.0520 that is unrelated to the definition changes mentioned previously. Table 2 is referred to in various sections of the Air Quality Rules. It specifies the concentrations of particulates in grains per

standard cubic feet allowable for specific volumes of source gas as measured in standard cubic feet per minute. The Agency proposes to modify the table so that Table 2 will specify the concentrations of particulates in grains per dry standard cubic feet allowable for specific volumes of source gas as measured in dry standard cubic feet per minute.

II. STATEMENT OF AGENCY'S STATUTORY AUTHORITY

The Agency's statutory authority to adopt the rule amendments is set forth in Minn. Stat. section 116.07, subd. 4 (1986) which provides, in relevant part:

> Pursuant and subject to the provisions of chapter 14, and the provisions hereof, the pollution control agency may adopt, amend and rescind rules and standards having the force of law relating to any purpose within the provisions of Laws 1969, chapter 1046, for the prevention, abatement, or control of air pollution. Any such rule or standard may be of general application throughout the state, or may be limited as to times, places, circumstances, or conditions in order to make due allowance for variations therein. Without limitation, rules or standards may relate to sources or emissions of air contamination or air pollution, to the quality or composition of such emissions, or to the quality of or composition of the ambient air or outdoor atmosphere or to any other matter relevant to the prevention, abatement or control of air pollution.

Under this statute the Agency has the necessary statutory authority to adopt the proposed rule amendments.

III. STATEMENT OF NEED

Minn. Stat. ch. 14 (1986) requires the Agency to make an affirmative presentation of facts establishing the need for and reasonableness of the rule amendments as proposed. In general terms, this means that the Agency must set forth the reasons for its proposal, and the reasons must not be arbitrary or capricious. However, to the extent that need and reasonableness

are separate, need has come to mean that a problem exists which requires administrative attention. Reasonableness means that the solution proposed by the Agency appropriately addresses the need.

The discussion below addresses: A) the need to change terminology in the Agency's rules relating to air pollution control; B) the need to change Table 2 of Minn. Rules 7005.0520; and C) the need to delete Item E. of Minn. Rules 7001.1210 subp. 2.

A. Need for Changes in Terminology

The need to adopt the majority these amendments arises from an associated proposal by the Agency to adopt amendments to the Offset Rules, Minn. Rules Part 7005.3010 to 7005.3060 and to Air Quality Rules Definitions, Minn. Rules Part 7005.0100 in conjunction with amendments to the Offset Rules. (The need for those amendments is discussed in detail in the Statement of Need and Reasonableness associated with that action.) Generally, the need for amendments to the Offset Rules arises from requirements of the Federal Clean Air Act, 42 U.S.C. Sections 7401, et seq. to adopt acceptable procedures for permit actions in areas that are not in compliance with ambient air quality standards. Such rules must be consistent with federal rules governing such actions and associated guidance provided by the U. S. Environmental Protection Agency (EPA) to states.

Included in the federal requirements for the Offset Rules are a number of definitions. These definitions serve as a key to understanding and consistent application of rules. While it is possible for states to adopt rules employing terminology

different from that used in federal rules, the meaning of the terms used must meet the needs of the federal definition system. It is confusing to the regulated community, as well as to Agency staff in applying and interpreting rules, when states employ different terms even if those terms are intended to have the same meaning as the federal terms. The amendments to the Offset Rules and associated amendments to Minn. Rules Part 7005.0100 are proposed in an attempt to avoid this confusion.

Once the proposed amendments to Minn. Rules Part 7005.0100 are made in conjunction with Offset Rule amendments, it is necessary that the meaning and usage of the new terms be made consistent throughout the remainder of the air quality rules. These amendments are intended to make all changes necessary for consistent and clear application of each term.

The definitions at issue, and their meanings and usages are discussed below.

The Minnesota legislature has employed the term "emission facility" as one of the items it has authorized the Agency to regulate through the use of permits. Minn. Stat. section 116.07, subd. 4a (1986), Permits, states, in part:

> The pollution control agency many issue, continue in effect or deny permits, under such conditions as it may prescribe for the prevention of pollution, for the emission of air contaminants, or for the installation or operation of any emission facility, air contaminant treatment facility, treatment facility, potential air contaminant storage facility, or storage facility, or any part thereof, or for the sources or emissions of noise pollution.

This use of the term "emission facility" is consistent with the federal usage of the term "facility" in 40 C.F.R. Part 60, Standards of Performance for New Stationary Sources.

Minn. Stat. section 116.06 (1986) and Minn. Rules Part 7005.0100, subp. 10, define emission facilty as follows:

> "Emission facility" means any structure, work, equipment, machinery, device, apparatus, or other means whereby an emission is caused to occur.

Under this definition, an "emission facility" can consist of a single machine with a single stack where a pollutant is emitted, or it can consist of many machines all contributing to a single overall operation with many stacks or points where air pollutants are emitted. An example of the first case is a single boiler. An example of the second case is a painting operation where an item is sprayed and then dried, each operation being exhausted separately. The definition of "emission facility" allows for the application of an emission standard over an entire operation, such as a solvent content requirement for the overall painting operation (spray and dry), without needing to separate the emission limit to each part of an integrated process.

While the legislature's terminology gives the Agency broad authority to focus either on "the forest" or "the trees" with respect to regulating air pollution, there is a need for terms which distinguish among the different aspects of an operation which results in the emission of air pollutants.

There is a need for a term which refers to the aggregate of all related activities at a business. For example, a business may consist of many separate spray/dry painting operations, and a term is needed to refer to the combination of all these operations. In the Agency's existing rules, this term is "total emission facility", which is defined by Minn. Rules Part

7005.0100, subp. 44 as "an assemblage of all emission sources on adjacent property that are under common ownership or control and that exist for a common function". As a part of the Agency's proposed amendments to the Offset Rule, Minn. Rules Parts 7005.3010 to 7005.3060, the Agency is proposing to repeal the rule defining "total emission facility" and adopt federal terminology for this concept. The federal term is "stationary source" (see, e.g., 40 C.F.R. section 51.165 (a)(1)(i)), and the Agency proposes to employ this term in the Offset Rules and add it to the Air Quality Definitions Rules as Minn. Rules Part 7005.0100, subp. 42c. This change will make the Agency's definitions compatible with federal regulations, but this rulemaking is needed to conform the language of the rest of the rules applicable to air pollution sources to this terminology change.

There is also a need to have a term that refers to each part of a stationary source. In the case of a painting operation, this would be used for reference to the spray booth or drying oven. It is necessary to have a term that references each portion so that conditions applicable to only one portion can be accurately stated (such as a temperature requirements on a drying oven). In the Agency's existing rules, this term is "emission source", which is defined by Minn. Rules Part 7005.0100, subp. 10a, as "a single source whereby an emission is caused to occur". As a part of the Agency's proposed amendments to the Offset Rule, the Agency is proposing to repeal the rule defining "emission source" and adopt federal terminology for this concept. The

federal term is "emissions unit" (see, e.g., 40 C.F.R. section 51.165 (a)(1)(vii)), and the Agency proposes to employ this term in the Offset Rules and add it to the Air Quality Definitions Rules as Minn. Rules Part 7005.0100, subp. 10b. This change will eliminate the confusion that has resulted from the fact that the word "source" is found in the term "stationary source" and "emission source", even though the two terms have completely different meanings.

This change in the Air Quality Definitions Rules (i.e. Minn. Rules part 7005.0100, subp. 10b) will make the Agency's definitions compatible with federal regulations. However, once the definition is changed, additional rulemaking is needed to conform the language of the other rules applicable to air pollution sources to this terminology change.

For the reasons detailed above, and in efforts to propose a an Offset Rule that is consistent with federal requirements, definitions for "stationary source" and "emissions unit" have been proposed for addition to, and the definitions of "emission source" and "total emission facility" for deletion from, Minn. Rules Part 7005.0100 as part of the Offset Rules amendment process. The pertinent definitions in those proposed rules are as follows:

> Subp. 10b. Emissions unit. "Emissions unit" means each activity that emits or has the potential to emit any air contaminant or pollutant. This includes each piece of equipment, machinery, device, appartus, activity, or any other means whereby an emission is caused to occur or has the potential to occur.
>
> Subp. 42c. Stationary source. "Stationary source" means an assemblage of all emissions units and emission facilities which belong to the same industrial grouping, are located at

one or more contiguous or adjacent properties and are under the control of the same person (or persons under common control). Emissions units or emission facilities must be considered as part of the same industrial grouping if they belong to the same "major group" (that is, which have the same two-digit code) as described in the Standard Industrial Classification Manual, 1972, as amended by the 1977 Supplement (United States Government Printing Office Stock Numbers 4101-0066 and 003-005-00176-0, respectively).

More information on the need for these specific definitions is available in the Statement of Need and Reasonableness for the Offset Rules.

The addition of these definitions required that the Agency examine all air quality rules that use the current terms "emission source", "emission facility" and "total emission facility" to determine if the existing usage is appropriate or needs to be corrected for the addition of these terms. The proposed amendments to correct the terminology are needed in order to make the rules internally consistent as well as consistent with federal terminology. Using federal terminology will in many cases make the rules easier to understand and interpret, because EPA guidance is often helpful in applying Agency rules that have been adopted as a result of requirements of the Clean Air Act.

B. Need to Change Minn. Rules Part 7005.0520, Table 2.

Table 2 of Minn. Rules Part 7005.0520 currently specifies allowable particulate emissions in the units of "grains per standard cubic feet per minute" based on the referenced exhaust gas flow rate in the units of "standard cubic feet per minute". The units in the Table need to be changed to "grains per dry standard cubic feet per minute" and "dry standard cubic feet per

minute", respectively. This need arises from an error in the original rule.

The Table specifies an allowable particulate emission rate in relation to the exhaust gas volume from an emission facility. The allowable emission rate varies with the exhaust gas volume. Exhaust gases have many physical characteristics that relate to the specifics of the process creating the exhaust. Those physical characteristics include temperature, moisture content, and pressure. Each of these physical characteristics affects the actual volume of exhaust gas. An exhaust gas stream will have a higher actual volume at a higher moisture content, for example.

In order to reflect a common basis for comparisons amongst disparate exhaust gas streams, in practice, engineers normalize the volume. Generally, 68^{o}F, one atmosphere of pressure, and zero moisture content are the conditions used. The temperature and pressure normalizations are referred to as "standard conditions". To correct the moisture content to zero, the prefix "dry" is usually added. The original intention of the rule was to establish Table 2 under such standard conditions. However, the word "dry" was omitted from the original rule.

The use of standard conditions prevents one type of industry (with a very hot wet exhaust gas stream, for example) from being allowed a different emission rate than an industry with an apparently lower exhaust gas volume when the two volumes are the same exhaust gas volume at standard conditions. After a gas is exhausted into the atmosphere, the temperature and pressure will change to ambient temperature and pressure and the moisture will

disperse or evaporate, depending on temperature conditions. The environment is ultimately affected by the same amount of exhaust gas and therefore the allowable particulate emission limits should be the same. If source gas volume and particulate concentration were not used with this interpretation (dry), the result would be unfair application of the rule because sources that run drier processes would be required to emit less particulate than those that operate processes with a higher moisture content, merely because the moisture content increases the gas volume.

The source gas volume, in the past, has been interpreted by staff as flow in dry standard cubic feet per minute, and particulate concentration has been interpreted as grains per dry standard cubic feet. This interpretation was applied in recognition of the error in the rules and has been applied on a regular basis for many years. This interpretation is consistent with federal rules that apply to industrial processes where the emissions standards are expressed as concentrations. The present source testing methodology is such that the condensed mass of water collected during sampling is not included in the mass of particulates. The proposed changes will help avoid misunderstandings in the interpretation of Table 2.

C. Need to Delete Minn. Rules Part 7001.1210, Subpart 2, Item E.

Subpart 2, Item E. of Minn. Rules Part 7001.1210, Permit Requirements, exempts a facility from permitting if it utilizes less than 10,000 gallons of solvent borne coating per year

(approximately 30-40 tons per year). Solvents are made up primarily of volatile organic compounds (VOC's) which is a major class of pollutants controlled under the Clean Air Act in order to control lower level atmosphere ozone levels. The exemption level for other major categories of pollutants is 25 tons per year.

Since the time that this rule was written, there has been a growth in concern over the levels of ozone and resultant smog in many communities in the United States. Currently, the State of Minnesota is in compliance with such standards; however, ambient air quality monitoring shows little margin for growth in this area before standards could be violated. Many states are facing the potential for a construction ban on new sources of VOC's.

In addition, many solvents may be considered toxic depending on the amount emitted and the exact solvent. Review of air toxics emissions from point sources has been identified by EPA as a state responsibility.

For these reasons, the Agency believes that it is necessary not to apply a less stringent permitting requirement for emissions of VOC's than for other major classes of pollutants, as the rule currently allows.

IV. STATEMENT OF REASONABLENESS

The majority of changes proposed in the rules fall into seven different categories. The discussion below is divided into two parts. First, the reasonableness of each category of change is addressed following the category description. Second, each part, subpart and item proposed to be amended is identified and the

categories of changes for those subparts are stated. Where additional explanation for the particular choice of correction is needed it is included in the detailed descriptions for each change.

A. Description and Reasonableness of Categories

CATEGORY I: Where the term "emission facility" or "facility" is used, change to "emissions unit, emission facility or stationary source".

"Emission facility" is the phrase used in the statute and therefore it is reasonable to maintain its use in rules wherever it is not incorrect. However, it is reasonable in some cases to clarify the use of the term "emission facility" or "facility" by referencing all cases where the rule applies or could apply. If it could apply to either an emissions unit or a stationary source, both phrases were added. Where neither the term "emissions unit" nor "stationary source" was necessary for proper application and interpretation of the rule, emission facility was not changed.

CATEGORY II: Where the term "emission facility" or "facility" is used, add "or stationary source".

"Emission facility" is the phrase used in the statute and therefore it is reasonable to maintain its use in rules wherever it is not incorrect. However, in cases where there is ambiguity with respect to whether a rule applies to each portion of a stationary source, or to the entire stationary source, it is reasonable to resolve this amibiguity by the addition of the term "stationary source" where appropriate. Where the term "stationary

source" was necessary for proper application and interpretation of the rule, "emission facility" was not deleted.

CATEGORY III: Where the term "emission facility" or "facility" is used, delete "emission facility" or "facility" and replace with "stationary source".

Where a rule is not reasonably applied to each emission facility but should be applied to the stationary source only, this change was made. This change is reasonable because it makes the rules easier to understand and interpret.

CATEGORY IV: Where the phrase "emissions source" is used, delete and replace with "emissions unit".

This change is reasonable in accordance with the changes in definitions and terminology discussed in the Statement of Need. This change will make the rules internally consistent and easier to understand and interpret.

CATEGORY V: Where the phrase "total emission facility" is used, delete and replace with "stationary source".

This change is reasonable in accordance with the changes in definitions and terminology discussed in the Statement of Need. This change will make the rules internally consistent and easier to understand and interpret.

CATEGORY VI: Change "air emission facility permit" to "air emission permit".

The current use of "air emission facility permit" implies that permits are written only for emission facilities. While this is true in the sense that any permit must contain emission facilities, it can be misleading when permits are issued for

stationary sources. By deleting the word "facility" from the phrase, the title of the permit does not imply any particular information about the contents of the permit. This allows the Agency to issue permits for emissions units, facilities or stationary sources as necessary without inherent confusion in the title. This change is reasonable because it makes the language of the rule internally consistent.

The Agency has proposed in the amendments to Offset Rules to add a definition of the term "commissioner" to mean the Commissioner of the Agency. This definition is reasonable because the 1987 Minnesota legislature changed the title of the Director of the Agency to "Commissioner" Minn. Laws 1987, ch. 186, section 15.

The Revisor of Statutes has included an instruction in the amendments to the Offset Rule that changes "director" to "commissioner" in Minn. Rules Chapters 7001 and 7005. As a part of these amendments, a Revisor's Instruction is included to change "director" to "commissioner" in Minn. Rules Chapter 7002. Therefore all previous references to "director" in these rule amendments are changed to "commissioner" without specific notation.

B. Specific Rule Amendments

The following discussion addresses the specific provisions of the proposed amendments to the Rules. Reference will be made to the Category of change as appropriate. Where the Category decription of reasonableness is sufficient, no further discussion is provided.

PERMIT RULES - GENERAL

PART 7001.0020 SCOPE, Item I.

The Agency proposes to clarify the applicability of public noticing requirements in this item. The item currently exempts emission facilities of certain sizes from public notice requirements. There are two cases in the item: first, where an increase in emissions is considered, and second, where the total existing emissions are considered. Where an increase is considered, a Category III change is made. Where the total existing emissions are considered, a Category II change is made. Four Category II changes are proposed and two Category III changes are proposed.

It is reasonable to address the increase in emissions to the stationary source, rather than a portion of a stationary source (emission facility or emissions unit) because changes could be made at many facilities at a stationary source each amounting to less than the required level for public noticing, whereas if the aggregate increase over the stationary source is considered, the public notice level would be reached. Therefore, the replacement of the term "stationary source" for "facility" will result in increased public noticing and is reasonable to insure that the public is aware of proposed emission increases through public notices.

It is reasonable to address total emissions to the stationary source as well as each facility because each facility at a stationary source could have emissions less than the required level for public noticing whereas if the aggregate of emissions

at the stationary source is considered, the public notice level would be reached. The levels included are of the magnitude that application to only emission facilities and not stationary sources would result in little public noticing. Therefore, it is reasonable to add the term "stationary source" to these cases. It is not necessary to remove the term "facility" from the rule because if the emissions from a facility are greater than the noted levels, then the emissions from the stationary source would also exceed those levels.

PERMIT RULES - AIR QUALITY

PART 7001.1200 SCOPE.

The Agency proposes a Category I change. It is reasonable to list all possible applications of the rules in the scope.

PART 7001.1210 PERMIT REQUIREMENT.

Subp. 1. The Agency proposes a Category I change.

Subp. 2. The Agency proposes a Category I change and a Category VII change.

Item A. The Agency proposes a Category V change.

(1) The Agency proposes a Category I change.

(2) The Agency proposes a Category II change. The addition of the term "emissions unit" is not necessary here because new source performance standards (40 C.F.R. Part 60) apply only to "facilities". The addition of "stationary source" is necessary to clarify that the exemption does not apply if any facility at the source is subject to new source performance standards.

(3) The Agency proposes a Category V change.

Item E. The Agency proposes to delete this permitting exemption. The current language could exempt a stationary source from permit requirements if each emission facility utilized less than 10,000 gallons of solvent borne coating per year (approximately 30-40 tons per year). Solvents are primarily made up of volatile organic compounds (VOC's). VOC's are controlled in order to control lower level atmospheric ozone concentrations.

Subpart 2 exempts stationary sources from permitting if they have a potential to emit less than 25 tons per year. This exemption level was considered reasonable for all pollutants except lead and volatile organic compounds (VOC's) used as solvents when the rule was originally written.

Lead is emitted and is toxic at low levels and therefore the lower exemption level for it (1000 pounds) is reasonable. The other major classes of pollutants - particulate, carbon monoxide, nitrogen dioxide and sulfur oxides - are emitted in the same general magnitude as VOC's. It is reasonable, given the additional concern over this pollutant at this time as discussed in the Statement of Need, to utilize the exemption level established for other major classes of pollutants for VOC's as well. This also improves consistency in application of rules to major classes of pollutants.

Further, it is unreasonable to apply an exemption for VOC's use based only on solvent use when there are other sources of emissions for VOC's. The rule as currently written applies a different permitting standard to VOC's emissions from solvent use

than for VOC's emissions from other operations - such as many wood burning operations, for example.

PART 7001.1215 PERMIT APPLICATION.

The Agency proposes a Category VI change.

PART 7001.1220 SPECIAL CONDITIONS FOR AIR EMISSION FACILITY PERMITS

The Agency proposed a Category VI change.

Item. A. The Agency proposed a Category I change.

AIR QUALITY PERMIT FEES

PART 7002.0020 DEFINITIONS.

Subp. 4. The Agency proposes to amend the definition of "commissioner" to delete reference to the "chief executive officer". This will result in a definition of "commissioner" that is consistent with the definition proposed in amendments to the Offset Rules.

Subp. 6. The Agency proposes a Category III change. It is reasonable that fees apply only to a stationary source and not to each facility at a stationary source. The burden on the Agency of billing and tracking of fees for each facility at each stationary source in a billing system would not be reasonable. Further, it is clear that when the Agency adopted fee rules, the Agency intended to collect fees on the basis of the size of the stationary source not each facility at a stationary source. During the rulemaking proceedings on fee rules, lists of stationary sources were used to derive and discuss the number of affected stationary sources and the amount and type of those affects. The Agency does not, however, propose to replace the

term "major emission facility" with the term "major stationary source" because "major stationary source" has meaning on a federal level that is not the same as the meaning in this part. Therefore, use of that phrase would increase confusion concerning the rules instead of reducing such confusion. Therefore the term "major emission facility" is proposed to be maintained, and the definition has been clarified.

Subp. 8. [See Repealer.]

PART 7002.0100 AIR QUALITY PERMIT FEE SCHEDULE.

Subp. 1. The Agency proposes two Category VI changes.

Subp. 2. The Agency proposes a Category VI change.

Subp. 5. The Agency proposes a Category VI change.

Item B. The Agency proposes a Category III change. This is reasonable because it makes the rule internally consistent in light of the change proposed to Part 7002.0020, subp. 6.

The Agency proposes two Category III changes in the last paragraph of this Part. This is reasonable because it makes the rule internally consistent in light of the the proposed changes to Part 7002.0020, subp. 6.

AIR QUALITY

GENERAL PROVISIONS PART 7005.0100 DEFINITIONS.

Subp. 24a. The Agency proposes a Category I change.

Subp. 30. The Agency proposes a Category I change.

Subp. 35b. The agency proposes two Category IV changes.

Subp. 37. The Agency proposes a Category I change.

Subp. 42a. The Agency proposes a Category I change.

PART 7005.0116 OPACITY STANDARD ADJUSTMENT.

Subp. 1. The Agency proposes a Category IV change.

A. The Agency proposes a Category IV change.

B. The Agency proposes a Category V change and a Category IV change.

C. The Agency proposes a Category V change and a Category IV change.

Subp. 2. The Agency proposes a Category V change.

The Agency also proposes to amend the reference to "Guidelines on Air Quality Model" from its former number and date (OAQPS No. 1.2 080 1978) to its updated number and date EPA-450/2-78-027R, July, 1986, as amended. This is reasonable because EPA has updated this document since the Agency's Offset Rule was adopted in 1981.

Further, the Agency is proposing to add language which incorporates by reference EPA's "Guidelines on Air Quality Models," EPA-450/2-78-027R, as amended by supplemental updates. This is needed because the amendment proposed above references this document, thus triggering the requirement of Minn. Stat. section 14.07, subd. 4 (1986) to include a statement of incorporation which "must identify by title, author, publisher, and the date of publication the standard or material to be incorporated; must state whether the material is subject to frequent change; and must contain a statement of availability." The proposed rule is reasonable because it meets all the requirements of Minn. Stat. section 14.07, subd. 4 (1986).

Subp. 3. The Agency proposes a Category IV change and a Category V change.

STANDARDS OF PERFORMANCE FOR INDUSTRIAL PROCESS EQUIPMENT

PART 7005.0520 Table 2. Source gas volume correction.

The Agency proposes to clarify the source gas volume and allowable emission rate by adding the word "dry" to the table headings. The proposed change is reasonable because it will ensure that all emissions sources will be treated equally regardless of the moisture content of the emissions. Under Minn. Rules Part 7005.0100, General Provisions, the other two variables (standard temperature and pressure) which are used in correcting volumetric flow rates are defined.

By defining the source gas volume and the concentration of particulates on a dry basis, Table 2 will be consistent with federal regulations for different types of industrial sources that establish emissions limits as pollutant concentrations in effluent gases. [40 C.F.R. Part 60, subpart L (Standards of Performance for Secondary Lead Smelters), subpart M (Standards of Performance for Secondary Brass and Bronze Production Plants), subpart N (Standards of Performance for Primary Emissions from Basic Oxygen Process Furnances for Which Construction is Commenced After June 11, 1973), subpart P (Standards of Performance for Primary Copper Smelters), subpart Q (Standards of Performance for Primary Zinc Smelters), subpart R (Standards of Performance for Primary Lead Smelters), subpart Y (Standards of Performance for Coal Preparation Plants), subpart AA (Standards of Performance for Steel Plants: Electric Arc Furnaces Constructed After October 21, 1974 and on or Before August 17, 1983), subpart AAa (Standards of Performance for Steel Plants:

Electric Arc Furnaces and Argon-Oxygen Decarburization Vessels Constructed After August 7, 1983), subpart BB (Standards of Performance for Kraft Pulp Mills), subpart DD (Standards of Performance for Grain Elevators), subpart KK (Standards of Performance for Lead-Acid Battery Manufacturing Plants), and subpart LL (Standards of Performance for Metallic Mineral Processing Plants].

EMISSIONS STANDARDS FOR ACID AND ALKALINE FALLOUT

PART 7005.1310 METHOD OF MEASUREMENT.

Subp. 2. The Agency proposes a Category IV change.

EMISSION STANDARDS FOR ASBESTOS

PART 7005.1600 SUBSTITUTE DEVICES FOR FABRIC FILTERS

Subp. 2. The Revisor of Statutes has required that the reference to "this section" be changed to "this part". This change is reasonable because it conforms the rules to standard language required by the Revisor of Statutes.

Item A. The Agency proposes three Category IV changes.

Item B. The Agency proposes a Category IV change.

STANDARDS OF PERFORMANCE FOR COAL HANDLING FACILITIES.

PART 7005.2860 STANDARDS OF PERFORMANCE FOR CERTAIN COAL HANDLING FACILITIES.

Subp. G. The Agency proposes a Category IV change.

AIR POLLUTION EPISODES

PART 7005.2950 AIR POLLUTION EPISODES.

The Agency proposes a Category II change. If only the term "emission facility" is maintained in this subpart, then a stationary source with emissions of greater than 250 tons per

year but made up of many small emission facilities would not be required to participate in the activities required under this part. The intent of this part is to ensure that emergency plans are available in the event of an air pollution episode. Therefore it is reasonable to include stationary sources with emissions greater than 250 tons per year and not only emission facilities. The addition of the term "emissions unit" to the rule is not necessary because if an emissions unit has emissions greater than 250 tons per year than it is necessarily true that the emission facility and stationary source do as well.

PART 7005.2960 DEFINITIONS.

Subp. 4. The Agency proposes two Category II changes. These changes are reasonable for the same reasons discussed under Part 7005.2950. In addition, the Revisor of Statutes has required that the phrase "set forth" be deleted in this part. This change is reasonable because it conforms the language of the rules to standard language required by the Revisor of Statutes.

PART 7005.2990 CONTROL ACTIONS.

Subp. 3. The Agency proposes two Category II changes. These changes are reasonable for the same reasons discussed under Part 7005.2950.

REVISOR'S INSTRUCTIONS

1. STANDARDS OF PERFORMANCE FOR INDIRECT HEATING FOSSIL FUEL BURNING EQUIPMENT PART 7005.0390 Table I and PART 7005.0400 Table II: The Agency proposes to replace the titles "Existing Sources" and "New Sources" with "Existing Indirect Heating Equipment" and "New Indirect Heating Equipment". These headnotes are

descriptive only and do not officially constitute part of the rule.

2. MONITORING, TESTING AND REPORTING REQUIREMENTS

PART 7005.1850 CONTINUOUS MONITORING.

Subp. 8. The Agency proposes to avoid confusion in the use of the term "sources" by replacing the headnote "Number of sources of emissions" with "Combined or separted emissions". Again, this headnote is descriptive only and does not officially constitute a part of the rule.

3. This instruction changes all references to "director" in Minn. Rules Chapter 7002 to "commissioner". This change is required because the 1987 Minnesota legislature changed the title of the Director of the Agency to "Commissioner", Minn. Laws 1987, ch. 186, section 15. (This change is proposed for Minn. Rules chapters 7001 and 7005 by a revisor's instruction in the amendments to the Offset Rules and is therfore not repeated here.)

REPEALER

AIR QUALITY PERMIT FEES PART 7002.0020 DEFINITIONS.

Subp. 8. The definition of "total emission facility" is proposed to be repealed. This is reasonable because it is consistent with the repeal of the definition of "total emission facility" in Minn. Rules Part 7005.0100 and the proposed adoption of the definition of "stationary source" in that part as a part of the amendments to the Offset Rules.

V. SMALL BUSINESSS CONSIDERATIONS IN RULEMAKING

Minn. Stat. section 14.115, subd. 2 (1986) requires the

Agency, when proposing rules which may affect small businesses, to consider the following methods for reducing the impact on small businesses:

(a) the establishment of less stringent compliance or reporting requirements for small businesses;

(b) the establishment of less stringent schedules or deadllines for compliance or reporting requirements for small businesses;

(c) the consolidation or simplification of compliance or reporting requirements for small businesses;

(d) the establishment of performance standards for small businesses to replace design or operational standards required in this rule; and

(e) the exemption of small businesses from any or all requirements of the rule.

The proposed change will not affect small businesses as defined in Minn. Stat. section 14.115 (1986) because the scope of the rules and their basic requirements remain unchanged.

VI. CONSIDERATION OF ECONOMIC FACTORS

In exercising its powers, the Agency is required by Minn. Stat. section 116.07, subd. 6 (1986) to give due consideration to economic factors. The statute provides:

> In exercising all its powers the pollution control agency shall give due consideration to the establishment, maintenence, operation and expansion of business, commerce, trade, industry, traffic, and other economic factors and other material matters affecting the feasibilty and practicability of an proposed action, including, but not limited to, the burden on a municipality of any tax which may result therefrom, and shall take or provide for such actin as may be reasonbable, feasible, and practical uner the circumstances.

In proposing these amendments, the Agency has given due consideration to available information as to any economic impacts the proposed rules would have.

The proposed changes are needed in order to ensure fair and consistent application of the rules to all sources. The application of existing rules led to confusion within the regulated community and therefore the proposed change should have a positive economic impact in the sense that less time will be spent by the regulated community in determining the applicability of Minnesota rules as compared to federal regulations. The proposed changes will not have an significant economic impact since they relate only to clarifying the applicability of certain requirements. The scope of the rules is not changed.

VII. CONCLUSION

Based on the foregoing, the proposed amendments to Minn. Rules Chs. 7001, 7002 and 7005 as discussed herein are needed and reasonable.

Dated: September 15, 1988

for Barbara Lindsey Sims
Gerald L. Willet
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendments to Permit Rules Scope, Minn. Rules Part 7001.0200; Permit Rules, Air Emission Facility Permits, Minn. Rules Part 7001.1200 to 7001.1220; Permit Fees, Air Quality Permit Fees, Minn. Rules Part 7002.0010 to 7002.0110; Air Pollution Control: General Provisions, Definitions, Minn. Rules Part 7005.0100, and Opacity Standard Adjustment, Minn. Rules Part 7005.0116; Standards of Performance For Indirect Heating Fossil Fuel Burning Equipment, Minn. Rules Part 7005.0300 to 7005.0400; Standards of Performance For Industrial Process Equipment, Minn. Rules Part 7005.0450 to 7005.0520; Emission Standards for Acid and Alkaline Fallout, Method of Measurement, Minn. Rules 7005.1310; Emission Standards for Asbestos Substitute Devices For Fabric Filters, Minn. Rules 7005.1600; Continuous Monitoring, Minn. Rules 7005.1850; Standards of Performance For Certain Coal Handling Facilities, Minn. Rules Part 7005.2860; Air Pollution Episodes, Minn. Rules Part 7005.2950 to 7005.3006.

AFFIDAVIT OF MAILING THE NOTICE OF INTENT TO ADOPT RULES WITHOUT A PUBLIC HEARING AND CERTIFICATE OF MAILING LIST

STATE OF MINNESOTA

COUNTY OF RAMSEY

Elizabeth L. Henderson, being duly sworn says:

I hereby certify that the list of persons and associations who have requested, pursuant to Minn. Stat. sections 14.14 subd. 1a and 14.22 (1986) that their names be placed on the Minnesota Pollution Control Agency's rulemaking list is accurate, complete, and current as of this 24th day of October, 1988.

That on the 24th day of October, 1988, at the City of St. Paul, County of Ramsey, State of Minnesota, I mailed the attached Notice of Intent to Adopt Rules Without a Public Hearing by depositing in the State of Minnesota Central Mail System for United States Mail or in the United States mail a copy thereof, with postage prepaid, to all persons and associations on the aforementioned mailing list.

Elizabeth L Henderson

Subscribed and sworn to before me this

24 day of October, 1988.

Ardith M. Vos

Notary Public

ARDITH M. VOS
NOTARY PUBLIC — MINNESOTA
ANOKA COUNTY
My commission expires 1-12-94

Pollution Control Agency

Proposed Permanent Rules Relating to Air Quality and Air Quality Permitting

Rules as Proposed

7001.0020 SCOPE.

Except as otherwise specifically provided, parts 7001.0010 to 7001.0210 apply to the following:

A. to H. [Unchanged.]

I. An agency permit required for the construction, modification, reconstruction, or operation of an air emission facility or stationary source except those activities permitted under parts 7005.0700 to 7005.0820. Parts 7001.0100, subparts 4 and 5 and 7001.0110 do not apply to permits for construction, modification, or reconstruction of a ~~facility~~ stationary source with a potential controlled net increase of a single criteria pollutant of less than 100 tons per year or to permits for operation of a facility or stationary source with an actual emission rate of a single criteria pollutant of less than 500 tons per year. Part 7001.0100, subpart 5, item C, does not apply to permits for construction, modification, or reconstruction of a ~~facility~~ stationary source with a potential controlled net increase of a single criteria pollutant of 100 tons per year to 250 tons per year or to permits for operation of a facility or stationary source with an actual emission rate of a single criteria pollutant of 500 tons per year to 5,000 tons per year. Part 7001.0040, subpart 1, applies to permits for air emission facilities or stationary sources, except that for a permit not subject to a Minnesota or federal public notice requirement, the time period referenced in that subpart shall be 90 days.

J. and K. [Unchanged.]

7001.1200 SCOPE.

Parts 7001.1200 to 7001.1220 apply to the issuance of

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permits for emissions units, air emission ~~facility-permits~~ facilities or stationary sources, and supplement the agency permit rules in parts 7001.0010 to 7001.0210.

7001.1210 PERMIT REQUIREMENT.

Subpart 1. Permit required. Except as provided in subpart 2, no person may construct, modify, reconstruct, or operate an emissions unit, emission facility, stationary source, or control equipment without obtaining an air emission ~~facility~~ permit from the agency.

Subp. 2. Exemptions. A person who constructs, modifies, reconstructs, or operates an emissions unit, emission facility, or stationary source that meets one or more of the following exclusions need not obtain an air emission ~~facility~~ permit from the agency:

A. a ~~total-emission-facility~~ stationary source with potential emissions of a single criteria pollutant of less than 25 tons per year, except:

(1) ~~a~~ an emissions unit, emission facility, or stationary source subject to parts 7005.0900 to 7005.0960, Control of Odors in the Ambient Air;

(2) a stationary source or emission facility subject to ~~federal~~ new source performance standards; and

(3) a ~~total-emission-facility~~ stationary source with potential lead emissions of at least 1,000 pounds per year;

B. to D. [Unchanged.]

E. ~~a-facility-that-uses-less-than-10,000-gallons-of solvent-borne-coating-per-year;~~

~~F;~~ a storage tank for petroleum liquid with a capacity of less than 40,000 gallons;

~~G;~~ F. a dry bulk agricultural commodity facility with an annual commodity throughput of less than 45,000 tons;

~~H;~~ G. an incinerator with a maximum refuse burning capacity of less than 1,000 pounds per hour, unless thermally treating hazardous waste; and

~~I;~~ H. a concrete batching facility that produces

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less than 200,000 cubic yards of concrete per year.

7001.1215 PERMIT APPLICATION.

In addition to the information required by part 7001.0050, a person who requests an air emission ~~facility~~ permit shall submit the following information to the commissioner:

A. to D. [Unchanged.]

7001.1220 SPECIAL CONDITIONS FOR AIR EMISSION FACILITY PERMITS.

In addition to the special conditions in part 7001.0150, subpart 2, and if applicable to the circumstances, an air emission ~~facility~~ permit may contain special conditions including but not limited to the following:

A. standards of performance for air pollutants from an emissions unit, emission facility, or stationary source;

B. to D. [Unchanged.]

7002.0020 DEFINITIONS.

Subpart 1. to 3. [Unchanged]

Subp. 4. **Commissioner.** "Commissioner" means the ~~chief executive officer~~ commissioner of the Minnesota Pollution Control Agency.

Subp. 5. [Unchanged.]

Subp. 6. **Major emission facility.** "Major emission facility" means a ~~facility~~ stationary source having potential emissions of 100 tons per year or more of sulfur dioxide or particulate matter.

Subp. 7. [Unchanged.]

Subp. 8. [See Repealer.]

7002.0100 AIR QUALITY PERMIT FEE SCHEDULE.

Subpart 1. **Scope.** The fees established in this part are applicable to facilities and indirect sources which require an air emission ~~facility~~ permit under part 7001.1210 (permit rules, air emission ~~facility~~ permits) or an indirect source permit under part 7001.1270 (permit rules, indirect source permits). For the purpose of this part, the terms used have the meanings given them in part 7005.0100 (air pollution control rules,

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definitions).

Subp. 2. **Application fee.** A person making application for an air emission ~~facility~~ permit or an indirect source permit shall submit with the application an application fee of $80.

Subp. 3. and 4. [Unchanged.]

Subp. 5. **Annual fees.** All persons required to obtain an air emission ~~facility~~ permit shall pay the following applicable annual fee:

A. $1,040 for a major emission facility; or

B. $240 for ~~an emission facility~~ a stationary source other than a major emission facility.

The agency shall not charge an annual fee for ~~an emission facility~~ a stationary source with potential emissions of a single pollutant of more than 25 tons per year but less than 50 tons per year unless the ~~facility~~ stationary source also discharges lead to the ambient air.

Subp. 6. [Unchanged.]

7005.0100 DEFINITIONS.

Subpart 1. to 24. [Unchanged.]

Subp. 24a. **Modification.** "Modification" means a physical change or a change in the operation of an emissions unit, emission facility, or stationary source that is not allowed under a permit, stipulation agreement, or an applicable air pollution control rule, and that results in an increase in the emission of an air pollutant.

Subp. 25. to 29. [Unchanged.]

Subp. 30. **Owner or operator.** "Owner or operator" means a person who owns, leases, operates, controls, or supervises an emissions unit, emission facility, or stationary source.

Subp. 31. to 35a. [Unchanged.]

Subp. 35b. **Reconstruction.** "Reconstruction" means replacement of depreciable components of an existing ~~emission source~~ emissions unit to which a New Source Performance Standard or state air pollution control rule is applicable, to the extent that the fixed capital cost of the depreciable components

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exceeds 50 percent of the fixed capital cost of depreciable components that would be required to construct a comparable entirely new ~~emission-source~~ emissions unit.

Subp. 35c. and 35d. [Unchanged.]

Subp. 37. Shutdown. "Shutdown" means the cessation of operation of an emissions unit, emission facility, stationary source, or control equipment for any purpose.

Subp. 39. to 42. [Unchanged.]

Subp. 42a. Startup. "Startup" means the setting into operation of an emissions unit, emission facility, stationary source, or control equipment for any purpose.

Subp. 42b. and 44. [Unchanged.]

7005.0116 OPACITY STANDARD ADJUSTMENT.

Subpart 1. **Application for permit modification.** An owner or operator of an emission facility may file an application for a permit modification under parts 7005.0200 to 7005.0280 for adjustment of the opacity standard applicable to an ~~emission source~~ emissions unit. In addition to the items required under parts 7005.0200 to 7005.0280, the application must contain data that demonstrates that:

A. based on tests conducted under parts 7005.1850 to 7005.1880, the ~~emission-source~~ emissions unit is in compliance with the applicable standard of performance for particulate matter and all other standards of performance, except the opacity standard;

B. the ~~total-emission-facility~~ stationary source is in compliance with all applicable standards of performance except the opacity standard at the ~~emission-sources~~ emissions unit for which adjustments are being sought or have already been permitted by the agency; and

C. the ~~total-emission-facility~~ stationary source was operated in a manner to minimize the opacity of emissions at the ~~emission-source~~ emissions unit during the performance tests conducted under item A.

Subp. 2. Atmospheric dispersion modeling. If the data

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submitted under subpart 1 indicates that an adjustment of the opacity standard may cause or contribute to a violation of an ambient air quality standard, the agency shall require the owner or operator to conduct atmospheric dispersion modeling and include the results of the modeling in the application for a permit modification. However, a ~~total emission facility~~ stationary source that has potential emissions of particulate matter of less than 25 tons per year is not required to conduct modeling. Modeling must be performed according to "Guidelines on Air Quality Models ~~(OAQPS No. 1.2-080, United States Environmental Protection Agency, Office of Air Quality Planning and Standards, 1978),~~" EPA-450/2-78-027R, as amended by supplemental updates, or methods that the commissioner finds to be comparably reliable. The Guidelines are incorporated by reference. The Guidelines are written and published by the USEPA, Office of Air and Radiation, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711. The guidelines are subject to frequent change and are available from the Minnesota State Law Library, Ford Building, 117 University Avenue, Saint Paul, Minnesota 55155.

Subp. 3. **Opacity adjustment determination and permit modification.** The agency shall set an adjusted opacity standard at the most restrictive level which the performance tests conducted under subpart 1, items A and C demonstrate the ~~emission source~~ emissions unit is capable of meeting and shall modify the permit to establish the adjusted opacity standard, if the requirements of subparts 1 and 2 are met and the ~~total emission facility~~ stationary source, with the adjusted opacity standard, would meet any one of the following:

A. to C. [Unchanged.]

7005.0520 TABLE 2.

Source Gas Volume, DSCFM[a]	Concentration GR/DSCF[b]
7,000 or less	0.100
8,000	0.096
9,000	0.092

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10,000	0.089
20,000	0.071
30,000	0.062
40,000	0.057
50,000	0.053
60,000	0.050
80,000	0.045
100,000	0.042
120,000	0.040
140,000	0.038
160,000	0.036
180,000	0.035
200,000	0.034
300,000	0.030
400,000	0.027
500,000	0.025
600,000	0.024
800,000	0.021
1,000,000 or more	0.020

[a]Dry standard cubic feet per minute

[b]Grains per dry standard cubic foot.

7005.1310 METHOD OF MEASUREMENT.

Subpart 1. [Unchanged.]

Subp. 2. **Method.** Fallout sampling devices shall be placed at one or more locations beyond the premises on which ~~a source or sources~~ an emissions unit or units are located, upwind and downwind of ~~such~~ the premises. The sampling devices shall be exposed to substances settling out of the ambient air for a period of one hour. The presence of red-colored spots on the gelatin indicates that acidic substances have settled out of the air while the presence of blue-colored spots on the gelatin indicates that alkaline substances have settled out of the air. The number of spots visible on samplers exposed upwind of premises to be subtracted from the number of spots visible on samplers exposed downwind of the same premises. The difference in the number of spots, if any, shall be construed to be attributable to emissions occurring on the premises under investigation.

Subp. 3. [Unchanged.]

7005.1600 SUBSTITUTE DEVICES FOR FABRIC FILTERS.

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Subpart 1. [Unchanged.]

Subp. 2. Other control equipment. Compliance with any applicable provision of parts 7005.1550 to 7005.1610 which refers to a control equipment specification shall be demonstrated in accordance with this ~~section~~ part if the referenced control equipment is not used.

A. The owner or operator of the ~~emission-source~~ emissions unit, or vendor of emission control equipment, shall make available to the commissioner sufficient information as may be required to demonstrate that the substitute equipment will provide the degree of emission control which, in the judgment of the commissioner, is at least as stringent as that which would be achieved by using the equipment specified in the applicable standard. To the maximum extent practicable, the determination of equivalent degree of emission control will be based upon operation at the actual conditions at which the substitute device is, or will be, operated on the ~~emission-source~~ emissions unit. Factors which will be considered include, but are not limited to, total mass collection efficiency, collection efficiency versus particle size reliability, and maintenance practices associated with proper operation of the substitute device. The method used to determine the total mass collection efficiency and particle size distribution must be approved by the commissioner.

B. The owner or operator of the ~~emission-source~~ emissions unit, or vendor of emission control equipment, shall submit to the commissioner performance data including, but not limited to, total mass collection efficiency and collection efficiency versus particle size of the substitute control device under actual operating conditions which are representative of those of the existing or planned operating conditions.

C. [Unchanged.]

Subp. 3. [Unchanged.]

7005.2860 STANDARDS OF PERFORMANCE FOR CERTAIN COAL HANDLING FACILITIES.

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The owner or operator of a new or existing coal handling facility which is located within the Minneapolis-Saint Paul Air Quality Control Region or within the boundaries of the city of Duluth shall perform the following abatement measures unless otherwise exempt by portions of these parts:

A. to F. [Unchanged.]

G. Enclosed coal handling facilities or ~~emission sources~~ emissions units not specifically covered by any other provision in these parts. If exhaust gases from any enclosed coal handling facility exceed 20 percent opacity, then the owner or operator of such facility shall select and implement one of the following further controls:

(1) and (2) [Unchanged.]

H. and I. [Unchanged.]

7005.2950 AIR POLLUTION EPISODES.

Parts 7005.2950 to 7005.3006 apply to any owner or operator of any emission facility or stationary source having allowable emissions of any air pollutant of 250 or more tons per year located within or having air pollutant emissions affecting any area within ~~the state of~~ Minnesota for which an air pollution alert, air pollution warning, air pollution emergency, or air pollution significant harm episode has been declared by the commissioner.

7005.2960 DEFINITIONS.

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Allowable emission.** "Allowable emission" means the emission rate calculated using the maximum rated capacity of the emission facility or stationary source, unless the emission facility or stationary source is subject to enforceable permit conditions which limit the operating rate or hours of operation or both, and the applicable standard of performance ~~set forth~~ in agency rules or the standard ~~set forth~~ in the permit, whichever is more stringent.

Subp. 5. to 10. [Unchanged.]

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7005.2990 CONTROL ACTIONS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. Episode emission reduction plan. The owner or operator of each emission facility or stationary source located within the state having allowable air pollutant emissions of at least 250 tons per year shall within 90 days of the effective date these parts submit to the commissioner an episode emission reduction plan to be implemented at the facility or stationary source in the event of a declaration by the commissioner of an air pollution episode. The plan shall be consistent with the emission reduction objectives ~~set forth~~ in subpart 4 and shall designate at least two individuals to be notified in the event of the declaration of an air pollution episode. The plan shall be subject to the approval of the commissioner. If the commissioner finds that the plan is inconsistent with such emission reduction objectives the plan shall be returned to the owner or operator along with a written statement of the reason(s) for disapproval. The owner or operator shall correct the deficiency within 30 days of notification of disapproval and shall resubmit the plan to the commissioner.

Subp. 4. and 5. [Unchanged.]

REVISOR INSTRUCTION. In Minnesota Rules, part 7005.0390, amend the headnote to read: "Table I: Existing Indirect Heating Equipment."; part 7005.0400, amend the headnote to read: "Table II: New Indirect Heating Equipment;" and part 7005.1850, subpart 8, amend the headnote to read: "Combined or separated emissions."

In Minnesota Rules, chapter 7002, change "director" to "commissioner" where it refers to the chief executive officer of the Pollution Control Agency.

REPEALER. Minnesota Rules, part 7002.0020, subpart 8, is repealed.

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Office of the Revisor of Statutes

Administrative Rules

TITLE: Proposed Permanent Rules Relating to Air Quality and Air Quality Permitting

AGENCY: Pollution Control Agency

MINNESOTA RULES: Chapters 7001; 7002; 7005

INCORPORATION BY REFERENCE:

Rule Number: Part 7005.0116, subpart 2

Material Incorporated: Guidelines on Air Quality Models EPA-450/2-78-027R, published by USEPA, Office of Air and Radiation, Office of Air Quality Planning and Standards.

The attached rules are approved for publication in the State Register

David S. Niss
Assistant Revisor

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4740.0160 ACCREDITATION RENEWAL.

A laboratory shall submit an application for renewal of accreditation with the applicable renewal fee, no later than 30 days before the expiration date of the current accreditation. The renewal application shall contain the same information required for an initial application in part 4740.0120, subpart 2. At the time of application for a renewal of its accreditation, the laboratory shall also submit or have available for inspection the documents listed in part 4740.0120, subpart 3. Unless a laboratory submits a timely application for accreditation renewal, the accreditation expires without further notice at the end of the term.

4740.0170 ACCREDITATION; SUSPENSION AND REVOCATION.

The commissioner may, pursuant to *Minnesota Statutes*, chapter 14, suspend, revoke, refuse to renew, condition, or limit the accreditation of a laboratory upon finding that the laboratory has repeatedly violated provisions of parts 4740.0100 to 4740.0160 or has repeatedly failed to meet standards defined under the rule applicable to the specific laboratory test for which the laboratory is accredited.

Pollution Control Agency

Proposed Permanent Rules Relating to Air Quality and Air Quality Permitting

Notice of Intent to Adopt Rule Amendments Without a Public Hearing

NOTICE IS HEREBY GIVEN that the Minnesota Pollution Control Agency (Agency) intends to adopt the above-entitled rule amendments without a public hearing following the procedures set forth in the Administrative Procedure Act for adopting rule amendments without a public hearing in *Minnesota Statutes* section 14.22 to 14.28 (1986). The Agency's authority to adopt the rule amendments is set forth in *Minnesota Statutes* section 116.07, subd. 4 (1986).

All persons have until 4:30 p.m. on November 30, 1988, to submit comments in support of or in opposition to the proposed rule amendments or any part or subpart of the rule amendments. Comment is encouraged. Each comment should identify the portion of the proposed rule amendments addressed, the reason for the comment, and any change proposed.

Any person may make a written request for a public hearing on the rule amendments within the comment period. If 25 or more persons submit a written request for a public hearing within the comment period, a public hearing will be held unless a sufficient number withdraw their requests in writing. Any person requesting a public hearing should state his or her name and address, and is encouraged to identify the portion of the proposed rule amendments addressed, the reason for the request, and any change proposed. If a public hearing is required, the Agency will proceed pursuant to *Minnesota Statutes* section 14.131 to 14.20 (1986).

Comments or written requests for a public hearing must be submitted to:

Ms. Elizabeth Henderson
Staff Engineer
Minnesota Pollution Control
Division of Air Quality
520 Lafayette Road North
St. Paul, Minnesota 55155
(612) 296-7554

The proposed rule amendments may be modified if the modifications are supported by data and views submitted to the Agency and do not result in a substantial change in the proposed rule amendments as noticed.

The proposed rule amendments, if adopted, will bring air quality rule terminology into agreement with proposed amendments to *Minnesota Rules* ch. 7005.0100 in conjunction with proposed amendments to the Offset Rules, *Minnesota Rules* Parts 7005.3010 to 7005.3060, which are being promulgated in a separate rulemaking proceeding. The rule amendments will also change *Minnesota Rules* Part 7005.0520, Table 2 to reference "dry" standard cubic feet per minute in reference to exhaust gases from industrial equipment; and will delete *Minnesota Rules* Part 7001.1210, Subpart 2, Item E. which exempts facilities using less than 10,000 gallons of solvent borne coating per year from air emission facility permitting requirements. The proposed rule amendments are published below. One free copy of the rule amendments is available upon request from Ms. Henderson at the address and telephone number stated above.

A Statement of Need and Reasonableness that describes the need for and reasonableness of each provision of the proposed rule amendments and identifies the data and information relied upon to support the proposed rule amendments has been prepared and is available from Ms. Henderson upon request.

You are hereby advised, pursuant to *Minnesota Statutes* section 14.115 (1986), "Small business considerations in rulemaking," that the proposed rule amendments will not affect small businesses as defined in *Minnesota Statutes* section 14.115 (1986) because the basic requirements of the rules remain unchanged.

If no hearing is required, upon adoption of the rule amendments, the rule amendments and the required supporting documents will be submitted to the Attorney General for review as to legality and form to the extent form relates to legality. Any person may request notification of the date of submission to the Attorney General. Persons who wish to be advised of the submission of this material to the Attorney General, or who wish to receive a copy of the rule amendments as adopted, must submit a written request to Ms. Henderson.

Gerald L. Willet, Commissioner

Rules as Proposed

7001.0020 SCOPE.

Except as otherwise specifically provided, parts 7001.0010 to 7001.0210 apply to the following:

A. to H. [Unchanged.]

I. An agency permit required for the construction, modification, reconstruction, or operation of an air emission facility or stationary source except those activities permitted under parts 7005.0700 to 7005.0820. Parts 7001.0100, subparts 4 and 5 and 7001.0110 do not apply to permits for construction, modification, or reconstruction of a ~~facility~~ stationary source with a potential controlled net increase of a single criteria pollutant of less than 100 tons per year or to permits for operation of a facility or stationary source with an actual emission rate of a single criteria pollutant of less than 500 tons per year. Part 7001.0100, subpart 5, item C, does not apply to permits for construction, modification, or reconstruction of a ~~facility~~ stationary source with a potential controlled net increase of a single criteria pollutant of 100 tons per year to 250 tons per year or to permits for operation of a facility or stationary source with an actual emission rate of a single criteria pollutant of 500 tons per year to 5,000 tons per year. Part 7001.0040, subpart 1, applies to permits for air emission facilities or stationary sources, except that for a permit not subject to a Minnesota or federal public notice requirement, the time period referenced in that subpart shall be 90 days.

J. and K. [Unchanged.]

7001.1200 SCOPE.

Parts 7001.1200 to 7001.1220 apply to the issuance of permits for emissions units, air emission ~~facility permits~~ facilities or stationary sources, and supplement the agency permit rules in parts 7001.0010 to 7001.0210.

7001.1210 PERMIT REQUIREMENT.

Subpart 1. **Permit required.** Except as provided in subpart 2, no person may construct, modify, reconstruct, or operate an emissions unit, emission facility, stationary source, or control equipment without obtaining an air emission ~~facility~~ permit from the agency.

Subp. 2. **Exemptions.** A person who constructs, modifies, reconstructs, or operates an emissions unit, emission facility, or stationary source that meets one or more of the following exclusions need not obtain an air emission ~~facility~~ permit from the agency:

A. a ~~total emission facility~~ stationary source with potential emissions of a single criteria pollutant of less than 25 tons per year, except:

(1) ~~a~~ an emissions unit, emission facility, or stationary source subject to parts 7005.0900 to 7005.0960, Control of Odors in the Ambient Air;

(2) a stationary source or emission facility subject to ~~federal~~ new source performance standards; and

(3) a ~~total emission facility~~ stationary source with potential lead emissions of at least 1,000 pounds per year;

B. to D. [Unchanged.]

E. ~~a facility that uses less than 10,000 gallons of solvent borne coating per year;~~

~~F.~~ a storage tank for petroleum liquid with a capacity of less than 40,000 gallons;

~~G.~~ F. a dry bulk agricultural commodity facility with an annual commodity throughput of less than 45,000 tons;

KEY: PROPOSED RULES SECTION — Underlining indicates additions to existing rule language. ~~Strike outs~~ indicate deletions from existing rule language. If a proposed rule is totally new, it is designated "all new material." ADOPTED RULES SECTION — Underlining indicates additions to proposed rule language. ~~Strike outs~~ indicate deletions from proposed rule language.

~~H.~~ G. an incinerator with a maximum refuse burning capacity of less than 1,000 pounds per hour, unless thermally treating hazardous waste; and

~~I.~~ H. a concrete batching facility that produces less than 200,000 cubic yards of concrete per year.

7001.1215 PERMIT APPLICATION.

In addition to the information required by part 7001.0050, a person who requests an air emission ~~facility~~ permit shall submit the following information to the commissioner:

A. to D. [Unchanged.]

7001.1220 SPECIAL CONDITIONS FOR AIR EMISSION FACILITY PERMITS.

In addition to the special conditions in part 7001.0150, subpart 2, and if applicable to the circumstances, an air emission ~~facility~~ permit may contain special conditions including but not limited to the following:

A. standards of performance for air pollutants from an emissions unit, emission facility, or stationary source;

B. to D. [Unchanged.]

7002.0020 DEFINITIONS.

Subpart 1. to 3. [Unchanged]

Subp. 4. **Commissioner.** "Commissioner" means the ~~chief executive officer~~ commissioner of the Minnesota Pollution Control Agency.

Subp. 5. [Unchanged.]

Subp. 6. **Major emission facility.** "Major emission facility" means a ~~facility~~ stationary source having potential emissions of 100 tons per year or more of sulfur dioxide or particulate matter.

Subp. 7. [Unchanged.]

Subp. 8. [See Repealer.]

7002.0100 AIR QUALITY PERMIT FEE SCHEDULE.

Subpart 1. **Scope.** The fees established in this part are applicable to facilities and indirect sources which require an air emission ~~facility~~ permit under part 7001.1210 (permit rules, air emission ~~facility~~ permits) or an indirect source permit under part 7001.1270 (permit rules, indirect source permits). For the purpose of this part, the terms used have the meanings given them in part 7005.0100 (air pollution control rules, definitions).

Subp. 2. **Application fee.** A person making application for an air emission ~~facility~~ permit or an indirect source permit shall submit with the application an application fee of $80.

Subp. 3. and 4. [Unchanged.]

Subp. 5. **Annual fees.** All persons required to obtain an air emission ~~facility~~ permit shall pay the following applicable annual fee:

A. $1,040 for a major emission facility; or

B. $240 for ~~an emission facility~~ a stationary source other than a major emission facility.

The agency shall not charge an annual fee for ~~an emission facility~~ a stationary source with potential emissions of a single pollutant of more than 25 tons per year but less than 50 tons per year unless the ~~facility~~ stationary source also discharges lead to the ambient air.

Subp. 6. [Unchanged.]

7005.0100 DEFINITIONS.

Subpart 1. to 24. [Unchanged.]

Subp. 24a. **Modification.** "Modification" means a physical change or a change in the operation of an emissions unit, emission facility, or stationary source that is not allowed under a permit, stipulation agreement, or an applicable air pollution control rule, and that results in an increase in the emission of an air pollutant.

Subp. 25. to 29. [Unchanged.]

Subp. 30. **Owner or operator.** "Owner or operator" means a person who owns, leases, operates, controls, or supervises an emissions unit, emission facility, or stationary source.

Subp. 31. to 35a. [Unchanged.]

Subp. 35b. **Reconstruction.** "Reconstruction" means replacement of depreciable components of an existing ~~emission source~~ emissions unit to which a New Source Performance Standard or state air pollution control rule is applicable, to the extent that the fixed capital cost of the depreciable components exceeds 50 percent of the fixed capital cost of depreciable components that would be required to construct a comparable entirely new ~~emission source~~ emissions unit.

Subp. 35c. and 35d. [Unchanged.]

Subp. 37. **Shutdown.** "Shutdown" means the cessation of operation of an emissions unit, emission facility, stationary source, or control equipment for any purpose.

Subp. 39. to 42. [Unchanged.]

Subp. 42a. **Startup.** "Startup" means the setting into operation of an emissions unit, emission facility, stationary source, or control equipment for any purpose.

Subp. 42b. and 44. [Unchanged.]

7005.0116 OPACITY STANDARD ADJUSTMENT.

Subpart 1. **Application for permit modification.** An owner or operator of an emission facility may file an application for a permit modification under parts 7005.0200 to 7005.0280 for adjustment of the opacity standard applicable to an ~~emission source~~ emissions unit. In addition to the items required under parts 7005.0200 to 7005.0280, the application must contain data that demonstrates that:

A. based on tests conducted under parts 7005.1850 to 7005.1880, the ~~emission source~~ emissions unit is in compliance with the applicable standard of performance for particulate matter and all other standards of performance, except the opacity standard;

B. the ~~total emission facility~~ stationary source is in compliance with all applicable standards of performance except the opacity standard at the ~~emission sources~~ emissions unit for which adjustments are being sought or have already been permitted by the agency; and

C. the ~~total emission facility~~ stationary source was operated in a manner to minimize the opacity of emissions at the ~~emission source~~ emissions unit during the performance tests conducted under item A.

Subp. 2. **Atmospheric dispersion modeling.** If the data submitted under subpart 1 indicates that an adjustment of the opacity standard may cause or contribute to a violation of an ambient air quality standard, the agency shall require the owner or operator to conduct atmospheric dispersion modeling and include the results of the modeling in the application for a permit modification. However, a ~~total emission facility~~ stationary source that has potential emissions of particulate matter of less than 25 tons per year is not required to conduct modeling. Modeling must be performed according to "Guidelines on Air Quality Models ~~(OAQPS No. 1.2-080, United States Environmental Protection Agency, Office of Air Quality Planning and Standards, 1978)~~," EPA-450/2-78-027R, as amended by supplemental updates, or methods that the commissioner finds to be comparably reliable. The Guidelines are incorporated by reference. The Guidelines are written and published by the USEPA, Office of Air and Radiation, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711. The guidelines are subject to frequent change and are available from the Minnesota State Law Library, Ford Building, 117 University Avenue, Saint Paul, Minnesota 55155.

Subp. 3. **Opacity adjustment determination and permit modification.** The agency shall set an adjusted opacity standard at the most restrictive level which the performance tests conducted under subpart 1, items A and C demonstrate the ~~emission source~~ emissions unit is capable of meeting and shall modify the permit to establish the adjusted opacity standard, if the requirements of subparts 1 and 2 are met and the ~~total emission facility~~ stationary source, with the adjusted opacity standard, would meet any one of the following:

A. to C. [Unchanged.]

7005.0520 TABLE 2.

Source Gas Volume, DSCFM[a]	Concentration GR/DSCF[b]
7,000 or less	0.100
8,000	0.096

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9,000	0.092
10,000	0.089
20,000	0.071
30,000	0.062
40,000	0.057
50,000	0.053
60,000	0.050
80,000	0.045
100,000	0.042
120,000	0.040
140,000	0.038
160,000	0.036
180,000	0.035
200,000	0.034
300,000	0.030
400,000	0.027
500,000	0.025
600,000	0.024
800,000	0.021
1,000,000 or more	0.020

[a]Dry standard cubic feet per minute

[b]Grains per dry standard cubic foot.

7005.1310 METHOD OF MEASUREMENT.

Subpart 1. [Unchanged.]

Subp. 2. **Method.** Fallout sampling devices shall be placed at one or more locations beyond the premises on which ~~a source or sources~~ an emissions unit or units are located, upwind and downwind of ~~such~~ the premises. The sampling devices shall be exposed to substances settling out of the ambient air for a period of one hour. The presence of red-colored spots on the gelatin indicates that acidic substances have settled out of the air while the presence of blue-colored spots on the gelatin indicates that alkaline substances have settled out of the air. The number of spots visible on samplers exposed upwind of premises to be subtracted from the number of spots visible on samplers exposed downwind of the same premises. The difference in the number of spots, if any, shall be construed to be attributable to emissions occurring on the premises under investigation.

Subp. 3. [Unchanged.]

7005.1600 SUBSTITUTE DEVICES FOR FABRIC FILTERS.

Subpart 1. [Unchanged.]

Subp. 2. **Other control equipment.** Compliance with any applicable provision of parts 7005.1550 to 7005.1610 which refers to a control equipment specification shall be demonstrated in accordance with this ~~section~~ part if the referenced control equipment is not used.

A. The owner or operator of the ~~emission source~~ emissions unit, or vendor of emission control equipment, shall make available to the commissioner sufficient information as may be required to demonstrate that the substitute equipment will provide the degree of emission control which, in the judgment of the commissioner, is at least as stringent as that which would be achieved by using the equipment specified in the applicable standard. To the maximum extent practicable, the determination of equivalent degree of emission control will be based upon operation at the actual conditions at which the substitute device is, or will be, operated on the ~~emission source~~ emissions unit. Factors which will be considered include, but are not limited to, total mass collection efficiency, collection efficiency versus particle size reliability, and maintenance practices associated with proper operation of the substitute device. The method used to determine the total mass collection efficiency and particle size distribution must be approved by the commissioner.

B. The owner or operator of the ~~emission source~~ emissions unit, or vendor of emission control equipment, shall submit to the commissioner performance data including, but not limited to, total mass collection efficiency and collection efficiency versus particle size of the substitute control device under actual operating conditions which are representative of those of the existing or planned operating conditions.

C. [Unchanged.]

Subp. 3. [Unchanged.]

7005.2860 STANDARDS OF PERFORMANCE FOR CERTAIN COAL HANDLING FACILITIES.

The owner or operator of a new or existing coal handling facility which is located within the Minneapolis-Saint Paul Air Quality Control Region or within the boundaries of the city of Duluth shall perform the following abatement measures unless otherwise exempt by portions of these parts:

A. to F. [Unchanged.]

G. Enclosed coal handling facilities or ~~emission sources~~ emissions units not specifically covered by any other provision in these parts. If exhaust gases from any enclosed coal handling facility exceed 20 percent opacity, then the owner or operator of such facility shall select and implement one of the following further controls:

(1) and (2) [Unchanged.]

H. and I. [Unchanged.]

7005.2950 AIR POLLUTION EPISODES.

Parts 7005.2950 to 7005.3006 apply to any owner or operator of any emission facility or stationary source having allowable emissions of any air pollutant of 250 or more tons per year located within or having air pollutant emissions affecting any area within ~~the state of~~ Minnesota for which an air pollution alert, air pollution warning, air pollution emergency, or air pollution significant harm episode has been declared by the commissioner.

7005.2960 DEFINITIONS.

Subpart 1. to 3. [Unchanged.]

Subp. 4. **Allowable emission.** "Allowable emission" means the emission rate calculated using the maximum rated capacity of the emission facility or stationary source, unless the emission facility or stationary source is subject to enforceable permit conditions which limit the operating rate or hours of operation or both, and the applicable standard of performance ~~set forth~~ in agency rules or the standard ~~set forth~~ in the permit, whichever is more stringent.

Subp. 5. to 10. [Unchanged.]

7005.2990 CONTROL ACTIONS.

Subpart 1. and 2. [Unchanged.]

Subp. 3. **Episode emission reduction plan.** The owner or operator of each emission facility or stationary source located within the state having allowable air pollutant emissions of at least 250 tons per year shall within 90 days of the effective date these parts submit to the commissioner an episode emission reduction plan to be implemented at the facility or stationary source in the event of a declaration by the commissioner of an air pollution episode. The plan shall be consistent with the emission reduction objectives ~~set forth~~ in subpart 4 and shall designate at least two individuals to be notified in the event of the declaration of an air pollution episode. The plan shall be subject to the approval of the commissioner. If the commissioner finds that the plan is inconsistent with such emission reduction objectives the plan shall be returned to the owner or operator along with a written statement of the reason(s) for disapproval. The owner or operator shall correct the deficiency within 30 days of notification of disapproval and shall resubmit the plan to the commissioner.

Subp. 4. and 5. [Unchanged.]

REVISOR INSTRUCTION. In *Minnesota Rules*, part 7005.0390, amend the headnote to read: "Table I: Existing Indirect Heating Equipment."; part 7005.0400, amend the headnote to read: "Table II: New Indirect Heating Equipment;" and part 7005.1850, subpart 8, amend the headnote to read: "Combined or separated emissions."

In *Minnesota Rules*, chapter 7002, change "director" to "commissioner" where it refers to the chief executive officer of the Pollution Control Agency.

REPEALER. *Minnesota Rules*, part 7002.0020, subpart 8, is repealed.

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CERTIFICATE OF AGENCY'S RESOLUTION ADOPTING RULE AMENDMENTS

I, Gerald L. Willet, do hereby certify that I am the Commissioner of the Minnesota Pollution Control Agency, an agency duly authorized under the laws of the State of Minnesota, and that the following is a true, complete, and correct copy of a resolution adopted at a meeting of the Minnesota Pollution Control Agency duly and properly called and held on the 24th day of January, 1989, that a quorum was present at said meeting, that a majority of those present voted for the resolution and that said resolution will be set forth in the minutes of said meeting and has not been rescinded or modified:

> BE IT RESOLVED, that the Minnesota Pollution Control Agency (Agency) hereby approves and adopts the attached amendments to Minn. Rules chs. 7001, 7002 and 7005 governing air quality and air quality permitting, pursuant to the authority vested in the Agency by Minn. Stat. § 116.07, subd. 4 (1988).
>
> BE IT FURTHER RESOLVED, that prior to publishing the rule amendments as adopted in the State Register, the Commissioner is authorized to make any form changes in the rules that the Revisor of Statutes requires the Agency to make in order to obtain the Revisor's Certificate as required by Minn. Stat. § 14.28 (1988).
>
> BE IT FURTHER RESOLVED, that the Agency adopts the attached Findings of Fact, Conclusions, and Order Adopting Rule Amendments and that the Commissioner is hereby authorized to sign the above-mentioned document on behalf of the Agency and to perform the necessary acts to provide that the rule shall have the force and effect of law.

IN WITNESS WHEREOF, I have hereunto subscribed my name this 24th day of January, 1989.

Michael Roberts

Gerald L. Willet
Commissioner

Deputy

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendments To Permit Rules Scope, Minn. Rules Part 7001.0200; Permit Rules, Air Emission Facility Permits, Minn. Rules Part 7001.1200 to 7001.1220; Permit Fees, Air Quality, Permit Fees, Minn. Rules Part 7002.0010 to 7002.0110; Air Pollution Control: General Provisions, Definitions, Minn. Rules Part 7005.0100, and Opacity Standard Adjustment, Minn. Rules Part 7005.0116; Standards of Performance for Indirect Heating Fossil Fuel Burning Equipment, Minn. Rules Part 7005.0300 to 7005.0400; Standards of Performance for Industrial Process Equipment, Minn. Rules Part 7005.0450 to 7005.0520; Emission Standards for Acid and Alkaline Fallout, Method of Measurement, Minn. Rules 7005.1310; Emission Standards for Asbestos Substitute Devices for Fabric Filters, Minn. Rules Part 7005.1600; Continuous Monitoring, Minn. Rules Part 7005.1850; Standards of Performance for Certain Coal Handling Facilities, Minn. Rules Part 7005.2860; Air Pollution Episodes, Minn. Rules Part 7005.2950 to 7005.3006

FINDINGS OF FACT, CONCLUSIONS AND ORDER

The above-entitled matter came on for decision before the Minnesota Pollution Control Agency (Agency) on January 24, 1988. After affording all interested persons the opportunity to present written and oral data, statements and arguments to the Agency, in accordance with statutory requirements regarding the adoption of noncontroversial rules, after considering the Statement of Need and Reasonableness, after considering all of the evidence adduced upon the records, files and proceedings herein, the Agency, being fully advised in the premises, hereby adopts the following Findings of Fact, Conclusions, and Order:

FINDINGS OF FACT

1. Notice of the Minnesota Pollution Control Agency's

intent to adopt the above-entitled rule amendments without a public hearing was published in the State Register on October 31, 1988, and was sent by mail to all persons on the list maintained by the Agency pursuant to Minn. Stat. §§ 14.14, subd. 1a and 14.22 (1988) on October 24, 1988.

2. The Statement of Need and Reasonableness was prepared prior to mailing and publication of the notice and was made available to the public.

3. All persons were given the opportunity to submit comments on the rule for 30 days after notice of proposed rulemaking. The 30 day comment period, as set out in the notice, expired on November 30, 1988.

4. No requests for public hearing were received during the comment period.

5. No requests for notice of submission to the Attorney General were received by the Agency.

6. During the comment period the Agency received no written comments.

7. In preparing to propose the rule amendments, the Agency did not seek to obtain information or opinions from sources outside the Agency and therefore did not publich a Notice of Intent to Seek Outside Information.

8. The Agency adopts the Statement of Need and Reasonableness, in its entirety, as the factual basis for the proposed rule amendments. The Agency hereby incorporates the

Statement of Need and Reasonableness into these findings.

8. The above-captioned rule is needed and reasonable.

CONCLUSIONS

1. The Minnesota Pollution Control Agency duly acquired and has jurisdiction over this proceeding.

2. The Agency published and served due, timely, and adequate notice of the intent to adopt the rules without a public hearing.

3. All relevant legal and procedural requirements of statute and rule have been complied with.

ORDER

NOW, THEREFORE, IT IS ORDERED, that the attached amendments to Minn. Rules chs. 7001, 7002 and 7005 governing air quality and air quality permitting are adopted pursuant to the authority vested in the Minnesota Pollution Control Agency by Minn. Stat. § 116.07, subd. 4 (1988).

MINNESOTA POLLUTION CONTROL AGENCY

Dated: January 24, 1989

Gerald L. Willet
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendments To Permit Rules Scope, Minn. Rules Part 7001.0200; Permit Rules, Air Emission Facility Permits, Minn. Rules Part 7001.1200 to 7001.1220; Permit Fees, Air Quality, Permit Fees, Minn. Rules Part 7002.0010 to 7002.0110; Air Pollution Control: General Provisions, Definitions, Minn. Rules Part 7005.0100, and Opacity Standard Adjustment, Minn. Rules Part 7005.0116; Standards of Performance for Indirect Heating Fossil Fuel Burning Equipment, Minn. Rules Part 7005.0300 to 7005.0400; Standards of Performance for Industrial Process Equipment, Minn. Rules Part 7005.0450 to 7005.0520; Emission Standards for Acid and Alkaline Fallout, Method of Measurement, Minn. Rules 7005.1310; Emission Standards for Asbestos Substitute Devices for Fabric Filters, Minn. Rules Part 7005.1600; Continuous Monitoring, Minn. Rules Part 7005.1850; Standards of Performance for Certain Coal Handling Facilities, Minn. Rules Part 7005.2860; Air Pollution Episodes, Minn. Rules Part 7005.2950 to 7005.3006

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MINNESOTA POLLUTION CONTROL AGENCY

Dated: January 24, 1989

Gerald L. Willet
Commissioner

STATE OF MINNESOTA
POLLUTION CONTROL AGENCY

In the Matter of the Proposed Amendments To Permit Rules Scope, Minn. Rules Part 7001.0200; Permit Rules, Air Emission Facility Permits, Minn. Rules Part 7001.1200 to 7001.1220; Permit Fees, Air Quality, Permit Fees, Minn. Rules Part 7002.0010 to 7002.0110; Air Pollution Control: General Provisions, Definitions, Minn. Rules Part 7005.0100, and Opacity Standard Adjustment, Minn. Rules Part 7005.0116; Standards of Performance for Indirect Heating Fossil Fuel Burning Equipment, Minn. Rules Part 7005.0300 to 7005.0400; Standards of Performance for Industrial Process Equipment, Minn. Rules Part 7005.0450 to 7005.0520; Emission Standards for Acid and Alkaline Fallout, Method of Measurement, Minn. Rules 7005.1310; Emission Standards for Asbestos Substitute Devices for Fabric Filters, Minn. Rules Part 7005.1600; Continuous Monitoring, Minn. Rules Part 7005.1850; Standards of Performance for Certain Coal Handling Facilities, Minn. Rules Part 7005.2860; Air Pollution Episodes, Minn. Rules Part 7005.2950 to 7005.3006

DECLARATION OF COUNSEL

I, Jocelyn F. Olson, Assistant Attorney General, do hereby declare that I have examined the above-captioned rules and the supporting rulemaking record, and that, based on my examination, the Administrative Procedure Act and Minnesota Rules ch. 2010 have been followed. For Attorney General billing purposes, the four-digit docket client code is 0701.

Jocelyn F. Olson
Assistant Attorney General

Dated: January 24, 1988