

updated State permitting regulations. In adopting a single set of air permitting regulations incorporating both construction permits and operating permits, the State updated numerous new source review provisions in conjunction with its adoption of the regulations required under Title V. These rules specify criteria for what sources must have Title V permits (namely, major sources), what sources must have State permits, and what sources do not need a permit. Further rules specify application requirements, permit content, and procedures for permit processing. Criteria are given for treating modifications as insignificant and for treating activities as insignificant. Separate requirements are established for administrative amendments, minor amendments, moderate amendments, and major amendments. Criteria for reopening of permits, criteria for Federal enforceability, criteria for coverage by a permit shield, and exemptions for emergency circumstances are defined. Additional revisions include modified permit processing provisions (e.g. specific public comment provisions), provisions which exempt certain defined modifications and activities from permitting due to insignificance, provision of raised size thresholds for State permits, and provision for trading of emissions increases and decreases at "minor" sources.

The technical support document provides a rule-by-rule review of the updated Minnesota regulations. A few rules present ambiguities requiring further interpretation. Previous discussion has described USEPA's interpretation of Minnesota's rules concerning notice and comment, concluding that USEPA authorizes and requires and therefore Rule 7007.0850 requires full opportunity for public comment and newspaper notice for synthetic minor and major new source and modification permits. Rule 7007.0750 allows construction prior to permit issuance in some cases for minor sources (provided State authorization is granted), but prohibits preissuance construction for major sources; USEPA interprets this rule to prohibit preissuance construction for prospective synthetic minor sources since such sources are major sources until the permit is issued. Rule 7007.1750 provides that conditions required under Chapter 7007 rules are federally enforceable, but is ambiguous as to whether permit conditions adopted to avoid "major source" size thresholds qualify as federally enforceable. Since such conditions may be considered a

means of satisfying Title I permitting requirements, and since Federal enforceability is a prerequisite for such limits to be effective in avoiding categorization as a major source, USEPA interprets such permit conditions as federally enforceable.

Numerous provisions governing new source review in Minnesota are unaffected by the State's submittal. Minnesota's offset rules, recodified as Rules 7007.4000 through 7007.4030, continue to provide substantive requirements for major new sources and major modifications in nonattainment areas. The State has not sought approval of State regulations for prevention of significant deterioration (i.e. new source review in attainment areas) to replace the Federal regulations at 40 CFR 52.21, so the Federal regulations remain applicable.

In its action on previous Minnesota permitting regulations, published at 53 FR 17033 (May 13, 1988), USEPA disapproved the rules with respect to sources with new source performance standards but exempted by the State as being below permitting size thresholds. The rules providing these exemptions have been repealed and replaced with regulations that require a permit for any source to which new source performance standards apply. Thus the prior partial disapproval may be rescinded. USEPA further concludes that these rules satisfy applicable new source permitting requirements.

II. Rulemaking Action

Today's rulemaking addresses Minnesota's air permitting regulations as submitted November 23, 1993. USEPA approves these regulations. Furthermore, USEPA concludes that Minnesota's three purposes in submitting these regulations have been fulfilled. First, USEPA concludes that Minnesota has satisfied the criteria for issuing federally enforceable state operating permits. Second, USEPA finds that Minnesota has established a suitable mechanism for use of permits as the basis of SIP submittals. Although no such permits have yet been issued or submitted, USEPA anticipates being able to approve future permit-based SIP submittals provided that SIP-related public notice requirements and other relevant SIP requirements (e.g. any attainment demonstration criteria) have been satisfied. Third, USEPA concludes that these new permitting regulations continue to satisfy relevant new source review requirements. Finally, USEPA is rescinding the partial disapproval applicable to Minnesota's previous permitting regulations.

Because USEPA considers this action noncontroversial and routine, we are approving it without prior proposal. The action will become effective on July 3, 1995, unless adverse or critical comments are received by June 1, 1995. This action will authorize Minnesota to issue federally enforceable state operating permits limiting the potential to emit criteria and/or hazardous air pollutant emissions. If the effective date is delayed, timely notice will be published in the **Federal Register**.

Most of the rules approved by this rulemaking are in Chapter 7007 of Minnesota's rules. Specifically, USEPA is approving Rules 7007.0050 through 7007.1850, including Rules 7007.0050, .0100, .0150, .0200, .0250, .0300, .0350, .0400, .0450, .0500, .0550, .0600, .0650, .0700, .0750, .0800, .0850, .0900, .0950, .1000, .1050, .1100, .1150, .1200, .1250, .1300, .1350, .1400, .1450, .1500, .1600, .1650, .1700, .1750, .1800, and .1850. In addition, USEPA is approving the repeal of previous Rules 7001.1200, 7001.1205, 7001.1210, 7001.1215, and 7001.1220, amendments to Rules 7001.0020, 7001.0050, 7001.0140, 7001.0180, 7001.0550, 7001.3050, 7002.0005, and 7002.0015 that accompany this repeal, and new definitions in Rule 7005.0100. USEPA will address Rule 7019.3000 (a portion of the State's emissions inventory rules) in separate rulemaking.

Nothing in this action should be construed as permitting, allowing or establishing a precedent for any future request for revision to any SIP. USEPA shall consider each request for revision to the SIP in light of specific technical, economic, and environmental factors and in relation to relevant statutory and regulatory requirements.

This action has been classified as a Table 2 action by the Regional Administrator under the procedures published in the **Federal Register** on January 19, 1989 (54 FR 2214-2225), as revised by an October 4, 1993 memorandum from Michael H. Shapiro, Acting Assistant Administrator for Air and Radiation. The Office of Management and Budget has exempted this rule from the requirements of section 6 of Executive Order 12866.

Under the Regulatory Flexibility Act, 5 U.S.C. 600 *et seq.*, USEPA must prepare a regulatory flexibility analysis assessing the impact of any proposed or final rule on small entities. (5 U.S.C. 603 and 604.) Alternatively, USEPA may certify that the rule will not have a significant impact on a substantial number of small entities. Small entities include small businesses, small not-for-profit enterprises, and government entities with jurisdiction over populations of less than 50,000.