MINNESOTA'S AIR EMISSION FEES

REPORT TO THE LEGISLATURE

Submitted by
Minnesota Pollution Control Agency
Air Quality Division
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I. BACKGROUND

The 1990 Clean Air Act Amendments (CAAA) provide a mechanism for states to fund the new air programs established by the CAAA. The funding mechanism is based on a polluter pay concept where each ton of pollutant a company emits is assessed a monetary fee. The CAAA establishes the minimum fee commitment a state must make in order to be authorized to run the federal air programs in that state. Under the CAAA, states are required to make this commitment by November 15, 1993. The minimum commitment is to collect $25 per ton of regulated pollutant emitted, for the first 4,000 tons of that pollutant, at each permitted air emission facility. The regulated pollutants used in this calculation are particulate matter less than ten microns in size, sulfur dioxide, nitrogen oxides, hydrocarbons and lead. The cap limits the annual air pollution control budget because a facility emitting more than 4,000 tons of one of the criteria pollutants each year is only counted as emitting 4,000 tons of that pollutant in the annual air budget calculation.

For example, a coal-fired power plant which annually emits 20,000 tons of sulfur dioxide, 7,000 tons of nitrogen oxides, 8,000 tons of particulate matter and 40 tons of lead for a total of 35,040 tons of criteria pollutant emissions, would be credited with a total of 12,040 tons of criteria pollutant emissions when including that facility in the annual calculation of the air pollution control budget (i.e., 4,000 tons of sulfur dioxide, 4,000 tons of nitrogen oxides, 4,000 tons of particulate matter and 40 tons of lead).

During the 1991 Legislative Session, the Legislature amended the Pollution Control Agency's (PCA) fee statute to authorize the CAAA fee funding mechanism. In addition, the Legislature expanded the use of the fee fund to include not only the new CAAA programs, but all of Minnesota's air program. As a result, all general fund appropriations to the air pollution control program have been eliminated.

The 1991 change did not immediately authorize the PCA to begin collecting the minimum allowed under the CAAA. Instead, it expanded the air pollution control fee schedule in a series of three steps up to the minimum required by the CAAA. In the commitment under the CAAA begins in the third year or in FY 1994. The annual air fee budget will remain at the $25 per ton level in subsequent fiscal years except for the inflationary increases required under the CAAA.

Also during the 1991 Legislative Session, the Legislature required the PCA to report to the 1993 Legislature on the implementation of the annual air fee program. The remainder of this report addresses this reporting requirement.

II. AIR EMISSION FEE REPORT

The Legislature asked the PCA to report on four items as listed below:

1. The basis on which air emission fees are assessed for each pollutant.
2. The basis on which air emission fees are distributed among various emission sources.
3. How the scope and costs of Minnesota air emission fees and air quality control programs compare to neighboring states.
4. The allocation of air emission fees among various programs within the air quality division.

Each of these four points are discussed in detail below.

A. THE BASIS ON WHICH AIR EMISSION FEES ARE ASSESSED FOR EACH POLLUTANT

In 1991, the Legislature directed the PCA to establish an air emission fee rule governing the payment of fees from air emission sources. The Legislature verbally directed the PCA to collect fees based on the actual emissions of all regulated pollutants. There were two main reasons for this directive. First, it established a "polluter pays" fee system where the highest fees are paid by the most polluting air emission sources. Second, it protects small businesses from having to pay higher fees that would result if there were a cap on the amount of emissions that are assessed fees.

The fee per ton is the same for each criteria pollutant (i.e., particulate matter less than ten microns, sulfur dioxide, nitrogen oxides, hydrocarbons and lead). The dollar per ton fee, "X", is calculated as follows:

$$X = (F - I - P)/T$$

where

X = dollars per ton
F = total adjusted annual fee target

I = total amount to be billed as indirect source permit fees for the previous calendar year

P = total amount to be billed as new permit fees for the previous calendar year

T = total number of tons of all criteria pollutants listed in the most recent annual emissions inventory

The unadjusted fee target for fiscal year 1993 is $5,093,000. This amount may be adjusted either upward if the PCA failed to collect its fee target the previous year, after making reasonable efforts to do so, or downward if the PCA collected more than its fee target the previous year. Also the PCA may adjust the fee target upward to reflect an anticipated fee nonpayment rate (up to five percent).

The calculation of the per ton fee for fiscal year 1993 is as follows:

Total Billable Emission	368,169 tons
FY 1993 Fee Target	$5,093,000
Previous Year's Adjustment for Under Collection	23,161
Indirect Source Permit (2)	- 9,285
New Permit Fees (3)	- 2,310
Total	5,104,566
Plus 1% for nonpayment	5,155,612
Per Ton Fee:	$14.00

Facilities which have air emissions, above 25 tons of a criteria pollutant each year, pay for each ton of the criteria pollutant emitted into the air. The fee is based on the actual emission tonnages as reported and established in the most recent and available emission inventory. Air emission facilities are required to submit to the PCA an emissions inventory annually. The PCA then does a quality assurance audit of a facility's submission. The audited 1991 air emissions inventory is used to establish the fiscal year 1993 fee per ton charge.

B. THE BASIS ON WHICH AIR EMISSION FEES ARE DISTRIBUTED AMONG VARIOUS EMISSION SOURCES

Each air emission source that is required to obtain an air emission permit under Minnesota Rules or under Title V of the CAAA pays "$X" per ton of regulated pollutant emitted into the air by the facility. The fee is assessed based on the actual emission tonnages from a facility per year. As stated above, the facility reports to the PCA on the amount of the criteria pollutants the facility emits annually by submitting an emission inventory which the PCA then quality assures, confirms the final numbers with the facility and enters the data into the PCA's computer system.

The fee is based on the most recently available quality assured emission inventory. The fiscal year 1993 fee will be based on the 1991 emission inventory. Fiscal year 1993 covers the time period from July 1, 1992, to June 30, 1993. The 1991 emission inventory covers the 1991 calendar year. Facilities are required to submit their emission inventories by April 1 each year for the previous calendar year. (Therefore facilities were required to submit the 1991 emission inventory on April 1, 1992.) Accounting for the time the PCA needs to quality assure the inventories, confirm with facilities that the emissions data are correct and enter the data into the computer system, the 1991 inventory is the most recent quality assured emission inventory that the PCA can use for establishing the fiscal year 1993 air emission fees for facilities.

For fiscal year 1993, the emission inventory quality assurance was complete and air emission facilities were given draft fee bills in February 1993. Industries were asked to make corrections to the inventory information by March 1, 1993. Based on the adjustments made by facilities, the 1991 inventory will be completed and final bills for fiscal year 1993 will be sent to air emission facilities in March 1993 for payment in May 1993. The emission inventory used and the time frame for fee collection is set out in the PCA fee rule. A copy of the fee rule can be found in Appendix A.

The industries paying the largest fees based on the 1991 emissions inventory are as follows:

Utilities	- 182,564 tons
Mining	- 81,045 tons
Manufacturing	- 47,874 tons
Refineries	- 26,548 tons
Pulp and Paper	- 13,701 tons
All Other	- 21,612 tons

Figure 1 shows the emission by industry category for 1990 and for 1991.

C. HOW THE SCOPE AND COSTS OF MINNESOTA AIR EMISSION FEE AND AIR QUALITY PROGRAMS COMPARE TO NEIGHBORING STATES

The PCA contacted the states of North Dakota, South Dakota, Iowa, Michigan, Ohio, Wisconsin, Indiana and Illinois with a request for information on the current status of implementation of the air emission fee system required under Title V of the CAAA.

The PCA specifically requested the total amount of each state's budget for its most recent fiscal year, and the break down of the budget by the following three funding sources: air fees, federal funds, and other state funds. The PCA received responses from all eight states. The results are shown in Table 1 and Figure 2.

The results of the survey show that six of eight states are currently collecting air fees and that Minnesota is the only state where other state funds are not being used to support the air program (although Wisconsin has a very small amount of other state funds allocated to it). In terms of ranking, Minnesota is second highest of the eight states in the amount of money collected as air emission fees with Wisconsin being first. In terms of total air budgets, Minnesota ranks sixth behind Ohio, Illinois, Michigan, Wisconsin, and Indiana.

Table 2 contains data collected on state's air programs by Project Environment Foundation and the University of St. Thomas in 1991. The states responding to this survey were Illinois, Indiana, Iowa, Minnesota, North Dakota, South Dakota and Wisconsin (Michigan and Ohio did not respond). The data are based on fiscal year 1990 and show the total air budgets in the states and the amount of staff supporting the air program. Of these six states, Minnesota ranks fourth behind Illinois, Wisconsin and Indiana in terms of air program staff complement.

One point of interest between Tables 1 and 2 is to evaluate the growth of the air programs in the states between fiscal years 1990 and 1993. The growth for the six states listed in Table 2 are as follows:

Minnesota	- 78%
North Dakota	- 75%
South Dakota	- 60%
Iowa	- 20%
Wisconsin	- 74%
Indiana	- 50%
Illinois	- 57%

All states show significant growth during this four year period with Minnesota, North Dakota and Wisconsin showing the most growth. More information on the comparisons of state programs can be obtained from the October 1991 report by Project Environment Foundation and the University of St. Thomas titled, "State Air Quality Control Programs: A Comparative Assessment."

During the 1993 Legislative Session, MPCA staff was asked to compare dollar per ton charges between states. In February 1993, MPCA staff attended a national meeting of state air quality regulators. MPCA staff obtained the following information on the dollar per ton charge that various states will charge starting in 1995:

Alabama	$25 per ton
Arkansas	$15 to $20 per ton
California	$141 to $596 per ton depending on the pollutant
Delaware	$30 to $40 per ton
Florida	$25 per ton
Illinois	$13.50 per ton plus an annual fee ranging from $100 to $2,500 depending on total emissions
Iowa	$25 per ton
Minnesota	$25 per ton
Missouri	$25 per ton
Nebraska	$25 per ton
New Jersey	$25 per ton
North Carolina	$25 per ton
North Dakota	$10 per ton
Ohio	$25 per ton
Oregon	$38 to $43 per ton
Pennsylvania	$25 per ton
South Dakota	$7 to $8 per ton
Texas	$25 per ton plus a $2 surcharge on motor vehicles at the time of safety inspection
Virginia	$25 per ton
Wisconsin	$25 per ton

Of the states reporting, most are planning on collecting the minimum mandated by the CAAA. Although there are some states planning to collect more and some planning to collect less than the mandated $25 per ton minimum.

D. THE ALLOCATION OF AIR EMISSION FEES AMONG VARIOUS PROGRAMS WITHIN THE AIR QUALITY DIVISION

Tables 3 and 4 show how the air emission fees are being spent in fiscal year 1993. Appendix B is the Air Quality Division's organizational chart. The funding source for each position is shown on the chart.

Table 3 shows how the air emission fees are spent between federal requirements and state only requirements. Sixty-seven percent of the air emission fees are spent on federal program requirements, twenty percent are spent on state only requirements and the remaining thirteen percent are spent on indirect costs associated with the administration of the PCA. Indirect costs include support for the computer office, regional offices, environmental assessment office, personnel office and accounting, contracting, purchasing, payroll activities and rent.

Ten percent of the air emission fees are directed toward Manager's Office activities. The Manager's Office supports three fee funded positions, and is responsible for attorney general support of the air program, public information activities, legislative activities and the Division's general office supplies, equipment and furniture.

Thirty-seven percent of the air emission fees are directed toward Program Development activities. The Program Development Section supports 29 fee funded positions, and is responsible for statewide ambient air monitoring, quality assurance of both state and privately-owned ambient air monitors, air laboratory operations, the acid rain program, rule development, state implementation plan development, the small business technical assistance program, the noise program, the lead program, air dispersion modeling activities, transportation planning, indirect source permitting and air toxics activities.

Fifteen percent of the air emission fees are directed toward the Compliance and Enforcement Section. The Compliance and Enforcement Section is responsible for determining air emission facilities' compliance with state and federal laws, rules, permits or other enforceable documents issued to facilities by the PCA, and responding to noncompliance in an appropriate manner. There are 15 fee funded positions in the Compliance and Enforcement Section, and activities of the section include compliance reviews of stack tests, continuous emissions monitors, and facility submittals and construction activities; data entry and tracking timeline requirements; the emissions

inventory program; the asbestos abatement program; and stationary source inspections and enforcement activities at both the St. Paul office and five regional offices.

Twenty-five percent of the air emission fees are directed toward the Permits Section. The Permits Section supports 25 fee funded positions, and is responsible for all activities associated with stationary source permitting.

Table 4 is a further breakdown of air emission fee expenditures by category. Sixty-five percent of the air emission fees pay employees' salaries with twenty-two percent spent on other division supplies and expenses. The majority of division supplies and expenses are costs associated with ambient air monitoring and support of the air laboratory, the emission inventory contract, the new operating permit application manual development contract, purchasing furniture and computer equipment, and employee training and travel expenses.

FIGURE 1

1990 and 1991 Emissions

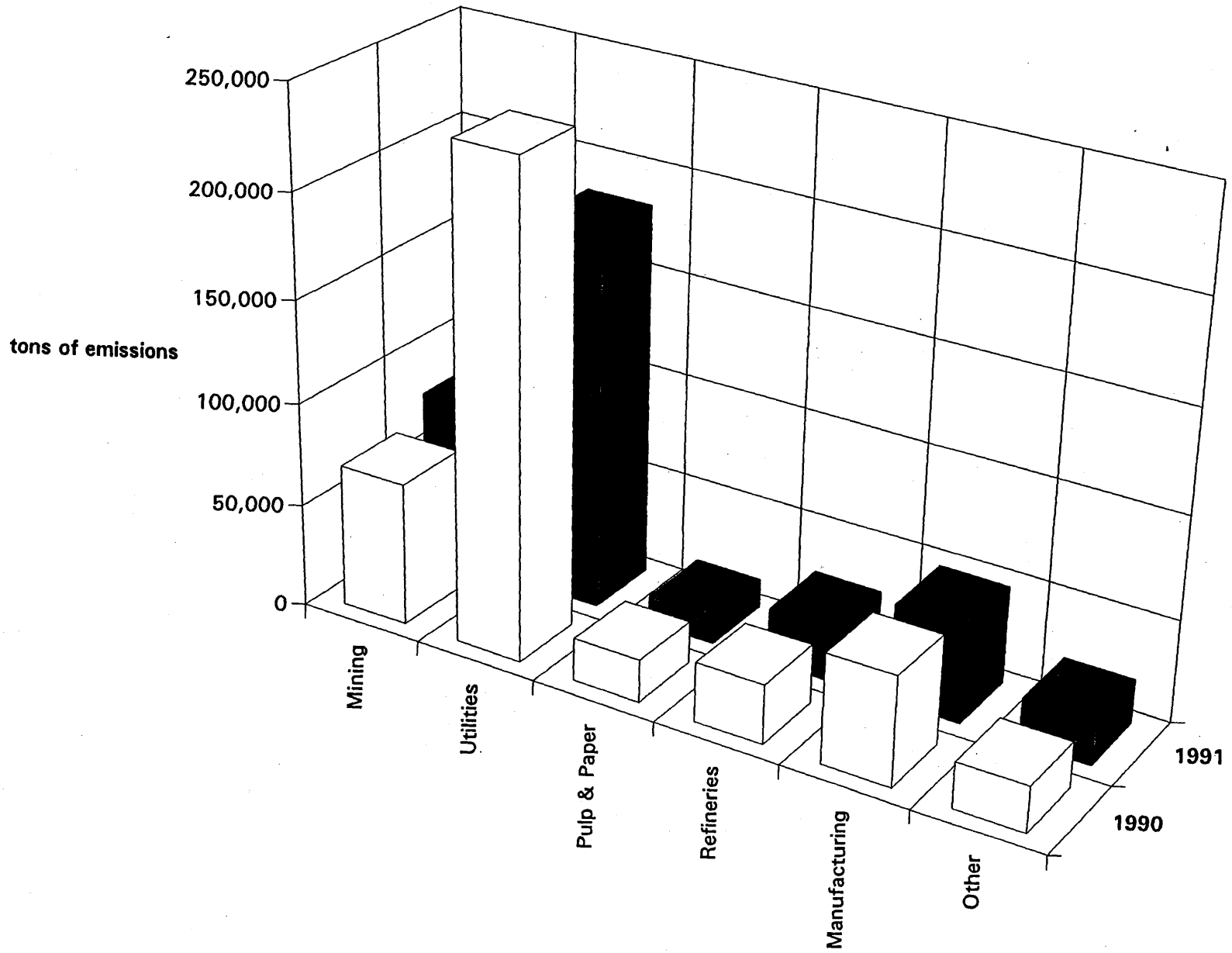
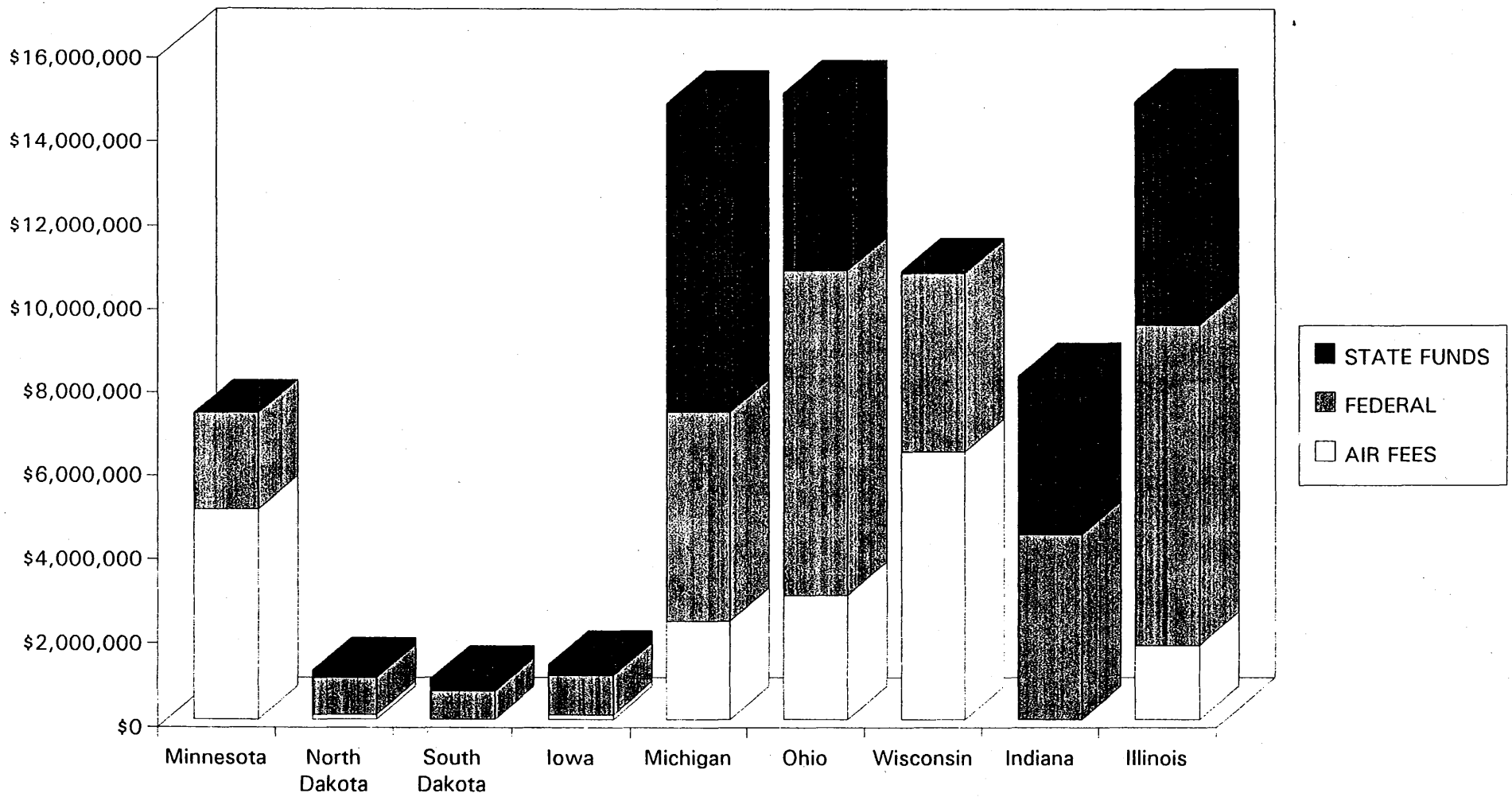


FIGURE 2

Air Program Budgets for Neighboring States



AIR PROGRAM BUDGETS FOR NEIGHBORING STATES

FUNDING:	AIR FEES	FEDERAL	OTHER STATE FUNDS	TOTAL
Minnesota	$5,011,000	$2,296,000	$0	7,307,000
North Dakota	$117,500	$872,750	$173,417	1,163,667
South Dakota	$0	$671,376	$287,732	959,108
Iowa	$117,875	$922,994	$281,050	1,321,919
Michigan	$2,347,300	$4,984,033	$7,393,128	14,724,461
Ohio	$2,960,685	$7,785,158	$4,243,703	14,989,546
Wisconsin	$6,387,246	$4,299,000	$46,000	10,732,246
Indiana	$0	$4,417,308	$3,800,484	8,217,792
Illinois	$1,765,400	$7,676,100	$5,329,500	14,771,000
TOTAL:	18,707,006	33,924,719	21,555,014	74,186,739

AIR PROGRAM BUDGETS and COMPLEMENT for NEIGHBORING STATES in F.Y. 1990

STATE	FY 90 BUDGET	TOTAL STAFF	AMBIENT MONITORING	PERMITTING	COMPLIANCE ENFORCEMENT	OTHER
Minnesota	4,100,000	92.0	14.0	15.0	15.0	48.0
North Dakota	664,667	18.0	4.5	5.0	6.5	2.0
South Dakota	598,000	14.8	3.9	1.0	2.9	7.0
Iowa *	1,100,000	15.0	0.5	2.0	6.0	6.5
Wisconsin	6,157,439	119.9	22.6	20.7	32.0	44.6
Indiana	5,495,067	98.0	27.0	8.0	32.0	31.0
Illinois	9,431,500	140.0	26.0	22.0	46.0	46.0

* Iowa contracts out ambient monitoring

AIR QUALITY DIVISION
AIR EMISSION FEES

PROGRAM	Federal Requirements FTE	Federal Requirements FY 93	State Only Requirements FTE	State Only Requirements FY 93	*****TOTAL****** FTE	*****TOTAL****** FY 93
Manager's Office	1	351,198	2	139,235	3	490,433
Program Development	15	1,254,910	8	165,130	23	1,420,040
Acid Rain			4	312,093	4	312,093
Noise			2	114,482	2	114,482
Inspection/Maintenance					0	0
Compliance & Enforcement	9	642,912	6	124,000	15	766,912
Permits	18	1,111,440	7	135,600	25	1,247,040
	43	3,360,460	29	990,540	72	4,351,000
				Indirect		660,000
				TOTAL:		5,011,000

AIR PROGRAM - FY 1993

	FEDERAL REQIREMENTS	STATE ONLY	TOTAL
salary	2,487,697	771,793	3,259,490
rent	18,800	30,850	49,650
advertising	25,500	0	25,500
repairs	51,700	3,250	54,950
bond/insur	2,500	0	2,500
printing/copy	45,200	3,000	48,200
prof/tech	112,000	87,523	199,523
data proc	51,713	4,000	55,713
purch svcs	102,400	0	102,400
communications	90,050	5,900	95,950
in-state travel	84,500	10,645	95,145
out-state travel	83,500	3,500	87,000
utilities	6,500	1,500	8,000
relocation	9,000	0	9,000
fees	4,500	0	4,500
supplies	130,900	14,610	145,510
equipment	54,000	53,969	107,969
Indirect			660,000
TOTAL:	3,360,460	990,540	5,011,000
FTE:	43	29	72

Office of the Revisor of Statutes

Administrative Rules

TITLE: Adopted Permanent Rules Relating to Air Emission Permit Fees

AGENCY: Pollution Control Agency

MINNESOTA RULES: Chapters 7001, 7002, 7005

INCORPORATIONS BY REFERENCE:

Part 7005.0100, subpart 10c: Aerometric and Emissions Reporting System (AEROS) Manual Series, Volume 5: AEROS Manual of Codes, EPA-450/2-76-005, United States Environmental Protection Agency, Office of Air and Waste Management, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, April 1976.

Part 7005.0100, subpart 10d: AIRS Facility Subsystem Source Classification Codes and Emission Factor Listing for Criteria Air Pollutants, EPA 450/4-90-003, United States Environmental Protection Agency, Office of Air and Waste Management, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, March 1990.

The first document is available through the Minitex interlibrary loan system. The second document is available at the state law library through the Minitex interlibrary loan system.

The attached rules are approved for filing with the Secretary of State

Carla M. Riehle
Assistant Revisor

AIR EMISSION PERMIT FEES

7001.0140 FINAL DETERMINATION.

[For text of subpart 1, see M.R.]

Subp. 2. Agency findings. The following findings by the agency constitute justification for the agency to refuse to issue a new or modified permit, to refuse permit reissuance, or to revoke a permit without reissuance:

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

F. that with respect to the facility or activity to be permitted, the proposed permittee has not complied with any requirement under chapter 7002 or 7046 to pay permit fees or emission fees; or

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

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

7001.0180 JUSTIFICATION TO COMMENCE REVOCATION WITHOUT REISSUANCE OF PERMIT.

The following constitute justification for the commissioner to commence proceedings to revoke a permit without reissuance:

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

D. the permittee has failed to comply with any requirement under chapter 7002 or 7046 to pay permit fees or emission fees; or

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

7002.0005 SCOPE.

Parts 7002.0005 to 7002.0085 apply to all persons required to obtain an air emission permit or an indirect source permit from the Minnesota Pollution Control Agency under parts 7001.1200 to 7001.1350 or under Title V of the federal Clean Air Act Amendments of 1990, Public Law Number 101-549, Statutes at Large, volume 104, pages 2399 et seq.

7002.0015 DEFINITIONS.

Subpart 1. Scope. For the purposes of parts 7002.0005 to 7002.0085, the terms defined in this part have the meanings given them. The definitions in parts 7001.0010, 7001.1260, and

7005.0010 to 7005.3060 apply unless the terms are defined in this part.

Subp. 2. **Affected facility.** "Affected facility" means any facility for which the owner or operator of the facility must obtain an air emission permit under parts 7001.1200 to 7001.1220 or under Title V of the federal Clean Air Act Amendments of 1990, Public Law Number 101-549, Statutes at Large, volume 104, pages 2399 et seq.

Subp. 3. **Emission inventory.** "Emission inventory" means the inventory of actual emissions required under part 7005.1875.

Subp. 4. **Regulated pollutant.** "Regulated pollutant" means the following:

A. Nitrogen oxides (NO_x) or any volatile organic compound.

B. Any pollutant for which a national ambient air quality standard has been promulgated, except carbon monoxide.

7002.0025 ANNUAL EMISSION FEE RATES.

Subpart 1. **Calculation of fee.** Operators of affected facilities shall pay an annual emission fee for each ton of a regulated pollutant emitted to the air by the facility. The fee shall be based on the actual emission tonnages as established in the most recent available emission inventory. The fees shall be $X for each ton of any regulated pollutant. The value of "X" is as determined in part 7002.0045.

Subp. 2. **New facilities.** New emission facilities that have been issued a permit, but have not yet been required to submit emissions data, shall pay a fee of $770.

Subp. 3. **Estimated potential to emit.** If an emission facility fails to submit actual emissions data as required by part 7005.1870, subpart 4, or 7005.1875, whichever is in effect when the inventory is due, the annual emission fee for that facility shall be based on the estimated potential-to-emit of that facility, as defined in part 7005.0100, subpart 35a.

7002.0035 AIR QUALITY ANNUAL FEE TARGET.

The annual fee target shall be set as described in items A,

B, and C.

A. For fiscal year 1993, the unadjusted fee target shall be $5,093,000.

B. For fiscal year 1994 and thereafter, the unadjusted fee target shall be the greater of the following:

(1) the sum of:

(a) the amount directly appropriated to the Air Quality Division from the environmental fund for that fiscal year; and

(b) the Air Quality Division's portion of the appropriation from the environmental fund to the agency's general support program, as determined by using the indirect cost allocation plan approved by the Minnesota Department of Finance under Minnesota Statutes, section 16A.127, subdivision 4; or

(2) the amount calculated by multiplying $25 per ton, adjusted for inflation since 1989, times the number of tons of each regulated pollutant listed in the most recent available emission inventory. A maximum of 4,000 tons per pollutant per facility shall be used for this calculation. The adjustment for inflation shall be in accordance with the adjustment described by the United States Environmental Protection Agency in rules adopted under title V of the federal Clean Air Act Amendments of 1990, Public Law Number 101-549, Statutes at Large, volume 104, pages 2399, et seq.

C. The amounts described in items A and B must be adjusted as follows:

(1) if the agency failed to collect its fee target the previous year, after making reasonable efforts to do so, the shortfall must be added to the next year's fee target;

(2) if the agency collected more than its fee target the previous year, the excess must be subtracted from the next year's fee target; and

(3) for any year, the commissioner may increase the fee target by up to five percent to reflect the anticipated fee nonpayment rate. This increase must not be considered for

purposes of calculating a deficit or surplus under subitems (1) and (2).

7002.0045 COMPUTATION OF THE DOLLAR PER TON FIGURE.

The dollar per ton figure "X" used in part 7002.0025 shall be computed as follows:

$$X = (F - I - P)/T$$

where:

X = Dollars per ton.

F = Total annual fee target, as determined in this part.

I = Total amount to be billed as indirect source permit fees for the previous calendar year, part 7002.0055.

P = Total amount to be billed as new permit fees for the previous calendar year, part 7002.0025, subpart 2.

T = Total number of tons of all regulated pollutants listed in the most recent annual emissions inventory.

7002.0055 INDIRECT SOURCE PERMIT FEES.

Subpart 1. Schedule. A person who applies for a permit to construct, modify, or reconstruct an indirect source as defined in part 7001.1260, subpart 5, shall be assessed fees according to the following schedule. Surcharges apply to new permit applications if the basis for the surcharge is present in the proposed project. Surcharges apply to modified permit applications if the basis for the surcharge is present in the proposed modification.

Basic charges	Fee
New permit application	$1,605
Permit modification application	$1,205
Surcharges	
Involves 5,000 or more parking spaces or 700,000 or more square feet	$2,005
Noise variance applied for	$3,265
On-site contamination affects facility	$800
Requires binding commitments for new roadway improvements	$1,205
Requires involvement of more than one governmental unit or roadway authority	$400

New permit application that involves more than one owner, except governmental coapplicants acting in regulatory capacity	$2,005
Permit application formally amended during application review process to change size or scope of project, except minor changes as defined in subpart 3	$1,205
Contains an entertainment or sports facility with a peak attendance level of 10,000 or more people or 10,000 or more parking spaces	$1,605
Involves a change in ownership except from single owner to single owner	$1,205

Subp. 2. **Fees nonrefundable.** The fees in subpart 1 shall be determined by the division manager upon application for an indirect source permit, or when it becomes apparent that a surcharge shall apply. A bill for the amount due shall be sent after January 1 of the following calendar year. Fees paid under this part are nonrefundable, regardless of whether a permit is eventually issued.

Subp. 3. **Minor changes.** The amendment of a permit application during the application review process shall be considered minor for purposes of this part if it would have been considered a minor modification under part 7001.1350 or if an agency approved trip analysis shows that the change would not increase vehicle trips in any intersection in any hour by 100 trips or more.

7002.0065 PAYMENT OF FEES.

A person submitting the fee shall make it payable to the Minnesota Pollution Control Agency, and shall submit it to the division manager. The fee shall be paid within 60 days of receipt of an invoice from the division manager.

7002.0075 NOTIFICATION OF ERROR.

A person who thinks that the assessed fee is in error shall provide a written explanation of the person's position to the commissioner along with the assessed fee. The commissioner shall, within 60 days of the receipt of the person's written explanation, either provide a written explanation of why the fee was not in error and shall not be refunded, or, if the

commissioner finds that the assessed fee was in error, the overpayment shall be refunded to the person or credited to the person's account.

7002.0085 LATE PAYMENT FEE.

An owner or operator of an affected facility shall pay a late payment fee of 20 percent of the payment due for failure to make payment within 30 days of the payment due date, and shall pay an additional ten percent of the original payment due for each additional 30-day period that the payment is late.

7002.0095 EFFECTIVE DATE.

Parts 7002.0005 to 7002.0085 are effective July 1, 1992.

7005.0100 DEFINITIONS.

[For text of subps 1 to 8a, see M.R.]

Subp. 9a. Division manager. "Division manager" means the division manager of the Air Quality Division of the Minnesota Pollution Control Agency.

[For text of subps 10 and 10b, see M.R.]

Subp. 10c. EPA efficiency factor. "EPA efficiency factor" means the control efficiency listed in the Aerometric and Emissions Reporting System (AEROS) Manual Series, Volume 5: AEROS Manual of Codes, EPA-450/2-76-005, United States Environmental Protection Agency, Office of Air and Waste Management, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, April 1976, which is incorporated by reference and is available through the Minitex interlibrary loan system.

Subp. 10d. EPA emission factor. "EPA emission factor" means the emission factor listed in AIRS Facility Subsystem Source Classification Codes and Emission Factor Listing for Criteria Air Pollutants, EPA 450/4-90-003, United States Environmental Protection Agency, Office of Air and Waste Management, Office of Air Quality Planning and Standards, Research Triangle Park, North Carolina 27711, March 1990, which is incorporated by reference and is available at the state law

library and through the Minitex interlibrary loan system.

[For text of subps 11 to 30, see M.R.]

Subp. 30a. PM-10. "PM-10" means particulate matter with an aerodynamic diameter less than or equal to a nominal ten micrometers.

[For text of subps 31 to 42c, see M.R.]

Subp. 45. Volatile organic compound (VOC). "Volatile organic compound (VOC)" means any organic compound which participates in atmospheric photochemical reactions. This includes any organic compound other than the following compounds:

A. methane;

B. ethane;

C. 1,1,1-trichloroethane (methyl chloroform);

D. trichlorotrifluoroethane (CFC-113);

E. methylene chloride;

F. trichlorofluoromethane (CFC-11);

G. dichlorodifluoromethane (CFC-12);

H. chlorodifluoromethane (CFC-22);

I. trifluoromethane (FC-23);

J. dichlorotetrafluoroethane (CFC-114);

K. chloropentafluoroethane (CFC-115);

L. dichlorotrifluoroethane (HCFC-129);

M. tetrafluoroethane (HFC-134a);

N. dichlorofluoroethane (HCFC-141b);

O. chlorodifluoroethane (HCFC-142b);

P. 2-chloro-1,1,1,2-tetrafluoroethane (HCFC-124);

Q. pentafluoroethane (HFC-125);

R. 1,1,2,2-tetrafluoroethane (HFC-134);

S. 1,1,1-trifluoroethane (HFC-143a);

T. 1,1-difluoroethane (HFC-152a);

U. any other compound listed in table 1, as amended, of the United States Environmental Protection Agency's Recommended Policy on Control of Volatile Organic Compounds, Federal Register, volume 42, page 35314, July 8, 1977; or

V. any other compound determined by the United States Environmental Protection Agency to be negligibly photochemically

reactive, upon publication of the determination in the Federal Register.

7005.1875 EMISSION INVENTORY.

Subpart 1. Owners or operators. All owners or operators of affected facilities, as defined in part 7002.0015, subpart 2, shall submit an annual emission inventory report to the agency, in a format specified by the commissioner, relating to carbon monoxide and all regulated pollutants as defined in part 7002.0015, subpart 4. The report shall be submitted on or before April 1 of the year following the year being reported. A person who signs the report shall make the following certification:

"I certify under penalty of law that this document and all attachments were prepared under my direction or supervision by qualified personnel. The information submitted is, to the best of my knowledge and belief, true, accurate, and complete. I understand that the data provided in this document will be used by the MPCA to calculate a fee, which the facility will be required to pay under Minnesota Rules, part 7002.0025, based on the tons of pollution emitted by the facility."

Subp. 2. Owner or operator error in reporting data. If an owner or operator discovers an error in the data after having submitted it to the agency, the owner or operator shall submit corrected data, with a written explanation of the mistake and why it occurred. If the commissioner agrees that the correction is appropriate, the commissioner shall correct the data in the inventory. However, for purposes of assessing the emission fee under part 7002.0025, the commissioner shall not recognize any correction submitted by an owner or operator which would result in a reduction of tons emitted if the correction is submitted after November 30 of the year the inventory is due.

7005.1876 CALCULATION OF ACTUAL EMISSIONS FOR EMISSION INVENTORY.

Subpart 1. Method.

A. Except as provided in item B, all calculations of actual emissions required under part 7005.1875 shall be based on the operating data supplied in the emission inventory, multiplied by an emission factor. The emission factor used in this calculation shall be an EPA emission factor or, where no EPA emission factor is available, an emission factor generated by the agency. An emission factor generated by the agency shall be calculated using engineering methods consistent with the methods used by the EPA to calculate EPA emission factors. Control equipment efficiency shall be based on the average of the range of EPA efficiency factors or shall be based on the efficiency verified by a performance test conducted according to part 7005.1860, provided the performance test took place in the year for which emissions are being calculated.

B. The alternative method described in subpart 2 shall be used by the affected facility to calculate actual emissions in its emissions inventory instead of the method described in item A if data as described in subpart 2 is available for the facility. The alternative methods described in subparts 3, 4, and 5 may be used by the facility without advance notification to the division manager. The method described in subpart 6 may be used, provided that the proposal is submitted to the division manager by October 1 of the year for which the emissions are being calculated, beginning in 1993. The commissioner shall reject data submitted using the methods described in subparts 2 to 5 if the conditions set forth for the method are not fully met.

Subp. 2. **Continuous emission monitor (CEM) data.** If an affected facility has collected emissions data through use of a continuous emission monitor (CEM), the facility shall report that data to the agency in its emission inventory. The requirements in items A to C must be met.

A. The CEM operation must have been in compliance with all of the requirements of parts 7005.1850, 7005.1870, and 7005.1880; any other applicable state or federal laws pertaining to CEM operation; and all applicable air emission permit

conditions.

B. The total operating time of the applicable emission unit and the total operating time of the CEM must be included in the report.

C. An explanation of how the emissions were calculated based on the CEM data must be included in the report. For CEM downtime, this calculation must apply EPA emission factors, stack test data as specified in subpart 3, a permit emission limit, or the method of reporting CEM downtime specified by the United States Environmental Protection Agency in rules adopted under section 412 of the federal Clean Air Act Amendments of 1990, Public Law Number 101-549, Statutes at Large, volume 104. This method may be used by any facility with a CEM, regardless of whether federal regulations require them to use it.

Subp. 3. Stack test data. Emission factors from stack tests may be used for the calculation of emissions, provided that the following conditions are met:

A. all the requirements of part 7005.1860, all other applicable state and federal laws, and all applicable air emission permit conditions relating to stack testing have been complied with; and

B. the test was performed during the calendar year for which the emissions are being calculated.

Subp. 4. Volatile organic compound (VOC) material balance. A material balance method may be used to calculate VOC emissions. A person using material balance to calculate VOC emissions shall determine the total VOC emissions (E) as follows:

$$E = (a - b - c) * (1 - d)$$

where:

a = the amount of VOC entering the process. A signed statement from the supplier or the material safety data sheet must be submitted stating the maximum amount of VOC in any material that was used in the process.

b = the amount of VOC incorporated permanently into the product. This includes VOC's chemically transformed in

production. It does not include latent VOC remaining in the product that will at some time be released to the atmosphere. An explanation of this calculation must also be submitted.

c = the amount of VOC, if any, leaving the process as waste, or otherwise not incorporated into the product and not emitted to the air.

d = the overall efficiency, or the product of capture efficiency and control efficiency, of any device used to capture and/or control VOC emissions, expressed as a decimal fraction of 1.00. This overall efficiency shall be based on the average of the range of EPA efficiency factors, or shall be based on the overall efficiency verified by a performance test conducted according to part 7005.1860, provided that the performance test took place in the year for which emissions are being calculated.

Subp. 5. SO_2 material balance. A person may determine sulfur dioxide emissions by measuring the sulfur content of the fuel and assuming that all of the sulfur in the fuel is oxidized to sulfur dioxide. The sulfur content of each batch of fuel received must be measured by an independent laboratory using American Society of Testing and Materials (ASTM) methods. The sulfur dioxide emissions shall be determined by using the following equation: $SO_2 = \%S/100 \times F/2000 \times 2$.

where:

SO_2 = Sulfur dioxide emissions from a batch of fuel.

%S = Weight percent sulfur in the fuel being burned.

F = Amount of fuel burned by weight in pounds.

2000 = Pounds per ton.

2 or 64/32 = Pounds of sulfur dioxide per pound of sulfur in one pound-mole.

The total sulfur dioxide emissions for the year shall be the sum total of the individual batch totals.

Subp. 6. Facility proposal. If none of the alternative methods in subparts 2 to 5 would give an accurate representation of the facility's actual emissions, or none of the methods listed is technically or economically feasible, the affected facility may propose an alternative method for calculating the

emissions. The proposal shall include:

A. an explanation of why none of the alternative methods in subparts 2 to 5 give an accurate representation of emissions, or why the methods are not technically or economically feasible;

B. a detailed description of the proposed method; and

C. a comparison of the accuracy of the proposed method with the alternatives in subparts 2 to 5.

The proposal shall be submitted to the commissioner by October 1 of the year for which the emissions are being calculated, beginning in 1993. The commissioner shall accept the affected facility's proposal if the commissioner finds that the proposal is equally or more representative of the facility's emissions than alternatives in subparts 2 to 5, excluding the technically or economically infeasible alternatives. If the commissioner rejects the proposal, the commissioner shall do so by February 1 of the year the inventory is due.

REPEALER. Minnesota Rules, parts 7002.0010, 7002.0020, 7002.0030, 7002.0040, 7002.0050, 7002.0060, 7002.0070, 7002.0080, 7002.0090, 7002.0100, 7002.0110, and 7005.1870, subpart 4, are repealed.

MARCH 1993

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