

July 6, 2012

Legislative Reference Library  
645 State Office Building  
100 Constitution Avenue  
St. Paul, Minnesota 55155

Re: Proposed Amendment to Agency Rules Implementing Permanent Federal Air Permit Threshold Regulatory Relief for Greenhouse Gases (GHGs), and Clarifying when Permits Apply to Owners & Operators, *Minnesota Rules*, chs. 7005 Definitions and Abbreviations, 7007 Permits and Offsets, and 7011 Standards For Stationary Sources (parts 7005.0100, 7007.0050, 7007.0100, 7007.0150, 7007.0200, 7007.0250, 7007.0300, 7007.0325, 7007.0350, 7007.0400, 7007.0500, 7007.0750, 7007.0800, 7007.0950, 7007.1050, 7007.1100, 7007.1105, 7007.1107, 7007.1110, 7007.1115, 7007.1120, 7007.1125, 7007.1130, 7007.1140, 7007.1141, 7007.1142, 7007.1145, 7007.1146, 7007.1150, 7007.1300, 7007.1400, 7007.1450, 7007.1500, 7007.1850, 7011.2305, 7011.2310 and possibly related parts); Governor's Tracking #AR 1015

Dear Librarian:

The Minnesota Pollution Control Agency intends to adopt the above described rules. We plan to publish a Dual Notice of Intent to Adopt Rules Without a Public Hearing Unless 25 or More Persons Request a Hearing, and Notice of Hearing if 25 or More Requests for Hearing are Received in the July 9, 2012 State Register.

The Agency has prepared a Statement of Need and Reasonableness. As required by Minnesota Statutes, sections 14.131 and 14.23, the Agency is sending the Library an electronic copy of the Statement of Need and Reasonableness at the same time we are mailing our Notice of Intent to Adopt Rules.

If you have questions, please contact me at 651-757-2290.

Yours very truly,

Nathan Brooks Cooley  
Rules Coordinator

Enclosure: Statement of Need and Reasonableness

**MINNESOTA POLLUTION CONTROL AGENCY  
STATEMENT OF NEED AND REASONABLENESS (SONAR)**

**Proposed Amendments to Rules Governing Air Emissions Permits,  
Minnesota Rules (Minn. R.) Chapters 7005, 7007 - Greenhouse Gas  
Permitting Rules (“Tailoring” or “GHG” Rules) and 7011.**

## **Introduction**

The Minnesota Pollution Control Agency (MPCA) is proposing amendments to *Minnesota Rules*, chapters 7005, 7007, and 7011 to incorporate new federal rules. These new federal rules govern the inclusion of Greenhouse Gases (GHG) in air emissions permitting and stationary spark-ignition internal combustion engines. These rules primarily relate to federally mandated air emission permits.

Under new rules from the Environmental Protection Agency, GHGs must be addressed in air emission permits issued on or after January 2, 2011. The MPCA must amend its permitting rules to align with the new federal GHG permit thresholds and avoid requiring small sources to obtain operating permits. Many residences, hospitals, schools or restaurants that did not need a permit before would need one if the MPCA did not take action to amend its permitting rules.

The MPCA also proposes to adopt a recent federal New Source Performance Standard (NSPS) that applies to new Stationary Spark Ignition Internal Combustion Engines. The MPCA includes NSPS regulations in the body of state rules. Finally, the MPCA proposes to clarify the existing requirement in chapter 7007 that Minnesota's air emissions permitting requirements apply to all owners and operators of air emission sources. The clarification requires minor changes to several parts of the rules.

## Table of Contents

Introduction .....	2
List of abbreviations and acronyms used in this document: .....	5
Overview of Air Emission Permits .....	6
Greenhouse Gas Permitting – the “Tailoring” Rule .....	6
Miscellaneous Rule Changes .....	7
Alternative Format .....	7
Statutory Authority .....	7
Regulatory Analysis of the Clarification that Owners and Operators are Subject to Air Emission Permitting Rules, Incorporation of the NSPS, and Biogenic CO <sub>2</sub> Emissions Deferral. ....	8
Owners and Operators Subject to Permitting .....	8
NSPS for Stationary Spark Ignition Internal Combustion Engines .....	8
1. Description of the Classes of Persons Who Probably Will be Affected, Including Classes That Will Bear Costs of the Proposed Rule and Classes That Will Benefit from the Proposed Rule .....	9
2. Probable Costs to the Agency and to Any Other Agency of the Implementation and Enforcement of the Proposed Rule and Anticipated Effect on State Revenues .....	10
3. Determination of Whether There are Less Costly Methods or Less Intrusive Methods for Achieving the Purpose of the Proposed Rule .....	10
4. Description of any Alternative Methods for Achieving the Purpose of the Proposed Rule That were Seriously Considered by the Agency and the Reasons Why They were Rejected in Favor of the Proposed Rule .....	10
5. Probable Costs of Complying with the Proposed Rule, Including the Portion of the Total Costs that will be Borne by Identifiable Categories of Affected Parties, such as Separate Classes of Governmental Units, Business or Individuals .....	11
6. Probable Cost or Consequences of not Adopting the Proposed Rule, Including Those Costs or Consequences Borne by Identifiable Categories of Affected Parties, such as Separate Classes of Governmental Units, Business or Individuals .....	11
7. Assessment of any Differences Between the Proposed Rule and Existing Federal Regulations and a Specific Analysis of the Need for and Reasonableness of Each Difference .....	11
EXECUTIVE ORDER 11-04 and HF No. 1 Comparison of this rulemaking to federal requirements .....	11
EXECUTIVE ORDER 11-04 and HF No. 1 Comparison of Minnesota’s rule to neighboring states EPA Region V states .....	12
Performance Based Rules .....	14
Additional Notice .....	14
Impact on Chicano/Latino People .....	16
Notification of the Commissioner of Transportation .....	16
Consultation with Minnesota Management and Budget (MMB) .....	16
Cost of Complying for Small Business or City .....	17
Agency Determination of Cost .....	17
Effect of Cost Determination .....	18
Rule-by-Rule Analysis: Statement of Need for the Proposed Rules .....	18
Greenhouse Gas Rules .....	18
New Source Performance Standard Rules .....	19
Housekeeping Rules .....	19
Rule-by-Rule Analysis: Statement of Reasonableness for the Proposed Rules .....	20
Reasonableness of the Rules as a Whole .....	20
GHGs as Regulated Pollutants .....	20

Miscellaneous Housekeeping Changes.....	20
7005.0100 DEFINITIONS.....	21
7007 PERMITS AND OFFSETS .....	21
7007.0050 SCOPE.....	21
7007, MULTIPLE SUBPARTS .....	22
7007.0100 DEFINITIONS.....	22
7007.0150 PERMIT REQUIRED.....	23
7007.0200 SOURCES REQUIRED OR ALLOWED TO OBTAIN A PART 70 PERMIT.....	24
7007.0250 SOURCES REQUIRED TO OBTAIN A STATE PERMIT.....	25
7007.0300 SOURCES NOT REQUIRED TO OBTAIN A PERMIT.....	25
7007.0325 SOURCES ALLOWED TO EXCLUDE BIOGENIC CARBON DIOXIDE FROM APPLICABILITY THRESHOLDS .....	26
7007.0400 PERMIT REISSUANCE APPLICATIONS AFTER TRANSITION; NEW SOURCE AND PERMIT AMENDMENT APPLICATIONS; APPLICATIONS FOR SOURCES NEWLY SUBJECT TO A PART 70 OR STATE PERMIT REQUIREMENT.....	27
7007.0500 CONTENT OF PERMIT APPLICATION.....	28
7007.0750 APPLICATION PRIORITY AND ISSUANCE TIMELINES .....	28
7007.0800 PERMIT CONTENT .....	29
7007.0950 EPA REVIEW AND OBJECTION.....	29
7007.1050 DURATION OF PERMITS.....	29
7007.1100, GENERAL PERMITS.....	29
7007.1105 ELIGIBILITY FOR ENVIRONMENTAL MANAGEMENT SYSTEM (EMS) PROVISIONS IN STATE PERMITS.....	30
7007.1107 APPLICATION AND PERMIT CONTENT RELATED TO INCLUSION OF EMS PROVISIONS IN STATE PERMITS.....	30
7007.1110 REGISTRATION PERMIT GENERAL REQUIREMENTS.....	30
7007.1125 REGISTRATION PERMIT OPTION C.....	31
7007.1130 REGISTRATION PERMIT OPTION D.....	32
7007.1140 CAPPED PERMIT ELIGIBILITY REQUIREMENTS .....	32
7007.1141 CAPPED PERMIT EMISSION THRESHOLDS.....	33
7007.1142 CAPPED PERMIT ISSUANCE AND CHANGE OF PERMIT STATUS.....	33
7007.1146. CAPPED PERMIT COMPLIANCE REQUIREMENTS .....	34
7007.1150 WHEN A PERMIT AMENDMENT IS REQUIRED .....	34
7007.1300 INSIGNIFICANT ACTIVITIES LIST .....	34
7007.1400 ADMINSTRATIVE PERMIT AMENDMENTS.....	35
7007.1450 MINOR AND MODERATE PERMIT AMENDMENTS.....	35
7007.1500 MAJOR PERMIT AMENDMENTS.....	36
7007.1850 EMERGENCY PROVISION.....	36
7011.3520 STANDARDS OF PERFORMANCE FOR STATIONARY COMPRESSION IGNITION INTERNAL COMBUSTION ENGINES.....	37
7011.2315 STANDARDS OF PERFORMANCE FOR STATIONARY SPARK IGNITION INTERNAL COMBUSTION ENGINES.....	37
List of Exhibits .....	37
· Final Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule, 40 CFR Parts 51, 52, 70, and 71. EPA, docket number EPA–HQ–OAR–2009–0517; FRL–9152–8. (75 FR 31514– 31608), June 3, 2010. ....	37

- Regulatory Impact Analysis for the Final Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule, Final Report (May 2010); Linda M. Chappell, EPA, Office of Air Quality Planning and Standards. .... 37
- Deferral for CO2 Emissions From Bioenergy and Other Biogenic Sources Under the Prevention of Significant Deterioration (PSD) and Title V Programs, 40 CFR Parts 51, 52, 70, and 71. EPA, docket number EPA-HQ-OAR-2011-0083; FRL-9431-6. (76 FR 43490-43508) July 20, 2011. .... 37
- Standards of Performance for Stationary Spark Ignition Internal Combustion Engines and National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion Engines, 40 CFR Parts 60, 63, 85, 90, 1048, 1065, and 1068. EPA, docket number EPA-HQ-OAR-2005-0030, FRL-8512-4. (73 FR 3567-3614) January 18, 2008. .... 37
- Adopted Exempt Rule Relating to Greenhouse Gas Permit Requirements (chapters 7005 to 7007). (35 SR 1097-1108) January 24, 2011. .... 38
- Conclusion..... 38

**List of abbreviations and acronyms used in this document:**

1. Clean Air Act (CAA)
2. Greenhouse Gases (GHG or GHGs)
3. Minnesota Rules (Minn. R.) chapter 7007 (chapter 7007)
4. Statement of Need and Reasonableness (SONAR)
5. Minnesota Pollution Control Agency (MPCA or Agency)
6. Greenhouse Gas Permitting Rules ("Tailoring" or "GHG" Rules)
7. National Ambient Air Quality Standards (NAAQS)
8. Tons per year (TPY)
9. New Source Review (NSR)
10. Prevention of Significant Deterioration (PSD)
11. Code of Federal Regulations, title 40, Part 70 (40 CFR 70)
12. U.S. Environmental Protection Agency (EPA)
13. Carbon dioxide (CO2)
14. Carbon dioxide equivalent (CO2e)
15. Potential to emit (PTE)
16. New Source Performance Standard (NSPS)
17. Minnesota Statutes chapter or section (Minn. Stat. ch. or §)
18. Regulatory Impact Analysis (RIA)
19. Part 70 permits (also called Title V permits)
20. Illinois Compiled Statutes (ICS)
21. Indiana Administrative Code (IAC)
22. State Implementation Plan (SIP)
23. Federal Register (FR)
24. Ohio Administrative Code (OAC)
25. Standard rule distribution list (the MPCA's M-List)
26. Air and Waste Management Association (AWMA)
27. Minnesota Management and Budget (MMB)
28. Minnesota State Register, volume 35, number 30, pages 1097-1108 (Cite 35 SR 1097)
29. [July 20, 2011, Federal Register](#) (76 FR 43490-43508)
30. Environmental Management System (EMS)

## **Overview of Air Emission Permits**

Under the Clean Air Act (CAA) (CAA; 42 USC § 7401 – 7671q), air emission permitting authorities issue two types of air emission permits to large stationary sources of air pollutants. Construction permits authorize the construction or modification of air emission sources. Operating permits impose conditions for the ongoing operation of a source. Under the CAA, owners and operators of stationary sources must obtain these federal permits if the source's potential to emit specified pollutants exceeds established emission thresholds. The CAA requires federal permits, rather than state-only permits, if potential emissions of any one of these pollutants exceed 100 or 250 tons per year (TPY), depending on the type of source.

At the federal level, the construction permitting program known as New Source Review (NSR) and has two parts. Nonattainment NSR applies to sources emitting specified pollutants in an area that does not meet the National Ambient Air Quality Standards (NAAQS) for those pollutants. Prevention of Significant Deterioration (PSD) is designed to prevent changes to existing air emission sources or construction of new emission sources from degrading air quality in areas that attain all the NAAQS.

The federal operating permit program is known as the Title V or Part 70 program. Title V of the CAA Amendments of 1990 requires that all major stationary sources of air pollutants obtain a permit to operate. The purpose of Title V was to establish a consistent permitting program across the country, to reduce violations of air-pollution laws, and to improve the enforcement of those laws. Title V of the CAA was codified in rule as *Code of Federal Regulations*, title 40, Part 70 (40 CFR 70). The purpose of a Part 70 Permit is to gather all applicable air-pollution requirements for a major stationary source into one site-specific, legally enforceable permit.

The U.S. Environmental Protection Agency (EPA) gives authority to the states to operate both the NSR and Part 70 programs.

Minnesota currently operates the PSD program as a "delegated" state, meaning that the MPCA does not have an EPA-approved program, but issues permits on behalf of EPA and must follow the federal rules laid out in 40 CFR 52.21. Failure to do so would result in the EPA's taking over Minnesota's PSD program.

By contrast, the EPA has approved the MPCA to implement its own Part 70 operating permit program, as being as stringent as the federal program. The MPCA rules that incorporate the requirements for the 40 CFR Part 70 operating permit rules are found in chapter 7007. The current rulemaking adopts the EPA's GHG-related definitions and permit threshold into *Minnesota Rules*.

It is also important to note that Minnesota operates a combined permitting program whereby it issues one permit that authorizes both construction and operation. Minnesota's combined program saves public resources by preventing the need to issue each construction permit and each operating permit separately.

## **Greenhouse Gas Permitting – the "Tailoring" Rule**

Under new rules from the EPA, GHGs must be addressed in air emission permits issued on or after January 2, 2011. Starting on January 2, 2011, new or modified sources that were already subject to Part 70 or PSD under the previous rules must address GHGs in their permits if their GHG emissions meet or exceed the new thresholds. Starting July 1, 2011, new, modified and existing facilities are subject to the new thresholds.

Prior to the EPA's rulemaking, GHGs were not regulated pollutants and were not included in the pollutants assessed for purposes of determining whether emission sources required air emissions permits.

The proposed changes to chapters 7007 and 7005, concern the inclusion of GHGs in air emission permits. The EPA recognized in its rulemaking that GHGs are emitted in far larger amounts than historically regulated pollutants. It promulgated a rule to “tailor” the existing permitting thresholds to accommodate the inclusion of GHGs as a pollutant that triggers air emissions permitting requirements. The MPCA proposes to adopt these federal provisions. Without “tailoring” the existing emission thresholds, Minnesota’s air permitting requirements would newly apply to thousands of sources that have not historically been required to obtain permits.

These “tailoring” provisions were temporarily added to the MPCA’s air emissions permitting rules in 2010, by use of an exempt rulemaking process allowed under Minn. Stat. § 14.388. These exempt rules are only effective for two years, but the need for these rules remains as important into the future as it was in 2010. Therefore, the MPCA is proposing to make the “tailoring” rules a permanent part of its air emissions permitting rules.

GHGs are emitted mainly from sources burning fossil fuels. Sources using plant materials as fuel or that have fermentation processes emit “biogenic” carbon dioxide (CO<sub>2</sub>). This rulemaking also includes a new federal regulation that defers biogenic carbon dioxide from permitting requirements.

Note that the EPA also promulgated a GHG emissions reporting rule with a different emissions threshold. Under the reporting rule, facilities must report their GHG emissions if their actual emissions are 25,000 TPY carbon dioxide equivalent (CO<sub>2</sub>e) or more. Therefore, some facilities will report GHG emissions although they will not need permit changes provided their potential to emit (PTE) for GHGs is less than 100,000 TPY CO<sub>2</sub>e.

### **Miscellaneous Rule Changes**

In addition to the changes related to the federal “tailoring” rule, the MPCA proposes to clarify the existing requirement in chapter 7007 that Minnesota’s air emissions permitting requirements apply to all owners and operators of air emission sources. The clarification requires minor changes to several parts of the rules.

Finally, the MPCA proposes to incorporate a new federal New Source Performance Standard (NSPS) into its body of rules. With this rulemaking, MPCA proposes to add to its rules a new NSPS that applies to stationary spark ignition internal combustion engines. The NSPS is a federal requirement that all states must implement.

### **Alternative Format**

Upon request, this information can be made available in an alternative format, such as large print, Braille, or audio. To make a request, contact the MPCA at 651-296-6300 or 800-657-3864, TTY users may call the MPCA at 651-282-5332.

### **Statutory Authority**

The MPCA relies on the statutory authority provided by Minn. Stat. § 116.07, subdivision 4(a) to adopt these rules:

*“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 1967, chapter 882, 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."*

### **Regulatory Analysis of the Clarification that Owners and Operators are Subject to Air Emission Permitting Rules, Incorporation of the NSPS, and Biogenic CO<sub>2</sub> Emissions Deferral.**

The MPCA provides the regulatory analysis of the owner and operator permitting obligations and the NSPS in this section rather than discussing this in each of the subtopics below.

#### **Owners and Operators Subject to Permitting**

The proposed rules clarify that owners and operators of stationary sources are subject to permitting requirements. The proposal does not alter the effect of existing rules, but only clarifies applicability. As such, the rules affect owners and operators of currently-permitted facilities, and those owners and operators that intend to apply for air emission permits in the future. Most owners and operators are already aware that they are subject to air emissions permitting rules. There may only be a few owners or operators who mistakenly believed that the permitting rules applied to either owners or operators, but not both.

The owner and operator obligation already existed. Minn. R. ch. 7007.0500, subp. 2. specifies that "Applicants shall submit the following information as required by the standard application form: A. Information identifying the stationary source **and** its owners and operators" (emphasis added). The clarification does not impose a new or more intrusive obligation. The confusion arose because other subparts in Minn. R. ch. 7007 that discussed situations when a permit application should be submitted said "owners or operators." Since this rulemaking is necessary to "tailor" the rules to include GHGs, including the owner/operator clarification in the subparts that were not consistent with Minn. R. ch. 7007.0500, subp. 2 does not result in additional cost to the agency and does not impose additional compliance costs. Additionally, the existing federal permitting requirements include owners and operators, so the proposed rule is no more stringent than federal rules or existing Minnesota Rules.

The alternative to clarifying that owners and operators are subject to the permitting rules is to retain the existing rule language. The existing rules resulted in a few instances of confusion for permittees which will be resolved with the proposed rules. If the MPCA does not clarify that owners *and* operators are subject to the air emissions permitting rules, a few owners and operators may continue to be confused on the point. This confusion can result in enforcement action against owners or operators who fail to join in the permit application process as required by Minn. R. ch. 7007.0500, subp. 2.

#### **NSPS for Stationary Spark Ignition Internal Combustion Engines**

This NSPS applies to new Stationary Spark Ignition Internal Combustion Engines. The MPCA includes NSPSs in the body of Minnesota Rules. Since this rulemaking is necessary to "tailor" the rules to include GHGs, incorporating the NSPS by reference prospectively does not result in additional cost to the Agency and does not impose additional compliance costs.

The MPCA does not have the discretion to vary the NSPS. Because the NSPSs are a federal requirement that all states must implement to maintain the EPA's approval of the air program, the MPCA did not evaluate alternatives to adopting the NSPS.

The MPCA's failure to adopt the NSPS could result in the EPA objecting to Minnesota's air program.

## **Biogenic CO<sub>2</sub> Emissions Deferral**

In response to comments received and a petition on the subject of biogenic CO<sub>2</sub>, the EPA decided that further analysis is needed. The EPA promulgated a rule to exclude biogenic CO<sub>2</sub> from GHG permitting for a period of three years while it evaluates the issue in more depth. This deferral lasts until July 21, 2014. The owners and operators of sources with biogenic CO<sub>2</sub> emissions will benefit from a three-year deferral from including those emissions in their potential-to-emit calculations for permitting purposes. The alternative to deferring is to leave the emissions in the calculation. Minnesota did not select this option because it would likely put Minnesota sources among only a few in the nation to include such emissions at this time. Since the biogenic CO<sub>2</sub> emissions deferral relieves part of an air emission source's obligations, it is likely the least costly and least intrusive option.

### **1. Description of the classes of persons who probably will be affected, including classes that will bear costs of the proposed rule and classes that will benefit from the proposed rule**

Under Part 70 and PSD rules, an air emission permit as a "major source" is required when potential emissions are 100 TPY or 250 TPY, depending on the source type. At those thresholds, many small sources such as residences, schools, hospitals, restaurants and apartment buildings, would be required to obtain a permit as a major facility. With a new GHG permitting threshold, owners and operators of sources with the potential to emit 100 or 250 TPY of GHGs are relieved of the obligation to obtain a permit to address their GHG emissions. These rules obligate only owners and operators of sources with the potential to emit more than 100,000 TPY of GHG to address GHGs in their air emissions permits. Additionally, owners and operators of sources with biogenic CO<sub>2</sub> emissions will gain a deferral from including those emissions in their calculation of potential emissions for purposes of determining whether their GHG emissions exceed the permitting threshold.

According to the EPA's [Regulatory Impact Analysis \(RIA\) for the Final Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule](#), the main benefit to these rules is avoiding undue costs. Without the regulatory relief offered by a higher permit threshold for GHGs, many small sources would be required to obtain air emissions permits as major sources solely because of their GHG emissions. Permitting authorities would also be unduly burdened by the large number of new permit applications.

In the temporary rule, the MPCA added emission thresholds for GHGs to the capped permit and registration permit provisions of the existing rule. This benefits smaller sources that are subject to permitting to keep or obtain a simpler, more streamlined permit rather than having to obtain a Part 70 permit. The MPCA proposes to continue these streamlined permit provisions in the permanent rulemaking. Owners and operators holding a capped or registration permit will have to ensure that they continue to qualify for their existing permit type based on actual GHG emissions and insignificant activities as defined in Minn. R. ch. 7007.1300.

Others who will benefit from the rule are Minnesota residents generally. While these rules only define who must include GHGs in their permits and does not impose requirements to control GHG emissions, it is likely that some owners and operators will implement energy efficiency measures to reduce their GHG emissions in order to remain minor sources of GHGs. Energy efficiency measures benefit owners and operators by saving them money. Energy efficiency benefits the public generally by reducing the amount of energy used, which in turn reduces emissions of the pollutants associated with energy production and consumption. Reducing the amount of pollutants in the air also benefits public health and welfare. Both ozone and particulates cause respiratory effects. Fine particulates can also contribute to coronary impacts and premature deaths.

**2. Probable costs to the Agency and to any other agency of the implementation and enforcement of the proposed rule and anticipated effect on state revenues**

The MPCA charges fees for issuing permits. These fees are neutral regarding overall state revenues (e.g., the fees are intended to cover the cost of issuing the permits and not to create a new source of generally available revenue).

The EPA provided national cost estimates for the implementation of the tailoring rule. Minnesota's costs can be estimated as approximately two percent of the national figure. Two percent is a reasonable estimate as Minnesota produces slightly less than two percent of total national output, has somewhat less than two percent of the total United States population, and has somewhat more than two percent of total national personal income.

Using two percent of the EPA's national cost data for the phase-in period of the rule (January 2, 2011 – July 1, 2013), without the new threshold, Minnesota would likely have approximately 120,000 facilities newly subject to major source permitting (RIA, page 8). By sources avoiding these additional permits, the regulatory relief benefits to facilities generally in Minnesota would be about \$3.872 billion. The MPCA's avoided costs to issue these Part 70 permits (also called Title V permits) would be approximately \$42 million annually for that period (EPA RIA, page 70, scaled for Minnesota).

The EPA also estimates the avoided costs of obtaining a permit because of GHGs. For owners and operators of individual facilities who would now have to obtain a permit for GHGs, these estimated costs would be incurred rather than avoided. To obtain a Part 70 operating permit, the EPA estimates the cost to be \$46,400 for industrial sources and \$23,000 for commercial and residential sources. For a Part 70 permitting revision, the cost is estimated as \$1,677.

**3. Determination of whether there are less costly methods or less intrusive methods for achieving the purpose of the proposed rule**

Because the proposed rule relieves a significant regulatory burden on small sources of GHGs, the rule is the less costly and burdensome option for the majority of facilities in Minnesota. Without these rules, thousands of small sources, such as residences, schools, hospitals, restaurants and apartment buildings would be required to obtain a permit as a major facility. The proposed revisions to rules for state-only permits will enable most owners and operators of smaller facilities to obtain or retain a simpler, more streamlined permit.

MPCA staff estimate that only a small number of existing sources will need to obtain an air emission permit for the first time as a result of these rules. A few sources will have to change their permit category or modify their permit to take into account new permit limits.

**4. Description of any alternative methods for achieving the purpose of the proposed rule that were seriously considered by the Agency and the reasons why they were rejected in favor of the proposed rule**

The only adequate mechanism to protect small sources from the requirement to obtain an air emissions permit is to promulgate these rules. Without a specific measure to raise the permitting threshold for small sources, approximately 120,000 sources would be newly subject to the requirement to obtain an air emissions permit. The MPCA has chosen to promulgate these rules because they are less burdensome than requiring small sources to obtain air emission permits and because the MPCA does not have the resources to issue 120,000 new air emission permits.

**5. Probable costs of complying with the proposed rule, including the portion of the total costs that will be borne by identifiable categories of affected parties, such as separate classes of governmental units, business or individuals**

If the MPCA were to fail to make the temporary GHG permit threshold permanent, it would require the Agency to issue permits to all sources with GHG emissions over 100 or 250 TPY. This would make thousands of facilities become major sources under PSD or Part 70. The avoided costs discussed above would be incurred costs. In review, permitting these additional sources would cost the facilities about \$3.872 billion during the phase-in period of the rule. It is more appropriate to adopt these rules and save these additional sources the expense of permitting. Additionally, MPCA's costs to issue these Part 70 permits during that time would be approximately \$42 million annually. As current budget constraints limit the MPCA's ability to hire new staff, the large number of new GHG permit applications could result in a backlog that would be extremely difficult to overcome.

**6. Probable cost or consequences of not adopting the proposed rule, including those costs or consequences borne by identifiable categories of affected parties, such as separate classes of governmental units, business or individuals**

The new permit threshold for GHGs is intended to offer regulatory relief to small sources. The MPCA's experience with small sources is that if a permit were still required under the proposed rule, a small business or small city would most likely be eligible for a registration permit. A registration permit is an option when actual emissions are relatively low. The cost to submit an application for a registration permit is estimated to be approximately \$570. Under the permit application point system in chapter 7002, a registration permit application is two points and the fee is currently \$285 per point.<sup>1</sup> A stationary source with somewhat higher actual emissions may qualify for a capped permit. The fee for a capped permit application is based on four points, or \$1,140. To apply for either a registration or capped permit, the regulated entity would also likely incur some additional engineering and administrative costs to prepare the application.

In the unlikely event that a small business or small city would have to apply for a Part 70 permit, the total cost would be considerably higher than for a registration permit. The MPCA's permit application fee for a typical Part 70 permit is \$21,375. Under the permit application point system in chapter 7002, a Part 70 permit application is 75 points and the fee is currently \$285 per point. In addition, the facility would likely incur costs for staff time and engineering consultants to prepare the application. As described above, the EPA estimates in its RIA that to obtain a Part 70 operating permits, the cost would be \$46,400 for industrial sources and \$23,000 for commercial and residential sources.

**7. Assessment of any differences between the proposed rule and existing Federal Regulations and a specific analysis of the need for and reasonableness of each difference**

**EXECUTIVE ORDER 11-04 and HF No. 1 Comparison of this rulemaking to federal requirements**

2011 Minnesota Session Laws Chapter 4 requires that for proposed rules relating to air quality, the Statement of Need and Reasonableness must include an assessment of any differences between the proposed rule and existing federal standards adopted under the Clean Air Act, United States Code, title CFR 40, §§ 52.21 and 70.1; similar standards in states bordering Minnesota; and similar standards in

---

<sup>1</sup> Minnesota, like all states that operate an approved air emissions permitting program, is required to impose fees on air emissions sources to support the cost of the permitting program. Minnesota's point system in Minn. R. ch. 7002 is a mechanism to support the air emissions permitting program.

states within the EPA's Region 5; and a specific analysis of the need for and reasonableness of each difference.

Prevention of Significant Deterioration (40 CFR 52.21) applies to new major sources or major modifications at existing sources. PSD is designed to protect public health and welfare and preserve or improve air quality. Because Minnesota does not have its own federally-approved PSD program, the MPCA implements the federal rule as-is, just as EPA would implement it.

However, the MPCA implements its own Part 70 operating permit program, as approved by EPA. The current rulemaking adopts the EPA's GHG-related definitions and permit threshold into Minnesota's Part 70 operating permit program. In addition, the MPCA will also incorporate a deferral for biogenic CO<sub>2</sub> per the EPA's regulation promulgated on July 20, 2011.

The MPCA's operating permit program includes streamlining elements for state-only permits in addition to Part 70 requirements. The MPCA proposes to modify some of these operating permit rules to address GHGs. One component of these rule changes is to provide regulatory relief to facilities by preserving streamlined permits and insignificant activities options. The proposed additional rule changes would:

- Allow facilities to keep or obtain a permit as a non-major source of GHGs provided their actual emissions are below certain thresholds
- Allow facilities to continue treating certain equipment or operations as insignificant activities due to their very low emissions of GHGs

Regulatory relief under these options includes reduced recordkeeping and/or reporting as well as the opportunity to hold a permit that does not expire.

#### **EXECUTIVE ORDER 11-04 and HF No. 1 Comparison of Minnesota's rule to neighboring states EPA Region V states**

Because the addition of GHGs as regulated pollutants under the CAA is a national requirement, almost all states and local districts are implementing this program. The MPCA has reviewed GHG permitting rules for the states that border Minnesota (Iowa, Wisconsin, South Dakota, North Dakota and Michigan) and non-border states in EPA Region V (Ohio, Illinois, and Indiana).

<b>State</b>	<b>Implementation Status of GHG Permit Regulation</b>
<b>Illinois</b>	<p>Illinois is a delegated state for PSD, similar to Minnesota. Illinois can implement federal PSD requirements on the effective date and additional rulemaking is not needed.</p> <p>The operating permit rule was effective July 12, 2011, in Illinois Compiled Statutes (ICS) at 415 ICS 5/9.15. These rules reference the federal definitions of "subject to regulation" for PSD and CAA Permit Program (Part 70) permits, defines GHGs, includes GHGs as a regulated pollutant, and excludes GHGs from pollutants subject to fees.</p> <p>Illinois is reviewing the biogenic CO<sub>2</sub> deferral. The legislation addressing GHGs references the federal rules and staff believes biogenic sources may not be "subject to regulation" while deferred.</p>

<b>Indiana</b>	<p>Indiana adopted emergency rules on December 1, 2010, (effective January 3, 2011), to include GHGs as a pollutant and incorporate EPA's definition of subject to regulation. Final rules were effective March 16, 2011: Rule 326 Indiana Administrative Code (IAC) Article 2.</p> <p>The EPA approved Indiana's State Implementation Plan (SIP) on October 28, 2011.</p> <p>The public notice for another rule modification to defer biogenic CO<sub>2</sub> was September 7, 2011. The biogenic deferral language is currently contained in an emergency rule that is in effect (LSA#11-680). The full rulemaking that will put this language into Indiana's Administrative Code is LSA#11-251. These rules are scheduled for preliminary adoption at the February 1, 2012, Air Pollution Control Board meeting. The second Notice of Comment Period for that rule was published in the Indiana Register on Wednesday, December 14, 2011. Final adoption is expected in May or June of 2012, with an effective date in early fall of 2012.</p>
<b>Iowa</b>	<p>Iowa adopted rules on October 20, 2010, to amend the state's PSD and Part 70 rules to match the EPA's rule language. The effective date of the rule was December 22, 2010: Iowa Administrative Code rule numbers 567 IAC 22 and 567 IAC 33. The rule adopts the definitions of subject to regulation, GHGs, and CO<sub>2</sub>e. The EPA approved the revisions into the state's SIP effective November 30, 2011.</p> <p>The Environmental Protection Commission approved adoption of the biogenic CO<sub>2</sub> deferral on November 15, 2011, and it became effective on November 16, 2011.</p>
<b>Michigan</b>	<p>The Michigan State Office of Administrative Hearings and Rules approved a Request for Rulemaking on December 9 and December 20, 2010.</p> <p>Michigan is proposing changes to R 336.1211 of its Air Pollution Control Rules to address GHGs and Part 70 permits. The new rules will address the biogenic CO<sub>2</sub> deferral. The rules are expected to be final prior to July 1, 2012.</p> <p>Michigan is currently working on guidance to help facilities submit a Part 70 opt out permit if their GHG potential emissions are above the major source threshold but their actual emissions are below the threshold.</p>
<b>North Dakota</b>	<p>North Dakota incorporated into its rules the provisions of 40 CFR 52.21 as they existed on July 2, 2010. This includes revisions to the rules that were published as final in the <i>Federal Register</i> (FR) by this date but had not been published in the CFR. The rule changes were dated April, 2011: North Dakota Administrative Code 33-15-15-01.2.</p> <p>North Dakota also adopted the definition of subject to regulation for operating (Part 70) permits, in a rule dated April 1, 2011: North Dakota Administrative Code 33-15-14-06.1.cc.</p> <p>North Dakota plans to adopt the GHG biogenic deferral for both the PSD and Part 70 programs in the next rule revision.</p>
<b>Ohio</b>	<p>The governor of Ohio issued Executive Order 2010 – 15S on December 30, 2010, to authorize immediate rule adoption and implementation of two emergency rules regarding thresholds for the installation of new or modified sources of GHGs and regarding Part 70 operating permits for sources of GHGs. The emergency rules increase the GHG emission levels that trigger permitting to those levels set forth in the EPA's greenhouse gas tailoring rule. Ohio Administrative Code (OAC) rule <u>3745-31-34</u>, "Permits to install for major stationary sources and major modifications of sources emitting GHGs" and OAC rule <u>3745-77-11</u>, "Title V permits for major sources emitting GHGs." The rules were effective for ninety days.</p> <p>Final rules were adopted and are dated March 21, 2011.</p> <p>Ohio is working to amend the rules to reflect the three year deferral of biogenic CO<sub>2</sub>. Rule making activity was expected in late December 2011.</p>

<b>South Dakota</b>	<p>South Dakota adopted final rules which are dated April 20, 2011. The rules adopt the definition of "subject to regulation," as defined in 40 CFR § 70.2 (July 1, 2009), as revised in publication 75 Fed. Reg. 31607 (June 3, 2010), in accordance with EPA requirements. The rules incorporate 40 CFR 52.21 provisions by reference and define the pollutant GHGs. See South Dakota Administrative Rules 74:36:01:01.73 and 74:36:09:02.</p> <p>South Dakota's rules include a clause to stop regulating GHGs if the federal rules are vacated.</p> <p><i>"If EPA stays or withdraws the regulation of greenhouse gases as identified in publication 75 Fed. Reg. 31606 and 31607 (June 3, 2010), or a court issues an order vacating or otherwise invalidating EPA's regulation of greenhouse gases for any reason, the regulation of greenhouse gases by Article 74:36 are void as of the date of such administrative or judicial action and shall have no further force and effect."</i></p>
<b>Wisconsin</b>	<p>Wisconsin adopted an emergency order on December 15, 2010. The state later adopted final (permanent) rules amending PSD/NSR rule to define GHGs as subject to regulation, establish permit thresholds that trigger permitting and control requirements, and establish global warming potential factors. Permanent rules were published in August, 2011, and were effective on September 1, 2011: NR 400.02(74m), NR 405.07(9), and NR 407.075.</p> <p>Wisconsin Department of Natural Resources is not presently planning to adopt the biogenic CO<sub>2</sub> deferral.</p>

The 2011 Minnesota Session Laws, Chapter 4 also requires a specific analysis of the need for and reasonableness of each difference from federal and neighboring state air quality standards. The specific need and reasonableness of each of the listed criteria is fully described in this SONAR. Air quality standards address highly mobile pollutants. It is necessary and reasonable to require a high degree of national consistency to have the desired effect for all American citizens.

### **Performance Based Rules**

Minn. Stat. §§ 14.002 and 14.131, require that the SONAR describe how the Agency, in developing the rules, considered and implemented performance-based standards that emphasize superior achievement in meeting the Agency's regulatory objectives and maximum flexibility for the regulated party and the Agency in meeting those goals. As noted earlier in this document, the MPCA's operating permit program includes streamlining elements for state-only permits in addition to Part 70 requirements. The MPCA proposes to modify some of these operating permit rules to ensure that they remain available to sources with low actual emissions of GHGs.

### **Additional Notice**

Pursuant to Minn. Stat. § 14.14, subdivision 1a, the MPCA believes that its standard means of notice, including publication in the *State Register* and on the MPCA's public notice webpage provide reasonable notice of this rulemaking to persons interested in or regulated by these rules. However, Minn. Stat. §§ 14.131 and 14.23, require that the SONAR describe the MPCA's efforts to provide additional notice under section 14.22 to persons or classes of persons who may be affected by the proposed rules or explain why these efforts were not made.

On August 29, 2011, the MPCA published a notice requesting comments on its plan to amend Minnesota Rules, chapters 7005, 7007, 7011, 7017 and 7019. The same notice was also placed on the MPCA's public notice webpage. This notification also announced a public informational meeting, held on September 29, 2011, at the MPCA's office in St. Paul. The MPCA gathered a list of interested parties resulting from its request for comments and from the informational meeting.

In the meantime, the MPCA implemented an electronic alert system for public and rule notices in 2012. This alert system called GovDelivery allows users to customize what topics they would like updates on

and the frequency of those updates from the MPCA. This system is designed to provide additional notification to parties that we were not reaching before.

The MPCA alerted all parties on its former notification list of those who wished to register to receive notices under MS 14 (the M-List) to register on our GovDelivery system. It made the option available for people to still receive paper copies via U.S. mail if they would like, but had very few requests for paper copies. The MPCA's former M-List had about 300 subscribers for whom it was difficult to maintain accurate contact information. Now, interested parties can maintain their own contact information and easily self-subscribe/unsubscribe to specific topics or rules of interest.

In the new system, the MPCA created a topic that alerts interested parties to all new rulemaking activities so users can add these to their subscription list if they are interested. The MPCA now has more than 14,550 subscriptions for rule notices in the new system. With this new strategy/system, the MPCA believes it is likely to reach far more people with rules notices than in the past (currently 14,550 vs. 300).

The MPCA hosts a GovDelivery subscription system topic for these proposed rules on its website under "GovDelivery/Public Notices and Rulemaking/Rulemaking – Active Projects/Air/Federal Air Permit Thresholds for Greenhouse Gases Rule." The MPCA plans to send its notice of intent to adopt rules to all parties registered with the GovDelivery system for this and related topics. The MPCA plans to certify a list of persons registered to receive these rules on its GovDelivery system at the time of the notice.

Also, the MPCA will send the proposed rule amendments, SONAR, and notice to the chairs and ranking minority party members of the legislative policy and budget committees with jurisdiction over the subject matter of the proposed rule amendments as required by Minn. Stat § 14.116.

This statute also states that if the mailing of the notice is within two years of the effective date of the law granting the Agency authority to adopt the proposed rules, the Agency must make reasonable efforts to send a copy of the notice and SONAR to all sitting house and senate legislators who were chief authors of the bill granting the rulemaking. This requirement does not apply because the MPCA is using its general rulemaking authority for these rules and is not relying on special authority granted within the past two years for this rulemaking.

In addition, the MPCA plans to post a copy of the notice, proposed rule amendments and SONAR on the MPCA's public notice webpage at this link: <http://www.pca.state.mn.us/iryp3c9>.

The following notifications were used during the exempt rulemaking (temporary rules) to alert potentially affected facilities of the new GHG permit requirement.

- Mailing to standard rule distribution list (the MPCA's M-List) via United States Mail
- E-mail notification to the MPCA's Air Quality Listserve distribution list
- E-mail notification to all permit holders who had provided an e-mail address to the MPCA's Air Permits Section, categorized by permit type (registration permit, individual permit and individual general permits)
- Letter notification by United States Mail to holders of capped permits
- Insert included with Emission Inventory forms sent by United States Mail
- Notice placed on the MPCA's public notice webpage
- Notice and rule placed on MPCA's webpage for the Tailoring Rule
- Presentations made to conferences and industry groups (for example: the Air and Waste Management Association (AWMA) Permits 101 training, the AWMA Conference on the



Environment, the Minnesota Chamber of Commerce, the Hennepin County Bar Association, the Ethanol Work Group, the Next Generation Energy Board, legislators, other departments and representatives of the agriculture community)

- Information added to air permitting webpages, new forms created for GHG applications

The above notifications raised awareness and helped prepare regulated parties for the proposed permanent rules for GHG permitting. The MPCA will make efforts to assure that these contacts have been redirected to subscribing, as interested, under the new GovDelivery system, and will provide notices as allowed where GovDelivery is not practicable.

### **Impact on Farming Operations**

If the rule has an impact on agricultural land, Minn. Stat. § 14.111 requires the Agency to provide a copy of the proposed rule changes to the Commissioner of Agriculture no later than thirty days before publication of the proposed rule in the State Register. The Agency does not expect these rules to impact agricultural land or farming operations, so will not notify the Commissioner of Agriculture.

### **Impact on Chicano/Latino People**

If the proposed rules have their primary effect on Chicano/Latino people, Minn. Stat. § 3.9223, subdivision 4 requires agencies to give notice to the State Council on Affairs of Chicano/Latino People for review and recommendation at least five days before initial publication in the State Register. The Agency does not expect these rules to have a primary effect on Chicano/Latino people, so will not notify the State Council on Affairs of Chicano/Latino People.

### **Notification of the Commissioner of Transportation**

Minn. Stat. § 174.05, requires the MPCA to inform the Commissioner of Transportation of all rulemakings that concern transportation, and requires the Commissioner of Transportation to prepare a written review of the rules. The Agency does not expect these rules to impact or concern transportation, so will not notify the Commissioner of Transportation.

### **Consultation with Minnesota Management and Budget (MMB)**

As required by Minn. Stat. § 14.131, the MPCA will consult with MMB to help evaluate the fiscal impact and benefits of proposed rules on local governments. The MPCA plans to send MMB copies of the same documents on the same day that it sends to the Governor's Office documents for review and approval prior to publishing the Notice of Intent to Adopt. The documents will include: the Governor's Office Proposed Rule and SONAR Form; the proposed rules; and the SONAR. The MPCA will submit a copy of the cover correspondence and any response received from MMB to the Office of Administrative Hearings for its review of procedural compliance.

The MPCA plans to use the FINANCE-LTR Form from the Rulemaking Manual and to document this consultation in this SONAR.

### **Determination about Rules Requiring Local Implementation**

As required by Minn. Stat. § 14.128, the Agency has considered whether these proposed rules will require a local government to adopt or amend any ordinance or other regulation in order to comply with these rules. The statute defines "local government" as "a town, county or home rule charter or statutory city." If the proposed rule requires the local government to adopt or amend an ordinance, and there is not an exception, the rule's effective date may be delayed.

In Minnesota, these rules are administered by the MPCA as there are no local air districts that issue Part 70 air emission operating permits. Permits for facilities on tribal land are issued by EPA. The MPCA believes that adopting these rules will not require adding or amending any local ordinances.

### **Cost of Complying for Small Business or City**

#### **Agency Determination of Cost**

Minn. Stat. § 14.127 requires the MPCA to determine if the cost to comply with the proposed rules would exceed \$25,000 in the first year for a small business or small city. A small business is defined as a business (either for profit or nonprofit) with less than 50 full-time employees and a small city is defined as a city with less than ten full-time employees. As described in this SONAR, above, the MPCA evaluated the possible costs of these rules to a small business or a small city. The new permit threshold for GHGs will offer regulatory relief to small sources by raising the GHG permit threshold. The MPCA's experience with small sources is that if a permit were still required under the proposed rule, a small business or small city would most likely be eligible for a registration permit. A registration permit is an option when actual emissions are relatively low. The MPCA estimates the cost to submit an application for a registration permit to be approximately \$570. Sources with somewhat higher actual emissions might qualify for a capped permit, with an application fee of \$1,140. The regulated entity would also likely incur some additional engineering and administrative costs to prepare the application. It is unlikely, however, that the total costs would even approach \$25,000.

By providing a mechanism for local governments and school districts to keep their registration or general permits, they will avoid costs related to applying for and complying with a Part 70 permit. Because facilities holding permits will now have to calculate and track greenhouse gas emissions, there will be some additional compliance costs. However, as permitted facilities are already tracking fuel use and other pollutants, this additional effort is not expected to be significant.

The MPCA anticipates that, under these regulatory relief rules, there still may be one small business required to apply for a Part 70 permit. In the unlikely event that a small business (or small city) would have to apply for a Part 70 permit, the total cost would likely exceed \$25,000. The MPCA's permit application fee for a typical Part 70 permit is \$21,375. In addition, the facility would likely incur costs for staff time and engineering consultants to prepare the application. As described above, the EPA estimates in its RIA that to obtain a Part 70 operating permits, the cost would be \$46,400 for industrial sources and \$23,000 for commercial and residential sources.

The Part 70 permit requirements apply in all states either under the authority of a delegated state program authorized by the EPA as equivalent to the federal program, or directly by the EPA under its federal authority. The EPA recognizes the MPCA's air-permitting program to be as stringent as the federal program, so, the EPA has delegated its air-permitting activity in Minnesota to the MPCA.

The MPCA proposes its rules in part in order to maintain its program delegation. The MPCA must adopt recent changes to the federal air permitting program in order to maintain its program delegation. If the MPCA fails to adopt these rules, the EPA would apply the same requirements in Minnesota under federal authority with the same expected costs.

Under Minn. Stat. § 14.127, subd. 3., legislative approval is required, if the cost of complying with rules in the first year exceeds \$25,000 for a small business (<50 employees) or for a small city (<10 employees). Such business (or city) may file a written statement with the Agency claiming a temporary exemption from the rules. Upon filing this statement, the rules do not apply to that business (or city) until the rules are approved by a law (or an administrative law judge disapproves). However, subd. 4 states that subd.

3 does not apply if the administrative law judge approves an agency's determination that the rule has been proposed pursuant to a specific federal statutory or regulatory mandate.

The MPCA believes that this exception applies because its proposed rules are proposed to maintain its federally delegated authority to issue air permits and because the mandate to acquire a Part 70 permit would apply under either state or federal authority.

Bear in mind that an overall result of adopting these rules is to provide regulatory relief for a large majority of smaller sources. A large majority of facilities will avoid the costs related to Part 70 permitting because these rules raise the permit threshold for GHGs, incorporates GHGs into the MPCA's streamlined permit options, and includes the deferral of biogenic CO<sub>2</sub> until required by federal rules.

### **Effect of Cost Determination**

If the cost of complying with the proposed rules during the first year would exceed \$25,000 for a small business or a small city, that small business or small city can generally file a statement with the MPCA and be individually exempt from the rules until the Minnesota Legislature passes a law approving the applicability of the rules. There are some situations, however, when the small business or small city would not be exempt as described below.

1. The Minnesota Legislature has appropriated money to sufficiently fund the expected cost of the proposed rules upon each small business and/or small city identified with first-year costs exceeding \$25,000. Therefore, under Minn. Stat. § 14.127, subdivision 4(a), no small business and/or city can claim a temporary exemption from the proposed rules.
2. The rules are being proposed under a specific federal (regulatory) mandate. Therefore, under Minn. Stat. § 14.127, subdivision 4(b), no small business or small city can claim a temporary exemption from the proposed rules. The MPCA believes that this exception applies to these rules as described in more detail above.
3. The Governor has issued a waiver of the requirement that a law be passed approving the proposed rules. Therefore, under Minn. Stat. § 14.127, subdivision 4, paragraph (e); no small business or small city can claim a temporary exemption from the proposed rules.

### **Rule-by-Rule Analysis: Statement of Need for the Proposed Rules**

#### **Greenhouse Gas Rules**

Minn. Stat. ch. 14 requires the MPCA to make an affirmative presentation of facts establishing the need for and reasonableness of the rules as proposed. In general terms, this means that the MPCA must set forth reasons for its proposal that are not arbitrary and capricious. However, to the extent that need and reasonableness are separate, need has come to mean that a problem exists which requires administrative attention. This portion of the SONAR lays out the need for these rules.

Under the new rules from the EPA, GHGs must be addressed in air emission permits issued on or after January 2, 2011. Starting on January 2, 2011, new or modified sources that were already subject to Part 70 or PSD under the previous rules must address GHGs in their permits if their GHG emissions meet or exceed the new thresholds. As of July 1, 2011, existing facilities were also subject to the new thresholds.

For the PSD program, Minnesota is a delegated state. The new federal PSD permit threshold, therefore, is effective here immediately upon GHGs becoming "subject to regulation" on January 2, 2011. No changes to state rules are needed to apply the federal GHG permit threshold or biogenic deferral to Minnesota's PSD permits. Facilities may choose to take enforceable limitations to remain below the significance threshold.

The situation for Minnesota's Part 70 operating permit program is different because Minnesota operates an approved state program for operating permits. To determine the applicability of the Part 70 program, Minnesota Rules refer to and mirror the definition of a major source in the Clean Air Act. Existing Minnesota Rules set the permit threshold at 100 TPY.

As a result, the MPCA must amend its permitting rules to avoid requiring small sources to obtain operating permits. A fairly small furnace or boiler – such as in a 3,500 square foot building, for example – could exceed the prior 100 TPY permit threshold for GHGs. Many residences, hospitals, schools or restaurants that did not need a permit before would need one if the MPCA did not take action to amend its permitting rules.

The MPCA has revised the applicability requirements in part 7007.0200 using the exempt rulemaking process under Minn. Stat. § 14.388 to implement the Part 70 GHG permit threshold and make related revisions. The rule was published on January 24, 2011, in the Minnesota *State Register*, volume 35, number 30, pages 1097-1108 (35 SR 1097).

Under Minn. Stat. § 14.388 (b) (2010), rules passed using the expedited process are effective for a maximum of two years. Therefore, the MPCA is now conducting this rulemaking process to make the exempt rule changes permanent. The MPCA will also undertake the approval process with the EPA for its State Implementation Plan to include the revised rules as quickly as resources and time permit.

The deferral of biogenic CO<sub>2</sub> emissions is necessary to prevent Minnesota from being one of the few states that would require GHG emission sources to include biogenic CO<sub>2</sub> emissions in their calculation of potential-to-emit for permitting purposes. The EPA is reviewing whether and how to include biogenic CO<sub>2</sub> emissions in potential-to-emit calculations. Until such time as the EPA finalizes its approach, it is prudent for the MPCA to adopt the deferral and be consistent with federal regulations and other states.

### **New Source Performance Standard Rules**

The CAA § 111(c) requires performance standards for source categories that have significant air pollution impacts. Additionally, under this section, states may accept delegation to implement and enforce these standards. Minnesota has accepted delegation for NSPS regulations and incorporates them by reference in chapter 7011. The MPCA proposes to incorporate a new NSPS regulation in the same way as it has for previously promulgated NSPSs. Adoption and incorporation by reference of NSPS subpart JJJJ, Standards of Performance for Stationary Spark Ignition Internal Combustion Engines is necessary for the MPCA to implement and enforce this new federal standard. The MPCA's failure to adopt the NSPS could result in the EPA objecting to Minnesota's air program.

### **Housekeeping Rules**

The MPCA proposes to clarify the existing requirement in various subparts in chapter 7007 that Minnesota's air emissions permitting requirements apply to all owners and operators of air emission sources. The clarification requires minor changes to several parts of the rules. As described on page 3, the proposal does not alter the existing rule, but only clarifies it. As described earlier, Minn. R. ch. 7007.0500, subp. 2, specifies that "Applicants shall submit the following information as required by the standard application form: A. Information identifying the stationary source **and** its owners and operators." The need for clarification is because other subparts in ch. 7007 that discussed situations when a permit application should be submitted said "owners or operators." The existing rule resulted in a few instances of confusion for permittees which will be resolved with the proposed rule. If the MPCA does not clarify that both owners and operators are subject to the air emissions permitting rule, a few

owners and operators will continue to be confused on the point. This confusion can result in enforcement action against owners or operators who fail to join in the permit application process.

### **Rule-by-Rule Analysis: Statement of Reasonableness for the Proposed Rules**

Minn. Stat. § 14 requires the MPCA to make an affirmative presentation of facts establishing the need for and reasonableness of the rules as proposed. Reasonableness has generally been held to mean that the MPCA's proposed solution to that problem is appropriate.

### **Reasonableness of the Rules as a Whole**

#### **GHGs as Regulated Pollutants**

The MPCA will implement rule changes to add GHG to operating permits to remain consistent with federal law.

As explained in the introduction to this SONAR, the CAA requires federal permits for air emission sources if potential emissions will exceed 100 or 250 TPY. The EPA realized that these emission thresholds would require thousands of existing, unregulated stationary sources to obtain air emission permits as major sources solely as a result of GHGs becoming a regulated pollutant. Many of the sources would be residences, apartment buildings, restaurants, schools and similar sources. The EPA acknowledged that regulating GHGs at 100 or 250 TPY is not practical or desirable and adopted its "tailoring" rule to reasonably address the problem. The "tailoring" rule establishes a 100,000 TPY CO<sub>2</sub>e permitting threshold for both the NSR/PSD and Part 70 permit programs.

Additionally, in response to comments received and a petition on the subject of biogenic CO<sub>2</sub> emissions, the EPA decided that further analysis is needed related to permitting requirements for biogenic CO<sub>2</sub> emissions. Consequently, the EPA promulgated a new rule on July 20, 2011, which reasonably defers CO<sub>2</sub> emissions from biogenic and bioenergy sources in permitting. Under the federal deferral, biogenic CO<sub>2</sub> emissions will be excluded when determining whether a stationary source meets the PSD and Part 70 applicability thresholds. This deferral lasts until July 21, 2014. See more information: July 20, 2011, *Federal Register* (76 FR 43490-43508).

It is reasonable for the MPCA to adopt the same "tailoring" and biogenic CO<sub>2</sub> emissions rules as the EPA. Since air quality issues are so readily transmitted across state borders, it is reasonable for the MPCA to be consistent with federal requirements for GHGs in air emission operating permits. The MPCA's approach to incorporating GHGs in part 70 permits is similar to that of the other states in Region 5 or that border Minnesota. For state-only permits, the MPCA has chosen to make other rule changes to provide reasonable regulatory relief for sources with low actual emissions of GHGs.

#### **Miscellaneous Housekeeping Changes**

The MPCA also proposes to make several miscellaneous rule modifications that are reasonable to clarify rule language and meaning, to improve consistency, and to incorporate one federal NSPS into state rules. It is reasonable for the MPCA to clarify its rules where experience has shown that some confusion exists as to their meaning and where internal inconsistencies have been identified. It is also reasonable for the MPCA to update its rules by incorporating new federally promulgated NSPSs.

## **Reasonableness of Proposed Rule Modifications**

The Minnesota Rules to be amended in this rulemaking are chapters 7005 (Definitions and Abbreviations), 7007 (Air Permitting), and 7011 (Standards for Stationary Sources). The reasonableness of each proposed change is provided as follows.

### **7005.0100 DEFINITIONS.**

Chapter 7005 provides the MPCA definitions and abbreviations for the air program. Because GHGs are newly defined by the EPA as a pollutant, the MPCA proposes to include GHGs in its definitions and abbreviations.

Subpart 10a, "Emission factor," is revised to include additional acceptable calculation references for GHG emissions as some sources are not covered by those currently listed in the definition.

Subpart 11d adds a new definition of "Greenhouse Gas". The new definition uses the same aggregate of six gases used by the EPA. It is reasonable to include the same definition of GHGs in chapter 7005 as used by the EPA. This definition and could eventually be used in more than one chapter of Minnesota's air quality rules.

These changes are reasonable because they define GHGs and "emission factor" in a manner consistent with the EPA's regulations. It is reasonable to include these changes in chapter 7005 because that is the location for general definitions for the air permit program.

The MPCA also proposes to revise subpart 30, the definition of "owner or operator," to read "owner" or "operator." This clarifies that both an "owner" and an "operator" meet the definition of "persons" who are responsible to obtain and hold air emission permits – "person" is defined in Minn. Stat. § 116.06, subdivision 17.

This change is reasonable to clarify the original intent of the rules and to resolve any confusion that owners or operators might have about the applicability of the air quality rules.

### **7007 PERMITS AND OFFSETS**

Chapter 7007 applies to the issuance of air emission permits. These permits include construction, modification and operating permits. This chapter includes rules to implement the federal Part 70 operating permit program and rules for Minnesota's state-only permits. These rules include, among other items, due dates for applications and reports, the content of permit applications, notice and review procedures, permit content and compliance demonstrations. Additional parts of chapter 7007 address permits for PSD/NSR sources according to 40 CFR 52.21 and sources of hazardous air pollutants under section 112(g) of the CAA.

### **7007.0050 SCOPE**

The scope of chapter 7007 is the issuance of permits to construct, modify, reconstruct or operate emissions units, emissions facilities and stationary sources that emit air pollutants. The existing language says that the MPCA issues permits to "stationary sources" which is inaccurate. The MPCA never intended to authorize stationary sources to build and operate themselves, so the language of the rule has been inaccurate since it was promulgated.

In fact, the MPCA issues permits to "persons" as that word is defined in Minn. Stat. § 116.06, subdivision 17, who own and operate stationary sources. Minn. Stat. § 116.081, subdivision 1 and part 7007.0150 prohibit "persons" from constructing, modifying, reconstructing or operating emission units, emission facilities or stationary sources, thereby obligating "persons" to obtain and hold permits for emission

units, emission facilities or stationary sources. The definition of “persons” in Minn. Stat. § 116.06, subdivision 17 includes natural persons and entities that could own or operate a source, but does not include inanimate structures such as stationary sources.

MPCA proposes to clarify the wording to say that permits are issued to owners and operators rather than to stationary sources. In addition, the MPCA proposes to clarify that proposals to modify a stationary source are made by owners and operators, not by the stationary source, which is typically a building or a collection of buildings.

It is reasonable to revise the language to more accurately reflect the actual practice of the Agency and the original intent of the rule. These clarifications are reasonable because a stationary source is not the legally responsible party for obtaining a permit or operating under that permit. The owners and operators are responsible and it is reasonable to ensure that the rule language is clear on that distinction.

### **7007, MULTIPLE SUBPARTS**

The following subparts are all modified slightly to clarify when both owners and operators are responsible for a specific action or activity or when either an owner or an operator can be. The reasoning for this change is the same as described under part 7007.0050.

- Part 7007.0100, subps. 7b; 7d; 12c; 24b; and 25, item C;
- Part 7007.0150 subp. 4, items A and B;
- Part 7007.0200, subp. 1;
- Part 7007.0250, subps. 1-8;
- Part 7007.0350, subp. 1, items A, E and F;
- Part 7007.0400, subps. 1 and 3 to 5;
- Part 7007.0500, subp. 2, item D, subitem (2);
- Part 7007.1105, subps. 3 and 4, items A and B;
- Part 7007.1107, subp. 1 and item A;
- Part 7007.1110, subps. 2, items A and B; 2b; 3, item B; 11; 12, items A, B, and C; 13; 14 and 16;
- Part 7007.1115, subps. 1; 2, item A; and 3;
- Part 7007.1120, subps. 1 and 2, item A;
- Part 7007.1125, subps. 1; 2, item A; and 3;
- Part 7007.1130, subps. 1; 2, item A; and 3a, item F;
- Part 7007.1140, subp. 1, item A;
- Part 7007.1142, subps. 1; 2, items A and C; 3; 3a; 4; 5, items A and B; and 6;
- Part 7007.1145, subps. 1, item A; 2, items A and B;
- Part 7007.1146, subp. 2, item F; and
- Part 7007.1150, Item E.

### **7007.0100 DEFINITIONS.**

Part 7007.0100 includes definitions that apply to parts 7007.0050-7007.1850. The MPCA proposes several changes to specify that GHG is a pollutant that is now regulated and to specify how GHG emissions should be calculated. These new definitions are necessary to be consistent with the EPA regulations. The MPCA also proposes changes to clarify that owners and operators are the entities responsible for actions related to permitting. Similar to the proposed revisions under part 7007.0050, these changes are reasonable because a “stationary source” is not the legally responsible party for the permitting and operation of a source. The owners and operators are responsible and it is reasonable to ensure that the rule language is clear.

Subpart 7b is revised to clarify that owner and operators of a stationary source are allowed to make changes under a capped permit. A “stationary source” is not a person and cannot make changes.

A new subpart 7c defines carbon dioxide equivalent emissions or CO<sub>2</sub>e. The EPA has defined the permit threshold for GHG emissions in terms of CO<sub>2</sub>e. The change is reasonable in this case so that Minnesota Rules comport with the federal regulations.

The definition of “customary permit conditions” is renumbered as subpart 7d and owners and operators are added as the entities that are eligible for Environmental Management System provisions. Eligibility for Environmental Management Systems is established in part 7007.1105. Part 7007.1105 specifies that owners or operators, not stationary sources, must meet the requirements of the rule. It is reasonable to clarify the definition of “customary permit conditions” so that it is consistent with part 7007.1105 which uses the phrase.

In subpart 19, GHGs will be added to the definition of “regulated air pollutant,” which is a term used in the MPCA’s PSD permit program and permit application content requirements. GHGs first became “regulated air pollutants” when the EPA issued greenhouse vehicle emission standards in 2010. Since then, the EPA has issued rules that require GHG emission sources to report their GHG emissions and rules to “tailor” federal permitting requirements to account for the vastly higher amount of GHGs that are emitted from stationary sources.

It is reasonable to add GHGs to the definition of “regulated air pollutants” because GHGs are now being regulated at both the federal and state level. The list of pollutants in the definition would be misleading if it did not include GHGs.

The MPCA will also add a definition of “subject to regulation” in a new subpart 24a. The MPCA proposes to adopt the EPA’s definition of “subject to regulation” in its “tailoring” rule. The MPCA evaluated other options to create its own definition and decided to retain the EPA’s definition. The only proposed change from the temporary rule is to delete the reference to the *Federal Register* as the regulation has now been codified at 40 CFR 98, Table A-1.

It is reasonable to use the EPA’s wording to maintain consistency with federal regulations and to be clear that MPCA does not intend any different meaning from the EPA’s.

“Summary of EMS audit results” is renumbered as subpart 24b and owners and operators are substituted for “stationary source” as the persons that are responsible for corrective actions. It is reasonable to make the renumbering of this subpart permanent in order to maintain the numbering system in the rules. It is also reasonable to substitute owners and operators for “stationary source” because the sources do not plan or complete corrective actions; the owners and operators do.

Subpart 25, Title I Condition, Item C is clarified to show that owners and operators accept permit conditions that apply to the stationary source, rather than the source accepting permit conditions. The clarification is consistent with the MPCA’s effort in this rulemaking to remove “stationary source” where the rule actually intends “owners and operators.” The clarification is reasonable because an inanimate stationary source cannot assume permit conditions.

#### **7007.0150 PERMIT REQUIRED.**

Part 7007.0150 addresses when air emission permits are required. Subpart 1 prohibits construction, reconstruction, modification or operation of certain sources of air emissions without a permit. Item A is clarified by rewording the first sentence and deleting the last sentence. These changes are reasonable because they align the subpart with the same prohibition in Minn. Stat. § 116.081.



New items will be added under subpart 1 to explain the process that an owner or operator must follow if there is a pending facility modification that was approved prior to the effective date of the EPA's "tailoring" regulation, January 2, 2011. The intent is to ensure that no pending modifications cause a source to become a major source inadvertently by application of the new GHG threshold and to ensure that major sources properly evaluate Best Available Control Technology for GHG emissions, if necessary. Owners and operators are expected to comply with EPA regulations. These changes are reasonable by providing a process and timeline for owners and operators to assess their modifications and thus avoid potential non-compliance and unintended consequences of a facility modification.

The MPCA proposes to revise or replace part 7007.0150, subpart 1, items B, C and D of the temporary rule because these three items contain requirements that have expired or that were confusing to permittees. Under the federal "tailoring" rule, the group of sources affected by the EPA's January 2, 2011, effective date is construction projects that were already subject to PSD for a conventional pollutant. Item B addresses construction projects where actual construction has not yet started. Item B is revised from the temporary rule to improve clarity. It explains that pending modifications must be assessed for GHGs to determine if the pending change is now subject to review under PSD. If necessary, the owners and operators must submit a new permit application ensure compliance with federal PSD requirements.

Item C has been revised to further explain and clarify the requirements for facilities where the existing permit conditions satisfy GHG requirements. If no new permit application is needed, the owners and operators must keep records of the determination for five years.

Item D is replaced with new text that states that the assessments under items B and C do not apply to stationary sources covered by capped permits or registration permits. General permits are not specifically addressed in this subpart as part 7007.1100, subpart 5, already requires holders of general permits to meet the requirements of parts 7007.0100 to 850.

Item E, subitem (2) adjusts the due date to July 1, 2012, instead of June 30, for submitting a new permit application, which is more consistent with previous sections.

The proposed changes to part 7007.0150 are reasonable because some of the requirements in the temporary rule will have expired by the time the permanent rule is promulgated, so it is no longer necessary to include them in the rule. The MPCA also heard from permittees that these sections were confusing. The proposed changes in the permanent rule are reasonable because they clarify the MPCA's intent, they carry forward only those provisions needed for compliance purposes, and they streamline the language.

#### **7007.0200 SOURCES REQUIRED OR ALLOWED TO OBTAIN A PART 70 PERMIT.**

Part 7007.0200 specifies the types of facilities for which owners and operators must obtain a federal Part 70 permit. It defines an emissions threshold for a facility to be considered a major source. This section also includes what types of sources must include fugitive emissions in their potential emissions calculation, and when owners and operators of waste incinerators/combustors must obtain a Part 70 permit.

Subpart 1 is clarified to state that the owners and operators are the persons required to obtain the permit, not the facility or emission unit. This change is consistent with similar housekeeping changes being proposed to the rule at this time and is reasonable as an owner or operator holds a permit and is legally responsible for the facility, unit, or source, not the building or unit itself.

Subpart 2, item B previously defined the applicability of the Part 70 program in Minnesota by referring to the definition of a major source in the CAA by setting the permit threshold at 100 TPY. The MPCA adds the new federal Part 70 threshold of 100,000 TPY CO<sub>2</sub>e for GHGs. This change is necessary to implement the federal Part 70 permit threshold in Minnesota. It is reasonable to specify what is being regulated and provide for implementation consistent with the EPA regulations. As noted on page 6, adopting this higher permit threshold for GHGs provides regulatory relief for thousands of smaller sources such as large homes, hospitals, schools and restaurants.

#### **7007.0250 SOURCES REQUIRED TO OBTAIN A STATE PERMIT**

Part 7007.0250 explains under what conditions various types of air emission permits are required. Subparts 1-8 are all clarified to indicate that owners and operators must apply for a permit, rather than saying the stationary source must apply for a permit. The reasoning for this change is the same as described under part 7007.0050.

#### **7007.0300 SOURCES NOT REQUIRED TO OBTAIN A PERMIT**

Part 7007.0300 lists specific New Source Performance Standards (NSPSs) for which owners and operators of a stationary source do not need to obtain a permit as otherwise required under part 7007.0250, subpart 2, item A, provided the sole reason it is needed is because it is subject to one of the listed NSPSs.

Subpart 1 is revised to clarify that the owners and operators are not required to obtain a permit, rather than the stationary source. The reasoning for this change is the same as described under part 7007.0050.

Subpart 1, items B, C and F are revised to clarify that stationary sources are covered by a permit rather than required to obtain a permit. As discussed under part 7007.0050, stationary sources themselves do not obtain permits.

Subpart 1, item B also lists the NSPSs for which owners and operators need not obtain a permit if the NSPS is the sole reason a permit would otherwise be required. The MPCA proposes to add *Title 40, part 60, subpart JJJ, Standards of Performance for Stationary Spark Ignition Internal Combustion Engines* as one of the NSPS listed in this item. The MPCA proposes to exempt owners and operators of stationary spark ignition internal combustion engines from the requirement to obtain a state permit if there is no other condition that triggers the need for an air emission permit other than the stationary spark ignition internal combustion engine NSPS. The only exception would be those engines for which the owners and operators conducted a performance test to demonstrate compliance with the applicable standard. Performance testing to demonstrate compliance is required for certain units and is a more complex requirement than the other NSPSs listed in this item. If owners and operators purchase a unit certified by the manufacturer, then performance testing is not required to demonstrate compliance. The MPCA expects that relatively few owners and operators would use performance testing as a compliance option.

In determining whether to exempt certain NSPS categories from the requirement to obtain a permit, the MPCA has used the following criteria:

- 1) Straightforward compliance requirements and
- 2) Potential emissions likely below permitting thresholds

The compliance requirements for the subpart JJJ engines are uncomplicated (e.g., maintaining records of notifications, engine maintenance, compliance with standards, and hours of operation) unless

performance testing is chosen as a compliance option. The MPCA believes the majority of units subject to this standard will have potential emissions below the permitting thresholds when the stricter emission limits of the standard are taken into account.

This change is reasonable to provide regulatory relief to owners and operators of facilities with no other emission units than stationary spark internal combustion engines. Otherwise, simply by purchasing an engine an owner or operator of a facility that previously did not need an air emissions permit would be required to hold an air emissions permit from the state. To require permitting for many additional facilities simply because the owners or operators purchase a new engine (and a cleaner engine if it is replacing an existing engine) would result in added administrative burden for both the stationary source owner and operator and MPCA staff. This change is reasonable because owners or operators of any of these engines must comply with the applicable standard regardless of permit status.

### **7007.0325 SOURCES ALLOWED TO EXCLUDE BIOGENIC CARBON DIOXIDE FROM APPLICABILITY THRESHOLDS**

As described in the Introduction to this SONAR, on July 20, 2011, the EPA promulgated a rule that excludes biogenic carbon dioxide from calculations of potential air emissions for air permit applicability determinations until July 21, 2014. The MPCA proposes to add the new federal regulation to Minnesota Rules.

The EPA's regulatory language for this biogenic deferral, which is used in both PSD and Part 70 rules (40 CFR 51, 52, 70 and 71), is as follows (76 FR 43507):

*"...prior to July 21, 2014, the mass of the greenhouse gas carbon dioxide shall not include carbon dioxide emissions resulting from the combustion or decomposition of nonfossilized and biodegradable organic material originating from plants, animals, or micro-organisms (including products, by-products, residues and waste from agriculture, forestry and related industries as well as the nonfossilized and biodegradable organic fractions of industrial and municipal wastes, including gases and liquids recovered from the decomposition of non-fossilized and biodegradable organic material)."*

In the preamble of the biogenic deferral, the EPA further clarifies that the exclusion applies only to biogenic CO<sub>2</sub> and not to other constituents of GHGs (76 FR 43492).

*"This deferral applies only to biogenic CO<sub>2</sub> emissions and does not affect non-GHG pollutants or other GHGs (e.g., methane (CH<sub>4</sub>) and nitrous oxide (N<sub>2</sub>O)) emitted from the combustion of biomass fuel. Also, this deferral only pertains to biogenic CO<sub>2</sub> emissions in the PSD and Title V programs and does not pertain to any other EPA programs such as the GHG Reporting Program."*

The MPCA will incorporate the biogenic CO<sub>2</sub> deferral per the EPA's regulation promulgated on July 20, 2011. The deferral means biogenic CO<sub>2</sub> emissions will not be included in the calculation of GHG emissions for purposes of determining whether the emissions threshold for permitting requirements has been reached.

Subpart 1 excludes biogenic CO<sub>2</sub> from potential-to-emit calculations until required to be included by federal regulations. The explanation of what constitutes biogenic CO<sub>2</sub> is based on the EPA's language used in 40 CFR § 52.21 and 40 CFR 70.

Subpart 2 lists other chapters of Minnesota Rules where biogenic CO<sub>2</sub> is also excluded from air permitting applicability determinations for the deferral period. This change is reasonable to be consistent with the major source applicability threshold in Minnesota Rule 7007.0100, subp. 24a. It will

also reduce the burden on owners and operators holding general, capped and registration permits. They will not need to calculate biogenic CO<sub>2</sub> emissions during the deferral for either permit applicability or recordkeeping purposes. Owners and operators holding registration permits will also exclude biogenic CO<sub>2</sub> from their annual emission inventory reporting.

These changes are reasonable to define what constituents of the pollutant GHGs are regulated and to provide for implementation of GHG permitting that is consistent with EPA regulations.

Until the MPCA's permanent rule is final, the MPCA will implement the deferral as a policy per the [Program Management Decision Memorandum: Implementation of U.S. Environmental Protection Agency's Deferral for Carbon Dioxide Emissions From Bioenergy and Other Biogenic Sources Under the Prevention of Significant Deterioration and Title V Programs.](#)

#### **7007.0400 PERMIT REISSUANCE APPLICATIONS AFTER TRANSITION; NEW SOURCE AND PERMIT AMENDMENT APPLICATIONS; APPLICATIONS FOR SOURCES NEWLY SUBJECT TO A PART 70 OR STATE PERMIT REQUIREMENT.**

Part 7007.0400 explains the obligation and timing for owners and operators to submit applications for new facility permits or amendments for making a change or modification. The changes proposed to these rules are housekeeping changes to clarify how the rule applies. Originally, this and part 7007.0750 were promulgated to transition owners and operators to the new requirement to obtain operating permits. When the rules were promulgated, they did not account for how the rules would apply after the transition was complete. As a result, some owners and operators have attempted to use the rules to allow modifications to unpermitted facilities without obtaining a total facility operating permit. These rules were never intended to allow facilities to obtain permit amendments in the absence of an underlying permit. The proposed changes will clarify the conditions under which a previously unpermitted source may obtain a permit to authorize a facility change or modification.

Subpart 1 is clarified to state applications are from the owners and operators of a facility. This change is reasonable for the same reasons explained in support of the change to part 7007.0050.

Subpart 4 is clarified to show that the rule applies to previously unpermitted facilities that would become subject to the requirement to obtain a permit for the first time as the direct result of a change or physical modification. This provision does not apply to facilities currently holding any kind of air permit. This has been a point of confusion in the past and it is reasonable to ensure that the rule language is clear. This change is also reasonable because it allows facilities to obtain authorization to make the change or modification, but specifies a schedule for the owners and operators to apply for an operating permit.

Subparts 4 and 5 are revised to clarify that both owners and operators are responsible to apply for and hold a permit. The reasoning for this change is the same as described under part 7007.0050.

Subpart 5 adds language to specify the process an owner or operator should follow if a regulatory change makes a facility newly subject to obtain a Part 70 or state operating permit, including scenarios where a facility had a state operating permit and a regulatory change makes the source subject to Part 70. This change incorporates the longest possible deadline allowed under the federal Part 70 permit program (12 months as allowed under 70.5(a)(1)(i)). This change is necessary; otherwise the presumption would be that an application would be due on the day a new rule is promulgated. It is reasonable to clarify procedures and timeframes so that owners and operators can have sufficient time to complete and submit an application.

### **7007.0500 CONTENT OF PERMIT APPLICATION.**

Part 7007.0500 specifies that owners and operators must use standard permit application forms. In addition, it lists what information should be included regarding emission units and emissions, applicable requirements, operations and certification.

Subpart 2, item C, subitem (4), is modified to address the EPA's deferral of biogenic carbon dioxide. The deferral is in part 7007.0325. The change to this part of the rule is reasonable to make it consistent with the biogenic carbon dioxide deferral that the MPCA is proposing to adopt.

In subpart 2, item C, subitem (6), unit (a), GHGs are added to the list of pollutants for which information must be submitted. This change is necessary to provide for implementation of EPA regulations. The permanent rule also specifies that the calculation is as CO<sub>2</sub>e. It is reasonable to clarify that GHG emission rates as CO<sub>2</sub>e are part of a complete application.

Subpart 2, item D, subitem (2), is revised to clarify that owners and operators are required to test emissions of a stationary source rather than implying the source tests itself. This change is reasonable for the same reasons identified in support of the change to part 7007.0050.

### **7007.0750 APPLICATION PRIORITY AND ISSUANCE TIMELINES**

Subparts of part 7007.0750 list the processing and issuance deadlines for various types of permit applications. This includes procedures specific to modifications as well as to EPA review timelines.

The title of subpart 5 is amended to show that the subpart applies to stationary sources that were not previously subject to permitting requirements. This amendment is reasonable to clarify the MPCA's original intent that the rule only applies to permits for sources that did not previously have permits because the sources were not subject to permitting requirements, not because the owners and operators had failed to obtain a permit.

Items under subpart 5 are revised to further clarify the Agency's intent and practice.

Subpart 5, item A is clarified to indicate that owners and operators must apply for a permit, rather than saying the stationary source must apply for a permit. The reasoning for this change is the same as described under part 7007.0050.

Subpart 5, item A, subitems (1) and (2), are deleted because this transition period is complete.

Subpart 5, item B is revised to say that the modification will subject the owners and operators for the first time to the requirement to obtain a permit. This change is reasonable to clarify the MPCA's original intent that the rule only applies to permits for sources that did not previously have permits because the sources were not subject to permitting requirements.

The existing subpart 5, item B is renumbered as subpart 5, item C and is revised to clarify that owners and operators are the entities who may experience economic hardship, rather than the stationary source. This change is reasonable for the same reasons identified in support of the change to part 7007.0050.

The existing subpart 5.C is renumbered as 5.D.

The concluding paragraph of subpart 5 is clarified that the permit obtained under this part is for a modification. This is consistent with other proposed changes to this subpart to clarify the MPCA's original intent that the rule only applies to installation and operation permits. This paragraph is also clarified that both owners and operators apply for and hold a permit. The reasoning for this change is the same as described under part 7007.0050.

### **7007.0800 PERMIT CONTENT**

Part 7007.0800 defines what the Agency shall include as permit conditions in all permits.

Subpart 7 and item B are revised to clarify that owners or operators hold the allowances instead of that the stationary source holds the allowances. The reasonableness of this change is the same as the explanation for part 7007.0050.

Subpart 11, item A is revised to clarify that owners or operators keep records of alternative operating scenarios, not the stationary source itself. The reasonableness of this change is the same as the explanation for part 7007.0050.

### **7007.0950 EPA REVIEW AND OBJECTION**

Part 7007.0950 lays out the procedure for the EPA to review permits that the MPCA proposes to issue. This review is required under federal regulations.

Subpart 3 is clarified to state that the owners and operators will not be in violation of the requirement to submit a timely and complete permit application in the case of a petition's being filed on a Part 70 permit. The change is reasonable as the owners and operators submit the application; the stationary source does not submit documents. The reasonableness of this change is the same as the explanation for part 7007.0050.

### **7007.1050 DURATION OF PERMITS**

Part 7007.1050 specifies how long each type of permit is valid and allows permits to be voided if a stationary source no longer requires a permit under law.

Subpart 5, item C is revised to clarify that owners and operators are the entities expected to make substantial changes at the stationary source. The reasonableness of this change is the same as the explanation for part 7007.0050.

### **7007.1100, GENERAL PERMITS**

Part 7007.1100 details the requirements for owners and operators to apply for, and the MPCA to issue, a general permit. General permits cover a specific category or sector in which the facilities and applicable requirements are the same or substantially similar.

Subparts 2, 5, 6 and 7 are revised to clarify that owners and operators hold a permit, submit applications and are subject to enforcement action. A stationary source does not apply for or hold a permit. These changes are reasonable to define who is responsible for compliance at a stationary source. It is the owner(s) and operator(s), not the source itself. It is reasonable for the rule to be clear on this responsibility.

The proposed addition to subpart 8 concerns changes to a name, ownership, control or address in a general permit. New subpart 8, item A clarifies that owners and operators can change the facility name, or mailing information as it appears on the cover page of the permit by submitting a request to the MPCA. Without this rule change, it appears that owners and operators must apply for an entire new general permit and pay the full application fee. It has always been the MPCA's practice to allow these changes to be considered administrative with the lower application fee. This clarification is reasonable to provide regulatory relief for owners and operators making this administrative change. Renumbered subpart 8, item B is also revised to clarify that both owners and operators are responsible for the permit. The reasoning for this change is the same as described under part 7007.0050.

The existing language is renumbered as subpart 8, item B.

### **7007.1105 ELIGIBILITY FOR ENVIRONMENTAL MANAGEMENT SYSTEM (EMS) PROVISIONS IN STATE PERMITS**

This section defines the eligibility for regulatory relief for facilities where an EMS is in place. These facilities are going beyond the minimum required for compliance.

Subpart 1 and item B are revised to clarify that owners and operators are the entities that apply for a permit. The reasonableness of this change is the same as the explanation for part 7007.0050.

In subpart 1 item B., GHGs are added to the list of pollutants for which permit limits must be in place for owners and operators to be eligible to use EMSs in state permits. These changes are reasonable to maintain consistency with federal changes that account for GHGs in air emission permits.

### **7007.1107 APPLICATION AND PERMIT CONTENT RELATED TO INCLUSION OF EMS PROVISIONS IN STATE PERMITS**

This section provides the application criteria and procedures for facilities where an EMS is in place to obtain regulatory relief from certain other permit provisions. For example, emission calculations to determine the need for an amendment are unique to qualifying facilities.

Subpart 2 is revised to change “stationary source” to “owners and operators.” This change is reasonable because the subpart refers back to part 7007.1105 which specifies that the commissioner determines whether owners or operators are eligible for EMS, not whether the source is eligible.

In subpart 2, item C, subitem (1), a new GHG threshold of 25,000 TPY CO<sub>2</sub>e is added as subitem (j) in the list of pollutant levels to be eligible for the reduced calculation method provided in the rule. It is reasonable to add a CO<sub>2</sub>e threshold in this provision so that an appropriate GHG threshold is included in the list of pollutants for which regulatory relief is available.

### **7007.1110 REGISTRATION PERMIT GENERAL REQUIREMENTS**

Minnesota offers a streamlined category of permits for facilities with low actual emissions. These permits are called registration permits. There are four kinds of registration permits, depending on applicable regulations, types of equipment at the facility, or level of emissions. Part 7007.1110 includes items that apply to all four types of registration permits. Among other parts, these define general eligibility, application and certification requirements, permit content and compliance requirements.

Subparts 1; 2, item C; 3; and 5 are revised to clarify that owners and operators of a stationary source may or may not obtain a registration permit. A stationary source does not apply for or hold a permit. The reasonableness of this change is the same as the explanation for part 7007.0050.

A new subpart, subpart 2, item C, subitem (14), will add a recently promulgated NSPS to the list of those allowed under registration permits: *Title 40, part 60, subpart JJJ, Standards of Performance for Stationary Spark Ignition Internal Combustion Engines*. The proposed addition of item C, subitem (14) brings stationary spark ignition internal engines into the group of NSPS standards that do not preclude application for a registration permit on the basis that they are NSPS-subject facilities. It is reasonable to extend the registration permit option to qualifying sources with simple, straightforward compliance requirements that would otherwise be barred by an NSPS. If this change were not made, registration permit holders that purchased a new spark ignition engine would no longer qualify for their registration permit and would need to apply for an individual permit. The change is needed as part of a general

MPCA practice to offer more streamlined permit options where the rate of compliance will not be adversely affected.

The compliance requirements for the subpart JJJ engines are uncomplicated (e.g. maintaining records of notifications, engine maintenance, and compliance with standards, hours of operation and possibly periodic performance testing). The MPCA believes the majority of units subject to this standard will have potential emissions below the permitting thresholds when the stricter emission limits of the standard are taken into account.

Subpart 11a, item A has been clarified to address the process when a facility becomes ineligible for its current registration permit category because of a new regulatory requirement. The subpart includes timelines for notifications and revised permit applications. The temporary rule applied only to sources that became subject to new regulatory requirements due only to its emissions of GHGs. This subpart is modified from the temporary rule to be applicable to new regulations in general, not only regulations related to GHGs. In addition, the procedural portion of the subpart has been revised in an attempt to be clearer about what owners and operators must complete within specific timeframes. These changes are reasonable to ensure that facilities have a clear process to follow to avoid potential non-compliance.

The proposed addition to subpart 15 concerns administrative changes to permits. New subpart 15, item A will clarify that owners and operators can request to change the facility name or mailing information as it appears on the cover page of the permit. Without this rule change, it appears that facilities must apply for an entire new registration permit and pay the full application fee. It has always been the MPCA's practice to allow these changes to be considered administrative with the lower application fee. This clarification is reasonable to provide regulatory relief for owners and operators making this administrative change. The existing language is renumbered as subpart 15, item B.

### **7007.1125 REGISTRATION PERMIT OPTION C**

Part 7007.1125 includes specific eligibility, application and compliance requirements for Option C registration permits. Option C is geared toward facilities whose emissions are mainly from combustion sources and volatile organic compounds. Compliance is determined by using a calculation that considers fuel use, the sulfur content of the fuel, operating hours, and volatile organic compound usage. This calculation is sufficiently conservative to accommodate GHG emissions from combustion sources. Facilities that meet the calculation threshold have actual emissions below major-source thresholds.

Subpart 1, eligibility will be modified to prohibit the generation or use at the stationary source of hydrofluorocarbons, perfluorocarbons, sulfur hexafluoride or nitrous oxide other than from combustion. This change is reasonable because the compliance demonstration method for Option C, which is found in part 7007.1125, subp. 4, does not support inclusion of these chemicals from process units other than combustion. Subpart 1 is also revised to clarify that both owners and operators are responsible to apply for a permit. The reasoning is the same as described for part 7007.050.

Owners and operators that do not use or generate those chemicals can retain their option C permit. Staff believes that most Option C facilities will be able to continue with the same permit type. Medical facilities with Option C permits may use nitrous oxide. However, the usage may qualify as an insignificant activity under either part 7007.1300, subpart 2.1 or subpart 3.1(3). Relatively few operations that could fit within the Option C framework are likely to use or generate hydrofluorocarbons, perfluorocarbons, or sulfur hexafluoride. Facilities that use or generate those chemicals may qualify for an Option D registration permit, instead.

Subpart 3, Compliance Requirements, will be modified to include recordkeeping for GHGs and the date that new recordkeeping must begin. Recordkeeping for GHGs is reasonable since GHG are now



addressed in air emissions permits and this requirement is consistent with how other pollutants are treated for compliance purposes. Although compliance for Option C facilities is determined by the calculation referenced above, other GHG-related information may be subject to recordkeeping. One example is an activity that previously qualified as insignificant and no longer does because the list of insignificant activities in part 7007.1300 was revised based on GHGs. This example was added to the rule. It is reasonable to provide an explanation of what recordkeeping is required under this option since it may not have been clear given that compliance is otherwise determined using another method. In addition, subpart 3 is revised to clarify that owners and operators are issued a permit. The reasoning is the same as described for part 7007.0050.

#### **7007.1130 REGISTRATION PERMIT OPTION D**

This section defines the specific eligibility and compliance requirements for an Option D registration permit. The Option D registration permit limits actual emissions to 50 TPY or half the major source permit threshold. This category is more flexible as the actual emissions level determines eligibility. Unlike Options A and C, it does not restrict eligibility based the type of equipment or applicable requirements.

Subpart 3, Compliance Requirements, will be modified to include GHGs in the 12-month rolling sum calculations and the date that new recordkeeping must begin. In addition, new parts will be added to provide calculation methods for GHGs. Item M provides the method for calculating emissions of GHGs purchased or used. Item N addresses GHG emissions from chemical processes. These calculation methods are similar to those already in place for units with emissions of volatile organic compounds. The wording is also revised to clarify owners and operators are issued a permit. The reasoning is the same as described for part 7007.0050.

For reduced record-keeping in subpart 3a, GHGs and GHG-containing materials are added to the lists of pollutants, materials and calculations allowed under this part. A GHG emissions threshold of 25,000 TPY CO<sub>2</sub>e will be added to Table 3A in subpart 3a. It is reasonable to provide regulatory relief for low-emitting sources of GHGs.

Subpart 4, Calculation of Actual Emissions, item D is modified to include GHGs and to explain that the method to calculate actual GHG emissions is to calculate the individual constituents, convert to CO<sub>2</sub>e and sum the total CO<sub>2</sub>e. The calculation method is the same as that promulgated in the federal rule. These changes are reasonable to allow owners and operators of low actual GHG emissions to obtain a registration option D permit and to provide a consistent calculation method for GHGs for compliance purposes. It is reasonable to use this method for GHGs as it is similar to how other pollutants are treated within the registration option D compliance methods. These changes also align state requirements for emission calculations with the federal permit rule.

A GHG emissions threshold of 50,000 TPY CO<sub>2</sub>e will be added to Table 3 in subpart 5. These thresholds use the same proportion of the federal permit threshold as the other pollutants. These changes are reasonable to provide regulatory relief for facilities with low actual emissions of GHGs.

Adding a GHG threshold to option D will allow most facilities to retain their current option D permit. It is reasonable to provide regulatory relief for facilities with low actual emissions of GHGs.

#### **7007.1140 CAPPED PERMIT ELIGIBILITY REQUIREMENTS**

Capped permits are another option that provides regulatory relief for certain facilities. Allowable actual emissions are higher than registration permit option D, but still below major source permit thresholds.

Owners and operators of facilities with capped permits can make certain changes at their facilities without applying for a permit amendment.

Subparts 1 and 2 clarify that owners and operators rather than stationary sources may elect to apply for this type of permit and when owners and operators may not obtain this type of permit. The reasoning for this change is the same as described under part 7007.0050. A “stationary source” is not the legally responsible party for permitting and operating a source. The owners and operators are responsible and it is reasonable to ensure that the rules are clear.

A new subpart, subpart 2, item E, subitem (14), adds a recently-promulgated NSPS to the list of those allowed under capped permits: *Title 40, part 60, subpart JJJ, Standards of Performance for Stationary Spark Ignition Internal Combustion Engines*. Adding this new NSPS is consistent with prior practice and allows the capped permit option for owners and operators of sources that are eligible for a capped permit unless they are subject to NSPS. The proposed addition of item E, subitem (14), brings stationary spark ignition internal engines into the group of NSPS standards that do not preclude application for a capped permit on the basis that they are NSPS-subject facilities.

It is reasonable to extend the capped permit option to qualifying sources with simple, straightforward compliance requirements that would otherwise be barred by an NSPS. If this change were not made, capped permit holders that purchased a new spark ignition engine would no longer qualify for a capped permit and would need to apply for an individual permit. The change is reasonable as part of the MPCA's general practice to offer more streamlined permit options where the rate of compliance will not be adversely affected.

The compliance requirements for the subpart JJJ engines are uncomplicated (e.g., maintaining records of notifications, engine maintenance, compliance with standards, hours of operation, and possibly periodic performance testing). The MPCA believes that the majority of units subject to this standard will have potential emissions below the permitting thresholds when the stricter emission limits of the standard are taken into account.

#### **7007.1141 CAPPED PERMIT EMISSION THRESHOLDS**

This section specifies the pollutant emission levels that apply to the capped permit option. A GHG emissions threshold of 90,000 TPY CO<sub>2</sub>e and 85,000 TPY CO<sub>2</sub>e will be added to subparts 1 and 2, respectively. These changes are reasonable to provide regulatory relief for facilities with actual emissions of GHGs below the major source threshold.

#### **7007.1142 CAPPED PERMIT ISSUANCE AND CHANGE OF PERMIT STATUS**

This section explains the process for capped permit issuance. Additionally, it explains what owners and operators must do when a physical change to the facility makes it ineligible for either or both capped permit options.

A new subpart 3a, explains the process that must be followed if a regulatory change makes a source ineligible for a capped permit. This process is similar to the process provided for registration permits. Such a process should have been specified for capped permits previously, and was inadvertently omitted. The new subpart includes timelines for notifications and revised permit applications. These changes are reasonable to ensure facilities have a clear process to follow to avoid potential non-compliance and to make the capped permit processes similar to the registration permit processes.

### **7007.1146. CAPPED PERMIT COMPLIANCE REQUIREMENTS**

This section explains the methods of complying with both capped permits. This includes a calculation method, record keeping, pre-change analysis and reporting. GHGs will be added to record keeping requirements in subpart 2, items A and I, including the date on which to begin the new GHG recordkeeping. It is reasonable to include GHGs so that the compliance requirements for GHGs are the same as for other pollutants. The wording is revised to clarify that owners and operators are issued a permit. The reasoning for this change is the same as described for part 7007.0050.

### **7007.1150 WHEN A PERMIT AMENDMENT IS REQUIRED**

This section of the rule describes what types of changes at a stationary source trigger the need for a permit amendment or notification.

Item F specifically addresses the situation where a permit is required to authorize a facility change, but the stationary source does not hold any permit. If the owners and operators want to make a modification, they may apply for a permit amendment to authorize the change (construction permit under part 7007.0750, subpart 5). The existing language has resulted in some confusion among permittees. The subpart is revised to clarify that if owners and operators submit a timely permit application, they may make facility changes as provided by the rules, despite the fact that they do not yet have an underlying (operating) permit. Without at least a permit application on file, the MPCA has no knowledge or inadequate knowledge of the facility and is not able to make an informed decision on an application to modify the facility. It is reasonable to require owners and operators that do not hold current permits to submit timely permit applications to be eligible for authorization to modify their facility. This change is also reasonable to make this subpart consistent with parts 7007.0400 and 7007.0750.

### **7007.1300 INSIGNIFICANT ACTIVITIES LIST**

The EPA provides an option for states to define activities as insignificant for permit purposes (40 CFR § 70.5[c]). Minnesota has developed a list of insignificant activities that provides regulatory relief by several methods. Subpart 2 exempts certain operations from being listed in a permit application. Subpart 3 requires the activities to be listed in the permit application although no initial calculation of emissions is necessary. Subpart 4 also contains activities to be listed and is specific to a Part 70 (Title V) permit application. Subpart 4 is a threshold-based exemption. The owners and operators must quantify emissions to determine eligibility under this section.

In subparts 2, items A and G, and 3, items A and B, the size and/or capacity of units that qualify under this subpart have been reduced. Now that the MPCA is considering GHGs when determining whether a permit is required, the new thresholds will ensure that GHG emissions from these units will continue to qualify as “insignificant.” These changes are reasonable as the capacities were selected to be proportionate to the current levels relative to the Part 70 permit threshold and will protect the facility by making the listed activities unlikely to cause a facility to exceed the major source thresholds.

Subpart 3, item B, is titled “Furnaces and Boilers”. The text of subpart 3, item B, subitem (2) has an example that explains the applicability of this activity. This example used the phrase “fuel burning emission units.” Other types of equipment that use fuel, such as dryers, are not intended to be covered under this subpart. The example is revised to say furnace, to be consistent with the intent of the subpart. Subpart 3, item B also used the term “fuel burning equipment.” This term is not defined and also creates confusion with subpart 3, item A, which covers general fuel use for space heating. This phrase is changed to “indirect heating” equipment. To further clarify the term, a sentence is added

saying that indirect heating equipment has the meaning given under part 7011.0500, subpart 9. Clarifying that the subpart applies to “indirect heating equipment” is reasonable because that term is defined in Minnesota Rules and is consistent with the MPCA’s interpretation and practice.

A GHG emissions threshold of 1,000 TPY CO<sub>2</sub>e has been subpart 3, item I for activities required to be listed in a permit application. Also, for Part 70 permits, GHG emissions thresholds of 10,000 TPY CO<sub>2</sub>e PTE or 1,000 TPY CO<sub>2</sub>e actual emissions have been added in subpart 4 to activities required to be listed in a permit application. These changes are reasonable to provide regulatory relief for facilities with activities or units having low potential and low actual emissions of GHGs. Without these changes, facilities with low-emitting GHG activities or units that did not meet the insignificant activity definitions in subparts 2 and 3 would have had to list the activities in permit applications.

Subpart 4 is also revised to clarify that owners and operators apply for a permit. The reasoning for this change is the same as described under part 7007.0050.

### **7007.1400 ADMINISTRATIVE PERMIT AMENDMENTS**

The EPA provides an option for states to define different levels of permit revisions depending on the proposed change. Minnesota has adopted an administrative amendment process in part 7007.1400. Administrative permit amendments are allowed by 40 CFR § 70.7(d). Minn. R. 7007.1400 defines the eligibility for administrative amendments, the process to apply for one, and time lines to make the proposed change. This type of amendment is used to correct typographical errors or make minor administrative changes, among other simple updates to the permit. No emissions increases are allowed under the administrative amendment process.

Subpart 1, item D, subitem (5), previously used the term “equipment” which is not defined. The MPCA proposes to change the word “equipment” to “emission unit.” Clarifying that the subpart applies to an “emission unit” is reasonable because that term is defined in state rule and is consistent with the MPCA’s interpretation and practice.

### **7007.1450 MINOR AND MODERATE PERMIT AMENDMENTS**

The EPA provides a process under 40 CFR § 70.7(e) for permit revisions that do not qualify as administrative amendments. This section of the Minnesota Rules provides procedures for minor and moderate permit amendments. These amendments do not qualify as administrative amendments, nor do they rise to the level of a major permit amendment.

The MPCA proposes to change the language in subpart 2 to allow use of the minor amendment process to make changes in permit conditions, to authorize certain modifications to a facility and to incorporate former insignificant activities that no longer qualify as insignificant due to a regulatory change. When incorporating insignificant activities, there is a change in actual emissions reported within the permit. The administrative amendment process is therefore not applicable to this change. The minor amendment process is the next option and is the least burdensome amendment process that can be used in this case.

The permit changes that are proposed to be included in these rules are those that do not require a major permit amendment or those that cannot be made through the administrative amendment process. It is reasonable to allow owners and operators to use the more streamlined minor permit amendment process to change this type of permit condition because it relieves them of the need to go through the major permit amendment process. The change is also reasonable because many changes to permit conditions are in fact minor in nature and changing them does not make the permit less environmentally protective.

In addition, a due date is added to subpart 2. Owners and operators must submit an application within 30 days of a new regulation becoming effective that results in existing insignificant activities no longer qualifying as such. Under the prior rule, there was no application due date. This meant that applications were due on the date a new regulation became effective, which is impractical. The change is reasonable because it gives owners and operators clear direction on the timing of a permit application.

Subpart 4, item A, is expanded to be inclusive of the types of information that are needed in an application for the types of changes that are now allowed under the minor or moderate amendment process (due to revisions to subpart 2). Subpart 4, item A, is revised to allow owners and operators to use the minor and moderate amendment process to make changes to permit conditions as well as for facility modifications or to respond to regulatory changes. The administrative amendment process is not applicable to this type of change. The proposed rule change is reasonable because the minor amendment process is the least burdensome amendment process that can be used in this case.

Subpart 4, item B, is revised to clarify that the application should include the owners' and operators' suggested draft permit or amendment. This change is reasonable for the same reasons as supported the change to part 7007.0050.

Subpart 4, item C, is clarified by replacing the word "modification" with "amendment." This change is in the nature of a housekeeping change. The word "modification" is generally defined to mean changes to a facility, not changes to a permit. It is reasonable to use the word "amendment" because it is more accurate than "modification."

Subpart 7, item A, allows owners and operators to make changes that qualify for minor permit amendments seven-working days after the MPCA air quality division receives the minor permit amendment application. The MPCA proposes to add making a change to permit conditions to the rule so that not only facility modifications, but changes to permit conditions may be implemented seven-working days after receipt of a minor permit amendment application. This change is reasonable because it allows owners and operators to implement changes to permit conditions that the MPCA considers minor in nature using the most streamlined amendment process that is applicable.

Subpart 8 is revised to say modification or change. This change is reasonable as it affords permittees the opportunity to make certain changes, such as a change that decreases emissions, which are not "modifications" as defined in rule. Additionally, the text is revised to clarify the owners and operators make changes. This change is reasonable for the same reasons as supported the change to part 7007.0050.

### **7007.1500 MAJOR PERMIT AMENDMENTS**

Part 7007.1500 applies to changes to permit conditions or to any permitted source modification that does not qualify for an administrative, minor or moderate permit modification. This section defines what activities trigger this amendment process.

Subpart 1, item A, subitem (6), previously used the term "equipment" which is not defined in rules. The MPCA proposes to change the word "equipment" to "emission unit." The change is reasonable because "emission unit" is defined at part 7005.0100, subpart 10b and because use of the phrase is consistent with the MPCA's interpretation of the existing rule and its practice in implementing the rule.

### **7007.1850 EMERGENCY PROVISION**

Part 7007.1850 explains what is considered an emergency. To avoid issues related to non-compliance, a permittee has the responsibility to notify the MPCA and document the event.

The text is clarified that an emergency event is beyond the control of the owners and operators of the stationary source. This change is reasonable for the same reasons as supported the change to Part 7007.0050.

### **7011.3520 STANDARDS OF PERFORMANCE FOR STATIONARY COMPRESSION IGNITION INTERNAL COMBUSTION ENGINES**

Chapter 7011 contains the MPCA's performance standards for stationary sources. Chapter 7011 includes both the incorporation of federal performance standards by reference as well as state-specific standards.

Part 7011.3520 incorporates a federal NSPS by reference. The standard applies to specific types of stationary engines. This performance standard is proposed to be renumbered as part 7011.2305. This renumbering will result in standards related to engines being grouped together in the rule. This is reasonable to improve the organization of the chapter and assist owners and operators in finding the requirements that potentially apply to their facilities.

### **7011.2315 STANDARDS OF PERFORMANCE FOR STATIONARY SPARK IGNITION INTERNAL COMBUSTION ENGINES**

As noted above, chapter 7011 contains the MPCA's performance standards for stationary sources. The MPCA adds a new subpart to incorporate by reference the federal rule 40 CFR 60, subpart JJJJ, entitled "Standards of Performance for Stationary Spark Ignition Internal Combustion Engines." The MPCA generally incorporates the federal NSPS regulations by reference into state rule. Upon reviewing the list of federal standards against state rules, the MPCA staff found that subpart JJJJ, the NSPS for spark ignition engines, had not been incorporated by reference in the past. Subpart JJJJ, applying to both manufacturers and owners and operators of spark ignition engines, was finalized by EPA in winter 2008. These incorporations are needed and reasonable in order to keep Minnesota's rules up to date.

#### **List of Exhibits**

- Final Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule, 40 CFR Parts 51, 52, 70, and 71. EPA, docket number EPA-HQ-OAR-2009-0517; FRL-9152-8. (75 FR 31514-31608), June 3, 2010. Follow this link:  
<http://www.gpo.gov/fdsys/pkg/FR-2010-06-03/pdf/2010-11974.pdf>
- Regulatory Impact Analysis for the Final Prevention of Significant Deterioration and Title V Greenhouse Gas Tailoring Rule, Final Report (May 2010); Linda M. Chappell, EPA, Office of Air Quality Planning and Standards. Follow this link:  
<http://www.epa.gov/ttn/ecas/regdata/RIAs/riatailoring.pdf>
- Deferral for CO2 Emissions From Bioenergy and Other Biogenic Sources Under the Prevention of Significant Deterioration (PSD) and Title V Programs, 40 CFR Parts 51, 52, 70, and 71. EPA, docket number EPA-HQ-OAR-2011-0083; FRL-9431-6. (76 FR 43490-43508) July 20, 2011. Follow this link:  
<http://www.gpo.gov/fdsys/pkg/FR-2011-07-20/pdf/2011-17256.pdf>
- Standards of Performance for Stationary Spark Ignition Internal Combustion Engines and National Emission Standards for Hazardous Air Pollutants for Reciprocating Internal Combustion

Engines, 40 CFR Parts 60, 63, 85, 90, 1048, 1065, and 1068. EPA, docket number EPA-HQ-OAR-2005-0030, FRL-8512-4. (73 FR 3567-3614) January 18, 2008. Follow this link:  
<http://www.gpo.gov/fdsys/pkg/FR-2008-01-18/pdf/E7-25394.pdf>

- Adopted Exempt Rule Relating to Greenhouse Gas Permit Requirements (chapters 7005 to 7007). (35 SR 1097-1108) January 24, 2011. Follow this link:  
[http://www.comm.media.state.mn.us/bookstore/stateregister/35\\_30.pdf](http://www.comm.media.state.mn.us/bookstore/stateregister/35_30.pdf)
- Insignificant Activities Assessment – Spreadsheet. MPCA staff (file attached):



Insignificant activity  
analysis.zip

### **Conclusion**

Based on the foregoing, the proposed rules are both needed and reasonable.

---

Date

---

Michelle Beeman  
Deputy Commissioner

# Minnesota Pollution Control Agency

**Dual Notice: Notice of Intent to Adopt Rules Without a Public Hearing Unless 25 or More Persons Request a Hearing, and Notice of Hearing if 25 or More Requests for Hearing are Received**

**Proposed Amendment to Agency Rules Implementing Permanent Federal Air Permit Threshold Regulatory Relief for Greenhouse Gases (GHGs), and Clarifying when Permits Apply to Owners & Operators, *Minnesota Rules*, chs. 7005 Definitions and Abbreviations, 7007 Permits and Offsets, and 7011 Standards For Stationary Sources (parts 7005.0100, 7007.0050, 7007.0100, 7007.0150, 7007.0200, 7007.0250, 7007.0300, 7007.0325, 7007.0350, 7007.0400, 7007.0500, 7007.0750, 7007.0800, 7007.0950, 7007.1050, 7007.1100, 7007.1105, 7007.1107, 7007.1110, 7007.1115, 7007.1120, 7007.1125, 7007.1130, 7007.1140, 7007.1141, 7007.1142, 7007.1145, 7007.1146, 7007.1150, 7007.1300, 7007.1400, 7007.1450, 7007.1500, 7007.1850, 7011.2305, 7011.2310 and possibly related parts)**

## Introduction

The Minnesota Pollution Control Agency intends to adopt rules without a public hearing following the procedures in the rules of the Office of Administrative Hearings, *Minnesota Rules*, parts 1400.2300 to 1400.2310, and the Administrative Procedure Act, *Minnesota Statutes*, sections 14.22 to 14.28. If, however, 25 or more persons submit a written request for a hearing on the rules by 4:30 p.m. on August 10, 2012, the Agency will hold a public hearing in the boardroom, of its St. Paul office at 520 Lafayette Road, St. Paul, Minnesota 55155, starting at 2:00 p.m. on Thursday, August 30, 2012. To find out whether the Agency will adopt the rules without a hearing or if it will hold the hearing, you should contact the Agency contact person after August 10, 2012, and before August 30, 2012.

## Agency Contact Person

Submit any comments or questions on the rules or written requests for a public hearing to the Agency contact person. The Agency contact person is: Nathan Cooley at the Minnesota Pollution Control Agency, 520 Lafayette Road, St. Paul, Minnesota 55155, and telephone: 651-757-2290, Fax: 651-297-8676, and *e-mail*: [nathan.cooley@state.mn.us](mailto:nathan.cooley@state.mn.us). TTY users may call the Minnesota Pollution Control Agency at 651-282-5332 or 800-657-3864.

## Subject of Rules and Statutory Authority

The Agency proposes to make permanent certain amendments to *Minnesota Rules*, chapters 7005, 7007, and 7011 that it first adopted temporarily in January 2011. These rules implemented United States Environmental Protection Agency-promulgated regulations under the federal Clean Air Act. The EPA regulations required air permits to address the emission of "greenhouse gas" (GHG) emissions.

The Agency's air permitting programs require federal approval and the Agency must ultimately maintain alignment of its air permitting programs with the corresponding federal programs. For program consistency, the Agency proposes adopting the GHG amendments. The proposed amendments also limit applicability of the GHG permit requirements to larger sources. Without the increased GHG thresholds in these proposed rules, many small sources such as residences, hospitals, schools or restaurants would require a GHG permit.



In January, 2011, the Agency had temporarily adopted these federal GHG permitting rules using an expedited process and is now using its standard rulemaking process to make those temporary rules permanent. The Agency also proposes the following amendments not included in the temporary rules:

1. The Agency proposes adopting recently-promulgated federal performance standards for new, stationary, spark-ignition internal combustion engines to further align Agency and federal air permitting programs. Adopting these performance standards will allow these sources to hold a more streamlined registration permit instead of being subject to a more complicated individual facility permit.
2. Existing *Minnesota Rule* part 7007.0500, subpart 2, requires both owners and operators of potential air emission sources to apply jointly for an air permit. The Agency proposes clarifying this throughout existing rules by revising applicable rules to read "owner(s) ~~or~~ and operator(s)." Current language has resulted in improper permit applications. Proposed clarifications reflect the original intent of the rules. This clarification addresses only the need to jointly apply and to jointly hold an air permit; the day-to-day compliance activities such as maintenance, monitoring, testing and reporting may be conducted by either the owner or the operator.

The Agency's statutory authority to adopt these rules is found in Minnesota Statute § 116.07, subdivision 4(a). The Agency posted proposed rules on its public notices website: [www.pca.state.mn.us/index.php/about-mpca/mpca-news/public-notice/public-notice.html](http://www.pca.state.mn.us/index.php/about-mpca/mpca-news/public-notice/public-notice.html) and provides a link to proposed rules in the e-mailed notice. A free copy of the rules is available upon request.

### **Comments**

You have until 4:30 p.m. on Friday, August 10, 2012, to submit written comments in support of or in opposition to the proposed rules or any part or subpart of the rules. Your comment must be in writing and received by the Agency contact person by the due date. Comment is encouraged. Your comments should identify the portion of the proposed rules addressed, the reason for the comment, and any change proposed. You are encouraged to propose any change that you desire. You must also make any comments about the legality of the proposed rules during this comment period.

### **Request for a Hearing**

In addition to submitting comments, you may also request that the Agency hold a hearing on the rules. You must make your request for a public hearing in writing, which the Agency contact person must receive by 4:30 p.m. on Friday, August 10, 2012. You must include your name and address in your written request. In addition, you must identify the portion of the proposed rules that you object to or state that you oppose the entire set of rules. Any request that does not comply with these requirements is not valid and the Agency cannot count it when determining whether it must hold a public hearing. You are also encouraged to state the reason for the request and any changes you want made to the proposed rules.

### **Withdrawal of Requests**

If 25 or more persons submit a valid written request for a hearing, the Agency will hold a public hearing unless a sufficient number of persons withdraw their requests in writing. If enough requests for hearing are withdrawn to reduce the number below 25, the Agency must give written notice of this to all persons who requested a hearing, explain the actions the Agency took to affect the withdrawal, and ask

for written comments on this action. If a public hearing is required, the Agency will follow the procedures in *Minnesota Statutes*, sections 14.131 to 14.20.

### **Alternative Format/Accommodation**

Upon request, this information can be made available in an alternative format, such as large print, braille, or audio. To make such a request or if you need an accommodation to make this hearing accessible, please contact the Agency contact person at the address or telephone number listed above.

### **Modifications**

The Agency may modify the proposed rules, either as a result of public comment or as a result of the rule hearing process. It must support modifications by data and views submitted to the Agency or presented at the hearing. The adopted rules may not be substantially different than these proposed rules unless the Agency follows the procedure under *Minnesota Rules*, part 1400.2110. If the proposed rules affect you in any way, the Agency encourages you to participate in the rulemaking process.

### **Cancellation of Hearing**

The Agency will cancel the hearing scheduled for August 30, 2012, if the Agency does not receive requests for a hearing from 25 or more persons. If you requested a public hearing, the Agency will notify you before the scheduled hearing whether the hearing will be held. You may also call the Agency contact person at 651-757-2290 after August 10, 2012, to find out whether the hearing will be held. On the scheduled day, you may check for whether the hearing will be held by calling 651-757-2290.

### **Notice of Hearing**

If 25 or more persons submit valid written requests for a public hearing on the rules, the Agency will hold a hearing following the procedures in *Minnesota Statutes*, sections 14.131 to 14.20. The Agency will hold the hearing on the date and at the time and place listed above. The hearing will continue until all interested persons have been heard. Administrative Law Judge, the Honorable Manuel J. Cervantes, is assigned to conduct the hearing. Judge Cervantes can be reached at the Office of Administrative Hearings, 600 North Robert Street, P.O. Box 64620, Saint Paul, Minnesota 55164-0620, telephone: 651-361-7945, and Fax: 651-361-7936.

### **Hearing Procedure**

If the Agency holds a hearing, you and all interested or affected persons, including representatives of associations or other interested groups, will have an opportunity to participate. You may present your views either orally at the hearing or in writing at any time before the hearing record closes. All evidence presented should relate to the proposed rules. You may also submit written material to the Administrative Law Judge to be recorded in the hearing record for five working days after the public hearing ends. At the hearing the Administrative Law Judge may order that this five-day comment period be extended for a longer period but not more than 20 calendar days. Following the comment period, there is a five-working-day rebuttal period when the Agency and any interested person may respond in writing to any new information submitted. No one may submit additional evidence during the five-day rebuttal period. The Office of Administrative Hearings must receive all comments and responses submitted to the Administrative Law Judge no later than 4:30 p.m. on the due date. All comments or responses received will be available for review at the Office of Administrative Hearings. This rule hearing procedure is governed by *Minnesota Rules*, parts 1400.2000 to 1400.2240, and *Minnesota Statutes*, sections 14.131 to 14.20. You may direct questions about the procedure to the Administrative Law Judge.

The Agency requests that any person submitting written views or data to the Administrative Law Judge before the hearing or during the comment or rebuttal period also submit a copy of the written views or data to the Agency contact person at the address stated above.

### **Statement of Need and Reasonableness**

The statement of need and reasonableness summarizes the justification for the proposed rules, including a description of who will be affected by the proposed rules and an estimate of the probable cost of the proposed rules. It is now available from the Agency contact person. You may review or obtain copies for the cost of reproduction by contacting the Agency contact person. The Agency also posted the SONAR on its public notices website: [www.pca.state.mn.us/index.php/about-mpca/mpca-news/public-notices/public-notices.html](http://www.pca.state.mn.us/index.php/about-mpca/mpca-news/public-notices/public-notices.html).

### **Lobbyist Registration**

*Minnesota Statutes*, chapter 10A, requires each lobbyist to register with the State Campaign Finance and Public Disclosure Board. Ask any questions about this requirement of the Campaign Finance and Public Disclosure Board at: Suite 190, Centennial Building, 658 Cedar Street, St. Paul, Minnesota 55155, telephone 651-296-5148 or 1-800-657-3889.

### **Adoption Procedure if No Hearing**

If no hearing is required, the Agency may adopt the rules after the end of the comment period. The Agency will submit the rules and supporting documents to the Office of Administrative Hearings for review for legality. You may ask to be notified of the date the rules are submitted to the office. If you want either to receive notice of this, to receive a copy of the adopted rules, or to register with the Agency to receive notice of future rule proceedings, submit your request to the Agency contact person listed above.

### **Adoption Procedure after a Hearing**

If a hearing is held, after the close of the hearing record, the Administrative Law Judge will issue a report on the proposed rules. You may ask to be notified of the date that the Administrative Law Judge's report will become available, and can make this request at the hearing or in writing to the Administrative Law Judge. You may also ask to be notified of the date that the Agency adopts the rules and the rules are filed with the Secretary of State by requesting this at the hearing or by writing to the Agency contact person stated above.

**Order:** I order that the rulemaking hearing be held at the date, time, and location listed above.

---

Date

---

Michelle Beeman  
Deputy Commissioner  
Minnesota Pollution Control Agency

1.1 **Pollution Control Agency**  
 1.2 **Proposed Permanent Rules Relating to Greenhouse Gas Permit Requirements**

1.3 **7005.0100 DEFINITIONS.**

1.4 [For text of subps 1 to 10, see M.R.]

1.5 Subp. 10a. **Emission factor.** "Emission factor" means the most accurate and  
 1.6 representative emission data available from one of the following sources:

1.7 [For text of items A and B, see M.R.]

1.8 C. (1) An emission factor developed or approved by the commissioner and  
 1.9 derived from the following sources:

1.10 [For text of units (a) to (d), see M.R.]

1.11 (e) manufacturer's performance tests; ~~or~~

1.12 (f) emission data developed by the regulated party using the best  
 1.13 engineering judgment criteria listed in subitem (2); or

1.14 (g) the General Reporting Protocol for the voluntary reporting program  
 1.15 of the Climate Registry.

1.16 [For text of subitem (2), see M.R.]

1.17 [For text of subps 10b to 11c, see M.R.]

1.18 Subp. 11d. **Greenhouse gases or GHGs.** "Greenhouse gases" or "GHGs" means  
 1.19 the air pollutant defined as the aggregate group of six greenhouse gases: carbon dioxide,  
 1.20 nitrous oxide, methane, hydrofluorocarbons, perfluorocarbons, and sulfur hexafluoride.

1.21 [For text of subps 12 to 29, see M.R.]

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

2.1 [For text of subps 31 to 45, see M.R.]

2.2 **7007.0050 SCOPE.**

2.3 Parts 7007.0100 to 7007.1850 apply to the issuance of permits to construct, modify,  
2.4 reconstruct, or operate emissions units, emission facilities, or stationary sources that emit  
2.5 any air pollutant, and to the revocation, reissuance, or amendment of those permits. Parts  
2.6 7007.0100 to 7007.1850 apply to permits issued to owners and operators of stationary  
2.7 sources requiring permits under federal law at Code of Federal Regulations, title 40, part  
2.8 70, as amended (Operating Permit Program), or under part C (Prevention of Significant  
2.9 Deterioration of Air Quality) or part D (Plan Requirements in Nonattainment Areas)  
2.10 of the act, or under section 112(g)(2)(B) of the act (hazardous air pollutants), and to  
2.11 stationary sources requiring permits solely under state law. Owners and operators of  
2.12 sources proposing construction or modifications subject to parts C and D of the act are  
2.13 subject to the permitting requirements of part 7007.3000, incorporating by reference the  
2.14 provisions of Code of Federal Regulations, title 40, section 52.21, or parts 7007.4000 to  
2.15 7007.4040 in addition to parts 7007.0100 to 7007.1850. ~~Sources~~ Owners and operators  
2.16 proposing construction or reconstruction of sources subject to section 112(g)(2)(B) of the  
2.17 act are subject to the requirements of part 7007.3010, incorporating by reference the  
2.18 provisions of Code of Federal Regulations, title 40, sections 63.40 to 63.44, in addition to  
2.19 parts 7007.0100 to 7007.1850.

2.20 **7007.0100 DEFINITIONS.**

2.21 [For text of subps 1 to 7a, see M.R.]

2.22 Subp. 7b. **Capped emission permit or capped permit.** "Capped emission permit"  
2.23 or "capped permit" means a state permit issued under parts 7007.1140 to 7007.1148.  
2.24 All capped permit requirements are contained in rule. There are no site-specific permit  
2.25 requirements. The capped permit allows owners and operators of a stationary source to  
2.26 make changes provided emissions remain below thresholds and all other conditions in

3.1 parts 7007.1140 to 7007.1148 are met. The permit is designed for certain noncomplex  
3.2 facilities for which site-specific conditions are not necessary.

3.3 Subp. 7c. **CO<sub>2</sub> equivalent emissions or CO<sub>2</sub>e.** "CO<sub>2</sub> equivalent emissions" or  
3.4 "CO<sub>2</sub>e" has the meaning given under subpart 24a.

3.5 Subp. ~~7c~~ 7d. **Customary permit conditions.** "Customary permit conditions"  
3.6 means the permit conditions related to amendments, deviation reporting, and calculation  
3.7 frequency that are included in a state permit with environmental management systems  
3.8 (EMS) provisions and are applicable if the owners and operators of a stationary source  
3.9 ~~is~~ are establishing or ~~has~~ have lost eligibility for the EMS provisions.

3.10 [For text of subps 8 to 12b, see M.R.]

3.11 Subp. 12c. **Major nonconformance.** "Major nonconformance" means a failure to  
3.12 establish, implement, or maintain a numbered element of the ISO 14001 EMS standard  
3.13 that has the potential to cause a violation of regulatory, legal, or other environmental  
3.14 requirements. This definition applies to ~~an owner or operator~~ owners and operators of a  
3.15 stationary source applying for or holding a state permit that includes EMS provisions. A  
3.16 major nonconformance is identified by an EMS auditor.

3.17 [For text of subps 13 to 18a, see M.R.]

3.18 Subp. 19. **Regulated air pollutant.** "Regulated air pollutant" means the following:

3.19 [For text of items A to C, see M.R.]

3.20 D. any class I or II substance listed pursuant to section 602 of the act  
3.21 (Stratospheric Ozone Protection; Listing of class I and class II Substances); ~~or~~

3.22 E. any pollutant subject to a standard promulgated under section 112 or  
3.23 other requirements established under section 112 of the act (Hazardous Air Pollutants),  
3.24 including sections 112(g)(2)(B) (construction or reconstruction of major source of

4.1 hazardous air pollutants), 112(j) (Equivalent Emission Limitation by Permit), and 112(r)  
4.2 (Prevention of Accidental Releases), including the following:

4.3 [For text of subitem (1), see M.R.]

4.4 (2) any pollutant for which the requirements of section 112(g)(2)(B)  
4.5 (construction or reconstruction of a major source of hazardous air pollutants) of the act  
4.6 have been met, but only with respect to the individual source subject to the section  
4.7 112(g)(2)(B) requirement; or

4.8 F. greenhouse gases as defined in part 7005.0100, subpart 11d.

4.9 [For text of subs 20 to 24, see M.R.]

4.10 Subp. 24a. **Subject to regulation.** "Subject to regulation" means, for any air  
4.11 pollutant, that the pollutant is subject to either a provision in the Clean Air Act or  
4.12 a nationally applicable regulation codified by the administrator in Code of Federal  
4.13 Regulations, title 40, chapter I, subchapter C (Air Programs), that requires actual control  
4.14 of the quantity of emissions of that pollutant and the control requirement has taken effect  
4.15 and is operative to control, limit, or restrict the quantity of emissions of that pollutant  
4.16 released from the regulated activity, except that greenhouse gases (GHGs) as defined  
4.17 under part 7005.0100, subpart 11d, are not subject to regulation unless, as of July 1, 2011,  
4.18 the GHGs emissions are at a stationary source emitting or having the potential to emit  
4.19 100,000 tons per year (tpy) CO<sub>2</sub> equivalent emissions. "CO<sub>2</sub> equivalent emissions" or  
4.20 "CO<sub>2</sub>e" represent an amount of GHGs emitted and that are computed by multiplying the  
4.21 mass amount of emissions for each of the six greenhouse gases in the pollutant GHGs,  
4.22 by the gas's associated global warming potential under Table A-1 to subpart A of Code  
4.23 of Federal Regulations, title 40, part 98, Global Warming Potentials, as amended, and  
4.24 summing the resultant value for each to compute emissions as CO<sub>2</sub>e.

4.25 Subp. ~~24a.~~ 24b. **Summary of EMS audit results.** "Summary of EMS audit results"  
4.26 is a document signed by an EMS auditor, describing the date and scope of the audit,

5.1 and conformance, minor nonconformance, or any major nonconformance found in the  
5.2 course of an EMS audit. For major nonconformance, the summary of EMS audit results  
5.3 summarizes the objective evidence found by the EMS auditor, describes corrective actions  
5.4 planned or completed by the owners and operators of the stationary source, and details  
5.5 follow-up audit activity planned or completed by the EMS auditor.

5.6 Subp. 25. **Title I condition.** "Title I condition" means one of the following types of  
5.7 permit conditions based on requirements of title I of the act:

5.8 [For text of items A and B, see M.R.]

5.9 C. any condition for which there is no corresponding underlying applicable  
5.10 requirement and that the owners and operators of the stationary source ~~has~~ have assumed  
5.11 to avoid being subject to a new source review program under part C (Prevention of  
5.12 Significant Deterioration of Air Quality) or part D (Plan Requirements for Nonattainment  
5.13 Areas) or a preconstruction review program under section 112(g)(2)(B) of the act or  
5.14 implementing state rules or federal regulations; and

5.15 D. any condition which is part of a plan approved by the EPA or submitted to  
5.16 the EPA and pending approval under section 111(d) (Standards of Performance for New  
5.17 Stationary Sources) or section 129 (Solid Waste Combustion) of the act.

5.18 [For text of subps 26 to 28, see M.R.]

5.19 **7007.0150 PERMIT REQUIRED.**

5.20 Subpart 1. **Prohibition.**

5.21 A. No person may construct, modify, reconstruct, or operate an emissions unit,  
5.22 emission facility, or stationary source ~~except in compliance with an air emission~~ until  
5.23 plans for it have been submitted to the agency and a written permit ~~from~~ for it has been  
5.24 granted by the agency. Exceptions to the requirement to obtain a permit are located in part  
5.25 7007.0300. Exceptions to the requirement to obtain a permit amendment are located in



6.1 parts 7007.1250 and 7007.1350. ~~A person violates this subpart when the person begins~~  
6.2 ~~actual construction on a new source, reconstruction, or modification prior to obtaining~~  
6.3 ~~the permit or amendment, except as allowed in parts 7007.0750, subpart 7, 7007.1450,~~  
6.4 ~~subpart 7, and 7007.1500, subpart 3a.~~

6.5 B. Requirements related to greenhouse gases for the timing to construct  
6.6 modifications are as follows:

6.7 (1) if, on July 1, 2011, owners or operators held a part 70 or state air  
6.8 emission permit or compliance schedule that was issued before July 1, 2011, and that  
6.9 authorizes or allows a pending modification, the owners and operators may not begin  
6.10 actual construction of any modification until the owners and operators assess the emissions  
6.11 of GHGs as CO<sub>2</sub>e under Code of Federal Regulations, title 40, section 52.21. This  
6.12 assessment was due by July 1, 2011, under temporary rules adopted on January 24,  
6.13 2011; and

6.14 (2) if the permit or compliance schedule issued before July 1, 2011, does  
6.15 not address the requirements for GHGs under Code of Federal Regulations, title 40, section  
6.16 52.21, and emissions are above the GHG threshold, the owners and operators must submit  
6.17 a new application and receive a new permit or schedule before construction can begin.

6.18 C. Owners or operators must retain records on site of the owners' or operators'  
6.19 determination under item B of CO<sub>2</sub>e emissions related to a modification for five years  
6.20 from the date of the calculation or until July 1, 2016, whichever is sooner, if the following  
6.21 conditions apply:

6.22 (1) the owners or operators held a permit or compliance schedule issued  
6.23 before July 1, 2011, that included a pending modification;

6.24 (2) the owners or operators made calculations of CO<sub>2</sub>e related to the  
6.25 pending modification by June 30, 2012; and

7.1 (3) the owners and operators did not submit a new permit application to  
7.2 address GHG emissions from the pending modification.

7.3 D. Items B and C do not apply to stationary sources that are covered by  
7.4 registration permits under parts 7007.1110 to 7007.1130 or capped permits under parts  
7.5 7007.1140 to 7007.1147.

7.6 E. By July 1, 2011, an owner or operator holding any existing part 70 or state  
7.7 facility permit must calculate whether the facility's potential to emit greenhouse gases  
7.8 meets or exceeds the permit threshold for greenhouse gases in part 7007.0200, subpart 2.

7.9 (1) If the potential to emit greenhouse gases as CO<sub>2</sub>e does not exceed the  
7.10 permit threshold for greenhouse gases, the owner or operator must retain records of the  
7.11 calculation on site until January 2, 2016.

7.12 (2) If the potential to emit greenhouse gases as CO<sub>2</sub>e exceeds the permit  
7.13 threshold for greenhouse gases, then the owner or operator must notify the Pollution  
7.14 Control Agency by June 30, 2011, if the facility can retain its current permit or submit an  
7.15 application by July 1, 2012, to revise the permit.

7.16 [For text of subps 2 and 3, see M.R.]

7.17 **Subp. 4. Calculation of potential to emit.**

7.18 A. For purposes of parts 7007.0200 and 7007.0250, the ~~owner or operator~~  
7.19 owners and operators of a stationary source shall calculate the stationary source's potential  
7.20 to emit using the definition in part 7005.0100, subpart 35a, except as provided in subitems  
7.21 (1) to (4).

7.22 (1) Emissions caused by activities described in subpart 2 of the insignificant  
7.23 activities list in part 7007.1300 shall not be considered in the calculation of potential  
7.24 emissions.

8.1 (2) Emissions caused by activities described in subpart 3 of the insignificant  
8.2 activities list in part 7007.1300 shall be considered in the calculation of potential emissions  
8.3 if required by the agency under part 7007.0500, subpart 2, item C, subitem (2).

8.4 (3) Emissions caused by any conditionally insignificant activity must be  
8.5 considered in the calculation of potential emissions if required by the agency under part  
8.6 7007.0500, subpart 2, item C, subitem (2).

8.7 (4) If a stationary source consists in part of emissions units that could  
8.8 have qualified as a conditionally exempt stationary source under chapter 7008 but for the  
8.9 presence of other noneligible emissions units, potential emissions caused by emissions  
8.10 from those units may be based on the limits imposed under chapter 7008 provided that  
8.11 general and technical standards of chapter 7008 are met with regard to those emissions  
8.12 units.

8.13 Calculations of emissions under this subpart are only intended to determine if a permit is  
8.14 required.

8.15 B. To make the determination of whether a permit is required, the ~~owner~~  
8.16 ~~or operator~~ owners and operators of a stationary source shall use the potential to emit  
8.17 calculation method described in item A. To determine what type of permit is required, if  
8.18 a permit is required, the control equipment efficiency determined by part 7011.0070 for  
8.19 listed control equipment at a stationary source may be used in calculating emissions if the  
8.20 owner or operator is in compliance with parts 7011.0060 to 7011.0080.

8.21 C. When calculating emissions to determine if a permit amendment is required,  
8.22 the calculation method stated in part 7007.1200 shall be used.

8.23 [For text of subp 5, see M.R.]

8.24 **7007.0200 SOURCES REQUIRED OR ALLOWED TO OBTAIN A PART 70**  
8.25 **PERMIT.**

9.1 Subpart 1. **Part 70 permit required.** The owners and operators of any emission  
9.2 facilities, emission units, and stationary sources described in subparts 2 to 5 must obtain a  
9.3 part 70 permit from the agency. All provisions of parts 7007.0100 to 7007.1850 apply to  
9.4 part 70 permits unless the provision states that it applies only to state permits, registration  
9.5 permits, capped permits, or general permits. If the ~~owner or operator~~ owners and operators  
9.6 of a stationary source ~~is~~ are required to obtain a part 70 permit by subpart 2, item B or C,  
9.7 the ~~owner or operator~~ owners and operators shall also separately determine under subpart  
9.8 2, item A, if the stationary source is a major source subject to major source requirements  
9.9 under section 112 of the act.

9.10 Subp. 2. **Major sources.** Any "major source," which means any stationary source  
9.11 that is described in item A, B, or C, must obtain a permit under this part.

9.12 [For text of item A, see M.R.]

9.13 B. A major stationary source of air pollutants, as defined in section 302 of the  
9.14 act (General Provisions; Definitions), that directly emits or has the potential to emit,  
9.15 100 tons per year or more of any air pollutant (including any major source of fugitive  
9.16 emissions of any such pollutant, as determined by rule by the administrator) and, effective  
9.17 July 1, 2011, 100,000 tons per year CO<sub>2</sub>e of greenhouse gases. The fugitive emissions of  
9.18 a stationary source shall not be considered in determining whether it is a major stationary  
9.19 source for the purposes of section 302(j) of the act, unless the stationary source belongs  
9.20 to one of the following categories of stationary sources:

9.21 [For text of subitems (1) to (27), see M.R.]

9.22 [For text of item C, see M.R.]

9.23 [For text of subps 3 to 6, see M.R.]

9.24 **7007.0250 SOURCES REQUIRED TO OBTAIN A STATE PERMIT.**

10.1 Subpart 1. **State permit required.** The owners and operators of stationary sources  
 10.2 described in this part must obtain a state permit from the agency under this part. All  
 10.3 provisions of parts 7007.0100 to 7007.1850 apply to state permits unless the provision  
 10.4 states that it applies only to part 70 permits, general permits, capped permits, or  
 10.5 registration permits.

10.6 Subp. 2. **NSPS/NESHAP state permits.** Owners and operators of a stationary  
 10.7 source must obtain a permit under this part if:

10.8 [For text of items A and B, see M.R.]

10.9 Subp. 3. **SIP required state permit.** Owners and operators of a stationary source  
 10.10 must obtain a permit under this part if the agency notifies the ~~source~~ owners and operators  
 10.11 that such a permit is needed as part of a state implementation plan to be submitted to the  
 10.12 EPA to demonstrate attainment with a national ambient air quality standard.

10.13 Subp. 4. **PTE threshold required state permit.** Owners and operators of a  
 10.14 stationary source must obtain a permit under this part if ~~it~~ the source has the potential to  
 10.15 emit any pollutant listed below at a rate equal to or greater than the following amounts, in  
 10.16 tons per year:

10.17	Pollutant	Threshold
10.18	Lead	0.5 tons per year
10.19	SO <sup>2</sup>	50.0 tons per year
10.20	PM-10	25.0 tons per year
10.21	VOCs	100.0 tons per year

10.22 Subp. 5. **Part 70 permits.** Part 7007.0250 does not apply to owners and operators  
 10.23 of a stationary source that ~~is~~ are required to or ~~chooses~~ choose to obtain a part 70 permit  
 10.24 under part 7007.0200. However, owners and operators of a stationary source that  
 10.25 would otherwise be required to obtain a part 70 permit under part 7007.0200 may avoid  
 10.26 that requirement by obtaining a state permit under this part which contains federally

11.1 enforceable conditions to limit its emissions to levels below those that would trigger  
11.2 the requirement to obtain a part 70 permit.

11.3 Subp. 6. **Waste combustors.** Owners and operators of a waste combustor, as defined  
11.4 in part 7011.1201, must obtain a permit under this part unless ~~it~~ the waste combustor is:

11.5 A. a Class IV waste combustor located at a hospital; or

11.6 B. a waste combustor subject to the exemptions in part 7011.1215, subpart 3.

11.7 Notwithstanding the exemptions in items A and B, owners and operators of a Class  
11.8 IV waste combustor that does not comply with the stack height requirements of part  
11.9 7011.1235, subpart 1, but uses alternative techniques to achieve equivalent ambient  
11.10 pollution concentrations, must obtain a permit under this part. The permit obtained shall  
11.11 not be a registration permit under parts 7007.1110 to 7007.1130.

11.12 Subp. 7. **Registration permits.** Owners and operators of a stationary source that  
11.13 are required to obtain a state permit from the agency under this part, or ~~which chooses~~  
11.14 that choose to obtain a state permit to limit ~~its~~ the stationary source's emissions to levels  
11.15 below those that would trigger the requirement to obtain a part 70 permit, may elect to  
11.16 instead obtain a registration permit under parts 7007.1110 to 7007.1130, if the stationary  
11.17 source qualifies under those parts.

11.18 Subp. 8. **Capped permits.** Owners and operators of a stationary source that are  
11.19 required to obtain a state permit from the agency under this part, or ~~which chooses that~~  
11.20 choose to obtain a state permit to limit ~~its~~ the stationary source's emissions to levels  
11.21 below those that would trigger the requirement to obtain a part 70 permit, may elect to  
11.22 instead obtain a capped permit under parts 7007.1140 to 7007.1148, if the stationary  
11.23 source qualifies under those parts.

11.24 **7007.0300 SOURCES NOT REQUIRED TO OBTAIN A PERMIT.**

12.1 Subpart 1. **No permit required.** The owners and operators of the following  
12.2 stationary sources are not required to obtain a permit under parts 7007.0100 to 7007.1850:

12.3 A. any stationary source that is not described in part 7007.0200, subparts 2  
12.4 to 5, or 7007.0250;

12.5 B. notwithstanding parts 7007.0200 and 7007.0250, any stationary source that  
12.6 would be ~~required to obtain~~ covered by a permit solely because it is subject to one or more  
12.7 of the following new source performance standards:

12.8 [For text of subitems (1) to (3), see M.R.]

12.9 (4) Code of Federal Regulations, title 40, part 60, subpart Dc, Standards  
12.10 of Performance for Small Industrial-Commercial-Institutional Steam Generating Units  
12.11 (incorporated by reference at part 7011.0570), if all steam generating units subject to  
12.12 this standard at the stationary source are only capable of combusting natural gas or  
12.13 propane; ~~and~~

12.14 (5) Code of Federal Regulations, title 40, part 60, subpart IIII, Standards  
12.15 of Performance for Stationary Compression Ignition Internal Combustion Engines  
12.16 (incorporated by reference at part ~~7011.3520~~ 7011.2305), if all engines subject to this  
12.17 standard at the stationary source each have a displacement less than 30 liters per cylinder  
12.18 and did not rely on performance testing of the affected unit to demonstrate compliance  
12.19 with the standard; and

12.20 (6) Code of Federal Regulations, title 40, part 60, subpart JJJJ, Standards  
12.21 of Performance for Stationary Spark Ignition Internal Combustion Engines (incorporated  
12.22 by reference at part 7011.2310), if all engines did not rely on performance testing of the  
12.23 affected unit to demonstrate compliance with the standard;

12.24 C. notwithstanding parts 7007.0200 and 7007.0250, any stationary source  
12.25 that would be ~~required to obtain~~ covered by a permit solely because it is subject to

13.1 Code of Federal Regulations, title 40, part 61, subpart M, National Emission Standard  
13.2 for Hazardous Air Pollutants for Asbestos, section 61.145, Standard for Demolition  
13.3 and Renovation, or 61.154, Standard for Active Waste Disposal Sites (incorporated by  
13.4 reference at part 7011.9920);

13.5 [For text of items D and E, see M.R.]

13.6 F. notwithstanding parts 7007.0200 and 7007.0250, any stationary source  
13.7 that would be ~~required to obtain~~ covered by a permit solely because it is subject to one  
13.8 or more new source performance standards under Code of Federal Regulations, title  
13.9 40, part 60, and that is subject only to the notification and record-keeping provisions of  
13.10 the applicable standards.

13.11 Subp. 2. [Repealed, 21 SR 165]

13.12 **7007.0325 BIOGENIC CARBON DIOXIDE EXCLUSION FROM**  
13.13 **APPLICABILITY THRESHOLDS.**

13.14 Subpart 1. Biogenic carbon dioxide exclusion. To calculate the potential to  
13.15 emit GHGs as CO<sub>2</sub>e for the purpose of determining the applicability of new source  
13.16 review/prevention of significant deterioration (NSR/PSD) and part 70 requirements,  
13.17 biogenic carbon dioxide shall not be included in the total amount of GHGs as CO<sub>2</sub>e until  
13.18 the date on which biogenic carbon dioxide emissions must be included under federal  
13.19 law. Biogenic carbon dioxide emissions are carbon dioxide emissions resulting from  
13.20 the combustion or decomposition of nonfossilized and biodegradable organic material  
13.21 originating from plants, animals, or microorganisms, including products, by-products,  
13.22 residues, and waste from agriculture, forestry, and related industries as well as the  
13.23 nonfossilized and biodegradable organic fractions of industrial and municipal wastes,  
13.24 including gases and liquids recovered from the decomposition of nonfossilized and  
13.25 biodegradable organic material.



14.1 Subp. 2. **Additional exclusions.** Until the date on which biogenic carbon dioxide  
 14.2 emissions must be included under federal law in determining either the applicability  
 14.3 of new source review/prevention of significant deterioration or part 70 requirements,  
 14.4 biogenic carbon dioxide emissions are also excluded from:

14.5 A. emissions-increase calculations under parts 7007.0100, subpart 14, and  
 14.6 7007.1200, subpart 2 or 3;

14.7 B. recordkeeping for GHGs as CO<sub>2</sub>e for stationary sources that are covered by  
 14.8 general permits (part 7007.1100), registration permits (parts 7007.1110 to 7007.1130),  
 14.9 and capped permits (parts 7007.1140 to 7007.1147); and

14.10 C. compliance reporting for registration permits under part 7019.3020, items B,  
 14.11 C, and D, and for capped permits under part 7019.3020, item E.

14.12 **7007.0350 EXISTING SOURCE APPLICATION DEADLINES AND SOURCE**  
 14.13 **OPERATION DURING TRANSITION.**

14.14 Subpart 1. **Transition applications under this part; deadline based on SIC**  
 14.15 **code.** Initial permit applications under parts 7007.0100 to 7007.1850 for an emission  
 14.16 unit, emission facility, or stationary source in operation on October 18, 1993, shall be  
 14.17 considered timely if they meet the requirements of this part.

14.18 A. ~~An owner or operator~~ Owners and operators of an existing stationary  
 14.19 source with a Standard Industrial Classification (SIC) Code number in the left column  
 14.20 of the following table shall submit a permit application by the corresponding date in the  
 14.21 right column:

14.22	<b>Category</b>	<b>SIC Code Range</b>	<b>Application Deadline</b>
14.23	A	0000 to 2399, excluding 1422, 1423, 1429,	January 15, 1995
14.24		1442, 1446, 2041, and 2048	
14.25	B	2400 to 2999 and 4953, excluding 2951 and	April 15, 1995
14.26		2952	

15.1	C	3000 to 4499	June 15, 1995
15.2	D	4500 to 5099, excluding 4953	September 15, 1995
15.3	E	5100 to 8199	December 15, 1995
15.4	F	8200 to 9999, including 1422, 1423, 1429,	February 15, 1996
15.5		1442, 1446, 2041, 2048, 2951, and 2952	

15.6 [For text of items B to D, see M.R.]

15.7 E. The ~~owner or operator~~ owners and operators of a stationary source must  
 15.8 comply with the applicable deadline in this part, even though the stationary source may  
 15.9 be operating under a permit issued by the agency under parts 7001.1200 to 7001.1220  
 15.10 (the permit rules in effect before October 18, 1993), and the permit is not due to expire  
 15.11 until after the applicable deadline in this part. If a stationary source is operating under a  
 15.12 permit issued by the agency under parts 7001.1200 to 7001.1220, and the permit expires  
 15.13 after October 18, 1993, but before the applicable deadline, the ~~owner or operator~~ owners  
 15.14 and operators need not reapply before expiration of the permit, but shall comply with the  
 15.15 applicable deadline in this part.

15.16 F. Except as provided in subitems (1) and (2), the agency waives its authority to  
 15.17 take enforcement action against the owner or operator of a stationary source for failure to  
 15.18 obtain a permit authorizing operation under parts 7001.1200 to 7001.1220, if the ~~owner or~~  
 15.19 ~~operator files~~ owners and operators file a timely and complete permit application under  
 15.20 this part. This waiver does not apply to:

15.21 [For text of subitems (1) and (2), see M.R.]

15.22 [For text of subps 2 to 5, see M.R.]

15.23 **7007.0400 PERMIT REISSUANCE APPLICATIONS AFTER TRANSITION;**  
 15.24 **NEW SOURCE AND PERMIT AMENDMENT APPLICATIONS; TOTAL**

16.1 **FACILITY APPLICATIONS FOR SOURCES NEWLY SUBJECT TO A PART 70**  
16.2 **OR STATE PERMIT TOTAL FACILITY REQUIREMENT.**

16.3 Subpart 1. **Requirement for application.** Applications for reissued permits after the  
16.4 transition period shall be considered timely if they meet the requirements of subpart 2.  
16.5 Applications for permits for new stationary sources or amendments shall be considered  
16.6 timely if they meet the requirements of subpart 3. An application for a total facility permit  
16.7 from owners and operators of a stationary source that, because of a modification or  
16.8 change at the stationary source, ~~becomes~~ become subject to the requirement to obtain a  
16.9 part 70 or state permit for the first time after the application deadline in part 7007.0350,  
16.10 subpart 1, and ~~which was~~ that were issued a permit for the installation and operation of  
16.11 the change or modification under part 7007.0750, subpart 5, shall be considered timely  
16.12 if it meets the requirements of subpart 4.

16.13 [For text of subp 2, see M.R.]

16.14 Subp. 3. **New permits and amendments to existing permits.** Owners ~~or~~ and  
16.15 operators seeking to obtain a new permit for a new stationary source or a permit  
16.16 amendment to an existing permit may submit the application at any time. It is  
16.17 recommended that the permit application for a new stationary source or an amendment  
16.18 be submitted at least 180 days before the planned date for beginning actual construction  
16.19 of the new stationary source or beginning actual construction of the modification of  
16.20 the existing stationary source, although the agency may take up to 18 months to take  
16.21 final action on the permit or major amendment under part 7007.0750, subpart 2. If the  
16.22 reason for the application for an amendment is the adoption of a new or amended federal  
16.23 applicable requirement, and the remaining life of the permit is three years or longer, the  
16.24 permittee shall file an application for an amendment within nine months of promulgation  
16.25 of the applicable requirement. The preceding sentence does not apply if the effective date  
16.26 of the requirement is later than the date on which the permit is due to expire.

17.1 Subp. 4. **Applications; newly subject to requirement to obtain part 70 or state**  
17.2 **total facility permit due to modification or change.** If a modification ~~or change~~ at  
17.3 ~~a~~ an existing, unpermitted stationary source would make the source subject for the first  
17.4 time to the requirement to obtain either a part 70 or state total facility permit after  
17.5 the application deadline in part 7007.0350, subpart 1, and the agency issues a permit  
17.6 authorizing installation or operation of the ~~change or~~ modification under part 7007.0750,  
17.7 subpart 5, the ~~owner or operator~~ owners and operators shall submit an application for a  
17.8 total facility permit:

17.9 A. within 180 days after commencing operation of the ~~change or~~ modification  
17.10 that triggered the permit requirement, if the ~~owner or operator is~~ owners and operators  
17.11 are applying for a state, registration, or general permit; or

17.12 B. within 365 days after commencing operation of the ~~change or~~ modification  
17.13 that triggered the permit requirement, if the ~~owner or operator is~~ owners and operators  
17.14 are applying for a part 70 permit.

17.15 **Subp. 5. Applications; newly subject to requirement to obtain part 70 or state**  
17.16 **total facility permit due to new regulations.** If a new regulation affecting a stationary  
17.17 source would make the source subject for the first time to the requirement to obtain a part  
17.18 70 or state permit, the owners and operators shall submit an application for a total facility  
17.19 permit within 365 days of the effective date of the regulation.

17.20 **7007.0500 CONTENT OF PERMIT APPLICATION.**

17.21 [For text of subp 1, see M.R.]

17.22 Subp. 2. **Information included.** Applicants shall submit the following information  
17.23 as required by the standard application form:

17.24 [For text of items A and B, see M.R.]

17.25 C. The following emissions-related information:

18.1 [For text of subitems (1) to (3), see M.R.]

18.2 (4) The permit application shall specify the potential emissions, as  
18.3 defined in part 7005.0100, subpart 35a, in tons per year from the stationary source as  
18.4 a whole. These potential emissions shall be specified for each regulated air pollutant  
18.5 and each hazardous air pollutant that is not yet a regulated air pollutant, as defined in  
18.6 part 7007.0100, subparts 12a and 19, except that pollutants which are regulated solely  
18.7 under section 112(r) of the act need not be included and pollutants regulated solely under  
18.8 section 602 of the act need not be included. Pollutants in part 7007.0325 are excluded  
18.9 until they must be included under federal law. In addition, for each emissions unit subject  
18.10 to an applicable requirement, the permit application shall specify, in tons per year, the  
18.11 potential emissions of the same pollutants referenced in the previous sentence. If the  
18.12 applicable requirement contains a standard reference test method which is to be used to  
18.13 establish compliance, the permit application shall specify the potential emissions in the  
18.14 same units as are used in the test method.

18.15 [For text of subitem (5), see M.R.]

18.16 (6) A permit application shall provide the information on actual emissions  
18.17 for the preceding calendar year required in this subitem. Notwithstanding the previous  
18.18 sentence, if actual emission data are not available for the preceding calendar year, the  
18.19 application shall provide an estimate of actual annual emissions required in this subitem.

18.20 (a) The permittee shall provide actual emission rates, in tons per year,  
18.21 of criteria pollutants and of greenhouse gases as CO<sub>2</sub>e unless the permittee has submitted  
18.22 an emissions inventory as required by parts 7019.3000 and 7019.3010.

18.23 [For text of unit (b), see M.R.]

18.24 [For text of subitems (7) to (11), see M.R.]

19.1 D. The following information regarding applicable requirements and test  
19.2 methods:

19.3 [For text of subitem (1), see M.R.]

19.4 (2) If the owners and operators of a stationary source ~~is~~ are required to  
19.5 test ~~its~~ the stationary source's emissions to determine compliance, a permit application  
19.6 must include either: a citation to a rule or regulation establishing the test method for  
19.7 measuring emissions or, if such a rule or regulation does not exist, a ~~permit application~~  
19.8 ~~must describe~~ description of the method that the applicant believes is the appropriate  
19.9 method to measure emissions.

19.10 [For text of items E to N, see M.R.]

19.11 [For text of subps 3 to 5, see M.R.]

19.12 **7007.0750 APPLICATION PRIORITY AND ISSUANCE TIMELINES.**

19.13 [For text of subps 1 to 4, see M.R.]

19.14 Subp. 5. **Modification (installation and operation) permits for stationary sources**  
19.15 **not previously required to obtain part 70 or state total facility permit.** The agency  
19.16 may issue permits authorizing a modification or change to a stationary source (an  
19.17 installation and operation permit) prior to issuance of an operating permit covering the  
19.18 entire stationary source (a total facility permit) if the agency finds:

19.19 A. the ~~stationary source has~~ owners and operators have filed a complete  
19.20 application for the proposed modification or change ~~and;~~

19.21 (1) ~~has filed a timely application for a total facility permit under part~~  
19.22 ~~7007.0350, subpart 1; or~~

19.23 (2) ~~was not subject to the requirement to file a permit application under the~~  
19.24 ~~deadlines in part 7007.0350, subpart 1, because the change or modification will subject the~~  
19.25 ~~stationary source for the first time to the requirement to obtain a part 70 or state permit;~~

20.1 B. the modification will subject the owners and operators of the stationary  
 20.2 source to the requirement to obtain a permit for the first time;

20.3 ~~B.C.~~ the delay resulting from issuing the installation and operation permit and  
 20.4 the total facility permit at the same time would cause undue economic hardship on the  
 20.5 owners and operators of the stationary source; and

20.6 ~~C.D.~~ the agency has sufficient information about the entire stationary source to  
 20.7 be able to comply with the requirements of part 7007.1000.

20.8 The requirements of parts 7007.0100 to 7007.1850 that apply to modifications to a  
 20.9 stationary source with a total facility permit shall also apply to modifications authorized  
 20.10 under this part. The owner or operator of a stationary source that obtains an installation  
 20.11 and operation permit for a modification under item A, ~~subitem (2)~~, shall lose ~~its~~ the right  
 20.12 to operate the stationary source if the ~~owner or operator fails~~ owners and operators fail to  
 20.13 submit an application for a total facility permit in the time required by part 7007.0400,  
 20.14 subpart 4, and shall be considered to be in violation of part 7007.0150, subpart 1.

20.15 [For text of subps 6 to 8, see M.R.]

20.16 **7007.0800 PERMIT CONTENT.**

20.17 [For text of subps 1 to 6, see M.R.]

20.18 Subp. 7. **Prohibition on exceedance of allowances.** For affected sources, the  
 20.19 agency shall include a permit condition prohibiting emissions exceeding any allowances  
 20.20 that the owners and operators of a stationary source lawfully ~~holds~~ hold under title IV of  
 20.21 the act or the regulations promulgated thereunder, except as follows:

20.22 [For text of item A, see M.R.]

20.23 B. No limit shall be placed on the number of allowances held by the owners and  
 20.24 operators of a stationary source. The owners and operators of a stationary source may

21.1 not, however, use allowances as a defense to noncompliance with any other applicable  
21.2 requirement.

21.3 C. Any such allowance shall be accounted for according to the procedures  
21.4 established in Code of Federal Regulations, title 40, part 73, as amended.

21.5 [For text of subps 8 to 10, see M.R.]

21.6 Subp. 11. **Alternative scenarios.** Terms and conditions allowing for reasonably  
21.7 anticipated alternative operating scenarios identified by the stationary source in its  
21.8 application. Such terms and conditions shall:

21.9 A. require the owners or operators of the stationary source, contemporaneously  
21.10 with making a change from one operating scenario to another, to record in a log at the  
21.11 permitted facility a record of the scenario under which ~~it~~ the stationary source is operating;  
21.12 and

21.13 B. ensure that the operation under each such alternative scenario complies with  
21.14 all applicable requirements and the requirements of parts 7007.0100 to 7007.1850.

21.15 [For text of subps 12 to 16, see M.R.]

21.16 **7007.0950 EPA REVIEW AND OBJECTION.**

21.17 [For text of subps 1 and 2, see M.R.]

21.18 Subp. 3. **Public petitions to administrator regarding part 70 permits.** If the  
21.19 administrator does not object in writing to a part 70 permit or a major amendment to a part  
21.20 70 permit under subpart 2, any person may petition the administrator within 60 days after  
21.21 the expiration of the administrator's 45-day review period to make such objection. Any  
21.22 such petition shall be based only on objections to the part 70 permit or the amendment  
21.23 that were raised with reasonable specificity during the public comment period provided  
21.24 in part 7007.0850, unless the petitioner demonstrates that it was impracticable to raise  
21.25 such objections within such period, or unless grounds for such objection arose after such



22.1 period. If the administrator objects to the part 70 permit or the amendment as a result of a  
22.2 petition filed under this subpart prior to agency issuance, the agency shall not issue the  
22.3 permit or the amendment until the administrator's objection has been resolved. If the  
22.4 permit or the amendment was issued prior to the administrator's objection but after the  
22.5 end of the EPA's 45-day review period, the agency shall reopen or revoke the permit  
22.6 or the amendment under part 7007.1600 or 7007.1700 to satisfy the EPA's objection.  
22.7 Until amended or revoked, the permit shall remain in effect. In any case, the owners  
22.8 and operators of the stationary source will not be in violation of the requirement to  
22.9 have submitted a timely and complete application. The administrator may also amend,  
22.10 terminate, or revoke a part 70 permit under the administrator's authority under Code of  
22.11 Federal Regulations, title 40, section 70.8(d), as amended.

22.12 [For text of subp 4, see M.R.]

#### 22.13 **7007.1050 DURATION OF PERMITS.**

22.14 [For text of subps 1 to 4, see M.R.]

22.15 Subp. 5. **Expiring state, capped, and general permits.** The agency may elect  
22.16 to make state permits, capped permits, and general permits (except general permits  
22.17 that apply to stationary sources otherwise required to have a part 70 permit) expire  
22.18 five years or more after issuance if the permittee requests an expiring permit or if the  
22.19 agency determines that an expiring permit would significantly improve the likelihood of  
22.20 continuing compliance with applicable requirements and the terms of the permit. Grounds  
22.21 for such a determination include, but are not limited to, the following:

22.22 [For text of items A and B, see M.R.]

22.23 C. the owners and operators of the stationary source ~~is~~ are likely to make  
22.24 substantial changes within the next five years making ~~it~~ the stationary source subject to  
22.25 additional applicable requirements.

22.26 This subpart does not apply to any title I condition.

23.1 [For text of subps 6 and 7, see M.R.]

23.2 **7007.1100 GENERAL PERMITS.**

23.3 [For text of subp 1, see M.R.]

23.4 Subp. 2. **Public participation.** The agency shall follow the same public participation  
23.5 procedures in part 7007.0850, subparts 2 and 3, for individual permits except as stated  
23.6 otherwise in this subpart. The notice of the agency's intent to publish a general permit  
23.7 need not be published in newspapers of general circulation but shall be published in  
23.8 the State Register. The notice need not include any facility specific information. The  
23.9 notice issued by the agency shall identify criteria for stationary sources that qualify for the  
23.10 general permit and identify the geographic area in which it applies. If the general permit  
23.11 is sector-based, the notice shall state whether the owners and operators of a stationary  
23.12 source holding a registration permit issued under parts 7007.1110 to 7007.1130 or a  
23.13 capped permit issued under parts 7007.1140 to 7007.1148 must apply for the sector-based  
23.14 general permit. The agency need not comply with part 7007.0850, subpart 2, item A,  
23.15 subitem (4), unless the stationary source category includes stationary sources subject to  
23.16 the requirement to obtain part 70 permits.

23.17 [For text of subps 3 and 4, see M.R.]

23.18 Subp. 5. **Application.** Owners and operators of stationary sources that would qualify  
23.19 for a general permit must apply to the agency for coverage under the terms of the general  
23.20 permit or must apply for an individual permit consistent with part 7007.0500. If the owners  
23.21 and operators of a stationary source ~~elects~~ elect to apply for coverage under the general  
23.22 permit, ~~the stationary source~~ they must submit an application meeting the requirements of  
23.23 parts 7007.0100 to 7007.1850, unless the agency states in the public notice of the general  
23.24 permit that certain conditions do not apply. The application must include all information  
23.25 necessary to determine qualification for, and to assure compliance with, the general permit.

24.1 Subp. 6. **Issuance of general permit to a stationary source.** The agency may issue  
24.2 a general permit to the owners and operators of a stationary source without repeating the  
24.3 notice and comment procedures required under part 7007.0850, subpart 2. However, the  
24.4 agency shall make available to the public upon request a list of facilities for which a  
24.5 general permit application has been received.

24.6 Subp. 7. **Permit shield.** Notwithstanding the permit shield provisions of part  
24.7 7007.1800, the owners and operators of a stationary source that ~~obtains~~ obtain a general  
24.8 permit shall be subject to enforcement action for operation without a permit if the  
24.9 stationary source is later determined not to qualify for the conditions and terms of the  
24.10 general permit.

24.11 Subp. 8. **Change of name, ownership, or control of stationary source issued**  
24.12 **a general permit.**

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

24.19 B. Prior to a change in the ownership or control of a stationary source issued  
24.20 a general permit under this part, the new owner or operator must submit a change of  
24.21 ownership request form provided by the commissioner. If the commissioner determines  
24.22 that the new ~~owner or operator meets~~ owners and operators meet the eligibility  
24.23 requirements of the general permit for general permit issuance, then the commissioner  
24.24 shall issue the general permit to the new ~~owner or operator~~ owners and operators. Issuance  
24.25 of a general permit to the new ~~owner or operator~~ owners and operators of an eligible  
24.26 stationary source voids and supersedes the general permit of the previous owner or

25.1 operator. If the commissioner determines the new ~~owner or operator does~~ owners and  
25.2 operators do not meet the eligibility requirements, the new ~~owner or operator~~ owners and  
25.3 operators shall submit a permit application for a registration, state, or part 70 permit within  
25.4 120 days of the commissioner's written request for the application.

25.5 **7007.1105 ELIGIBILITY FOR ENVIRONMENTAL MANAGEMENT SYSTEM**  
25.6 **(EMS) PROVISIONS IN STATE PERMITS.**

25.7 Subpart 1. **Eligibility for existing stationary sources.** If the commissioner  
25.8 determines that ~~an owner or operator meets~~ the owners and operators meet the  
25.9 requirements of items A and B, then the owners and operators of a stationary source  
25.10 applying for and qualifying for a state permit with the EMS provisions described in part  
25.11 7007.1107, subparts 2 and 3, may request inclusion of the EMS provisions in its permit.

25.12 A. The owner or operator has implemented an ISO 14001-registered EMS at the  
25.13 stationary source, or has implemented an EMS conforming to the requirements of the ISO  
25.14 14001 standard as determined by an EMS auditor.

25.15 B. The ~~owner or operator has~~ owners and operators have applied for a permit  
25.16 to establish facility-wide emission limits for the following pollutants, if they are emitted  
25.17 by the stationary source: NO<sub>x</sub>, SO<sub>2</sub>, PM, PM-10, CO, VOC, Pb, greenhouse gases, and  
25.18 hazardous air pollutants. The commissioner may establish emission limits for other  
25.19 regulated pollutants described under part 7007.0200, subpart 2, that are emitted by the  
25.20 stationary source.

25.21 [For text of subp 2, see M.R.]

25.22 Subp. 3. **Transitional eligibility.** ~~An owner or operator~~ Owners and operators of a  
25.23 stationary source that has not been constructed at the time of application may apply prior  
25.24 to construction for a state permit that includes EMS provisions. ~~An owner or operator~~  
25.25 Owners and operators of an existing stationary source that is applying for a new permit or  
25.26 renewing an existing permit and ~~plans~~ plan to implement an eligible EMS after permit

26.1 application or issuance may also apply for a state permit that includes EMS provisions.  
26.2 In either case, the ~~owner or operator~~ owners and operators must apply for a permit to  
26.3 establish facility-wide emission limits for the following pollutants, if they are emitted  
26.4 by the stationary source: NO<sub>x</sub>, SO<sub>2</sub>, PM, PM-10, CO, VOC, Pb, and hazardous air  
26.5 pollutants. The commissioner may establish emission limits for other regulated pollutants  
26.6 described under part 7007.0200, subpart 2, that are emitted by the stationary source.  
26.7 During the transitional period, the time between initial startup of the new stationary  
26.8 source and notification to the commissioner of its eligibility for the EMS provisions, or  
26.9 the time between an existing stationary source's permit issuance and its notification to the  
26.10 commissioner of its eligibility for the EMS provisions, the stationary source must comply  
26.11 with the customary permit conditions included in the permit. To establish eligibility  
26.12 for the EMS provisions after the transitional period, the stationary source must comply  
26.13 with items A to C.

26.14 [For text of items A to C, see M.R.]

26.15 **Subp. 4. Grounds for loss of eligibility for EMS provisions.**

26.16 A. The stationary source is ineligible for the provisions described in part  
26.17 7007.1107, subparts 2 and 3, if the stationary source no longer has an EMS as defined in  
26.18 part 7007.0100, subpart 9b. The owner or operator shall notify the commissioner in writing  
26.19 within seven working days upon learning that the stationary source no longer has an EMS  
26.20 as defined in part 7007.0100, subpart 9b. The ~~owner or operator~~ owners and operators  
26.21 shall immediately comply with the customary permit conditions included in the permit.

26.22 B. If a major nonconformance is discovered during an EMS audit, a follow-up  
26.23 EMS audit must take place at the stationary source within six months of the date the  
26.24 EMS auditor discovered the major nonconformance, but the scope of the follow-up EMS  
26.25 audit may be limited to those owner or operator actions necessary to correct the major  
26.26 nonconformance. The EMS auditor shall send the commissioner a summary of the results

27.1 of the audit discovering major nonconformance and the follow-up EMS audit within 45  
27.2 days of their occurrence. The commissioner shall review the summaries of the EMS  
27.3 audit results and may determine the stationary source is no longer eligible for the EMS  
27.4 provisions if the EMS auditor found the same major nonconformance during the follow-up  
27.5 EMS audit. The ~~owner or operator~~ owners and operators shall comply with the customary  
27.6 permit conditions upon receipt of written notification from the commissioner that the  
27.7 EMS provisions are no longer effective.

27.8 [For text of item C, see M.R.]

27.9 [For text of subps 5 to 8, see M.R.]

27.10 **7007.1107 APPLICATION AND PERMIT CONTENT RELATED TO INCLUSION**  
27.11 **OF EMS PROVISIONS IN STATE PERMITS.**

27.12 Subpart 1. **Application content.** ~~An owner or operator~~ Owners and operators of a  
27.13 stationary source applying for inclusion of the EMS provisions in subparts 2 and 3 in a  
27.14 state permit must:

27.15 A. Submit an application meeting the requirements of parts 7007.0100 to  
27.16 7007.1850. If the ~~owner or operator has~~ owners and operators have submitted a complete  
27.17 application for a state, part 70, capped, or general permit prior to the application deadline  
27.18 in part 7007.0350 or 7007.0400 and ~~is~~ are eligible for a state permit with EMS provisions,  
27.19 then ~~an owner or operator~~ owners and operators applying for inclusion of EMS provisions  
27.20 may supplement information in a previous application to meet the application content  
27.21 requirements listed in this subpart.

27.22 [For text of items B and C, see M.R.]

27.23 Subp. 2. **EMS provisions: flexibility in amendment, reporting, and calculation**  
27.24 **procedures.** If a stationary source meets the eligibility requirements in part 7007.1105,  
27.25 the agency shall include the conditions specified in this subpart in the stationary source's  
27.26 state permit.

28.1 [For text of items A and B, see M.R.]

28.2 C. An owner or operator shall comply with the requirements related to  
28.3 calculation frequency in subitems (1) to (3).

28.4 (1) If the actual emissions of any pollutant listed in this subitem are less  
28.5 than the "Eligibility Limit for Reduced Calculation" for that pollutant for the previous  
28.6 calendar year, then the owner or operator may calculate and record actual emissions for  
28.7 that pollutant on a calendar year basis. The owner or operator shall by January 30 of each  
28.8 year calculate and record the sum of actual emissions for the previous calendar year. This  
28.9 calculation must be made pursuant to the requirements of the permit. Unless otherwise  
28.10 specified in the permit, this calculation must include all emissions units at the stationary  
28.11 source, except for insignificant activities under part 7007.1300, subparts 2 and 3, and  
28.12 conditionally insignificant activities under chapter 7008. The following pollutants have  
28.13 the listed "Eligibility Limit for Reduced Calculation":

28.14 [For text of units (a) to (g), see M.R.]

28.15 (h) CO, 25 tons/year; ~~and~~

28.16 (i) Pb, 0.050 tons/year; and

28.17 (j) CO<sub>2</sub>e, 25,000 tons/year.

28.18 [For text of subitems (2) and (3), see M.R.]

28.19 [For text of subp 3, see M.R.]

28.20 **7007.1110 REGISTRATION PERMIT GENERAL REQUIREMENTS.**

28.21 Subpart 1. **Stationary sources that may obtain a registration permit.** Owners and  
28.22 operators of a stationary source that qualifies for a registration permit under this part and  
28.23 part 7007.1115 (Option A), 7007.1120 (Option B), 7007.1125 (Option C), or 7007.1130  
28.24 (Option D) may elect to apply to the commissioner for a registration permit instead of a  
28.25 part 70, state, capped, or general permit, except as provided in subpart 2.

29.1 Subp. 2. **Stationary sources that may not obtain a registration permit.**

29.2 A. Owners and operators of a stationary source may not obtain a registration  
29.3 permit if ~~it is~~ they are required to obtain a permit under parts 7007.0200, subpart 3 (acid  
29.4 rain affected sources), 7007.0200, subpart 4 (solid waste incinerators, waste combustors),  
29.5 7007.0200, subpart 5 (other part 70 sources), 7007.0250, subpart 3 (state implementation  
29.6 plan required state permit), or 7007.0250, subpart 6 (waste combustors).

29.7 B. Owners and operators of a stationary source may not obtain a registration  
29.8 permit if air quality specific conditions or limits not contained in parts 7007.1110 to  
29.9 7007.1130 were assumed:

29.10 (1) as a mitigation measure in an environmental impact statement;

29.11 (2) in obtaining a negative declaration in an environmental assessment  
29.12 worksheet; or

29.13 (3) in demonstrating compliance with any state or national ambient air  
29.14 quality standard.

29.15 C. Owners and operators of a stationary source may not obtain a registration  
29.16 permit if ~~it~~ the stationary source is subject to a new source performance standard  
29.17 except when the stationary source is subject only to the notification and record-keeping  
29.18 requirements of that standard, or when the standard is one of the following:

29.19 [For text of subitems (1) to (11), see M.R.]

29.20 (12) Code of Federal Regulations, title 40, part 60, subpart GG, Standards  
29.21 of Performance for Stationary Gas Turbines (incorporated by reference in part 7011.2350);

29.22 ~~and~~

29.23 (13) Code of Federal Regulations, title 40, part 60, subpart IIII, Standards  
29.24 of Performance for Stationary Compression Ignition Internal Combustion Engines



30.1 (incorporated by reference in part ~~7011.3520~~ 7011.2305), but only if the compression  
30.2 ignition internal combustion engine has a displacement less than 30 liters per cylinder; and

30.3 (14) Code of Federal Regulations, title 40, part 60, subpart JJJJ, Standards  
30.4 of Performance for Stationary Spark Ignition Internal Combustion Engines (incorporated  
30.5 by reference in part 7011.2310).

30.6 Subp. 2b. **Additional limitations on stationary source eligibility for a registration**  
30.7 **permit.** A stationary source may not obtain an option B, C, or D registration permit if:

30.8 A. the source qualifies for a sector-based state general permit available under  
30.9 part 7007.1100, unless specifically allowed under the general permit; or

30.10 B. the commissioner determines that site-specific permit requirements are  
30.11 needed to ensure compliance with applicable requirements or to protect human health  
30.12 or the environment.

30.13 ~~Any owner or operator~~ Owners and operators of a stationary source that ~~holds~~ hold a  
30.14 registration permit and ~~is~~ are eligible for a sector-based general permit that is available  
30.15 on or before January 1, 2007, shall apply for the general permit on or before December  
30.16 31, 2008.

30.17 Subp. 3. **Registration permit application.** Items A to D apply to registration permit  
30.18 applications submitted under parts 7007.1110 to 7007.1130.

30.19 A. The ~~owner or operator~~ owners and operators of a stationary source must  
30.20 apply for a registration permit prior to the applicable deadline in parts 7007.0350 and  
30.21 7007.0400. If the ~~owner or operator has~~ owners and operators have submitted a complete  
30.22 application for a state, part 70, or general permit prior to the application deadline in part  
30.23 7007.0350 or 7007.0400 and ~~is~~ are eligible for a registration permit, then the ~~owner or~~  
30.24 ~~operator~~ owners and operators may apply for a registration permit and shall request to  
30.25 have the original application voided.

31.1 B. The ~~owner or operator~~ owners and operators of a stationary source must  
31.2 submit the registration permit application on a standard application form provided by the  
31.3 commissioner. The commissioner may create different application forms for the different  
31.4 registration permit options available under parts 7007.1115 to 7007.1130.

31.5 [For text of items C and D, see M.R.]

31.6 [For text of subp 4, see M.R.]

31.7 Subp. 5. **Registration permit issuance, denial, and revocation.** The commissioner  
31.8 shall issue a registration permit to the ~~owner or operator~~ owners and operators of a  
31.9 stationary source if the ~~owner or operator has~~ owners and operators have submitted a  
31.10 complete application for a registration permit and the commissioner determines that the  
31.11 stationary source qualifies for the registration permit under parts 7007.1110 to 7007.1130  
31.12 for which the application was submitted, and the commissioner anticipates that the  
31.13 stationary source will comply with the registration permit. The commissioner shall deny  
31.14 an application for a registration permit if the commissioner determines that the stationary  
31.15 source does not qualify for the registration permit under parts 7007.1110 to 7007.1130  
31.16 for which the application was submitted or that the stationary source will not be able to  
31.17 comply with the registration permit. The grounds for permit denial in part 7007.1000,  
31.18 subparts 1, item H, and 2, items B to G, also constitute grounds for the commissioner  
31.19 to deny a registration permit application. The commissioner may revoke a registration  
31.20 permit, if the commissioner finds that any of the grounds under subpart 16 or under part  
31.21 7007.1700, subpart 1, exist, by following the procedure in part 7007.1700, subpart 2.

31.22 [For text of subps 6 to 10, see M.R.]

31.23 Subp. 11. **Change rendering stationary source ineligible for a registration**  
31.24 **permit or that changes the applicable registration permit option.** If the owner or  
31.25 operator makes a change at a stationary source issued a registration permit which increases  
31.26 emissions, including a change described in subpart 10, and results in the stationary source

32.1 no longer being able to qualify for or meet the requirements for its registration permit,  
32.2 and the change is not a modification, as defined in part 7007.0100, subpart 14, then the  
32.3 ~~owner or operator~~ owners and operators must:

32.4 A. within 30 days of making the change, submit a written notification to the  
32.5 commissioner that includes a description of the change, and a statement of what type of  
32.6 permit application the owner or operator will submit; and

32.7 B. if the change results in the requirement for the submittal of a registration  
32.8 permit application under a different option, then the registration permit application shall  
32.9 be submitted with the 30-day notice required under item A, or within 180 days of making  
32.10 the change, submit the required part 70, state, or general permit application.

32.11 If the ~~owner or operator fails~~ owners and operators fail to submit the required permit  
32.12 application in the time required by this subpart, the ~~owner or operator shall~~ owners and  
32.13 operators lose ~~its~~ their right to operate the stationary source and shall be considered  
32.14 to be in violation of part 7007.0150, subpart 1. Once a stationary source has made a  
32.15 change rendering it ineligible for all registration permit options under parts 7007.1110 to  
32.16 7007.1130, the stationary source may only become eligible for a registration permit again  
32.17 if it meets the requirements of subpart 14.

32.18 Subp. 11a. **Regulatory change rendering stationary source ineligible for**  
32.19 **registration permit or changing applicable registration permit option.**

32.20 A. If a stationary source covered by a registration permit becomes subject  
32.21 to a new regulatory requirement that results in the stationary source no longer being  
32.22 able to qualify for or meet the requirements for the current registration permit, then the  
32.23 owner or operator must:

32.24 (1) within 30 days of the effective date of the regulation:

33.1 (a) submit a written notification to the commissioner that includes a  
33.2 description of the regulatory change and a statement of what type of permit application  
33.3 the owners and operators will submit; and

33.4 (b) if the stationary source is eligible for a different registration permit  
33.5 option, submit an application for another registration permit option category; and

33.6 (2) if the stationary source is not eligible for any registration permit option,  
33.7 submit an application for a part 70, state, or general permit application within 180 days of  
33.8 the effective date of the regulatory change.

33.9 B. Once a stationary source has made a change rendering it ineligible for all  
33.10 registration permit options under parts 7007.1110 to 7007.1130, the stationary source  
33.11 may become eligible for a registration permit again only if it meets the requirements  
33.12 of subpart 14.

33.13 C. If the owner or operator fails to submit the required permit application in  
33.14 the time required by this subpart, the owner or operator is considered to not hold a valid  
33.15 permit and is in violation of part 7007.0150, subpart 1. The owner or operator must  
33.16 submit the required permit application for the appropriate air emission permit within  
33.17 the time limits given in item A.

33.18 Subp. 12. **Modification rendering stationary source ineligible for its current**  
33.19 **registration permit option.** Items A to C apply to the owner or operator of a stationary  
33.20 source that has been issued a registration permit and that wants to make a modification  
33.21 which results in the stationary source no longer being able to meet the requirements for  
33.22 the registration permit option for which it was issued a registration permit, but which will  
33.23 result in the stationary source being eligible for another registration permit option.

33.24 A. ~~The owner or operator~~ owners and operators must submit the required permit  
33.25 application to the commissioner before beginning actual construction on the modification.

34.1 B. The ~~owner or operator~~ owners and operators may begin actual construction  
34.2 on and start-up of the modification proposed in the permit application seven working days  
34.3 after the permit application is received by the commissioner.

34.4 C. Until the commissioner acts on the permit application, the ~~owner or operator~~  
34.5 owners and operators must comply with the requirements of the registration permit  
34.6 option for which the ~~owner or operator~~ owners and operators applied, and all applicable  
34.7 requirements. During this time period, the ~~owner or operator~~ owners and operators need  
34.8 not comply with the registration permit requirements specific to the option under which  
34.9 the ~~owner or operator~~ owners and operators currently ~~holds~~ hold a registration permit.

34.10 Subp. 13. **Modification rendering stationary source ineligible for a registration**  
34.11 **permit.** The ~~owner or operator~~ owners and operators of a stationary source that has been  
34.12 issued a registration permit must submit a part 70, state, or general permit application  
34.13 before making a modification which results in the stationary source no longer qualifying  
34.14 for any registration permit option under parts 7007.1110 to 7007.1130. The owner or  
34.15 operator may not begin actual construction on the modification until the required part  
34.16 70, state, or general permit for the stationary source is obtained, or an installation and  
34.17 operation permit for the modification is obtained under part 7007.0750, subpart 5. Once a  
34.18 stationary source has made a modification rendering it ineligible for all registration permit  
34.19 options under parts 7007.1110 to 7007.1130, the stationary source may only become  
34.20 eligible for a registration permit again if it meets the requirements of subpart 14.

34.21 Subp. 14. **Addition of control equipment, removal of emission units, or pollution**  
34.22 **prevention practices which result in or reinstate registration permit eligibility.** If  
34.23 through the addition of listed control equipment, permanent removal of emissions units,  
34.24 or implementation of pollution prevention practices the stationary source qualifies for  
34.25 or reinstates eligibility for a registration permit under parts 7007.1110 to 7007.1130,  
34.26 the ~~owner or operator~~ owners and operators may apply for a registration permit. If the

35.1 stationary source qualifies for or reinstates eligibility for a registration permit due to  
 35.2 implementation of pollution prevention practices, the owner or operator shall submit a  
 35.3 description of the pollution prevention practices with the registration permit application  
 35.4 for the commissioner's review and approval. For purposes of this subpart, "pollution  
 35.5 prevention practices" means eliminating or reducing the quantity or toxicity of regulated  
 35.6 air pollutants, or hazardous air pollutants that are not regulated air pollutants, used by or  
 35.7 emitted from the stationary source. Emission reductions are not reductions if the decrease  
 35.8 is solely the result of a decrease in production at the stationary source.

35.9 **Subp. 15. Change of name, ownership, or control of stationary source issued a**  
 35.10 **registration permit.**

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

35.17 B. Prior to a change in the ownership or control of a stationary source issued  
 35.18 a registration permit under parts 7007.1110 to 7007.1130, the new owner or operator  
 35.19 must submit a change of ownership request form provided by the commissioner. If the  
 35.20 commissioner determines that the new owner or operator meets the requirements of parts  
 35.21 7007.1110 to 7007.1130 for registration permit issuance, then the commissioner shall  
 35.22 issue the registration permit to the new owner or operator. Issuance of a registration  
 35.23 permit to the new owner or operator of an eligible stationary source voids and supersedes  
 35.24 the registration permit of the previous owner or operator.

35.25 [For text of subp 15a, see M.R.]

36.1 Subp. 16. **Agency request for a different type of permit application.** The  
36.2 ~~owner or operator~~ owners and operators shall submit an application for a part 70, state,  
36.3 capped, or general permit, or a different registration permit option, within 120 days of the  
36.4 commissioner's written request for the application if the commissioner determines that:

36.5 [For text of items A to G, see M.R.]

36.6 [For text of subps 17 to 22, see M.R.]

36.7 **7007.1115 REGISTRATION PERMIT OPTION A.**

36.8 Subpart 1. **Eligibility.** The ~~owner or operator~~ owners and operators of a stationary  
36.9 source may apply for a registration permit under this part if the stationary source is  
36.10 required to obtain a permit solely because it is subject to a new source performance  
36.11 standard listed in part 7007.1110, subpart 2, item C, and the owner or operator does not  
36.12 anticipate making changes in the next year which will cause the stationary source to  
36.13 require a permit for other reasons. Insignificant activities at the stationary source listed  
36.14 in part 7007.1300, subparts 2 and 3, and conditionally insignificant activities, are not  
36.15 considered in the eligibility determination under this subpart.

36.16 Subp. 2. **Application content.** An application for a registration permit under this  
36.17 part must contain the following:

36.18 A. information identifying the stationary source and its ~~owner or~~ owners and  
36.19 operators, including company name and address (plant name and address if different  
36.20 from the company name), owner's name and agent, and contact telephone numbers,  
36.21 including names of plant site manager or contact, and the person preparing the application  
36.22 if different;

36.23 [For text of items B and C, see M.R.]

36.24 Subp. 3. **Compliance requirements.** The ~~owner or operator~~ owners and operators of  
36.25 a stationary source issued a registration permit under this part must:

- 37.1 A. meet the eligibility requirements of subpart 1 at all times;
- 37.2 B. comply with part 7007.1110; and
- 37.3 C. comply with all applicable requirements, including new source performance
- 37.4 standards.

37.5 **7007.1120 REGISTRATION PERMIT OPTION B.**

37.6 Subpart 1. **Eligibility.** The ~~owner or operator~~ owners and operators of a stationary

37.7 source may apply for a registration permit under this part if:

37.8 [For text of items A to C, see M.R.]

37.9 Subp. 2. **Application content.** An application for a registration permit under this

37.10 part must contain the following:

37.11 A. information identifying the stationary source and its owners ~~or~~ and operators,

37.12 including company name and address (plant name and address if different from the

37.13 company name), owner's name and agent, and contact telephone numbers, including names

37.14 of plant site manager or contact, and the person preparing the application if different;

37.15 [For text of items B to E, see M.R.]

37.16 [For text of subps 3 and 4, see M.R.]

37.17 **7007.1125 REGISTRATION PERMIT OPTION C.**

37.18 Subpart 1. **Eligibility.** The ~~owner or operator~~ owners and operators of a stationary

37.19 source may apply for a registration permit under this part if the stationary source consists

37.20 of only indirect heating units (boilers), reciprocating internal combustion engines, and/or

37.21 emissions from use of VOC-containing materials, and meets the following criteria:

37.22 [For text of items A to E, see M.R.]

37.23 F. the 12-month rolling sum of calculations determined under calculations 1,

37.24 2A, 2B, and 3 in subpart 4 is less than 50; ~~and~~



38.1 G. the owner or operator does not anticipate making changes in the next 12  
38.2 months which will cause the stationary source to be ineligible for this type of registration  
38.3 permit under items A to F; and H; and

38.4 H. the stationary source does not use or generate nitrous oxide, other than from  
38.5 combustion units, and does not use or generate hydrofluorocarbons, perfluorocarbons, or  
38.6 sulfur hexafluoride.

38.7 Subp. 2. **Application content.** An application for a registration permit under this  
38.8 part must contain the following:

38.9 A. information identifying the stationary source and its owners ~~or~~ and operators,  
38.10 including company name and address (plant name and address if different from the  
38.11 company name), owner's name and agent, and contact telephone numbers, including names  
38.12 of plant site manager or contact, and the person preparing the application if different;

38.13 B. a description of the stationary source's processes and products, by Standard  
38.14 Industrial Classification (SIC) code;

38.15 C. a copy of the applicable new source performance standards (NSPS) listed  
38.16 in part 7007.1110, subpart 2, item C, with the applicable portions of the standards  
38.17 highlighted, including applicable parts of Code of Federal Regulations, title 40, part 60,  
38.18 subpart A, General Provisions, or an NSPS checklist form provided by the commissioner,  
38.19 for each affected facility as defined in Code of Federal Regulations, title 40, section 60.2;

38.20 D. a statement of whether the owner or operator will base records required  
38.21 under subpart 3 on the purchase or the use of VOC-containing materials, on the purchase  
38.22 or use of fuels, and on hours of operation; and

38.23 E. the calculations required by subpart 4. If the stationary source has not been  
38.24 operated, the owner or operator shall estimate the gallons of VOC-containing materials,  
38.25 amount of fuels burned, and hours of operation on a 12-month rolling sum basis during

39.1 normal operation in performing the calculations required in subpart 4. If the stationary  
39.2 source has been operated less than 12 months on the date of application under this part,  
39.3 the owner or operator shall perform the calculation in subpart 4 by calculating gallons of  
39.4 VOC-containing materials purchased or used, amount of fuels purchased or used, or hours  
39.5 of operation by multiplying by 12 the larger of the following:

39.6 (1) the average monthly gallons of VOC-containing materials purchased or  
39.7 used, amount of fuel purchased or used, or hours of operation;

39.8 (2) calculating an estimated monthly average for normal operations.

39.9 Insignificant activities at the stationary source listed in part 7007.1300, subparts 2  
39.10 and 3, and conditionally insignificant activities, are not required to be included in the  
39.11 application.

39.12 Subp. 3. **Compliance requirements for Option C sources.** Unless a stationary  
39.13 source is eligible under subpart 3a, the ~~owner or operator~~ owners and operators of a  
39.14 stationary source issued a registration permit under this part shall comply with all of the  
39.15 requirements in items A to ~~J~~ K.

39.16 [For text of items A to J, see M.R.]

39.17 K. If the registration permit was issued before January 2, 2011, the owner or  
39.18 operator must begin record keeping for greenhouse gases as CO<sub>2</sub>e on January 2, 2011, for  
39.19 example, tracking whether any insignificant activities no longer qualify as such.

39.20 [For text of subps 3a to 5, see M.R.]

### 39.21 **7007.1130 REGISTRATION PERMIT OPTION D.**

39.22 Subpart 1. **Eligibility.** The ~~owner or operator~~ owners and operators of a stationary  
39.23 source may apply for a registration permit under this part if the stationary source meets the  
39.24 following criteria:

39.25 [For text of items A to C, see M.R.]

40.1 Subp. 2. **Application content.** An application for a registration permit under this  
40.2 part must contain all of the following requirements:

40.3 A. information identifying the stationary source and its owners ~~or~~ and operators,  
40.4 including company name and address (plant name and address if different from the  
40.5 company name), owner's name and agent, and contact telephone numbers, including names  
40.6 of plant site manager or contact, and the person preparing the application if different;

40.7 [For text of items B to G, see M.R.]

40.8 Subp. 3. **Compliance requirements for Option D sources.** Unless a stationary  
40.9 source is eligible under subpart 3a, the owner or operator of a stationary source issued a  
40.10 permit under this part shall comply with all of the requirements in items A to ~~E~~ N.

40.11 [For text of item A, see M.R.]

40.12 B. If the stationary source determined eligibility in the permit application,  
40.13 in whole or in part, by using fuel burned in the calculations in subpart 4, the owner or  
40.14 operator must:

40.15 (1) record by the last day of each month the amount of each fuel purchased  
40.16 or used (whichever was stated in the permit application) for the previous month; and

40.17 (2) recalculate and record by the last day of each month the 12-month  
40.18 rolling sum of emissions for the previous 12 months, the date the calculation was made,  
40.19 and the calculation itself. This calculation must also include greenhouse gases as CO<sub>2</sub>e  
40.20 effective January 2, 2011.

40.21 [For text of items C to L, see M.R.]

40.22 M. If the stationary source determined eligibility in the permit application,  
40.23 in whole or in part, by calculating actual emissions as CO<sub>2</sub>e of hydrofluorocarbons,  
40.24 perfluorocarbons, nitrous oxide, and sulfur hexafluoride, purchased or used (whichever  
40.25 was stated in the permit application), the owner or operator must:

41.1 (1) record, by the last day of each month, the amount purchased or  
41.2 used (whichever was stated in the permit application) of each material containing  
41.3 hydrofluorocarbons, perfluorocarbons, nitrous oxide, and sulfur hexafluoride and the mass  
41.4 content of these pollutants for the previous calendar month;

41.5 (2) maintain a record of the material safety data sheet (MSDS) or a  
41.6 signed statement from the supplier stating the maximum content of hydrofluorocarbons,  
41.7 perfluorocarbons, nitrous oxide, and sulfur hexafluoride in each material containing  
41.8 hydrofluorocarbons, perfluorocarbons, nitrous oxide, and sulfur hexafluoride purchased  
41.9 or used (whichever was stated in the permit application);

41.10 (3) calculate and record, by the last day of each month, the 12-month  
41.11 rolling sum of actual emissions as CO<sub>2</sub>e of hydrofluorocarbons, perfluorocarbons,  
41.12 nitrous oxide, and sulfur hexafluoride purchased or used (whichever was stated in the  
41.13 permit application) for the previous 12 months, the date the calculation was made, and  
41.14 the calculation itself; and

41.15 (4) if the owner or operator assumes a reduction of emissions in using  
41.16 the material balance method under subpart 4, item D, due to recycling or disposal of  
41.17 material off-site, keep records of the amount of material shipped off-site for recycling and  
41.18 the calculations done to determine the amount to subtract. Acceptable records include  
41.19 monitoring records, material safety data sheets, invoices, shipping papers, and hazardous  
41.20 waste manifests.

41.21 N. If the stationary source determined eligibility in the permit application, in  
41.22 whole or in part, by calculating actual emissions as CO<sub>2</sub>e of carbon dioxide, nitrous oxide,  
41.23 or methane resulting from a chemical process such as fermentation, wastewater treatment,  
41.24 or decomposition, the owner or operator must:

42.1 (1) record, by the last day of each month, the amount of carbon dioxide,  
42.2 nitrous oxide, or methane generated by the chemical processes for the previous calendar  
42.3 month;

42.4 (2) calculate and record, by the last day of each month, the 12-month  
42.5 rolling sum of actual emissions as CO<sub>2</sub>e of carbon dioxide, nitrous oxide, or methane for  
42.6 the previous 12 months, the date the calculation was made, and the calculation itself; and

42.7 (3) if the owner or operator assumes a reduction of emissions in using  
42.8 the material balance method under subpart 4, item D, due to the collection and reuse,  
42.9 recycling, or disposal of carbon dioxide, nitrous oxide, or methane on-or off-site, keep  
42.10 records of the amount of carbon dioxide, nitrous oxide, or methane used or shipped off-site  
42.11 and the calculations done to determine the amount to subtract. Acceptable records include  
42.12 monitoring records, invoices, shipping papers, operating data for air pollution control  
42.13 equipment, or process equipment.

42.14 Subp. 3a. **Compliance requirements for low-emitting Option D sources.** If the  
42.15 actual emissions for the previous calendar year of each pollutant are less than the emission  
42.16 eligibility limits for each pollutant listed in Table 3A, then the owner or operator shall  
42.17 comply with all of the requirements in items A to H.

42.18 A. If the stationary source determined eligibility in the permit application, in  
42.19 whole or in part, by calculating greenhouse gases (GHGs) as CO<sub>2</sub>e, VOC<sub>2</sub> and HAP  
42.20 actual emissions from GHGs-containing, VOC-containing<sub>2</sub> or HAP-containing materials,  
42.21 purchased or used (whichever was stated in the permit application), the owner or operator  
42.22 must:

42.23 (1) maintain records of the amount of each GHGs-containing,  
42.24 VOC-containing<sub>2</sub> or HAP-containing material purchased or used (whichever was stated in  
42.25 the permit application), and the GHGs or VOC content each calendar year;

43.1 (2) maintain a record of the material safety data sheet (MSDS), or a signed  
 43.2 statement from the supplier stating the maximum GHGs, VOC<sub>2</sub> or HAP content, for  
 43.3 each GHGs-containing, VOC-containing<sub>2</sub> or HAP-containing material purchased or used  
 43.4 (whichever was stated in the permit application); and

43.5 (3) calculate and record<sub>2</sub> by April 1 of each calendar year<sub>2</sub> the sum of  
 43.6 actual GHGs emissions as CO<sub>2</sub>e, VOC emissions<sub>2</sub> and hazardous air emissions from  
 43.7 GHGs-containing, VOC-containing<sub>2</sub> and HAP-containing materials purchased or used  
 43.8 (whichever was stated in the permit application), and the calculation itself for the previous  
 43.9 calendar year.

43.10 A stationary source in which the only HAP emissions are VOC emissions and that  
 43.11 has actual VOC emissions less than five tons per year is not required to maintain records  
 43.12 and perform the calculations of HAP emissions under subitems (1) to (3).

43.13 [For text of items B to E, see M.R.]

43.14 F. The ~~owner or operator~~ owners and operators must comply with subpart 3,  
 43.15 items F and H to J.

43.16 TABLE 3A  
 43.17 OPTION D EMISSION ELIGIBILITY LIMITS FOR  
 43.18 REDUCED RECORD KEEPING

43.19 POLLUTANT	ELIGIBILITY LIMIT FOR REDUCED RECORD KEEPING
43.20 HAP	2.5 tons/year for a single HAP
43.21	6.25 tons/year total for all HAPs
43.22 PM	25 tons/year
43.23 PM-10	25 tons/year for an Attainment Area
43.24	0 tons/year for a Nonattainment Area
43.25 VOC	25 tons/year
43.26 SO <sub>2</sub>	25 tons/year
43.27 NO <sub>x</sub>	25 tons/year

- 44.1 CO 25 tons/year
- 44.2 Pb 0.05 tons/year
- 44.3 CO<sub>2</sub>e 25,000 tons/year

44.4 [For text of item G, see M.R.]

44.5 H. If the stationary source determined eligibility in the permit application, in  
44.6 whole or in part, by using hours of operation in the calculations in subpart 4, the owner or  
44.7 operator must:

44.8 (1) maintain records of the number of hours operated for each emissions  
44.9 unit, rounded to the nearest hour for each calendar year; and

44.10 (2) calculate and record by April 1 of each calendar year the sum of  
44.11 emissions and the calculation itself for the previous calendar year.

44.12 ~~TABLE 3A~~  
 44.13 ~~OPTION D EMISSION ELIGIBILITY LIMITS FOR~~  
 44.14 ~~REDUCED RECORD KEEPING~~

44.15 POLLUTANT	<del>ELIGIBILITY LIMIT FOR REDUCED RECORD KEEPING</del>
44.16 HAP	<del>2.5 tons/year for a single HAP</del>
44.17	<del>6.25 tons/year total for all HAPs</del>
44.18 PM	<del>25 tons/year</del>
44.19 PM-10	<del>25 tons/year for an Attainment Area</del>
44.20	<del>0 tons/year for a Nonattainment Area</del>
44.21 VOC	<del>25 tons/year</del>
44.22 SO <sub>2</sub>	<del>25 tons/year</del>
44.23 NO <sub>x</sub>	<del>25 tons/year</del>
44.24 CO	<del>25 tons/year</del>
44.25 Pb	<del>0.05 tons/year</del>

44.26 Subp. 4. **Calculation of actual emissions.** The owner or operator of a stationary  
44.27 source may use a calculation worksheet provided by the commissioner for calculating

45.1 actual emissions under this part, or may use the calculation methods under items A to E.  
 45.2 The owner or operator must calculate actual emissions for each emissions unit, except that  
 45.3 similar emissions units may be aggregated for emission calculation purposes. The owner  
 45.4 or operator of a stationary source shall use the calculation method in item B instead of the  
 45.5 calculation method in item A if the data described in item B are available for the stationary  
 45.6 source. The alternative methods described in items C, D, and E may be used by the owner  
 45.7 or operator without advance notification to the commissioner. The commissioner shall  
 45.8 reject data submitted using the methods described in items B to E if the conditions set  
 45.9 forth for the method are not fully met. To prevent double counting of emissions, the ~~owner~~  
 45.10 ~~or operator~~ owners and operators must select one calculation method under this subpart  
 45.11 for each emissions unit at the stationary source. Fugitive dust emissions must be included  
 45.12 in the calculations under this subpart only if the stationary source is in a category listed in  
 45.13 part 7007.0200, subpart 2, item B, subitems (1) to (27).

45.14 [For text of items A to C, see M.R.]

45.15 D. A material balance method may be used to calculate greenhouse gases as  
 45.16 CO<sub>2</sub>e and VOC actual emissions. The owner or operator of a stationary source that uses  
 45.17 material balance to calculate greenhouse gases as CO<sub>2</sub>e and VOC actual emissions shall  
 45.18 determine total greenhouse gases as CO<sub>2</sub>e and VOC actual emissions (E) using the  
 45.19 ~~following equation:~~ in this item. A separate calculation must be made for each individual  
 45.20 gas comprising the pollutant greenhouse gases and the results converted to CO<sub>2</sub>e. The  
 45.21 amount of CO<sub>2</sub>e from each individual gas comprising the pollutant greenhouse gases must  
 45.22 be added together for the total tons per year of CO<sub>2</sub>e.

45.23  $E = (a - b - c) \times (1 - d)$ , where

45.24  $a =$  the amount of VOC or each individual gas comprising the pollutant greenhouse  
 45.25 gases entering the process or the amount of carbon dioxide, nitrous oxide, or methane  
 45.26 generated. A signed statement from the supplier or the material safety data sheet must be



46.1 submitted stating the maximum amount of VOC or each individual gas comprising the  
 46.2 pollutant greenhouse gases in any material that was used in the process.

46.3 b = the amount of VOC or each individual gas comprising the pollutant greenhouse  
 46.4 gases incorporated permanently into the product. This includes VOCs or each individual  
 46.5 gas comprising the pollutant greenhouse gases chemically transformed in production. It  
 46.6 does not include latent VOC or each individual gas comprising the pollutant greenhouse  
 46.7 gases remaining in the product that will at some time be released to the atmosphere. An  
 46.8 explanation of this calculation must also be submitted.

46.9 c = the amount of VOC or each individual gas comprising the pollutant greenhouse  
 46.10 gases, if any, leaving the process as waste, or otherwise not incorporated into the product  
 46.11 and not emitted to the air.

46.12 d = the control efficiency (percent expressed as a decimal fraction of 1.00) determined  
 46.13 according to part 7011.0070.

46.14 [For text of item E, see M.R.]

46.15 Subp. 5. **Emissions thresholds.** The owner or operator must calculate actual  
 46.16 emissions for the stationary source using the calculations under subpart 4 and the  
 46.17 calculated 12-month rolling sum of actual emissions must be less than or equal to the  
 46.18 thresholds listed in Table 3.

46.19 TABLE 3

46.20 OPTION D EMISSIONS THRESHOLDS

46.21 POLLUTANT	THRESHOLD (ton/year)
46.22 HAP	5 tons/year for a single HAP
46.23	12.5 tons/year total for all HAPs
46.24 PM	50 tons/year
46.25 PM-10	50 tons/year for an Attainment Area
46.26	25 tons/year for a Nonattainment Area
46.27 VOC	50 tons/year

47.1	SO <sub>2</sub>	50 tons/year
47.2	NO <sub>x</sub>	50 tons/year
47.3	CO	50 tons/year
47.4	Pb	0.5 tons/year
47.5	<u>CO<sub>2</sub>e</u>	<u>50,000 tons/year</u>

47.6 [For text of subp 6, see M.R.]

47.7 **7007.1140 CAPPED PERMIT ELIGIBILITY REQUIREMENTS.**

47.8 Subpart 1. **Sources that may obtain a capped permit.** Owners and operators of a  
 47.9 stationary source that qualifies for capped permit option 1 under part 7007.1141, subpart  
 47.10 1, or capped permit option 2 under part 7007.1141, subpart 2, may elect to apply to the  
 47.11 commissioner for a capped permit instead of a part 70, state, registration, or general  
 47.12 permit, except as provided in item B. ~~The owner or operator~~ owners and operators of a  
 47.13 stationary source may apply for a capped permit under this part if the stationary source  
 47.14 meets the following criteria:

47.15 A. ~~An owner or operator applies~~ The owners and operators apply for capped  
 47.16 permit option 1 or capped permit option 2 and ~~meets~~ meet the requirements of subitems  
 47.17 (1) or (2).

47.18 [For text of subitems (1) and (2), see M.R.]

47.19 [For text of items B to D, see M.R.]

47.20 Subp. 2. **Sources that may not obtain a capped permit.**

47.21 A. Owners and operators of a stationary source may not obtain a capped permit  
 47.22 if ~~it is~~ they are required to obtain a permit under parts 7007.0200, subpart 3, acid rain  
 47.23 affected sources; 7007.0200, subpart 4, solid waste incinerators and waste combustors;  
 47.24 7007.0200, subpart 5, other part 70 sources; 7007.0250, subpart 3, state implementation  
 47.25 plan required state permit; or 7007.0250, subpart 6, waste combustors.

48.1 [For text of items B to D, see M.R.]

48.2 E. No stationary source may obtain a capped permit if it is subject to a new  
48.3 source performance standard other than one of the following:

48.4 [For text of subitems (1) to (11), see M.R.]

48.5 (12) Code of Federal Regulations, title 40, part 60, subpart TTT, Standards  
48.6 of Performance for Industrial Surface Cleaning of Plastic Parts for Business Machines,  
48.7 incorporated by reference in part 7011.2580; ~~and~~

48.8 (13) Code of Federal Regulations, title 40, part 60, subpart IIII, Standards  
48.9 of Performance for Stationary Compression Ignition Internal Combustion Engines,  
48.10 incorporated by reference in part ~~7011.3520~~ 7011.2305, but only if the compression  
48.11 ignition internal combustion engine has a displacement less than 30 liters per cylinder or is  
48.12 an emergency engine with a displacement greater than 30 liters per cylinder; and

48.13 (14) Code of Federal Regulations, title 40, part 60, subpart JJJJ, Standards  
48.14 of Performance for Stationary Spark Ignition Internal Combustion Engines, incorporated  
48.15 by reference in part 7011.2310.

48.16 **7007.1141 CAPPED PERMIT EMISSION THRESHOLDS.**

48.17 Subpart 1. **Option 1 emission thresholds.**

48.18 [For text of items A to F, see M.R.]

48.19 G. CO, 90 tons per year; ~~and~~

48.20 H. Pb, 0.50 tons per year; and

48.21 I. CO<sub>2</sub>e, 90,000 tons per year.

48.22 Subp. 2. **Option 2 emission thresholds.**

48.23 [For text of items A to F, see M.R.]

48.24 G. CO, 85 tons per year; ~~and~~

49.1 H. ~~Pb, 0.50 tons per year;~~ and

49.2 I. CO<sub>2</sub>e, 85,000 tons per year.

49.3 **7007.1142 CAPPED PERMIT ISSUANCE AND CHANGE OF PERMIT STATUS.**

49.4 Subpart 1. **Capped permit issuance, denial, and revocation.** The commissioner  
49.5 shall issue a capped permit to the ~~owner or operator~~ owners and operators of a stationary  
49.6 source if the ~~owner or operator has~~ owners and operators have submitted a complete  
49.7 application for a capped permit, the commissioner determines that the stationary source  
49.8 qualifies for the capped permit option under parts 7007.1140 to 7007.1148 for which the  
49.9 application was submitted, and the commissioner anticipates that the stationary source will  
49.10 comply with the capped permit. The commissioner shall deny an application for a capped  
49.11 permit if the commissioner determines that the stationary source does not qualify for the  
49.12 capped permit option under parts 7007.1140 to 7007.1148 for which the application was  
49.13 submitted or that the stationary source will not be able to comply with the capped permit.  
49.14 The grounds for permit denial in parts 7007.1000, subpart 1, item H, and part 7007.1000,  
49.15 subpart 2, items B to G, also constitute grounds for the commissioner to deny a capped  
49.16 permit application. The commissioner may revoke a capped permit, if the commissioner  
49.17 finds that any of the grounds under subpart 6 or under part 7007.1700, subpart 1, exist,  
49.18 by following the procedure in part 7007.1700, subpart 2.

49.19 Subp. 2. **Changes or modifications rendering stationary source ineligible for its**  
49.20 **current capped permit option.** If the owner or operator intends to make a change or  
49.21 modification at a stationary source issued a capped permit which results in the stationary  
49.22 source becoming ineligible for that permit option or being unable to meet the requirements  
49.23 for that permit option, but which will result in the stationary source being eligible for the  
49.24 other capped permit option, then the owner or operator must comply with items A to C.

49.25 A. The ~~owner or operator~~ owners and operators must submit the required  
49.26 permit application to the commissioner before making the change or beginning actual

50.1 construction on the modification. The public participation process in part 7007.1144 does  
50.2 not apply to applications in which a stationary source is transferring from one capped  
50.3 permit option to another.

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

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

50.13 Subp. 3. **Changes or modifications rendering stationary source ineligible for**  
50.14 **either capped permit option.** The ~~owner or operator~~ owners and operators of a stationary  
50.15 source that has been issued a capped permit must submit a registration, part 70, state,  
50.16 or general permit application before making a change or modification which results in  
50.17 the stationary source no longer qualifying for either capped permit option under parts  
50.18 7007.1140 to 7007.1148. The owner or operator may not begin actual construction on  
50.19 the modification until the required registration, part 70, state, or general permit for the  
50.20 stationary source is obtained, or an installation and operation permit for the modification is  
50.21 obtained under part 7007.0750, subpart 5. Once a stationary source has made a change or  
50.22 modification rendering it ineligible for either capped permit option under parts 7007.1140  
50.23 to 7007.1148, the stationary source may only become eligible for a capped permit again  
50.24 if it meets the requirements of subpart 4.

50.25 Subp. 3a. **Regulatory change rendering stationary source ineligible for capped**  
50.26 **permit.**

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

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

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

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

51.16 Subp. 4. **Reinstatement of eligibility for capped permit through addition of**  
51.17 **air pollution control equipment, removal of emission units, or implementation of**  
51.18 **pollution prevention practices.** If through the addition of listed control equipment as  
51.19 defined in part 7011.0060, permanent removal of emissions units, or implementation of  
51.20 pollution prevention practices the stationary source reinstates eligibility for a capped  
51.21 permit under parts 7007.1140 to 7007.1148, the ~~owner or operator~~ owners and operators  
51.22 may reapply for a capped permit. If the stationary source reinstates eligibility for a capped  
51.23 permit due to implementation of pollution prevention practices, the owner or operator  
51.24 shall submit a description of the pollution prevention practices with the capped permit  
51.25 application for the commissioner's review and approval. For purposes of this subpart,  
51.26 "pollution prevention practices" means eliminating or reducing at the source the quantity

52.1 or toxicity of regulated air pollutants, or hazardous air pollutants that are not regulated air  
52.2 pollutants, used by or emitted from the stationary source. Emission reductions are not  
52.3 reductions if the decrease is solely the result of a decrease in production at the stationary  
52.4 source.

52.5 Subp. 5. **Change of name, ownership, or control of stationary source issued**  
52.6 **a capped permit.**

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

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

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

52.25 Subp. 6. **Agency request for different type of permit application.** The ~~owner or~~  
52.26 ~~operator~~ owners and operators shall submit an application for a part 70, state, or general

53.1 permit, or a different capped permit option, within 120 days of the commissioner's written  
53.2 request for the application if the commissioner determines that:

53.3 [For text of items A to G, see M.R.]

53.4 [For text of subp 7, see M.R.]

53.5 **7007.1145 CAPPED PERMIT APPLICATION.**

53.6 Subpart 1. **Application procedures and request for additional information.** Items  
53.7 A to C apply to capped permit applications submitted under parts 7007.1140 to 7007.1148.

53.8 A. The ~~owner or operator~~ owners and operators of a stationary source must  
53.9 submit an application for a capped permit on a current standard application form provided  
53.10 by the commissioner. The ~~owner or operator~~ owners and operators may supplement  
53.11 information in a previous application to meet the application content requirements in  
53.12 subpart 2. The commissioner may create different application forms for the two capped  
53.13 permit options available under parts 7007.1140 to 7007.1148.

53.14 [For text of items B and C, see M.R.]

53.15 Subp. 2. **Information included.** This subpart describes the standard information  
53.16 that will be required in a capped permit application. It does not limit the agency's  
53.17 statutory authority for requiring information in addition to that which is specifically listed.  
53.18 Applicants shall submit the following information as required by the standard application  
53.19 form:

53.20 A. The ~~owner or operator~~ owners and operators shall specify whether they are  
53.21 applying for capped permit option 1 or 2 under part 7007.1141 at the time of application.

53.22 B. Information identifying the stationary source and its owners ~~or~~ and operators,  
53.23 including company name and address, plant name and address if different from the  
53.24 company name, owner's name and agent, and contact telephone numbers and electronic



54.1 mail address, including the name of a plant site manager or contact, and the person  
54.2 preparing the application if different.

54.3 [For text of items C to G, see M.R.]

54.4 [For text of subp 3, see M.R.]

54.5 **7007.1146 CAPPED PERMIT COMPLIANCE REQUIREMENTS.**

54.6 [For text of subp 1, see M.R.]

54.7 Subp. 2. **Record keeping requirements.** The ~~owner or operator~~ owners and  
54.8 operators of a stationary source issued a capped permit shall comply with all of the  
54.9 requirements relevant to the stationary source in items A to G. The ~~owner or operator~~  
54.10 owners and operators of a stationary source issued a capped permit shall comply with  
54.11 items H and I at all times.

54.12 A. If the stationary source determined eligibility in the permit application, in  
54.13 whole or in part, or demonstrates compliance, in whole or in part, by using a material  
54.14 balance that relies on the content of materials in the calculations in part 7007.1147, the  
54.15 owner or operator must:

54.16 (1) record, by the last day of each month, the amount of each  
54.17 pollutant-containing material (for example: VOC, greenhouse gases, particulate matter  
54.18 of solids, or HAP) purchased or used, and the relevant pollutant content for the previous  
54.19 calendar month;

54.20 (2) maintain a record of the material safety data sheet (MSDS), or a signed  
54.21 statement from the supplier stating the maximum solids, VOC, greenhouse gases, or  
54.22 hazardous air pollutant content, for each pollutant-containing material purchased or used;

54.23 [For text of subitems (3) and (4), see M.R.]

54.24 [For text of items B to E, see M.R.]

55.1 F. If the stationary source qualified in the permit application, in whole or  
55.2 in part, or demonstrates compliance, in whole or in part, by using control equipment  
55.3 efficiencies for listed control equipment determined under part 7011.0070, the ~~owner~~  
55.4 ~~or operator~~ owners and operators shall comply with parts 7011.0060 to 7011.0080,  
55.5 except that the ~~owner or operator~~ owners and operators of a hot mix asphalt plant shall  
55.6 comply instead with part 7011.0917. If the calculations required by part 7007.1147 used  
55.7 control equipment efficiencies based on an alternative control efficiency under part  
55.8 7011.0070, subpart 2, the ~~owner or operator~~ owners and operators shall also operate  
55.9 within the monitoring and operating parameters of the performance test that established  
55.10 the alternative control efficiency.

55.11 [For text of items G and H, see M.R.]

55.12 I. The owner or operator of a stationary source with a capped permit must  
55.13 keep daily operating records that would allow the owner or operator to calculate actual  
55.14 emissions of any pollutant for which a threshold has been established under part  
55.15 7007.1141 for that period of time not previously accounted for in the 12-month rolling sum  
55.16 calculation required under item H. The owner or operator shall provide these records and  
55.17 calculations if requested to do so by the commissioner. If the capped permit was issued  
55.18 by January 2, 2011, the owner or operator must begin record keeping for greenhouse  
55.19 gases on January 2, 2011.

55.20 [For text of subps 3 to 5, see M.R.]

55.21 **7007.1150 WHEN A PERMIT AMENDMENT IS REQUIRED.**

55.22 [For text of items A to D, see M.R.]

55.23 E. If a modification or other change at a stationary source would make the  
55.24 source subject for the first time to the requirement to obtain a state permit or a part 70  
55.25 permit, the ~~owner or operator~~ owners and operators shall obtain the appropriate permit  
55.26 before beginning actual construction of the modification or other change, notwithstanding

56.1 parts 7007.1250 to 7007.1500. Nothing in this item shall be read to limit the agency's  
56.2 ability to issue permits authorizing installation and operation of a modification under part  
56.3 7007.0750, subpart 5, or to limit a permittee's ability to obtain a major permit amendment  
56.4 restricting emissions to levels that would prevent the source from becoming subject to  
56.5 the requirement to obtain a part 70 permit.

56.6 F. The ~~owner or operator~~ owners and operators of a stationary source that ~~is~~ are  
56.7 required to have a permit under parts 7007.0050 to 7007.1850, and that have submitted a  
56.8 timely application as required under part 7007.0350, subpart 1, or 7007.0400, subpart 4  
56.9 or 5, but which does do not yet have a permit, may make changes and modifications at  
56.10 the stationary source in compliance with parts 7007.1150 to 7007.1500, notwithstanding  
56.11 any reference to a permit in those parts. Any requirement for such a permittee to obtain  
56.12 an amendment under parts 7007.1150 to 7007.1500 shall be read as a requirement for ~~an~~  
56.13 ~~owner or operator~~ owners and operators to obtain a permit from the agency under part  
56.14 7007.0750, subpart 5.

### 56.15 **7007.1300 INSIGNIFICANT ACTIVITIES LIST.**

56.16 [For text of subp 1, see M.R.]

56.17 Subp. 2. **Insignificant activities not required to be listed.** The activities described  
56.18 in this subpart are not required to be listed in a permit application under part 7007.0500,  
56.19 subpart 2, item C, subitem (2).

56.20 A. Fuel use:

56.21 (1) production of hot water for on-site personal use not related to any  
56.22 industrial process;

56.23 (2) fuel use related to food preparation by a restaurant or cafeteria; and

56.24 (3) fuel burning equipment with a capacity less than ~~30,000~~ 19,000 Btu per  
56.25 hour, but only if the combined total capacity of all fuel burning equipment at the stationary

57.1 source with a capacity less than ~~30,000~~ 19,000 Btu per hour is less than or equal to ~~500,000~~  
57.2 420,000 Btu per hour. For example: Facility A has ten fuel burning emission units, each  
57.3 with a capacity of ~~25,000~~ 18,000 Btu per hour. The ten units are all an insignificant  
57.4 activity under this subitem, because their combined capacity is less than ~~500,000~~ 420,000  
57.5 Btu per hour (i.e.,  $10 \times \del{25,000} \u{18,000}$  Btu/hr = ~~250,000~~ 180,000 Btu/hr  $\leq$  ~~500,000~~ 420,000  
57.6 Btu/hr). Facility B has ~~21~~ 31 fuel burning emission units, each with a capacity of ~~25,000~~  
57.7 18,000 Btu/hr. None of the ~~21~~ 31 units are an insignificant activity under this subitem,  
57.8 because their total combined capacity is greater than ~~500,000~~ 420,000 Btu per hour (i.e.,  
57.9 ~~21~~ 31  $\times$  ~~25,000~~ 18,000 Btu/hr = ~~525,000~~ 558,000 Btu/hr  $>$  ~~500,000~~ 420,000 Btu/hr).

57.10 [For text of items B to F, see M.R.]

57.11 G. Residential activities: typical emissions from residential structures, not  
57.12 including:

57.13 (1) fuel burning equipment with a total capacity of ~~500,000~~ 420,000  
57.14 Btu/hour or greater; and

57.15 (2) emergency backup generators.

57.16 [For text of items H to K, see M.R.]

57.17 Subp. 3. **Insignificant activities required to be listed.** The activities described in  
57.18 this subpart must be listed in a permit application, and calculation of emissions from these  
57.19 activities shall be provided if required by the agency, under part 7007.0500, subpart 2,  
57.20 item C, subitem (2). If emissions units listed in this subpart are subject to additional  
57.21 requirements under section 114(a)(3) of the act (Monitoring Requirements) or section 112  
57.22 of the act (Hazardous Air Pollutants), or if part of a title I modification, or, if accounted  
57.23 for, make a stationary source subject to a part 70 permit, emissions from the emissions  
57.24 units must be calculated in the permit application.

58.1 A. Fuel use: space heaters fueled by kerosene, natural gas, or propane, but only  
58.2 if the combined total capacity of all space heaters at the stationary source is less than or  
58.3 equal to 420,000 Btu per hour. A space heater is a heating unit that is not connected  
58.4 to piping or ducting to distribute the heat.

58.5 B. Furnaces and boilers:

58.6 (1) infrared electric ovens; and

58.7 (2) ~~fuel burning indirect heating~~ equipment with a capacity less than  
58.8 ~~500,000~~ 420,000 Btu per hour, but only if the total combined capacity of all ~~fuel burning~~  
58.9 ~~indirect heating~~ equipment at the stationary source with a capacity less than ~~500,000~~  
58.10 420,000 Btu per hour is less than or equal to ~~2,000,000~~ 1,400,000 Btu per hour. For  
58.11 example: Facility A has three ~~fuel burning emission units~~ furnaces, each with a capacity  
58.12 of 400,000 Btu per hour. The three units are all an insignificant activity to be listed under  
58.13 this subitem, because their combined capacity is less than ~~2,000,000~~ 1,400,000 Btu per  
58.14 hour. Facility B has six ~~fuel burning emission units~~ furnaces, each with a capacity of  
58.15 400,000 Btu per hour. None of the six units is an insignificant activity under this subitem,  
58.16 because their total combined capacity is greater than ~~2,000,000~~ 1,400,000 Btu per hour.  
58.17 For purposes of this subitem, "indirect heating equipment" has the meaning given under  
58.18 part 7011.0500, subpart 9.

58.19 [For text of items C to H, see M.R.]

58.20 I. Individual emission units at a stationary source, each of which have a  
58.21 potential to emit the following pollutants in amounts less than:

58.22 (1) 4,000 pounds per year of carbon monoxide; ~~and~~

58.23 (2) 2,000 pounds per year each of nitrogen oxide, sulfur dioxide,  
58.24 particulate matter, particulate matter less than ten microns, VOCs (including hazardous air  
58.25 pollutant-containing VOCs), and ozone; and

59.1 (3) 1,000 tons per year of CO<sub>2</sub>e.

59.2 [For text of items J and K, see M.R.]

59.3 Subp. 4. **Insignificant activities required to be listed in a part 70 application.** If a  
59.4 ~~facility is~~ the owners and operators are applying for a part 70 permit, emissions units with  
59.5 emissions less than all the following limits but not included in subpart 2 must be listed  
59.6 in a part 70 permit application:

59.7 A. potential emissions of 5.7 pounds per hour or actual emissions of two tons  
59.8 per year of carbon monoxide;

59.9 B. potential emissions of 2.28 pounds per hour or actual emissions of one ton  
59.10 per year for particulate matter, particulate matter less than ten microns, nitrogen oxide,  
59.11 sulfur dioxide, and VOCs; ~~and~~

59.12 C. for hazardous air pollutants, emissions units with:

59.13 (1) potential emissions of 25 percent or less of the hazardous air pollutant  
59.14 thresholds listed in subpart 5; or

59.15 (2) combined HAP actual emissions of one ton per year unless the  
59.16 emissions unit emits one or more of the following HAPs: carbon tetrachloride;  
59.17 1,2-dibromo-3-chloropropane; ethylene dibromide; hexachlorobenzene; polycyclic  
59.18 organic matter; antimony compounds; arsenic compounds, including inorganic  
59.19 arsine; cadmium compounds; chromium compounds; lead compounds; manganese  
59.20 compounds; mercury compounds; nickel compounds; selenium compounds;  
59.21 2,3,7,8-tetrachlorodibenzo-p-dioxin; or dibenzofuran. If the emissions unit emits one or  
59.22 more of the HAPs listed in this subitem, the emissions unit is not an insignificant activity  
59.23 under this subitem; and

59.24 D. potential emissions up to 10,000 tons per year or actual emissions up to  
59.25 1,000 tons per year CO<sub>2</sub>e.

60.1 Calculation of emissions from the emissions units listed in this subpart shall be  
60.2 provided if required by the agency under part 7007.0500, subpart 2, item C, subitem  
60.3 (2). If emissions units listed under this subpart are subject to additional requirements  
60.4 under section 114(a)(3) of the act (Monitoring Requirements) or section 112 of the act  
60.5 (Hazardous Air Pollutants), or are part of a title I modification, or if accounted for, make a  
60.6 stationary source subject to a part 70 permit emissions from the emissions units must be  
60.7 calculated in the permit application. If the applicant is applying for a state permit or an  
60.8 amendment to a state permit, this subpart does not apply.

60.9 [For text of subp 5, see M.R.]

60.10 **7007.1400 ADMINISTRATIVE PERMIT AMENDMENTS.**

60.11 Subpart 1. **Administrative amendments allowed.** The agency may make the permit  
60.12 amendments described in this subpart through the administrative permit amendment  
60.13 process described in this part. An owner or operator of a stationary source shall request an  
60.14 administrative amendment if changes are to be made under item B or E:

60.15 [For text of items A to C, see M.R.]

60.16 D. an amendment to eliminate monitoring, record keeping, or reporting  
60.17 requirements if:

60.18 [For text of subitems (1) to (4), see M.R.]

60.19 (5) ~~the piece of equipment~~ emission unit to which the monitoring, record  
60.20 keeping, or reporting requirement applies no longer exists or has been permanently  
60.21 disabled from use at the stationary source;

60.22 [For text of items E to K, see M.R.]

60.23 [For text of subps 2 to 7, see M.R.]

60.24 **7007.1450 MINOR AND MODERATE PERMIT AMENDMENTS.**

61.1 [For text of subp 1, see M.R.]

61.2 Subp. 2. **Minor amendment applicability.** Except as provided in subpart 1,

61.3 the agency may amend a permit to change permit conditions, unless the change to

61.4 permit conditions otherwise requires a major amendment or can be made through an

61.5 administrative amendment. The agency may allow a modification under the minor permit

61.6 amendment process of this part; if the modification will not cause an increase in emissions

61.7 of an air pollutant listed below in an amount greater than the threshold. If a regulatory

61.8 change results in existing insignificant activities no longer qualifying as such, the owners

61.9 and operators must submit an application within 30 days of the regulation's effective date

61.10 to incorporate those emission units or activities into the facility's permit:

61.11	Pollutant	Threshold
61.12	NO <sub>x</sub>	9.13 pounds per hour
61.13	SO <sub>2</sub>	9.13 pounds per hour
61.14	VOCs	9.13 pounds per hour
61.15	PM-10	3.42 pounds per hour
61.16	CO	22.80 pounds per hour
61.17	Lead	.11 pounds per hour

61.18 For purposes of this part, whether or not the ~~modification~~ proposed change will cause an

61.19 increase in emissions shall be calculated as described in part 7007.1200. Modifications

61.20 or changes to permit conditions which would otherwise qualify for a minor or moderate

61.21 amendment under this part may be title I modifications, for which a major amendment

61.22 is required, using the methods of calculation required under title I of the act. Permittees

61.23 are reminded to review the definition of title I modifications and requirements of title I

61.24 of the act.

61.25 [For text of subp 3, see M.R.]



62.1 Subp. 4. **Minor or moderate application requirements.** An application requesting  
62.2 the use of minor or moderate permit amendment procedures shall meet the requirements  
62.3 of part 7007.0600, subpart 1, and shall also include the following:

62.4 A. a description of:

62.5 (1) the modification, change to permit conditions, or regulatory change;

62.6 (2) the emissions ~~resulting from~~ associated with the modification, change  
62.7 to permit conditions, or regulatory change;

62.8 (3) the emission units or activities affected by the modification, change to  
62.9 permit conditions, or regulatory change; and

62.10 (4) any new applicable requirements that will apply if the modification  
62.11 or change occurs;

62.12 B. if the amendment is to a part 70 permit, the ~~stationary source's~~ owners' and  
62.13 operators' suggested draft permit or draft amendment;

62.14 C. certification by a responsible official that the proposed amendment meets  
62.15 the criteria for use of minor or moderate permit ~~modification~~ amendment procedures,  
62.16 including, in the case of minor permit amendments, a certification that any increase  
62.17 in emissions will be below the thresholds listed in subpart 2, and a request that such  
62.18 procedures be used;

62.19 [For text of items D and E, see M.R.]

62.20 [For text of subps 5 and 6, see M.R.]

62.21 Subp. 7. **When permittee may make the proposed modification or change.**

62.22 A. The permittee may make the modification or change proposed in a minor  
62.23 permit amendment application seven working days after the application is received by the  
62.24 air quality division of the agency.

63.1 B. The permittee may begin actual construction on a modification proposed in  
63.2 a moderate permit amendment application upon receipt of a letter of approval from the  
63.3 agency authorizing such construction. However, the permittee may not conduct start-up of  
63.4 the modification until the amended permit has been issued.

63.5 Subp. 8. ~~Permittee's~~ Permittees' **risk in commencing construction.** If the owners  
63.6 or operators of the stationary source ~~makes~~ make the modification or change allowed by  
63.7 subpart 7, item A, or ~~begins~~ begin actual construction upon receipt of a letter of approval  
63.8 as allowed by subpart 7, item B, and until the agency acts on the minor or moderate  
63.9 permit amendment application, the stationary source must comply with both the applicable  
63.10 requirements governing the modification and the proposed permit terms and conditions.  
63.11 During this time period, the stationary source need not comply with the existing permit  
63.12 terms and conditions it seeks to ~~modify~~ change. However, if the ~~stationary source fails~~  
63.13 permittees fail to comply with ~~its~~ the proposed permit terms and conditions during this  
63.14 time period, the existing permit terms and conditions ~~it seeks to modify~~ may be enforced  
63.15 against ~~it~~ the permittees. The ~~permittee assumes~~ permittees assume the risk of losing any  
63.16 investment ~~it makes~~ the permittees made toward implementing a modification or change  
63.17 prior to receiving a permit amendment authorizing the modification or change. The agency  
63.18 will not consider the possibility of the ~~permittee~~ permittees suffering financial loss due to  
63.19 such investment when deciding whether to approve, deny, or approve in modified form  
63.20 a minor or moderate permit amendment.

63.21 [For text of subp 9, see M.R.]

## 63.22 **7007.1500 MAJOR PERMIT AMENDMENTS.**

63.23 Subpart 1. **Major permit amendment required.** A "major permit amendment" is  
63.24 required for any change to permit conditions or any modification at a permitted stationary  
63.25 source that is not allowed under parts 7007.1250 and 7007.1350 and for which an  
63.26 amendment cannot be obtained under the administrative permit amendment provisions of

64.1 part 7007.1400, or the minor or moderate permit amendment provisions of part 7007.1450.

64.2 The following always require major permit amendments:

64.3 A. any significant amendment to existing monitoring, reporting, or record  
64.4 keeping requirements in the permit other than:

64.5 [For text of subitems (1) to (5), see M.R.]

64.6 (6) eliminating the requirements for ~~a piece of equipment~~ an emission unit  
64.7 that no longer exists or has been permanently disabled from use at the stationary source;

64.8 [For text of items B to E, see M.R.]

64.9 [For text of subps 2 to 4, see M.R.]

64.10 **7007.1850 EMERGENCY PROVISION.**

64.11 A. An "emergency" means any situation arising from sudden and reasonably  
64.12 unforeseeable events beyond the control of the owners and operators of the stationary  
64.13 source, including an act of God, that requires immediate corrective action to restore normal  
64.14 operation, and that causes the stationary source to exceed a technology-based emission  
64.15 limitation under the permit, due to unavoidable increases in emissions attributable to  
64.16 the emergency. An emergency shall not include noncompliance to the extent caused by  
64.17 improperly designed equipment, lack of preventative maintenance, careless or improper  
64.18 operation, or operator error. Consistent with this definition of emergency, the agency may  
64.19 state in the permit what types of situations will not be considered emergencies if they occur.

64.20 [For text of items B to F, see M.R.]

64.21 **7011.2305 STANDARDS OF PERFORMANCE FOR STATIONARY**  
64.22 **COMPRESSION IGNITION INTERNAL COMBUSTION ENGINES.**

64.23 Code of Federal Regulations, title 40, part 60, subpart IIII, as amended, entitled  
64.24 "Standards of Performance for Stationary Compression Ignition Internal Combustion  
64.25 Engines," is incorporated by reference.

65.1 **7011.2310 STANDARDS OF PERFORMANCE FOR STATIONARY SPARK**  
65.2 **IGNITION INTERNAL COMBUSTION ENGINES.**

65.3 Code of Federal Regulations, title 40, part 60, subpart JJJJ, as amended, entitled  
65.4 "Standards of Performance for Stationary Spark Ignition Internal Combustion Engines," is  
65.5 incorporated by reference.

65.6 **REPEALER.** Minnesota Rules, part 7011.3520, is repealed.

65.7 **EFFECTIVE PERIOD.** The amendments to Minnesota Rules, parts 7005.0100 to  
65.8 7007.1850, 7011.2305, and 7011.2310, and the repealer are effective upon expiration  
65.9 of the temporary exempt rules published in the State Register, volume 35, page 1097,  
65.10 January 24, 2011.