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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 may 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 facility 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, apparatus, 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°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 ambiguity 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 description 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 separated 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 therefore 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 BUSINESS 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 deadlines 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, maintenance, operation and expansion of business, commerce, trade, industry, traffic, and other economic factors and other material matters affecting the feasibility 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 action as may be reasonable, feasible, and practical under 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

Barbara Bradley Sims
for Gerald L. Willet
Commissioner