



## Minnesota Pollution Control Agency

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November 28, 2012

TO: INTERESTED PARTIES

RE: Authorizing Order Amending Minn. R. chs. 7005, 7007 and 7011 Governing Permitting of Greenhouse Gas and Stationary Engine Emissions and Clarifying Who Must Appear on Air Emissions Permits.

On November 27, 2012, the Minnesota Pollution Control Agency (MPCA) Citizens' Board voted to approve the Findings of Fact, Conclusions of Law, and Order Authorizing Adopting the subject rules.

We appreciate the time and effort of those who submitted comments on these rules.

Sincerely,

A handwritten signature in blue ink, appearing to read "John Linc Stine", is written over the printed name.

John Linc Stine  
Commissioner

JLS/NC:rm

**STATE OF MINNESOTA  
MINNESOTA POLLUTION CONTROL AGENCY**

**ADOPTION OF AMENDMENTS TO MINNESOTA RULES CHAPTERS  
7005, 7007 AND 7011 GOVERNING PERMITTING OF GREENHOUSE  
GAS AND STATIONARY ENGINE EMISSIONS AND CLARIFYING WHO  
MUST APPEAR ON AIR EMISSIONS PERMITS**

**FINDINGS OF FACT  
CONCLUSIONS OF LAW  
AND ORDER**

**FINDINGS OF FACT**

The above-entitled matter came before the Minnesota Pollution Control Agency (MPCA) Citizens' Board at a regular meeting held in St. Paul, Minnesota on November 27, 2012. Based on the MPCA staff review, comments and information received during the comment period, and other information in the record of the MPCA, the MPCA hereby makes the following Findings of Fact, Conclusions of Law, and Order:

1. The MPCA engaged in the process of amending its air emission rules to meet the following needs:
  - a. to align the air emission permitting threshold with federally-promulgated greenhouse gas (GHG) emission permit thresholds;
  - b. to clarify that all owners and operators of emission sources are subject to the air emission permitting requirements; and
  - c. to adopt the recently-promulgated federal New Source Performance Standard (NSPS) for Stationary Spark Ignition Internal Combustion Engines.
2. The MPCA's reasons for proposing to adopt the rules and the process the MPCA followed are more fully explained in Administrative Law Judge (ALJ) Eric L. Lipman's report dated November 8, 2012. Judge Lipman's Findings 1 through 89 are hereby incorporated into and made a part of these findings.
3. In the proposed rules, the MPCA proposed a requirement that owners and operators of air emission sources must apply for air emission permits within 30 days if future regulations made the sources no longer eligible to be insignificant activities. The MPCA received comments suggesting that the 30 days be extended to be at least 180 days. The MPCA suggested allowing owners and operators 120 days to apply for the appropriate air emission permit and the commenters found the 120 day limit acceptable.
4. ALJ Lipman made two recommendations to the MPCA in Findings 90 through 93. Neither recommendation was mandatory.
5. First, ALJ Lipman recommended that the MPCA change its definition of "subject to regulation" to make the definition clearer and easier to read.
6. The MPCA incorporated the definition "subject to regulation" verbatim from the U.S. Environmental Protection Agency (EPA) rule concerning GHG permitting thresholds. The MPCA is

aware that EPA is likely to promulgate additional regulations concerning GHG emissions. The MPCA cannot predict how future federal regulations may rely on EPA's already-promulgated definition. Nor can it predict how regulated parties may interpret any difference between a federal and a state definition. As a result, the MPCA finds that it is preferable to adopt the federal definition without change.

7. Second, ALJ Lipman recommended that the MPCA delete the phrase "[t]his assessment was due by July 1, 2011, under temporary rules adopted on January 24, 2011;" from Minn. R. 7007.0150, subp. 1, item B, subitem (1), on the basis that the phrase does not qualify as a rule. The MPCA accepts the recommendation and hereby deletes the phrase from the rule.

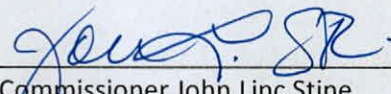
#### CONCLUSIONS OF LAW

8. The MPCA gave notice to interested persons as required by law and satisfied additional notice requirements.
9. The MPCA has fulfilled all applicable procedural requirements for adoption of the proposed rules.
10. The MPCA has statutory authority to adopt the proposed rules and has fulfilled all other substantive requirements of law or rule within the meaning of Minn. Stat. §§ 14.05, subd. 1; 14.15 and 14.50 (i) and (ii).
11. The Notice of Hearing, the proposed rules and Statement of Need and Reasonableness complied with Minn. R. 1400.2080, subp. 5.
12. The MPCA has demonstrated the need for and reasonableness of the proposed rules as required by Minn. Stat. §§ 14.14 and 14.50.
13. ALJ Lipman's recommendation to delete the phrase "[t]his assessment was due by July 2, 2011, under temporary rules adopted on January 24, 2011," is reasonable and is not substantially different from the proposed rules as published in the State Register within the meaning of Minn. Stat. §§ 14.05, subd. 2 and 14.15, subd 3.
14. The change the MPCA proposed to the rule after publication in the State Register as described in Finding 3 is not a substantial change within the meaning of Minn. Stat. §§ 14.05, subd. 2 and 14.15, subd 3.
15. Any findings that might properly be termed conclusions and any conclusions that might properly be termed findings are hereby adopted as such.

**ORDER**

NOW, THEREFORE, IT IS ORDERED that the MPCA authorizes the commissioner to execute an Order Adopting Rules for the rules proposed in the form published in the *State Register* on July 9, 2012 (37 SR 47), with the changes shown in Paragraphs 3 and 7 above, pursuant to authority vested in the MPCA by Minn. Stat. § 116.07, subd. 4.

**IT IS SO ORDERED**

  
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Commissioner John Linc Stine  
Chair, Citizens' Board  
Minnesota Pollution Control Agency

28 Nov. 2012  
Date