

Order Adopting Rules

Minnesota Pollution Control Agency

Environmental Outcomes and Analysis Division

**Adoption of Rules Governing Air Quality, Minnesota Rules, chapters 7002, 7005, 7007, and 7019;
Repeal of Rules Governing Air Quality, Minnesota Rules, chapter 7007.1850; Revisor's ID Number R-4599, OAH Docket Number 71-9003-39354**

BACKGROUND INFORMATION

1. The Minnesota Pollution Control Agency (MPCA) has complied with all notice and procedural requirements in Minnesota Statutes, chapter 14, Minnesota Rules, chapter 1400, and other applicable law.
2. The Agency adopts the Administrative Law Judge's Report dated April 21, 2025, and incorporates the Report into this Order, except as described below.
3. As detailed in the report, the ALJ found that the proposed rule amendments are needed and reasonable, and recommended their adoption; however, the ALJ encouraged the MPCA to consider adding language to clarify the proposed section of rule regarding the reporting de minimis for facilities calculating their air toxics emissions using material balance¹. The ALJ also stated that such clarifying language would not make the rule substantially different under Minn. Stat. § 14.05, subd. 2.
4. The MPCA makes the following changes to the proposed rule amendments as recommended in the ALJ Report.
 - 4-A. Language was added to part 7019.3060 to clarify that the facility must use the maximum amount of the air toxic identified on the safety data sheets (SDS(s)) to calculate and report air toxic emissions. The phrase "unless an amount has been previously determined by an approved reference methodology" was added in case the mixture had ever been tested previously, in which case a facility must use the previously determined amount when calculating and reporting air toxic emissions. Adding this language does not make the rule substantially different because it allows a facility to report air toxics quantities from previous testing, if applicable, while not requiring a facility to test their material. This change is reasonable because the language clarifies what is expected of facilities subject to the proposed rule, and the MPCA had already identified in the SONAR² that facilities would not be required

¹ ALJ Report, Footnote 179, page 27.

² Exhibit D-1, page 47.

to do additional testing on mixtures of chemicals for the purposes of reporting air toxics emissions when using the material balance method of calculation.

7019.3060 VOLATILE ORGANIC COMPOUND (VOC) AND AIR TOXICS MATERIAL BALANCE.

A = the amount of VOC and air toxics entering the process. The amount of VOC used in this calculation must be the amount certified by the supplier, the maximum amount stated on the material safety data sheet, or the amount determined by reference method 24. The amount of air toxic used in the calculation must be the amount certified by the supplier or the maximum amount stated on the safety data sheet, unless an amount has been previously determined by an approved reference methodology.

4-B. Language was added to part 7019.3110 subp. 3. A to refer back to the material balance calculation sections. Adding this language does not make the rule substantially different because it provides clarity that only facilities using material balance calculations are allowed to apply the de minimis. Although this was not explicitly stated in the rule at the time of the Notice of Intent to Adopt, it was implied because only facilities using the material balance method of calculation would use SDS(s) to calculate their emissions, and it was stated in the SONAR³. This change is reasonable because the language clarifies what is expected of facilities subject to the proposed rule.

7019.3110 AIR TOXICS EMISSION INVENTORY AND EMISSIONS REPORTING.

Subp. 3. De minimis reporting; exceptions.

- A. For facilities calculating and reporting using material balance according to part 7019.3060 or 7019.3065 and except as provided in item B, if a toxic chemical is present in a mixture of chemicals at an air toxics reporting facility, and the toxic chemical is in a concentration in the mixture that is below one percent of the mixture according to the safety data sheet (SDS) or is below 0.1 percent of the mixture in the case of a toxic chemical that is a carcinogen or potential carcinogen, an owner or operator is not required to consider the quantity of the toxic chemical present in such mixture when calculating and reporting emissions. The sources listed in subitems (1) to (3) establish a chemical as a carcinogen or potential carcinogen and are incorporated by reference.

4-C. Language was added to part 7019.3110 subp. 3. B to clarify that for facilities using material balance to calculate and report air toxics emissions, only pollutants listed on the SDS(s) need to be reported, and the maximum amount of the air toxic that is possible in the mixture must be used in the calculation. Offering an example provides clarity in rule language on how this rule must be applied for SDS(s) that list less than (<) a certain percentage of a pollutant. Adding this language does not make the rule substantially different because the MPCA had already identified in the SONAR⁴ that facilities only

³ Exhibit D-1, page 47.

⁴ Exhibit D-1, page 48.

need to report what is listed on the SDS for a mixture of chemicals for the purposes of reporting air toxics emissions when using the material balance method of calculation. Language was also added to refer back to the material balance calculation section for air toxics (part 7019.3060). This change is reasonable because the language clarifies what is expected of facilities subject to the proposed rule.

7019.3110 AIR TOXICS EMISSION INVENTORY AND EMISSIONS REPORTING.

Subp. 3. De minimis reporting; exceptions.

- B. An owner or operator of an air toxics reporting facility must report all emissions of the air toxics in subitems (1) to (20). The de minimis standard under item A does not apply. For all pollutant names that contain the word "compounds," any chemical substance that contains the named chemical as part of that chemical's infrastructure is included. For facilities calculating and reporting emissions using material balance according to parts 7019.3060 and 7019.3065, only pollutants listed on the SDS need to be considered. For example, if an SDS lists an air toxic in a mixture at less than 0.1 percent, the facility must use 0.1 percent to calculate and report emissions, unless a specific amount has been certified by the supplier or previously determined by an approved reference methodology as provided under part 7019.3060.
5. The proposed rule amendments as modified are needed and reasonable.
6. The rules under part 7007.1850 are obsolete, unnecessary, or duplicative.

ORDER

The above-named rules, in the form published in the State Register on November 25, 2024, with the modifications as indicated in the Revisor's draft dated June 25, 2025, are adopted under my authority in Statutes, section 116.07, subdivision 4, and section 116.062.

August 12, 2025

Date signed

Katrina Kessler

Katrina Kessler
Commissioner